

EAST HERTS COUNCIL

ENVIRONMENT SCRUTINY COMMITTEE - 16 MARCH 2010

REPORT BY CHAIRMAN OF PLANNING ENFORCEMENT POLICY
REVIEW TASK AND FINISH GROUP

5. ADDITIONAL WORK BY THE PLANNING ENFORCEMENT REVIEW
TASK AND FINISH GROUP

WARD(S) AFFECTED: All

Purpose/Summary of Report

- To report on the outcome of the work of the Planning Enforcement Policy Review Task and Finish Group.

RECOMMENDATIONS FOR ENVIRONMENT SCRUTINY COMMITTEE	
(A)	The planning enforcement guidance note and flow chart detailed in the report for public circulation be endorsed;
(B)	The revised planning enforcement policy, guidance notes and flow chart be circulated to all Town and Parish Councils and others who acted as expert witnesses in the work of the original group; and
(C)	The introduction of trial timescales and criteria for the use of Planning Contravention Notices and the request by the task and finish group to reconvene after one year from the date of implementation of the policy to consider performance information gathered and formulate further recommendations be supported.

1.0 Background

1.1 Members will recall that at the 15 September 2009 meeting of this committee a report was submitted on the work of the Planning Enforcement Policy task and finish group to date. The committee recommended the draft revised Enforcement Policy that had been formulated by the group to the Executive. The policy has now also been endorsed by the Executive and adopted by Council.

1.2 The original report also set out that the task and finish group wanted to continue with its work in order to scrutinise some of the procedures undertaken in operating the planning enforcement service. The group were particularly keen to consider the timescales that were employed in the provision of the service and to ensure that the policy of the Council on planning enforcement could be fully understood by members of the public.

1.3 The committee agreed to the continuation of the work of the task and finish group. It has met a further four times, as set out below:

21 September 2009

17 November 2009

19 January 2010

9 February 2010

2.0 Further Work Undertaken

2.1 Following the 15 September 2009 meeting of the committee the task and finish group determined that preparation of the following documents would assist the public in the understanding of the provision of the service:

- a guidance note;
- a flow chart showing how the service progresses in conventional circumstances.

The flow chart was then used as basis for further consideration of target timescales.

2.2 As part of its further work, the group also considered the use of Planning Contravention Notices (PCNs). These are one tool that can be used by officers when seeking to gain information about development on a site.

2.3 The guidance note that has been formulated by the group is now attached as **Essential Reference Paper B**. The intention behind the note is to provide the broad outline of the parameters of the service. It seeks to explain what can be a complex policy situation in simple and accessible terms. It will be publicly available and sent to all those who contact the Council to report a matter to be investigated. The note is not exhaustive, but aims to cover some of the commonly raised

questions about the service. It points the reader to the full policy, or to make contact with Officers, if more information is required.

- 2.4 The flow chart proved to be a more difficult element of the groups work. A considerable amount of enforcement work can be unpredictable, dependant on the actions of the person under investigation. Where land and building owners and operators are co-operative, a different set of actions will follow to those that are employed when they are not. After some consideration it was determined that a generic flow chart could be devised that would not accommodate every eventuality, but which would provide basic information about the most likely possible route through the different stages when an enforcement matter is raised. It is anticipated that most users will be able to map their way through the process when they are involved in a specific case. The flow chart is now attached as **Essential Reference Paper C**.
- 2.5 The group was concerned to ensure that some timescales were identified around key stages of the process to ensure that the Council maintained control of the process. It had considered this matter as part of its redrafting of the policy prior to the September 2009 committee meeting. However, apart from those relating to initial stages of investigation, including timescales in the policy document was considered to be unduly detailed. The issue of timescales was revisited by the group in the formulation of the flow chart.
- 2.6 The group is fully aware that the enforcement process can be a protracted one and can leave the impression with residents (especially those immediately affected by a case) of inactivity or disinterest on the part of the Council. The group understands that a number of timescales are established in legislation – and therefore not within the control of the Council. However, the group was also keen to make it clear that actions deliberately designed to cause delay on the part of transgressors should not be acceptable.
- 2.7 Some key timescales have now been formulated which set out Members expectations of performance and reflect their level of tolerance toward delays. It is suggested that these be established on a trial basis. Those key timescales are included on a further version of the flow chart (**Essential Reference Paper D**) which is to be used by Officers as a

working tool. From the date of implementation of the revised policy, Officers will record and monitor data in relation to operation of the service against these timescales.

2.8 The group was keen that it should have the ability to review this information and judge whether the timescales it has put in place are appropriate. The group considered that information collected over a 12 month period would generate enough data to make a meaningful assessment and is asking therefore that it be allowed to reconvene after that time to consider the information gathered.

2.9 Finally the group considered the use of PCNs. The group considered whether these notices, which have legal implications, were being used as extensively as they could or should be in the provision of the service within East Herts. It was agreed that they were of most assistance in particular circumstances and a list of criteria were drawn up to identify those cases. This document has been designed for internal use only and should be used to support the Officers to achieve the standards and approach to enforcement that Members consider appropriate. That list is attached as **Essential Reference Paper E**. As above, the group asked to be permitted to review outcome of the use of PCNs against these criteria after a working period of 12 months.

2.10 In relation to both the trial timescales and the use of PCNs, Members were mindful of the corporate priorities of 'caring for the natural and built environment' and 'delivering customer focussed services'. In the absence of performance information in relation to these two issues, Members could not make a judgement as to whether desirable performance standards can be achieved within available resources. Reconvening the group after a 12 month period, with the appropriate performance information to hand, will enable this assessment to be undertaken and any further recommendations for the service to be formulated.

3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper A**.

Background Papers

Notes of all task and finish group meetings: these are available on request to the Scrutiny Officer via scrutiny@eastherts.gov.uk or on 01992 531612

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ESSENTIAL REFERENCE PAPER 'A'

Contribution to the Council's Corporate Priorities/ Objectives	<p>Promoting prosperity and well-being; providing access and opportunities <i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i></p> <p>Fit for purpose, services fit for you <i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p>Caring about what's built and where <i>Care for and improve our natural and built environment.</i></p> <p>Shaping now, shaping the future <i>Safeguard and enhance our unique mix of rural and urban communities, ensuring sustainable, economic and social opportunities including the continuation of effective development control and other measures.</i></p> <p>Leading the way, working together <i>Deliver responsible community leadership that engages with our partners and the public.</i></p>
Consultation:	None
Legal:	The Legal Services Manager attended a meeting of the group and provided input with regard to the relationship between the planning and legal elements of the service
Financial:	None
Human Resource:	None
Risk Management:	The parameters established by the work of the group minimise the exposure to risk by the service.