

Agenda Item 5(b)

Amendments to Motions

	Document	Proposer of Amendment and Pages
1.	Councillor R Bradburn – 20 October 2021 Local Electricity Bills	None
1.	Councillor Walker – 20 October 2021 Planning Enforcement	Councillor Marland 2 – 6
1.	Councillor Walker – 20 October 2021 Timely Adoption and Pre-adoption Maintenance of New Roads	Councillor Townsend 6 – 8
1.	Councillor Darlington – 20 October 2021 White Ribbon Campaign	None
5.	Councillor M Bradburn – 5 November 2021 More Support for Education Catch Up Schemes	None

Notes

Changes to, or withdrawal of amendments must be submitted by 12 noon on Monday 22 November 2021.

Enquiries

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1. Planning Enforcement

Councillor Walker (20 October 2021)

Councillor Marland moves the following amendment:

- “1. That the words ‘however local planning enforcement action must be expedient and proportionate’ be added at the end of clause 1(c).
2. That the word ‘extensive’ be removed from clause 1(d) and the words ‘but that this action must be proportionate to any alleged breach’ be added at the end of this clause.
3. That the words ‘recent appointment of a new Senior Enforcement Officer and Team Leader as steps taken to improve the enforcement service’ be removed from clause 2 and replaced with the words ‘the work of the new Director of Planning and Placemaking and Head of Planning are undertaking to secure additional resources to the enforcement team but notes that recruitment and retention of experienced officers in the current market is challenging’.
4. That a new clause 3(d) be added as follows:

‘a recent Local Government Ombudsman finding that they will not be investigating a complaint by a former councillor, which upholds the view of an officer that it was not expedient to take enforcement action in that case, and that:
 - i) care should be taken not use individual examples as representative of the whole service;
 - ii) that it is the role of the council is to ensure proper systems and processes are in place to expedite a good service; and
 - iii) that there must be a distinction between the professional judgement of officers and the personal opinion of councillors;’

and that the original clause 3(d) be renumbered 3(e) accordingly.
6. That the words ‘members of the public and that’ be removed from renumbered clause 3(e) and that the word ‘some’ be added before the word ‘members’, the words ‘and two members of the public’ be added after the word ‘Committee’, the word ‘alleged’ be added before the word ‘repeated’ and the word ‘unacceptable’, and the word ‘possible’ be added before the word ‘enforcement’.
7. That the words ‘some members’ be added after the words ‘expressed by’ in clause 4(a), the word ‘some’ be added before the word ‘Parish’ and the word ‘Ward’, and that the words ‘noting that the scale of the issue and the actions taken to resolve them should be proportionate to the problems and that disingenuous and exaggerated politically driven attacks on the service undermine morale and are impacting the ability to recruit new officers’ be added at the end of clause 4(a)

9. That the words 'when issues have been properly reported to the council for investigation;' be added to the end of clause 4(b).
11. That a new clause 4(d) be added as follows:

'that while there are a small number of cases where the council has not performed as we would expect, overall, officers in this area work in a challenging environment and resolve the vast majority of cases without issue and that concerns about performance should be seen in proportion to the number of cases and the improvements made to address them.'
12. That the words 'resolves to request that the Cabinet Member for Planning' be deleted from clause 5.
13. That clause 5(a) and 5(b) are deleted and replaced with the following new clauses:
 - a) 'welcomes the work being under the direction of the Planning Improvement Board to address past concerns in relation to planning enforcement in Milton Keynes;
 - b) welcomes the adoption of the Local Enforcement Plan by Cabinet in January 2021 and the steps taken to strengthen the enforcement service;
 - c) notes a performance report that will be presented to the Development Control Committee in December 2021 and requests that any concerns with current performance of enforcement be referred to the Cabinet member as appropriate;
 - d) resolves that councillors and parishes are offered training to help increase understanding of the enforcement process; and
 - e) asks Cabinet to review the resources available to the enforcement service during the budget setting process to ensure they meet the needs of the Local Enforcement Plan.'"

The motion, if amended would read:

1. That this Council notes that:
 - a) planning enforcement is an essential function of development management within a local authority;
 - b) effective planning enforcement is critical for ensuring public confidence in the planning system;
 - c) local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas **however, local planning enforcement action must be expedient and proportionate;**
 - d) there are a ~~extensive~~ range of statutory powers for local authorities to investigate and take action against unauthorised development **but that this action must be proportionate to any alleged breach;**

- e) unauthorised development can take a wide range of forms, of differing scales and it can occur over varying timeframes;
 - f) the effects of unauthorised development can be harmful and undesirable to the public and the wider environment and affect the amenity of a neighbourhood; and
 - g) unauthorised development can result in irreparable harm to our heritage assets.
2. That this Council welcomes **the work of the new Director of Planning and Placemaking and Head of Planning are undertaking to secure additional resources to the enforcement team but notes that recruitment and retention of experienced officers in the current market is challenging;** ~~recent appointment of a new Senior Enforcement Officer and Team Leader as steps taken to improve the enforcement service.~~
3. That this Council recognises:
- a) the response of the Leader of the Council and Cabinet Member for Planning at the Full Council meeting of 16 September 2020 where he accepted that planning enforcement had not always performed adequately in the past;
 - b) the recent finding of maladministration by the Local Government Ombudsman over a failure to ensure adequate enforcement record keeping;
 - c) the recent judgement of the First-tier Tribunal (General Regulatory Chamber) Information Rights which found that ‘the [Council’s] enforcement team failed to keep proper records of site visits between January 2018 and August 2019’;
 - d) **a recent Local Government Ombudsman finding that they will not be investigating a complaint by a former councillor, which upholds the view of an officer that it was not expedient to take enforcement action in that case, and that:**
 - i) **care should be taken not use individual examples as representative of the whole service;**
 - ii) **that it is the role of the council is to ensure proper systems and processes are in place to expedite a good service; and**
 - iii) **that there must be a distinction between the professional judgement of officers and the personal opinion of councillors;**
 - e) the concern expressed by ~~members of the public and that~~ **some** members of the Development Control Committee **and two members of the public** at the meeting of 3 June 2021 over **alleged** repeated failures to deal with **alleged** unacceptable unauthorised development which was now immune from **possible** enforcement action due to the passage of time.

4. That this Council acknowledges that:
- a) there remain serious concerns expressed by **some members** of the public, **some** Parish Councils and **some** Ward Councillors over the effectiveness of planning enforcement in Milton Keynes, **noting that the scale of the issue and the actions taken to resolve them should be proportionate to the problems and that disingenuous and exaggerated politically driven attacks on the service undermine morale and are impacting the ability to recruit new officers;**
 - b) it is not acceptable for harmful unauthorised development to become immune from enforcement action due a failure to take action within the statutory timeframes **when issues have been properly reported to the council for investigation; and**
 - c) enforcement failures can have a significant impact on peoples' lives and cause damage to the Council's reputation as the local planning authority; **and**
 - d) **that while there are a small number of cases where the council has not performed as we would expect, overall, officers in this area work in a challenging environment and resolve the vast majority of cases without issue and that concerns about performance should be seen in proportion to the number of cases and the improvements made to address them.**
5. That the Council therefore: ~~resolves to request that the Cabinet Member for Planning:~~
- ~~a) bring forward a report at the next Cabinet meeting setting out the steps taken to improve the planning enforcement function in light of the recent Ombudsman decision and Tribunal findings; and~~
 - ~~b) ensure that the right resources are available for Development Management at the Council, to enable a more effective planning enforcement service whilst also providing sufficient resource to deliver an efficient and effective planning service."~~
 - a) **welcomes the work being under the direction of the Planning Improvement Board to address past concerns in relation to planning enforcement in Milton Keynes;**
 - b) **welcomes the adoption of the Local Enforcement Plan by Cabinet in January 2021 and the steps taken to strengthen the enforcement service;**
 - c) **notes a performance report that will be presented to the Development Control Committee in December 2021 and requests that any concerns with current performance of enforcement be referred to the Cabinet member as appropriate;**

- d) resolves that councillors and parishes are offered training to help increase understanding of the enforcement process; and
 - e) asks Cabinet to review the resources available to the enforcement service during the budget setting process to ensure they meet the needs of the Local Enforcement Plan.
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1. Timely Adoption and Pre-adoption Maintenance of New Roads

Councillor Walker (20 October 2021)

Councillor Townsend moves the following amendment:

- “1. That the words ‘(and adjacent landscaping) and ‘uncut vegetation obstructing safe views at junctions’ be deleted from clause 1(e).
2. That the words ‘and other services such as landscaping often not being properly undertaken by developers or service charge companies,’ be added after the word ‘lighting’ in clause 1(e).
3. That the word ‘basis’ be deleted and replaced with ‘basic’ in clause 1(f).
4. That the words ‘MKC does something to improve the situation’ are deleted from clause 1(g) and replaced with ‘significant changes are made to how the development system works’.
5. That the words ‘member for Public Realm’ are deleted from Clause 2.
6. That a new clause 2(a) be inserted as follows:
‘take the lead in ensuring developers and service companies fulfil their obligations to their residents;’
And that existing clauses 2(a) – (c) be renumbered 2 (b) – (d)
7. That the words in renumbered clause 2(b) be deleted entirely and replaced with:
‘seek to understand the scale of the issue, understanding that build rates can often be slow, and investigate effective ways that road adoption times can be reduced using by current powers, and to ask an appropriate officer to produce suggestions of what new powers may be effective in tackling this issue so a request can be made to government;’
8. That the words ‘adopt’, ‘and requiring all roads allocated for adoption (and the relevant highway verges especially vision splays) to be properly maintained, by the developers, until the roads have been adopted, including’ and ‘as’ be deleted from the renumbered clause 2(c).
9. That the word ‘current’ be added after the words ‘ensure that the’ and the words ‘is fulfilled, that where issues have arisen a review is undertaken to ensure any provisions within Section 138 agreements can be enacted, that where problems occur all possible avenues are explored by the council to ensure that vital works maintain unadopted highways in an area are carried out by a developer or service company, and investigate,’ is added after the

word 'standard' and the word 'at' is added after the word 'Council' in renumbered clause 2(c).

The motion, if amended would read:

1. That this Council notes that:
 - a) when a new area is built, the land including roads and footways still belong to the developer until they are adopted by MK Council;
 - b) the Council will only adopt them if they have been constructed to an acceptable standard, these roads and streets are then classed as Highways Maintainable at Public Expense, which means that the Council pays for repairs, cleaning and gritting;
 - c) there are roads and streets that are unadopted and the Council does not have the responsibility to carry out maintenance works on these works such as gritting, repairing, cleaning and cutting back vegetation;
 - d) there are many roads in MK that have not yet been adopted, despite adjacent house-building having been finished years ago;
 - e) unadopted roads ~~(and adjacent landscaping)~~ can be poorly maintained by the developers with potholes, ~~uncut vegetation obstructing safe views at junctions,~~ poor drainage and no or inadequate street lighting **and other services such as landscaping often not being properly undertaken by developers or service charge companies,** which can affect residents' quality of life and safety.
 - f) often people who live on unadopted roads struggle to get the developers or service companies to do even ~~basic~~ **basic** maintenance to the roads and verges, year after year; and
 - g) there is a commitment to substantial housebuilding in and around MK for at least the next 15 years, during which time tens of thousands of new residents will experience the problems already facing similar numbers of existing residents, unless **significant changes are made to how the development system works.** ~~MKC does something to improve the situation.~~
2. That this Council asks the Cabinet ~~member for Public Realm~~ to:
 - a) **Take the lead in ensuring developers and service companies fulfil their obligations to their residents;**

- b) seek to understand the scale of the issue, understanding that build rates can often be slow, and investigate effective ways that road adoption times can be reduced using by current powers, and to ask an appropriate officer to produce suggestions of what new powers may be effective in tackling this issue so a request can be made to government; ~~undertake an investigation into the numbers of unadopted roads and streets in Milton Keynes that have been unadopted for more than 5 years after the first homes on those roads were occupied, recognising that many communities find unadopted roads a problem;~~
- c) ensure that the current ~~adopt~~ a policy of requiring all roads and accesses contained in planning proposals to be of an adopted standard ~~is fulfilled, that where issues have arisen a review is undertaken to ensure any provisions within Section 138 agreements can be enacted, that where problems occur all possible avenues are explored by the council to ensure that vital works maintain unadopted highways in an area are carried out by a developer or service company, and investigate,~~ if at all possible, ~~and requiring all roads allocated for adoption (and the relevant highway verges especially vision splays) to be properly maintained, by the developers, until the roads have been adopted, including provisions for the work to be done by the Council as~~ at the developers' expense if the developers fail to maintain the area properly; and
- d) write to the Secretary of State for Levelling Up, Housing and Communities requesting that Councils be allowed to insert planning conditions about when roads should be adopted.