

Scrutiny Report: Planning Enforcement Officer Review of Recommendations

<u>No.</u>	<u>Recommendation</u>	<u>Comments</u>	<u>Position</u>
1	That the Council recruit further resource for planning enforcement so the team includes either: a Principal Planning Enforcement Officer, two Planning Enforcement Officers and trained dedicated admin support; or a Principal Planning Enforcement Officer and three Planning Enforcement Officers.	<p>Scrutiny recommendations did not consider any revised budgetary context, therefore while this level of resourcing might be what is considered 'ideal' by a working group considering this service in isolation, this has to be balanced with what the council can actually afford via its budgeting process.</p> <p>Initial estimates indicate that such a proposal would add around £110k into the council's base salary costs; a level that cannot be met under the budget agreed by full council in 2021 – which notably included a vacancy (staff) saving figure of £150k on the existing staffing structure.</p> <p>The Development Management service is undergoing a period of change and stabilisation since May 2021. Consideration of resource allocation will be looked at via a planned restructure, however it is likely that some compromise will be needed between what is affordable and what might be aspired to by way of resourcing in this particular area of service due to the need to balance expenditure priorities across the department and indeed the entire council.</p> <p>The budget-setting process for 2022 concludes in February 2022; members of scrutiny (alongside all other members) are reminded that this process will be their opportunity to allocate more resources to this area if other areas of work are sufficiently deprioritised to achieve a balanced position – which is required by law.</p>	Noted. Service restructure may see some marginal additions in the medium-term, but the long-term position will be determined by members as part of the 2022 budget round.
2	That the Council establish a dedicated Solicitor with planning experience to act as a direct point of reference for the Planning Department, this could potentially be shared service with another Local Authority	<p>The same issues as above are pertinent. Recommendations of adding to the staffing base are useful in terms of clarifying scrutiny's advice. However, this needs to be tabled as a proposal for additional investment through the budget process.</p> <p>By way of context, the Legal team has recently employed a locum to help provide additional advice on matters of planning and enforcement and to tackle immediate pressures. As a short-term measure, a fixed term post for 12 months (3 days per week) has been advertised to see if such a resource can be recruited to allow for an analysis of value in improving the effectiveness of work in this area.</p>	In-progress
3	That the Planning Department establish a process to enable proactive monitoring of planning conditions. That a proposal for how this will be achieved is brought to the Scrutiny Committee by the Chief Executive within a month of adoption of recommendation by Council.	Processes and triggers are under review and discussions have started between managers and the wider team on how this could be achieved. Such monitoring will also be dependent on resource and levels of work, therefore the deliberations on service restructure/redesign are giving additional weight to how this could be achieved within the current financial envelope.	In-progress
4	That Enforcement Officers are provided with tablets with mobile telephone connection, linked to	All relevant officers have been issued iPads suitable to undertake onsite work (they already have mobile phones); the rollout started in May 2021, therefore the working group may not have been aware of this at the time they held their conversations.	Completed

	MDDC systems, to assist on site visits so that information can be retrieved on site and allow immediate contact and consultation with management if required.		
<u>5</u>	That internal procedures be put in place so that discretionary powers be delegated down to appropriate levels to allow enforcement officers to make relevant decisions on site	The 'appropriateness' of the current Scheme of Delegation is a matter for the Planning Committee. However, in general there is a very good reason why legal notices issued by officers are checked by the council's solicitors prior to issue. It minimises risk, since while enforcement officers are able to make judgements onsite, the nature of enforcement means it is very case-specific in terms of the balance of exercising such power. Notices are already created by Enforcement Officers and simply sent to legal for checking prior to issue.	Noted.
<u>6</u>	That a Subgroup of the Planning Committee be established to monitor issues within Planning Enforcement. This standing Enforcement Advisory or Working Group would review performance, deadlines and outstanding cases, and report back to the Planning Committee.	Whether the Planning Committee wishes to create any sub group, for any purpose, is entirely within the remit of the Planning Committee. The committee already has the opportunity to receive information on performance and can request further such information as it sees fit. However, one area of concern is around the extent to which any such group of members might get drawn into operational matters, where decisions are necessarily made by qualified officers. The line between policy-setting and operational management is an important one, and any such group that members wish to create would need to be clear on its terms of reference. In addition, linked to recommendation number 10, there would be a limit on what could be put into the public domain while cases were at the early stages of enforcement, or during the building of any case. In effect, the operational activity only becomes publicly reportable once it's happening. See item 10 for further comment.	Noted.
<u>7</u>	That the free planning advice line and/or the contact telephone number be reinstated with immediate effect (as outlined by the Customer Service Working Group).	Providing non-statutory free advice is a commercial decision for the council. At the moment, the council seeks to balance its aspiration for high quality development by providing some limited 'free' access to a planner for generic queries via the 'duty planner' system, with the opportunity to pay for more tailored advice as part of a 'pre-app' service which is discretionary. The system of charging for statutory planning services is a nationally-mandated one and means that the council has no control over planning fees. To this end, the activity of the planning department (including enforcement) is in effect subsidised by local taxpayers. While lobbying continues to allow for local councils to set their own planning fees to cover the entire costs of providing related services, a move to provide further 'free' advice to those undertaking development would mean a greater subsidy in a non-statutory area of service.	Noted.
<u>8</u>	That the Local Enforcement Plan be rewritten to consider the views and recommendations of this report and to take into account more enhanced versions from other Local Authorities,	The council's policy was due a review in its 3 rd year (being 2021). A review of the Local Enforcement Plan is being undertaken to include observations and recommendations from the scrutiny report. As recommended, this will include reference to other local authorities' plans, specifically the East Devon Policy as considered by the working group.	In-progress

	notably the East Devon model. That the new Enforcement Plan be submitted to the Scrutiny Committee for consideration prior to submission for adoption by Planning Committee.	This review is currently being considered by the DM and legal services and, while nothing is formally scheduled at this point, it is expected that this will come to scrutiny and cabinet early in the New Year.	
<u>9</u>	That a Tree Officer is recruited as a matter of urgency, this could potentially be a shared service with another Local Authority.	Tree Officer is now in post. The need was understood prior to scrutiny recommendation, however the issue has been one of availability and recruitment challenge, which meant relying on consultant support for longer than ideal.	Completed
<u>10</u>	That the Chief Executive bring forward a proposal for making information on enforcement action more publicly available.	There are strict rules around data protection with regards to enforcement activity. In all instances there is a balance to be struck between attempting to build a case for legal prosecution and giving confidence as to action being taken. As noted above (6), operational activity can only be put into the public domain once it is happening, or has happened, to avoid undermining its effectiveness – and even then, it is likely that a large part of the detail relating to personal matters would need to be redacted/excluded. The council's data protection officer and senior information risk owner (SIRO) advises on matters of data release, management or protection.	Noted.
<u>11</u>	That the Development Management Manager establish a process for case management to ensure cases are monitored and followed up, so that cases are not lost within or between Departments.	This will be considered alongside the service restructure and any changes members make to the Local Enforcement Plan (see links with 1,2 & 8 above).	In-progress
<u>12</u>	That an implementation plan is drawn up to cost the recommendations made in this report, and passed to Cabinet for consideration.	This report forms the supporting narrative on each of the specific recommendations as set out by the working group. Some of these recommendations have already been completed, some are in progress and some have been noted. However, as set out specifically under items 1 and 2, the question of budget allocation is a matter for cabinet recommendation and, ultimately, full council decision in February 2022.	Noted.

Summary

<u>Progress Description</u>	<u>Count</u>
Completed	<u>2</u>
In-progress	4
Comments to be noted by Cabinet	6
Total	12