



PLANNING COMMITTEE

9th February 2023

REPORT TITLE:	DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE- ENFORCEMENT ACTIVITY BETWEEN 1ST JULY 2022 TO 30TH SEPTEMBER 2022, AND 1ST OCTOBER 2022 TO 31ST DECEMBER 2022.
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

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 1st July 2022 to 30th September 2022, and 1st October 2022 to 31st December 2022.

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

This matter affects all Wards within the Borough.

RECOMMENDATIONS

Planning Committee recommended to note and endorse the performance update.

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; or
- it is established that the time limit has passed for the Council to take enforcement action.

3.3 The following table sets out the performance of the enforcement service between 1st July 2022 and 30th September 2022.

Total number of enforcement cases opened	No. of cases reached key milestone	% of cases reaching key milestone within 13 weeks	No. of cases closed
94	82	73%	121

3.4 The following table sets out the performance of the service between 1st October 2022 and 31st December 2022.

Total number of enforcement cases opened	No. of cases reached key milestone	% of cases reaching key milestone within 13 weeks	No. of cases closed
73	95	66%	106

3.5 The majority of the Planning Enforcement team’s work remains reactive, responding to reports about possible breaches of planning control.

Formal Enforcement Action

3.6 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....’

3.7 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.

3.8 Between 1st July 2022 and 31st December 2022, 4 enforcement notices were issued.

3.9 Four Planning Contravention Notices (being requisitions for information about site ownership and activity on the land) were issued between 1st July 2022 and 31st December 2022.

Key Successes

3.10 Examples of some of the key successes achieved during the last two quarters of the calendar year 2022 are set out below.

- (i) **Land corner of Townshend Avenue and Irby Road, Irby.** An enforcement notice was issued on 8th December 2021 requiring the removal of the caravan from the Land, reduction of the height of the earth bund to the west side of the site entrance to Townshend Avenue to its original height and to remove the earth bund to the east side of the site entrance to Townshend Avenue in its entirety. The Notice was complied with on 5th September 2022.
- (ii) **54 Egremont Promenade, Egremont.** Officers successfully negotiated and secured the removal of an unauthorised coffee pod operating from the garden of a residential property without the need for formal enforcement action in December 2022.
- (iii) **97 Chesterfield Road, Eastham.** Officers negotiated compliance with a condition attached to a grant of planning permission requiring an outbuilding to

be rendered, without the need to take formal enforcement action.

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 enquiries (new cases) received by the Council continues to remain higher than the average received in previous years.

6.2 This increase in volume of work has placed the service under considerable pressure with workloads in the team increasing as a result. Recruitment is underway to appoint to the vacant Planning and Enforcement and Team Leader post. Recruitment efforts also continue for the vacant Assistant Enforcement Officer post. The demand for enforcement action and the resources available will be closely monitored.

7.0 RELEVANT RISKS

7.1 There are risks that Enforcement Notices are subject to challenge by way of appeal to the Planning Inspectorate; or

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 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

BACKGROUND PAPERS

Council Enforcement Policy
Planning Enforcement Policy

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Planning Committee	13 th October 2022
Planning Committee	10 th February 2022
Planning Committee	14 th October 2021
Planning Committee	15 th July 2021
Planning Committee	11 th February 2021

Appendix 1- List of formal notices served

Enforcement Notices

Register number	Address	Date Issued	Breach
674	Land at 5 Cunningham Close, Caldy, Wirral CH48 2JY	10 th August 2022	Unauthorised erection of a boundary fence
675	Land at Hilltop, 4a The Village, Bebington, Wirral, CH63 7PW	10 th January 2023	Unauthorised erection of a wooden fence and gate exceeding 1m in height adjacent to a highway used by vehicular traffic
676	Land at Cherry Tree Carpark, Cherry Tree Shopping Centre, 8A Cherry Square, Liscard, Wirral, CH44 5XU	25 th January 2023	Unauthorised installation of ANPR cameras and replacement of pay and display machines
677	Land at Freddie's Bar and Grill, Stanley Road, New Ferry, CH62 5AR	27 th January 2023	Material change of use from club house to bar and restaurant, erection of extensions, installation of extraction flue, erection of fencing and gates and engineering operations comprising the formation of an external seating area