

Public Questions for Cllr Evans: ECM - 17 September

Mr Hynes:

- 1. In light of these events, what specific measures will Uttlesford District Council implement to ensure a proactive and rapid response to unauthorised development, including:**
 - Out-of-hours monitoring and reporting arrangements for high-risk sites;
 - Clear escalation and decision-making procedures;
 - Timely access to legal remedies where appropriate e.g. a judge prepared to enable the police powers of arrest for breaching the stop notices
 - Effective coordination with partner agencies, including Essex Police;
 - Prompt communication with affected residents and parish councils; and
 - The restoration of land where unacceptable development has occurred.
- 2. Furthermore, will the Council commit to publishing a formal Bank Holiday and Emergency Planning Enforcement Protocol so that residents, councillors and relevant authorities understand how such incidents will be managed in the future?**

Cllr Evans Response:

1. The Leader and I have commissioned a review of Planning Enforcement processes and arrangements in light of the experience at Willows Green. The review will specifically consider out-of-hours and Bank Holiday incidents, clearer escalation and decision-making arrangements, access to urgent legal advice and court remedies, coordination with other partners, and communication with affected communities. I will ask that the process for securing restoration where necessary is also included.

I must clarify, that where an injunction is sought, the Council can ask the Court to consider additional provisions where legally available and justified by the circumstances, but the granting of any power of arrest is a matter for the Court and is subject to separate statutory requirements.

Whilst the Council of course welcomes the strongest sanctions and powers that the Court might grant, it would be misleading to imply that it is easy to secure a power of arrest for breaches when the granting of such powers by the High Court has been described recently in the trade planning press as “vanishingly rare”.

2. The review will include whether a formal Bank Holiday and Emergency Planning Enforcement Protocol should be introduced and published. I would want us to make sure that this is well thought out and deliverable before committing to publishing one. Any substantive changes to the Council's Enforcement Plan would also come through the appropriate governance process.

Ms Cooke

3. **Why did UDC decline the Judges invitation to pursue enforcement action at the last hearing?**
4. **What does UDC do with the evidence provided by residents?**

Councillor Evans Response:

1. In terms of the High Court Hearing on 18 June, its purpose was to continue and confirm the interim injunctions already granted by the Court. Any application alleging contempt of court for breach of those injunctions may arise, if appropriate, at a separate stage of proceedings
2. Evidence provided by residents is important to the Council's enforcement work. It is logged and assessed by Planning Enforcement officers and, where relevant, also referred onto other departments and agencies such as Environmental Health.

Ms Williams

5. **What assessment has UDC made of the cumulative evidence of threats, intimidation and risk, and how has that evidence influenced the urgency of its enforcement decisions?**
6. **What evidence or threshold does UDC say is required before these breaches are referred back to the High Court?**

Councillor Evans response:

1. The Council takes reports of threats, intimidation and risks to residents, officers and other persons seriously and incidents are referred to Essex Police. Planning enforcement decisions are, however, based primarily on the nature and evidence of the alleged breach of planning control.

2. For contempt proceedings, the ultimate test is 'beyond reasonable doubt'. But before getting to that point, the Council has to establish a proper evidential and procedural basis for bringing the matter back before the High Court. The Council still awaits from the High Court the approved Judgment of 18 June before being in a position to take this aspect further.

Mr Wilkes

7. **Can the Council confirm the anticipated date for determination of application UTT/26/1475/FUL, and explain what planning considerations would justify any delay beyond the conclusion of the consultation period?**
8. **If the application is refused, will the Council commit to issuing an enforcement notice immediately thereafter, and if not, why not; plus does the Council accept that the service of an enforcement notice is not prevented by the submission of a planning appeal, and does it intend to use all available enforcement powers should an appeal be lodged?**

Cllr Evans Response

1. The target date for determination is by Mon 23 Nov 2026. The Council will determine the application as soon as reasonably practicable once the necessary consultation and assessment work has been completed. Timescales can depend on the timing of a Planning Committee meeting, receipt of consultation responses from external consultees, and related matters. The Council has a strong record of deciding planning applications within target timescales.
2. If the application is refused, the Council will consider what further enforcement action is appropriate having regard to the circumstances at that time. The submission of a planning appeal does not, in itself, prevent the Council from taking enforcement action. However, the relationship between an appeal, any enforcement notice, and the underlying planning position needs to be considered carefully in each case and I do not wish to pre-determine future decisions. Expressing a concluded view before determination could give rise to concerns about pre-determination and potentially expose the Council to legal

challenge. Put another way, giving the certainty requested in this question might itself lead to negative unintended consequences.

Mr Rayner

9. Does the Council accept that the existence of a current planning appeal does not, in itself, prevent the Council from issuing an enforcement notice in respect of the unauthorised development? If so, can the Council explain why it has not chosen to issue an enforcement notice while the appeal remains outstanding?

10. What was the total cost to Uttlesford District Council of securing the injunction relating to the site, including external legal costs and counsel's fees where applicable?

Councillor Evans Response:

1. The existence of a planning appeal does not, in itself, prevent the Council from considering enforcement action. There is no planning appeal at Willows Green and thus this part of the question is not relevant. The Council has not issued an enforcement notice because it has secured an injunction and the possibility of further legal action remains pending.

2. The total cost to the Council of securing the High Court injunction and serving it is approximately £19,100. This figure represents the external legal costs incurred in obtaining the injunction and does not include the significant officer time associated with investigating the breach, preparing evidence, responding to enquiries, attending court and subsequently managing the case. It is a similar amount again, in respect of the site at Milch Hill, nearby in Willows Green.