

# Proposal form for items for consideration by Scrutiny Committee



Submitted by: Val Ranger

Date submitted: 18<sup>th</sup> January 2021

Item for Consideration: The role of Planning Enforcement

Expected outcome (i.e. new policy, new action, new partnership, review and/or scrutinise the performance of other public bodies or of the Council in relation to its policy objectives, performance targets and/or particular service areas):

To scrutinize the performance of the council in relation to this service area.  
To ensure all councillors understand the role of Planning Enforcement, its scope and its limitations.  
To ensure this area is sufficiently resourced.

Priority for matter to be considered (please tick):

High (up to 3 months)	yes
Medium (3 to 6 months)	
Low (over 9 months)	

Basis on which priority has been set:

The suggested item should be included in future programme(s) because: (please tick as appropriate)

a) It is a district level function over which the district has some control	yes
b) It is a recently introduced policy, service area of activity which would be timely to review	
c) It is a policy which has been running for some time and is due for review	yes
d) It is a major proposal for change	
e) It is an issue raised via complaints received	yes
f) It is an area of public concern	yes
g) It is an area of poor performance	possibly
h) It would be of benefit to residents of the district	yes

Which of the Council's objectives does the issue address?: Outstanding Place and Communities

Is there a deadline for the Council to make a decision? (If so, when and why?): No formal deadline but the reputation of the council and confidence in the service are at stake.

Members are requested to provide information on the following:-

What do you wish to achieve from the review?:

- 1) Consistency across the district.
- 2) More transparency for residents and councillors
- 3) Clearer enforcement path with timescales
- 4) Difference between the action taken against homeowners and action taken against the bigger corporate developers, the former often seeming more harsh than the latter.
- 5) Other policy links – here are three examples:
  - a. a number of farmers diversify from farming into renting out fields for horses which impacts on the commons and heathlands AONB/SSI/Pebblebed heaths. They are often accompanied by swings to entertain the children, caravans, trailers and other paraphernalia. Stables pop up outside of other people's houses with no permission. We have no equestrian management policy. When invited to apply for change of use to equestrian they don't want to as agricultural farms do not have to pay capital gains tax when passed onto family heirs whereas equestrian properties do pay CGT.
  - b. some landowners and developers are gaming the planning application process. They are also prone to gaming the planning conditions. They can also go as far as using the Planning Inspectorate to fend off EDDC and using the cost of litigation as a further deterrent. There are real remedies available, but first the issue needs to come before Scrutiny.
  - c. Request to variation of conditions on a site where the original developer went bust and the new owner did not comply with conditions (this quote is on the EDDC website in the public domain so there is no breach of sensitive information here BUT I don't think the application has formally been determined yet :  
*REVIEW OF SUBMITTED DETAILS Due to inadequate detailing and poor construction management the as-built scheme falls far short of its original design intentions and approved planning drawings. It is unrealistic to expect that the as built external works can be brought back in line with the originally approved design proposals, but while some compromise is necessary, further changes are needed both to the as-built construction and latest landscape drawings. Notable issues to be addressed are the treatment of the hill top to the east of the site; treatment of the footpath following the northern site boundary; completed earth bunds around plot curtilages; changes to plot boundaries; design of surface water drainage and provision of adequate structure planting to screen the development in key views and help assimilate it into the surrounding landscape.*

Are the desired outcomes likely to be achievable?: yes

Will it change/increase efficiency and cost effectiveness?: Yes. Potentially there is a risk this area could prove to be under-resourced which may have longer term financial implications.

**Additional information** – an explanatory sentence or paragraph to be provided below to support each box which has been ticked:

I list here examples of questions that members may wish to have addressed:

Conditions      How are they checked?  
What penalties are applied where a breach takes place?  
How are penalties enforced?  
Failure to comply with Conditions – what happens next?  
Retrospective applications – how can we discourage these – national policy change/  
lobbying of MPs?  
Change of use – the slippery slope to an end result?  
Variation of conditions once a site is part built and it is no longer considered 'practical' to  
ensure conditions – see 19/1794/VAR?

Building Heights – how and when are these checked at the start of work, during work before its too late?

Trees – where felled with or without approval – is replanting enforced?

Sustainability – what measures, parity across district?.

Adverse impact on neighbouring properties – flooding, amenity – how is this monitored

Consultees reports - Full reliance on taking Highways, DCC, EA reports as gospel. Is this good enough.

Repercussions if their reports prove to be incorrect?

Failure of a councillor to disclose a personal interest – which later comes to light. What action can be taken?

Please can you return the completed form to Democratic Services via email to [democraticservices@eastdevon.gov.uk](mailto:democraticservices@eastdevon.gov.uk).

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## MONITORING OFFICER COMMENTS

It is permissible for Scrutiny to look into the matter of the Council's approach to planning enforcement although consideration will need to be given to the potential resourcing issue. Some of the questions posed don't immediately pertain to enforcement but rather the wider issue of the approach to the handling of planning applications. Scrutiny will need to clearly define what it wishes to focus on. It will need to be borne in mind that Scrutiny are not able to review the particular merits of planning decisions.

Date: 26<sup>th</sup> January 2021

Deputy Monitoring Officer in the absence of the Monitoring Officer.