



## **PLANNING COMMITTEE**

**10 February 2022**

<b>REPORT TITLE:</b>	<b>DEVELOPMENT MANAGAEMENT PERFORMANCE UPDATE- ENFORCMENT ACTIVITY BETWEEN 1 OCTOBER 2021 and 31 DECEMBER 2021.</b>
<b>REPORT OF:</b>	<b>DIRECTOR OF REGENERATION AND PLACE</b>

### **REPORT SUMMARY**

The purpose of this report is to update Members on the performance of the Development Management Service with regard to its planning enforcement activity for the period of 1<sup>st</sup> October 2021 to 31<sup>st</sup> December 2021.

The performance of the enforcement service will be reported to Planning Committee on a quarterly basis.

This matter affects all Wards within the Borough.

The matter is not a Key Decision.

### **RECOMMENDATIONS**

It is recommended that the report be noted.

## **SUPPORTING INFORMATION**

### **1.0 REASONS FOR RECOMMENDATION**

- 1.1 To enable Members to be updated on the performance of the Development Management Service with regard to its enforcement activity.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 As the Council's enforcement activity is being undertaken in accordance with the Council's Planning Enforcement Policy, no alternative options are recommended.

### **3.0 BACKGROUND INFORMATION**

#### **Performance and Workloads**

- 3.1 The Council's Planning Enforcement Policy sets out how the enforcement service will be delivered and defines the standards to be met. The Council aims to send an acknowledgement letter to the complainant within 5 working days of receipt of the enquiry and to conduct a first site visit within 15 working days.
- 3.2 The Council also aims for 80% of cases to reach a 'key milestone' within 13 weeks of receipt of the initial enquiry. A key milestone is one of the following dates on which:
- it is established that there has been no breach of planning control;
  - a retrospective planning application is submitted;
  - a breach of planning control is remedied through negotiation;
  - it is deemed not to be expedient to take formal enforcement action;
  - formal action (such as the service of an enforcement notice) is taken; and
  - it is established that the time limit has passed for the Council to take enforcement action.
- 3.3 Between 1<sup>st</sup> October 2021 and 31<sup>st</sup> December 2021 a total of 77 new cases were opened.
- 3.4 During that same period, 96 cases reached a key milestone. 62% of these key milestones were reached within 13 weeks.
- 3.5 Between 1<sup>st</sup> October 2021 and 31<sup>st</sup> December 2021, 111 cases were closed.
- 3.6 The majority of the Planning Enforcement team's work remains reactive, responding to reports about possible breaches of planning control.

## Formal Enforcement Action

- 3.7 Paragraph 59 of the National Planning Policy Framework states 'Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control....'
- 3.8 Formal action should only be taken as a last resort when all attempts to resolve the matter informally have been exhausted. Formal notices (being enforcement notices or breach of condition notices) are therefore, only served in cases where negotiation has not proven successful, and it is expedient to do so. The majority of cases are resolved through negotiation.
- 3.9 Between 1<sup>st</sup> October 2021 and 31<sup>st</sup> December 2021, one enforcement notice was issued.
- 3.10 Two Planning Contravention Notices (being requisitions for information about site ownership and activity on the land) were issued between 1<sup>st</sup> October 2021 and 31<sup>st</sup> December 2021.

## Key Successes

- 3.11 Examples of some of the key successes achieved during this last quarter are set out below.
- (i) **Land at Slackwood, Riverview Road, Bromborough.** On 4<sup>th</sup> January 2021 the Council issued an enforcement notice in relation to the unauthorised use of the land as a civil engineering contactor's depot and associated storage, unauthorised alteration of land levels, erection of enclosures, and siting of shipping containers and caravans on the land. An appeal was made against that notice and on 8<sup>th</sup> October 2021 we received confirmation of the Planning Inspector's decision to dismiss the appeal and uphold the notice. Compliance with the notice is due in March 2022.
  - (ii) **Thornton Manor.** Between 19<sup>th</sup> October 2021 and 27<sup>th</sup> October 2021 officers attended a Public Inquiry in relation to appeals made against the enforcement notices issued by the Council against the unauthorised marquees sited on the Land. On 21<sup>st</sup> January 2021 the Council received confirmation of the Planning Inspectorate's decision to dismiss the appeals and uphold the enforcement notices. The owners of the land now have a period of 6months to comply with the requirements of the enforcement notices.
  - (iii) **Tree Preservation.** On 10<sup>th</sup> November 2021 officers attended a very productive meeting with representatives of the Tree Council and local amenity groups to discuss the Council's approach to tree preservation in Wirral. We received positive comments from the Tree Council and were able to share in a

constructive discussion with local amenity groups over the challenges to tree preservation and how we can work together in our common objective.

- (iv) **17 retrospective planning applications** have been submitted between 1<sup>st</sup> October 2021 and 31<sup>st</sup> December 2021, prompted by enforcement investigations.

#### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are no direct financial implications arising from this report.

#### **5.0 LEGAL IMPLICATIONS**

- 5.1 Section 172 (1) of the Town and Country Planning Act 1990 provides that the Council may issue an enforcement notice where it appears to the Council that

‘(a) ...there has been a breach of planning control; and

(b) ... it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.’

- 5.2 The above provision is reflected in Paragraph 59 of the National Planning Policy Framework which confirms the statutory position that planning enforcement action is discretionary.

#### **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

- 6.1 The number of enforcement complaints (new cases) received by the Council has increased significantly over the last 18 months. During the previous 10 years, the Council received on average 351 new cases per year. Over the course of 2021 the Council received 476 new cases.

- 6.2 This increase in volume of work has placed the service under considerable pressure with workloads in the team increasing as a result. We have recruited an Assistant Enforcement Officer for a fixed term of 12 months to assist with investigating the increased volume of cases received. However, an existing member of the team recently left the authority, leaving a vacant post within the team that we are actively trying to fill. The demand for enforcement action and the resources available will be closely monitored.

#### **7.0 RELEVANT RISKS**

- 7.1 There are risks that:

(a) Enforcement Notices are subject to challenge by way of appeal to the Planning Inspectorate; or

(b) Any Breach of Condition Notice is successfully judicially reviewed by the recipient (there being no appeal against such notice).

7.2 The above risks can be mitigated by ensuring that:

- (a) enforcement activity is carried out having regard to the provisions of the development plan and other material considerations; and
- (b) the justification for issuing an enforcement notice or serving a breach of condition notice is set out in a clearly reasoned report.

## **8.0 ENGAGEMENT/CONSULTATION**

8.1 This report is factual so there has been no consultation on its contents.

## **9.0 EQUALITY IMPLICATIONS**

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. There are no equality implications arising from the proposals within this report.

## **10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS**

10.1 The recommendations contained within this report are expected to have no impact on emissions of Greenhouse Gases.

## **11.0 COMMUNITY WEALTH IMPLICATIONS**

11.1 The aim of planning enforcement is to secure the lawful use of land that is the subject of suspected breaches of planning control.

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## **APPENDICES**

### **Appendix 1- List of formal notices served**

#### **Enforcement notices**

<b>Register number</b>	<b>Address</b>	<b>Date issued</b>	<b>Breach of planning control</b>
673	Land at corner of Townshend Avenue and Irby Road, Irby	8/12/2021	Unauthorised siting of a caravan and construction of earth bunds

**BACKGROUND PAPERS**

**Council Enforcement Policy**

**Planning Enforcement Policy**

**SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>