

## CABINET – 9TH JULY 2009

### Report of the Director of Development

#### ITEM 6 RESPONSE TO SCRUTINY - DEVELOPMENT CONTROL ENFORCEMENT

##### Purpose of Report

To consider the responses to the recommendations of the Scrutiny Panel in respect of the Planning Enforcement service.

##### Recommendations

1. That the responses to the Scrutiny Panel's recommendations be endorsed.
2. That the Scrutiny Panel be thanked for its report and recommendations

##### Reasons

1. To define the actions currently being taken and the actions that will be taken in response to the recommendations made by the Panel.
2. To record the appreciation for the work of the Panel

##### Policy Context

The Corporate Plan commits us to review and improve our approach to the delivery of services to ensure that we are constantly working towards better value for money while focusing also on the development of staff to sustain and enhance performance in service delivery.

##### Background

Cabinet, at its meeting on 23<sup>rd</sup> April 2009 received a report setting out the findings of an Investigation and Review Scrutiny Panel following its in depth scrutiny of the Planning Enforcement service within the Development Control Division of the Development Directorate. It was resolved (Minute 208):

That the recommendations of the Scrutiny Panel, as endorsed by the Investigation and Review Scrutiny Committee be referred to the Director of Development, in conjunction with the Cabinet Lead Member to report back to Cabinet on the issues raised within the agreed time limit of three months.

#### **Recommendation 1: Development and training meetings for both Lead Member and Director to establish roles and priorities.**

##### **Reason:**

Lead Member was asked to give her view of the department [The Lead Member at the time was Councillor Hilary Fryer but her brief was taken up by Councillor David Slater in May 2009]. The Lead Member has a clear understanding of the processes of the department but the strategic view and Direction of Travel was not touched on. There was a lack of an audit trail, no evidence to support what monitoring or challenge had taken place nor any SMART target setting. *The Cabinet member would only be briefed on high profile cases mainly relating to planning applications and the Local*

*Development Framework.* The Cabinet Member should be briefed on all cases and then decide what is significant.

**Response:**

The enforcement team receive approximately 700 complaints each year and an acknowledgment letter is always sent to the complainant (77% within 3 working days). The site is then visited to establish whether a breach of planning control has occurred (90% within 10 working days) and the complainant is advised of our initial findings (81% within 15 working days). If a breach is found a case to investigate further is generated (300 per year) (all figures above are for 2008/9).

A list of all current cases in Ward order is now sent to all Councillors (see response to Recommendation 7 below). That list will ensure that the Lead Member also is apprised of all current cases although it is considered prudent that the Director of Development might usefully continue to direct attention towards those cases which might provoke wider concern or media interest.

Officers have a full range of enforcement powers available to them to establish whether a breach of planning control has taken place. They question what harm is caused as a result of the breach and how to remedy the situation. They negotiate with owners and seek, in appropriate cases, retrospective applications. However, where harm is evident, swift and firm action will be taken against individuals or companies that ignore planning controls. Officers seek to resolve cases and aim to report matters to ward members and ultimately the planning committee where action is required within 28 days. Formal action however invariably requires a significant amount of evidence gathering and legal notices serving to identify exactly what the breach is or who has committed the breach.

We are currently preparing to consult on an up to date Enforcement Policy and will report to cabinet following the receipt of comments. That policy will make very clear the strategic role of the Enforcement function and define its priorities and measures for success assisting in the clarification of the Direction of Travel.

The recommendations of the Panel have given renewed emphasis to a number of service enhancements which, at the time of the review, were in the early stages of development. Improvements have since been made in the monitoring processes required to ensure that the targets defined in the Team Plan can properly be measured on a regular basis to meet the expectations of a genuinely SMART target. Further details are set out in the response to Recommendation 3 below.

**Recommendation 2: The regular meeting of the Lead Member and Director with or without the management team must be minuted. All meetings within the department should be minuted.**

**Reason:**

The difficulty of understanding the working of the department was hampered by the paucity of paperwork. It should be standard practice to have the regular meetings between Lead Member and Director minuted. This should also be standard practice of any meetings, even those which do not necessarily have an outcome or decision ie. Blue Sky meetings. It is impossible to monitor and hold to account anything which has happened without paperwork.

**Response:**

It is the view of both the Lead Cabinet Member and the Director of Development that the regular lead member meeting should provide an informal opportunity for the exchange of information, advice and guidance. Formal minuting of the meeting would be likely to inhibit the open exchange of views upon which an effective partnership is founded and add significantly to the administrative burden upon the service. The practice of working to a standard agenda is to be revived with agreed action points recorded at the end of each Lead Member meeting.

**Recommendation 3: All targets should be SMART targets, including performance, response and budgets. There should be proper (dated) recording of the processing of every action from the first raising of a complaint to the final decision.**

**Reason:**

All targets should be SMART ones. Targets should be agreed by everyone in the department.

The Lagan system has not been shown to work. There have been consistent reports to officers about its efficacy and nothing has seemingly been done to rectify the problem. Indeed, without any evidence, the system still is not fit for the purpose. The case record should be available to Ward Councillors, Parish Councils etc. who wished to follow the complaint. Summary data showing all actions and their progress should be available.

**Response:**

As stated in the response above targets have been set which all staff have agreed to, these are considered to be SMART targets. They are included in the team plans and they are also to be incorporated in the Enforcement Policy. The targets are measured on a monthly basis by management and reported to the Lead Member, they are also reported in the TEN performance system quarterly. The recent results are shown below.

	Jan	Feb	Mar	Apr	May	Target
No of complaints received	86	62	65	56	53	
Acknowledged in 3 Days	79 (92%)	61 (98%)	65 (100%)	56 (100%)	52 (98%)	90%
Visited in 10 Days	81 (94%)	61 (98%)	63 (97%)	55 (98%)	52 (98%)	90%
Initial findings in 15 days	67 (77%)	44 (70%)	24 (36%)	25 (44%)	25 (47%)	90%

The enforcement team do not currently use the Lagan system although this is being investigated at present to enable telephone calls to be handled by the contact centre and it is envisaged that responses to calls will be recorded and monitored through the Lagan system. There is therefore no question as to whether the system works or that it is not fit for purpose.

A list of complaints under investigation, breaches and related enforcement action is now sent electronically on a monthly basis to Ward Councillors. Details of breaches and enforcement action taken are also sent to Parish Councils. The progress of investigations into complaints can be information sensitive and therefore it is not considered appropriate to forward details to Parish Councils until a breach has been confirmed and the Council has agreed to take action.

**Recommendation 4: Monitoring should be regular and reported.**

**Reason:**

Targets and performance against them should be regularly checked. Progress reported with perhaps a traffic light system to highlight effectiveness. Regular reports should go to Scrutiny.

The systems for reporting are poor. The Panel was pleased to hear from Steve Lewis Roberts that new software has been ordered and will be in place by July 2009. The M3 system will address the former reporting shortcomings. M3 is a tracking system from the initial complaint to the decision of the Enforcement Officer. There was some question as to the link between the Lagan system used by Contact Centre and M3 system.

**Response**

With the introduction of the TEN reporting system and SMART targets adopted by the enforcement team the monitoring of performance will be clear and open to scrutiny. TEN incorporates a traffic light system for highlighting effectiveness.

The upgraded M3 software system is expected to be in place by the end of the year. The project has been delayed due to protracted negotiations in agreeing the details of the contract while the software suppliers are also committed to carryout similar work at other authorities. This upgrade will result in improvements to performance monitoring of the whole enforcement process.

The Lagan system and M3 systems are supplied by competing companies and there are therefore no direct links at present between the systems. The systems use similar data for different purposes. Such links will require further investigation and the benefits weighed against the costs of providing such links. It is suggested that this be investigated if a need is established for such links once both systems are being used by the enforcement team. This may also be required for Development Control.

**Recommendation 5: There should be management training and career development opportunities.**

**Reason:**

Managers should be encouraged to be on management courses, both internal and external ones.

Managers were members of and attended the East Midlands Enforcement Forum. This forum gave the opportunity for officers to exchange views and to hear ideas from other areas. Members also were helped by the LRIP (Leicestershire & Rutland Improvement Partnership). It was noted that the Enforcement Team was now up to numbers required. Christine Taylor reported that the Legal Team had been short of

a permanent officer with training in planning for the last few years but a new appointment had been made. Managers will have their performance assessed and feedback given. Because of the new rules of planning procedure, it is more likely that there will be pressures on the Enforcement and slightly less on Planning.

Training is a management decision. Whilst PDRs are used within the department, training seems to come through a relevant PDR whilst it should be a corporate decision. Management training should be given as part of Learning and Development with a strategic aim to support:

- a) Leadership capacity for change and transformation;
- b) Developing workforce skills, capability and capacity.

**Response:**

Training and development needs are assessed and agreed with staff through the Performance and Development Review (PDR) process on an annual basis. Where staff have management responsibilities they are encouraged to take advantage of management development opportunities.

The service has a particularly good record in the training and development of planning enforcement staff, many of whom have used the post as a means of entry to the planning profession with the Borough Council funding a course of study leading to Royal Town Planning Institute accreditation.

Corporately a new management competency framework is currently under development, the purpose of which will be to assist managers in the identification of training and development needs to support defined behaviours. It is intended that that procedure, representing one string of the "One Charnwood" theme, should be completed by October / November 2009 with recognised training and development needs being addressed through a programme of training opportunities, on the job learning, support and mentoring as appropriate.

**Recommendation 6: Department service plans should be embedded.**

**Reason:**

The Panel was disappointed that there are no departmental service plans. The Panel was pleased to learn that this will be introduced presently and was welcomed by management. The plan should include current information as well as looking at specific priorities for the next year. Any subsequent action plans can be matched with the three year budgeting process. Risk Assessment and Value for Money Assessment are a must. The plans should not be stand alone but should link in with other plans and should be monitored regularly.

**Response**

There would appear to be some confusion here. At the time of the Panel review there was in existence an approved Service Delivery Plan covering all aspects of service delivery within the Development Directorate. The approved Service Delivery Plan included specific targets for the monitoring of breaches (D/14), for the completion of initial investigations within 15 days (DC 6) and for the percentage of breaches converted to active cases for reports within 8 weeks (D/13). Regular monitoring of performance against targets, admittedly, was not well developed but

measures have since been put in place to permit monthly monitoring as reported above.

The targets are now embedded in the Development Control Team Plan and are acknowledged and agreed by the staff responsible for their delivery. The Team Plan includes consideration of risk assessment and value for money across the whole Development Control service.

**Recommendation 7: Communication. There needs to be a better system of communication with Councillors, Parish Clerks and interested parties.**

**Reason:**

Communication to interested parties is not full enough. Management accepted that Councillors and Parish Councils needed to be updated on where the case was in the system. Whether it was under review or action had been taken and was therefore ongoing. If the complaint had been turned down, it was essential for the local Councillor to know why. If not, the Councillor could not reply to questions from his electorate and it was also difficult to know why there was apparent inconsistency. Some of this information could be on the Web but fuller information could go out as a Yellow Paper/MIS.

**Response**

Poor communication on the progress of enforcement cases to all interested parties was a recognised shortcoming in the systems and the Panel's recognition of that again provided greater impetus for development of a solution. Remedial measures have now been put in place with the production of a monthly list in Ward order that is sent to all Councillors detailing outstanding cases with an account of recent action taken.

As reported above, details of proven breaches and related actions are also reported to Parish Councils on a monthly basis.

**Recommendation 8: Time should be made for Blue Skies meeting**

**Reason:**

There should be an opportunity for the Team to have an away day. Not for a bonding time but to take time out to think how the department can deliver its service in perhaps a more efficient way. The focus should be on how a service is delivered rather than the service itself. The structure of the Department could be revisited ie. To have an integrated service with joint budgets. More work that is done by Borough Council is linked into other local Authorities, not only Charnwood Together.

**Response**

Members of the enforcement team, and indeed all staff, are encouraged to consider at every opportunity how service delivery might be improved. Members are actively engaged in that process through the regular Plans Committee workshops. One officer within the division is specifically charged with responsibility for supporting service delivery and works closely with the Planning Enforcement Team in that capacity; much of his effort currently is directed towards the procurement of an

upgraded computer system which will facilitate improved monitoring of the team's performance and that of the remainder of the Development Control service.

The opportunity for "blue sky" thinking has been provided through the process of preparing the Service Delivery Plans and could be applied again when the current cohort of Team Plans come forward for review in the autumn.

The Enforcement team is effectively an integrated component within the Development Control Service and all staff co-operate closely. The principal external dependency is that with the Legal Services Team. Staff retention difficulties and a resultant lack of continuity in the provision of legal support has, in the past, inhibited the delivery of a fully effective enforcement service. However, those problems have been resolved and regular surgeries attended by representatives of the teams concerned ensure effective co-operation in the delivery of the service.

Undoubtedly there will be areas of work across the Borough Council where close linkages with other local authorities will be advantageous. Planning Enforcement has not to date fallen within the scope of such joint local authority initiatives but such opportunities for co-operation are constantly under review with a view to enabling service improvement and efficiency.

#### Financial Implications

There are no financial implications arising from this report that are not already provided for within the current budget.

#### Risk Management

There are no discernable risks arising from this report.

Key Decision:	No
Background Papers:	None
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