

ENVIRONMENT CABINET MEMBER MEETING

Agenda Item 61

Brighton & Hove City Council

Subject: Planning Enforcement Policy Document
Date of Meeting: 4 November 2010
Report of: Strategic Director Place
Contact Officer: Name: Gerard McCormack Tel: 29-2031
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Key Decision: No
Wards Affected: All

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

1.1 This Planning Enforcement Policy sets a framework for how the planning enforcement team will handle complaints and any subsequent investigations into breaches of planning control. It will aim to clearly set out the aims of the Planning Enforcement Team, the background to Planning Enforcement and the scope of enforcement powers. This Planning Enforcement Policy will set out priorities for responses to complaints and clarify the timescales for response by Enforcement Officers. This policy document will also seek to formalise how Members and the general public will be kept up to date in relation to the work being carried out by the Planning Enforcement Team.

2. RECOMMENDATIONS:

2.1 That the Cabinet Member formally adopt the Planning Enforcement Policy.

3. RELEVANT BACKGROUND INFORMATION

Policy Context and history

- 3.1 Under the Town and Country Planning Act 1990 (as amended), the Council has the power to take enforcement action where it assesses that a breach of planning control has resulted in material harm in planning terms.
- 3.2 Guidance as to how to apply this power and when a Council should find enforcement action expedient is contained in PPG18 and Circular 10/97, both entitled 'Enforcing Planning Control'. The government urges local planning authorities to use enforcement action as a last resort. Formal enforcement action will not be authorised unless it has been concluded that there is no other course of action available.
- 3.3 In addition to Government guidance the statutory Development Plan sets criteria against which to judge whether a breach of planning control is unacceptable.

- 3.4 When determining applications for planning permission, the authority is required to have regard to the development plan, so far as is material, and to any other material considerations. In addition, the determination must be made in accordance with the development plan unless material considerations indicate otherwise.
- 3.5 The Development Plan for the City comprises the Council's Brighton and Hove Local Plan which was formally adopted in 2005, the East Sussex and Brighton and Hove Waste Local plan 2006 and the East Sussex and Brighton and Hove Minerals Local Plan 1999.

4. CONSULTATION

Methodology

- 4.1 Consultation presentations were given to officers within the Council, professional users of the planning service at the agent's forum, members and the general public at the Conservation Advisory Group Meeting. It is likely that consultation will also be carried out with Rottingdean Parish Council and any other groups that show an interest in the coming weeks.
- 4.2 The Council's planning committee noted the draft of this document on the 11 August 2010.

Results and concerns

- 4.3 Overall the planning enforcement consultation was well received by those who attended the presentations.
- 4.4 There was a strong feeling that it was important to increase public awareness of the planning enforcement service through press releases, city news articles, by improving the information contained within the planning enforcement section of the Council's website and submitting performance reports to planning committee. It was felt that greater public awareness would stop breaches of planning control occurring and the need for retrospective applications.
- 4.5 Targeting of enforcement action and education were described as being important factors in an effective enforcement service as they ensure that the public is aware of planning regulations as well as increasing public confidence in the service.
- 4.6 It was felt that anonymous complaints should not be accepted unless a significant amount of information is provided to warrant an enforcement investigation being set up.
- 4.7 Support was given for the idea that complainants should be encouraged to contact the designated case officer four to five weeks after receiving their initial acknowledgement letter. It was felt that such an approach would free up officer time as the onus would no longer be on them to update complainants.

- 4.8 To increase public confidence in the service, enforcement cases would remain open until complainants had received confirmation from the case officer of closure either verbally or in writing.
- 4.9 It was felt that the term “transgressor” sent out the wrong message and that it should be changed to “those in breach”.
- 4.10 The main priorities identified for the service were to preserve and enhance the character and appearance of the City’s conservation areas, seek to remove illegal advertisements that cause harm to local amenity or highway safety in a timely fashion, improve the character and appearance of buildings in disrepair and ensure planning conditions are discharged and adhered to.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 All the costs associated with enforcement actions are met out of the existing Development Control revenue budgets. There are no additional financial implications arising from the recommendation to adopt the Planning Enforcement Policy.

Finance Officer Consulted: Karen Brookshaw Date: 15/10/10

Legal Implications:

- 5.2 The statutory basis for planning enforcement is contained in Part VII of the Town and Country Planning Act 1990. Enforcement powers available to the Council include the service of enforcement, breach of condition and stop notices and the taking of legal proceedings by way of an injunction.
- 5.3 The taking of enforcement action is discretionary and, as referred to in the body of the Report, is a matter of expediency with government guidance published as to when enforcement action should be considered.
- 5.4 It is not considered that any adverse human rights implications arise from the Report.

Lawyer Consulted: Hilary Woodward Date: 15/10/10

Equalities Implications:

- 5.5 There are no equalities implications relating to this policy document that fall outside the normal service delivery for the department. An equalities impact assessment in conjunction with a customer satisfaction survey will be carried out in the forthcoming year. If areas of concern are indentified at the end of this process then the department’s equalities impact assessment will be amended accordingly.

Sustainability Implications:

- 5.6 The policy has no substantial impact upon the four priorities of the UK's Sustainable Development Strategy.

Crime & Disorder Implications:

- 5.7 There are no crime and disorder implications relating to this policy document that fall outside the normal service delivery for the department.

Risk and Opportunity Management Implications:

- 5.8 There are no risk and opportunity management implications relating to this policy document that fall outside the normal service delivery for the department.

Corporate / Citywide Implications:

- 5.9 The policy accords with the Corporate Plan priority to protect the environment whilst growing the economy and also accord with the priority of fair enforcement of the law, by ensuring that any future formal action is base upon open and transparent criteria and priorities.

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Not applicable.

7. REASONS FOR REPORT RECOMMENDATIONS

- 7.1 So that the planning enforcement policy can be formally adopted.

SUPPORTING DOCUMENTATION

Appendices:

1. Draft Planning Enforcement Policy
2. Extract from the proceedings of the Planning Committee meeting on 11 August 2010.

Documents in Members' Rooms

None

Background Documents

None