

**Performance Review Panel**

**PLANNING ENFORCEMENT**  
**REVIEW GROUP**

**Final Report**  
**January 2007**

## **INTRODUCTION**

This report summarises work undertaken by the Planning Enforcement Review Group set up by the Performance Review Panel. It has been prepared following meetings with officers from Planning Department (particularly Planning Enforcement), Legal Services, Highways and also from the Chair of Development Control Committee (DCC).

In order to provide some focus, the Group set out to understand the planning enforcement issues and constraints relating to three quite different aspects, namely, Signs and Advertisements, retrospective planning permission refusals, and Houses in Multiple Occupation (HMOs).

## **KEY ISSUES**

### **1. Signs and Advertisements**

These are covered by comprehensive Government guidance which cites three classes of permissions required, i.e:

- (i) “Exempt” – excluded from planning authority’s control (e.g. Union flag, advert on moving vehicle, inflatables);
- (ii) “Deemed Consent” – specific consent not required as long as advert is within published rules;
- (iii) “Express Consent” – planning authority’s permission always needed.

Enforcement action is required where adverts for which deemed consent applies are breaking the rules, or where an express consent has been refused. First action is a letter followed ultimately (if no response) by a prosecution. Big companies are usually good at responding before any action is required. Where signs benefit from deemed consent a discontinuance notice maybe served if the authority believes there is detriment to the amenity of the locality or a danger to the public.

Temporary signs, say for a village fete, are also covered by Government guidance but not necessarily known to members of the public. Advice is available through the planning enquiries helpdesk, the Planning website and leaflets. Since Planning Enforcement tends to be reactive it would be helpful to work with Safer Communities and Parish Liaison to improve public knowledge.

The Group wondered whether the quantity of development activity in Milton Keynes raised any issues of temporary signage that might be specific to MK. Although currently not an issue for DCC there is the case that signs on Highways land can receive consent from Planning but be refused by Highways.

### **1.1 Recommendations**

- 1) Training on the National Guidelines to be included in any training programme for DC Members.
- 2) The Enforcement section to work with Parish Liaison and with Safer Communities Unit to improve publicity
- 3) To identify whether there is any signage that is Milton Keynes specific and not covered by national guidelines and add to training programme.

## **2. Retrospective Planning Permission Refusals**

Awareness of retrospective planning permission cases is usually through complaints from the public. Enquiry forms and leaflets have been introduced to counter malicious and anonymous complaints.

On receipt of an enquiry form there is an acknowledgement followed by a desk enquiry and then site visit. There is a timescale for the first visit (28 days) but not for subsequent visits as they may be dependent on information from other sources.

The key question is “would permission have been granted?” If the answer is no then the next decision is whether it is “expedient” to enforce. For enforcement action there has to be a breach of planning control and harm which affects public amenity or interest. If this is the case then an enforcement notice can be served. The notice will state the required steps to be taken, e.g. remedial action (could be changing windows or reducing height).

Where planning permission has not been sought but there has been no challenge for 4 years in the case of operational development, or 10 years for a change of use, then enforcement action is no longer applicable. Where an enforcement notice is served this has the effect of “stopping the clock” re the 4 and 10 year period.

The Group asked the Chair whether DCC was kept informed of progress on refused retrospective planning permissions. The Chair receives information but does not feel that DCC is kept up to date on all enforcement action. The belief is that the section is not resourced sufficiently to do this.

There is a legacy in Milton Keynes from the days of the Development Corporation of amenity landscape not clearly identified and which lies adjacent to a householder’s property. Some owners are arguing that it can be enclosed as part of their curtilage. There is a need to ensure that English Partnerships (EP) is not being similarly imprecise as it is a constraint in terms of planning enforcement. Where EP is responsible for development, it is MKC that has the enforcement role.

## **2.1 Recommendations**

- 1) That English Partnerships clearly identify ownership of all developed and amenity land to assist potential enforcement actions.
- 2) That there be adequate resourcing of the Planning Enforcement team so that progress reports on refused retrospective permissions can be made to DCC.

## **3. Houses in Multiple Occupation.**

For the purposes of this review HMOs represent a specific case of retrospective planning permission. There is a concern about whether the Council is sufficiently informed and in control of the number of HMOs in Milton Keynes.

There are problems because responsibility for HMOs straddles both the Planning and Housing departments. Main driver for Planning Enforcement is to catch up on the backlog of outstanding planning permissions. Housing Department priority is to get all HMOs on the registration scheme. A further complication is that different definitions exist for planning regulations and housing regulations and the only way to tell is to go in and check. If inspection reveals a HMO (in planning terms) then an application is requested.

Grounds for accepting or rejecting HMO applications must conform to planning law or be according to Local Plan policy. In fact the majority of applications are retrospective and currently there are few reasons for being able to refuse permission on planning grounds. A few “grey” areas have been tested where there are not strict criteria, i.e.

- “Over intensive use” – whether the building is suitable for the number of rooms
- “Density” – the previous Local Plan was no more than 1 in 4 dwellings allowed as HMOs. The current Local Plan made this more flexible by citing an unacceptable concentration of flats or houses in multiple occupation within the area. DCC currently applying a no more than 3 in 12 rule.
- “Parking provision” – there are no parking standards relating to HMOs. DCC Members would like to see this reviewed.

The Committee has deferred some applications advising landlords to make changes.

### **3.1 Recommendations**

- 1) That details of every landlord registered by Housing Department are passed on to the Planning Department to cross-reference for planning permission.

- 2) To ensure that there is a structured training programme for both established and substitute DCC Members and that there is flexibility in its timing so that all can attend.
- 3) The Group feels that there is a real need to regularly clarify and update DC Members on all issues relating to HMOs.
- 4) That issues surrounding HMOs should be more explicitly set out in the next Local Plan.
- 5) That all HMO applications in front of DCC should be accompanied by a map with current approved and licensed HMOs marked.
- 6) That the DCC as a body has an input into the Local Plan reflecting its role in the implementation of its provisions.
- 7) That parking standards be amended to account for the requirements of HMOs.
- 8) That an assessment of the parking needs of the average HMO be kept under review. The review to include input from ward members and an assessment report to be presented to DCC.

#### **4. Acknowledgements**

The Group would like to thank all those who contributed to this review for their time and the quality of their input.