

<b>TITLE</b>	<b>PLANNING ENFORCEMENT</b>
<b>FOR CONSIDERATION BY</b>	By the Corporate Services Overview and Scrutiny Committee on 6 January 2014.
<b>WARD</b>	None Specific.
<b>STRATEGIC DIRECTOR</b>	Heather Thwaites, Strategic Director of Environment.

**PURPOSE OF REPORT**

- 1) To report the outcome of the independent review of the Planning Enforcement Service
- 2) To advise members of the proposed actions to improve service provision.

**BACKGROUND**

The Overview and Scrutiny Committee received a request to review the Planning Enforcement Service. In response to this, an independent review was commissioned. This was undertaken by John Silvester Associates and took place in Summer 2013. The report was submitted in September 2013 this is attached to this report.

The independent review included an assessment of existing policy, procedures and practice. The views of various stakeholders were established during interviews. In addition workshops were held with WBC members and with representatives of Town and Parish Councils.

The final report summarises the outcome of the assessment, interviews and workshops, and then goes on to make recommendations for improvements in line with best practice.

**A Brief Summary of the Report**

The review concluded that the enforcement team is committed and hardworking and also that there is much good practice undertaken by the enforcement service.

As with any review of good practice the report did identify a number of improvements that could be made to the enforcement service to improve its effectiveness and responsiveness. In particular it recommends that:

- The service should improve its level and quality of communication with all stakeholders.
- The service should be more inclusive in the way it operates in order to involve the ward members and Town and Parish Councils in a pro- active manner.
- The service could be more effective in managing the expectations of residents, WBC members and the members of Town and Parish Councils.
- The service should prepare a clear statement on what it can do, what it can't do and how the service operates.
- The service should set and publish clear performance standards

These changes would make the service more responsive, more inclusive and more proactive.

## **The Way Ahead**

It is clear that all stakeholders have very high expectations of the Planning Enforcement Service. It is also clear that currently the service is not held in high regard by all. Some representatives of the Town and Parish Councils feel that there are flagrant breaches of planning control and that the Council does nothing to address these. Stakeholders commented on a general feeling of lack of involvement, communication and information. In addition it was suggested that officers pay no regard to the issues raised and they are excluded whilst the activities go on 'behind closed doors'.

However, it was also acknowledged that many stakeholders do not understand the system and what can realistically be delivered. This is in spite of the fact that the Council is having some notable enforcement successes and has a number of high profile cases in progress.

Given the current scenario it is considered that there are some key issues to address. These do overlap and are:

- Communication and involvement
- Managing expectations
- Improved performance management to achieve a proactive service.

### **Communication and Involvement**

In order to address the issues raised, it is clear that the service must engage with all stakeholders about enforcement both in terms of the process, the procedures and also in respect of specific cases. There are a number of suggestions in the Silvester report about how this can be done. It is important for the service to work more closely with Ward Members and with the Town and Parish Councils in order to be more coordinated in responding and communicating with local residents. It is recommended that changes to the system are undertaken in conjunction with these stakeholders, that the ward members have the opportunity to comment on cases before they are closed, and that the Town and Parish Councils receive more information about enforcement cases in their area. Therefore, it is recommended that the following are prioritised:

- Enforcement policy and procedure documents should be prepared in conjunction with WBC members and the Town and Parish Councils in order that they have more ownership of these. (Recommendation F &G)
- Ward members will be notified of Requests for Service and given the opportunity to discuss issues with the case officer before cases are closed. (Including reviewing the expediency reports).
- A review of the involvement of Town & Parish Councils in individual enforcement cases and the information they receive (e.g. local ward/parish bulletins, standard letters, regular updates. (Recommendation R, Y, Z & EE)
- Continued and development of stakeholder meetings (Recommendation R &Y)
- Provision of information to the Town and Parish Councils about closed cases and a full explanation of why these have been closed
- Publication of action to ensure that stakeholders are aware of enforcement action and positive results (Recommendation Q)
- Develop and implement a communication plan (Recommendation DD)
- A review all correspondence (including standard letters) so that they are in plain English (Recommendation AA & NN)

### **Managing Expectations**

It was evident that many stakeholders require some things from the service that it cannot deliver due to the statutory basis of the planning enforcement system and the guidance issued by government. For example, refusing retrospective applications and taking action against all unauthorised development. As it is not expected that the legislative or government policy position will change significantly in the near future, it is therefore important that the Council through engagement and communication, tries to manage the expectations of its stakeholders about what can and cannot be addressed. This will ensure that stakeholders do not have unrealistic expectations which when not met, leave them dissatisfied with the service.

It is recommended that the following should be prepared and undertaken by the service to improve stakeholder understanding of the system, the level of service that can be expected and delivered, and the standards against which the performance of the service can be measured:-

- Review current policy and develop a revised enforcement policy and Procedure note (Recommendation F & G )
- Prepare plain English leaflets to explain the process with an easy to use complaint form for RFSs (Recommendation H & I)
- Prepare a customer charter setting out standards of service and priorities (Recommendation A)
- Improve the information on our website (Recommendation D)
- Further develop and improve how we liaise with Town and Parish Councils. (Recommendation DD)
- Provide training opportunities for WBC members and for Town and Parish Councils (Recommendation GG )
- Change the name of the service and compliance may be an alternative.
- To ensure we actively monitoring and review how we are doing.

### **Improved Performance and Performance Management**

The enforcement team is currently made up of 3 full time investigators overseen by a team leader who also manages other planning officers. There is no dedicated planning officer dealing with enforcement cases and the generic technical support team deal with all Development Management related issues in addition to planning enforcement. This limits the ability of the service to undertake much of the communication, stakeholder service and proactive work that has been recommended in the Silvester report and addressed above.

As a result of the recent corporate reorganisation, the Development Management Service now includes all regulatory services including Building Control, Environmental Health, Licensing and Trading Standards. There is now the opportunity for improved coordination of these services to facilitate better communication about potential breaches at various stages of the development process and more cross checking (Recommendation HH). Recently, the Planning Enforcement Officers have been working with the Environmental Protection Team to take joint action to address sites in the borough with significant joint enforcement issues. This co-ordinated approach has been highly successful and will continue in the future, having been facilitated by the structural change to the organisation.

The Council has implemented a new performance management programme for all staff and this will continue to develop. This will improve both individual and team performance

(Recommendation R, V,W & X). It is acknowledged that the current staff are committed and hardworking. Further training and development of staff will enable them and the service to continuously improve (Recommendation FF). The service is highly committed to training and development of its staff. Officer's Personal Development Plans feed into a service wide training programme. Learning and development is further facilitated by the 'learning map' that has been developed in conjunction with staff to meet their development needs and the competencies identified by the Royal Town Planning Institute. The enforcement team should also embrace personal and professional development to identify and adapt to reflect best practice (Recommendation H,S & OO). Overall the enforcement service needs to become more proactive, open and accessible. Career Grade staffing structures need to be considered as well and the structure of the team to ensure that it is as effective as it can be.

The report has recommended that the Enforcement Service reviews the use of a number of enforcement and legal 'tools' in order to achieve more immediate compliance (such as the use of Stop Notices, Breach of Condition Notices and Injunctions) (Recommendation J-P) . Over the last year, the Council has made more use of these and has had a number of successes. Examples include the use of an injunction at a site in Arborfield, and the service of a Stop Notice in respect of an unauthorised catering business at a residential property. It is important to acknowledge that these methods of enforcement do carry risks including the award of costs against the Council. However, their continued and extended use sends a clear message that the Council will use the full extent of its power and take very robust action in addressing serious and significant breaches that will both act as a deterrent but also show the stakeholders that the system is effective. The service has an appetite to take a firm and clear line and will continue to use these forms of enforcement action in appropriate cases.

As well as ensuring the staff resource is adequate there are a number of other resource related issues that need to be addressed to enable the service to be fit for purpose. In particular, the IT system needs to be improved. The Council is currently working to procure a new IT system to replace it and hopefully, this will facilitate improvements to the enforcement process in terms of its efficiency and effectiveness. The current IT system is limited in its ability to provide clear, meaningful and regular updates and information about enforcement cases to customers and stakeholders. For example, the current system only has a small amount of space for an explanation of why a case is closed and as this is used to generate letters to stakeholders. As a result, the information they receive is limited and it is hoped that this can be significantly improved with the aid of a new IT system. Also, that they can receive automatic updates to cases that cannot be generated at the moment to help keep them informed. While the council has committed money and resource to replacing the IT system, this will take approximately 12-18 months to implement (Recommendation MM).

Another area that needs to be considered is the Council's website. At the moment, there have been improvements to the content of the planning pages but the infrastructure of the system inhibits the ability of the service to effectively deliver two way communications with its stakeholders. This is a corporate issue and the Technology Futures and Voice of the Customer programmes are seeking to address this issue.

### **Resourcing the Service**

Given the pressure on the service to be delivering on the recommendations and actions highlighted in this report and to deliver a more responsive service, it has been identified that additional resources need to be focused on the Planning Enforcement Service.

At a time of significant pressure on Council finances and resources, there is limited opportunity to expand the level of staffing within the enforcement service and any additional capacity for new areas of work or resource for enforcement must be found from efficiencies elsewhere. The Silvester report identified a particular need for a dedicated enforcement technical officer who can relieve some of the administrative functions from the enforcement officers to enable them to address cases more speedily, and who can also focus on improving communication (Recommendation T). Although changes to the structure of the team have yet to be consulted on and finalised, it is intended that a focussed technical officer post will be made available for planning enforcement. In addition, there is one currently vacant enforcement investigator post and recruitment to this post will take place early in the new year (Recommendation R).

In addition to the above, it would be highly beneficial for the service to have a dedicated planning officer to deal with complex enforcement cases and appeals, together with a dedicated legal officer. Through the current restructure of the service and in discussion with Shared Legal Solutions, we are in the process of determining how this can be achieved.

By its nature, the enforcement service is a reactive one in that it responds to known breaches of planning control. At the moment, the Council only investigates cases that are reported to it and the Silvester report recommends that there is a more proactive approach to check developments through construction to ensure that the approved scheme is carried out as approved. The Council is securing funding from SDL developments for compliance officers to check the developments in the major development locations. The Planning Enforcement Officers will work with the Building Control officers to facilitate compliance checking of development outside of the SDLs. The opportunity for a coordinated approach between Planning and Building Control has been enhanced as both of these areas now fall within the same Development Management service area. Officers will work together and through more effective communication, cross check and monitor development.

### **Conclusion**

The service has made significant improvements over the last 12 months and these are in line with the recommendations of the Silvester Report. However, there is still a long way to go to promote a more open and accessible service that works together with its stakeholders. The service needs to set clear targets and improve communication. There is a commitment to make improvements but the extent to which these can be realised may be inhibited by available resource at a time when local government is under pressure to cut costs and the planning service as a whole is under significant pressure to deliver the SDLs and the associated infrastructure.

### **Executive Member comments**

The current legislation in relation to enforcement of planning breaches is complex and can be very long and drawn out. Even where compliance is achieved, the process can take many months given the opportunity for applications to be submitted and action to be challenged through planning appeals and the courts. This increases the time, effort and costs involved to the council to allow it to successfully enforce against both major and minor breaches. It often means the delays built into the system leads to residents feeling that they have been ignored. It is in these cases it is vital that communication to stake holders is improved to build the confidence that the service provided is addressing the problems using best practice allowed within the current guidelines and legislation.

It was made clear in the report by John Silvester that the process as laid down in legislation was being followed and applied in a professional manner by staff. It went on to say that communication of information and the relaying of what action had been taken to various stake holders in relation the specific cases was very poor, this in turn led to a lack of clarity and gave concerned as to the level and timeliness of such action.

As in all services supplied by public bodies today there is a balance between cost and the level of service which can be offered. There is no doubt that this leads to judgements needing to be made within each service area of the council as to how best to apportion and prioritise the resources available. This in the real world of enforcement means that the more obvious and harmful breaches are prioritised over the breaches which cause less overall harm. This unfortunately will lead to concerns that some breaches reported to the council seem to be ignored. There will be questions about who is making these judgements and how they are being made, and no doubt these issues will be debated and agreed between members and officers as we go forward.

I believe that even within the current financial constraints that the council has to operate; the merging of areas such as development, environment and highways creates the opportunity to allow the council to move away from silo working and share resources such as administration and customer service across departments. This will in turn lead to multi-tasking and allow staff to expand it range of experience.

I welcome the planned improved working and communications with parish councils at an early stage of enforcement cases and the additional communication with Wokingham Borough Councillors prior to the closing of open enforcement cases as this will build trust and a better understanding of the process and the constraints built into the system by the current legislation.

In essence, all departments of the council need to deliver an acceptable level of service with less overall resource and the same is true of enforcement. By sharing services with other compliance areas within the council such as environment, it will lead to a better level of communication with stake holders such as residents, parish councils and borough councillors

I welcome the opportunity and challenges presented by the Silvester report, it is a long road to travel to embrace all the changes and as the first steps to implementing the recommendations are taken I am confident the mangers and staff will rise to the challenge and the outcome will be a service with greater clarity and transparency

John S. Kaiser  
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22nd December 2013