



PLANNING COMMITTEE

7th NOVEMBER 2024

REPORT TITLE:	DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE- ENFORCEMENT ACTIVITY BETWEEN 27th MARCH 2024 and 30 JUNE 2024 and 1st JULY 2024 to 30th SEPTEMBER 2024
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 regarding its planning enforcement activity for the period of: 27th March 2024 to 30th June 2024, and 1st July 2024 to 30th September 2024.

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

This matter affects all Wards within the Borough.

RECOMMENDATION

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 regarding its enforcement activity.

2.0 OTHER OPTIONS CONSIDERED

2.1 As the Council's Planning 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 the date on which any one of the following occurs:

- 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 As of 30th September 2024, the total number of open enforcement cases under active investigation was 302 cases. When the last performance report was presented to Planning Committee on 18th April 2024, the total number of open cases was 366 cases.

3.4 The following two tables set out the performance of the enforcement service between 27th March 2024 and 30th June 2024.

Total number of enforcement cases opened	No. of cases closed
100	86

No. of cases reached key milestone	% of cases reaching key milestone within 13 weeks
64	79%

3.5 The following two tables set out the performance of the enforcement service between 1st July 2024 and 30 September 2024.

Total number of enforcement cases opened	No. of cases closed
105	175

No. of cases reached key milestone	% of cases reaching key milestone within 13 weeks
77	74%

- 3.6 The majority of the Planning Enforcement work is reactive, responding to reports about possible breaches of planning control, determining applications for works to protected trees, and monitoring of S106 agreements.
- 3.7 During these quarters, the Planning Enforcement Team has committed to bringing unresolved historic cases to a close. With officers bringing about a resolution to some of these cases, this has led to a slight dip in the service achieving its key milestone of 80% within 13 weeks.

Formal Enforcement Action

- 3.8 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....'
- 3.9 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.
- 3.10 Between 27th March 2024 and 30th September 2024, 5 Enforcement Notices and 1 Breach of Condition Notice were issued as listed in Appendix 1 of this report.
- 3.11 Between 27th March 2024 and 30th September 2024, 6 Planning Contravention Notices (being requisitions for information about site ownership and activity on the land) were issued.

Key Successes

- 3.12 Examples of some of the key successes achieved during the second and third quarter of the calendar year 2024 are set out below.
- (i) **Land at 66 Town Meadow Lane, Moreton, CH46 7TB.** An enforcement notice was issued in October 2023 requiring the removal or reduction in height of a boundary fence adjacent to the highway, the enforcement notice has now been fully complied with.
 - (ii) **Brimstage Farm, Brimstage Road, Brimstage, CH63 6JA.** Following a complaint being made regarding 2x illegal advertisements, the case officer successfully negotiated the removal of the advertisements without the need for formal action being taken.
 - (iii) **61 Acre Lane, Bromborough, Wirral, CH62 7BY.** Following enforcement intervention regarding the change of use of the building, a planning application Ref; APP/23/01775 was submitted and approved, regularising the breach of planning control.
 - (iv) **5 Cunningham Close, Caldy, CH48 2JY** The owner of the property was prosecuted in the Magistrates Court on 22nd August 2024 for their failure to comply with the requirements of an enforcement notice. The owner pleaded guilty and was fined £920 (reduced to £615 for guilty plea), was required to pay a £236 Court and Victims

surcharge, and was ordered to pay £2000 towards the Council's costs (total of £2851). A final period of time has been given for the owner to comply with the requirements of the enforcement notice.

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 high and is consistent with the number of cases received in previous years.

6.2 The retention of officers within the team has resulted in workloads becoming more manageable for officers and has resulted in eliminating the backlog within the service. The demand for enforcement action still remains high 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	7 th November 2024
Planning Committee	18 th April 2024
Planning Committee	27 th July 2023
Planning Committee	9 th February 2023
Planning Committee	13 th October 2023
Planning Committee	10 th February 2022
Planning Committee	14 th October 2021

Appendix 1- List of formal notices served

Enforcement Notices

Register number	Address	Date Issued	Breach
682	Land at 52 Dearnford Avenue, Eastham, Wirral, CH62 6DY	17 th May 2024	Without planning permission, the unauthorised development comprising of the erection of a building used as a front porch on the Land
683	Land at 13 Hampden Road (cleared site), Tranmere, Birkenhead, Wirral, CH42 5LH	30 th May 2024	Without planning permission, the material change of use of the land from a nil use to the storage of vehicles.
684	Land at 7 Lydiate Farm, The Lydiate, Heswall, Wirral, CH60 8QN	16 th July 2024	Without planning permission, the unauthorised operational development constituting of the erection of a fence around open aspect lawned area
685	Land at 11 Euston Grove, Oxton, Wirral, CH43 4TZ	21 st August 2024	The erection of a wall at the front of the property of a height which varies between 1.79m and 2.52m in height.
686	Land at Larton Livery, Frankby Stiles, Frankby Road, Frankby, Wirral, CH48 1PL	26 th August 2024	Without planning permission: (1) the material change of use of the part of the Land shown in the approximate position hatched blue on the Plan from use for grazing horses to mixed use for: • the exercise of pets, mainly in connection with the kennels business operating from the Land; • a car park; and • the storage of goods; and (2) unauthorised operational development on the Land associated and integral to the material change of use referred to at paragraph 3(1), comprising the formation of a large area of hardstanding and construction of a pet exercise area shown in the approximate position hatched blue on the Plan.
136-BCN	94a Pipers Lane, Heswall, Wirral, CH60 9HL	16 th July 2024	Condition 4 has not been complied with as the ground floor side elevation window is opening and is not glazed with obscure glazing as per the decision notice attached to APP/22/00056. Condition 5 has not been complied with as both sides of the balcony do not have a privacy screen of obscure glazing up to a height of 1.7 metres as

			per the decision notice attached to APP/22/00056.
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