

Planning Enforcement Resource

Cabinet Member: Councillor I Pritchard

Date: 12 November 2018

Contact Officer: Claire Billings

Tel Number: 01543 308171

Email: Claire.billings@lichfielddc.gov.uk

Key Decision? No

Local Ward Members All Ward Members



**ECONOMIC GROWTH,
ENVIRONMENT AND
DEVELOPMENT (OVERVIEW
AND SCRUTINY) COMMITTEE**

1. Executive Summary

- 1.1 The purpose of this report is to advise Members of the current planning enforcement status (workload) and resource, including a comparison to that of other Councils in Staffordshire.

2. Recommendations

- 2.1 That the Committee:
- i) Note the current status and resource of the planning enforcement team;
 - ii) Consider the implications of such resource in the context of the delivery of the Local Enforcement Plan and government policy set out in the National Planning Policy Framework (NPPF).

3. Background

- 3.1 Planning Enforcement per se could be considered as discretionary, however, the investigation of an alleged breach of planning control is not, and therefore the Council has a duty to do this. The Council therefore has to investigate and make decisions on whether it is expedient or not to take enforcement action as part of its role.
- 3.2 The National Planning Policy Framework (NPPF) sets out that, *“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged case of unauthorised development and take action where appropriate.”* The Council adopted its first Enforcement Plan in April 2013 and is in the process of being updated at the current time. This sets out the how the Council will deal with planning enforcement matters, including the service standards that we aim to achieve and what cases will be prioritised.
- 3.3 The planning enforcement team is an integral part of the development management (planning) team. The current resource within the team includes 2 FT officers, including a Principal Planning Officer (Enforcement) who is required to be a chartered town planner and also an Enforcement Assistant; which is a non-qualified officer role. Both of these posts are currently filled and this level of resource/2 FTE has been as such since July 2016.

- 3.4 The composition of the planning enforcement team has changed over the last 10 years, notably including that from approximately April 2009 up until July 2016 the team included the Principal Planning Officer; a Planning Assistant; and an Enforcement Assistant. Although, it is be noted that the Planning Assistant role also dealt with planning applications and therefore the resource was 2.5FTE dedicated to planning enforcement at such time. Also, prior to April 2009 the team did comprise 3 FTE, including a Principal Planning Officer (Enforcement); Planning/Senior Planning Officer; and Enforcement Assistant- therefore included 2 qualified officers and one non-qualified officer.
- 3.5 Members of this Committee receive regular (6-monthly) performance briefing papers with regard to Development Management (planning) performance. The latest briefing paper was circulated in September. This report includes information about the planning enforcement team workload and performance levels. The latest performance briefing paper was circulated in September 2018.
- 3.6 Enforcement performance is not measured nationally (no national indicators), although this is monitored locally in terms of the number of notices served and cases received and closed. The table below sets out the status of performance/workload for the last 3 financial years:

Notices served & Number of Enf. Cases	APR 15 – MAR 16	APR 16 – MAR 17	APR 17 – MAR 18	APR 18 – AUG 18
Planning Contravention Notice	16	27	6	1
Enforcement Notice	3	3	3	1
LB Enforcement Notice	0	0	0	0
Breach of Condition Notice	1	0	0	0
S.215 Notice	0	1	1	1
Temporary Stop Notice	1	2	2	3
Stop Notice	0	0	0	0
Requisition for Information	1	0	1	0
Hedge Removal Notice	0	0	0	0
High Hedge Remedial Notice	0	1	1	0
Enf. Cases Received / Closed	300 / 282	285 / 249	213 / 143	129 / 36

- 3.7 The above information does identify that over the last 3 years the number of cases/reports of alleged unauthorised development received has reduced; most notably in the last financial year. Although balanced against this the level/amount of cases per officer is high (approximately 133 per officer if averaged) which could imply that the enforcement cases received are less straight forward or take more time to resolve. At the moment (as of September 2018) there are 231 open enforcement cases, with the Principal Planning Officer/PPO (Enforcement) having a caseload of approximately 50 cases and the Enforcement Assistant approximately 180 cases. The PPO tends to deal with matters of a more controversial nature and/or cases needing more planning policy or legislation assessment. The PPO also deals with any cases where formal notices are served/to be served and any subsequent appeal work related thereto.
- 3.8 As part of this review, a basic benchmarking exercise has been undertaken to compare with other Staffordshire authorities. The results of this exercise and the data collected is set out in Appendix A and B. This shows, at Appendix A that whilst the workload of the officers within the Councils' enforcement team is high, this is comparable to that of other Staffordshire authorities. In terms of the comparable mean average level of enforcement cases per officer over 7 Authorities in Staffordshire, it shows that it would equate to approximately 129 cases per officer, whereas currently in Lichfield we have a mean average of 133 cases per officer.
- 3.9 As part of the benchmarking exercise Stafford BC has provided a more comparable set of data. It shows that Stafford BC receive approximately 120 more enforcement cases per year compared to Lichfield,

and based on their planning enforcement resource levels it equates to approx. 109 cases per officer per year, against 133 at Lichfield. Therefore, to have a more comparable resource level to Stafford the Council would require 2.5 FTE planning enforcement case officers; whereas the current resource is 2FTE at Lichfield.

3.10 With regard to the type of resource i.e. qualified as opposed to non-qualified officers, this varies from Authority to Authority, although the greater resource does appear to be that of unqualified officers supported or managed by a qualified planning enforcement officer; as is the case at Lichfield.

3.10 With regard to the amount of Notices served by the planning enforcement team, it is difficult to directly compare to others without knowing the complexity or issues arising, furthermore adopted policies vary from authority to authority i.e. other authorities may promote resolution by negotiation or retrospective application approval, rather than taking enforcement action than others. However, Appendix B includes some data for Stafford and Staffordshire Moorlands combined with High Peak, against that of Lichfield- this shows that Lichfield has comparably served more notices in the last 3 years compared to that of others including 22 Notices per year, as opposed to 15 in Stafford and 7 in Staffordshire Moorlands/High Peak combined.

Alternative Options	1. N/A
Consultation	1. None
Financial Implications	1. The planning enforcement does not generally generate a fee to deal with matters; other than in relation to High Hedges or where retrospective applications or certain appeals have been submitted following investigations. Therefore, it is not a high income generating element of the development management service. Nevertheless, it is an important area of the planning service and the Council would be severely criticised (including by the Local Government Ombudsman) if it did not deal with matters related to alleged planning breaches and is an important element of the development management/planning service area, to ensure development is implemented appropriately and thereby ensure a quality environment with an approach that follows the Council's adopted Enforcement Plan and local and national planning policy. If the Council did not have a planning enforcement team, then the Council would not receive the respective planning application fees and could be at risk of compensation claims through the LGO complaints process. This would impact on the planning application budget, part of which is offered up annually to support the corporate budget.
Contribution to the Delivery of the Strategic Plan	1. Investigating and seeking to resolve alleged breaches of planning control through retrospective applications/resolving breaches facilitates the delivery of development within the District in line with the Local Plan Strategy, which is relevant to all of the Council's ambitions identified in the Strategic Plan where they have a spatial element.
Equality, Diversity and Human Rights Implications	1. It is important that matters related to equality, diversity and human rights are duly considered in all planning enforcement matters. The adopted Enforcement Plan sets out how decisions are made in an open, consistent and transparent way.
Crime & Safety Issues	1. None.

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Not meeting local service targets, including those set out within the Enforcement Plan and also impact on the Council's reputation in not resolving unauthorised development in a swift and effective manner.	Managers review workloads and status of enforcement caseload regularly including reports to O&S committee on performance. Also, internal audit report recommendations adhered to. Also, seek to keep complainants and other informed with priority given in line with standards in the adopted Enforcement Plan.	Yellow.

Background documents

1. Development Management Performance Briefing Paper Sept 2018
2. Enforcement Plan (adopted 2013)
3. National and Local Planning policy and guidance.

Relevant web links

<https://www.lichfielddc.gov.uk/Council/Planning/Planning-enforcement/Downloads/Planning-Enforcement-Plan-2013.pdf>

Appendix A - Benchmarking with other Local Planning Authorities.

(Figures relate to recent staffing figures but workload for some LPAs relate to 2017 status rather than ave. over last 3 years therefore these figures should only be used as a rough guide to workload level comparison)

Authority	Qualified Planners	Other Officers	Dedicated Admin Y/N	Total FTE	Ave No. Enforcement Cases pa.	Ave cases per officer
Cannock	0	1	No	1	No data	N/A
Stoke	1	2	No	3	350	117
South Staffs*	2.5	1	Y (0.6 FTE)	3.5	550	157
Stafford	1	2.5	No	3.5	381	109
Lichfield	1	1	No	2	266	133
Tamworth	0	1	No	1	87	87
Newcastle	1	1	No	2	220	110
Staffs Moorlands & High Peak combined	2.5	2 inc 1 temp	No	4.5	551**	122

*note that South Staffordshire Council operate a different enforcement service model to those of others in Staffordshire in that it is a joint enforcement service including community safety, planning enforcement, environmental crime, licensing of scrap metal dealers/sites and car parking enforcement- although figures above have tried to reflect only the planning elements of the team, yet the manager and admin resource is shared.

**stats relate to figure for last financial year only.

Appendix B- Benchmarking with Stafford BC in terms of number and type of Notices served and cases received over last 3 financial years is as follows:

SBC- Stafford BC

LDC- Lichfield DC

Notices served & Number of Enf. Cases	APR 15 – MAR 16		APR 16 – MAR 17		APR 17 – MAR 18	
	SBC	LDC	SBC	LDC	SBC	LDC
Planning Contravention Notice	3	16	6	27	1	6
Enforcement Notice	9	3	4	3	3	3
LB Enforcement Notice	0	0	0	0	4	0
Breach of Condition Notice	1	1	6	0	7	0
S.215 Notice	0	0	0	1	0	1
Temporary Stop Notice	0	1	0	2	0	2
Stop Notice	0	0	0	0	0	0
Requisition for Information	N/A	1	N/A	0	N/A	1
Hedge Removal Notice	0	0	0	0	0	0
High Hedge Remedial Notice	0	0	0	1	0	1
Total No. of Notices served	13	22	16	31	15	14
Enf. Cases Received / Closed*	406	300 / 282	416	285 / 249	321	213 / 143

*data only for LDC on closed cases

In terms of total of combined Notices served in Staffordshire Moorlands & High Peak for the last 3 years this includes:

2015/16 - 8 Notices

2016/17- 10 Notices

2017/18- 4 Notices