

SCRUTINY
10TH OCTOBER 2016

REPORT OF JENNY CLIFFORD THE HEAD OF PLANNING AND REGENERATION.

PLANNING AND ENFORCEMENT SERVICE - ASSESSMENT AND IMPROVEMENT REPORT.

Cabinet Member Cllr Richard Chesterton
Responsible Officer Jenny Clifford, Head of planning and Regeneration

Reason for Report: On May 23rd 2016, a paper was brought to the Scrutiny Committee by the Chief Executive, outlining various measures for improvement within the service. This paper updates members on the progress made since that report.

RECOMMENDATIONS:

That the committee note the progress as outlined in this report.

Relationship to Corporate Plan: The primary purpose of the planning system is to regulate the use and development of land in the public interest and be a positive force in protecting what is good in our environment and preventing what is unacceptable. The Planning Service is a statutory service, the effective operation of which is central to the delivery of Corporate Plan priorities of community, housing, economy and environment. The Local Development Plan sets out the strategy and approach to development in the district, together with community and environmental safeguarding / enhancement until 2026.

Financial Implications:

The net budget for the Planning Service for 16/17 has been set at £493,000 with expected income from applications and other sources of £834,000. Activity by the Planning Service also directly results in the award of New Homes Bonus from the government.

Legal Implications:

The Service operates within a highly regulated environment which has been, and continues to be, subject to significant Government changes. The Planning Service including the enforcement of planning control must operate within the legal and performance parameters established through legislation, case law and Government performance indicators, but should also command public confidence in the system. The operation of the Planning System will by its nature often involve making difficult decisions that will not be universally supported within the community.

Risk Assessment: The operation of the Planning Service is by its nature open to what can be high levels of public scrutiny with potential for challenge. It must operate within legislative constraints. Local Planning Authorities are expected to operate in a reasonable way, in accordance with statutory requirements and Government guidance. There is an expectation that the Council will be able to justify its decision making.

1.0 INTRODUCTION.

1.1 Since the initial review, progress has been made in many areas, although it is recognised that this improvement 'journey' is not yet complete and that the service will wish to continue address the actions on this list as well as identifying new areas for continual improvement.

2.0 PREVIOUS RECOMMENDATIONS AND PROGRESS MADE.

2.1 The Head of Planning & Regeneration brings forward the Local Enforcement Plan for Cabinet to consider as a matter of priority to set the framework for enforcement activity at MDDC.

2.1.1 This is being taken to the Planning Policy Advisory Group (PPAG), then onto Cabinet in November.

2.2 The Head of Planning & Regeneration ensures that staff within the enforcement service are invested in through additional training to help provide them with the necessary confidence about sharing information with members (with reference to Data Protection Act constraints).

2.2.1 All staff have completed the Data Protection Act training; further training on the specifics of Freedom of Information (FOI) and the Environmental Information Regulations (EIR) are to be organised.

2.3 The Head of Planning & Regeneration take steps to appoint additional resource specifically into the enforcement team to clear any real or perceived backlog, and that consideration is given to the merits of operating this service as a discrete entity to share knowledge, expertise and resource (as opposed to the current area-based model).

2.3.1 The situation with regards to resourcing demonstrates the challenges in this area: The base level of staff provision is 2.5FTE (which, as was evidenced in the previous report, is in excess of the average level of resourcing in comparable authorities). Upon hiring a specialist enforcement resource on a contract (more expensive) basis, one of our permanent members of staff left prior to his arrival. Since his departure we have recruited a new employee, however they could not start before 1st October – after our contractor had left. In addition the part-time employee left. So the team resource over the past few months to the beginning of October has gone: 2.5, 1.5, 2.5, 1.5, 2 (and we are still carrying a 0.5 vacancy).

2.3.2 On a more positive note, the Planning service as a whole has identified the need for structural change – at a recent team development session it was identified as the top issue that needed improving. The new structure will be co-designed with the staff, however it is our expectation that the enforcement activity will be combined into a 'team' unit to realise the benefits outlined in the previous report (as opposed to working as individuals within the existing Area Planning Officer hierarchy).

- 2.4 **The Head of Planning & Regeneration ensures that 'Part II' reports are only ever brought as an exception in order to maintain transparency as far as Data Protection rules allow.**
- 2.4.1 Agreed – to note that there have been no Part II items brought since the improvement report.
- 2.5 **The Chief Executive, in conjunction with the Head of Planning & Regeneration and the Head of Communities & Governance, considers setting a target for the processing and completion of S106 agreements.**
- 2.5.1 Considered, but mindful of potential change by the Government to link the completion of 106 agreements to the timescale for the issuing of consents. However work has been done to draft and agree standardised wording for legal agreements wherever possible in order to make S106s swifter in their completion.
- 2.6 **The Head of Communities & Governance considers reviewing (in conjunction with the Head of Planning & Regeneration) whether the current legal expertise available in-house is appropriate to process planning matters swiftly, and to take steps to re-provision this as opportunity permits.**
- 2.6.1 Efforts have been made to recruit a Planning solicitor without success. Other options are actively being considered in order to increase the staff resources in the legal team to assist with planning related work.
- 2.7 **The Cabinet Member for Planning & Regeneration considers a report investigating the introduction of S106 Monitoring Fees in order to adequately resource the level of required activity.**
- 2.7.1 This was considered and agreed by the Cabinet Member on 9th June 2016 and the appropriate charges are being finalised now to be fully implemented shortly.
- 2.8 **The Chief Executive considers the value of instructing Internal Audit to look at this area before the end of 2016/17 in order to explore further opportunities for service improvement and efficiency.**
- 2.8.1 Done – scheduled for early 2017 (in Audit programme for Q4).
- 2.9 **That local performance indicators for the enforcement service are set and are reported quarterly to the Planning Committee.**
- 2.9.1 This is in progress with exploration undertaken of how performance in planning enforcement is measured in other authorities. Draft performance indicators have been produced and will be taken to the Planning Committee for their consideration.
- 2.10 **That Members are provided with a suite of reports on planning enforcement cases on a monthly basis, and are reported to Planning Committee quarterly.**

2.10.1 The required contents of reports have been scoped out and it is currently being investigated how the relevant information may be generated from the back office system.

2.11 That the Planning Committee considers the level of delegation that exists in relation to enforcement activity.

2.11.1 On hold – it is recognised that sufficient confidence needs to exist in the service before further delegation is sought.

2.12 Officers investigate the possibility of finding a way of updating residents and town/parish councils in relation to complaints regarding enforcement and reporting back to this Committee within 4 months.

2.12.1 A benchmarking exercise has been undertaken in order to understand how other authorities deal with this issue and has found that little information on live enforcement cases is regularly disseminated to Town and Parish Councils. Whilst MDCC Members can be briefed with a legal expectation of confidentiality, when information goes to Towns and Parishes, we cannot work on the same presumption of confidentiality.

3.0 NEXT STEPS.

3.1 The operational scope of the service is at the core of Corporate priorities as expressed within the Corporate Plan. It is a busy time for the Planning Service with significant workstreams and it is anticipated that this will continue with the increasing emphasis on economic growth, housing delivery and work within the wider Greater Exeter area. A recent team development event highlighted concerns from elements of the service in terms of staff satisfaction, motivation and workload pressures which have been contributed to by recent difficulties in recruiting. On a optimistic note, over the last six months increasingly positive member feedback has been received.

3.2 The Planning Service needs structural change in order to respond flexibly to the requirements placed upon it, anticipating future workstreams and in order to ensure that there are appropriate opportunities for staff progression and development. The Planning service as a whole has identified the need for such change and the new structure is being designed with input from staff. The organisation and management of the enforcement team within this wider structure is under review as part of this process. The service is also reviewing opportunities available for efficiencies with support from the Local Government Association (as part of their national 'Productivity Expert' programme) and is introducing more widespread use of tools such as planning performance agreements.

Contact for more Information:

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Circulation of the Report: All Members

List of Background Papers:

Item 129 of Scrutiny Committee dated 22/02/16 provides the context:

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=131&MId=406&Ver=4>

Scrutiny Committee Report 23/05/16

<https://democracy.middevon.gov.uk/documents/s5630/Scrutiny%20230516%20Planning%20and%20Enforcement%20Improvement%20Report%20Final.pdf>

Cabinet Report 09/06/16 S106 monitoring fees

<https://democracy.middevon.gov.uk/documents/b2016/Section%20106%20Agreement%20Updated%2009th-Jun-2016%2014.15%20Cabinet.pdf?T=9>