

Cabinet Report



Listening Learning Leading

Report of Head of Planning

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To: CABINET

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Updated Joint Planning Enforcement Statement

Recommendations

- (a) that Councillors consider the content of the report and feedback from Scrutiny Committee
- (b) that Cabinet approves the new Enforcement Statement and approach to managing planning enforcement.

Purpose of Report

1. To inform Cabinet about the revised joint Planning Enforcement Statement (Appendix 1) which was last updated in 2016.
2. Seek Cabinet's agreement on the new approach to triaging cases and revisions to the Enforcement Statement.

Corporate Objectives

3. The investigation and actions to mitigate planning harm supports the Corporate Plan, 2020 - 2024, themes of Homes and infrastructure that meet local needs, Protect and restore our natural world and Action on the climate emergency.

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 lot of changes to the planning system during this period e.g. revised NPPFs. The current enforcement statement and approach is 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 issues

6. In spring 2021 the enforcement team went through a thorough review of the function and the team are 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 teams' role within the wider planning service and the public and town/parish councils' role as informants in the process. The enforcement teams' 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 (harm assessment) 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 e.g. dealing with major development sites.

District Councillor and wider engagement

11. As part of reviewing the Statement, we have engaged with all councillors and sought their comments.

12. Officers produced a narrated presentation about the Statement and its new approach, including the harm assessment and priorities. The presentation also included some context about planning enforcement.
13. A councillor Q&A session was held on 23rd November which was well attended. Comments and feedback centred around GDPR and communication with town/parish councils and the wider public. It was suggested that officers put a package of information together for town/parish councils to help them understand the new approach. Similarly, to ensure there is information on the councils website to help explain the revised approach to our residents.
13. We have not sought public engagement on the revised enforcement statement as it would not be meaningful consultation. This is because the enforcement function is limited by regulations, appeal and court outcomes and the agreed resources.

Options

14. Cabinet can either approve the statement or to reject the statement and continue with the current approach. However, we should review our statement on a regular basis

Climate and ecological impact implications

15. 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

16. The work to review the statement including the councillor engagement is within the existing planning budget.

Legal Implications

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

Risks

18. The risk of producing a revised statement is low as although the council may get complaints about our new approach in the statement, so long as we follow these procedures this should limit findings of fault by the Ombudsman.

Conclusion

19. 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.

Background Papers

Appendix 1; Draft Joint Planning Enforcement Statement 2021