

## Response to Deputation Heard 10<sup>th</sup> November 2021; removal of Seating at Bramley Shopping Centre

Date: 8<sup>th</sup> December 2021

Report of: Chief Planning Officer

Report to: Director of City Development

Will the decision be open for call in?  Yes  No

Does the report contain confidential or exempt information?  Yes  No

### What is this report about?

- 1 A Deputation from a group entitled 'A Place to Sit', was heard at Council on the 10<sup>th</sup> November 2021. It was resolved that the subject matter be referred to the Director of City Development for consideration, in consultation with the relevant Executive Member.
- 2 The Deputation was made on behalf of 1,100 residents concerned about the removal of 22 benches from in and around the Bramley Shopping Centre, in June 2021. The impact of this action by the shopping centre owners was highlighted. In particular, the deterrence of older and less mobile residents, or parents with young children from visiting the centre, due the lack of a place to sit or rest. This was having an effect on people's ability to undertake trips for shopping, to collect pensions and / or prescriptions, and socialising in general, to the determinant of individuals and the local community.
- 3 The group is campaigning for the restoration of the benches, and with ward member support had contacted Planning Enforcement to report the loss of the benches. In the meantime, after some pressure and dialogue with the centre owners, 8 benches have been reinstated but in different locations to those removed.

### Council Actions to Date

- 4 The Planning Enforcement team was contacted by Cllr Ritchie in August 2021, with a request to check whether removal of all seating benches from the centre was a breach of planning control. A case for investigation was set up, and a site inspection in early September found that there were no benches or seating retained at the shopping centre. Following further investigation of the site history and consideration within the service, a letter was issued to the centre owners requesting reinstallation of 13 benches to conform with an approved plan from a 2015 planning permission (for alterations to the existing car park layout, a new taxi rank and cycle store at the centre).
- 5 In late October 2021, a further site visit was undertaken to check for compliance with the requirement to reinstate the benches. Some seating had been installed (the 8 benches referred to above). Further emails were sent to the owners notifying them that a response was required within seven days before formal action would be instigated to seek

reinstatement of the benches. One of the owners indicated that a planning consultant had been appointed to liaise with the authority; however, to date no contact has been made from such a consultant.

- 6 Since then, officers have been in further discussion to verify the breach of control and have begun to prepare formal action based on the fact that a condition of the 2015 planning permission, required hard and soft landscaping details, which included a layout plan showing 13 benches around the car park, to be discharged. Details were subsequently discharged on the proviso that the hard and soft landscaping were constructed, maintained and retained, in accordance with the details agreed. Given the removal of the benches, there is considered to be a breach of this requirement, and as such, officers are currently preparing a Breach of Condition Notice to be served on the property owners. There is no right of appeal against the serving of such a notice, and a failure to comply / continued breach would be dealt with at the Magistrates Court.
- 7 The above action would not secure the reinstatement of all 22 benches as mentioned in the Deputation, as some were removed from elsewhere around the centre, outside the boundary of the 2015 planning application and so not covered by historical planning permissions or conditions. Notwithstanding this, the City Council would be prepared to enter into discussions with the landowners to see if the further remaining benches could be reinstated, subject to the necessary permissions and consents being in place.

### **Proposed Response to Deputation**

- 8 “The Council acknowledges and shares the concerns that the loss of the outdoor seating from the Bramley Shopping Centre has created. Since the matter was raised, the Council as Local Planning Authority, has sought to establish what controls it has over the retention of seating and has taken steps to seek the reinstatement of the benches, where a breach of control has been identified. A summary of the event and actions is outlined below.
- 9 In August 2021, a request was received to check whether the removal of benches. Having investigated including through site visits, Land Registry check and planning history check, a letter was issued to the centre owners requesting reinstatement (within one month) of benches to comply with an approved plan for a 2015 planning permission (for alterations to the existing car park layout a new taxi rank on cycle store at the centre).
- 10 In October 2021, a further site visit was undertaken to check for compliance with the requirement to reinstate the benches. Some seating had been installed (the 8 benches referred to in the Deputation). Further emails were sent to the owners notifying them that a response was required within seven days before formally before formal action would be instigated to seek replacement of the benches. One of the owners indicated that a planning consultant had been appointed to liaise with the authority, however to date no contact has been made from such a consultant.
- 11 Since then, officers have begun to prepare formal action based on the fact that a condition of the 2015 planning permission required hard and soft landscaping details, which included a layout plan showing 13 benches around the car park, to be discharged. Details were subsequently discharged on the proviso that the hard and soft landscaping details were constructed, maintained and retained in accordance with the details agreed. Given the removal of the benches, there is considered to be a breach of this requirement, and as such the Council proposes to serve a Breach of Condition Notice on the property owners. There is no right of appeal against the serving of such a notice.

- 12 The above action would not secure the reinstatement of all 22 benches, as some were removed from elsewhere around the centre, outside the boundary of the 2015 planning application, and so are not covered by historical planning permissions or conditions.
- 13 I hope that the above provides reassurance that the authority is pursuing this matter including on a formal basis to secure the reinstatement of benches at the Centre, where possible to do so. “

### **Recommendations**

- 14 The Director of City Development is recommended to:
- a) Note the content of this report in response to the deputation heard on 10 November 2021.
  - b) Consider and approve the proposed response to the points made in the deputation and set out in this report.
  - c) Note the planning status of the site and the actions to be undertaken to remedy the breach of Planning control.

### **Why is the proposal being put forward?**

- 15 The proposal is being put forward to address the breach of planning control that has been identified and which results in harm to residents on the local community , as articulated by the deputation to council on the 10th of November 2021 by the ‘A place to sit’ group.

### **What impact will this proposal have?**

<b>Wards affected:</b>
Have ward members been consulted? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### **What consultation and engagement has taken place?**

- 16 As this relates to a planning enforcement matter, no direct consultation has taken place. However, communications have been maintained with those that have an interest in this matter including ward members, and those interested parties will be informed of progress as the service continues to pursue the reinstatement of the benches that formed part of the approved plan from 2015.

### **What are the resource implications?**

- 17 There are no specific resource implications arising from the recommendations proposed, other than officer time in pursuing the remedy as described and corresponding with those having an interest in the matter. However, if the matter is subsequently dealt with through the courts (see below), there will be further officer time implications as well as any external advocacy costs in defending the Council’s actions and presenting the case.

### **What are the legal implications?**

- 18 There are no implications in terms of the response to the deputation. However, whilst there is no appeal process against the Breach of Condition Notice, failure to comply with such a

notice may result in the councils undertaking action through the courts to seek compliance. The centre owners could mount a legal challenge against the notice.

### **What are the key risks and how are they being managed?**

- 19 Key risks identified in relation to this matter are, having responded to the deputation to sate action is being taken, the failure to secure the reinstatement of the benches through a Breach of Condition Notice, if the courts do not uphold the Council's actions.

### **Does this proposal support the council's three Key Pillars?**

Inclusive Growth                       Health and Wellbeing                       Climate Emergency

- Health and Well-being Strategy – The reinstatement of benches at the centre would help to ensure that elderly and less mobile residents, those with young children, and other residents wishing to socialise at the centre would have appropriate facilities to sit, rest and meet with others, with associated health and wellbeing benefits this brings.
- Climate Emergency – the action to require reprovision of the benches would serve to encourage those that would otherwise drive to the centre to walk instead, knowing that there were facilities to rest after travelling to the centre, before returning home and during their visit.
- Inclusive Growth Strategy – The action would also seek to address the impact on inclusivity that the removal of the benches has had, given that individuals with certain protective characteristics are most likely to be impacted by the loss of the benches.

### **Options, timescales and measuring success**

#### **What other options were considered?**

- 20 Enforcement action is discretionary, and so the Council as Planning Authority has assessed the level of expediency in pursuing the matter. Options considered were
- a) Take no action; close the case with the matter not being pursued. This option was not followed as there was considered to be harm arising from the removal of the benches, as set out above.
  - b) Informal action only; seek to persuade the owners to reinstate the benches but do not formalise action if no there is no co-operation, due to costs and time involved. Whilst formal action is a last resort, given the level of interest in the matter and the remaining harm arising from loss of the benches, it is considered appropriate and expedient to instigate formal action to secure reinstatement. This option is not therefore to be

#### **How will success be measured?**

- 21 Success will be measured by the reinstatement of the benches at the Centre, primarily the 13 subject to formal action but also the remaining not covered by planning controls, and positive reaction from the 'A Place to Sit' campaign group and ward members.

### **What is the timetable for implementation?**

- 22 The response to the Deputation can be issued upon approval.
- 23 Further communication with the lead for the group and ward members will continue, to update them on the serving of the Beach of Condition Notice 9 anticipated within the next two weeks) and of further developments thereafter.

### **Appendices**

- 24 None.

### **Background papers**

- 25 None.