

**HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
13 December 2011

**From:** Scrutiny Committee 2

**Subject:** **POLICY REVIEW – PLANNING ENFORCEMENT – FINAL REPORT**

All Wards

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**1.0 SUMMARY:**

1.1 Between July and November 2011 the Committee undertook a review on Planning Enforcement. This report sets out the Committee's findings, conclusions and recommendations.

**2.0 INTRODUCTION:**

2.1 Planning Enforcement was regarded as an appropriate topic for review as Members had raised concerns regarding performance and whether the Council's approach to dealing with planning enforcement was adequate to provide a satisfactory service.

2.2 The Committee as a whole undertook the review and the terms of reference were:-

- Review existing policies and procedures for Planning Enforcement
- Examine performance statistics
- Investigate workload levels and training requirements
- Consider the proposal for the Shared Service.

2.3 The following evidence, arranged through the Enabling Officer, was provided at meetings of the Committee:

5 July 2011

- Agreed Project Plan.

1 November 2011

- Evidence gathering.

6 September 2011

- Evidence gathering.

6 December 2011

- Concluded review.

**3.0 OTHER EVIDENCE**

3.1 The following Council officers also attended meetings of the committee to give evidence:

- Maurice Cann, Head of Regulatory Services;
- Martyn Richards, Head of Legal Services.

**4.0 FINDINGS**

4.1 The terms of reference of the review were aimed at answering the following key questions:

- What is the current policy of the Council and why is this so?
- Who is the policy aimed at, who is intended to benefit and how is this measured?

- What is central to the delivery of the policy (resources, stakeholder involvement, etc)?
- Is the current policy working (is it delivering the stated outcomes and do the recipients benefit)?
- Does the policy need to change – is it still valid?
- Can the policy and the service be improved – if so how?
- What impact will the policy have on other partners?

4.2 Based on the written and oral evidence presented, the Committee's findings were as follows:

4.2.1 The Committee accepted that Planning Enforcement was a discretionary function of the Authority and was very much a reactive service.

4.2.2 The Committee acknowledged that the Shared Service had only recently been implemented and that time would be needed in order to allow for the Shared Service to become fully operational before reviewing statistics on numbers of cases and levels of performance.

4.2.3 The Committee established that current staffing arrangements following the implementation of the Shared Services equated to 3.0 fte covering both HDC and RDC. This did not include the employment of a part-time Enforcement Officer (0.5fte) on a 12 month fixed term contract, commencing 12 September 2011.

4.2.4 The Committee noted that there were varying policies which the Council used in order to deal with Planning Enforcement, which included serving Planning Enforcement Notices. It was noted that it was the Council's Legal Department who served the notices. It was also accepted that the time expended per case could vary enormously depending on the complaint, the results of investigations, successfulness of negotiations and availability of information.

4.2.5 The Committee recognised that communication between complainants, Town/Parish Councils and the Council was not entirely satisfactory, specifically around informing the complainants what action had been taken following receipt of the complaint and recognised this was an area where improvements could be made.

4.2.6 The Committee concluded that the current level of service was satisfactory but that the review should be revisited prior to April 2012, during the term of the existing Committee, to consider the number of cases and level of performance.

## **5.0 CONCLUSIONS:**

5.1 What is the current policy/practice/procedure of the Council and why is this so?

PPG 18 Enforcing Planning Control and HDC Enforcement and Compliance Policy are currently used to deal with Planning Enforcement.

5.2 Who is the policy/practice/procedure aimed at, who is intended to benefit and how is this measured?

All Members, Officers, Town/Parish Clerks, members of the public. The policies safeguard against breaches of planning. The number of cases reported are logged and monitored through the varying processes from reporting through to completion when cases are removed from the list.

5.3 What is central to the delivery of the policy/practice/procedure (resources, stakeholder involvement, etc)?

Staffing and other resources are central to the delivery of Planning Enforcement.

5.4 Is the current policy/practice/procedure working (is it delivering the stated outcomes and do the recipients benefit)?

Currently the level of service is satisfactory, although it was recognised that the Shared Service had only recently been implemented. The policies and procedures used were considered to be appropriate.

5.5 Does the policy/practice/procedure need to change – is it still valid?

The current policies and practices of the Council are still valid.

5.6 Can the policy/practice/procedure and the service be improved – if so how?

Procedures regarding advising complainants and other parties of the outcome of a case could be improved by notifying all parties of the outcome of investigations and any resulting action that may be necessary.

5.7 What impact will the policy have on other partners?

Implementation of the Planning Enforcement policies and procedures helps guard against breaches of planning and protects the environmental assets of the District.

**6.0 RECOMMENDATIONS:**

6.1 To recommend to Cabinet that the:-

- (1) the current level of service be noted as satisfactory;
- (2) communication on the outcome of Planning Enforcement cases be improved;
- (3) the Committee revisit the review prior to April 2012, during the term of the existing Committee.

COUNCILLOR J PREST  
CHAIRMAN

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## **Memorandum of Evidence**

### **Evidence received from Maurice Cann, Head of Regulatory Services and Martyn Richards, Head of Legal Services, Hambleton and Richmondshire District Councils**

Maurice Cann, Head of Regulatory Services, had previously circulated copies of a report which had been submitted to the Places Board in May 2011; PPG 18 Enforcing Planning Control and Hambleton District Council Enforcement and Compliance Policy. A copy of the statistics on the current position on enforcement cases had also be circulated and he referred to the Localism Bill which would also have an effect on Planning Enforcement.

Mr Cann outlined the staffing arrangements following the implementation of the Shared Services which equated to 3.0 fte covering both Hambleton and Richmondshire District Councils. This did not include the employment of a part-time Enforcement Officer (0.5fte) on a 12 month fixed term contract which commenced on 12 September 2011.

The Committee enquired as to whether any follow up action was taken on any planning refusals to ensure that development did not take place or did the Authority wait to see if anyone raised a complaint. Mr Cann advised the Committee that Planning Enforcement was generally reactive. Parish Councils were quick to bring issues to the Authority's attention as were members of the public.

The Committee sought clarification on the procedures for enforcement action as it could be a lengthy exercise and it was felt it would assist the Committee to explain any time elements of appeals, etc. Mr Cann informed the Committee that it was up to the Council to determine the timescales as this was a discretionary function. The 2008 Compliance Policy set out the priorities which were categorised by breaches of planning control, with timescales attached, which varied in each case and how it was to be pursued.

The Committee asked if a Notice was served was there a specific length of time given to appeal and was advised that there were 28 days to appeal. The appeal would then get passed to the Planning Inspectorate but the time taken for a conclusion to be reached would depend on when the appeal could be determined. The Inspector could change timescales.

The Committee asked whether appeals which had been passed to the Inspector still had a process to go through and was advised that this was the case.

The Committee asked if there came a point when a decision had to be taken on how long a case was dealt with before saying 'enough is enough'. Mr Cann advised the Committee that it very much depended on each case, whether progress was being made, negotiations successful and whether there was willingness to move forward, the Authority would not just 'do nothing'.

The Committee enquired as to what extent was any delay attributable to lack of manpower to follow up cases and whether if there were twice as many enforcement officers would this reduce the timescales. Mr Cann informed the Committee that the more resources you had the quicker you could get back to people but there was only so much officers could do. However twice as many staff would not double the speed at which matters were dealt with. There were other elements to serving notices which the Legal Department dealt with, which consequently had resource issues to be taken into account.

The Committee commented that there was a general perception that the Council was to blame for 'not getting on with it'. Mr Cann advised the Committee that the work was not generic and each case was different. Mr Richards commented that there were issues about timing but that cases were always being followed up. There were issues about priorities also.

The Committee asked whether there was criteria to use to decide whether one case was added to the list or removed, ie if the Authority had been notified of a breach from a Parish Council what criteria was used to remove a case from the list, was it resolution or did some cases get forgotten about. Mr Cann advised that yes if a Parish Council or individual raised an issue it would go on the list. There were 4 circumstances whereby a case would 'fall off' the list:

- activity to stop – breach ceased;
- there was no breach of planning control when the matter was investigated;
- minor breaches – decision had to be made effectively to 'right it off';
- Planning permission was granted to remedy the breach.

The Committee sought clarification as to whether if a decision was taken not to pursue a case did the Authority inform the original complainant and local Ward Member(s) and also what was the policy on informing people about what action had been taken. Mr Cann advised the Committee that current practice was not very good. If a case continued for a long time, officers may not get back to the original complainant. There was also room to improve communication with Parish Councils and Ward Member(s) who were not always aware there had been a breach.

The Committee suggested that all parties should be informed of the decision that had been made not to pursue a case. Mr Cann agreed and Mr Richards advised that it could be very difficult to explain why action could not always be taken as it was a complicated process.

The Committee asked if there was any guidance that could be given to Parish Councils to improve their judgement regarding potential breaches. Mr Cann informed the Committee that Parish Councils were visited and training provided although it was easier for professional planners to make these judgements. Mr Richards reiterated that this was a very technical area with lots of legislation.

The Committee asked for background information on the Shared Service and enquired as to how many cases the enforcement officers would have. Mr Cann advised the Committee that there were 3.5 full time equivalent members of staff in total across both Hambleton and Richmondshire District Councils. There was a move towards splitting the number of cases equally across the members of staff.

The Committee questioned why conditions were put on planning applications as there was a perception that they were not enforced. Mr Cann reiterated that the Authority did enforce conditions. People were required to have various bits of paper for planning permission, there was a formal process to go through when discharging planning applications and if the Authority found out somebody had not discharged the conditions on their permission for something they had built the planning officers would deal with it.

The Committee observed that the Shared Service would hopefully improve the situation within the next 12 months if not earlier. Mr Cann agreed but advised that it is very much dependent on the workload that came in.

The Chairman of the Committee suggested that because of the implementation of the Shared Services the review be revisited before April 2012 during the term of the existing Committee.