

Agenda Item No 5
 Overview and Scrutiny Committee
 19 September 2023

Title: Planning Enforcement Update
 Lead Officer: Gary Fisher (01926 456502)
 Portfolio Holder: Councillor King
 Wards of the District directly affected: All

Approvals required	Date	Name
Portfolio Holder	7/9/23	Councillor King
Finance	-	
Legal Services	-	
Chief Executive	7/9/23	Chris Elliott
Head of Service(s)	7/9/23	Phillip Clarke
Section 151 Officer	-	
Monitoring Officer		
Leadership Co-ordination Group	-	
Final decision by this Committee or rec to another Cttee / Council?	Yes/ No Recommendation to: Cabinet / Council Committee	
Contrary to Policy / Budget framework?	No/Yes	
Does this report contain exempt info/Confidential? If so, which paragraph(s)?	No/Yes, Paragraphs:	
Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?	No/Yes, Forward Plan item – scheduled for (date)	
Accessibility Checked?	Yes/No	

Summary

The purpose of this report is to provide a further update for the Committee on the recovery of the Council's Planning Enforcement Service and the related ongoing actions to maintain and improve efficiency and effectiveness.

Recommendation(s)

- (1) It is recommended that the report is noted.
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1 Reasons for the Recommendation

Background

- 1.1 Members will be aware that over recent years, the Planning Enforcement team has experienced significant issues with long term sickness, vacant posts (including the Team Manager role) and poor response levels to recruitment resulting in an under resourced team over much of that period.
- 1.2 At its worst, that situation contributed to an enforcement caseload of 434 cases of which 275 were awaiting investigation. This in turn led to a low level of customer satisfaction and increased numbers of service complaints.
- 1.3 However, as reported to you when this matter was last considered on 7 March 2023, since that time, the Enforcement Manager post had been filled on an agency basis and 2 key members of staff had returned from long term sickness all of which were positive steps forward.
- 1.4 At the time of the last report (7 March 2023), the team were continuing to work proactively to investigate cases in the most effective manner and to move towards a position where an increasing amount of time is spent on addressing the most harmful cases rather than simply administering the backlog of work.
- 1.5 As reported to you at your meeting of 7 March 2023, the overall enforcement caseload at that point had further reduced to 171 cases of which 27 were awaiting investigation. That is compared to the position in September 2022, when this Committee received an earlier update when there were 225 cases on hand of which 114 were awaiting investigation.

The Current Position

- 1.6 Until very recently, the Enforcement Team comprised the following posts:
 1. Enforcement Manager: Permanent and Full Time.
 2. Enforcement Officer: Permanent and Full Time.
 3. Enforcement Officer: Permanent and 0.7 FTE (Post Holder retiring September 2023).
 4. Enforcement Officer: Permanent and 0.5 FTE
 5. Enforcement Project Officer: Temporary (until September 2023) and Full Time. Focusing predominantly on HMO Project work which is now well advanced.

- 1.7 Since the last report to the Committee in March 2023, a new Senior Enforcement Officer post has been created and the 0.7 FTE Enforcement Officer post has been converted to a full-time post.
- 1.8 Both of these posts have been successfully recruited to, with the Senior Enforcement Officer now in post and the new Enforcement Officer starting shortly, overlapping slightly with the outgoing current post holder.
- 1.9 As a result, the make up of the team is now as follows:-
 - 1. Enforcement Manager: Permanent and Full Time.
 - 2. Senior Enforcement Officer: Permanent and Full Time.
 - 3. Enforcement Officer: Permanent and Full Time.
 - 4. Enforcement Officer: Permanent and 0.5 FTE

Given the advanced nature of the HMO project, it is not proposed to extend the temporary Project Officer post further.

- 1.10 This further strengthening of the team has not only increased capacity but also rebalanced the proportion of full-time officers which is important in ensuring consistency and effective structured working.
- 1.11 The current position with workloads is that there are 165 open cases, of which none are awaiting investigation. As such, the backlog of enforcement cases has now been eliminated and the overall caseload significantly reduced.
- 1.12 Of these, there are 22 cases where enforcement action has either been taken or is in the process of being progressed.
- 1.13 The Team, under the leadership and direction of the Enforcement Manager have worked very hard to get to the position where the number of cases under investigation is at a manageable and sustainable level without there being any queue of cases awaiting investigation.
- 1.14 The overall trajectory of that progress can be seen below:-

	Active Enforcement Cases	Enforcement Investigations not yet Commenced.	Total
March 2022	159	275	434
September 2022	111	114	225
March 2023	144	27	171
September 2023	165	0	165

- 1.15 In terms of enforcement action taken, the number of Notices issued has significantly increased since Spring 2022 when the Enforcement Manager role was filled and can be summarized as follows:-

Notice	April 21-March 22	April 22-March 23	April 23-ongoing
Enforcement Notice	3	7	6
Temporary Stop Notice	0	2	0
Breach of Condition Notice	0	0	4
Listed Building Enforcement Notice	0	1	1
S330 Notice	0	0	2
Planning Contravention Notice	1	4	7
Untidy Land Notice	0	0	1
Total	4	14	21

Looking Ahead

- 1.16 Contrary to the position in early 2022, the Council's Enforcement team are now in a stronger position to work more effectively to investigate and where necessary address alleged breaches of planning control.
- 1.17 This, in turn will enable the team to prioritise work more effectively to ensure that unacceptable unauthorised development within the District is addressed as efficiently as possible and that customers are kept up to date on progress in a timely manner.
- 1.18 The Enforcement Team is currently receiving in the order of 250 - 300 requests for enforcement investigations annually and it is anticipated that this increased capacity will offer an opportunity for Officers to focus more effectively on those harmful and sometimes more complex cases requiring their attention whilst also efficiently completing those investigations which do not merit further action.
- 1.19 During the financial year 22/23 (1 April 2022 – 31 March 2023) in order to address the backlog of enforcement investigations, over 500 investigations were completed and closed. To date, for the current financial year from 1 April 2023, 108 cases have been completed and closed.
- 1.20 Members will understand that as a result of the previous backlog of work, the average timescales for completing investigations was very significantly increased over and above what might be expected. However, it is anticipated that those timescales will now start to reduce as a result of the increased capacity within the Team and reduced workload level.

- 1.21 Further, rather than operate on an entirely responsive basis, as most Council Enforcement teams do, there will now also be increased opportunities for the Team to work more proactively in addressing issues and publicising outcomes including within the public domain where appropriate. This is intended to increase the public profile of the work of the Team and also act as a deterrent in reducing instances of breaches of planning control.

2 Alternative Options

- 2.1 Other than noting the report, there are no other alternative options before the Committee at this time.

3 Legal Implications

- 3.1 There are no specific legal implications of the proposal.

4 Financial

- 4.1 The additional capacity within the Enforcement Team has been funded through the corporate staffing budget.

5 Business Strategy

- 5.1 The proposals are intended to ensure that the service operates at an optimum level to ensure a high quality service going forward.

6 Environmental/Climate Change Implications

- 6.1 Increased effectiveness within the enforcement service which in part will be sustained by ensuring that capacity within the team is at the right level, in turn supports the quality of decision making and contributes to securing environmental benefits to address the climate crisis agenda.

7 Analysis of the effects on Equality

- 7.1 The proposal is not anticipated to impact upon equality.

8 Data Protection

- 8.1 The service will continue to fulfil its data protection obligations and any issues are addressed quickly and appropriately.

9 Health and Wellbeing

- 9.1 Increased effectiveness within the enforcement service will contribute to the right development occurring in the right place and at the right time securing outcomes from the Health in All Policies programme through mitigation measures and infrastructure delivered by new development which will benefit the health and well-being of residents, workers and visitors within the District.

10 Risk Assessment

- 10.1 Local Council's performance on enforcement matters is not currently reported to or monitored by the Department for Levelling Up, Housing and Communities, however that may potentially change in the future.
- 10.2 Councils which perform poorly on such matters currently run an increased risk of legal challenge and sanction from the Local Government Ombudsman along with the associated reputational damage arising from poor performance.
- 10.3 A properly resourced Enforcement Team which is capable of responding effectively to alleged breaches of planning control will not only provide a high

quality service but also minimise those risks.

Background papers:

Please provide a list of any papers which you have referred to in compiling this report and are not published documents. This is a legal requirement.

You must also supply these when submitting the report.

Supporting documents:

This is not a legal requirement but may assist others in identifying documents you have referred to in producing the report.