



## **PLANNING COMMITTEE**

**13 October 2022**

<b>REPORT TITLE:</b>	<b>DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE- ENFORCEMENT ACTIVITY BETWEEN 1 JANUARY 2022 TO 31 MARCH 2022, AND 1<sup>ST</sup> APRIL 2022 TO 30<sup>TH</sup> JUNE 2022.</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> January 2022 to 31<sup>st</sup> March 2022, and 1<sup>st</sup> April 2022 to 30<sup>th</sup> June 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**

**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; 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 2022 and 31<sup>st</sup> March 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
97	88	59%	78

- 3.4 The following table sets out the performance of the service between 1<sup>st</sup> April 2022 and 30<sup>th</sup> June 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
74	81	63%	88

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 2022 and 30<sup>th</sup> June 2022, no enforcement notices were issued.

3.9 Two Planning Contravention Notices (being requisitions for information about site ownership and activity on the land) were issued between 1<sup>st</sup> January 2022 and 30<sup>th</sup> June 2022.

### Key Successes

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

(i) **77 Chester Street, Birkenhead.** An enforcement notice was issued on 27<sup>th</sup> April 2020 requiring the demolition of an unauthorised extension and removal of a refrigeration unit from the land. The owner of the land failed to comply with the requirements of the enforcement notice and was prosecuted for that offence in the Magistrates Court on 24<sup>th</sup> February 2022. The defendant was fined £2,500 and ordered to pay the Council's costs of £5,200. Compliance with the requirements of the enforcement notice was finally achieved by the end of September 2022.

(ii) **67 Chester Street, Birkenhead.** An enforcement notice was issued on 17<sup>th</sup> November 2020 requiring the demolition of an unauthorised extension. Compliance with the enforcement notice was achieved in August 2022.

(iii) **Thornton Manor.** Officers have been monitoring compliance with the

enforcement notices that were upheld at appeal on 21<sup>st</sup> January 2022. The marquees at the Lakeside and the Dell have been dismantled. The main body of the Walled garden marquee has also been dismantled and at the time of writing this report, work has started on the dismantling of the annex to the Walled garden Marquee.

- (iv) **120 Shrewsbury Road, Birkenhead.** The dwellinghouse was purchased by a company and brought into use as a mixed use of a dwelling house and an events venue for weddings, corporate events, fundraising events etc. The frequency, scale and character of the events resulted in a material change of use of the land and therefore constituted a breach of planning control. Officers have secured the cessation of the unauthorised use without the need to take formal 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 complaints (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 for an Assistant Enforcement Officer for a fixed term of 12 months to assist with investigating the increased volume of cases received. 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**

Not applicable

## **BACKGROUND PAPERS**

**Council Enforcement Policy**  
**Planning Enforcement Policy**

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
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	10 <sup>th</sup> February 2021

