



## PLANNING COMMITTEE

27 July 2023

REPORT TITLE:	DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE- ENFORCEMENT ACTIVITY BETWEEN 1 <sup>ST</sup> JANURARY 2023 TO 31 <sup>ST</sup> MARCH 2023, AND 1 <sup>ST</sup> APRIL 2023 TO 30 <sup>TH</sup> JUNE 2023.
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 1<sup>st</sup> January 2023 to 31<sup>st</sup> March 2023, and 1<sup>st</sup> April 2023 to 30<sup>th</sup> June 2023.

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 is 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 1<sup>st</sup> January 2023 to 31<sup>st</sup> March 2023.

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	62	87%	67

3.4 The following table sets out the performance of the service between 1<sup>st</sup> April 2023 to 30<sup>th</sup> June 2023.

Total number of enforcement cases opened	No. of cases reached key milestone	% of cases reaching key milestone within 13 weeks	No. of cases closed
91	39	97.5	22

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 1<sup>st</sup> January 2023 and 30<sup>th</sup> June 2023, 3 enforcement notices were issued.
- 3.9 One Planning Contravention Notice (being requisitions for information about site ownership and activity on the land) was issued between 1<sup>st</sup> January 2023 and 30<sup>th</sup> June 2023.

## **Key Successes**

- 3.10 Examples of some of the key successes achieved during the first two quarters of the calendar year 2023 are set out below.
- (i) **Land at Freddie's Bar and Grill, Stanley Road, New Ferry, CH62 5AR.** An enforcement notice was issued in January 2023 and although not fully complied with at the time of writing this report the unauthorised use of the premises has ceased.
  - (ii) **YOT Café, 12 Banks Road, Heswall.** Officers successfully negotiated and secured the submission of a planning application (and its approval) for a change of use of the premises.
  - (iii) **1 Arrowe Avenue, Moreton.** Officers successfully negotiated the removal of all vehicles relating to an unauthorised use of the land for storage of commercial vehicles.

## **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. Although recent recruitment has taken place and Jason Bramwell has been appointed as the Principal Planning and Enforcement and Team Leader. Recruitment to backfill Jason's role has been successful with Brendan Greenfield being appointed as the Senior Planning Enforcement Officer, also recruitment for the Assistant Enforcement Officer post has been successful with Anne Noble being appointed. It should be noted that both Brendan and Anne commenced employment with the Authority in July 2023, and are currently settling into their new roles. 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)**

<b>Council Meeting</b>	<b>Date</b>
Planning Committee	9 <sup>th</sup> February 2023
Planning Committee	13 <sup>th</sup> October 2022
Planning Committee	10 <sup>th</sup> February 2022
Planning Committee	14 <sup>th</sup> October 2021
Planning Committee	15 <sup>th</sup> July 2021
Planning Committee	11 <sup>th</sup> February 2021

## Appendix 1- List of formal notices served.

### Enforcement Notices

<b>Register number</b>	<b>Address</b>	<b>Date Issued</b>	<b>Breach</b>
675	Land at Hilltop, 4a The Village, Bebington, Wirral, CH63 7PW	10 <sup>th</sup> 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 <sup>th</sup> 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 <sup>th</sup> 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