

Cherwell District Council

Development Management Committee

18 July 2019

Planning Enforcement Report

Report of Interim Senior Manager – Development Management

1.0 Purpose of report

- 1.1 To update the Committee on the work of the Cherwell Planning Enforcement Team and to initiate a regular Enforcement Update Report that will be presented at future Planning Committees.

2.0 Recommendations

- 2.1 The meeting is recommended

- 1.1 To note the contents of the report; and

- 1.2 To provide feedback regarding the format and frequency of future Enforcement Update Reports.

3.0 Executive Summary:

- 3.1 This report provides an overview of the work of Planning Enforcement over the last 12 months and proposes actions to improve the service offered. It also sets out a draft proposed regular update report to the Committee.
- 3.2 At the beginning of July 2019 there were 356 live planning enforcement cases and between 1 July 2018 and 30 June 2019, the Enforcement Team investigated and closed 575 cases and over the same period received 425 new cases. Whilst the number of live cases has dropped from over 600 in April 2018 there is need to improve the service offered so, where it is justified, action is taken in a more timely manner. There is also a need to improve communication relating to enforcement investigations to all interested parties.
- 3.3 To improve the Planning Enforcement Service, it is proposed to build on actions that have already been implemented in the last 12 months and to also undertake a review and to prepare and implement an improvement plan. I
- 3.4 It is also proposed to initiate a regular Enforcement Update Report that would form part of the Planning Committee agendas in the future. This will provide information on what enforcement activity has taken place.

4.0 Introduction

- 4.1 The Planning Enforcement Team are responsible for investigating alleged breaches of planning control and taking formal enforcement action when necessary in line with the Council's adopted enforcement policy and national planning legislation and guidance. The Team is also responsible for the monitoring of conditions on new developments and in April 2018 took over the responsibility for the monitoring of S106 Obligations.
- 4.2 The Council adopted a Local Enforcement Plan in 2016 which sets out the enforcement priorities, the powers available to the Council and other information relating to planning enforcement. Not all enforcement complaints reported to the Council involve a breach of planning control: many are resolved through negotiation; some, whilst there is breach of planning control, are closed where there is no planning justification to take enforcement action; and a relatively small proportion have formal enforcement action taken.
- 4.3 The Team comprises a team leader, 2 FTE enforcement officers, 2 FTE development monitoring officers and 1 FTE S106 monitoring officer. The Team also has 2 temporary enforcement officers who will be in post until September and December 2019 who have been helping to reduce the backlog of cases and progress the more complex cases.

5.0 Review of last 12 months

- 5.1 Between 1 July 2018 and 30 June 2019, the Enforcement Team received 425 new cases and over the same period closed 575 cases. Appendix 1 provides data on the number of enforcement (and development monitoring) cases received and closed and the number of and types of notices and actions taken.
- 5.2 Since the last quarter of 2018 the number of cases closed has exceeded the number of new cases opened and at the beginning of July 2019 there were 356 live planning enforcement cases being dealt with. This is a reduction from over 600 live cases in April 2018.
- 5.3 The high number of open enforcement cases in 2018 and before was due in part to a lack of, and high turnover of staff meaning officers were each dealing with a caseload of about 130 cases.
- 5.4 There has also been a lack of communication regarding enforcement cases, both in terms of responding to enquiries and information on what action is being taken and why. There is also often an expectation that the Council will be able to resolve every enforcement complaint to the satisfaction of the complainant whereas in many cases there either is no planning breach or lack of a planning justification to act (expediency). The fact that a development does not have planning permission is not a reason that justifies enforcement action, but this is not always understood by the complainant.
- 5.5 The high number of live enforcement cases and the lack of communication has led to complainants, local community and member frustration and undermines the reputation of the Council.
- 5.6 Over the last year new (permanent and temporary) officers and a team leader have been recruited who have worked hard to investigate and resolve cases.

This has helped to reduce the number of open cases which enables the Team to focus resources on those cases prioritised by the Enforcement Plan and on the complex cases, which in some instances, may take years to close if the Council's decisions and notices are challenged through appeals and in the Courts.

- 5.7 Nevertheless, there are still a significant number of open cases and further work is needed to reduce this; to improve the timeliness of investigating complaints and to initiate action where justified and to improve communication and customer service.
- 5.8 In respect of monitoring a new development monitoring system has been set up to ensure compliance with conditions imposed on a planning permission. The aim of this is to proactively monitor certain developments (mainly new housing and other prominent sites). There are now over 170 development being proactively monitored through the lifetime of the development and further new sites are added weekly as planning permissions are granted.
- 5.9 The Enforcement Team has also taken over responsibility for monitoring S106 obligations and in the last 12 months has invoiced for over £3 million of contributions. A High Court injunction was recently secured by the team for non-payment of S106 monies.

6.0 Future actions

- 6.1 There has been a reduction in the number of enforcement cases that are unresolved but there is nevertheless, a need to continue to refine and improve the service offered. Whilst it needs to be borne in mind that not all who come into contact with the Planning Enforcement will be satisfied with the final outcome there are still actions that can be taken to keep interested parties better informed, to publicise how planning enforcement is undertaken, the timelines and what to expect in order to manage expectations regarding the service.
- 6.2 The team has initiated a review of open cases, especially the older ones to determine whether the case should be closed or if there is enough justification to require further action. Where action is justified and in consultation with legal, notices or prosecutions will be initiated.
- 6.3 The new DEF system (a planning software package) is being introduced and will enable improved recording and monitoring of enforcement cases. Once DEF is introduced for development management the other modules, including those for enforcement and S106 monitoring will be developed to enable more comprehensive monitoring and management of enforcement activity.
- 6.4 The enforcement team has already been through a full LEAN Process review which has highlighted a number of modifications that can be made to the way enforcement work is undertaken in order to provide a better level of customer service and generate efficiency savings. Some of the actions arising from the review are already underway including changes to the way breaches of planning are reported, information leaflets for all parties involved, and a full

review of all template enforcement letters. This work will continue to ensure a more responsive and consistent service is provided to all.

- 6.5 It is proposed that the enforcement function is kept under review and an action plan developed to identify and implement actions that will build on the work already started in order to improve further the service being provided. This would also include the monitoring and S106 elements of the work.
- 6.6 It is also proposed that a regular update report is presented to the Planning Committee which provides a summary of the activity of the enforcement team. An example of the type of data that could be presented is contained in Appendix 1 – the example contains information relating to the activity of the enforcement team over the last 12 months. The report will contain a short commentary as necessary. The Committee is asked to provide any feedback so that the format and frequency of reporting can be refined.

7.0 Conclusions and Reasons for Recommendations

- 7.1 The Councillors are asked to note the report and to endorse the further work proposed and reporting.

8.0 Consultation

- 8.1 None

9.0 Alternative Options and Reasons for Rejection

- 9.1 None

10.0 Implications

Financial and Resource Implications

- 10.1 None

Comments checked by:

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Legal Implications

- 10.2 None

Comments checked by:

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11.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

A district of opportunity

Lead Councillor

Councillor Colin Clarke, Lead Member for Planning

Document Information

Appendix No	Title
1	Draft report and enforcement data
Background Papers	
None	
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Table 1 Enforcement Cases Received and Closed

Month - 2019	New ENF Case Received	New MON case created	Closed ENF Case	Closed MON Case
1st Qtr. 2019	129	42	143	3
2nd Qtr. 2019	96	38	143	2
TOTAL (YTD)	225	80	286	5
2018				
1st Qtr. 2018	114	0	114	N/A
2nd Qtr. 2018	104	0	38	N/A
3rd Qtr. 2018	118	48	83	0
4th Qtr. 2018	78	44	199	1
TOTAL	414	92	435	1
2017				
1st Qtr. 2017	118	N/A	70	N/A
2nd Qtr. 2017	89	N/A	120	N/A
3rd Qtr. 2017	106	N/A	55	N/A
4th Qtr. 2017	84	N/A	58	N/A
TOTAL	397	N/A	303	N/A

Table 2 Enforcement Cases received and cases closed

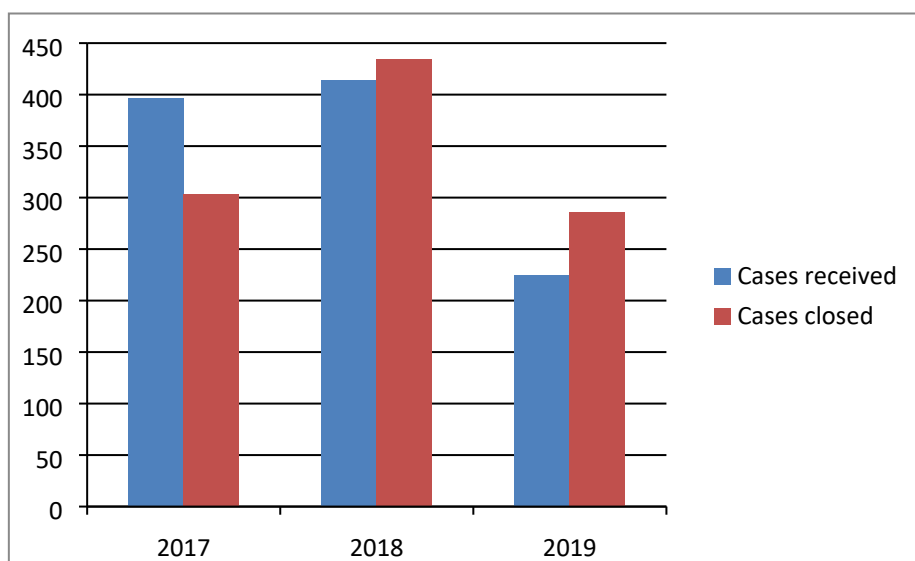


Table 3 Notices Served/ and type of action taken

Type of Notice	Period				
	2018		1 st Quarter 2019	2 nd Quarter 2019	2019 Total to date
Enforcement Notice	5		2	0	2
Stop Notice	0		0	0	0
Temporary Stop Notice	0		0	1	1
S215 – Amenity Notice	2		0	0	0
Planning Contravention Notice	8		8	9	17
High Hedge Remedial Notice	1		0	1	1
Injunction	1		0	0	0
Direct Action	0		0	0	0