

Report to: **Overview and Scrutiny Committee**
Date: **5 September 2017**
Title: **PLANNING ENFORCEMENT SERVICE REVIEW**
Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee: **N/A**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:

Author: **Patrick Whymer** Role: **Community of Practice Lead – Development Management**

Contact: patrick.whymer@swdevon.gov.uk

RECOMMENDATION

That the Overview and Scrutiny Committee support the actions proposed and the ongoing monitoring of the Service by the Community of Practice Lead and the Case Management Manager.

1. EXECUTIVE SUMMARY

- 1.1** Further to scrutiny of the Planning Enforcement Service taken to Council on 5 April 2016, this report provides an update on the current workload position and revisions to the Service to address the business need.
- 1.2** The report provides performance figures for current open cases, cases closed since March 2016, and data regarding open cases that were received before March 2016.
- 1.3** Revisions to the Service are proposed including the recruitment of an additional permanent enforcement specialist, the provision of a formal mechanism for Members to receive feedback from the service and to review decisions made to seek learning opportunities.

2. BACKGROUND

- 2.1** Pressure to improve the performance in determining planning applications during 2015 meant that specialist and case management resources were not focussed on enforcement and in February 2016 the number of open cases had risen to in excess of 500 open cases in South Hams and over 200 open cases in West Devon.
- 2.2** In February 2016 the Council's agreed that a dedicated, temporary team be set up to deal with the backlog of cases and allow the post T18 model to deal with all new cases. The backlog team of 2.6 temporary enforcement officers and case management support was put in place to deal with all open cases that were received prior to 1 March 2016. When the team started the total cases across the two Councils amounted to 773 (213 in West Devon and 560 in South Hams).
- 2.3** The backlog team was funded for 12 months. The residual cases are now being dealt with as part of the rest of the caseload that was received after 1 March 2016. As set out above the backlog team took on 773 cases and as of the 12 July 2017 there are 153 of these cases still open (64 in West Devon and 89 in South Hams). The table below indicates the progress which has been made.

	South Hams	West Devon
Not Started Yet		
Ongoing	28	22
Planning Application Invited	19	18
Planning Application Submitted	11	13
Remedial Action required	9	
Formal Enforcement Notice Required	12	7
Enforcement Notice Served awaiting Compliance	7	3
Prosecution/Injunction Required	2	1
Breach Resolved awaiting Closure	1	

- 2.4** The backlog team was successful and did clear over 80% of cases that had been received prior to 1st March 2016. All cases have been reviewed and progress has been made on the majority of the cases that remain open.
- 2.5** Whilst there are no Government targets for planning enforcement complaints, there are legal timescales for taking planning enforcement action. Depending on the specifics of the case, an enforcement notice must be served within 4 years (operational development) or 10 years (change of use) from the date of the original breach after which the Council is unable to take enforcement action.

- 2.6** Issues have been raised by Members relating to the interaction of the enforcement service with Members and quality control of decisions made.

3. PERFORMANCE UPDATE

- 3.1** With the establishment of the backlog team to progress all cases received before 1st March 2016, all work on new cases received from that date across both Councils has been led by a focussed Senior Case Manager.
- 3.2** The enforcement workload across the two Councils since March 2016 has remained high with a total of 851 cases being received (246 in West Devon and 605 in South Hams). This equates to just over 50 cases per month/600 cases per year.
- 3.3** Of the 851 cases that have been received since 1 March last year 399 have been closed and 452 remain open. When the residual cases from the backlog team are added, as of the 12 July there are 605 open enforcement cases. (200 in West Devon and 405 in South Hams).
- 3.4** In any planning enforcement regime it would be expected to have open cases in the region of the number of cases that are received in a 3-4 month period. As such it would be reasonably expected to have in the region of 150-200 open cases across both councils, which is significantly less than the level of open cases that we have.
- 3.5** The overall level of caseload (600 per year) is high compared to neighbouring authorities with Torridge having some 220 cases per year, Torbay 290 cases, Teignbridge 441 cases and Plymouth 380 cases.
- 3.6** It is clear that the volume of cases being received is greater than can be dealt with by a single focussed Senior Case Manager. Across neighbouring Councils the average enforcement case load per Enforcement Officer is 180-200 cases.
- 3.7** In response to the issue and in recognition that the level of work is too much for a single Senior Case Manager, a second full time permanent Senior Case Manager has been employed and started in that role on 18th April 2017.

4. PROPOSED ACTIONS

- 4.1** Following a more recent assessment of the service and in response to concerns raised by Members, it is recognised that further

resource is required to provide an effective enforcement service. Following a review of demand across Specialists within Customer First it has been agreed that an existing vacancy will be filled with a L5 Specialist dedicated to Enforcement, primarily across planning, but with transferable skills to other areas as and when necessary. This will provide a resource of three dedicated planning enforcement roles and should be sufficient to deal with the level of cases that are normally received.

- 4.2** In addition to increasing the dedicated resource to enforcement work, recruitment of the Specialist will have numerous benefits including; increasing the high level technical knowledge within the service, reducing the demand on Development Management and providing technical supervision for the Case Management Officers.
- 4.3** However it is accepted that the present caseload is not simply dealing with recently received cases but includes a significant number of older cases as well. Once the enforcement specialist is in post a further review will be required to establish what additional actions are required to ensure that an efficient and effective service is provided.
- 4.4** A Local Enforcement Plan is to be drafted for consultation with Members by the end of this year. The plan will set out service standards, including re-visiting the prioritisation of work, performance indicators and targets and monitoring. The prioritisation of work will indicate three categories; High, Medium and Low the details of which will be set out in the Enforcement Plan.
- 4.5** Service level targets for response times will be initiated and monitored and will be set out in the Local Enforcement Plan. The Targets could include:
Register all complaints with 5 working days and provide an acknowledgement and reference number with a point of contact.
Respond to 90% of cases within the following target response times:
High Priority – Investigation to commence within one day.
Medium Priority – Investigation to commence within one month.
Low Priority – Investigation to commence within three months.
- 4.6** There should be better interaction between the team and Members, particularly regarding updates on open cases. At a time when more cases are received than we are currently closing it would be too time consuming to provide full written status updates on all open cases. We are currently investigating on whether we can make changes to the IT systems to provide members with more information on the status of enforcement cases. However if any Member would like a verbal update of the open cases and an opportunity to discuss cases in their Ward this will be arranged if the CoP lead or Enforcement Team are contacted.

4.7 Members have raised some concerns regarding the decisions made on a small number of Enforcement Cases. The provision of more dialogue between Members and the Enforcement Team as set out in 4.6 above will help to explain decisions made. However, following any enforcement decisions made, if a Ward Member is concerned this can be brought to the attention of the CoP Lead and whilst the decision will not be altered it can be considered by one of the Senior Development Management Specialists to see if there are any learning opportunities arising from the decision.

5. CONSIDERATION OF RISK

5.1 The absence of an effective and efficient Enforcement Service has a number of risks. If the Council fails to take appropriate enforcement action within a specified timescale, the result is that the breach becomes unenforceable and undermines the Planning System.

5.2 If the Council fails to take action on planning enforcement matters there is a significant risk to the reputation of the local planning authority, loss of confidence in the general public and a perception that unauthorised works can happen in the District with no action being taken. Some breaches of planning regulations are prosecutable offence/criminal acts and the LPA should take action against these offences

6. IMPLICATIONS

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Paragraph 207 of the National Planning Policy Framework states "effective enforcement is an important as a means of maintain public confidence in the planning system.".
Financial	N	There are no direct financial implications of the contents of the report.
Risk	Y	As outlined in section 5.0 of the report
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	Y	Planning enforcement officers work closely the police and other bodies
Health, Safety and Wellbeing	Y	Planning enforcement can have a high impact on individuals and communities
Other implications	N	