

TONBRIDGE & MALLING BOROUGH COUNCIL
PLANNING and TRANSPORTATION ADVISORY BOARD

26 July 2016

Report of the Director of Planning Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 PLANNING ENFORCEMENT PLAN

Summary

This report provides an overview of the proposed planning enforcement plan which is intended to provide a clear and transparent structure in respect of how we will deal with planning enforcement matters, in particular how complaints will be managed and prioritised.

1.1 Introduction

- 1.1.1 Planning enforcement is a statutory function of local government, although the power to take formal action is discretionary. The Council as Local Planning Authority has responsibility for the investigation of reported breaches of planning control. Unauthorised development can have harmful consequences and the enforcement regime exists to address and resolve such situations. Failure to investigate and enforce planning conditions or address unauthorised development can reduce the effectiveness of planning control and undermine public confidence in the planning system. Equally, it is important to manage expectations about what can be achieved and in which circumstances planning enforcement action can appropriately be used.
- 1.1.2 The basis for the planning system is to protect amenity, whether it is the quality of the environment in general, or the quality of life of people living close to development. Powers have been granted to the Local Planning Authority to ensure that action can be taken against unauthorised development or a breach of planning control which is causing demonstrable harm to the amenity of the area. Breaches of planning control impact on peoples' lives. Consequently, the delivery of effective planning enforcement is an important issue.
- 1.1.3 With this in mind, this Plan sets out how the Council's planning enforcement service will seek to address breaches of planning control and prioritise its work. It describes the range of powers available to the Council, how we should decide whether or not to pursue enforcement action and the process of enforcement.

1.2 Relevant policies and guidance:

1.2.1 The Council's objectives in producing a Planning Enforcement Plan are supported by the National Planning Policy Framework (2012) (NPPF).

1.2.2 Paragraph 207 of the NPPF relates to the enforcement of planning control and states:

'Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.'

1.2.3 The proposed planning enforcement plan complies with the contents of the Council's wider enforcement policy, together with national legislation and Government guidance.

1.3 The Planning Enforcement Plan:

1.3.1 The Planning Enforcement Plan sets out the approach the Council will take in relation to breaches of planning control in the Borough. Where breaches take place planning law lays down strict requirements which must be followed before the Council can enforce against them. These requirements seek to balance the concerns of local people and the rights of owners against the need to secure proper planning control in the borough.

1.3.2 The Council's commitment to publishing a Planning Enforcement Plan is borne out of a need to ensure planning enforcement is managed proactively and in a way that is appropriate for the Borough and its residents. It sets out the Council's approach to enforcement, including timescales for action, explaining in detail how the Council will respond to suspected breaches of planning control. The prioritisation of planning enforcement resources in terms of planning breaches also forms part of the document.

1.3.3 The plan is intended to provide greater transparency and accountability about how the Local Planning Authority will decide if it is expedient to exercise its discretionary enforcement powers, whilst seeking to deliver an effective service within a challenging environment where expectations are high.

1.3.4 The plan is also intended as a proactive tool for Members of the Council who are often the public face of the Council concerning issues which may require enforcement action. Having an adopted Planning Enforcement Plan to refer to

should provide Members with clarity and confidence in addressing such matters, as well as providing end users with more transparency and consistency.

- 1.3.5 In addition, the plan will also be helpful to the Parish Councils in clarifying the processes around planning enforcement. Engagement with the Parish Councils is important and, in recognition of this, steps have been taken to improve communication by providing regular updates on enforcement cases in their areas.

1.4 Legal Implications

- 1.4.1 Without an up to date Planning Enforcement Plan in place the Council's decisions to take, or not to take, enforcement action (including prosecutions) may in future be subject to legal challenge through the Courts.

1.5 Financial and Value for Money Considerations

- 1.5.1 The Planning Enforcement Plan will utilise existing resources in a more effective way and there are no direct financial implications with regard to its implementation. the

- 1.5.2 The Planning Enforcement Plan will provide a framework that makes best use of resources and is in accordance with the recommendations of the NPPF.

1.6 Risk Assessment

- 1.6.1 The Planning Enforcement Plan will reduce the risk at appeal or by judicial review as it clearly sets out the process and timescales by which enforcement complaints will be investigated and progressed.

1.7 Equality Impact Assessment

- 1.7.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.8 Recommendations

- 1.8.1 It is recommended that Cabinet be asked to **Adopt** the Planning Enforcement Plan as attached at **[Annex 1]**.

The Director of Planning, Housing and Environmental Health confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and policy Framework.

Background papers:

Nil

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