

RYDE TOWN COUNCIL OFFICER REPORT

Committee:	Place, Neighbourhood and Planning
Date:	5 December 2023
Report Author:	Chris Turvey
Report Title:	Enforcement Issues.
Context:	<p>The PNP committee decided to adopt the Officer’s recommendation from Paper C on 14 November which contains the following:</p> <p><i>“Ryde Town Council’s Place, Neighbourhood and Planning Committee should prepare a list of current issues that they would like to see improvement on. Between now and 1st April 2024, RTC should utilise some of the Public Realm budget to engage the former IWC empty properties officer Will Taylor. RTC should employ him to carry out the identified enforcement work under section 82 of the Environmental Protection Act 1990 part 3. RTC should then evaluate this “inhouse” approach against the results seen in Newport utilising the IWC enforcement offer to see which gives best results and best value for money.”</i></p>

1. BACKGROUND INFORMATION

Since the decision to adopt the option listed above taken on 14 November 2023 by the Place, Neighbourhood and Planning Committee the Planning officer has obtained additional information which will help to further inform the committee in making their decision regarding Ryde Town Council's enforcement requirements.

2. CURRENT ENFORCEMENT FRAMEWORK

National planning enforcement is guided by the Planning Enforcement Handbook for England. It clearly states the following:

“Successful planning relies on three essential areas of work by our local authorities: visionary plan-making which sets out the policies and proposals for the area; efficient and effective development management, which applies those local and national policies in the determination of planning applications; and well-resourced and effective enforcement. These three aspects go hand-in-hand.

Parliament has given Local Planning Authorities (LPA's) the primary responsibility for taking whatever enforcement action they consider necessary in the public interest in their area.

Enforcement action is discretionary, however a Local Planning Authority's duty to investigate an alleged breach of planning control is not. As set out within the National Planning Policy Framework, Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area.”

In May 2023 the IW Council published its new Planning Enforcement Strategy. IWC had previously called in all Parish and Town Council's to inform them that Planning Enforcement was not a statutory function and they would be asking if Parish and Town Councils would be interested in buying into an additional service which would give them some accelerated outcomes on more local planning issues.

The plan is to pay for an enforcement officer to work on specific issues which are not covered or prioritised by the Local Planning Authorities enforcement team. Ryde Town Council have been informed that, to be effective, an enforcement officer would need to be employed for a minimum of two days this has a minimum yearly cost of £15,769.60 at this year's rates.

The IWC's Planning Enforcement Strategy states the following:

“The Planning Enforcement team will continue to investigate every alleged breach across the Island and assess the level of harm to understand the appropriate way to proceed. Due to the current capacity issues cases that allege significant or irreparable harm to listed buildings, protected landscapes or protected trees will be the priority. This will still be on a reactionary basis, responding when we receive allege breaches.

The proposed strategy facilitates further conversations with local Parish, Town and Community Councils about how the 'core' Island-wide enforcement service already provided by the council could be expanded by additional capacity funded by local councils."

The majority of Ryde Town Council's issues with regard to enforcement are based on the protection of historic buildings. In the past RTC have offered funding to subsidise IW Council's efforts to enforce on difficult owners. This funding was never used. These issues are among the list of 'core' Island-wide enforcement issues. In recent times these core enforcement issues have also included development without planning approval and development which is causing harm to protected land and seascapes.

3. EVIDENCE FROM NEWPORT AND CARISBROOK COMMUNITY COUNCIL

To gain a better understanding of what a dedicated enforcement officer might achieve I was instructed by our Place Neighbourhood and Planning Committee to contact the Newport and Carisbrook Community Council Clerk to gather information regarding their enforcement cases. This information will be used to ascertain the type of case and the effectiveness of their efforts. See below information from Newport.

"When Newport Council first met with Ollie and James, several key members of the council joined the clerk to provide an overarching list of where they would like attention focused. List below:

- 1. Newport Football Club, although the racecourse is just outside our parish boundary it is a hugely important issue, and we are anxious to make sure the 5 year sports conditions attached to St George's Park doesn't lapse before it's too late*
- 2. State of shops in and around Newport.*
- 3. Island Harbour - significant enforcement issues on our parish side of the site are required and this includes removal of the polluting Ryde Queen*
- 4. Carisbrooke High Street (many buildings in poor state of disrepair within protected zone)*
- 5. Former driving test site on Medina Avenue*
- 6. Former Electricity building behind Bargeman's Rest*

These are being looked at, though as you will appreciate, they are not simple or quick fixes but they do give our PE officer an idea of the priorities."

From these priorities the initial three-monthly report showed that 36 planning issues were identified. 24 of these were for action on untidy buildings, 8 were for unlawful advertisements and the remaining 4 were for buildings having a non-permitted change of use and non-adherence to planning conditions.

Of these cases 9 have been resolved. 5 untidy buildings and 3 unlawful advertisements.

As you can see, a number of the cases involve shop keepers tidying up the premises and this has been achieved with a letter from the enforcement officer encouraging them to do so. In many cases this was all that was needed to get them resolved.

RTC's recent planning enforcement requests have been focused on major buildings such as Ryde Theatre, The Royal York and Vectis Hall. There have also been a number of complaints from RTC alleging development in a protected land or seascape which does not have planning approval and cases where planning conditions have been breached. These have been investigated by enforcement officers in the past usually with an unsatisfying conclusion.

Planning enforcement can only be carried out against a backdrop of material considerations. Issues which cannot be identified as challengeable through the planning process such as boundary disputes, construction noise or loss of property value are not things that an enforcement officer could progress. It is also subjective as to whether an unpainted building in a conservation area is causing harm and that enforcement is a legitimate action.

4. OPTIONS

There are a number of options which have, in some instances, changed since the previous report. These are listed below.

Option 1

Carry on using the IWC's enforcement service without paying for additional services and risk being further down the priority list in terms of action.

Option 2

Engage the IWC's enforcement Officers for a minimum of two days a week and produce a list planning issues which are common in Ryde and need additional enforcement.

Issues which may be considered include the following:

- The use of UPVC windows in a conservation area (although this is not against planning law if it is not out of character and may be unenforceable).
- Advertising which has been installed without approval.
- Untidy buildings
- Small development which is carried out without permission.

Option 3

Prepare a list of untidy buildings, carry out our own action with a letter regarding defects. When appropriate, be prepared to take the case to court utilising legislation under section 82 of the Environmental Protection Act 1990 part 3 or alternatively perhaps due to lack of resources from the owner, then a grant from the Public Realm budget or from a dedicated Planning Enforcement Budget administered by the Place, Neighbourhood and Planning Committee and used as a carrot rather than enforcement as a stick.

Option 4

Evaluate the possible impact that the new £20 million levelling up fund which has been awarded, amongst other things, to rejuvenate the Town Centre will have on the necessity for enforcement.

5. FINANCIAL IMPLICATIONS

There are various options for planning enforcement in Ryde moving forward, the cost of these are outlined in the following table:

Options	Yearly Costs
Option 1 Pay nothing and rely on the existing IW Council service.	£ 00.00
Option 2 Engage IWC's Enforcement Officers for two days a week.	£15,769.60 Min
Option 3 Write to owners with untidy buildings and provide funding.	£10,000.00 Max
Option 4 Improve Town Centre with £20 million levelling up fund.	Unknown

NB.

All of these options would be a supplement to the 'core' Island-wide Enforcement Service which will continue to be provided by the Isle of Wight Council.

6. RECOMMENDATIONS

The previous decision to employ a consultant to carry out enforcement work is, at present, not available however the planning officer can pursue cases under section 82 of the Environmental Protection Act 1990 part 3 on RTC's behalf. In addition, provision can be made through the budget setting process for next year to make available funds for untidy shops via the Public Realm budget.

Officer Recommendation

Option 3

Prepare a list of untidy buildings and carry out our own action with a letter regarding defects. When appropriate, be prepared to take the case to court utilising legislation under section 82 of the Environmental Protection Act 1990 part 3 or alternatively perhaps due to lack of resources from the owner, then a grant from the Public Realm budget or from a dedicated Planning Enforcement Budget administered by the Place, Neighbourhood and Planning Committee and used as a carrot rather than enforcement as a stick.

Paper C - Addendum

Further to the report Paper C I have belatedly received a reply to my enquiry to Ollie Boulter the Isle of Wight Council's Strategic Manager for Planning and Infrastructure Delivery regarding my planning enforcement enquiry.

I have included his reply below:

"Morning Chris,

Thanks for your email and bringing me in on the conversation. I fear that perhaps something has been lost in translation, so for the avoidance of doubt please take the following to be the definitive explanation of the Council's approach.

The Enforcement Team will continue to investigate every alleged breach it receives, however due to limited resources it will deal with these on a priority basis as per the Enforcement Strategy. In practice this is likely to mean that what is a locally important issue may not be high on the list for the Enforcement Team looking at the whole Island, but we will open a file and investigate when resources permit. In some instances, these locally important priorities will also meet the priority criteria of the Enforcement Strategy and they shall be dealt with accordingly. As I'm sure you'll appreciate there are multiple cases that meet the priority criteria across the Island, so even these need to be prioritised based on a range of factors such as the historical importance of the building, the condition of the building and the harm created by further deterioration.

So, the bottom line is yes, the Council will continue to pursue action in relation to the Royal York Hotel. It is not, however, a priority site for us, so we will pursue action when resources allow. We do continually monitor the situation on this site, and indeed others, to understand whether the condition of the building has changed and whether it has become at greater risk. If the situation changes and there is greater risk, it will become more of a priority and current resource allocated to it. This is the status quo.

If the town council wishes to change the status quo, then in can provide further capacity which could be used exclusively to deal with the Royal York and/or other sites that are important to the community.

I hear your contention regarding the Royal York being a priority, but as I have explained above it still sits within a Island-wide hierarchy of priorities. There are, unfortunately, multiple sites that are priority and we do the best with the level of resource that we have available to us.

I would take your position even further to say that no residents of the Island should have to pick up the bill for the buildings' owners, but unfortunately we do. To keep those costs down the Council has made budget decisions that mean we only have the budget for 3 FTE Enforcement Officers covering the whole Island. This is currently supplemented by NC&CC funding a further Officer for 3 days a week in Newport.

If the Town Council does not wish to fund further capacity that is a decision of course it is entitled to make, but it will therefore have to accept that the status quo in relation to how the Council prioritises dealing with Enforcement complaints and the speed at which it is able to take action.

This is perhaps a discussion the Town Board may wish to have when considering how to take the recent levelling-up funding forward, and how such approaches can fit into the bigger picture of what the Town Council is trying to achieve in Ryde.

All ways happy to discuss if helpful.

Regards,"

My initial observations of this approach by the Isle of Wight Council are as follows:

Newport have managed to achieve what would be considered easy fixes for a local problem that they have. These issues would in the normal course of things be considered very low priority with regard to their importance for the Island as a whole. This means that the extra money that has been generated from Newport has been used for issues which would normally have been almost ignored by the Isle of Wight Council. Much of what Newport has achieved could have been achieved by other means (ie a strongly worded letter to the property owner by the Town Council).

Ryde's main issue which needs to be addressed by enforcement are the state of various Grade II listed buildings. We agreed, previously, to make available £10,000 per year to help the Isle of Wight Council with action on specific buildings however this money was never spent, and no action was ever taken. The reasons for this are many but include the owner's ability to side step the law by just doing the bare minimum to be in compliance, the huge cost of preparing a case and the risk of failure that these cases have.

Ryde Town Council have now purchased Vectis Hall which was one of the 'at risk' Grade II listed buildings. It is proving expensive and difficult to protect this building and to date funding opportunities for help to regenerate it have drawn a blank. An unfortunate effect of our ownership of Vectis Hall is that owners of neighbouring properties which have previously been the subject of our efforts to tidy them up can now point the finger at us.

In conclusion I feel that the approach by the Isle of Wight Council could have the effect of having a number of low priority enforcement issues sorted out at the expense of the more serious enforcement breaches.

Maybe a better option with regards to enforcement for the Isle of Wight Council is to ask for contributions so that they can bring in extra enforcement officers to tackle the stated priorities of preventing "*significant or irreparable harm to listed buildings, protected landscapes or protected trees*" more effectively.