
Planning Enforcement Ad Hoc Scrutiny Committee

15th December 2008

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 would also propose that the Council's approach to court action is reviewed to investigate concerns that enforcement by the City of York Council has little threat of further legal action being taken.
2. Members are presented with information on both ongoing and completed cases at Planning Sub-Committees on a quarterly basis and it is noticeable that the number of ongoing cases is not being reduced. Some cases have been open for a very long time without resolution and there do not appear to be any timescales for completing a case. Whilst Councillor Wiseman is aware that some cases are very complex and need a lot of time there are still too many minor cases ongoing and as part of this review she would like to explore 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 & West & City Centre Planning Committees

First & Second 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.**

Information Gathered

- 6. At a formal meeting on 7th October the Assistant Director (Planning & Sustainable Development) and the Head of Development Control gave Members a presentation in relation to Planning Enforcement in York. The presentation gave Members an overview of Planning Enforcement at a local and national level, in particular regulations that apply and the processes involved in tackling breaches of planning control. A copy of this presentation is attached to the minutes of the meeting held on 7th October 2008.
- 7. The following documentation was also provided at this meeting:
 - Planning Enforcement Figures for the East Area of the City since June 2003 (a copy of this is attached to the minutes of the meeting held on 7th October 2008)
 - A flow chart showing the routes Enforcement can take (a copy of this is attached to the minutes of the meeting held on 7th October 2008)

Issues Arising

8. The following issues were highlighted as a result of the information provided at this meeting:
 - The length of time it took to complete some cases was concerning
 - The fact that Section 106 payments often take a long time to come through. This needed to be addressed and the processes for collection made more transparent. The possibility of reducing the number of trigger points from 2 to 1 was already being considered. There was a database of Section 106 payments within the City Strategy directorate but a cross directorate database was needed to be able to view all payments received. It was noted that non-payment occurred for several reasons i.e. because a trigger-point for payment had not been reached or because of slow responses from some developers.
 - Whether developers played any part in causing delays to the Enforcement processes.
 - Whether it would be possible to introduce timings for the different stages of the enforcement process.
 - How likely it was for the Council to bring court action against an individual. It was acknowledged that there had been delays in the past but this was now improving and the threat of court action from the Local Authority could prompt a response from developers.
 - If minor breaches could be tackled differently & cases closed more quickly.

Information gathered outside of the formal meeting

9. At the formal meeting on 7th October 2008 it was suggested that a Member of the Committee might like to shadow one of the Enforcement Officers for the day to gain a valuable insight into their work. Councillor Douglas volunteered for this and has produced the following information regarding her experience:

‘ I shadowed a Planning Enforcement Officer on Wednesday 26th November. In the absence of a pool car, I was driven to 6 sites that were in need of enforcement on planning issues. Some issues were raised by the public, others picked up from invalid applications. So much extra information and other breaches are picked up this way and this is an extremely useful exercise.

The Planning Enforcement Officer was professional and took photographs of his findings, we talked about feeding information back to complainants and also about what was done in terms of follow up back at the office. The Officer handed his card out to people so that they had contact details and he always identified himself before stating his business there.

I feel that these enforcement visits are absolutely vital as not only can the developers be picked up on breaches before the building is completed but so much more information about other possible breaches can be seen. We observed a road having been built across land, which originates from the main

highway - do they have permission? Satellite dishes on the roofs and had the opportunity to check advertising signage without contacting the originators themselves. It would appear the Planning Enforcement Officer ticks some applications off but finds more oddments to add to the list as he goes.'

Third & fourth Key Objectives

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.

Information Gathered

10. At an informal meeting on 5th November 2008 the Head of Development Control provided the Committee with information on the third and fourth key objectives. He informed Members that the following factors influenced the timescale for dealing with cases:
 - Process and Regulatory Procedure and;
 - Workload Issues which are split into the following categories:
 - ii. Increase in number of financial obligations
 - iii. Reduced officer capacity
 - iv. Managerial reporting arrangements
 - v. Filing systems
 - vi. Responses from consultees
 - vii. Input from legal services
11. In relation to the fourth key objective the planning department intended to hold a series of workshops with staff to review the service. This would map out the current processes and procedures and consideration would be given to improving working practices and resource allocation.
12. Further and more in depth information regarding the information in paragraphs 10 and 11 is attached at Annex A to this report.

Issues Arising

13. Following the presentation the following issues were raised and discussed:
 - Whether the system for filing would change with the introduction of the Document Management System. Officers had put in a growth bid to allow them to have documents scanned to the new system. The outcome of this bid was still pending as part of the budget process.
 - Discussions were had regarding whether a breach could go undiscovered if nobody complained about it. Officers advised that it would go unnoticed unless spotted whilst Planning Enforcement Officers were out and about. A case could not be followed up, if after the initial complaint, nothing more was heard from the individuals concerned.

- Discussions were had regarding the quarterly reports that both planning sub-committees received regarding both open and closed enforcement cases. It was generally agreed that it was useful to continue to receive these.
14. Planning Enforcement Officers prepared a report, which was presented to Members at the informal session on 5th November 2008. This is attached at Annex B to this report. The presentation gave the Enforcement Officers' comments in relation to each of the five key objectives. The aim of the report was to provide Members of the Committee with information regarding enforcement processes in the hope that the end result will give an improved customer friendly, efficient and professional service to the residents and businesses of York and its outlying areas.
 15. Members were also given planning enforcement figures for the West & City Centre Area of the City since January 2006. These figures are attached as Annex C to this report.

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.**
16. Councillor Brian Watson had originally raised the above topic for review after numerous complaints had been received from residents in his Ward. The review had highlighted a number of concerns such as the disparity in equipment between planning enforcement officers and building control when doing a similar job, the support enforcement officers received during out of hours working and problems in processing complaints. An outcome of this review was that there should be more liaison between departments to provide assistance to the enforcement officers. This now seems to have been reduced to a monthly meeting between heads of department rather than direct help to enforcement officers. Councillor Moore, who was giving evidence regarding this review, suggested that as the planning enforcement team was small it needed assistance, support and appropriate equipment. He suggested that the scrutiny committee revisit the issues this review had highlighted in order to be satisfied that they had been implemented and a difference had been made. The executive summary of this review and the recommendations made by the committee are attached at Annex D to this report. All bar two of the recommendations were signed off by the Scrutiny Management Committee on 26 November 2007. The outstanding recommendations are numbers 1 and 2 as set out in Annex D to this report.

All objectives

17. A number of questions from Committee Members were circulated prior to the informal session. These, and the responses to them, are attached at Annex H to this report .

18. At the informal meeting on 5th November 2008 the Committee asked for information regarding the set up of planning enforcement at other Local Authorities. This is attached at Annex G to this report. The information is not yet complete and it is hoped that an updated version of this document will be provided at this meeting.

Timetable for review

19. SMC agreed a timetable of approximately 3 to 6 months for this review. Members are asked to consider the following proposed timetable for the remainder of this review.

15 th December 2008	To receive an interim progress report
January 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
February 2008	To receive a draft final report

Options

20. Having regard to the aim and objectives of this topic remit Members may chose to:
- i. To agree or amend the timetable for the remainder of the review as set out in paragraph 19 of this report and to agree dates for both the January and February meetings (if appropriate).
 - ii. Consider whether they require further evidence and from whom.

Implications

21. **Human Resources (HR)** – Members should be aware of the ongoing heavy workload within the Development Control area of the City Strategy directorate.
22. **Legal** – There are no known legal implications associated with this report.
23. **Financial** – There are minimal funds allocated from within the scrutiny budget for research relating to ongoing review, therefore there are no financial implications associated with the recommendations within this report.
24. There are no known Equalities, Property, Crime and Disorder or other implications associated with the recommendations in this report.

Corporate Strategy

25. This review relates to the following Value as set out in the Corporate Strategy 2007-2011:

'Encouraging improvement in everything we do'.

Risk Management

26. 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

27. It is recommended that Members consider and agree:
- The proposed timetable for the remainder of this review as set out in paragraph 19 of this report.
 - Whether they require further evidence that is not set out in the timetable in paragraph 19 of this report.

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

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Interim Report
Approved



Date 05.12.2008

Specialist Implications Officer(s)

None

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None.

Annexes

Annex A

Enforcement Scrutiny Presentation (05.11.2008)

Annex B

Report from the Planning Enforcement Officers

Annex C

West & City Centre Area Enforcement Figures

Annex D	Executive Summary – ‘Powers of Enforcement – Take-Aways’ Scrutiny Review
Annex E	Explanation of Stop Notices
Annex F	Planning Enforcement Officers Suggestions for Service Improvement
Annex G	Information Regarding Other Authorities
Annex H	Responses to Questions asked by Members of the Committee.