

Planning Enforcement Process Review

Overview & Scrutiny Panel 20 April 2021

Report Author Committee Service Manager

Status For Decision

Classification: Unrestricted

Key Decision No

Ward: Thanet Wide

Executive Summary:

At the February meeting, the Panel received a report from the Planning Applications Manager on Planning Enforcement in the District. After the discussion, Members agreed that “the Chair would discuss with officers and report back to the Panel on how best and what resources would be required to support a scrutiny review of the effectiveness of planning enforcement.” The purpose of this report is to provide a brief framework for the Panel to agree a way forward.

Recommendation(s):

With reference to options highlighted in section 3.0 of the report, Members’ guidance is sought on the way forward.

Corporate Implications

Financial and Value for Money

There were no financial implications arising directly from this report.

Legal

There were legal implications arising directly from this report.

Corporate

If the Panel decides to take part in the review of the Planning Enforcement function, then that review ought to be compliant to all the statutory requirements associated with the overall Planning function.

Equality Act 2010 & Public Sector Equality Duty

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity

between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.

Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.

This report relates to the following aim of the equality duty: -

- To eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act.
- To advance equality of opportunity between people who share a protected characteristic and people who do not share it
- To foster good relations between people who share a protected characteristic and people who do not share it.

There were no equality and equity implications arising directly from this report.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- Environment
- Communities

1.0 Introduction and Background

1.1 During his presentation to the Panel at the meeting on 18 February 2021, the Planning Applications Manager made the following comments:

- The enforcement service was a complaints based service and was more reactive to issues being raised with the Enforcement Team. This approach helped to balance resources for the Planning Department.
- When a complaint for a planning permission breach was report, the first stage was to find whether indeed a planning permission was required;
- If the breach was established, an informal process would be used to correct the situation and help bring the issue through a planning process for a proper permission to be granted;
- If no action was taken by the offending party, enforcement action would be taken by the council;
- There were no defined statutory deadlines by which complaints should be resolved. The enforcement focus would always be to try and bring a planning matter back into the planning protocol;
- There were often delays in the enforcement process whose control would be outside the council, for example the appeals process which could take anything between six months up to a year or longer in some instances, during which time enforcement action would be kept in abeyance;
- Thereafter compliance would be from when the decision was made. The grace period given for compliance would be anything between three months and up to fifteen months;

- The council was currently reviewing and updating the 2015 enforcement protocol. The updates would include developing a process map. Planning data would be used to integrate planning applications and enforcement information;
- The issue of funding of the enforcement function would also be reviewed with input from Finance.

1.2 As part of the discussion on the subject, Members made comments as highlighted below:

- The council's enforcement team of two officers was one of the smallest in the county, whilst some neighbouring councils had up to four enforcement officers;
- It was important to review the staffing for the enforcement team as the council was expecting a number of large developments in the district in the coming years. These developments would have tougher biodiversity conditions attached to them. These would require enforcement to ensure compliance to the new planning policies that try to address climate emergency issues;
- There was a need to set up a scrutiny project to review the effectiveness of enforcement in the district;
- The public would welcome information updates coming from the Enforcement team. Such updates could be published on the council's website;
- Some of the conditions that were part of planning applications considered by the Planning committee showed landscaping as one of the activities to be done. However when it came to project implementation, not all of the project followed through with the landscaping as reflected in the documents submitted to the council. There was a need to effectively enforce these conditions.

2.0 The Current Situation

2.1 Members had expressed an interest in contributing to the Planning Enforcement review which was currently underway. If the Panel was still minded to pursue this view, there would be a need to initially agree how best to proceed.

2.2 It might be that the Panel sets up a time limited sub group with agreed membership and terms of reference for conducting the review, which would contribute to ongoing work regarding the Planning Enforcement review.

2.3 The sub group could start work as soon as was possible depending on the timeline of the ongoing work, or it might be that this piece of work could be left for the new municipal year (2021/22).

2.4 Having discussed this issue further with officers after the February meeting, the Panel Chair could offer some steer to this discussion.

3.0 Options

3.1 Members could set up a working group with a defined membership (of panel Member volunteers) and agreed terms of reference to consider the current planning enforcement process and within the framework of the ongoing planning enforcement

review by the Planning Department, make recommendations for the Panel to consider for onward submission to the Executive.

This subgroup could have a single meeting to review the Planning Enforcement protocol with officers, and thereafter provide suggestions following the meeting directly to the Panel; or

3.2 The Panel could decide to take no further action.

4.0 Next Steps

4.1 Depending on the decision made by the Panel it might be that if a working party is set up the work stream may have to be carried over into 2021/22.

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Annex List

None

Background Papers

None

Corporate Consultation

Finance:

Legal: