

# TONBRIDGE & MALLING BOROUGH COUNCIL

## OVERVIEW AND SCRUTINY COMMITTEE

06 March 2012

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

#### Part 1- Public

#### For Recommendation to Cabinet

### 1 SCRUTINY REVIEW OF PLANNING ENFORCEMENT

To report on the conclusions of the review carried out via the Scrutiny Panel and to put forward recommendations for action on planning enforcement procedures.

#### 1.1 The Scrutiny Review

1.1.1 The Scrutiny was launched prior to the adoption of the Scrutiny Panel system but the use of the Scrutiny Panel became a very valuable part of the process and included some input from third parties including some Parish Councils.

1.1.2 It is of great benefit to the overall process that all Members of Council sit on an Area Planning Committee and are thus generally familiar with the way in which individual enforcement cases impinge on their Ward and how the Area Committees must deal with cases in terms of process and the planning judgements to be made.

#### 1.2 The role of the Scrutiny Panel

1.2.1 This Panel was led by Cllr Mrs E Simpson and met on two occasions. The first was an open session involving a variety of external stakeholders and a note of the discussion and my initial responses to matters raised is within the report to the Panel meeting that took place on 08 February and is attached at **Annex 1**.

#### 1.3 Interim developments

1.3.1 The Committee will note that in light of the review work carried out thus far we have already been able to initiate a number of changes of practice and these are itemised in paragraph 1.2.1 of the Report of 08 February.

## **1.4 Further improvements in planning enforcement practice**

- 1.4.1 In paragraphs 1.2.3 – 1.2.5 and 1.2.10 of the previous Panel report some further changes that should be implemented were put forward. The Panel endorsed these suggestions as a series of useful changes in practice. These are types of change that I would implement in the normal way of day-to-day working and it has been most useful to take a snap shot of the current processes we use and make some useful adjustments in response to the review.
- 1.4.2 The Panel was provided with illustrations of potential versions of a new List of enforcement cases as set out in paragraph 1.2.4. The discussion turned on the need to make the list as comprehensive as possible, whilst making it clear which cases were on the list as being opened and which as closed (of course there is potential for the occasional case to be in both states on the same list). I made it clear that it is crucial that such lists are designed around the notion of automatic production via our computer systems or their production would have the perverse effect of drawing further resources away from active case work. The Panel concluded that the production of such Lists being produced weekly would obviate the need for individual letters to be sent on each specific case.
- 1.4.3 The Panel also endorsed the approach adopted in the Triage/Priority Ranking note which identifies the priority to be given to different types of case. It also endorsed a suggestion that the High Priority category be amplified to refer to other types of case where another external body has parallel and/or more effective powers (e.g. Ancient Monuments where enforcement is by DCMS/EH, Environment Agency controlled functions or KCC matters). Here the most pressing issue is not to undertake an investigation as a first step but to alert the authority with most effective powers.
- 1.4.4 The Panel, following its discussions, suggested a number of additional areas where further change or representations might usefully be made:
- In addition to publishing the Here and Now article referred to at paragraph 1.2.2 of the Panel report, the “triage list” should also be published at the same time and made available on the Council’s website.
  - In respect of 1.3.3 dealing with the role of Approved Inspectors(AIs) in Building Control, the Councils’ concerns be conveyed also to the LGA, 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.
  - Contact be made with other West Kent authorities with a view to establishing an operational protocol covering the potential for joint use of resources in appropriate circumstances.

## 1.5 Legal Implications

1.5.1 The Town and Country Planning Acts provide the legal framework the duties and powers for planning enforcement. There are no implications arising directly from this report.

## 1.6 Financial and Value for Money Considerations

1.6.1 The report to the Panel provided information on current and comparative levels of staff resources, which for the time being appear to be reasonable in view of current workloads.

## 1.7 Risk Assessment

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

## 1.8 Equality Impact Assessment

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

## 1.9 Policy Considerations

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

## 1.10 Recommendations:

1.10.1 The matters raised through the Scrutiny Panel meetings, as previously reported, and supplemented by the matters at 1.4.4 above be endorsed and implemented.

Background papers:  
Previous reports to the Committee and to the Scrutiny Panel

Contact: Neil Hewett  
Lindsay Pearson  
Steve Humphrey

Steve Humphrey  
Director, Planning Transport and Leisure

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against	No	The recommended changes to procedure and practice will be implemented depending on the planning merits of each case and be

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
different groups in the community?		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.*