

CABINET
22ND SEPTEMBER 2009

PLANNING ENFORCEMENT POLICY

Executive Summary

Members are being asked to adopt a single planning enforcement policy to replace those which were in place prior to 1st April in the former authorities. The new policy sets out service standards and priorities and explains the purpose of planning enforcement so that all sections of the community know what standard service they can reasonably expect. It will also ensure that resources are used efficiently and effectively to deal with what are regarded as the most serious breaches of planning control in a robust and proportionate manner.

Proposal

That the Cabinet adopt the attached enforcement policy.

Reason for Proposal

To ensure a high quality, cost effective planning enforcement function with consistent, measurable performance is delivered across the authority.

Author: Brad Fleet, Service Director Development Services

Contact: Stephen Hawkins, Lead Principal Enforcement Officer

Phone 01722 434691

email: developmentmanagementsouth@wiltshire.gov.uk

PLANNING ENFORCEMENT POLICY

Purpose of Report

1. To seek Cabinet's endorsement and adoption of a new planning enforcement Policy for Wiltshire Council.

Background

In 1997 the Government published a document called "*Enforcing Planning Control: Good Practice Guide*" and recommended that all authorities produce a clear statement of enforcement policy to provide a decision making framework including an explanation of the Council's enforcement practices and procedures.

The former authorities had, by and large, prepared and adopted enforcement policies which had regard to the guide. The content of each varied however, as did the resources devoted to the service and performance standards.

The new council's enforcement policy will create the framework for a consistent set of service standards, procedures and enforcement priorities across its administrative area which will be embedded in all the area enforcement teams. It will also set out a series of performance targets against which the quality of the service provided can be judged. A copy of the draft policy is attached as an appendix.

2. The policy has been prepared to ensure that the council's approach to enforcement activity is clearly documented and transparent. It sets out the circumstances when action will be taken, the procedures which will be followed and where resources will be focused. i.e. on what the council considers to be the most serious breaches.

Main Considerations for Cabinet

3. Cabinet is asked to consider whether;
 - The document is appropriate in terms of content, language and length.
 - The service standards set out at section 5 represent excellent customer service, having regard to the available resources for enforcement.
 - The enforcement procedures set out at section 6 represent a proportionate but robust response to breaches of control.
 - The priorities for investigations in section 7 reflect member priorities and that resources should be allocated in line with these priorities.

Environmental Impact of the Proposal

4. Adoption of the policy would be beneficial to the environment as it seeks to ensure that enforcement resources are targeted where there is most significant environmental harm and that adverse impacts on the environment are remedied.

Equality and Diversity Impact of the Proposal

5. The policy seeks to eliminate discrimination and promote good community relations/cohesion by setting out clear standards for enforcing planning control with priorities based on potential harm to the environment. The policy will be implemented consistently and is equally applicable to all sections of the community. As a result it is considered that there would not be any direct or indirect discrimination of any sections of the community.

Risk Assessment

6. Adoption and proper implementation of the enforcement policy will reduce the following risks, which could arise as a result of not having a policy:
 - Excessive resources being focused on small -scale issues where there is limited harm but vociferous complaints;
 - Ombudsman complaints being upheld- the Council's policies and procedures will be clear and consistent.
 - Awards of costs in appeals-should be reduced.
 - Challenge to decisions on grounds of inconsistency. This could be between individual decisions in the same or other area offices or the practices and procedures in the area offices.
 - Challenge to decisions on equality grounds.
 - Increased complaints about customer service.

Financial Implications

7. Adoption of the policy will provide the Council with a platform for efficient and effective use of resources and a stronger basis on which to resist claims for costs where it has followed its own practices and procedures.

Legal Implications

8. Planning enforcement has a statutory basis under the Planning Acts. It is perhaps one of the most litigated areas of planning law. Adoption of the policy itself has no direct legal implications. However, it is important that the Council has an adopted policy for purposes of fairness, consistency and proportionality when it is defending any decision taken. In particular, the policy will assist the Council in demonstrating that where its decisions interfere with individuals' Human Rights, that such interference has a legitimate basis and is justified and proportionate.

Options Considered

9. The option of not adopting an enforcement policy was not favoured, for reasons including the risks largely identified above.

Conclusion

10. That the enforcement policy should be adopted in accordance with the text in the appended document.
-

Background Papers

None

Appendices

Draft Enforcement Policy.