

Planning Enforcement Ad Hoc Scrutiny Committee

15 April 2009

Report of the Head of Civic, Legal & Democratic Services

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 also proposed that the Council's approach to court action was reviewed to investigate concerns that enforcement by City of York Council had 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 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 the review she suggested exploring possible ways of completing these in a timelier manner.
3. A feasibility and a draft remit were submitted to the 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.
 - (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

- 5. This review was 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 Planning Committees
 - Area Team Leaders for East Area Planning and West & City Centre Planning Committees.

Information Gathered

- 6. At their last meeting Members of the Committee received a draft final report, incorporating their draft recommendations arising from the review. On consideration of this report Members agreed that they required further information to complete the review and requested information on the following:
 - Briefing note on the possible use of the Land Charges Register to assist with planning enforcement cases.
 - Briefing note on when Members can be used as witnesses in planning enforcement cases
 - Briefing note on the pilot scheme currently being undertaken by Building Control
- 7. The final report had included recommendations requesting that the briefing notes on the use of the Land Charges Register and using Members as witnesses be presented to Scrutiny Management Committee (SMC) on completion of the review. On reflection, Members decided that they would like this information to form part of the review.
- 8. Members of the Committee also requested that the Chair and Scrutiny Officer revisit the recommendations arising from the 'Powers of Enforcement – Take-Aways' Review to establish which of these was still outstanding and what action, if any needed to be taken to ensure that these were fully implemented.
- 9. In light of the above Committee agreed to hold two further meetings (15th April 2009 & 18th May 2009) and requested a time extension from SMC. This was granted at a meeting on 24th March 2009.
- 10. The following paragraphs detail the further information requested.

First Key Objective

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

11. At previous meetings Members of the Committee had discussed the possibility of using the local Land Charges Register to flag up buildings where there was an enforcement issue. This had raised concerns regarding confidentiality, possible compensation claims and usefulness in the majority of cases. In light of this Members of the Committee requested further information on the topic and this is attached at Annex A to this report.
12. Discussions had also been had regarding the circumstances in which Councillors could be used as witnesses in planning enforcement cases. Legal Services have prepared a briefing note, which gives more detail on this subject, and this is attached at Annex B to this report.
13. At previous meetings officers in Development Control had mentioned a pilot scheme being undertaken by the Building Control Department into the use of various kinds of mobile communication technology (laptops, PDAs, mobile phones etc) to assist with working on site visits. Members of the Committee had asked for an update on the progress of this scheme to gain clarity for a proposed recommendation. The following response had been received from Building Control:

'CYC are still in the process of contractual negotiations with two mobile providers. This is resulting in a delay to the commencement of the pilot scheme due to be undertaken by Building Control. It is intended that the scheme will proceed, and it is now hoped that the pilot will be able to commence sometime between June and September 2009.'

Issues Arising & Analysis

14. At their last meeting Members considered some draft recommendations arising from this review. Members may wish to consider making amendments to these now that further information has been presented to them. The draft recommendations, including the amendments suggested at the last meeting, are attached at Annex D 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.

15. At the meeting of the Committee held on 4th March 2009 Members asked the Chair and Scrutiny Officer to revisit the recommendations from the above review in order to clarify which were still outstanding and which had been implemented. The recommendations arising from the review are set out in Annex C to this report; alongside the comments received from Senior Officers in the Planning Department, the Planning Enforcement Officers and the

Environmental Protection Unit where appropriate. The conclusion of Annex C contains the comments from the informal discussion between the Chair and Scrutiny Officer.

Issues Arising & Analysis

16. Having examined the recommendations arising from the 'Powers of Enforcement – Take-Aways' Review the Chair commented that they appear not to have been fully implemented as yet, however the outstanding matters have been incorporated into the draft recommendations of the Planning Enforcement Ad Hoc Scrutiny Review. Until these recommendations have been implemented it is not possible to fully explore the impact that the 'Powers of Enforcement – Take-Aways' Review has had on the planning enforcement service.

Corporate Priorities

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

'Encouraging improvement in everything we do'.

Overall Analysis

18. Information from this meeting will be fed into the draft final report, which will be presented to Members for their comments and amendments at the meeting scheduled for 18th May 2009.

Options

19. Having considered the information contained within this report and associated annexes, Members may decide to:
 - (i) Address the outstanding issues on the recommendations of the 'Powers of Enforcement – Take-Aways' Review (contained within Annex C) for inclusion in the draft final report and draw conclusions on the impact this review has had on planning enforcement.
 - (ii) Make further recommendations or amend the draft recommendations contained within Annex D to this report in order that they may be incorporated into the draft final report

Implications

20. **Financial** – There are no known financial implications associated with this report or the recommendations within it.
21. **Human Resources** – There are no known Human Resources implications directly involved with this report and the recommendation within it.
22. **Legal** – There are no known legal implications associated with this report or the recommendations within it. There are, however, some implications

associated with the content of Annexes A and B to this report and these are contained within the documents themselves.

23. There are no known equalities, property, crime & disorder or other implications associated with the recommendations in this report.

Risk Management

24. In compliance with the council's risk management strategy, there are no known risks associated with the recommendations of this report.

Recommendations

25. Members are asked to:

- (i) Address the outstanding issues on the recommendations of the 'Powers of Enforcement –Take-Aways' Review (contained within Annex C) for inclusion in the draft final report and draw conclusions on the impact this review has had on planning enforcement.
- (ii) Consider whether they wish to make further recommendations or amend the draft recommendations contained within Annex D to this report in order that they may be incorporated into the draft final report

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

Contact Details

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**Interim Report
Approved**



Date 03.04.2009

Specialist Implications Officer(s)

Legal

Glen McCusker/Martin Blythe
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Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex A	Land Register Briefing Note
Annex B	Briefing Note on using Members as Witnesses
Annex C	Update on Recommendations arising from the 'Powers of Enforcement – Take-Aways' Review
Annex D	Draft Recommendations of the Planning Enforcement Ad Hoc Scrutiny Committee