



REPORT of CHIEF EXECUTIVE

**to
PLANNING AND LICENSING COMMITTEE
14 SEPTEMBER 2017**

PLANNING ENFORCEMENT

1. PURPOSE OF THE REPORT

- 1.1 To provide an update on the current status of the Planning Enforcement Policy, Practice and Guidance and the Harm Matrix.

2. RECOMMENDATION

That the revised Planning Enforcement Policy, Practice and Guidance be adopted.

3. SUMMARY OF KEY ISSUES

3.1 Background

- 3.1.1 The current Planning Enforcement Policy, Practice and Guidance, including the harm matrix, was approved and adopted on 23 April 2015 (**APPENDIX 1**). A new Corporate Fraud and Enforcement Team was formed in October 2015. This new team was designed to provide a more holistic approach to enforcement matters for Maldon District Council; one of the primary roles that this team provides is dealing with complaints regarding and, breaches of, planning control.
- 3.1.2 On 31 August 2016 the Director of Planning and Regulatory Services provided a verbal update on planning enforcement to the Overview and Scrutiny Committee. The Director of Planning and Regulatory Services at this time also confirmed that an update to the existing policy would be going before a future meeting of the Planning and Licensing Committee. It was resolved that the Director of Planning and Regulatory Services would provide an update to the Overview and Scrutiny Committee prior to the report going before the Planning and Licensing Committee.
- 3.1.3 At the Overview and Scrutiny Committee of 11 January 2017 it was resolved that Councillor E L Bamford and the Chairman, at the time, of this Committee (Councillor M S Heard) were to meet with the Group Manager for Planning Services to discuss the revised Planning Enforcement Policy, Practice and Guidance.
- 3.1.4 A meeting was held on 16 January 2017 to discuss any issues with the existing policy and the proposed amendments. This meeting resulted in a number of further amendments and alterations; a further meeting was held with Councillor Bamford on 10 April 2017. A further revised Planning Enforcement Policy, Practice and

Guidance has been brought forward in response to the comments provided by Councillors Bamford and Heard.

3.1.5 The amended policy went before the Overview and Scrutiny Committee of 21 June 2017. The Committee resolved to recommend to the Planning and Licensing Committee that:

- (i) the Planning Enforcement Policy, Practice and Guidance and the Harm Matrix be adopted;
- (ii) ensure that the category and harm score was recorded against every new enforcement case and this information be detailed on the Enforcement List considered quarterly by the Area Planning Committees.

3.1.6 The amended policy, including tracked changes so Members can see the proposed amendments, is attached as **APPENDIX 2** to this report.

3.2 **Current Performance and workload**

3.2.1 Enforcement activity for the last six months (01 February 2017 to 31 July 2017):

Number of active enforcement complaints	534
Number of new cases	277
Number of closed complaints	243
Number of Enforcement Notices / other Notices served	7
Number of planning appeals lodged with the Planning Inspectorate against an enforcement notice	1
Number of Planning Contravention Notices	13

3.2.2 Since the inception of the Corporate Fraud and Enforcement Team there has been a demonstrable increase in the resolution of historic cases, the serving of enforcement notices and the number of successful prosecutions in local Magistrates Courts. As the team continue to grow in experience it is envisaged that the number of cases resolved should continue to grow. However, it should be noted that the number of active cases has grown, on average, by five per month over the last 18 months. Furthermore, it would appear that a large percentage of the ‘quick fix’ historic cases have now been resolved. **APPENDIX 3** attached to the report provides a greater detail about the quantum of work within the Team.

3.3 **Resourcing**

3.3.1 The level of new cases is at an unprecedented level on this volume of work means that the existing staff are unable to make a headway in to the backlog of cases. The increase in workload also has an additional impact on productivity as the case officer is dealing with a greater number of queries from complainants and parishes due to the time taken to resolve the case.

- 3.3.2 It is considered that there are a number of cases that are progressing to the eventual conclusion of serving an enforcement notice. The work required for the production of an enforcement notice goes much further than would first appear. Whilst the notice, correctly drafted and legally robust appears as the only apparent work there has always been an extensive level of work required to get to this position. This includes a comprehensive review of the case, an assessment of the expediency of taking enforcement action and the production of an enforcement memorandum.

With this in mind, now that the Development Management Team is fully staffed, it is considered reasonable and possible to provide some support to the Corporate Enforcement Team through the preparation of memos for enforcement action. This will have to be regularly reviewed to ensure that it does not have a detrimental impact on the Development Management Team.

3.4 Planning Enforcement Policy, Practice and Guidance

- 3.4.1 After working with this document, it has been recognised that there is a need for some amendments to both the harm matrix and the policy itself to make both of them more user friendly and effective. Furthermore, officers have noted an error with the harm matrix in the wording regarding the age of the breach; less than one month should read less than one year. This has been corrected in the update.
- 3.4.2 The proposed changes include an amendment to alleged breaches that fall under ‘Complaints classified as ‘Urgent’. This is to ensure that complaints relating to more complex and harmful alleged breaches are dealt with as a high priority.
- 3.4.3 Point 5.6 of the original policy refers to ‘Planning Advice and Enquiries’. This relates to general planning enquiries and advice. This is not considered to be relevant to this policy and has been removed.
- 3.4.4 The policy document currently does not make reference to the Proceeds of Crime Act 2002 (POCA). It was agreed at full council on the 15 December 2016 to endorse the application of POCA, including but not limited to the instigation of confiscation proceedings in appropriate cases in which a defendant has benefited from their criminal conduct or lifestyle; this will be to both help cover the costs of enforcement and to ensure an effective disincentive to ongoing offences.

4. CONCLUSION

- 4.1 The Corporate Fraud and Enforcement Team has bedded in over the past twelve months and the additional resources put into the service as well as the increase in knowledge, experience of the officers and operational improvements to the service over the last twelve months has resulted in a betterment to the planning enforcement service offered by the Council. It is acknowledged that improvements can still be made and these will be forthcoming. An important part of this improvement is the provision and adoption of the revised Planning Enforcement Policy, Practice and Guidance.

5. IMPACT ON CORPORATE GOALS

- 5.1 Having an effective planning enforcement service is linked to the Corporate Goals of strengthening communities to be safe, active and healthy and aiming to be an organisation that delivers good quality cost effective and valued services in a transparent way.

6. IMPLICATIONS

- (i) **Impact on Customers** – The ability to ensure that enforcement process, including enforcement action where appropriate, is taken in a timely, open and transparent way.
- (ii) **Impact on Equalities** – None.
- (iii) **Impact on Risk** – There are no risks associated with carrying out this review.
- (iv) **Impact on Resources (financial)** – Staff resources as required.
- (v) **Impact on Resources (Human)** - To continue to be identified through the Planning Services Improvement Plan.
- (vi) **Impact on the Environment** – Failure to have an effective enforcement policy or service could result in an increase in unauthorised developments and delays in investigating breaches in planning control could lead to adverse impacts on the environment resulting in long term harm which might be difficult to mitigate.

Background Papers: None.

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