

AGENDA ITEM 12

RURAL, ECONOMIC & ENVIRONMENTAL AFFAIRS COMMITTEE

16th MARCH 2011

REPORT OF HEAD OF REGULATORY SERVICES

REGULATORY SERVICES ENFORCEMENT PROJECT

1.0 PURPOSE OF THE REPORT

- 1.1 To inform the Committee of the progress made on the above project and to seek authority to implement the opportunities identified by the project.

2.0 RECOMMENDATION

- 2.1 That Committee notes the content of this report and agrees to the implementation of:
- (a) the approach to the prioritisation of planning enforcement cases
 - (b) the approach to the prioritisation of licensing enforcement work
 - (c) the development of partnership working on Enforcement with Parish Councils

3.0 BACKGROUND

- 3.1 Members will be aware that the above project was launched in 2009 building upon aspiration that emerged from the 'Change Process' that was abandoned because of the fire in 2008. The terms of reference for this project are as follows:

OUTCOMES

- Single visit regulation
- Maximising information gathering
- Efficient gathering mechanisms
- Effective use of professional time
- Broaden experience opportunities for technical team; develop staff development and succession opportunities.

SCOPE

- Single point of contact and multi disciplinary approach to enforcement
- To examine site visit orientated duties.
- Assess volumes/time basis of this work.
- Consider/develop skills needed to carry out processes developed to manage development of the professional role.

TARGETS

- Productive use of mixed professional/technical team.
- National PI's of Teams met or improved
- Speed of action.
- Co-ordination of cases/services/outcomes for customer

- 3.2 An 'options evaluation' for the above project was presented to Making Progress Group in April 2010 The outcome of this was to:

Develop a plan for the re-design of enforcement in regulatory Services based on a model of a dedicated enforcement team comprised of generic officers addressing a range of enforcement activities, but also incorporating the following characteristics which were identified as valuable from the other models:

- ***Work with Parish Councils to consider an enhanced role***
- ***Ensure a new team does not detract from the cohesion within existing teams (e.g. the capacity of the DC team to respond to enquiries)***
- ***Develop an approach to prioritisation of issues***

3.3 Extensive work has followed, the main aspects of which are:

- Working with Parish Councils to develop of a model to allow their participation in the investigation of Enforcement cases to a degree that they have participated in designing and are comfortable with. Feedback from Parish Councils has so far been mixed, but it appears that around 6 wish to participate at a more involved level than merely reporting complaints and discussions with them are continuing.
- As part of the restructuring process, the development of a single enforcement team
- Specification of the scope of work that a single Enforcement Team could cover, which is summarised as:
(a) Development Control and Licensing (Act and Taxis) – end to end investigations, leading to action and associated Notices, appeals etc;
(b) Building Control referrals and Environmental Health referrals (evidence gathering and acting on findings)
- Work on prioritisation – analysis has been undertaken on the range of duties the current Enforcement dedicated staff cover at present and what they could do in future.

4. KEY ISSUES

4.1 The key issues are considered to be:

4.1.1 Implementation of involvement of Parish Councils

Parish Councils have been engaged in the project and a 'modular' approach to their involvement has been developed. This is summarised in Appendix A. The concept is that Parish Councils could elect involvement at the level that they are most comfortable with and the form of support from MBC staff would be reflective of each level, i.e more intense for the higher levels. It is envisaged that the tasks to be undertaken will focus on the training of Parish Councils, support mechanisms, communication channels, operational documentation and equipment/I.T needs. Details of the issues identified from the liaison carried out

with Parish Councils so far is also included at Appendix A. A substantial task will be to develop a protocol setting out where authority lies and limitations to it and the procedures to be followed.. The Committee's authority is required as it amounts to the delegation of some of the Council functions to an outside body.

4.1.2 The prioritisation of workload

An approach to prioritisation is included at Appendix B (for planning) and C (for Licensing). The general theme is that categories of work that is regarded as less critical has been identified and a fresh, streamlined, approach to these is proposed, which will result in reduced input from staff. Appendix D comprises a workflow diagram that shows how low priority cases can be accelerated to conclusion in a streamlined fashion. This should be read in conjunction with the prioritisation diagram in Appendix B. It is estimated that this will potentially reduce the workload of staff by some 20% and assist in aligning workload with the resources dedicated to Enforcement after restructuring. However, it should be recognised that this marks a departure from the Council's traditional 'service level' of fully considering every case presented to us, and may have implications in terms of customer satisfaction, recognising that whilst the cases selected as 'low priority' may lack in public impact or wider significance, they are nevertheless important to the people directly affected. It is important that this approach is formally adopted by the Committee in order to justify the approach, the Committee is invited to suggest any measures to be taken in terms of publicity and consultation.

5. POLICY AND CORPORATE IMPLICATIONS

- 5.1 The enforcement service is considered to be a high profile and important area of the Council's work, particularly regarded as such amongst key partner agencies in the Planning and Licensing fields, and the Project was initiated to improve its performance through service improvements. The restructuring exercise is a corporate imperative but presents a tension between Corporate and Project objectives which this report seeks to reconcile.

6 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

- 6.1 The restructuring exercise has proposed a reduction in resource of 0.8 dedicated to enforcement activity

7 LEGAL IMPLICATIONS/POWERS

- 7.1 The proposals for working with Parish Councils would involve the Parishes undertaking some duties on behalf of the Council. It is necessary for formal Council authorisation to take this step.
- 7.2 Prioritisation: Whilst there is no legal requirement to investigate reported breaches of planning control, there is a strong expectation that they are and this is expressed in Policy (PPG18) and in ombudsman investigations. Accordingly, the prioritisation proposals retain the intention to examine all complaints, but propose a streamlined approach to such proposals. This is illustrated in Appendix

D. The Committee's authority is required to ensure that this is agreed protocol, in the light of the above context.

8 COMMUNITY SAFETY

8.1 None arising from this report.

9. EQUALITIES

9.1 There are no equalities issues arising from this report.

10.0 RISKS

10.1 The risks associated with this report are as set out above.
There is concern that Parish Councils may not wish to participate in this project and may undermine the benefits envisaged. In addition, that Parish Councils may depart from the protocols established. However, extensive training and support are proposed to mitigate this risk.

10.2 In particular, there is concern that the workload identified as 'low priority' may result in an increased level of customer dissatisfaction which may manifest itself in the form of complaints and approaches to the Ombudsman. These, in turn, may undermine the efficiencies sought by the approach.

11.0 CONSULTATION

11.1 The relevant staff have been fully engaged with the proposals. All Parish Councils have been involved in the Partnership approach recommended in this report.

12.0 WARDS AFFECTED

12.1 All wards are affected by these proposals.

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Head of Reg Services

APPENDIX A – Parish Council Modular approach

Modules for Enforcement

Level 1. Inform – Pro-forma to be used for all complaints submitted via Parish Councils. This will include sections on what information is needed to fully investigate the alleged breach, i.e precise details of the location, application no. (if relevant), nature of the breach and the harmful impact(s) over which there is concern (Could this be considered mandatory for all Parish Council's in order that all information necessary to investigate a complaint is received)

Level 2. Investigate – Carry out the initial investigation of the alleged breach, initial contact with the owner (developer) using agreed templates/protocols and visit and survey with a view to establishing if a breach is present. Results submitted to MBC for consideration of next stage

Level 3. Consideration – determine whether there is a breach of planning control, if so, what is appropriate to address the breach: submit an application, carry out urgent action, cease works etc. Parish Council to contact perpetrator, advise of their findings and seek compliance with request. Then refer to officers for any further action following compliance or not.

Level 4. Action – To pursue complaint through to formal action. Parish Councils authorised to determine appropriate course of action and to act accordingly, including to draft and serve an enforcement notice of any type. To pursue onwards through to appeal or magistrates court, produce appeal statements required following action and represent the Council at Appeal Hearings and Public Inquiries.

There is a possible stage 5 which could be taken up by any PC, that being to monitor compliance with a notice that has been served and provide the necessary witness statements for non-compliance without the necessity of earlier stages.

STAGE	1: Stage 1. Inform	2: Investigate	3: Consideration	4: Action	5: monitor
Scope/Exclusions	All complaints from/sent via the Parish Council	All complaints from/sent via the Parish Council Exclusions – trees and listed buildings ?	All complaints in area falling within protocol	All complaints in area falling within protocol	Monitor compliance with enforcement notices served
Issues	Adequacy of information	H and S considerations PPE Internet PACE	PPG18, Human Rights Act Planning Policy Appeal precedents and conventions	Legal? Accountability Risk Cost Probity, equity Human Rights RIPA Legal representation	H and S considerations PPE Internet PACE RIPA Human Rights
Support from / interaction with MBC	Feedback	Telephone support On site technical support (if required)	Professional support on case by case basis.	Professional support on case by case basis. Appeal process support	Telephone support On site technical/professional support (if required)
Training and ‘tools’	Pro forma for reporting Annual training	Planning Legislation Template letter of authority Recording template Reporting template Access to records Awareness ofPACE/RIPA	Regular liaison with officers (quarterly) Decision making recording template	Notice templates Appeal administration Appeal – case support	Legal Issues (witness statement writing) PACE RIPA
Quantum/frequency	Less than 10 per annum	Less than 10 per annum	3-5 per annum	1 (average)	1
Resources	30 minutes per case. Brief narrative giving details on address, the nature of breach and why the effects it is causing are harmful.	1 to 4 hours per case. Detailed site description, including written results of findings, photographs and survey. May include details of interviews or statements given by developers.	3-10 Hours per case. Provide a detailed appraisal of the development, including reference to policy and effect of the development and full consideration of the necessary actions required to remedy matters	1 - 100(!) hours per case Drafting Notice with details of breach, reasons for taking action, measures required and times prescribed. Appeal drafting – statement of case and/or detailed witness statement	30 mins to 2 hours compliance monitoring. Potential for Witness Statement and appearance in Court if necessary.

