

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

Chief Executive Urgency Decision

This form is to be used for the purposes of recording the Chief Executive’s agreement to proceed with an urgency decision. The form should be signed by the EMT Officer prior to submission to the Chief Executive.

Your Name	Taryn Pearson-Rose
Job Title	Deputy Chief Executive
Brief description of the matter	<p>This Urgency Decision proposes immediate action to strengthen the Council’s Enforcement Service.</p> <p>The Planning Policy Committee considered amendments to the Enforcement Policy on 20th June 2024. Within that report, the S151 Officer Comments noted the following:</p> <p><i>The Planning Enforcement Policy proposes further developments to the Council’s “out of hours” enforcement service, which may require resources. In the Council’s 2024/25 Budget, a Service Capacity Fund with a total value of £200k was created to “recognise the financial pressure faced by services across the Council, particularly Planning, some of which will not become clear until after the budget is set.” If further investment is required to strengthen the Enforcement service, the Service Capacity Fund was set up with this type of pressure in mind. This work is urgent, and may require an urgency decision, following the Council’s established process, to avoid delaying strengthening the “out of hours” presence to the September Committee cycle.</i></p> <p>The Planning Enforcement Plan, Appendix A to the same report stated the following:</p> <p>POLICY 6:</p> <p>The Council will ensure that its planning enforcement function provides effective and timely enforcement action through:</p> <ul style="list-style-type: none"> a) Adequate resourcing; b) Keeping under review management and procedures; c) Key performance indicators; d) Pursuing opportunities for sharing resources with other nearby local planning authorities; and e) At the earliest opportunity, further develop the Council’s “out of hours” enforcement service. <p>2.7 The Council needs to be transparent about the performance of its planning enforcement function as an assurance to elected councillors, residents and businesses and this would be assisted by reports to the Council’s Planning Policy Committee and in the Council’s Annual Monitoring Report as provided for in Policy 7 below:</p>

	<p>The Deputy Chief Executive, Transformation Programme Director and senior Officers from Development Management & Enforcement have been working to strengthen the Council's Enforcement function. These include the use of external companies to support the Council in two ways.</p> <p>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.</p> <p>It is proposed to commission up to £50k of work from these external companies, as an urgent trial. This will help the Council form a view of how to specify the work for a future procurement exercise, should the trial be successful.</p> <p>These companies would take on a caseload of enforcement cases. The Council has over 400 open enforcement cases. The external companies will focus on the more complex cases. Initially the Council will commence with one contractor and pass on 10-15 cases, monitor initial set up and progress and then potentially a few weeks later start the second company.</p> <p>These two companies charge between £140-£150 per hour. They will be required to regularly (minimum of fortnightly) report on their activity and progress.</p> <p>Enforcement Services Ltd can commence at the start of September, transferring their resource in the first couple of weeks across to Tandridge's enforcement cases.</p> <p>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:</p> <ul style="list-style-type: none"> • 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.
--	--

	<p>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:</p> <ul style="list-style-type: none"> • 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. • The initial urgent requirement is for 3 months support at an estimated cost of £7k.
<p>Comments from Head of Legal / Monitoring Officer</p>	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>In making decisions under this report, the Chief Executive in exercising the "Urgency Power" under Standing Order 35 will need to be mindful of the Council's financial position, its fiduciary duties and the requirement to have regard to all relevant factors and to disregard irrelevant ones. The Council must act in accordance with the principles of Wednesbury reasonableness, meaning decisions that a rational person might make, having regard to all relevant considerations.</p> <p>The Council's Constitution makes provision for the Chief Executive to take urgent action where it is impracticable to obtain authorisation from the respective Committee in consultation with Group Leaders and Chair of the relevant Committee subject to such actions being reported to the next convenient meeting of that Committee.</p>

<p>Comments from S151 Officer</p>	<p>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 introductory text. In the longer term, an effective Enforcement Service should act as a preventative measure and contain future cost</p>
<p>Is the matter urgent? If so, why.</p>	<p>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.</p>
<p>Authority</p>	<p>The Council's Constitution contains the following urgency provision:</p> <p style="text-align: center;">No. 35</p> <p style="text-align: center;">GENERAL URGENCY PROVISION</p> <p>"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.</p> <p>The Management Team member concerned shall also:</p> <ul style="list-style-type: none"> • advise and seek the views of the Political Group Leaders and the Chair of the appropriate Committee at the earliest opportunity; and • report the matter to next scheduled meeting of the appropriate Committee."
<p>Are there any key risk factors for example organisation reputation, financial or political interest?</p>	
<p>Any additional information.</p>	

Signed by EMT Officer	
Date	
Signed by the Head of Legal and Monitoring Officer	Lidia harrison [REDACTED] 03 September 2024
Date	
Signed by the Chief Finance Officer	Mark Hak-Sanders [REDACTED] September 2024
Date	
Signed by the Chief Executive / Deputy Chief Executive	03 September 2024 [REDACTED] 03 September 2024 [REDACTED] Taryn Pearson-F [REDACTED] rd [REDACTED]
Date	