

Executive

8th September 2009

Report of the Head of Civic, Legal & Democratic Service

Final Report of the Planning Enforcement Ad Hoc Scrutiny Committee

Summary

1. This report presents the final report of the Planning Enforcement Ad Hoc Scrutiny Committee. Councillor Hyman, Chair of the Committee, will be in attendance to present the report.

Background

2. In coming to a decision to review this topic, the Committee recognised certain key objectives and the following remit was agreed:

Aim

3. To identify ways of bringing enforcement cases to an earlier completion through reviewing City of York Council's approach to planning enforcement and court action.

Key Objectives

- i. To understand the Council's approach in relation to planning enforcement processes including Section 106 Agreements.
- ii. To understand the City of York Council's approach to court action in relation to breaches of planning enforcement notices.
- iii. To examine why so many cases are outstanding
- iv. To review the Council's processes and procedures to improve the handling of planning enforcement cases
- v. To explore the impact of the Scrutiny Review on 'Powers of Enforcement: Take-Aways' on the way planning enforcement is now conducted.

Consultation

4. As part of the review the following persons were consulted:

- Assistant Director (Planning & Sustainable Development)
- Head of Development Control
- Planning Enforcement Officers
- Officers from Legal Services
- Elected Members with links to Planning Committees
- Area Team Leaders for East Area Planning and West & City Centre Planning Committees

Options

5. Having considered the findings contained within the final report and its annexes, Members may chose to support all, some or none of the recommendations shown in paragraph 7 of this report.

Analysis

6. In regards to the aims and objectives of this review, the final report attached analyses all of the information gathered. The final report was presented to the Scrutiny Management Committee on 27th July 2009 and they endorsed the recommendations within it.

Summary of Recommendations Arising from the Review

7. The recommendations arising from the Planning Enforcement Ad Hoc Scrutiny Review are:

1. That the Head of Development Control:

- (i) Prioritise new complaints/cases
- (ii) Shorten the response time to letters sent in relation to breaches of planning regulations, where there is discretion to do so
- (iii) Introduce a weekly list detailing new planning enforcement cases, split by Ward

Reason: To ensure that all cases are dealt with in a timely manner and that Ward Members are kept fully informed of new enforcement cases in their areas.

2. That, once trigger points are reached and payment has not been received, Section 106 Agreements are promptly passed to Legal for action.

Reason: To ensure City of York Council can pursue non-payment of Section 106 Agreements in a timely manner.

3. That Section 106 Agreements, including the schedule of obligations, be placed on the planning portal under the planning applications to which they relate

Reason: To ensure transparency in the process

- 4.

- (i) That the expenditure of Section 106 monies be made entirely in accordance with the Council's Financial Regulations.
- (ii) That a regular report be presented to the relevant Planning Committees detailing where Section 106 monies have been spent by the receiving Directorates

Reason: To ensure that Section 106 monies are spent appropriately.

5. That Planning Enforcement Officers be issued with:
- (i) Necessary mobile communication technology (e.g. laptop, mobile phone, PDA, laser rule) subject to the outcome of the pilot scheme to be undertaken by Building Control and to funding being available.
 - (ii) A First Response Kit and any appropriate training to use this.

Reason: To ensure the safety of Planning Enforcement Officers and to allow them to easily gather and record information when on site visits.

6. That Planning Enforcement Officers be issued with high visibility jackets marked with 'CYC Planning Enforcement Officer' and these should be worn at appropriate times.

Reason: To enable Planning Enforcement Officers to be easily identified.

7. That the Head of Development Control make planning staff available to help with planning enforcement when possible.

Reason: To reduce the number of outstanding cases.

8. That the results of the Development Control Internal Review be fully communicated to all departmental staff.

Reason: To ensure that all members of the department are fully aware of the outcome of the Internal Review.

9. That a copy of the final report of the Planning Enforcement Ad Hoc Scrutiny Committee be circulated to all Members involved with Planning Committees.

Reason: To ensure that all Members are made aware of the recommendations of the Planning Enforcement Ad Hoc Scrutiny Committee

Corporate Strategy 2009/2012

8. The review was undertaken under the previous Corporate Strategy 2007-2011 and related to the following Value: 'Encouraging improvement in everything we do'. The Corporate Strategy has since been refreshed and this topic relates to the Effective Organisation Theme of the new document – 'we shall be a modern council, with high standards in all we do, living up to our values and be a great place to work.'

Implications

9. There are no implications associated with this report. The Implications arising from the review are set out in paragraphs 50 to 53 of the final report.
10. In light of the need to minimise growth bids, and instead to promote the re-alignment of existing financial resources into priority areas, the Assistant Director of Resources (Finance) has requested that the Executive consider the following further implications:

‘Purchasing new technology/new equipment will incur costs, as will ensuring a full First Response Kit is available and marked high visibility jackets. The initial set up cost could be in the region of £6,000; with ongoing support costs it is also possible that recommendations made during the course of the Planning Enforcement Internal Review could lead to some additional expenditure.

Once the outcome of the pilot scheme is known and the type of equipment needed has been identified a full review of the potential financial implications will be undertaken. In the light of the Council’s current budgetary situation, various options for funding the proposals need to be considered and specifically the possibility of re-directing resources from areas which may be considered not as high priority at the current time.’

11. If the Executive wish to endorse the additional implications raised by the Assistant Director of Resources (Finance) these will be added to the final report as an addendum.

Risk Management

12. There are no known risks associated with the recommendations within this cover report or with the recommendations arising from the review.

Recommendations

13. Members are asked to note the contents of the attached final report and its annexes and provide comments on the recommendations as shown in paragraph 7 of this report and the proposed addendum to the financial implications section detailed at paragraph 10 of this report.

Reason: To inform the Executive’s consideration of the final report.

Contact Details

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Report Approved

Date 06.08.2009

Specialist Implications Officer(s)

None

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None

Annexes

- Annex 1** Final Report
- Annex A** Presentation – ‘Planning Enforcement at York’
- Annex B** Definition of Section 106 Agreements
- Annex C** Planning Enforcement – Choice of Routes
- Annex D** Questions and Answers Arising Through the Course of the Review
- Annex E** Further Information on Key Objective (iii)
- Annex F** Information Comparing York and Other Local Authorities
- Annex G** Briefing Note Regarding Land Charges Register
- Annex H** Briefing Note on when Elected Members can be used as Witnesses
- Annex I** Further Information on Key Objective (iv)
- Annex J** Outline of Internal Review
- Annex K** Outline of Discussions Regarding Internal Review
- Annex L** Executive Summary ‘Powers of Enforcement – Take-Aways’ Scrutiny Review
- Annex M** Update on the Recommendations arising from the ‘Powers of Enforcement – Take-Aways’ Scrutiny Review
- Annex N** Report prepared by Planning Enforcement Officers