

# Scrutiny Report

Report of Head of Planning

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Wards affected: All

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To: SCRUTINY

Date: 29 November 2021

## Updated Joint Planning Enforcement Statement

### Recommendation

(a) that Councillors consider the content of the report including the new approach to triaging and feedback their observations to the Cabinet Member for Planning.

(b) that Councillors provide feedback on the councillor engagement session held on 23 November.

### Purpose of report

1. To inform progress on the revised joint Planning Enforcement Statement (Appendix 1), which was last updated in 2016.
2. To seek Scrutiny Committee's comments on the new approach to triaging cases and to seek support for this new approach.

### Corporate Objectives

3. The investigation and actions to mitigate planning harm supports the Corporate Plan, 2020 - 2024, themes of 'Providing the Homes People Need' and "Building Healthy Communities".

## Background

4. Central Government sets out national planning policy in the National Planning Policy Framework (NPPF). At paragraph 59 of the NPPF it states that local planning authorities *'should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area'*.
5. It is 5 years since we last updated our statement. There has been a lot of changes in planning during this period such as the publication of the updated and revised NPPF. The current statement and approach are resource intensive and along with the impact from the recent pandemic we are not able to manage the workload. Although during the first lockdown we limited site visits which reduced our ability to progress case investigations, the development industry and residents did not stop breaching planning or reporting alleged breaches. During this period, we had a significant increase in reported allegations. This has led to a backlog of cases. We currently have, for both councils, 700 live investigations of which 241 cases are unallocated (131 cases for South and 110 for Vale).

## Main subject of report

6. In spring 2021 the enforcement team went through a thorough review of the function and the team are now working through the resulting action plan. Updating the Enforcement Statement has been identified as an important step in helping the team to become more efficient and effective. The updated document aims to communicate more clearly the enforcement team's role within the wider planning service and the public and parish councils' roles as informants in the process. The enforcement team's role is to maintain the integrity of the planning system and planning decisions made by the councils. They therefore investigate allegations for the councils not for residents. It is also important to recognise that in the first instance, the objective of planning enforcement is not to punish those who are in breach of planning but to remedy the planning harm caused by the planning breach. The councils also do not 'police' new development.
7. As part of the function review, an assessment has been undertaken on the triage and prioritising of cases, and the amount of time spent on issues that have little impact and considered not to cause unacceptable planning harm.
8. Historically when the council considered an alleged breach of planning, the case was not closed until the site had been visited and the breach of planning remedied. This resulted in the enforcement team continuing to use resources to pursue minor breaches of planning that were not causing harm to public amenity and/or interest.
9. The proposed risk-based approach will use a set of scored planning criteria to rate the impact a planning breach is having and if it doesn't reach the threshold set it will be closed as not expedient to pursue and the informant advised of the outcome. Only cases that are considered to have the potential for planning harm will be allocated to an officer for a site visit and further investigation.
10. This new method will allow officers to filter out a number of cases and be able to spend more time on investigations where there is more potential for unacceptable planning

harm and need for formal action. It is also expected that this approach will help reduce the backlog of cases and once completed, the capacity to act more proactively such as dealing with major development sites.

**Member engagement**

- 11. As part of reviewing the Statement, it is important to engage with all councillors and seek their comments.
- 12. Officers have produced a narrated presentation about the Statement and its new approach, including the harm assessment and team’s priorities. The presentation also includes some context about planning enforcement. We sent the presentation to all district councillors and are holding a councillor Q&A session on Tuesday 23 November. Comments and feedback will be taken into account and amendments made to the statement as appropriate. We are not seeking public engagement as the planning enforcement function is limited by regulation, appeal and court outcomes and the agreed resources.

**Timescales**

- 13. The Statement is being taken through each council’s Scrutiny Committee. Any suggested amendments that come from the Q&A session and the Scrutiny Committees will be considered and appropriate changes made. Both Cabinets will then be asked to approve the Statement as the councils’ approach to managing planning enforcement.

Timescale for progressing planning enforcement statement		
Date	Action	Notes
23 Nov	District councillor joint Q&A session	Report any agreed changes following Q&A to Scrutiny
25 Nov	Vale Scrutiny	
29 Nov	South Scrutiny	
2 Dec	South Cabinet	
3 Dec	Vale Cabinet	
w/c 6 Dec	Press statement	

**Climate and ecological implications**

- 14. In maintaining public confidence in the planning system (NPPF), the revised Statement should help ensure new development and relevant planning conditions support climate and biodiversity mitigation.

**Financial Implications**

- 15. The work to review the statement and the proposed councillor engagement is all within the existing planning budget.

## **Legal implications**

16. There are no direct legal implications arising from this work. The NPPF says Local Planning Authorities ‘...should consider publishing a local enforcement plan to manage enforcement proactively...’.

## **Conclusion**

17. Effective enforcement is important to maintain public confidence in the planning system (NPPF). The updated Enforcement Statement sets out the preferred approach for the councils to manage the planning enforcement function and provides a framework for the team to be able to work in a more efficient and effective way.

## **Appendix 1**

Draft Planning Enforcement Statement September 2021