

Planning Enforcement in Mid Devon District Council

September 2021

A review by a Working Group of the Mid Devon District Council
Scrutiny Committee

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Introduction

Planning enforcement investigates possible breaches of planning control and aims to resolve these. Effective enforcement is important to maintain public confidence in the planning system. Mid Devon District Council (MDDC), as the Local Planning Authority, has responsibility for taking whatever enforcement action may be necessary, in the public interest. Formal enforcement action may take a variety of forms with a wide range of legal tools available.

Members of the Scrutiny Committee had expressed concern about the timeliness of some enforcement action, particularly in respect of breaches of planning control and failure to comply with planning conditions. This report looks at the operation and utilisation of enforcement powers and planning conditions, and aims to identify issues to inform service improvement.

Rationale

Members had concerns, and had been contacted by residents on occasions, with regards to planning enforcement issues in their Wards. Residents reported delays and concerns around progress on enforcement issues. This had led to concern that the planning enforcement service is under resourced and may be, occasionally, risk averse to taking formal enforcement action.

Unauthorised development can be detrimental to the local environment and a source of community tension. Failure to investigate and enforce planning conditions or address unauthorised development can reduce the effectiveness of a Local Planning Authority and undermine public confidence in the planning system.

This review aims to ensure:

- Improvements in planning enforcement response times and outcomes;
- Clear deadlines for compliance and enforcement action; and
- Improved public and Elected Members perceptions of the service and confidence in it.

Methodology and approach

The Chairman of the Working Group was Cllr B Warren, other Members of the group included: Cllr G Barnell; Cllr W Burke; Cllr L Cruwys; and Cllr R Stanley. The first meeting of the Working Group was held on 11 March 2021 and the group agreed to meet at least monthly. The Group held meetings with relevant Officers to understand how planning enforcement currently operates in the Council. Members spoke to a variety of Officers, including:

- The two Planning Enforcement Officers (11 March 2021);
- The Planning Department Administration Staff (15 April 2021);
- The two Area Team Leaders (17 May 2021), and a second meeting with the Area Team Leader responsible for Enforcement (25 June 2021);
- The Development Manager (17 May 2021);
- The Head of Legal and Monitoring Officer (7 June 2021); and
- The Head of Planning and Regeneration (8 July 2021).

Members also had a written submission from the Administration and Performance Manager on the level of administration resource dedicated to Planning Enforcement within the Administration team.

In order to understand how Planning Enforcement works in other Local Authorities, Members of the Group also spoke to the Development Manager at East Devon District Council.

In addition, the Group reviewed a large number of relevant documents including: the Mid Devon Local Enforcement Plan; the National Planning Policy Framework; Mid Devon Local Plan; the Planning Practice Guide; and other Local Authorities Enforcement Plans.

The Group reviewed data provided in relation to all planning enforcement cases since the start of 2019. This data review looked at the issues over that time, including: case load; resolution time; the number of open cases and numbers in each priority category.

In order to fully understand the processes and areas of delay, Members looked at 15 randomly selected Planning Enforcement cases in detail. For each case a Member talked through the file with the relevant Officer to understand why certain decisions had been taken and the timelines involved.

Members are very grateful to the Officers that took time to speak to them and for their honest and informative answers and ideas. Members would also like to thank Sally Gabriel, Member Services Manager and Clare Robathan, Scrutiny Officer for their assistance with this review.

Recommendations

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.
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 a shared service with another Local Authority.
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.
4. That Enforcement Officers are provided with tablets with mobile telephone connection, linked to 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.

5. 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.
6. 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.
7. 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).
8. 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, 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.
9. That a Tree Officer is recruited as a matter of urgency, this could potentially be a shared service with another Local Authority.
10. That the Chief Executive bring forward a proposal for making information on enforcement action more publicly available.
11. 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.
12. That an implementation plan is drawn up to cost the recommendations made in this report, and passed to Cabinet for consideration.

Rationale for recommendations

From this review it is clear that Planning Enforcement Officers are experienced, professional and adept at investigating and handling complex enforcement cases. Delegated decision making has enabled decisions to be made away from Committee and this has helped speed up the process. Officers work well together as a team – using each other’s knowledge to help move cases forward and also to ensure safety on site visits where necessary. The team also works well across the Council with other teams and Departments.

Despite this, delays are still occurring and the level of resourcing is a concern. Public and Member expectations are not being met and this is causing reputational damage to the Council.

Recommendation 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.

The current level of resourcing in the Planning Enforcement Team is not meeting the levels of public and Member expectation with regards to investigation and turn around. In terms of caseload, 66% of cases since 2019 have been resolved within the first 90 days – 90 days is the target for cases as stated in the Mid Devon Local Enforcement Plan. Members recognise that there will be times where formal enforcement action is required, such as the issue of an enforcement notice, and that the timescales involved will not always make this target possible. Members believe, however, that there is on occasion significant delay and a number of cases are taking too long to resolve.

The Enforcement team would benefit from extra resource, particularly given that the Enforcement Officers currently carry out the majority of administration work and this is adding to the delay. Members heard from Officers that in order to ensure the service functioned effectively, a Principal Planning Enforcement Officer plus three Enforcement Officers, or a Principal Planning Enforcement Officer, plus two Enforcement Officers and dedicated administration support, is required.

Recommendation 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 a shared service with another Local Authority.

Members heard from Officers (inside and outside the Council) that Local Authorities like Mid Devon generally have a dedicated planning Solicitor. The relationship between planning and legal plays a vital part in the Council's ability to take meaningful enforcement action. A planning solicitor would provide a dedicated point of contact and enable conversations to take place before any enforcement process commenced. This could help speed up the length of time taken to give notices.

Members were cautioned by the Head of Legal with regards to how difficult it is to recruit a Solicitor with planning experience. The Head of Legal did, however, think that effort should be made to work across Districts to share legal services with other local authorities. The use of a shared service would provide access to specialist lawyers and provide greater capacity and skills, not just in planning.

Recommendation 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.

Members are aware that sometimes conditions are attached to planning applications that are not subsequently complied with. Enforcement Officers currently rely on information about such conditions being passed to them by Members of the Public or Town/Parish Councils. There is currently no agreed process in the Council for the proactive monitoring of conditions. Whilst Members are mindful that it would be impossible to monitor all conditions, the Group heard from East Devon that their Enforcement Officers had the 'proactive' monitoring of conditions within their role. This

not only helps act as a deterrent, but also helps Officers understand the success of negotiation and application of conditions. Some Authorities have a dedicated Officer to monitor compliance with conditions by carrying out spot checks on sites, particularly where it is known a developer has a record of non-compliance. This is particularly relevant in Mid Devon where we have a number of Anaerobic Digester plants and associated infrastructure where monitoring compliance with conditions is time consuming.

Recommendation 4

That Enforcement Officers are provided with tablets with mobile telephone connection, linked to 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.

Discussions regarding technology showed that Officers would welcome the introduction of iPads or tablets. Such technology, if linked to MDDC systems, connected to the telephone system and with access to emails, could significantly improve efficiency. Officers had used them within previous Authorities and had seen first-hand how they promote effective use of time. East Devon District Council also stressed that since Enforcement Officers had an iPad, efficiency had improved significantly. Their Officers are able to show maps/plans on site, take photos and log things on the system immediately, or call a colleague for advice (and share photos with that colleague on site) to resolve issues immediately.

Whilst Members recognise that there is a cost involved with the introduction of tablets, and that it may be complicated to link to the system, the benefits of such technology could significantly improve MDDC's enforcement service. The costs could be balanced against more productivity and improvements in time management.

When Members met the Head of Planning, Economy and Regeneration, she confirmed that Enforcement Officers are in the process of being provided with tablets and that the mobile telephone connection project was a high priority for the Communications team and was currently underway.

Recommendation 5

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.

Currently a full written report has to be prepared before legal action is taken, which goes to the Development Manager to give the go ahead for the serving of a notice. This can cause delays as in most cases there is also Legal involvement. Members heard from Enforcement Officers that, in order to save time, their professional judgement, on relatively simple cases or on issues regarding temporary stop notices, should be enough to act immediately. The Head of Legal also said that it would be possible to give Enforcement Officers the power to serve temporary stop notices – although they would still require advice from legal.

Whilst Members recognise the importance of record keeping, particularly in relation to legal action, Members believe that a review of decision making powers of Officers on the ground should take place. This could mean, that in clear cut cases, if a breach of

planning control has clearly taken place, the owner/occupier/person responsible will be informed straight away (if they are present).

Recommendation 6

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.

In order to ensure continued monitoring of activity and performance within Planning Enforcement, a standing Subgroup of the Planning Committee should be established. This Group would: monitor case load; open and closed cases; review reasons given for closing cases and/or taking action or no further action in individual cases; types of enforcement notices issued; resolution time; trends; performance data and any outstanding cases. It would also consider ways of working in other Local Authorities, and report back to the Planning Committee.

Recommendation 7

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).

Members heard from the Planning Enforcement Officers that there had been a significant knock on effect resulting from the ending of the free planning advice, which has been replaced by a paid for advice service. Enforcement Officers spend time directing people to the right resource in the Council, which is taking time away from investigations. The reintroduction of this free service would enable Officers to focus on investigatory work.

The report by the Scrutiny Customer Experience Working Group in July 2020, recommended that the Planning Department consider re-establishing the dedicated phone answering system. That review found that the lack of a dedicated phone line was taking time away from officers who were being interrupted during other work to answer calls. The recommendation has not been actioned.

Recommendation 8

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, 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.

In reviewing the Mid Devon Enforcement Plan, alongside other Local Authorities enforcement plans, Members agreed that it would be useful to include further information when the review of the Enforcement Plan takes place this year. Members particularly admired the East Devon Local Enforcement Plan which includes detail into what action will be taken in different types of cases, and detail on types of enforcement powers available. It also has detail on listed buildings, advertisements and a specific section on trees. By providing this detail in the Mid Devon Local Enforcement Plan, members of the public would better understand the planning enforcement process and in turn may reduce work for the Officers. A section on trees may help members of the

public in understanding what issues require consent or what trees need to be protected.

Recommendation 9

That a Tree Officer is recruited as a matter of urgency, this could potentially be a shared service with another Local Authority.

Members heard how the lack of a Tree Officer was having a knock on effect on the Planning Enforcement Officers as it often fell to them to pick up this work. This not only added to the caseload of the Officers, but also meant that these cases were not being handled by a specialist.

Members are aware that the post of Tree Officer has been re-evaluated and is now at a higher grade and will now be advertised as Arboricultural Officer. Members hope that the regrading will attract suitable candidates allowing the role to be filled.

Recommendation 10

That the Chief Executive bring forward a proposal for making information on enforcement action more publicly available.

Members are aware of the confidentiality issues with putting enforcement information on the Planning Portal. A review of what is made available, how information could be made available and how quickly would be useful so that Members of the public are aware of action being taken. This in turn may help reduce customer enquiries.

Recommendation 11

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.

When looking at cases in detail, it became apparent that there are times when cases can sit within a Department for a long period of time or appear to get lost between teams. This appears to happen when a case has been sent by an Enforcement Officer to another team or Department for further action. The enforcement service would benefit from clear case management and a process by which to monitor and follow up cases.

Recommendation 12

That an implementation plan is drawn up to cost the recommendations made in this report, and passed to Cabinet for consideration.

In order to fully understand the financial implications, Members would like Officers to draft an implementation plan so that Cabinet can fully consider the impact of these recommendations.

Planning Enforcement in Mid Devon District Council

The Planning Enforcement Team

The current planning enforcement team at MDDC comprises two full time officers who each cover an area of the District (East and West). Administration support is provided by three planning support officers who provide administration support to the whole Planning Department and have enforcement as one part of their wider role. We heard from these officers that they currently provide about 21 hours per week (in total) for enforcement administration. The team is managed by an Area Team Leader who is also responsible for another planning team within the Department.

Previously within the Council there were two and a half (FTE) enforcement officers. This was reduced to two officers, with the part time officer moving to a different role. To assist with the subsequent backlog, an administration post was established, this role took on the majority of the enforcement administration work which freed up the Enforcement Officers to investigate issues.

This administration post lasted 12 months, but when the officer left the Council it was decided that rather than recruit a new Officer, the three planning support officers would instead support the enforcement officers alongside their other responsibilities.

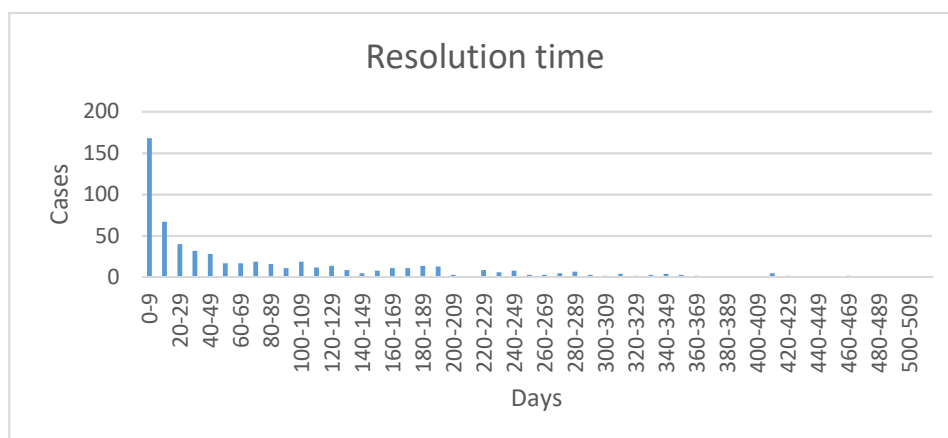
Enforcement caseload

Members reviewed data on cases since the start of 2019 to 22 March 2021, this review showed that:

- 796 cases have been received since 2019, of those:
 - 459 cases were received in 2019.
 - 278 cases were received in 2020 (during the pandemic).
 - 60 cases had been received to that date in 2021.

Of the 796 cases since 2019, 615 had been 'resolved', 181 cases were still open. Of the 615 cases resolved on the spreadsheet, resolution time ranged from 0 days to 515 days.

The chart below shows the range of resolution times per 10 days:

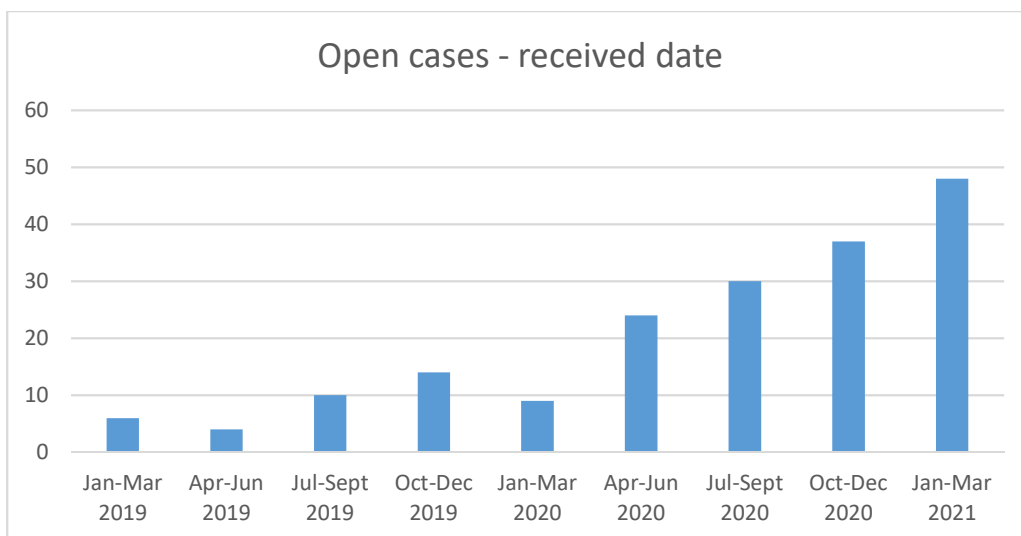


27% of cases (168) were marked resolved within the first 10 days (0-9 days). Of the 168 cases resolved within the first 10 days, 164 were marked as having taken 'no action'.

66% were marked resolved within the first 90 days (0-89 days). (The Local Enforcement Plan says that the Enforcement Service will endeavour to resolve enquiries within three months of their receipt. There will be, however, times where formal enforcement action is required, such as the issue of an enforcement notice, and the timescales involved will not make this possible).

Of the 615 cases resolved, 17 (2.7%) took longer than one year. Of the 181 open cases, 34 had been open since 2019.

They were received:



Of the open cases, 8 are classified as 'highest' or 'high' priority, with the oldest in the 'highest' category open since October 2020 and in the 'high' category open since July 2020.

Of the 795 cases received since 2019

- 13 were categorised as highest priority
- 24 were categorised as high priority
- 69 were categorised as medium priority
- 689 were categorised as low priority (87%)

Of the 795 cases received, 603 (76%) were recommended for 'no action'.

21 cases had a notice served since 2019:

- 1 Enforcement Notice
- 2 Enforcement Notices – Change of Use
- 3 Enforcement Notices – Operational Development
- 12 PCNs
- 1 Section 215
- 2 Temporary Stop Notices

Meetings

Discussion with Planning Enforcement Officers

Members met with the two (then) Planning Enforcement Officers on 11 March 2021 (one of the Officers has since moved to a different role in the Council). Officers were asked about their workload and experience, as well as the processes by which cases came into the Council and the procedure for an enforcement case getting logged onto the system.

Officers discussed the current makeup of the team (two Officers supported by an administration team), as well as the iterations that had previously existed (two and a half FTE enforcement officers, followed by a team of two Officers with a dedicated administration support officer). In the current situation, the administration team only log cases and correspondence onto the system, therefore Enforcement Officers are carrying out the majority of the administration work. Members heard how this is taking time away from investigating cases.

Officers said that the support provided by the administration team could sometimes cause issues, as by the time cases arrived on the Planning Enforcement Officers desk, they were already late as day 'one' was when the complaint arrived in the Council (see the Mid Devon Local Enforcement Plan for target timelines within the Council).

Members also heard that the removal of the free planning advice service (which has been replaced by a paid for advice service and the lack of a Tree Officer were both causing issues. Enforcement Officers were having to pick up the fallout from these issues, either spending time directing people to the right resource in the Council, or often having to pick up the 'tree' work that would otherwise be picked up by a Tree Officer. The same is true with listed buildings if a Conservation Officer was not available. Officers stressed that they are not experts in those fields and that it should be the specialists carrying out that work.

The Officers talked about the decision making process following a site visit, and how some decisions would involve discussions with a Planning Officer or the Area Team Leader. The Development Manager and Legal may also become involved if there was any formal enforcement process. Officers suggested that delays could occur with regards to serving notices, which could be with the legal team for several months after the notice had been drafted.

Members also heard how a full written report has to be prepared before legal action is taken, which went to the Development Manager to give the go ahead for the serving of a notice. This could also cause delays if the Development Manager was unavailable. Previously, this process was less burdensome as an email notification or a verbal agreement was all that was required. Officers were also asked about temporary stop notices and whether they should have authority to deal with this immediately, Officers suggested that sometimes their professional, experienced judgement should be enough.

Members asked Officers about the use of technology and whether tablets were used on site. Officers stated that they do not use technology, but that such technology would assist them do their role if they linked to the Uniform system. One Officer had used

them in a previous Local Authority, and from experience believed they would promote more effective use of time.

Members took time to understand the processes for various investigating techniques and options available like Planning Contravention Notices (PCNs) and the numbers issued by Officers, as well as the time spent on mediation.

With regards to conditions, Officers suggested that it would be better if pre decision negotiation was improved as there was a lack of resource to monitor conditions and that conditions were being relied upon too heavily. This can cause a lot of extra work for the Enforcement team.

Discussion with administration staff

Members met with the three Planning Administration Support staff on 15 April 2021. Officers were asked about their experience and training received, as well as the role they carried out with regards to enforcement.

The Officers said that the only training they had received was a few hours on how to use the UNIFORM system. The Officers were clear that they did a limited amount for enforcement, only logging cases, filing ongoing correspondence and setting up new cases. An Enforcement Officer would inform them how to deal with an issue and what priority category to put it into.

The Officers were also asked about any delay in logging cases or if there was a backlog. Officers replied that for correspondence that needed logging onto the system they were about a week behind and that for new cases there was no backlog.

Officers said that they would normally have four members in their team, but that position is currently vacant. This means that the hours provided to enforcement are currently approximately 21 hours per week. They had previously had support from a colleague in Leisure Services who had been redeployed during lockdown, but that person had gone back to their job. Members suggested that the team was doing well seeing the amount of work that was before them and that the email traffic had increased during lockdown.

Discussion with Area Team Leaders

Members met with two Area Team Leaders, one of which is responsible for enforcement, on 17 May 2021, and again with the Area Team Leader responsible for enforcement on 25 May 2021. Officers outlined their experience and roles. The Area Team Leader responsible for enforcement is also responsible for another planning team within the Department, and described each as a full time role.

The Area Team Leader responsible for enforcement said that when she took on the role five months ago and she became aware of the build-up of enforcement cases, the backlog of site visits and that only high priority cases were being progressed. The Area Team Leader suggested that without dedicated admin support, the Enforcement Officers were doing a lot of administration tasks that could then lead to delay. Other pinch points had appeared throughout the pandemic, particularly due to a period of

time when site visits could not take place due to lockdown. It was hoped that the arrival of the new Enforcement Officer and the agency worker would make a real difference to the backlog of cases.

Members asked about the scale of prioritisation for enforcement cases and how cases are categorised. The Officer stated that this is set out in the Local Enforcement Plan, and that Officers were adept at managing those. With regards to retrospective applications, the Officer said that these are considered if it was felt that it was able to rectify the situation through the planning process.

Members asked about planning conditions and Officers agreed that conditions should only be proposed that were necessary, particularly as monitoring of conditions was difficult. It was suggested that one option could be to have an Enforcement Monitoring Officer which could allow the Enforcement Officers to focus on enforcement.

When further asked about her views on the staffing structure, the Officer said that she felt that she could do the role she is doing if there was a Principal Enforcement Officer, alongside three other Enforcement Officers and possibly an Enforcement Monitoring Officer. Or alternatively, a team could comprise of: a Principal Enforcement Officer, with at least two Enforcement Officers with a Monitoring Officer and dedicated support who would deal with all the administration. The Officer also suggested a dedicated legal solicitor was needed.

With regards to technology, it was agreed that tablets that would allow Officers on site to take photographs and make notes which would feed straight into the system would be useful – as long as the systems linked up. She did raise that there may also be issues with black spots in rural areas.

Discussion with Development Manager

In discussions, the Officer stated that the relationship between planning and legal was vital and that this was the first authority that she had worked for which had no dedicated planning solicitor. Despite the current relationship between planning and legal working well, a planning solicitor would provide a dedicated point of contact that would enable conversations to take place before any enforcement process commenced. Currently, the legal department were often very busy and could not always get to the planning work requested.

Members heard that Enforcement Officers regularly used their discretion, particularly around less complex issues, or in inviting retrospective planning applications. Only a small percentage of cases are brought before the Development Manager, as many were discussed instead with the Area Team Leader.

When asked about risk, and whether the risk of appeal was a consideration when considering stop notices, the Officer stressed work would take place with legal to ensure that an enforcement notice was watertight. The report to legal would have all the necessary details and it was hoped that all the details of the breach of planning control were identified; appeals did occur but that was not a reason not to use an enforcement notice.

Asked why enforcement cases did not appear on 'Public Access', the Officer responded stating that they were confidential until an outcome had been achieved, there was a need to protect staff and some issues could be very volatile.

To conclude, the Officer stated that enforcement was always a complex area and that expectations were huge. She felt that the enforcement team worked well, but in order to meet expectation and ensure an efficient service there was a need for a Principal Enforcement Officer with at least three other officers and some dedicated administration support.

Discussion with Head of Legal (Monitoring Officer)

When asked if a planning specialist in the legal department would benefit the Council, the Officer said that there was always a need for more staff, but there was also a need to balance the resource, control workload and plan work. She stressed that the reality is that in the public sector there are very few planning solicitors and they are notoriously hard to recruit. Whilst she approved of the notion, she stressed that Members may be disappointed and that the authority may benefit more from training our own.

Asked about the possibility of sharing legal services with other local authorities, the Officer stated that there had been conversations with other authorities, with no interest. The use of a shared service, however, would provide access to specialist lawyers and she believed this should be pursued and that her replacement should take this forward. Members felt that this matter was worth exploring as this would provide greater capacity and skills.

The Officer stressed how hard it was to plan work, as issues could arise that would become a priority and the team could not control what they had to deal with – this is the case across all authorities. A focus on the quality and timing of instructions, however, from other Officers could help, along with checking that legal were available to deal with the work. She felt that knowledge management across the authority was inadequate as legal were being used as the first resort for advice, rather than learning from other Officers/previous cases. She suggested teams could have a repository of knowledge which could be referred to before referring to legal.

The subject of risk aversion was raised and whether it was perceived as easier/safer to send issues to legal rather than teams considering how to progress themselves. With regards to enforcement, the Officer responded the legal service have a good relationship. In some instances, across the Council, legal would like to see a full assessment of the case by an Officer before it came to them. Training could help with this.

Asked about Stop Notices and whether these could be issued quickly by enforcement officers, the Officer stated that there were many ways of dealing with these. Enforcement Officers could send the notices, but they would still need legal advice.

Discussion with Head of Planning, Economy and Regeneration

Members met with the Head of Planning, Economy and Regeneration to discuss the proposed recommendations of the Working Group. Discussion took place on the level of resource previously recommended by Officers, and the level seen in neighbouring Districts. With regards to the recommendation on a dedicated planning solicitor, the Officer felt that dedicated resource would be beneficial, but that a broad range of speciality was still required and a separate 'planning' solicitor may not be necessary.

In discussions, the Officer stressed the need for record keeping with what action had been taken and why, particularly if formal legal action is taken. She also informed Members that, with regards to a Tree Officer, a shared service had previously been explored in depth but that this had not panned out.

Discussion with East Devon District Council

Members met with the Development Manager at East Devon District Council (EDDC) to hear how enforcement operates. Members are particularly grateful for the Development Manager's time and helpful insights.

East Devon has a dedicated planning specialist in legal and Members heard how important that was for the enforcement team. In terms of resource, East Devon has three enforcement officers (their population in 2019 was 146,284, in Mid Devon it was 82,311). They have a planning admin team who support the Enforcement Officers by logging cases on the system. The enforcement officers will then do all other administration tasks. They receive approximately 700 cases a year, and an enforcement officer will have between 80-100 open cases each at any one time.

In terms of conditions, Enforcement Officers at East Devon will proactively monitor some conditions by choosing certain sites to monitor – this could be, for example, a site with a developer who is known to have breached conditions before or a particularly large project.

Each Enforcement Officer at East Devon has an iPad which is connected to the telephone network and has access to emails. The iPad is also connected to their systems (Uniform and IDocs). This has significantly improved efficiency - officers are able to show maps/plans on site, take photos and log things on the system immediately. They will also call a colleague for advice (and share photos with that colleague on site) to resolve issues immediately in person.

The enforcement officers have powers to make some decisions on the ground – they use their judgement and may immediately close a case on site. They may recommend that building is stopped and follow up once in the office. They cannot take any formal action on site, but may caution someone on site. They may also take a photo, call their Manager and agree course of action and relay that decision on immediately site.

Enforcement Officers at East Devon have to write a full case before going to legal. In terms of timescales, if it was a stop notice or a temporary stop notice, legal would action it that day or the next day. Any other enforcement notice would take about a week.

When asked what information East Devon put on the planning portal, Members heard that East Devon used to put basic information up on an enforcement case, but following concerns related to Data Protection, now only make publically available details where formal enforcement notices have been served. The Development Manager stressed that some Local Authorities had been in trouble for putting too much information and as a result many are now reigning back what they put in the public domain.

In terms of trees, East Devon have three tree officers that they share with the countryside team.

When asked about how important it is in terms of deterrence to issue notices, the Officer said they would not want to serve enforcement notices that get quashed. It is, however, important to be seen to be doing something even if it is just forcing retrospective planning applications.

Case Studies

The Chairman of the Working Group met Planning Enforcement Officers on 24 June to discuss Enforcement cases in detail. In total 15 cases, selected at random, were reviewed, both open and closed cases since 2018. For each case, the Chairman looked at the date the case was reported, the date of the site visit, the action taken subsequently and the length of time taken for each step of the case. Cases ranged from removal of protected trees, unauthorised developments, untidy land, buildings without approval to conditions not being complied with. The review looked at enforcement actions including: temporary stop notices; tree replacement notices; other enforcement notices; and retrospective applications.

During the case review, it appeared that there are times when cases can sit within a Department, waiting for action, for a long period of time. For example, one case was sent to the Legal Department in May 2019, and there was no further action until June 2020. Another case was raised by Enforcement Officers in October 2018 and it took until August 2019 for a retrospective application to be submitted. The file then seemed to be lost in the system until determined in November 2020. This was followed by an enforcement notice which has been appealed and the case is still not resolved. This led Members to question how cases are monitored and followed up, and whether there is a process within teams for following up, particularly if cases have been sent to another Department for action.

Additionally during the course of the review, it became apparent that on a number of occasions it had taken a long time to progress an application received (following enforcement work) to being heard at Committee or resolved by delegated authority. One case took seven months to go from a retrospective application to being determined at Committee. There are also instances of actions being decided but then not followed through by the agreed action being taken.