

COUNCILLOR QUESTION NO. 2

Councillor J Williams to ask the Chair of the Planning Applications Committee:

Checking Planning Conditions Have Been Met

Planning Conditions are often vital to an application being acceptable when measured against Reading's Local Plan and against the expectations of local residents. People living in an area of a new development expect that building work will be done in a neighbourly way, within reasonable hours, and without too much dust and disturbance. Reading residents expect that when conditions are set on all kinds of things like tree planting, management plans, hours of use, litter and so many others, that those conditions will be met. Some Conditions stipulate they must be met before a development can be occupied and used.

Residents often leave planning meetings disappointed in a decision taken by this committee, but at least heartened by the conditions applied. Can the Chair of Planning tell us what levels of proactive checking the Council undertakes to ensure that Planning Conditions are met and adhered to?

REPLY by the Chair of the Planning Applications Committee (Councillor McKenna):

The simple answer to your question is that unfortunately the Council is not in a position to perform routine proactive monitoring of the conditions applied to planning permissions and other approvals/consents.

This is not from a lack of will, but rather a lack of people. Similar to all of local government, budgets have been cut and so we have fewer officers to do an array of important tasks.

Instead, the planning authority must rely on other RBC departments and our residents, who are directly impacted, to bring issues regarding planning conditions to our attention. Then the Planning Enforcement Team or the relevant case officer would investigate.

Before further answering this question, it may be useful to clarify the rules relating to the use of conditions when granting planning permission.

The National Planning Policy Framework (2019) sets out that the purpose of a planning condition is to enable an otherwise unacceptable development to be made acceptable by requiring further details to be approved, uses controlled or preventing undesirable works or uses from taking place.

Para 55 of the NPPF advises that Planning conditions should be (i) kept to a minimum and only imposed where they are (ii) necessary, (iii) relevant to planning and to the development to be permitted, (iv) enforceable, (v) precise and (vi) reasonable in all other respects.

These are the 6 tests as established by circular 11/1995, which remain in force. These tests apply even if the applicant suggests or agrees to a condition or it is suggested by Members of planning committee or consultees.

Developers can appeal planning conditions they disagree with and if the condition does not meet these tests it will invariably be struck off by planning inspectors.

In addition, government has confirmed that the following types of conditions are not allowed:

1. Conditions which unreasonably impact on the deliverability of a development;
2. Conditions which reserve outline application details;
3. Conditions which require the development to be carried out in its entirety;
4. Conditions which duplicate a requirement for compliance with other regulatory requirements - e.g. building regulations;
5. Conditions requiring land to be given up;
6. Positively worded conditions requiring payment of money or other consideration;

In summary the imposition of a planning condition must be justified and the terms carefully drafted if it is to pass these tests and then be enforceable if the terms are not met.

So, returning to the question - in the majority of cases developments are permitted with just a few standard planning conditions. Typically, these set a time limit for works to start (normally 3 years), require materials to closely match existing or be as shown on the plans and to ensure the approved plans are followed. Again, in the majority of cases, the developer adheres to these or can make use of the process to change small details if they need to.

It is the responsibility of the developer to comply with planning conditions by adhering to restrictions or submitting additional information for approval and complying with what has been approved. When this does not happen officers first seek voluntary compliance but could issue a Breach of Condition Notice (BCN) if needed. In exceptional cases where the breach of condition makes a development completely unauthorised officers can resort to serving an Enforcement Notice.

Taking any enforcement action is discretionary and officers will generally work with neighbouring residents and the developer to sort matters out more quickly than being forced to rely upon the often lengthy enforcement process.

The Committee should be advised that with the present Enforcement Team Leader giving notice that he is to retire our Acting Planning Manager is taking the opportunity to review the job description for this role to include some element of proactive condition monitoring. This will assist developers in meeting the duties imposed on them by Reading Borough Council acting as the local planning authority.