

Report to: **Overview and Scrutiny Committee**

Date: **16 January 2018**

Title: **PLANNING ENFORCEMENT SERVICE REVIEW**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee: **N/A**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: These recommendations will be considered by the Hub Committee at its meeting on 6 February 2018.

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RECOMMENDATION

That the Overview and Scrutiny Committee RECOMMEND the Hub Committee to:

- a) adopt the Local Enforcement Plan (as outlined at Appendix 1);**
- b) adopt the Planning Enforcement Member Engagement Protocol (as outlined at Appendix 2); and**
- c) endorse the proposed Actions as set out in Section 3 of the report.**

1. EXECUTIVE SUMMARY

- 1.1** A report on the Planning Enforcement Service was subject to scrutiny by this Committee on 5 September 2017 (Minute *O&S 31 refers). The report set out that a Local Enforcement Plan was to be drafted together with a re-assessment of how the planning enforcement service interacts with elected Members and an evaluation of the actions necessary to ensure that the planning enforcement service was efficient and effective.

- 1.2** This report provides a Local Enforcement Plan at Appendix 1 and a Planning Enforcement – Member Engagement Protocol at Appendix 2 together with actions as set out in Section 3.
- 1.3** The Enforcement Plan follows guidance within The National Planning Policy Framework (NPPF) which recommends that local planning authorities publish a local enforcement plan to manage planning enforcement proactively and in a way that is appropriate to their area. The Local Enforcement Plan sets out the West Devon Borough Council priorities for investigation, explains what will be investigated and what will not, and it outlines the Councils' general discretionary powers with regard to planning enforcement. The plan sets out the priorities for responses to complaints and details the timescales for response by planning enforcement officers along with explaining the assessments and considerations that are undertaken and actions and outcomes that may result.
- 1.4** The Member Engagement Protocol sets out how the Planning Enforcement team will keep Members up to date with open enforcement cases and the available channels of communication for Members with the Planning Enforcement officers.
- 1.5** The Actions in Section 3 below set out that the existing Enforcement Team is sufficient to deal with the day to day workload but requires additional resource to clear older cases so that the team can concentrate on new cases and not a backlog. To address this issue a further member of staff is now working in the Enforcement Team dealing with the older cases.

2. BACKGROUND

- 2.1** There has been an acknowledgement that there has been a need to improve the performance in dealing with Planning Enforcement Cases since early 2016 when a temporary team was put in place to deal with a backlog of enforcement cases.
- 2.2** The backlog team was largely successful and dealt with the majority of the cases identified as backlog closing 620 out of 773 cases. However it became clear that the Planning Enforcement resource was insufficient to deal with the level of new cases and more new cases were being received than were being closed.
- 2.4** As reported to this Committee last year, it was recognised that there was insufficient resource within the Planning Enforcement Function. The appointment of the Enforcement Specialist (Chris Booty) increased the number of permanent dedicated planning enforcement staff to three who investigate all the alleged breaches of planning control across South Hams and West Devon Councils. (The Enforcement Specialist and two Level 6 Enforcement Senior Case Managers). These three are supported by other case managers

undertaking administrative functions and Locality Officers undertaking a significant number of initial site visits.

2.5 The report to this Committee last year further set out that once the Enforcement Specialist was in post a further review would be undertaken to establish what additional actions are required to ensure that an efficient and effective planning enforcement service is provided.

2.4 Whilst there are no Government targets for planning enforcement complaints, there are legal timescales for taking planning enforcement action. Depending on the specifics of the case, an enforcement notice must be served within 4 or 10 years of the date of the original breach, after which the Council is unable to take enforcement action.

3.0 Planning Enforcement Performance Update

3.1 The Planning Enforcement Report to the Overview and Scrutiny Committee in September 2017 set out that as of the 12 July 2017 there were 605 open cases across both Councils with some 200 in West Devon and some 400 in South Hams.

3.2 The Number of current open Enforcement cases, as of the 4 January 2018 is 564 with 350 in South Hams and 214 in West Devon. Whilst this is only a small reduction of 6% (41) in the total number of open cases it does indicate that a team of three is sufficient to provide an efficient and effective planning enforcement service based on business as usual. If a team of three was insufficient the overall numbers would continue to rise.

3. PROPOSED ACTIONS

3.1 There are a number of proposed actions to improve the effectiveness of the Planning Enforcement Service.

3.2 The Enforcement Plan clearly sets out how planning enforcement will be undertaken including how cases will be prioritised to ensure that our action is focussed on the cases that are most important to the local community and service level targets for dealing with cases.

3.3 The attached Planning Enforcement – Member Engagement Protocol sets out how the service will have more interaction with elected Members and provide more information to keep Members up to date with open cases.

3.4 Following a review of the Planning Enforcement Function by the Enforcement Specialist and the CoP lead it is considered that the team of three permanent Planning Enforcement Staff supported by Case Management and Localities Officers as set out in 2.4 above is sufficient to provide an on-going effective and efficient Planning Enforcement Service. However the present caseload is not simply

new cases but include a significant number of older cases that need to be considered and resolved.

- 3.5** In order to deal with the older cases and allow the three permanent enforcement staff to concentrate on the newer and higher priority cases the permanent team of three require additional support to deal with the older cases. To address this issue an existing Level 6 Case Manager Post (in Development Management (DM)) has been re-tasked to specifically work on older Enforcement Cases 4 days a week and other DM work a day a week. This arrangement started on the 4 January and will be reviewed in 6 months' time.

4. CONSIDERATION OF RISK

- 4.1** The absence of an effective and efficient Enforcement Service has a number of risks. If the Council fails to take appropriate enforcement action within a specified timescale, the result is that the breach becomes unenforceable and undermines the Planning System.
- 4.2** If the Council fails to take action on planning enforcement matters there is a significant risk to the reputation of the local planning authority, loss of confidence in the general public and a perception that unauthorised works can happen in the District with no action being taken. Some breaches of planning regulations are prosecutable offence/criminal acts and the LPA should take action against these offences.

5. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Paragraph 207 of the National Planning Policy Framework states "effective enforcement is an important as a means of maintain public confidence in the planning system.".
Financial	N	There are no direct financial implications of the contents of the report.
Risk	Y	As outlined in section 4.0 of the report
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	Y	Planning enforcement officers work closely the police and other bodies
Health, Safety and Wellbeing	Y	Planning enforcement can have a high impact on individuals and communities
Other implications	N	

Appendices:

Appendix 1 – West Devon Local Enforcement Plan; and

Appendix 2 – Planning Enforcement Member Engagement Protocol.