

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of Meeting: 22nd May 2013

Report of: Building Control Manager

Subject/Title: Enforcement Review Progress

Portfolio Holder: Cllr Rachel Bailey

1 Purpose of Report

- 1.1 To update members of the Strategic Planning Board on the progress of the planning enforcement review, highlighting the proposed recommendations.
- 1.2 To consider the performance measures which are proposed together with associated reporting arrangements to the Strategic Planning Board.

2 Decision Required

- 2.1 To note the progress made by the Planning Enforcement Task & Finish Group.
- 2.2 To agree the performance reporting measures in paragraph 3.3 below, providing quarterly returns for Strategic Planning Board.

3.0 Background

- 3.1 A report submitted to the Audit and Governance Committee on the 14th June 2012 recommended a number of management actions following the internal audit report into the “Waste Transfer Station” (Lyme Green). As part of the report, action B7 recommended that a task and finish group on Planning Enforcement be established with the Environment & Prosperity Scrutiny Committee subsequently agreeing the terms of reference for the group. These included:

- To review the current scope of service delivered through the planning enforcement function;
- To review performance against service standards;
- To review resources aligned to Planning Enforcement and recommend changes in service standards/scope of services and working practices to improve overall performance;

- To review the relationship between Planning Enforcement and other Planning Functions to ensure structures do not compromise conflicting demands;

3.2 A review of performance has been undertaken with a draft report currently being finalised which will be presented to the relevant portfolio holder, highlighting a number of recommendations. These recommendations include:

- i) That a revised planning enforcement policy/protocol be developed and implemented. This policy/protocol shall reduce the current 4 priorities to a more relevant 3 (indicated in Appendix B) which shall include the following;

High Priority cases

Initial Assessment should be made the same day.

Medium Priority cases

Initial Assessment should be made within 5 working days

Low Priority cases

Initial Assessment should be within 15 working days

- ii) The service should be encouraged and designed to operate as a single team working across the whole region, thereby creating a culture of case management within the enforcement team, bringing together the responsibility for enforcement with the professional officers of the team. A structure should be developed to provide clear decision making processes, with appropriate delegation to a single lead officer.
- iii) Relationships with other services should be further developed to enhance service delivery, with particular emphasis on the development of a service level agreement between the planning enforcement function and the legal services functions.
- iv) New performance reporting measures as detailed within Table 1 of Appendix A shall be included within normal day to day practices and reported to the relevant planning committee every 3 months.
- v) Improve customer interactions through the website as indicated within table 1 of Appendix A.

- vi) The provision of technical support staff to support the planning enforcement team should be made available from existing support teams
- vii) The service should be encouraged to improve the use of technology, moving towards a paperless environment and working to adopted operations procedures
- viii) The inclusion within the corporate calendar for regular training sessions for all elected members relating to the planning enforcement function
- ix) The service lead will require the development of a service culture, improving customer relationships through the positive use of available media.

3.2 Currently the performance of the planning enforcement team is not presented formally to the board and this has been raised as a matter of importance throughout the course of the review with the following measures being suggested;

- The number of total complaints received within the period
- The average time taken to respond to the complaints
- The average time taken for determination/initial site assessment per priority
- The number of enforcement notices served
- The average time taken to resolve a case
- The outcomes of enforcement cases
- The number of cases resolved without the need for formal enforcement action.

3.4 Measures considered appropriate to the achievement of the recommendations are highlighted within the table contained in Appendix A.

4. Reasons for Recommendations

4.1 The recommendations, once implemented will address issues raised through the review process, providing a management focussed approach to service delivery including a transparent decision making process. Working practices will be aligned which will in turn, improve performance monitoring and allow for efficiencies. The adoption of a co-ordinated approach to the process, whilst promoting cross working skills will provide a service fit for purpose, ensuring information will be readily available to those who need to it, when they need it.

4.2 Throughout the process considerations have been made to the original terms of reference set and agreed by the group, with the final recommendations considered to achieve a framework and vision on which the service can build

to improve service delivery whilst providing clarity within the decision making process.

- 4.3 Whilst the current driving force for the enforcement function since the service was formed in 2009 has been to meet targets set within the “Planning Enforcement Protocol”, the need for change has been recognised to ensure service delivery is considered fit for purpose.
- 4.4 Specific reasons considered appropriate to each specific recommendation are highlighted in Table 1 of Appendix A.

5. Ward Affected

- 5.1 All

6. Local Ward Members

- 6.1 All

7. Policy Implications (including carbon reduction and health)

- 7.1 None

8. Financial Implications (authorised by Director of Finance and Business Services)

- 8.1 None.

9. Legal Implications (authorised by Borough Solicitor)

- 9.1 None

10. Risk Management Implications

- 10.1 A reviewed policy will ensure that a transparent and clear approach to planning enforcement matters is pursued by the Council

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.001	A revised planning enforcement policy should be implemented and agreed.	PER.001.a	Include a formal progress reporting process directly to the relevant scrutiny committee	To assist in the decision making process, establishing priorities, making service commitments as well as acting as a key document in the development of an effective enforcement management model. To provide the opportunity to refer for scrutiny the decision making process.	B7(i) and B7(ii)
		PER.001.b	Development of new priorities, condensing the current list to 3 categories. Low, medium and High. Where complaints involve operational development that has already progressed this would need to be reclassified as a high priority in the first instance. Where several complaints or elected members have been contacted this should result in the breach being moved up in the priority list.	Currently the majority of complaints focus on only two of the 4 priorities, with priority 4 response being limited. Condensing into 3 will provide a more focussed approach to prioritisation.	
		PER.001.c	The development of an enforcement management model, including a clear decision making process.	To provide a logical system that assists officers to make enforcement decisions in line with the agreed policy, applying fundamentally the principle that enforcement should be proportional to the harm caused. The model should not be a procedure in its own right but promote enforcement consistency by confirming some parameters and the relationships between the many variables in the decision making process. The model should provide a framework for making decisions transparent, ensuring those who make decisions are accountable for them;	
		PER.001.d	The development of a quality management system	A robust quality management system can provide focus and control to service operations, setting targets to improve performance, effectiveness and efficiency.	

Notes to the above:

The frameworks mentioned above, would provide

- A clear and organised approach to the planning enforcement service, aiding all those involved in the making of effective and accurate decisions.
- Act as a supporting document enabling officers to determine the most expedient and proportionate course of action in any particular circumstances
- Set out who takes the decision and how
- Include factors that “will” and “will not” influence judgements
- Act as a framework to manage workflow
- Provide a framework for regular monitoring reports

The documents should also differentiate between active and proactive enforcement actions.

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.002	Encourage a dedicated single enforcement team which does not need to compete for attention within a Development Management Team			To provide a management focussed approach to casework within the service which is not affected by alternative performance management criteria within the development management process.	B7(iii) and B7(iv)
		PER.002.a	Create a culture of case management responsibility within the enforcement team. Bring together the responsibility for enforcement with the professional officers of the team.	This would allow for a co-ordinated approach to enforcement, enabling those within other teams to act as consultants to the process. This should include all planning related enforcement functions such as hedgerows and unauthorised works to TPO's. To provide an effective performance management database. The inclusion of the Waste & Minerals enforcement should also be considered, as the current arrangements place high risk to service delivery and performance monitoring.	
		PER002.b	Maintain a close working relationship with other development management teams such as DM, Heritage & Design and Building Control. Acting as consultants	Professional advice is essential when determining the course of action to be taken. Each team in its own right has something to contribute to the operations of an effectively managed enforcement process.	

<p>Notes for PER.002</p> <p>A dedicated single team managed by one individual would ensure consistent working operations across professional disciplines and enable development of improvements to service delivery without the distraction of high profile development management cases.</p>					
Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.003	Improve relationships with other service providers which affect the decision making process			Robust and reliable relationships remain key to efficient service delivery	B7 (iv)
		PER.003.a	The development of a service level agreement between the planning enforcement team and the legal service team	To create a greater awareness of the interests/expectations of others, including magistrates and the planning inspectorate. To embrace a recognition of the need to promote the value and success of the service	
		PER.003.b	Develop the potential to share database information directly with the legal service team		
		PER.003.c	Make consideration to a closer working relationship with the Building Control team.	The Building Control team have officers who regularly undertake site visits throughout the Borough and may be able to assist in the role of initial response and compliance monitoring	
		PER.003.d	Provide opportunity for Enforcement officers to comment on proposed standard planning conditions	To allow for the validity of conditions to be set and ensure those drafted would be suitable for enforcement.	
<p>Notes for PER.003</p>					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.004	Improve Performance measures			To provide focus on operational outcomes rather than response actions.	B7 (iii)
		PER.004.a	Develop a new suite of performance measures to include; <ul style="list-style-type: none"> • The number of total complaints received within the period • The average time taken to respond to the complaints • The average time taken for determination/initial site assessment per priority • The number of enforcement notices served • The average time taken to resolve a case • The outcomes of enforcement cases • The number of cases resolved without the need for formal enforcement action. 	To provide an overall view to service provision, clarifying the differences between proactive and reactive enforcement. To enable appropriate stage rule development To assist workflow To improve performance monitoring, including scrutiny	
		PER.004.b	Provide an overall target to achieve recommended course of action within 8 weeks	To clarify expectations of all interested parties. To focus teams on priorities. To enable effective organisation	
		PER004.c	Proactively benchmark performance against others	To clearly compare performance of teams with others	
Notes for PER.004 A robust set of performance measure can be used to determine not only service performance and customer satisfaction but always enhance team and individual performance enabling the recognition of endeavours.					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.005	Improve customer interactions through the website				B7(iii)
		PER.005.a	The inclusion on the website of an interactive form which links to the back office system	This allows for a more robust method of complaint notification and management of such with minimal need for staff support.	
		PER.005.b	The functionality to enable uploading of images to the website attached to the deposited complaint	This will allow a more accurate and co-ordinated response to the complaint	
		PER.005.c	The development of appropriate stage rules for each case type published to the website	Allowing members of the public to “self-serve” in terms of updating progress of the complaint.	
		PER.005.d	The adoption of an online Enforcement register	To comply with statutory obligations and to provide information freely across the region. Promoting transparency.	
		PER.005.e	Improve initial access to the web pages	To make direction to planning enforcement pages more concise and direct	
		PER.005.f	Improve “Plain English” information to those wishing to make a complaint and include service delivery expectations	This would assist in the development of expectations and highlight to those with any interest. This would also reduce the number of unnecessary chase up calls requesting progress information	
<p>Notes for PER.005</p> <p>The current ICT database system has been found to include the facility to provide the above services, although certain works are required to commence functionality of these areas. In particular the link between the back office system and the website has been established for planning applications and the same approach should be</p>					

implemented/commissioned for enforcement cases.					
The inclusion of an interactive front end form may reduce the number of inaccurate/inappropriate reports received which will focus the efficient operations within the team.					
Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.006	Improve the provision of technical support to professional staff			Ensure satisfactory allocation of professional resources	B7(iii)
		PER.006.a	Provide support to assist the process of history searches for professional officers	To improve response times to members of the public	
		PER.006.b	Utilise technical support staff and knowledge to act as a "First Contact" facility for professional officers		
		PER.006.c	To answer initial basic telephone queries		
		PER.006.d	To provide a support role when dealing with electronic submission of complaints, making reference to gazetteer and associated systems	To provide a focussed approach to the receipt of complaints	
Notes for PER.006					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.007	Improve the use of technology within teams			To improve efficiency, performance and capacity management	B7(iii)
		PER.007.a	All caseload to be entered into the current database system. i.e. Swift Lg	To allow robust performance management and reporting	
		PER.007.b	Development of the current mapping system	Enforcement notices to include maps indicating locality	
		PER.007.c	The adoption of touch screen technology for site staff	Removing duplication of data entry	
		PER.007.d	Move to a paperless environment	To enable greater flexibility and transfer of data between sites. This will also remove the burden of officers needing to be at managers disposal to answer certain questions	
		PER.007.e	Utilise the database diary functionality	To ensure that management responsibility and health & Safety requirements are fulfilled	
		PER.007.f	Development of the cost based process within the current database system	To identify the true costs of enforcement cases.	
		PER.007.g	Improvement of the mapping facility within the back office system	To allow direct inclusion within enforcement notices to enable website publishing.	
		PER.007.h	Development of on-line receipt of complaints	To remove administrative burden.	
Notes for PER.007					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.008	Provide regular training sessions				B7(iv)
		PER.008.a	Identify within support teams knowledge and experience	The age profile within the current teams contains an older profile than some teams and therefore the service should encourage a training development approach to plan for future resource needs.	
		PER.008.b	Provide regular update training for all elected members on the considerations of enforcement measures. This should be in the form of a workshop environment.	The participation within a workshop training event will recognise the decision making principles and enhance the relationships between elected members and officers.	
Notes for PER.008					
Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.009	Improve customer relationships	PER.009.a	Adopt a procedure to inform residents where complaints impacts are considered high.		B7 (iii)
			Where planning applications are received, apply a check within the process to see if an enforcement case exists.	To enable those with an interest to be notified	
			Develop a positive use of media	To ensure the general public are aware of the enforcement system and the actual good work that is being carried out on their behalf	

High Priority – To include;

Unauthorised demolition, partial demolition or significant alteration of a building, which it is essential to retain (e.g. a listed building or building within a Conservation Area.) or any other development that causes irreversible demonstrable harm.

Unauthorised works to trees covered by a tree preservation order (TPO) or in a Conservation area

Development causing immediate/irreparable harm to protected ecology or causing serious danger to the public

Breach of Enforcement Notice or Breach of Condition Notice

Medium Priority – To include;

Any unauthorised development/activity which, causes clear, immediate, and continuous harm or danger to the locality including the living conditions of adjoining residents

Breach of a condition, which results in serious demonstrable harm to amenity in the neighbourhood

Unauthorised development in an AONB, SSSI (or other national *or local* designation of nature conservation), or Conservation Area or where an article 4 direction has been issued.

Unauthorised development, which is the source of significant public complaint (significant public complaint can be quantified as 5 or more independent sources complaining about the same alleged breach of planning control).

Removal of Hedgerows over 20m in length

Low Priority – To include;

Any unauthorised development where the time limit for enforcement action will expire within the next 6 months

Unauthorised development/use, which is *not* the source of significant public complaint or demonstrable harm

The display of unauthorised advertisements

Untidy Land

Unauthorised development/use, which would be likely to receive planning permission/approval (e.g. if a planning application were to be submitted or S106 agreement completed) or would be unlikely to result in formal enforcement action being instigated.

Developments that are potentially unlikely to require planning permission