

CABINET

26 JANUARY 2024

REFERENCE REPORT FROM THE RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE

A.2 REVIEW OF THE COUNCIL'S CURRENT PLANNING ENFORCEMENT ARRANGEMENTS

(Report prepared by Ian Ford)

BACKGROUND

The Resources and Services Overview and Scrutiny Committee ("the Committee") at its meeting held on 10 January 2024, considered an interim report from its Council Enforcement Arrangements Task and Finish Group which had been submitted following that Group's conclusion of the element of its enquiry concerning Planning Enforcement.

The Committee had been provided, as part of the material for them to consider, the following:

- 1) the Head of Democratic Services & Elections' covering report; and
- 2) the Interim Report of the Council Enforcement Arrangements Task & Finish Group following the element of its enquiry concerning Planning Enforcement dated 31 October 2023.

Those reports are attached as Appendices 1 and 2 respectively to this report.

RESOURCES AND SERVICES OVERVIEW & SCRUTINY COMMITTEE'S RECOMMENDATION(S) TO CABINET

That:-

- (1) the pilot monthly update list on planning enforcement cases (showing Ward, location, alleged planning breach and reference number) be rolled out to all Councillors from the start of January 2024 and that, in the list, those cases relating to the same premises be cross referenced or be shown sequentially and allegations of breaches around the creation of Houses in Multiple Occupation be clearly identified;**
- (2) moves be made to utilise the functionality built into the Planning computer software system, Uniform/Public Access, in order to provide up to date details on planning enforcement cases through the website. This use should be timed to commence from 1 April 2024 for new cases, that existing live cases be added as updates are made to those cases during 2024/25 and that in March 2025 a report be provided to Councillors of those cases not available at that point on the website through the stated software packages;**
- (3) the following be instigated in relation to arrangements across the Council to support joined up and effective enforcement:**
 - a. The pilot arrangements for action logs being created for meetings of the Operational Enforcement Group (that are associated with matters discussed**

at meetings of that Group (and are then monitored away from meetings of the Operational Enforcement Group)) be implemented fully going forward. These action logs would also include relevant responses concerning information held by other service areas of the Council about premises that are referenced to the Group by any one of the service areas who are represented on the Group (including 'NIL' responses if appropriate).

- b. A mechanism of alerting service areas who are represented on the Operational Enforcement Group of live enforcement cases in each of the other service areas on that Group, an ongoing basis, be developed and implemented so as to improve the knowledge flow in the Council of allegations and provide for appropriate enforcement and timely interventions to be made to secure the best interests of the Council, its residents and businesses with a view to raising public confidence in the Council's competence to secure those best interests and deliver 'smarter' working across service areas.
 - c. A protocol be developed setting out the corporate expectations on individual service areas to identify the types of information that service areas hold, and examples of where that information could reasonably be expected to be utilised to support enforcement action or service delivery in that service area or another service area. By way of example, Council Tax Collection could usefully benefit from information around properties being empty for a year as the Council Tax payer may then be subjected to an empty property premium being applied to the Council Tax bill for the property. Another example would be around information that the Licensing Team were to revoke a Licence held by a Business and the potential need for swift action to recover unpaid Business Rates.
- (4) a mechanism for reviewing activity in respect of planning enforcement cases which have been live for over a year be developed and maintained with a view to avoiding the status quo continuing and resulting in an ever reducing harm assessment in respect of those cases to the point that the infringement/non-compliance becomes permitted by default/legal action is not an option as it is then out of time. The intention of the review is to ensure that issues are not missed and appropriate action is taken by the Council; and
- (5) as part of good and reasoned decision making, a policy statement be developed or reviewed on the use of 'public interest' within Planning Enforcement as the reason for either taking or not taking particular enforcement action. The policy statement is to set out the considerations officers must take account of. In each case where 'public interest' is to be utilised to support a planning enforcement decision, an assessment of the competing elements of the public interest in taking or not taking that particular enforcement action are to be set out in writing with an indication as to why taking or not taking action outweighs the other public interest and that assessment is to be endorsed by a more senior officer.

PORTFOLIO HOLDER COMMENT(S) AND RECOMMENDATION(S) TO CABINET

HOUSING & PLANNING PORTFOLIO HOLDER'S COMMENTS

The comments of the Housing & Planning Portfolio Holder in response to the above are as follows:-

- (1) *Response: A weekly list of enforcement cases developed by Officers has been piloted with Members of the Task & Finish Group and this has been well received. I am happy to instruct the Director of Planning to have this list circulated to all Ward Councillors from now on. I hope it will be a valuable tool for Members in understanding some of the issues being investigated in their areas.*
- (2) *Response: Whilst, due to the sensitive nature of some planning enforcement issues, it might not be possible to put all information in the public domain; having a basic level of information on the website is a good idea – enabling interested residents to see for themselves the latest position with regards to local cases. I question the specific purpose of the suggested March 2025 report, given the amount of data that will be provided as matter of course through the regular list to Ward Members, but am happy to explore with Officers the best way of reporting back to Members any cases not, for whatever reason, listed for public view by that point.*
- (3) *Response: I completely support looking at measures to improve joined up and effective enforcement across the Council's services – so long as we comply with necessary data protection rules. I am conscious that our Officers already work well together across the services both through operational enforcement group and on a day-to-day basis on cases where there could be multiple issues, but there is always room for improvement – particularly when it comes to raising public confidence in the joined-up approach. The specific suggestions put forward by the Committee are noted and will require further liaison with Officers and fellow Cabinet Members to explore the mechanics around introducing any specific measures.*
- (4) *Response: With a properly staffed Planning Enforcement Team now in place and the efforts that have gone into cutting in half the number of live enforcement cases on our files, the Council is now in a good position to take appropriate action in regard to both new cases and older cases with a longer history. I will explore with Officers the need for any additional mechanisms or safeguards in respect of cases that have been live for an extended period and will action accordingly having taken their advice.*
- (5) *Response: The Council already has its Planning Enforcement Policy and associated Harm Risk Assessment which does provide an explanation, in line with government guidance, how action is considered with regard to the wider public interest. As a living document that can be updated by the Planning Committee as and when required, I will explore with Officers whether any further improvements or explanation can be incorporated at a logical time for review. Officers already take a variety of factors into account in exploring the right course of action for different cases and these factors will differ from case*

to case, so having a list of considerations that Officers 'must' take account of will need careful consideration. The Planning Enforcement Team is however already developing a means by which a short report is completed on the closure of any case, which will comment on public interest considerations and referral to other services as appropriate; I hope to be able to give an update on that in due course.

RECOMMENDATION TO CABINET:

That the recommendations made by the Resources and Services Overview & Scrutiny Committee be welcomed and noted and the response of the Housing & Planning Portfolio Holder thereto be endorsed.