

Title of Report	THE EFFECTIVENESS OF PLANNING ENFORCEMENT - UPDATE	
Presented by	Chris Elston Head of Planning and Infrastructure	
Background Papers	https://minutes-1.nwleics.gov.uk/documents/s38316/The%20Effectiveness%20of%20Planning%20Enforcement%20Scrutiny%20Report.pdf	Public Report: Yes
	https://www.rtpi.org.uk/research/2022/november/planning-enforcement-resourcing/	Key Decision: No
Financial Implications	The Planning Advisory Service will be engaged to review the Service and this will be paid for within existing budget using the Head of Planning and Infrastructures consultancy budget.	
	Signed off by the Section 151 Officer: yes.	
Legal Implications	None identified.	
	Signed off by the Monitoring Officer: yes.	
Staffing and Corporate Implications	The Team is currently fully staffed but Planning Advisory Service (PAS) could recommend further changes to team structure when they are engaged to carry out a review.	
	Signed off by the Head of Paid Service: yes.	
Reason Agenda Item Submitted to Scrutiny Committee	This committee requested a report on the effectiveness of planning enforcement due to outstanding unresolved historic enforcement cases and to ensure the Council has a Planning Enforcement Team that is fit for purpose. This was reported at the September 2022 committee meeting where it was agreed a further report would be provided, to update on the latest position.	
Recommendations	THAT SCUTINY COMMITTEE: <ol style="list-style-type: none"> 1. CONSIDERS AND COMMENTS ON THIS REPORT ON THE PROGRESS MADE WITH REGARD TO THE EFFECTIVENESS OF PLANNING ENFORCEMENT IN NORTH WEST LEICESTERSHIRE 2. NOTES THE INTENTION TO ENGAGE THE PLANNING ADVISORY SERVICE TO REVIEW THE PLANNING ENFORCEMENT TEAM 3. NOTES THE INTENTION TO ADOPT A NEW LOCAL ENFORCEMENT PLAN INCLUDING A SIMPLIFIED METHOD OF PRIORITISATION AND REPORTING PERFORMANCE TO PLANNING COMMITTEE BI-ANNUALLY 	

1.0 Background

- 1.1** The Community Scrutiny Committee requested a report on the effectiveness of planning enforcement due to outstanding unresolved historic enforcement cases and to ensure the Council has a Planning Enforcement Team that is fit for purpose. This was reported at the September 2022 committee, and the purpose of this report is to provide a further update on progress.
- 1.2** The recommendations of the September 2022 report were that the committee:
1. Considers and comments on this report on the effectiveness of planning enforcement in North West Leicestershire;
 2. Notes the intention to engage the Planning Advisory Service to review the Planning Enforcement Team; and,
 3. Notes the intention to bring a report back to scrutiny in autumn 2023 to update on progress.
- 1.3** At the time of the last report, the Planning Enforcement function had recently returned to the Planning and Development Team from Environmental Protection, with a structure of two senior officers and two officers but carrying a vacant senior post.
- 1.4** An initial review of the team then identified a lack of capacity and experience in the team in relation to more complex enforcement cases, reliance on contractors to cover the more complex work, and a need for more direction in terms of workload and how the team prioritised cases.
- 1.5** Given that recruiting Planning Officers nationally is challenging and in particular those specialising in Planning Enforcement (see the link to the RTPI Research Paper at the top of this report), a decision was made to review the team structure to create a Team Leader post which would be more attractive to the market but also be able to help with the complex cases and team direction and guidance. This would assist in mitigating the need for contractors / agency staff as it was recognised that the long-term retention of the three contractors, who had been providing support for the relatively inexperienced permanent officers to develop, was unsustainable.
- 1.6** Concern had also been raised by Members about the number of outstanding enforcement cases dating back to 2017. The team had a high caseload and the number of cases received had remained fairly consistent over a number of years. At the time of the last report, only 15% of cases were received before 2020. It was acknowledged that cases can be open for a significant amount of time, especially for reasonable compliance periods, extant enforcement notices and monitoring long-term situations, but it is desirable to seek prompt remedy to matters where possible. The team was reviewing older cases alongside dealing with newer cases which could often be causing more imminent harm.
- 1.7** There has also been a Member briefing session held on 1 September 2022, open to all Councillors. Given that there are new Members following the local election of May 2023, it is intended to hold another event once a new Local Enforcement Plan is adopted, as this will set out the updated policy and method of prioritisation the team will work to. The new Local Enforcement Plan is targeted to be adopted by the end of September 2024 to align with the Council Delivery Plan.
- 1.8** The Planning Enforcement function has been identified as a Council priority in the recently adopted Council Delivery Plan. While enforcement has often previously been seen nationally as an afterthought in the planning process, or the 'poor relative' of planning, due to it being a discretionary service and perhaps often thought of as an undesirable task, recognition of its importance has been growing and the significant challenges it faces highlighted. Enforcement is now much higher on the agenda nationally to maintain the integrity of the planning system.

2.0 Progress

- 2.1** Following successful recruitment, a Planning and Development Enforcement Team Leader started with the Council in September 2023. They have already been revising the practices and processes of the team, particularly with regard to the quality of communication with Members and stakeholders of enforcement cases, how they utilise the system that the cases are recorded on and how comprehensively they record their actions on the cases. The Team Leader has also been reviewing all cases recommended by officers to be closed to ensure a quality of decision, by providing the opportunity for a second opinion and to ensure a level of consistency within decision-taking.
- 2.2** An Enforcement and Compliance officer was also successfully recruited in August 2023 and is currently training in the role. The team structure now comprises a Planning and Development Enforcement Team Leader, a Senior Enforcement Officer and two Enforcement and Compliance Officers. General team support and administration continues to be provided by the Planning Support staff. This improved resource and structure will be benchmarked against other Leicestershire authorities at the next county wide Enforcement Officer's Forum and will be further considered during the review by the Planning Advisory Service (paragraph 2.6 see below).
- 2.3** Progress has been made on reducing the caseload, however, it is acknowledged that the Council cannot control the number of enquiries received and therefore the workload of the team. Since the Team Leader started in September 2023, however, and at the time of writing this report, 30 more cases had been closed than received, which is a positive trajectory.
- 2.4** The Team Leader is also progressing a new Local Enforcement Plan that is up-to-date and sets out a simpler prioritisation system compared with the existing harm scoring system. They are also establishing other revisions to practices and processes within the team to further improve the service going forward. One part-time agency officer has been retained to help with continued reduction of the workload. Other agency staff have now finished their contracts with the Council reducing the cost of the service.
- 2.5** Support and training for permanent officers continues to be a priority with the Senior Enforcement Officer having now completed the Ivy Legal Certificate in Enforcement. One of the Enforcement and Compliance Officer's is currently undertaking the course. The new Enforcement and Compliance Officer is currently being mentored by the rest of the team and now has a small caseload. The Planning Enforcement team is benefitting from being within the Planning and Development team and is included in wider planning information and training events to broaden its planning knowledge. The Team Leader has conducted Individual Performance Reviews with the team to ensure the team considers how it can contribute to achieving the wider aims and objectives of the Council Delivery Plan, Directorate Plan and Service Plan in its day-to-day work.
- 2.6** Engaging the Planning Advisory Service (PAS) to review the Planning Enforcement function has been temporarily postponed, as it was considered sensible to have the Team Leader established in the role, the vacant Enforcement and Compliance Officer post filled, and progress made on the new Local Enforcement Plan. There are also expected to be numerous new burdens placed on the Planning Enforcement team throughout 2024, including the need to monitor and enforce the mandatory Biodiversity Net Gain requirement as well as the changes in legislation coming into force from the new Levelling-Up and Regeneration Act. It is expected that the PAS will now be engaged in quarter 1 of the 2024/25 financial year to allow for more meaningful interaction with them considering all of the above changes. Members will be given the opportunity to speak to PAS as part of the review.

- 2.7** It is intended that the new Local Enforcement Plan will provide a case prioritisation system consisting of high, medium and low priority. High priority cases will include those where irreparable harm may be taking place, such as unauthorised works to a listed building, unauthorised works to protected trees, unauthorised demolition in a Conservation Area, destruction of an important hedgerow and unauthorised works relating to hazardous substances. With some of the above, an offence may have also been committed so it is important that the investigation approach provides the ability to successfully prosecute where appropriate.
- 2.8** Medium priority cases will include unauthorised works in Conservation Areas, harm to the setting of a listed building, development that contravenes local planning policy, and development that significantly impacts on amenity or public safety. These are important but not likely to result in irreparable harm in planning terms where we need to investigate immediately.
- 2.9** Low priority cases will include matters such as domestic development, small business from home, unauthorised advertisements and other minor development. These types of enquiries make up a large proportion of the enquiries received.
- 2.10** This simplified prioritisation system will help align resources to priority cases, by setting different response times for each priority. Not only will this better direct officers to deal with cases where there is greater potential for harm to be caused, but it also provides a monitorable target by which the achievement of an efficient and effective Planning Enforcement service can be gauged. As set out above, the Team cannot control the number of cases received, and also a quantitative measure of performance only goes some way to demonstrating an effective service given the outcome of each case is the most important factor, but how quickly cases are responded to provides a good indication of the performance of the service.
- 2.11** By reporting to Planning Committee bi-annually on achievement of the above, including an overview of the current workloads and progress with historic cases, this provides for member oversight of the service while being spaced appropriately to provide a meaningful update.
- 2.12** Progress has also been made on reducing the number of old cases. The last report presented at the September 2022 Committee set out a total number of open cases of 290, with the enquiries received before 2020 making up 15% of that. The current total number of open cases is 272 and the percentage of these received before 2020 is 11.4%. Work continues on these cases alongside the newer and sometimes more pressing matters.

3.0 CONCLUSIONS

- 3.1** It is clear that significant progress has been made on the intentions and actions set out in the last report.
- 3.2** A Team Leader post has been created and filled. The vacant Enforcement and Compliance Officer post has been filled. The support relied on by external contractors has been significantly reduced to one part-time officer. Work has commenced on a new Local Enforcement Plan and case prioritisation system, and officer training has been continued and more focussed training has been identified and provided to relevant officers. It is only the engagement of the Planning Advisory Service that remains to be carried out and this is planned to occur during quarter 1 of the 2024/25 financial year; this will allow for a more meaningful assessment and outcome given the changes within the Team and their way of working, as well as important legislation changes coming into force imminently.

Policies and other considerations, as appropriate	
Council Priorities:	<ul style="list-style-type: none"> - Planning and regeneration - Clean, green and Zero Carbon - A well-run council
Policy Considerations:	Review of adopted Planning Enforcement Policy intended to not only facilitate an improved service and simplified prioritisation system, but to also take account of updated national legislation and guidance.
Safeguarding:	None identified.
Equalities/Diversity:	None identified.
Customer Impact:	The changes being implemented will improve the service offered and reduce the potential for justified complaints.
Economic and Social Impact:	Effective enforcement will have an economic benefit to the Council as the pursuit of retrospective planning applications (especially as fees have increased) leads to increased fee income. Also, successful prosecutions resulting in appropriate fines generate economic benefits as well as deterring future breaches. Improved perception of the service and integrity of the planning system more widely brings social benefits.
Environment, Climate Change and Zero Carbon	Improvements to service effectiveness will lead to environmental and climate change benefits as breaches of planning control involving these considerations will be better remedied.
Consultation/Community/Tenant Engagement:	Not required.
Risks:	None identified.
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