

**Development Control Committee – 15<sup>th</sup> January 2007**

**Report of the Director of the Urban Environment**

**Delegation of Enforcement Functions**

**Purpose of Report**

1. To agree a process for implementation of revised enforcement process for increased delegation of enforcement functions to the Director of the Urban Environment.

**Background**

2. The majority of available planning enforcement powers must currently be authorised by the Development Control Committee. Over the past three years it has become apparent that the need to seek authority from Members in this way has created a delay in the enforcement process.
3. Formal enforcement action is only instigated as a last resort and therefore those matters which are presented to the Members are the more serious matters which create significant detriment to the public for a variety of reasons.
4. In order to utilise more effectively and speedily the enforcement powers available to the Local Planning Authority it is considered to be appropriate that an increased level of delegated powers is given to the Director of the Urban Environment.
5. Members are supportive of enforcement action to resolve harmful breaches of planning control in the public interest. Over the past 3 years approximately 50 requests for enforcement action have been presented

to the Development Control Committee. Not a single request has been denied. On each of these occasions the need to await that approval from Development Control Committee resulted in significant delays in the enforcement process.

- 6 As an example, within Dudley Town Centre Conservation Area the recent formal adoption of the Conservation Area Management Plan (CAMP) commits the Council to the proactive use of all its planning powers to secure the preservation or enhancement of the Town Centre. This is a specific requirement of the Heritage Lottery Fund (HLF) in the context of their current consideration of the Council's Second Stage Bid for a Townscape Heritage Initiative (THI) for the town centre and the release of their allocation of £1.95 million pounds for this purpose. With matched funding and owners contributions a total of around £8 million pounds will be expended on enhancing the environmental quality of the town centre during the 5 year life of the THI, commencing in April 2007. In this context a streamlined enforcement process is clearly recognised by the HLF as representing best practice nationally. The delegated powers being requested will give the Council the ability to act in a timely fashion in enforcing against, for example, unauthorised and inappropriate roller shutters, shop fronts and advertisements. This is a key objective of the THI that might be pursued in conjunction with an offer of grant.
  
7. At present the following matters are delegated to the Director of the Urban Environment to issue:-
  - Listed Building Enforcement Notices;
  - Notices of Intention to execute urgent works;
  - Notices requiring proper maintenance of waste land;
  - Planning Contravention Notices under Section 1 of the Planning and Compensation Act 1991 (as amended) and Sections 171c and 171d of the Town and Country Planning Act 1990 (as amended).  
and;
  - Service of Temporary Stop Notices and Stop Notices.
  
8. In addition a number of powers are also delegated to the Director of Law and Property. These include:
  - Institution of prosecution proceedings under Sections 179, 183, 184, 187, 216 of the Town and Country Planning Act 1990 (as amended).
  - Institution of prosecution proceedings under Sections 7, 8, 9 and 43 of the  
Planning (Listed Buildings and Conservation Areas) Act 1990.
  - Institution of prosecution proceedings under Sections 102, 103, 104, 189, 190 and 224 of the Town and Country Planning (Control of Advertisements) Regulations 1992.
  - Service of notices requiring information under Section 330 of the Town and Country Planning Act 1990 (as amended).

- Issue and service of Planning Contravention Notices under Section 1 of the Planning and Compensation Act 1991 (as amended) and Sections 171c and 171d of the Town and Country Planning Act 1990 (as amended).
  - Issue and service of Breach of Condition Notices.  
and;
  - Institution of prosecution proceedings for breach of a Temporary Stop Notice and Stop Notice under Section 171g of the Town and Country Planning Act 1990 (as amended).
9. For instigation of all other enforcement and prosecution actions in relation to planning matters, authority must be gained from the Development Control Committee.
10. As the majority of planning enforcement matters relate to breaches of the Town and Country Planning Act 1990 (as amended) which do not fall within the specified Sections 7 and 8 above, there is a considerable delay in taking swift and effective actions. A number of weeks are lost in the process whilst authority is awaited, after which the necessary legal checks and actions are then undertaken.
11. If delegated powers were to be given to the Director of the Urban Environment for all planning related matters there would be no necessity to delay the taking of action where it is considered expedient and appropriate.
12. The other Local Planning Authorities within the West Midlands have varying degrees of delegated powers to lead officers. These are summarised as follows:
- Birmingham City Council - all powers are delegated to senior officers with the exception of full Stop Notices.
- Wolverhampton City Council - all powers delegated with the exception of prosecutions and direct actions which are reported to the Development Control Committee. The service of Stop Notices requires the signature of the Chair or Vice-Chair of Committee.
- Sandwell Metropolitan Borough Council - all powers delegated to officers.
- Walsall Metropolitan Borough Council - only have delegated powers for the service of Planning Contravention Notices and Breach of Condition Notices.
13. It is suggested therefore that the increase in delegated powers to officers at this Council would bring us into line with the majority of our neighbouring authorities. This does not prevent officers bringing matters which are considered particularly sensitive or controversial to the Development Control Committee for authorisation.

14. Officers are mindful that Members take a great interest in the progress of enforcement action taken by the authority. As such it is proposed that regular reports be presented to the Development Control Committee to inform Members of actions taken and the progress on those matters. Also Members would retain the right to request that any actions be brought to the Development Control Committee for consideration. The Chairman and Vice-Chairman and Ward Members would be advised of any key actions taken in sensitive situations.
15. The Constitution needs to be amended in order to delegate to the Director of the Urban Environment the power to institute proceedings for breaches of the Town and Country Planning Act 1990 (as amended).

## **Finance**

16. There are no direct financial consequences arising from this report, however the increase in demands on the service will be considered as part of the annual budget process. All existing processes will be reviewed to identify any potential for improving efficiencies within the service.

## **Law**

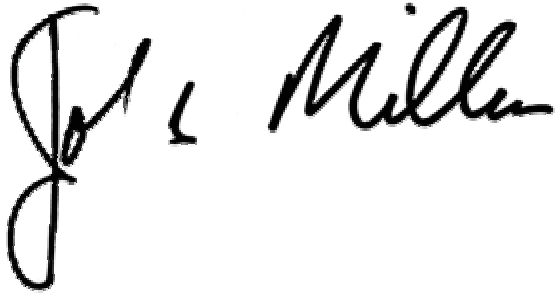
17. The planning process is governed under the Town and Country Planning Act 1990.

## **Equality Impact**

18. The proposals contained in this report are in full accordance with the Councils equal opportunities policies and should in no way have any impact on different racial groups, disabled people, both genders and/or other relevant groups.

## **Recommendation**

19. That Members recommend to the Leader of the Council that he take all appropriate steps necessary in order to achieve the amendments to the Scheme of Delegation contained in the Constitution as detailed in paragraph 15 of this report.

A handwritten signature in black ink, appearing to read 'John B. Millar'. The signature is written in a cursive style with a large, stylized initial 'J'.

**John B Millar**  
**Director of the Urban Environment**

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## **List of Background Papers**

None