

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

28 March 2012

### Report of the Director of Planning, Transport and Leisure

#### Part 1- Public

#### Executive Non Key Decisions

#### SCRUTINY REVIEW OF PLANNING ENFORCEMENT

##### Summary

**This report summarises the outcome of the Scrutiny Review of Planning Enforcement and recommends a number of service improvements**

#### 1.1 The Scrutiny Review

- 1.1.1 The review of planning enforcement has taken place over the past few months and has been assisted by two meetings of a Scrutiny Panel including an open session when the Panel heard from stakeholders, including some Parish Councils. The report to the Panel on 8<sup>th</sup> February, which includes a summary of points from the open session, is attached along with the subsequent report to the Overview and Scrutiny Committee of 6<sup>th</sup> March.
- 1.1.2 The review has produced some practical outcomes and as will be seen from the attached reports some modest but important changes in operational practice have already been put in place, primarily to assist in communications. During the review particular focus was given to the prioritisation of enforcement work and how we use our resources. The opportunity was also taken to examine comparative resource levels with other authorities in Kent. These matters are also covered in the attached reports.
- 1.1.3 The review considered how decision making takes place on enforcement matters, operationally by officers, using powers delegated to the Chief Solicitor and myself, and importantly recognising the role of the Area Planning Committees in formal enforcement action and of local Members during the consideration of cases.
- 1.1.4 The review provided an opportunity to consider and explain the relatively limited changes to planning enforcement included in the Localism Act 2011 and also to look at ways in which the system might be made more effective, given the constraints of current legislation and practice.

## 1.2 Further Improvements

1.2.1 The Overview and Scrutiny Committee, in supporting the general findings and changes put forward during the review, alighted on a number of specific matters as follows;

- A list of enforcement investigations instigated and concluded be prepared and issued to members on a weekly basis, electronically, to improve awareness and communications on current case work.
- That the list of closed cases be shared with Parish Councils on a regular basis and the practice of consulting with Parishes over matters of fact and information in respect of case investigations be continued and used to optimum effect. As a matter of established practice feedback to be given to interested parties, including Parish Councils, at the appropriate stage, either following decisions or as an update following representations made.
- A review of the detailed content of reports to the Area Planning Committees be carried out with a view to reducing the amount of technical detail and focussing on the key issues of determination.
- The introduction of a triage system (as outlined in the report to the Scrutiny Panel) to assess the priority of potential enforcement cases as a tool for guiding the allocation of resources and as an explanation of how the Council will approach different types of potential enforcement situations.
- A public document summarising the legal requirements and processes involved in enforcement cases be made available and included in Here and Now and on the Council's website, along with the triage priority ranking document referred to above.
- The Borough Council's concerns over the role of Approved Inspectors (AIs) in the field of Building Control and the absence of information provided to local authorities, be conveyed to the Local Government Association; Greg Clarke MP; local MPs and other authorities in Kent with the recommendation that (AIs) be given a duty to notify Local Planning Authorities where developments are not proceeding in accordance with permissions.
- The Director of Planning, Transport and Leisure investigate the opportunity of establishing an operational protocol with other West Kent authorities covering the potential for joint use of resources in appropriate circumstances.

1.2.2 In one way or another all of these matters could contribute to the improvement of the planning enforcement service.

### **1.3 Legal Implications**

1.3.1 The Town and Country Planning Acts (as amended) provide the legal framework, duties and powers for planning enforcement.

### **1.4 Financial and Value for Money Considerations**

1.4.1 The reports to the Scrutiny Panel provided information on current and comparative staff resource levels, which for the time being appear to be reasonable and appropriate in view of current workloads. Planning enforcement can be characterised by high resource demands from particular cases.

1.4.2 There are no significant additional costs arising from the review recommendations.

### **1.5 Risk Assessment**

1.5.1 The approach to prioritisation of cases will assist in the process of risk assessment in respect of the focus of the service on particular cases.

### **1.6 Equality Impact Assessment**

1.6.1 See 'Screening for equality impacts' table at end of report

### **1.7 Policy Considerations**

1.7.1 The Local Development Framework and Government Policy (soon to be updated in the anticipated National Planning Policy Framework) set out the policies and procedures against which decisions on planning enforcement are taken.

### **1.8 Recommendations**

1.8.1 The changes implemented in the course of the review be noted and the specific matters identified in this report be endorsed and implemented.

Background papers:

Previous reports to the Overview and Scrutiny Committee and Scrutiny Panel

contact: Neil Hewett

Lindsay Pearson  
Steve Humphrey

Steve Humphrey  
Director, Planning, Transport and Leisure

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The recommended changes will be implemented depending on the planning merits of each case and be applied equally on that basis
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	See above
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*