

EAST HERTS COUNCIL

ENVIRONMENT SCRUTINY COMMITTEE - 13 SEPTEMBER 2011

REPORT BY CHAIRMAN OF PLANNING ENFORCEMENT TASK AND FINISH GROUP

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6. ENFORCEMENT REVIEW

WARD(S) AFFECTED: All

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**Purpose/Summary of Report:**

- To enable the committee to consider the recommendations made by the task and finish group in relation to possible performance indicators that were originally agreed for a trial period following the review of the Council's Planning Enforcement policy in 2010/11.

| <b><u>RECOMMENDATION FOR DECISION:</u></b> that |  |
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| (A)   | The amended performance indicators detailed in paragraph 2.13 of this report in relation to the Council's Planning Enforcement service be supported; and                                 |
| (B)   | The Executive be advised that the Enforcement Policy be amended to reflect the recommendations of the Environment Scrutiny Committee (with minor consequential amendments as necessary). |

1.0 Background

1.1 Members of the committee will recall that a review of the Council's Enforcement Policy was undertaken during the 2009/10 year. This work was undertaken by a Task and Finish Group established by this committee (the group). Following a report to the 16 March 2010 meeting of the committee, the revised policy was adopted by the Council and implemented in April 2010.

1.2 As part of the policy three potential performance indicators (PIs) were identified. Before a decision was made to adopt these, the group recommended that data be collected for the period of a year. That would be analysed and the outcome assessed. A

finalised set of PIs would then be recommended. The committee endorsed this approach.

1.3 Twelve months of data has now been collected and the group met again on 6 June 2011 to consider the outcome.

1.4 The group also considered the wider context for its work. Since the 2009/10 year there has been a national change in approach to PIs. The new government has sought to reduce the bureaucracy associated with them and has greatly reduced the overall number of PIs nationally. The group felt that this approach should be reflected in its work.

## 2.0 Proposed Indicators

2.1 The draft indicators which had been identified by the group and set out in the policy were:

- the percentage of cases closed without the need for formal action;
- the percentage of notices served in accordance with the agreed timescales;
- the percentage of customers satisfied with the service received.

2.2 The outcome of the data collection in relation to each of these is considered below. In addition to the PIs there were a number of other timescales for service provision set out in the policy. These are also further discussed below.

### Currently suggested PIs: Cases closed without the need for formal action

2.3 The data collected indicated that 476 cases had been opened in the 12 months and 168 had been subsequently closed without the need for significant investigation. It is often the situation that a number of cases are simply and quickly resolved as they relate to very minor development or development which is allowed to take place as a result of permitted development rights.

2.4 Of the remaining cases (308), 263 were resolved with some subsequent negotiation by officers and with action on behalf of the landowner or developer. 45 required formal action to be taken. This indicates that, in 91% of cases, there is no requirement for formal action.

- 2.5 When considering this PI, whilst of interest, bearing in mind the national approach to reducing the number of PIs and the resources involved in gathering the information, it was suggested that it should not comprise one of the finally agreed PIs. The group were of the opinion that collection of this PI would be of no value to either improve the service for the public or increase the efficiency of its delivery.

Currently suggested PIs: Service of Notices

- 2.6 The data presented to the group was as follows: Out of a total of 45 notices served during the 12 month period, 42 were served within the 30 working day target period. This represented 93% of notices served.
- 2.7 The view of the group was that, whilst a robust approach to enforcement action should be maintained, it was necessary to allow service managers to make decisions with regard to how extensive negotiations should be in the period after which formal action has been endorsed by the Development Control (DC) committee. The view of the group then was that this indicator should be retained as one of the finalised indicators for the service. In addition it was requested that, when update reports are provided for the DC committee on authorised enforcement action, that the timescale between agreement for formal action and the date of the service of the notice (in three month bands) should be included in future.

Currently suggested PIs: Customer satisfaction

- 2.8 The group had anticipated that this would be a difficult issue to measure and that it would be probable that limited feedback would be provided from customers. It was also acknowledged that, in almost all cases, the various parties involved (often with opposing views) would be either satisfied or dissatisfied, depending on the outcome from their perspective.
- 2.9 In the event 14 customer satisfaction surveys had been returned during the 12 months and, of those, 11 indicated that the service overall was either excellent or good. The remaining 3 indicated that service was fair and none expressed the view that it was poor or very poor.

2.10 Given the costs and resources involved in gathering this information the group decided that this should not remain as a PI. Instead, it was felt to be sufficient to rely on the council's recognised complaints procedures as being sufficient to identify any dissatisfaction with the service if it existed.

Not currently suggested PI: Initial site visits

2.11 As set out above, whilst not initially suggested as PIs, other timescale measures are set out in the policy. One of these is target timescales for initial site visits. These are that, for urgent priority cases an initial site visit is undertaken in 2 working days, in other cases 15 working days is permitted. (Note that, in urgent cases, where irreplaceable assets are potentially at risk, officers will endeavour to visit within half of a working day).

2.12 The group was of the view that this area of activity should be included as a final PI for the service as it could serve to monitor the quality of the service to the public.

2.13 The group's final conclusion with regard to service PIs is that they should comprise the following:

- the percentage of initial site visits which are undertaken within the agreed timescales;
- the percentage of notices served in accordance with the agreed timescales;

3.0 Other Matters

3.1 The group considered the awareness of local Ward Members of cases that are being investigated in their area. Officers set out that, in contrast to planning applications, enforcement cases are initially considered on a confidential basis. This is to ensure that those who bring matters to the attention of the Council remain willing to assist the Council with investigations if that becomes necessary. It also ensures that Members are not placed in a difficult position if they have any awareness of or relationship with the party under investigation.

3.2 Of course, when officers reach the view that formal action is required, the matter is reported to the DC committee for authority to do so and, except in very sensitive and unusual circumstances, this in the normal public session of the committee. At that stage, the ongoing investigation therefore becomes public. The group

considered that it would be appropriate then for local Ward Members to be formally notified of the case. This would take place when the agenda for the DC committee on which any case is included, is published.

3.3 The group also reviewed the use of Planning Contravention Notices (PCNs). 25 of these had been served in the 2010/11 year. It was considered that the criteria that were set out on the guidance note for the use of PCNs and as endorsed by the committee at its meeting of 16 March 2010, remained valid. No change was proposed.

#### 4.0 Conclusion

4.1 This further consideration of the PIs and other issues completes the work of the group. Subject to endorsement by the committee, the changes will be recommended to the Executive and the policy updated to reflect the agreed amended PIs and include the two minor changes in procedures relating to DC reports (para 2.7) and notification to Ward members (para 3.2). No further changes are recommended.

#### 5.0 Implications/Consultations

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

#### Background Papers

Papers submitted to the Environment Scrutiny committee meeting of 16 March 2010.

Data collected in relation to the possible PIs during the 2010/11 year.

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## ESSENTIAL REFERENCE PAPER 'A'

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| Contribution to the Council's Corporate Priorities/ Objectives | <p><b>Promoting prosperity and well-being; providing access and opportunities</b><br/><i>Enhance the quality of life, health and wellbeing of individuals, families and communities, particularly those who are vulnerable.</i></p> <p><b>Fit for purpose, services fit for you</b><br/><i>Deliver customer focused services by maintaining and developing a well managed and publicly accountable organisation.</i></p> <p><b>Pride in East Herts</b><br/><i>Improving standards of the built neighbourhood and environmental management in our towns and villages.</i></p> <p><b>Shaping now, shaping the future</b><br/><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><b>Leading the way, working together</b><br/><i>Deliver responsible community leadership that engages with our partners and the public.</i></p> |
| Consultation:  | None  |
| Legal:   | None  |
| Financial:   | None  |
| Human Resource:  | None  |
| Risk Management:   | The reviewed policy ensures that a transparent and clear approach to enforcement matters is pursued by the Council.   |