

CABINET
5TH JANUARY 2016

REPORT OF MRS JENNY CLIFFORD, THE HEAD OF PLANNING AND REGENERATION

LOCAL ENFORCEMENT PLAN

Cabinet Member(s): Cllr Richard Chesterton
Responsible Officer: Mrs Jenny Clifford, Head of Planning and Regeneration

Reason for Report:

The Chief Executive was asked by the Council's Scrutiny Committee to investigate the efficacy and effectiveness of the Planning Service, with particular reference to the way enforcement is carried out and how members are engaged with the work of the council in this service area. As a result, it was recommended that the Head of Planning and Regeneration bring forward the Local Enforcement Plan for Cabinet to consider as a matter of priority to set the framework for enforcement activity in Mid Devon.

RECOMMENDATION: That Cabinet agree the Local Enforcement Plan for public consultation

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 and necessary enforcement of breaches is central to the delivery of Corporate Plan priorities of community, housing, economy and environment

Financial Implications: None

Legal Implications: 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 and its enforcement will by its nature often involve making difficult decisions that will not be universally supported within the community.

Risk Assessment: 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 Report

1.1 At the Scrutiny Committee meeting on 10th October 2016, Members noted that a report would be put to Cabinet regarding the Local Enforcement Plan.

1.2 Planning enforcement is a statutory function of local government although the power to take formal action is discretionary. The Council as Local Planning Authority has responsibility for the investigation of reported breaches of

planning control. Unauthorised development can be detrimental to the local environment and a source of community tension. Failure to investigate and enforce planning conditions or address unauthorised development can reduce the effectiveness of a Local Planning Authority and undermine public confidence in the planning system. The enforcement of planning control is not subject to national performance targets in the same way as the determination of planning and other applications.

- 1.3 In March 2012, the Government published the National Planning Policy Framework which replaced much of the previous advice contained in Planning Policy Guidance (PPG's) and Planning Policy Statements (PPS's). With regards to enforcement of planning control, Planning Policy Guidance Note 18 (Enforcing Planning Control) was replaced by the following single paragraph:

Enforcement

207. Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

- 1.4 In order to manage public expectations with regards to the resourcing, powers and tools available to the Local Planning Authority, a Local Enforcement Plan has been drafted in line with the advice set out in the National Planning Policy Framework.
- 1.5 It sets out the legislative framework that the Council enforces, defines what does and what does not constitute a breach of planning control, how reported breaches will be investigated and the procedures for commencing formal enforcement action. It sets out new performance targets and clearly indicates the priority given in terms of high, medium and low to the investigation of differing breaches of planning control and the response time that can be expected. This is considered important in order to prioritise resources and manage expectations.
- 1.6 The Local Enforcement Plan was considered at a meeting of the Planning Policy Advisory Group (PPAG) on 9th December 2016. At the meeting Members sought the following:
- i) An amendment to prioritisation where serious disturbance /nuisance to residents of damage to the environment. Amendment done.
 - ii) Text amendment to give more recognition that reporting of breaches of planning control also arise from other sources including Parish / Town Councils, Elected Members and Council staff. Amendment done.
 - iii) Certain planning permissions require the discharge of conditions in advance of work starting on site. Other conditions must be adhered to during the works. Information on when work commences is gained from a range of sources including Parish /Town Councils and Elected

Members who may wish to bring this to the attention of officers. Members of PPAG wished the assistance of this to condition checking to be highlighted.

- iv) That officers investigate whether for the benefit of Parish /Town Councils and Elected Members it is possible to produce an automated list of conditions as planning permissions are granted. A verbal update will be provided at the meeting.

PPAG supported the proposal to consult upon the draft Local Enforcement Plan.

- 1.7 Members are asked to consider the content of the Local Enforcement Plan and agree it for public consultation purposes. Consultation is proposed to take place over a 6 week period and to be advertised by way of press release, notification of Parish and Town Councils and on the Council's website.

Contact for more Information:

Mrs Jenny Clifford 01884 234346
jclifford@middevon.gov.uk

Circulation of the Report:

Cabinet Members

List of Background Papers:

National Planning Policy Framework

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

Scrutiny Committee 22nd February 2016,
23rd May 2016, 10th October 2016