

REPORT TO THE Overview & Scrutiny

Report No.10

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| Date of Meeting | 21/06/07 |
| Title of Report | PLANNING ENFORCEMENT |
| Link to Corporate Priorities | Customer Focus |
| Public Report | YES |

Summary of Report

At its meeting on May 24th 2007, Overview & Scrutiny Committee resolved to consider the provision for Planning Enforcement and requested a short paper to be presented at this meeting.

This report presents an outline of the current enforcement regime including: resources, caseload and background to the consideration of enforcement action.

Officer Recommendations

This report is for information and for Members to note.

Other than those implications agreed with the relevant Officers and referred to below, there are no other implications associated with this report.

| Financial Implications | Legal Implications | Community & Environmental Implications | Human Resources Implications | Equality & Diversity Implications |
|------------------------|--------------------|--|------------------------------|-----------------------------------|
| NONE | NONE | NONE | NONE | NONE |

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1. Introduction

- 1.1 Members at the meeting of the Overview & Scrutiny Committee held on May 24th 2007, requested a short report on the provision of Planning Enforcement in the District.
The report therefore presents an overview of the current situation.

2. Options and Options Appraisal

- 2.1 Option 1:
To note the contents of this report.
- 2.2 Option 2:
To note the contents of this report and request further detailed information on specific areas of the service.

3. Background Information

- 3.1 Government advice to Local Planning Authorities on the Enforcement of planning control is given in Planning Policy Guidance Note No:18.
- 3.2 This clearly reminds Authorities that it is not a criminal offence to carry out development without first obtaining planning permission. Consideration of enforcement action must be made on the basis of assessing what harm there is to public amenity and whether planning permission would have been granted for the development, which has already been undertaken. The Policy Note makes it absolutely clear that it is unreasonable behaviour for the Local Planning Authority to commence enforcement proceedings, solely to remedy the absence of a valid planning permission.
- 3.3 Against this background by the end of 2002, Planning Enforcement had become an issue with Members, Parish Councils and others expressing concern that the Council was seen as a "soft touch" and only taking enforcement action against unauthorised developments in cases of extreme harm to planning interests. There were considered to be many more cases where the Council should be pursuing enforcement action, as planning permission would not be forthcoming for the unauthorised developments.
Additionally, there was concern that not all complaints were being investigated and full and clear explanations were not being given to Members and others, in response to their enquiries.
- 3.4 Following years of under achievement, caused through a difficulty in recruitment, long term sickness and a general lack of resources, the Enforcement Team was reviewed in 2003 and the structure shown in Appendix A was created.
- 3.5 At the same time (2003), Enforcement was made a Council priority and since that time considerable progress has been made in eliminating back logs and investigating all complaints, despite a considerable year on year increase in the numbers of complaints, which are received from neighbours, third parties, officers and councillors.
- 3.6 The following table indicates the volume of work which has been dealt with in the section since 2002.

| | 2002 | 2003 | 2004 | 2005 | 2006 |
|----------------------------------|------|-----------------|--------------------------|------|------|
| No of enforcement complaints | 343 | 471 | 512 | 568 | 590 |
| No of enforcement notices issued | 7 | (Jan- Aug) 6 | (Sept 03 - Dec 04) 73 | 25 | 20 |

This demonstrates that there was considerable activity in the service of enforcement notices to clear a backlog of cases in 2004 and there has been a marked increase in the number of complaints received annually between 2003 and 2006.

- 3.7 Following an Ombudsman investigation in 2004/05, the Overview & Scrutiny Committee on January 20th 2005, recommended to Executive and subsequently Council, that a Planning Working Group should be reconvened to review the Development Control process and ensure that the Enforcement Service was fit for purpose.
- 3.8 The subsequent Working Group which met in December 2005, having reviewed the workload, resources and level of service, resolved that the Enforcement Service was fit for purpose, but should be periodically reviewed. This was endorsed by the Development Control Committee at its meeting on May 17th 2006.
- 3.9 Through the Working Groups, the whole process and interaction with the public was assessed and improvements made to the information given to the public and Members at all stages of the process.
- 3.10 The whole of the Development Control Service, including Enforcement, was reviewed by the Development Control and Customer Focus Team Leaders in October 2006. One of the outcomes of that review revealed that there may be alternative ways of delivering the enforcement service, to start to address some of Members' past concerns.
- 3.11 In the recent past, there has been a desire by Members to provide a robust pro-active service, including the monitoring of conditions, to try and further deter unauthorised development.
- 3.12 Whilst the structure of the team identified at Appendix A, achieved a remarkable transformation of the service, Members were always told that a fully pro-active service, including monitoring conditions, was not possible without considerable additional resources and this could be reviewed at a future date.
- 3.13 The review of the service in October 2006 identified that there was still a need to retain the original number of posts on the establishment, but due to the long term absence on sick leave of a key member of the team from March 2006, a new approach to the management of the section had to be implemented, on a temporary basis.
- 3.14 Prior to this enforced temporary arrangement, it had always been thought that redistributing some of the management of the function elsewhere (ie Development Control) would result in an unacceptable additional workload for the two Principal Planning Officers (Development Control).

- 3.15 A new Enforcement Team structure was introduced and agreed at the Personnel, Licensing and Administration Committee at its meeting on January 13th 2007 and this revised structure is shown at Appendix B.
- 3.16 The new structure has deleted the post of Principal Planning Officer (Enforcement) and created a Senior Planning Officer with supervisory duties, with the overall management duties and back up on technical issues, undertaken by the two Principal Planning Officers in Development Control.
- 3.17 Whilst a new Investigation Officer post has been created to cover some of the original investigation duties of the enhanced Planning Officer post, a proportion of the post will be available as a monitoring role, to start to address the monitoring of planning conditions.
- 3.18 The first phase of this revised structure has been implemented, with the internal appointment of the Senior Planning Officer (Enforcement) and it is anticipated that an appointment to the Investigation/Monitoring Officer role will be made in the Autumn. In the meantime, the investigation duties are being covered by the temporary appointment of an ex Local Government Enforcement Officer, on a part time basis.

4.0 Decisions

- 4.1 The decision to consider whether it is expedient to pursue enforcement action, is delegated to officers, under the Council's Scheme of Delegation. However, in issuing an Enforcement Notice in relation to unauthorised works, the delegation scheme requires the Chairman of the Development Control Committee and the Local Ward member to be notified of the impending issue of the notice and allows a period of 7 days for a request to be made that the matter be referred to the Committee.

5.0 Resources

Whilst the current structure of the Enforcement Team has been identified at Appendix B, there are occasions when it is necessary to employ consultants.

- 5.2 This is particularly necessary in relation to appeal work where there is a need to employ Barristers/Consultants to represent the case on behalf of the Council. This type of cost is currently met from a combination of the appeals budget (total budget - £98,470) attached to the Development Control section, or a rolling fund allocated to Enforcement, from the Planning Delivery Grant.

Implications

None

Risk Analysis

None

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| Appendices: | <ul style="list-style-type: none"> • Appendix A - Enforcement Team Structure in 2003 • Appendix B - Enforcement Team Structure in 2007 |
| Background Documents Used in the Preparation of this | <ul style="list-style-type: none"> • PLA Committee 13.01.07 - Review of the Enforcement Service • Overview & Scrutiny Committee 17.02.05 - Planning Enforcement Update report |

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| Report: | <ul style="list-style-type: none"> • Review of Development Control, Enforcement & Customer Focus - Oct 2006 |
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Previous Decisions Connected with this Report

| Report | Committee & Date | Minute Reference |
|---------------|---|-------------------------|
| | <ul style="list-style-type: none"> • PLA Committee 13.01.07 - Review of the Enforcement Service • Overview & Scrutiny Committee 17.02.05 - Planning Enforcement Update report | |