

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.

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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.