

POTENTIAL SCRUTINY OF PLANNING ENFORCEMENT

Background and context

1. The Committee at its last meeting decided to add this functional area to its scrutiny workplan. This follows scrutiny requests from individual Members over recent months and the Committee having previously been content for its Working Group to keep the matter under review as a 'watching brief', particularly in relation to performance and resourcing.
2. The main context for this scrutiny is the historical backlog of cases and an apparent lack of progress in dealing with it. The enforcement lists sent periodically to Members are considered too lengthy and perhaps require to be broken down into Areas/Wards to assist Members and encourage them to respond. The earlier concept of holding informal meetings of Area Committees to go through the lists was something that had not been happening on a consistent basis. The main issues arising from the scrutiny requests and identified by the Working Group to be looked at are therefore as follows:
 - a. Latest performance statistics detailing the historical position and indicating the actual and anticipated improvement
 - b. Explanation of the various enforcement processes from the outset of a complaint, allied to the different types of action, in particular the internal arrangements/delegation for authorising and closing actions
 - c. Resourcing – previous, current and future
 - d. Approach to planning enforcement going forward having regard to the revised adopted Planning Enforcement Policy

Performance and reporting

3. Detailed and updated performance information is now available and included below:

The recorded improvements for the Enforcement Service caseload are shown below and relate to improvements between 12th September and 5th December 2022:

| | 12 th September 2022 Stats | 5 th December 2022 Stats |
|-------------------------------|---------------------------------------|-------------------------------------|
| Total Caseload numbers | 724 | 726 |
| Still requiring Investigation | 612 | 574 |
| Backlog cases (over 1yr old) | 477 (66% of total cases) | 422 (58% of total cases) |
| Cases actioned in 20 days | 16% | 36% |

* 22 New cases have been received between the 12th September and 5th December 2022.

The Enforcement Team is focusing its time on both the continued completion, closure and reduction in numbers of the backlogged caseload, as well as improving on the initial investigation and response on new cases within the timeframe of the first 20 days (as per Enforcement Policy). The continued improvement of the latter is to achieve the bench mark of 80% actioned in 20 days of receipt.

4. A backlog of over 850 cases in April this year has already been reduced to around 574 active on-going cases, with over 100 cases ready to be closed. Over 200 cases have

been closed since April. Progress in relation to the backlog has to be set against the fact that around 100 new cases had been opened. It is felt that regular presentations to Members on the performance data will be most beneficial.

5. The monitoring of performance is routinely undertaken as part of the Performance, Governance and Audit Committee's remit. In terms of how Members can assist Officers in managing and dealing with caseload, the idea of Members approaching Officers may have some value if only to provide an opportunity for feedback and an understanding of what is happening with the work. There is also provision for Area Planning Committee Members to arrange daytime meetings with Officers to go through the lists for their areas, but it should be noted that this may be difficult to manage on a regular basis with a limited Officer resource.
6. Officers acknowledge the value of individual Member involvement on cases, particularly to give a local perspective. Officers further acknowledge that the monthly update lists are too extensive and will look at breaking them down to at least an Area and hopefully a Ward basis. Work is taking place on improvements to the lists.

Enforcement processes (including compliance with conditions) and delegation

7. The authorisation and implementation of planning enforcement action is delegated to Officers under the Council's Scheme of Delegation and therefore the management of the various processes is integral to that. While there is a detailed description of the various enforcement tools and what they are designed to do is included in the Planning Enforcement Policy, it may be helpful to Members to understand how internal delegation within the service area and team enables the principal delegated powers to be exercised. This would be particularly relevant to the actual authorisation of action in a specific form as well as the ability to complete and close off a case whether it be due to evidence, legal advice, compliance etc.
8. Due to the reactive nature of Planning Enforcement services and the limited resources available to ensure compliance, Officers can only attend sites where evidence is available/a complaint has been received in relation to a suspected breach of planning control. The Enforcement Team does not have the facility to visit every approved site to ensure planning conditions are being complied with, unless it has reason to believe there is a contravention.
9. Once investigated by an assigned Officer, every case will be assessed if it is expedient to take any further action on it or if the matter should be submitted for closure. Any formal action decided and drafted, must be approved by the Development Manager (DM). Any recommendation for the case to be concluded and closed, must similarly be reviewed and approved by the DM, before being formally closed.

Arboricultural and Conservation matters are reviewed by subject matter experts from the respective fields, who will identify and raise to the Enforcement Team should remedial actions be required to resolve any issues.

Any use of Injunctive relief measures under the legislation are subject to stricter evidence requirements and must be reviewed by Legal Services prior to any authorisation under delegated powers for the Council to take such action.

Resourcing

10. The enhanced team structure implemented earlier this year has relied heavily on the appointment of contractors given the issues of recruitment and staff retention nationally. The intention is to recruit permanent staff.

11.

| Role | Appointment | Operational Time |
|--------------------------|--------------------|-------------------------|
| Lead Specialist DM | Permanent | F.W.W. |
| Specialist Enforcement | Permanent | F.W.W. |
| Case Officer Lv3 | Contractor | 37h contract |
| Case Officer Lv2 | Permanent | F.W.W. |
| Case Officer Lv2 | Permanent | F.W.W. - 20% |
| Case Officer Lv1 | Permanent | F.W.W. |
| Case Officer Lv1 (Admin) | Contractor | 20h contract |

* F.W.W. – Full Working week

Approach to Planning Enforcement - Policy

12. The Policy was reviewed and adopted in 2021. The approach to enforcement envisaged in the revised Policy was predicated on the need for an enhanced team being put in place. Given the recruitment and retention difficulties experienced, there has not been the opportunity purposefully to implement and deliver the new Policy in terms of the approach.

13. In view of this, the opportunity may need to be taken to further review the Policy as to being fit for purpose and its objectives.