

PLANNING COMMITTEE

25 OCTOBER 2022

JOINT REPORT OF ACTING DIRECTOR (PLANNING) AND DEPUTY CHIEF EXECUTIVE & MONITORING OFFICER

A.1 PETITION: ALLEGED PLANNING ENFORCEMENT MATTER AT NELSON ROAD, CLACTON-ON-SEA

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To formally report the receipt of a petition submitted in relation to an alleged planning enforcement matter in Nelson Road, Clacton-on-Sea.

EXECUTIVE SUMMARY

A Petition supported by 60 residents of Nelson Road, Clacton-on-Sea (plus residents of other streets in Clacton) has been submitted in relation to an alleged planning enforcement matter in that street. The Petition calls on the Council to urgently exercise its planning enforcement powers and to serve a Breach of Condition Notice on Lane Homes Construction Group for the alleged non-compliance with planning permission, namely the alleged failure to make good the unmade pavement and drop kerbs.

Planning Enforcement is a non-executive function and therefore the Planning Committee is the appropriate body to consider this matter.

In accordance with the Council's adopted Scheme for Dealing with Petitions the receipt of this Petition will be reported, for Members' information, to the meeting of the Full Council due to be held on 22 November 2022. However, in view of the urgency of this matter, it was felt appropriate by your Officers to bring this petition to the first practicable meeting of this Committee for Members' consideration.

RECOMMENDATION(S)

That, having duly considered the Petition together with the information provided in this report, the Committee decides what action, if any, it wishes to take.

REASON(S) FOR THE RECOMMENDATION(S)

To comply with the adopted scheme for dealing with petitions, as set out in the Council's Constitution.

ALTERNATIVE OPTIONS CONSIDERED

None applicable see Part 3.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

In respect of the Corporate Plan 2020/24 Priority Themes the Committee's decision will contribute to:

- Delivering high quality services (and specifically effective regulation and enforcement).

LEGAL REQUIREMENTS (including legislation & constitutional powers)

Planning enforcement is a non-executive function that is delegated to the Planning Committee in schedule 2 of part 3 of the Council's Constitution. The Planning Committee's overall function is the discharge of the Town and Country Planning and Conservation functions as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.

FINANCE AND OTHER RESOURCE IMPLICATIONS

Not applicable, see Part 3.

USE OF RESOURCES AND VALUE FOR MONEY

External Audit expect the following matters to be demonstrated in the Council's decision making:

- A) *Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;*
B) *Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and*
C) *Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.*

As such, set out in this section the relevant facts for the proposal set out in this report.

The following are submitted in respect of the indicated use of resources and value for money indicators:

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| A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services; | Not Applicable in this instance. |
| B) Governance: how the body ensures that it makes informed decisions and properly manages its risks, including; and | Nothing in addition to those matters already set out in the report. |

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| C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services. | Not Applicable in this instance. |
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MILESTONES AND DELIVERY

Not Applicable in this instance.

ASSOCIATED RISKS AND MITIGATION

Not Applicable in this instance, see part 3.

OUTCOME OF CONSULTATION AND ENGAGEMENT

The Council's adopted Scheme for Dealing with Petitions states, inter alia:-

- Receipt of a petition will be formally acknowledged to the lead petitioner in writing or by email as appropriate, within five working days of its receipt.
- The appropriate Ward Member(s) will be informed of receipt of a petition and when and how the petition will be considered.
- When a petition is being considered by Cabinet or Council/Committee...the lead petitioner will be invited to address the Cabinet or Council/Committee, outlining the reasons for the submission of the petition and what action they would like the Council to take. The lead petitioner (or his or her representative) will have a time limit of three minutes for their speech and the petition will then be discussed by Councillors. A Ward Councillor can, at the request of the lead petitioner, present the petition to Cabinet or Council/Committee on behalf of the relevant petitioners.
- The lead petitioner will be informed, in writing, of the Cabinet or Council's decision and this information will also be published on the Council's website via the Minutes of the relevant meeting at which the petition was dealt with. If a further meeting is to be held to consider the issues raised in the petition, the lead petitioner will be supplied with the relevant details and will also be given the opportunity to attend and address that meeting and if appropriate, answer any questions posed at the meeting.

EQUALITIES

In line with the Public Sector Equality Duty, public bodies such as the Council must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race religion or belief, sex, sexual orientation.

It is noted that the Petition refers to matters in relation to access and surface availability that may affect parties' mobility depending on any public or private rights of access available.

However, given that the pavement issues and related highway matters the subject of the petition all fall within the jurisdiction of the County Council an Equality Impact Assessment has not been carried out in this instance.

SOCIAL VALUE CONSIDERATIONS

There are no social value considerations relevant to this report having regard to the Public Services (Social Value) Act 2012.

IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030

There is no impact on the Council's aim for its activities to be carbon neutral by 2030 including the actions, policies and milestones in its Climate Change Action Plan.

OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS

Set out what consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are then set out below.

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

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| Crime and Disorder | None |
| Health Inequalities | None |
| Area or Ward affected | ST JAMES Ward |

PART 3 – SUPPORTING INFORMATION

ACTING DIRECTOR (PLANNING)'S ASSESSMENT AND ADVICE

On 13th July 2022 Essex County Council confirmed that the pavement issues and related highway matters subject to the Petition all fall under their jurisdiction and that they are liaising with the developer in that respect. Matters relating to dropped kerbs are outside of the curtilage which forms the boundary of the site, and were not covered by planning conditions. In conclusion, the works are not subject to conditions that can be enforced as breach of condition or are otherwise works in the highway that falls to Essex County Council to resolve and as necessary enforce. Tendring District Council can not legally address the situation as presented and does not have enforcement power to exercise. Tendring District Council has respectfully asked Essex County Council to resolve this matter as soon as possible on previous occasions.

On this basis, no action in planning terms can be recommended as a result of this petition and so it is reported without an Officer recommendation.

BACKGROUND

On Friday 30 September 2022, the Ward Members for St. James' Ward (Councillors Maurice

Alexander and Chris Griffiths), acting on behalf of the Lead Petitioner (Ms. Maria Monteith), presented a petition to the Council's Head of Democratic Services & Elections (Keith Simmons). The Petition was in relation to an alleged planning enforcement matter in Nelson Road, Clacton-on-Sea and was worded as follows:-

"We, the under-signed, being concerned residents of Nelson Road, Clacton-on-Sea who are directly affected by the issue of the unmade pavement and drop kerbs, call on Tendring District Council, to urgently exercise its planning enforcement powers and to serve a Breach of Condition Notice on Lane Homes Construction Group in order to ensure that the contractor responsible for the nine new build houses makes good the unmade pavement and drop kerbs in Nelson Road that are required by the planning permission for this site."

The Petition was supported by 60 residents of Nelson Road, Clacton-on-Sea plus 33 residents of other local streets in Clacton.

PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.

None in relation to this matter.

BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL

Petition to the Council submitted by the Ward Members for St. James' Ward (Councillors Maurice Alexander and Chris Griffiths), acting on behalf of the Lead Petitioner (Ms. Maria Monteith).

APPENDICES

None

REPORT CONTACT OFFICER(S)

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