

Planning Enforcement Review - Report back by the Planning Enforcement Working Party

Overview & Scrutiny Panel 20 July 2021

Report Author Senior Democratic Services Officer

Status For Recommendation

Classification: Unrestricted

Key Decision No

Ward: Thanet Wide

Executive Summary:

The purpose of this report is to provide a report back on the recommendations from an in depth discussion of the current planning enforcement approach. It is hoped that the report would assist the Panel to agree on a way forward regarding how the committee could contribute to the review content and process of the planning enforcement protocol.

Recommendation(s):

1. The Panel is asked to agree to the following recommendations from the Planning Enforcement Review Working Party and forward them for consideration as part of the ongoing review of the Council's planning enforcement protocol. These are that:
 - a. Investigations be carried out to determine the potential utility of a planning enforcement portal on the council's website to provide updates to members of the public and elected members on current cases, as well as increasing the availability of information about the Enforcement process for the public;
 - b. A review be conducted to identify how the council could come up with a more effective system of prioritising planning enforcement cases;
 - c. A review be conducted to determine how best to improve communication between the council and complainants regarding planning enforcement cases being handled by the council;
 - d. Investigations be carried out to determine how best the council could include proactive work in the planning enforcement protocol.

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: -
(Delete as appropriate)

- 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.

No implications arise directly but the Council needs to retain a strong focus and understanding on issues of diversity amongst the local community and ensure service delivery matches these.

It was important to be aware of the Council's responsibility under the Public Sector Equality Duty (PSED) and show evidence that due consideration has been given to the equalities impact that may be brought upon communities by the decisions made by Council.

CORPORATE PRIORITIES

This report relates to the following corporate priorities: -

- Communities

1.0 Introduction and Background

1.1 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

- 1.2 The Planning Enforcement Working Party met on 25 June 2021 and discussed the current approach being used by the council’s Planning Enforcement Team with a view to coming up with some recommendations on how the Panel could contribute to the current review of the Planning Enforcement Protocol.

2.0 Overview & Scrutiny Panel discussion: 18 February 2021

- 2.1 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 used to integrate planning applications and enforcement information;
- The issue of funding of the enforcement function would also be reviewed with input from Finance.

- 2.2 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 bio diversity 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.

2.3 Thereafter the Panel set up the Planning Enforcement Working Party on 20 April to consider the subject in more depth and report back to the July meeting.

3.0 Enforcement Planning Working Party Discussion: 25 June 2021

3.1 Members made the following observations:

- The length of time it takes to correct the breach was due to the under resourced team at TDC;
- There were mixed feelings by residents who felt that some breaches were let to go or that it took too long to correct small breaches;
- Although there was a provision for the council to take up to four years to take against a breach, it would be better for the council to take action and interact with the individual who has committed a breach, much early on, before the individual settles in;
- All breaches should be treated the same
- Some developers of the public would take a gamble to build without planning permission if they think they can get away with it without being noticed;
- When a breach is committed, no feedback is given to residents unless the Planning Enforcement Team is approached;
- The fact that residents can breach planning policies and then seek retrospective planning permission does not provide an incentive to do the right thing;
- If there were punitive penalties, developers would not be committing as many breaches;
- Council should issue out a warning about a potential fine to a would be breach;
- There was a need to educate residents on what constitutes conservation areas; especially when it comes to development like replacing old windows. Residents can use that facility to check for compliance before refurbishing their properties;
- The council should come up with guidelines for various timescales for responding to breaches as this would inform the public about the enforcement process;
- If the enforcement timescales are missed the council would provide valid reasons for working outside them.

3.2 The working party made the following recommendations:

1. Investigate the potential utility of a planning enforcement portal on the council's website;
2. A review of the how the council could deal with prioritisation of planning enforcement cases;
3. A review of how best to improve communication between the council and complainants regarding planning enforcement cases being handled by the council;
4. Investigate how the council could include proactive work in the planning enforcement protocol.

4.0 Options

4.1 The Panel is being asked to consider adopting the working party recommendations highlighted in paragraph 3.2 (1-4) above;

or

4.2 Members may opt to reject all or some of the recommendations, in which case guidance on a way forward would be sought from the Panel.

5.0 Next Steps

5.1 If the Panel adopts the recommendations that came from the working party, officers would then need to advise Members how those recommendations can feed into the ongoing review of the planning enforcement protocol.

Contact Officer: *Charles Hungwe, Senior Democratic Officer*
Reporting to: *Nick Hughes, Committee Service or Director*

Annex List

None

Background Papers

None

Corporate Consultation

Finance: *Chris Blundell (Director of Finance)*

Legal: *Estelle Culligan (Director of Law and Democracy)*