

Report for: Scrutiny

Date of Meeting:	19 th February 2024
Subject:	Planning Enforcement Policy update
Cabinet Member:	Cllr Steven Keable, Cabinet Member for Planning and Economic Regeneration
Responsible Officer:	Angharad Williams, DM Manager
Exempt:	N/A
Wards Affected:	Relevant to all wards
Enclosures:	Revised Planning Enforcement Policy

Section 1 – Summary and Recommendation(s)

This report seeks to:

1. Discuss the reasons why an updated policy on Planning Enforcement is needed, and;
2. Present the updated Planning Enforcement Policy which incorporates amendments requested by the Planning Policy Advisory Group (PPAG) ahead of presentation to Cabinet for adoption.

Recommendation(s):

1. That Members note the report and the updated planning enforcement policy – including that PPAG have recommended the presentation of the updated planning enforcement policy to Cabinet for approval. And;
2. That Members note that delegated authority to the Development Management Manager, in conjunction with the Cabinet Member for Planning and Economic Regeneration, will be sought to make any future revisions to the Planning Enforcement Policy to ensure it accords with National Planning Policy.

Section 2 – Report

- 1.0 Introduction – background to Planning Enforcement Policy

- 1.1 Mid Devon's Local Planning Enforcement Policy seeks to set out how Mid Devon will take responsibility for reported breaches of planning control within the District. It sets out how reported breaches will be categorised by means of Highest priority, high priority, medium priority, and low priority, together with the timescales that can be expected with each in terms of acknowledgement, investigation and response time.
 - 1.2 The policy was last reviewed in April 2018. Since then, as members will be aware, there have been a number of National and Local Policy changes, together with a steady rise in reported planning breaches since the Covid pandemic.
 - 1.3 Planning enforcement is an important part of planning activity and the planning system, however planning enforcement is governed by legislation, is discretionary and must be proportionate.
 - 1.4 A high volume of planning breaches are reported, but the majority tend to be low impact/risk and, owing to the limited resource available, officers necessarily have to focus on the high risk/high impact cases where intervention is required to address serious breaches.
 - 1.5 As planning enforcement is a discretionary service which is not chargeable, all authorities must necessarily take a 'view' in terms of how they resource their planning departments to accommodate enforcement activity. The approach varies significantly between councils with some councils having no-dedicated enforcement staff and other authorities, such as Mid Devon, having skilled staff dedicated to enforcement activity.
 - 1.6 At Mid Devon, it has been considered appropriate and prudent to update the current Planning Enforcement Policy in order to provide clarity on officer approach when dealing with reported breaches. The aim of the policy, is to set out clearly what will be investigated as a high priority, as well as make it clear that lower priority cases will not be investigated whilst other higher priority matters are being dealt with, unless there is planning officer capacity to do so.
 - 1.7 The approach to enforcement is necessarily to prioritise high-risk and high impact breaches, understanding that the council is not equipped (financially or in terms of staff) to address every alleged breach.
- 2.0 Proposed Changes in detail
- 2.1 The new Planning Enforcement Policy brings the operations of the Enforcement Team in line with the Council's current approach, formal

adoption and publication of the policy should make it easier for the public to understand Mid Devon's approach to Planning Enforcement.

- 2.2 The proposed Planning Enforcement Policy adopts a similar approach to that taken by East Devon. The reason for this is that Officers consider it to be a robust policy and it was also considered to be a good template by the Scrutiny Sub Committee which was previously formed to consider planning enforcement activity within Mid Devon.
 - 2.3 The proposed policy sets a much clearer framework for when enforcement action will be taken, and how it will be taken, together with clarity on what types of cases will be investigated as high priority, medium priority and lower priority, accordingly.
 - 2.4 It advises that a maximum of 7 working days is the response time for acknowledgement of complaints received and sets out step by step guidance on how the complaint will be managed and what to expect as an outcome. The updated policy is more comprehensive and will enable improved management of the enforcement caseload.
 - 2.5 Options regarding enforcement action, explaining what is appropriate and when, together with some examples of what will and will not constitute a breach of planning have also been included within the policy.
 - 2.6 The proposed document is simple in comparison with the current policy document, in an attempt to help a wider audience to understand how a case is investigated and what options are available to enforcement officers in terms of taking action as set out by National Policy. This includes specific guidance in relation to what are normally higher priority cases, such as protection of trees, and listed buildings.
 - 2.7 The updated Planning Enforcement Policy has been appended to this report for ease of reading, and reference.
- 3.0 Next steps
- 3.1 As set out above; the Council is seeking to implement this updated policy as soon as possible, in order that the public are better informed of how the Council will manage reported breaches of planning control.
 - 3.2 The policy has gone before PPAG, incorporates changes recommended by PPAG and is now before Scrutiny to ensure that members have the ability to discuss the changes, and ask any questions, before the report and the policy proceed to Cabinet for approval to adopt.

Financial Implications

Planning enforcement is a discretionary and non-fee generating service. Ensuring that the Council's policy on enforcement is clear, understandable, and in line with National Planning Policy, is crucial in minimising the risk of enforcement appeals that could come forward with a cost implication to the Council as a result of unreasonable enforcement action.

Furthermore, the implementation of the updated policy into the Council's policies and procedures will help to ensure caseloads for officers are manageable and their wellbeing maintained. This is because the policy makes it clear what reported breaches of planning will be prioritised and those that will either take longer to be investigated, or will not be investigated until or unless capacity exists.

Legal Implications

Matters of enforcement are bound by strict data protection rules and the authority must be mindful of the rights of individuals concerned. This means that specific details and ongoing enforcement activity cannot be shared beyond those within the authority who are immediately and necessarily involved in cases.

Enforcement action must always be proportionate and, where appropriate, the LPA is encouraged to seek to resolve matters through dialogue and regularisation. The authority does not have 'carte blanche' in what it elects to do in relation to planning enforcement matters.

Nonetheless, enforcement is a necessary part of the planning system and so, in relation to severe planning breaches, the authority will seek to progress proactive enforcement.

Risk Assessment

Risk can arise through a lack of enforcement activity – but the authority is seeking to mitigate this risk as explained within this report.

Risk can also accrue from unreasonable enforcement activity and a lack of general compliance on key issues such as data protection. The authority are also therefore seeking to minimise this risk by implementing the policy update which is considered to provide more clarity around what cases will be high priority and how enforcement action will be taken as appropriate. This subsequently assists in minimising risk of turnover of employed enforcement officers, given that their caseload should be more manageable.

Impact on Climate Change

Owing to the direct impact that planning has upon our built and natural environment, work in relation to planning enforcement can have an impact upon climate change, biodiversity and the environment at large. Generally speaking, planning enforcement should always have a positive impact in these areas as it seeks to ensure compliance with planning matters and seeks to guard against illegal or improper development and use of land.

Equalities Impact Assessment

No equalities issues are expected to arise from this report.

Relationship to Corporate Plan

Proactive and proportionate planning enforcement will support the Council in achieving its corporate objectives.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Date: 9 February 2024

Chief Officer: Richard Marsh

Date: 28th January 2024

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 9 February 2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Angharad Williams – DM Manager

Email: awilliams@middevon.gov.uk

Background papers: None.