



Notice of meeting of

Planning Enforcement Ad Hoc Scrutiny Committee

To: Councillors Hyman (Chair), Douglas, Pierce, Waudby and Wiseman

Date: Wednesday, 4 February 2009

Time: 1.30 pm

Venue: The Guildhall, York

AGENDA

1. Declarations of Interest

At this point, members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Minutes (Pages 3 - 8)

To approve and sign the minutes of the meeting of the Planning Enforcement Ad Hoc Scrutiny Committee held on 15 December 2009.

3. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Committee's remit can do so. The deadline for registering is Tuesday 3 February 2009 at 5.00 pm.

4. Planning Enforcement Scrutiny - Interim Report (Pages 9 - 20)

This Planning Enforcement Interim Report asks the Committee to approve the timetable for the remainder of the review and to formulate some recommendations for inclusion in the draft final report.

5. Any Other Matters which the Chair decides are urgent under the Local Government Act 1972

Democracy Officer:

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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting Laura Bootland Democracy Officer

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

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Scrutiny Committees

The purpose of all scrutiny and ad-hoc scrutiny committees appointed by the Council is to:

- Monitor the performance and effectiveness of services;
- Review existing policies and assist in the development of new ones, as necessary; and
- Monitor best value continuous service improvement plans

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City of York Council

Committee Minutes

MEETING	PLANNING ENFORCEMENT AD HOC SCRUTINY COMMITTEE
DATE	15 DECEMBER 2008
PRESENT	COUNCILLORS HYMAN (CHAIR), DOUGLAS, PIERCE, I WAUDBY AND WISEMAN

4. DECLARATIONS OF INTEREST

Members were asked to declare at this point in the meeting any personal or prejudicial interests they might have in the business on the agenda. None were declared.

5. MINUTES

RESOLVED: That the minutes of the meeting held on 7 October be approved as a correct record and be signed by the Chair.

6. PUBLIC PARTICIPATION

It was reported that nobody had registered to speak under the Councils Public Participation Scheme on general issues within the remit of the Sub-Committee.

7. PLANNING ENFORCEMENT SCRUTINY - INTERIM REPORT

Members considered a report which asked them to approve the proposed timetable for the remainder of the review and to decide whether they required any further evidence that was not set out in the timetable in paragraph 19 of the officer's report.

The Head of Development Control advised Members that the Planning Department was launching its own review of Planning Enforcement and that a timetable had been put in place to facilitate this. This is attached at Annex A to these minutes. Members agreed that both the scrutiny review and the internal review could run concurrently but did not feel that the internal review ought to cause any delay to the scrutiny process. After further discussion it was decided that the final two meetings for the Planning Enforcement scrutiny review would be Wednesday 4th February 2009 and Wednesday 4th March 2009. The format of these meetings is detailed in the resolution below.

In relation to the Scrutiny Review Members discussed the following:

- The use of the Local Land Charges Register and whether it could be used to flag up buildings where there was an enforcement issue.
- Whether Planning Enforcement in York should be made more public than the current low level approach.
- The need for Parish Councils to have more feedback and be made more aware of Planning Enforcement issues in their area.
- The input Highways have in Planning Enforcement and how much assistance they provide to Enforcement Officers.
- Whether Enforcement Officers have, or should have, any Legal training.

In relation to further evidence, Members discussed the following:

- Annex G of the Officers Report contained Planning Enforcement information from other Authorities. It was noted that no information had been obtained for the City of Bath and figures for Chester needed completing. Members requested that this be followed up.
- Members would like some further information on how quickly comparative authorities complete Planning Enforcement cases.
- Members would like some figures relating to the number of complaints received by the Council in relation to Planning Enforcement Cases and whether any have gone to the Ombudsman. These figures should relate to the past 3 years.

RESOLVED: (i) That the proposed timetable for the remainder of the review as set out in paragraph 19 of the Officers report be approved with the following changes to dates:

4 February 2009	To receive ideas and possible actions gathered from the Assistant Director (Planning & Sustainable Development) and Head of Development Control.
4 March 2009	To receive a draft final report.

(ii) That further evidence, as detailed above, is required.¹

REASON: To ensure compliance with scrutiny procedures, protocols and work plans.

Action Required

1. Obtain further information as requested by Members.

GR

Councillor Hyman, Chair

[The meeting started at 1.00 pm and finished at 2.10 pm].

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Development Control Review of Enforcement and Support Services**Proposed Timetable**

Tasks	Start Date	Done By
Initial Meeting		19.12.08
Identify Current Processes	22.12.08	16.1.09
Process Review Workshops	19.1.09	23.1.09
The Way Forward	2.1.09	13.2.09
Round up meeting		16.2.09
Report published		28.2.09
Start changes	9.03.09	
Track/measure benefits	1.06.09	

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Planning Enforcement Ad Hoc Scrutiny Committee

4th February 2009

Planning Enforcement – Interim Report

Background

1. This topic was registered by Councillor Wiseman to explore the possibilities of speeding up the period from opening to closing planning enforcement cases and to achieve a reduction in the number of outstanding cases. She had raised concerns that a lack of resources within the Planning Enforcement Team may be contributing to delays in cases being brought to a timely conclusion. As part of the review she suggested that the Council's approach to court action was reviewed to investigate concerns that enforcement by the City of York Council had little threat of further legal action being taken.
2. At the moment Members are presented with information on both ongoing and completed cases at Planning Sub-Committees on a quarterly basis and it was noticeable that the number of ongoing cases was not being reduced. Some cases had been open for a very long time without resolution and there did not appear to be any timescales for completing a case. Whilst Councillor Wiseman was aware that some cases were very complex and needed a lot of time there were still too many minor cases ongoing and as part of this review she had suggested exploring possible ways of completing these in a timelier manner.
3. A feasibility study and a draft remit were submitted to Scrutiny Management Committee (SMC) in July 2008 and after due consideration it was agreed to proceed with this scrutiny review based on the following remit:

Aim

4. 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 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

5. This review, has so far, been carried out in consultation with the following:
- Assistant Director (Planning & Sustainable Development)
 - Head of Development Control
 - Planning Enforcement Officers
 - Officers from legal services
 - Elected Members with links to the Planning Committees
 - Area Team Leaders for East Area Planning and West & City Centre Planning Committees

First Key Objective

- i. **To understand the Council's approach in relation to planning enforcement processes including Section 106 Agreements**

Information Gathered

6. At the last formal meeting held on 15 December 2008 Members had an opportunity to consult with Officers to familiarise themselves with current planning enforcement processes. Councillor Wiseman asked the following question of Development Control Officers:

'The Highways Department frequently do not comment on planning applications when they are initially made, if this has happened, what input do they then have and what support do they give to the planning enforcement team should any enforcement be necessary?'

Their response was as follows:

'Highway Network Management (HNM) provide comments on all applications they are consulted upon (often around 100 per month). The intention is to consult HNM with all applications, which have a material highway, traffic or transport issue.

In terms of enforcement issues, officers from the team do work with Planning Enforcement Officers should the need arise.'

7. At the same meeting Councillor Pierce requested that Officers investigate how many complaints had been received by City of York Council regarding the investigation of planning enforcement cases in the past 3 years (including the number of Ombudsman cases). Officers have responded to this as follows:

'From January 2006 there appear to have been 14 complaints regarding the investigation of planning enforcement cases, with 2 Ombudsman cases (both closed).

8. Councillor Pierce also instigated discussions regarding the possibility of using the Local Land Charges Register to flag up buildings where there was an enforcement issue.

Issues arising

- Using the Local Land Charges Register as suggested in paragraph 8 of this report raised concerns regarding confidentiality, possible compensation claims and usefulness in the majority of cases. Members said that there might be some merit in a report regarding this idea being produced and would consider including this as one of their recommendations at a later meeting.
- Further discussions raised the following issues:
 - Whether Planning Enforcement in York should be made more high profile than the current low level approach
 - The need for Parish Councils to have more feedback and be made more aware of Planning Enforcement issues in their areas.
 - Whether Planning Enforcement Officers should have more legal training.

Fourth Key Objective

iv. To review the Council's processes and procedures to improve the handling of planning enforcement cases

Information Gathered

9. At the last formal meeting held on 15 December 2008 Officers within Development Control informed the Committee they were about to undertake a review of the planning enforcement department and its support services. The review will focus largely on the services themselves and the processes and allocation of resources within the Section. Staff within the services will undertake the review, and the process will necessitate involvement from colleagues within the Council upon which the Enforcement Service in particular relies. The timetable for this exercise indicates that they hope to be in a position to implement any necessary changes in early March 2009. Further information regarding this review (including the timetable) is attached at Annex A to this report. A summary of the discussions had to this date is attached at Annex B to this report.

Issues Arising

- Members agreed that both the scrutiny review and the internal review could run concurrently but did not feel that the internal review ought to cause any delay to the scrutiny process.

- Members might wish to consider that recommendations made within the internal review may give rise to possible service changes/improvements.

Fifth Key Objective

v. To explore the impact of the Scrutiny Review on ‘Powers of Enforcement – Take-Aways’ on the way planning enforcement is now conducted

10. Members may wish to take into consideration the fact that various concerns have been expressed outside of Planning Enforcement Ad Hoc Scrutiny formal meetings about a perceived lack of planning enforcement in relation to premises licensed under the 2003 Licensing Act. The concerns mainly focus on various fast food take-aways where there is a conflict between planning restrictions and licensing restrictions (for example a premises maybe licensed until 2am under the Licensing Act 2003 but be obliged to close at 11pm under planning conditions) At some Licensing Hearings premises licence owners have conceded to working outside their permitted (planning) hours.

Issues Arising

- How Planning Enforcement Officers work with the Licensing Enforcement Officers to ensure that both planning and licensing conditions are complied with.

All Objectives

11. At the informal meeting on 5th November 2008 the Committee had asked for information regarding the set up of planning enforcement at other Local Authorities. This was provided to Members in the agenda for the formal meeting on 15 December 2008 but with some of the information missing. All the information has now been received so this information is again attached and is at Annex C to the report.

Issues Arising

- Members may wish to compare and contrast the staffing make up, provision of equipment and average annual caseloads of other Local Authorities and York.

Timetable for Review

12. Members are asked to consider the following proposed timetable for the remainder of the review:

4 th February 2009	<ul style="list-style-type: none">• To receive ideas and possible actions gathered from the Assistant Director (Planning & Sustainable Development) and Head of Development Control• To formulate some draft recommendations
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4 th March 2009	<ul style="list-style-type: none">• To receive a draft final report
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Options

13. Having regard to the aim and objectives of this topic remit Members may chose to:
- To agree or amend the timetable for the remainder of this review as set out in paragraph 12 of this report.
 - To consider whether they have collected enough evidence, and if so, to formulate some draft recommendations.

Implications

14. **Human Resources** – Members should be aware of the ongoing heavy workload within the Development Control area of the City Strategy Directorate. Whilst there are no other Human Resources implications directly involved within this report it is possible that recommendations made by the Committee and/or the findings of the Planning Enforcement Internal Review could lead to some.
15. **Legal** – There are no known legal implications associated with this report.
16. **Financial** – There are minimal funds allocated from within the scrutiny budget for research relating to ongoing reviews, therefore there are no financial implications associated with the recommendations within this report.
17. There are no known Equalities, Property, Crime and Disorder or other implications associated with the recommendations in this report.

Corporate Strategy

18. This review relates to the following value as set out in the Corporate Strategy 2007-2011:
- ‘Encouraging improvement in everything we do’.

Risk Management

19. In compliance with the council’s risk management strategy, there are no known risks associated with the recommendations of this report other than the focus of the review and the progress of the Scrutiny Work Plan would be adversely affected if the review did not keep within the agreed timescales.

Recommendations

20. It is recommended that Members consider and agree:

- i. The proposed timetable for the remainder of this review as set out in paragraph 12 of this report.
- ii. Formulating some recommendations for inclusion in a draft final report.

Reason: To ensure compliance with scrutiny procedures, protocols and work plans.

Contact Details

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Quentin Baker
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**Interim Report
Approved**



Date 26.01.2009

Specialist Implications Officers

None

Wards Affected:

All



For further information please contact the author of the report

Background Papers:

None

Annexes

Annex A Internal Review Outline

Annex B Comments arising from Internal Review

Annex C Information regarding Planning Enforcement within other Local Authorities.

Development Control Review ; Enforcement and Support Services

Vision

- A more clearly defined effective and efficient Planning Enforcement service with an improved public and Member perception.
- The provision of cost effective and efficient support services to Development Control (DC) and Enforcement.

Background and Reasons For Review

The focus of the 2006 restructure was in DC (which introduced DC Assistant posts, Assistant Team Leader posts Admin Assistant posts and increased training budget for the section), was to maintain improvements in performance and create a career ladder to establish a grow your own culture and retention of planning staff. The intention was for the restructure to be reviewed.

Government published a series of recommendations on Planning Enforcement November 2006. The Section needs to be ready to implement the requirements stemming from these recommendations.

A Council Scrutiny Panel review was commenced in October 2008 to understand the Council's approach in relation to planning enforcement processes, court action and Section 106 Agreements, and to look at ways of improving the processes and procedures to improve the handling of cases. The Panel will issue recommendations for changes to the Enforcement service once it has concluded its review (March 2009)

The 2006 restructure created 3 new support posts for the electronic scanning and indexing of planning applications and to deal with personal searches. Whilst the number of DC case workers was increased as part of that review, the level of support to cover the increased application and appeal work as well as enforcement work was not reviewed. The national changes to validation, condition discharging and appeals procedures have also increased the complexity of the support services workload.

The scanning process has experienced issues of staff retention, and inefficiencies caused by the 'add-on' status of the scanning service. The supervision and management of support posts within the area teams and of the current scanning posts is not clearly defined

A review is proposed to consider how these issues can be addressed and how new processes can be best integrated into the workload of the support staff to provide more efficient ways of working.

Objectives

- To define the optimum level of enforcement and support services that can be achieved within the resources allocated

- To provide a clear set of guidelines to work within, with necessary tools available (documentation/authorisation and physical equipment)
- To ensure clearly defined and appropriate management of the Enforcement and Support Services
- To improve the perception of the services amongst staff, Members and the public
- To provide flexibility of technical support by ensuring a training regime is embedded into the operation of Support Services

Scope

The review will focus largely on the services themselves and the processes and allocation of resources within the Section. Staff within the services will undertake the review, and the process will necessitate involvement from colleagues within the Council upon which the Enforcement Service in particular relies.

Provisional Timetable

Tasks	Start Date	Done By
Initial Meeting		19.12.08
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Planning Enforcement Internal Review
Summary of findings based on discussions with Enforcement Officers

This is a summary of the findings based on discussions had held with the enforcement officers involved in our review, and does not include any issues identified by others e.g. line managers etc as yet.

They have expressed concern that the review is by no means complete and it has not reached an in-depth level as yet, such that Members should be made aware of this, if the intention is use the feedback to help inform their consideration of recommendations.

Issues raised by Enforcement as affecting performance and the delivery of the enforcement service:-

- Comments and Issues emerging from Enforcement Review:
Enforcement staff's comments:-
- Dispersal of staff within St Leonard's. The EOs are in different rooms of the building, and the east team EOs do not sit with their Team Leader. This leads to inconsistencies in terms of approaches and procedure, and there are some differences of opinion as to the better process to follow. Inconsistencies in Management decisions and approaches to enforcement have also been raised as an issue.
- Shortage of procedure notes for enforcement processes, particularly in relation to formal action (which is becoming more relevant).
- Administrative support varies, again apart due to dispersal and also due to changeovers in support staff, the lack of full time employees in these posts and different approaches to dealing with enforcement tasks, and pressure to perform other duties and priorities. A lack of coordination of administrative support or attention to Enforcement support requirements
- Team leaders have not had the time to allocate sufficient resource to supporting and managing the enforcement officers, due to other Development Control pressures.
- On site, the inability to refer to information stored on the system can inhibit urgent action required. e.g. to require a cessation of works to a listed building, need to be sure no permission exists for the works.
- Training in appropriate areas has not always been available, e.g. PACE interviews
- The current Scheme of Delegation for enforcement can lead to delays in the authorisation of action e.g. need for Chair Vice Chair

and Assistant Director's consideration and signatures for each Notice

- History of lack of prosecutions leading to service being held in lower regard by developers, and less inclination to comply with for example, conditions of approval.
- Difficulties with obtaining views from Directorate and inter-Directorate consultees, due to their lack of availability or low priority given in their work programmes to contributing to planning enforcement, resulting in a perceived lack of cooperation. e.g. in relation to specialist area such as conservation or landscape tree advice

Concerns over the enforceability of conditions used to secure financial contributions, say for example open space payments

	Bath	Cambridge	Chester	Norwich
Population	178,000	117,900	120,600	121,600
Number of Enforcement Officers (FTE)	4.0 + 1.0 Senior Enf Officer	3.0 (including the s106 officer)	2 + 1 Senior Planning Enforcement Officer	1.0
Dedicated Enforcement Manager	Yes Team Leader for Enforcement and Major applications	Yes but also deals with Certificates of lawfulness	Yes Senior enforcement officer	No
Annual cases	Approx 875	Approx 400	2004 = 595 2005 = 461 2006 = 543 2007 = 798 2008 = 719 Average = 563 per year	200
EO Equipment	Mobile phone, laser measuring tool (from Building Control),	Mobile phone, digital camera	Mobile phone, hard hat, rigger boots and fluorescent jacket each. Team has a digital camera, 2m rule and long tape. We use our own cars on lease or mileage. We use our own cars on lease or mileage.	Mobile phone, and access to a pool car with is unmarked (although all 20 odd pool cars are brand new white VW polos
S 106 monitor	No	Dedicated officer within enforcement	No	No

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