

Agenda Item No 8
 Overview and Scrutiny Committee
 7 March 2023

Title: Development Management and Enforcement Performance Update
 Lead Officer: Gary Fisher (01926 456502)
 Portfolio Holder: Councillor Cooke
 Wards of the District directly affected: All

Approvals required	Date	Name
Portfolio Holder	22/2/23	Councillor Cooke
Finance	-	
Legal Services	-	
Chief Executive	22/2/23	Chris Elliott
Head of Service(s)	22/2/23	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 Development Management and Enforcement Services 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 during the course of the pandemic, in line with a national trend, the Development Management service experienced a significant increase in the number of planning applications being submitted. This, combined with a number of other factors which were set out in a report for your 8 March 2022 meeting resulted in a backlog of applications amounting at its greatest to over 300 cases.
- 1.2 Members will also be aware that prior to that, the service has performed exceptionally well on a consistent basis with regard to the timescales for determining planning applications.
- 1.3 By way of response to the increased workload, as well as filling vacant posts, a number of additional temporary posts were created within the service. Those posts remain in place, most of which will be drawing to a close over the course of this calendar year.
- 1.4 At its greatest, during early 2021, there were over 500 applications on hand of which 200 were being actively worked on whilst 300 were waiting to be allocated to a Planning Officer. The backlog of work waiting to be allocated to a Planning Officer was eliminated in December 2021 and currently there are 267 applications on hand, all of which are being worked on by a Planning Officer.
- 1.5 This represents a reduction of 69 applications on hand since the time of your last update report in September 2022 with the overall total number of applications under consideration now at a much more manageable level relative to resourcing.
- 1.6 As members will be aware, our approach to the consideration of planning applications is to work closely with applicants and negotiate revisions to schemes where that is considered necessary to make them acceptable wherever possible. The alternative would be to refuse proposals without doing so which would increase the speed of decision making and assist with performance in that regard, but reduce the quality of the service being offered, increase the number of appeals being received, and extend the overall timescale from the customers perspective.
- 1.7 The period of time over which those cases were waiting to be allocated to an officer in the backlog queue significantly increased the overall application determination timescale. This was reflected in the lower performance figures for the proportion of applications determined within the statutory or extended

timescale which for the period October to December 2021 was an uncharacteristic 42%.

- 1.8 Nevertheless, by the time of your meeting on 8 March 2022, performance for the then current partial quarter had improved to 68% of decisions being made within the statutory or extended timescale.
- 1.9 Since that time, the performance figures for the subsequent last 3 full quarters and the current part-quarter are as follows:-

January – March 22:	72%
April – June 22:	87%
July – August 22:	91%
September - December 22:	89%
January - March 23 (partial):	92%

The former backlog of planning applications waiting to be allocated to an Officer Continues to remain at zero.

- 1.10 Members will also 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.
- 1.11 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.
- 1.12 However, since that time, the Enforcement Manager post has been filled, albeit temporarily on an agency basis and 2 key members of staff have returned from long term sickness. As a result, the team is now 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 administering the backlog of work.
- 1.13 In that regard, the current position is that the overall enforcement caseload has further reduced to 171 cases of which 27 are awaiting investigation. This compares to the position in September 2022, when this Committee last received an update which was 225 cases on hand of which 114 were awaiting investigation.
- 1.14 Since your last update, the team have served 28 formal Notices and there are a further 13 cases currently being considered for potential enforcement action with legal colleagues.
- 1.15 It is also proposed to recruit again to a further 2 posts within the Team - a Senior Enforcement Officer and an additional Enforcement Officer to provide further stability in the longer term and enable the increased proactive management of cases and issues within the district.
- 1.16 An unsuccessful recruitment to these posts has previously been undertaken on a temporary basis and therefore it is now proposed to seek to recruit on a permanent basis.

Actions Taken and Planned

- 1.17 The application backlog and uncharacteristic subsequent downturn in planning application performance was a consequence of a combination of factors, most particularly the increase in the volume and complexity of the team's workload summarized above; the vacant posts that were being carried at the time; and sickness within the team during the pandemic.
- 1.18 We are also continuing to experience a significant increase in the timescales for the receipt of some statutory consultee responses which is significantly delaying the assessment and determination of some planning applications – principally, the more major schemes.
- 1.19 A number of actions have been undertaken to address the workload situation principally involving the recruitment to existing vacant posts; the ongoing review of processes and protocols to enhance effective working wherever possible; and recruitment to additional temporary posts.
- 1.20 Those actions are considered to have been key to the elimination of the backlog of unallocated work and the subsequent progress that has been made.
- 1.21 Nevertheless, the recruitment and retention of staff within both the Development Management and Enforcement Teams continues to be a concern, as does levels of sickness, the former particularly as there remains a shortage of experienced planners and enforcement professionals available for the public sector.
- 1.22 That position continues to be exacerbated by other Councils within the sub-region offering more attractive remuneration packages which continues to be evidenced by low levels of external interest in some roles and the continued loss of existing staff to nearby Councils.
- 1.23 In addition, in order to assist with the ongoing imbalance of demand for enforcement investigations relative to resourcing and increase effective working wherever possible, work continues on the review of team priorities.
- 1.24 Work is also continuing on the longer term Service Improvement Plan covering both development management and enforcement including:-
 - i. The review of capacity and resourcing with the teams.
 - ii. A recruitment and retention strategy including the increased use of market supplements where appropriate. This is in addition to the Working for Warwick award which is currently being progressed across the Council.
 - iii. A succession planning strategy.
 - iv. The procurement of a new back office system.
 - v. The digitizing of microfiche records.
 - vi. The increased use of Planning Performance Agreements to fund increased capacity within the Team.
 - vii. Increased collaboration with statutory and other consultees to assist, where possible in enabling their timelier responses.

2 Alternative Options

- 2.1 Other than noting the report and endorsing the proposed actions, 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 Service Improvement Plan is anticipated to be funded within the existing budget envelope and increases in income brought about through charging for discretionary services and in particular Planning Performance Agreements and pre-application advice.
- 4.2 Members may also be aware that Government is considering bringing forward a proposal to increase fees for planning applications which would be very welcome particularly as there is a current deficit of circa £300,000 between the level of fees currently received and the cost of running the service.

5 Business Strategy

- 5.1 The proposals are directed at continuing and sustaining the recovery of both the development management and enforcement services which in turn will contribute to good development being delivered more effectively within the District to the benefit of residents, workers and visitors, and the environment.
- 5.2 The proposals are also 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 development management and enforcement services which in part will be sustained by ensuring that capacity within the teams is at the right level, in turns supports the quality of decision making and the ability to secure the 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 Improvement Plan referred to above is intended to ensure that the service fulfils its data protection obligations and any issues are addressed quickly and appropriately.

9 Health and Wellbeing

- 9.1 Increased effectiveness within the development management and enforcement services 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 the determination of planning applications and appeals is reported to and monitored by the Department for Levelling Up, Housing and Communities.
- 10.2 In the circumstances where Councils are considered to be consistently performing poorly in that regard, there is a risk that they will be designated as a Special Measures Authority.
- 10.3 Such designation would mean that customers could decide whether they wished to have their planning applications determined by the Council or by the Planning Inspectorate, thereby potentially removing local accountability and is therefore to be avoided.
- 10.4 Whilst such designation is infrequent, there are instances where that has occurred and Officers are therefore mindful of this risk.
- 10.5 The current criteria for Councils potentially being considered for Special Measures include failing to determine on aggregate 60 per cent of major and 70 per cent of non-major applications within the statutory or extended period, or having more than ten per cent of major or non-major applications overturned on appeal, over a 2 year timeframe. Performance on enforcement matters isn't the subject of potential designation.
- 10.6 Such designation is only likely to be considered where a Council's performance consistently falls below those levels over an extended period. As indicated above, this Council's performance, until recently has been consistently significantly above those levels and whilst that performance has recently dipped, it is now returning to previous levels and therefore the risk of such designation is considered to be low.
- 10.7 Nevertheless, over that rolling 2 year period to December 2022, the Council's performance on non-major applications was marginally over the 70% threshold which was a very uncomfortable place to be and a situation to be avoided in future.
- 10.8 As also set out above, actions are being taken and further actions planned to ensure the return to that high performance is consistently sustained for our customers and eliminate any risk of future designation.

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.

Performance Timeline

