



PLANNING ENFORCEMENT PROPOSAL

TOWN COUNCIL MEETING

REPORT 87/15

12 OCTOBER 2015

The purpose of this paper is for the Town Council to agree its response to a proposal from the Isle of Wight Association of Local Councils (IWALC) for Town and Parish Councils to fund increased capacity in Planning Enforcement.

NO. DETAIL

1) BACKGROUND

- a) IWALC is concerned at the lack of sufficient capacity within the Isle of Wight Council's (IoWC) Planning Service to ensure the necessary enforcement of compliance with the Local Planning Authority's (LPA) decisions and relevant legislation.
- b) They have circulated what is described as an 'Initial Thoughts' paper on which Town and Parish Councils in IWALC membership are asked to comment.
- c) A copy of the paper is attached to this Report.

2) OPTIONS

- a) The paper identifies four options:
 - A. The bid, under a community right to challenge, for the service made by a voluntary group, community group, charity, parish council or local authority staff,
 - B. Direct funding of enforcement staff by Town and Parish Council's to carry out investigations locally and then refer to IWC for decision
 - C. Direct funding of enforcement staff (to work in the IWC) and carry out enforcement for a particular area
 - D. Direct funding of enforcement staff by all Town and Parish Councils (to work in the IWC) and carry out enforcement across the island.
- b) It goes on to suggest that Options A, B and C are neither realistic nor deliverable

3) ASSESSMENT

- a) The paper was considered by the Town Council's Planning Committee at its meeting of 30 September.
- b) Minute 7b of that meeting records its assessment as:

It was agreed by the Committee that Option C – *Direct funding of enforcement staff (to work in IWC) and carry out enforcement for a particular area* - of the 'Initial Thoughts' paper from IWALC regarding Planning Enforcement Functions should be considered by Ventnor Town Council at its next full meeting on 12 October.

4) RECOMMENDATION

The Town Council is recommended to consider its response to the proposal.

Planning Enforcement Functions

Effective enforcement is important to Town and Parish Council's because it tackles breaches of planning control which would otherwise have an unacceptable impact on local amenities but more importantly it maintains the integrity of the planning decision-making process because it helps to ensure that public acceptance of the decision-making process is maintained.

Town and Parish Council's are at the front line of providing services to the public and are seen, by their local communities, as the 'local representation' within the wider 'local government' framework.

As such they are often the first port of call for members of the public and it is sometimes left to Town and Parish Councils to explain a complex planning system in 'layman's' terms.

It is only the Local Planning Authority that has delegated powers under the Town and Country Planning Act (and other powers) for the service of Statutory Notices.

Therefore if a service were to be externalised then it would still be up to the officers in the Isle of Wight Council to look at all of the evidence gathered, and take the appropriate action (as required under their current published enforcement policy).

The issue with this is that there may be expectation from any 'community based' investigation team that the LPA would just take the action that was recommended.

There are often a range of ways of tackling alleged breaches of planning control, and guidance on this issue confirms that enforcement action is discretionary, and LPA's should act proportionately in responding to suspected breaches of planning control.

Further to that the guidance confirms that LPA's should publish 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.

The adopted local enforcement plan is the current document that the Isle of Wight Council would be working to. The local enforcement plan defines the objectives and priorities for action within the local area and provides greater certainty for all parties engaged in the development process.

The issue

It is considered by certain Town and Parish Councils that there is insufficient resource within the LPA to undertake effective enforcement in accordance with the IWC's policies and that this is having a detrimental impact on confidence in the decision making process.

There are four options that could be considered for an alternative delivery model and they are as follows:

- a) The bid, under a community right to challenge, for the service made by a voluntary group, community group, charity, parish council or local authority staff,
- b) Direct funding of enforcement staff by Town and Parish Council's to carry out investigations locally and then refer to IWC for decision
- c) Direct funding of enforcement staff (to work in the IWC) and carry out enforcement for a particular area
- d) Direct funding of enforcement staff by all Town and Parish Councils (to work in the IWC) and carry out enforcement across the island.

Option A

Option A is not considered a realistic and deliverable option because it would rely on an organisation having the skills to put forward an expression of interest and provide all of the necessary detail to take forward this proposal with appropriate expertise in carrying out enforcement on planning matters. The Isle of Wight Council have confirmed that it is not up to them to initiate this process and therefore any organisation would have to bid for this process themselves.

The other issue with this approach is that it still requires the IWC to sign off any decisions and as such every time action was required, such as requiring the owner to provide information as to interests in land, this would necessitate the signature of someone in the LPA.

There might also be the expectation that the IWC has the resources to increase its workload to deal with the work of the community group – enforcement takes a significant amount of time and resources negotiating between officers and the public.

Option B

Option B is not considered a realistic and deliverable option because there is still the requirement for the IWC to sign off any decisions and as such every time action was required, such as requiring the owner to provide information as to interests in land, this would necessitate the signature of someone in the LPA. There would need to be significant dialogue between IWC and Town and Parish Councils and expectations would not be able to be met.

Option C

Option C is not considered a realistic option because it provides a two tier enforcement service and would require the LPA to alter their enforcement policy. It would not be proportionate to operate two or more different policies on the Island dependent on where the enforcement is being carried out.

It is considered that this approach would be more likely to be open to challenge if enforcement was at a higher standard one side of the parish boundary compared to the other side.

Option D

This would require all Town and Parish Council's to fund an appropriate officer or set of officers who would be employed by the IWC.

An option for service delivery could be that the T&PC's fund staff to deliver a particular set of outcomes. In order to do this it would require the following:

- a) Agreement from all the Town and Parish Council's to fund an agreed number of enforcement officers (on a proportionate basis (to be agreed))
- b) Agreement from all the Town and Parish Councils on any areas that they considered to be a priority for enforcement such as condition compliance, s215 notices
- c) Agreement from the IWC to make the appropriate changes to their enforcement policy to ensure that the outcomes funded by the T&PC's can be delivered
- d) An agreed contract to be set up and appropriate review mechanisms

A copy of the current enforcement policy can be found at the following link:

<https://www.iwight.com/azservices/documents/2286-Enforcement-Policy-Aug-2015.pdf>

This 'initial thoughts' paper and can be amended further to appropriate discussion.