

# Planning Enforcement

## Planning Policy Committee Thursday, 19 September 2024

Report of: Deputy Chief Executive

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Purpose: For information

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Publication status: Open

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Wards affected: All

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### Executive summary:

In June 2024 the Planning Policy Committee adopted an amended Enforcement Policy. During the summer, work has progressed to strengthen and improve the effectiveness of the Enforcement Team to deliver on this policy.

We are therefore commissioning external support to provide additional capacity and expertise in the short term, and to assess whether this type of external support could compliment the in-house team in the longer term.

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**This report supports the Council's priority of:** Protecting and enhancing our environment.

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### Recommendation to Committee:

It is recommended that the Committee notes the updates to the Planning Enforcement Team and the decision taken under urgency powers be ratified.

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### Reason for recommendation:

This report is to provide an update to members of the Planning Policy Committee on the work taking place to strengthen the Planning Enforcement Team, to support delivery of the Enforcement Policy.

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## Introduction and background

1. Planning Enforcement is a key priority for the Council. In June 2023 the Planning Policy Committee agreed a Planning Enforcement Policy for the district. The Policy has four main objectives:
  - i) to make the Council's planning enforcement function effective, timely and results driven;
  - ii) to provide a clear statement on behalf of the Council of how it wishes to see planning enforcement action prioritised, with particular respect to those breaches of planning control that have the potential to cause the greatest levels of harm to the environment and/or amenity of local residents;
  - iii) to ensure that the full panoply of enforcement powers are considered and used in achieving the objectives of this Policy; and
  - iv) to provide greater feedback and so transparency of the Council's planning enforcement function.
2. At the time the Policy was agreed, it was made clear that further work was required on some elements of the policy including resourcing, measures to achieve greater resilience for the service and performance monitoring.
3. As a result of that further work, an updated policy was agreed at [Planning Policy Committee June 2024](#). This reflected a refined set of policy priorities, provided realistic timescales for achieving them which mirrored enforcement officer workloads, and included changes in national planning policy since the earlier document was adopted.
4. Following on from the updated policy, work has progressed to strengthen and improve the effectiveness of the Enforcement Team. In July the Team had a caseload of over 400 cases and was made up of four interim members of staff who did not work outside core office hours.
5. There are several workstreams driving improvements in the service:
  - i. Recruitment of permanent Enforcement Officers.
  - ii. Improvements to caseload and data management.
  - iii. Development of an 'Out of Hours' solution.
  - iv. Improvements in communication and stakeholder management.
6. In the short term, through an Urgency Decision (Appendix A), the Council has looked to commission external companies to strengthen the Council's Enforcement function in two ways.
7. Firstly, the appointment of an external company or companies (Enforcement Services Ltd and Ivy Legal Limited), on a trial basis, to commence work on tackling priority enforcement cases. Both companies are specialists in providing an integrated planning enforcement service to local authorities.
8. These companies would take on a caseload of enforcement cases. The external companies will focus on the more complex cases. Initially the Council will commence with one contractor. The Council will monitor the initial set up and progress with Enforcement Services and potentially start the second company at a later stage.

9. These two companies charge between £140-£150 per hour. They will be required to regularly (minimum of fortnightly) report on their activity and progress. An amount of £50,000 has been agreed initially for this element of support.
10. Enforcement Services Ltd commenced at the start of September, transferring their resource in the first couple of weeks across to Tandridge's enforcement work. They have been allocated 15 cases.
11. Secondly, the appointment of a company called The Sheriff's Office to provide out-of-hours presence. There are certain circumstances where activity is sufficiently serious (or potentially so) to warrant an out of hours attendance on site; this is where there is an immediate threat that a breach of planning control could cause irreparable harm, including:
  - Deliberate unauthorised development in the Green Belt.
  - Development that has the potential to cause irreparable harm to the environment, especially sensitive sites such as Sites of Special Scientific Interest, National Landscapes etc.
  - Unauthorised works or changes of use in conservation areas, or to a listed building.
  - Unauthorised works to protected trees. (Trees subject to Protection Orders and Trees in a Conservation Area).
  - Unauthorised engineering operations, including the importation onto land of materials to be used in construction or land raising activities.
12. Where attendance at site outside of normal working hours is felt to be necessary, the Sheriff's Office have been engaged to support on-site attendance outside of normal working hours. They are available from 8am to 6pm over the weekend and bank holidays with a maximum response time to site of 2 hours. They will attend site as directed by the EMT member. The purpose of their attendance is to:
  - Assess the seriousness of the breach.
  - Provide assurance to residents.
  - Collect evidence and photographs which may help in the event of further enforcement action including prosecution.
13. Three months support from the Sheriffs Office is an estimated cost of £7k.

## **Consultation**

The Planning Policy Committee Chair and all Group Leaders were consulted as part of the Urgency Decision. The decision record sets out: *'that enforcement is a key priority for the Council and the current Team is unable to deal with the current scale of enforcement cases. This is undermining the Council's ability to deal robustly with Planning breaches and damaging its reputation. Urgent action is needed to progress complex and high-profile cases.*

*It is critical that the Council is able to adequately provide out of hour enforcement support.'*

## **Key implications**

### **Comments of the Chief Finance Officer**

The S151 Officer confirms that the Service Capacity Fund is sufficient to meet this requirement, and it falls within the intended scope of the SCF as set out in the urgency decision. In the longer term, an effective Enforcement Service should act as a preventative measure and contain future cost.

### **Comments of the Head of Legal Services**

Planning enforcement is an integral part of the planning system and underpins the overall planning process. An efficient and responsive planning enforcement service can ensure there is confidence in the whole planning process, ensuring that regulations are complied with and breaches of planning controls are dealt with.

Whilst the FTP 2 will build upon the vision for the planning service, having an 'out of hours' service will be the starting point for service improvements.

The contracts in place should act as a deterrent so some residents may be less likely to commit offences. It will also be easier to gather evidence for a range of offences which could be used for enforcement action (such as visual/audio evidence). The 'out of hours' service should reduce some demand and workload on Officers during their working day; and ease pressure on other departments.

The Council's general power pursuant to Section 1 of the Localism Act 2011 enables the Council to take the steps identified in this report.

Standing Order 35 "in the Council's Constitution states:

"Notwithstanding anything in this Constitution, the Chief Executive and other Management Team members shall be authorised to take decisions on the grounds of urgency regarding matters which would otherwise be reserved for determination by a Committee or the Council. A matter can be deemed urgent if, in the reasonable opinion of the Management Team member concerned, a delay would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a quorate meeting of the relevant decision-making body in sufficient time to take the decision."

### **Equality**

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. 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.

## **Appendices**

Appendix 'A' – Urgency Decision - External Enforcement Support August 2024

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