

## POLYTUNNEL DEVELOPMENTS IN HEREFORDSHIRE

Report By: Head of Planning Services

### Wards Affected

County-wide

### Purpose

1. To consider progress in the control of polytunnel development in the County since the matter was last considered by this Committee in March 2007 when the findings of the Polutunnel Review Working Group were reported.

### Financial Implications

2. None

### Background

3. The Council had operated a Code of Practice in respect of the use of polytunnels for soft fruit production from 2003. A significant case concerning Tuesley Farm, Waverley Borough Council was determined in December 2006 with the judgement being published in February 2007. In the light of that judgement the Polytunnel Review Working Group reported to the Environment Scrutiny Committee meeting on 12<sup>th</sup> March 2007, that changes were needed in the way the Council sought to control this type of development. The Committee agreed with the findings and submitted the recommendations to Cabinet for consideration. Cabinet on 22<sup>nd</sup> March 2007 considered the issue and resolved, *inter-alia*, that all new polytunnels would henceforward require planning permission. A phased programme of enforcement action was also set out in the event that planning applications were not forthcoming.
4. The Cabinet decision, in respect the statement that "all new polytunnel developments within the county.... be treated as development requiring planning permission" has been challenged by way of Judicial Review. In effect, the words used are too absolute and go beyond the tests established in the "Tuesley Case" and other related cases. It is anticipated that a revised wording will be agreed by Cabinet and the Judicial Review process can then be set aside. The fact remains that the large scale polytunnels used by the main growers of soft fruit in the county are of a sufficient size, scale, degree of attachment to the ground and permanence (i.e. the "Tuesley tests") that they do need planning permission, and the relevant growers were informed of this view by letter dated 27<sup>th</sup> March 2007.
5. Since March 2007 planning officers have been in contact with all the main growers who use large scale polytunnels. In some cases a programme for removal has been agreed, in others planning applications have been submitted. Enforcement Action is now underway in respect of those growers who have not submitted applications and are not, apparently, intending so to do, and whose polytunnel installations damage material planning interests. A full schedule of cases can be provided if needed. Where planning

applications are received they are being reported to the Area Planning Sub-Committee in the ordinary way.

6. Following Cabinet's decision to accept the findings of the Polytunnel Review Working Group and the work underway to implement that decision the Committee need to consider whether it requires further monitoring reports on this issue.

## **RECOMMENDATION**

**THAT that the Committee note the actions taken by Cabinet in response to the findings of the review outlined in the report and consider whether further reports are needed.**

## **BACKGROUND PAPERS**

- None identified