Comments from the Assistant Director (Planning & Sustainable Development) & the Head of Development Control

PROPOSED TOPIC:
Planning Conditions, their implementation, completion and difficulties related to adoption of new Estates

Purpose of topic

The topic registration form says:

Across the City there are a number of recently built estates that have not been adopted by the Council, mainly due to the developer not completing 'Conditions' in the Planning Permission that must be satisfied before the Council will take ownership/management.

The proposed Scrutiny would need to understand the monitoring and 'policing' of 'Conditions'. Often 'Conditions' are placed upon a developer by the Council, such as:

 '*no dwelling shall be inhabited until security gates have been fitted to alleyways a joining the properties'*

Yet this is typical of the 'Conditions' abused by developers. Later down the line, when these issues are raised by residents and Councillors it is too late to act as the developer is off site, or they will say that this is not a 'requirement', even though CYC use the 'Safety by Design Code'.

Such non compliance with 'Conditions', including planting and highways mean that residents can live on a new estate for up to 4 years – Sovereign Park, or 10 years – St Peters Quarter without having their roads swept, or having money allocated from Ward Committee budgets to improve facilities.

I would like to investigate the 'Signing Off' process of development stages, what powers CYC have at each stage to stop development of, of the moving in of residents until certain 'Conditions' have been satisfied and what legal powers the Council has to manage this process and push for adoption of new estates.

Development Control Comments

There are two elements to the issue; one relates to the highway adoption process, which has a separate set of criteria to the second, which relates to the discharge of planning conditions. The adoption process does not rely on compliance with the conditions of planning approval.

An officer update and information to members may be sufficient to explain the processes for each.

What should be covered

The topic registration form says:

The legal Status of Conditions
The managing of Conditions including their 'signing off' at each stage before further work is allowed to continue.
CYC's monitoring of developments – including the monitoring by Building Control and the powers they have to stop development
The ability of CYC to change any 'Conditions' without Members' knowledge
The legality of developers not to undertake 'Conditions'
The ability of CYC to ensure developers complete developments to enable adoption

Development Control Comments

Again conditions and the framework for discharging them is set within a legal framework which can be explained. Circular 11/95 sets out the basis upon which conditions should be used, and along with case law.

Since the two estates mentioned were approved (11 and 7 years ago), a system for the discharging of planning conditions has been set up on UNIform. Each request is logged and acknowledged and a timescale for dealing with it given.

Monitoring and enforcement of conditions are within the enforcement function although historically there has been insufficient resource to proactively monitor compliance. Under the change to a Development Management approach the introduction of monitoring and the purchasing of an additional Condition Monitoring module on UNIform will be proposed, which will be subject to appropriate resources being made available.

The approved delegation scheme allows for applications for the removal or variation of conditions to be dealt with by officers unless called in by a member. However there is no power to change planning conditions without member knowledge, as any change must be subject to a further application, which would appear on the published weekly list of applications.

The legality of conditions and the implications of breaching conditions can be covered in a training session for members if this would be considered useful.

The ability of CYC to ensure completion of development prior to adoption can be covered by Highway Network Management.

How Review most efficiently undertaken?

The topic registration form says:

Councillors would need to investigate CYC working practise in relation to the monitoring of new developments and investigate whether any other Local Authority has Best Practice in this area that could be adopted and built upon.

Development Control Comments

The Section is moving towards adoption of the Development Management approach to the successful delivery of schemes. This involves drawing upon best practice and recent improvement work carried out in a number of LPAs under the National Performance Improvement Project. In addition the Killian Pretty review of planning made a number of recommendations which the government is to pursue with changes to the Development control system and new guidance that will affect the way the conditions are processed and monitored.

Further Comments

➢ For various reasons, we would struggle to support this given the need to implement the actions arising from the internal Enforcement & Support Services Review and the Planning Enforcement Ad Hoc Scrutiny Review. The department also has an impending improvement programme as part of the Development Management Initiative and they are inputting to the Kendric Ash programme on both the service itself and customer services.

➢ Changes introduced to the logging and processing of details submitted to comply with conditions have addressed some of the issues raised within the topic registration form. The imminent reviews above and forthcoming central government guidance will steer how we deal with condition compliance monitoring. A scrutiny review at this stage would duplicate/pre-empt this work but training may help to inform Members of the processes involved in the interim.