



# Report to Growth, infrastructure and Housing Select Committee

<b>Date:</b>	16 <sup>th</sup> February
<b>Title:</b>	Planning Enforcement
<b>Relevant councillor(s):</b>	Councillor Peter Strachan
<b>Author and/or contact officer:</b>	Darran Eggleton
<b>Ward(s) affected:</b>	All Wards
<b>Recommendations:</b>	<b>It is recommended that the Committee note the report for information.</b>

## **1. Executive summary**

- 1.1 This report is prepared in order to provide an overview of the planning compliance and enforcement service to the Growth, Infrastructure and Housing Select Committee.

## **2. Content of report**

### **Planning Enforcement**

- 2.1 Since the last report to the GIH Select Committee in October 2021 the team has continued to see a stable level of employment and staff retention, has improved internal systems and processes and continued to provide a robust planning enforcement service, taking a no-nonsense approach where appropriate. This includes a further and significant increase in the number of formal actions taken and numerous compliance achieved.
- 2.2 The team continues to address breaches of planning control in a firm but fair way, with great support from colleagues in legal, taking strong and justified enforcement action against breaches where necessary and appropriate. This approach means that the Council complies with the relevant legislative framework whilst providing a service which maintains the public's confidence in the Council being able to perform its duties. The enforcement ultimately underpins the overall planning system and contributes towards making Buckinghamshire a better and safer place to live work and visit.

### **Team structure and service improvements**

- 2.3 Having previously completed the team's management restructure, the team has been able to retain its overall staff levels resulting in a team of 20 officers.
- 2.4 The team, which is split geographically into 2 area based teams, continues to be managed by Gemma Davies, with Team Leaders Olivia Stapleford and Stephanie Penney responsible for matters arising in the North and Central, and the West, East and South planning areas respectively.
- 2.5 The service now successfully operates in consistent way bringing a single planning enforcement service (including minerals and waste) across the Buckinghamshire Area.
- 2.6 Examples of this single service includes single procedures and processes for both teams as well as providing website based public access to the Enforcement Notices Register (S188) and a single 'alleged breach of planning reporting form' rolled out in January 2023.
- 2.7 In the 2022 financial year, additional funding of £225,000 was agreed for the creation of 5 new posts in the team. These posts have been successfully recruited in to and has enabled the team to, amongst other things, provide its officers with a more manageable and productive workload as well as the allocation of 2 officers to 2 key and specific roles.
- 2.8 The first role is in relation to an officer who is now dedicated to pursuing the compliance and enforcement of formal notices. This role has been a resounding success which has resulted in a significant number of resolutions achieved across the Buckinghamshire area. These successes include dozens of enforcement notices being pursued and subsequently complied with. These have varied in their type, scale and impact but include dangerous vehicular accesses removed and walls rebuilt, harmful fences removed, caravan sites ceased and disruptive air BnB's brought to an end.
- 2.9 The second role is an officer who is dedicated to pro-actively monitor and enforce compliance with conditions imposed on planning permissions granted on larger development sites. This project is being piloted for site with 10+ residential units and not only catches breaches of conditions at an early stage, thus minimising the impact of any breaches on residents, but also strengthens our relationship with the development industry whilst further reiterating the council's message that Buckinghamshire is not the place to breach planning control.
- 2.10 In the meantime, the team have continued to increase the number of formal notices issued and have maintained high performance in enforcement notice appeals.
- 2.11 The team continues to engage with elected members and with our Town and Parish Council's through our relevant periodic forums, as well as providing quarterly updates to the area planning committees. The team also notify Local Councillors and town and Parish Councils of any formal actions taken in their area as a matter of course.

### **3. Staffing Vacancies**

- 3.1 At present the team has 0 vacancies.

#### **4. LEMP Review**

- 4.1 The Local Enforcement and Monitoring Plan (LEMP) was adopted by Cabinet in June 2020. The LEMP sets out the types of activity that the planning enforcement service can investigate and the way in which that investigation takes place.
- 4.2 The LEMP set out that a review of the document would take place within 3 years of its adoption.
- 4.3 The team carried out a formal in house review of the LEMP in October 2022 with officers coming to an opinion that, notwithstanding a few more typographical errors, the LEMP continues to be relevant and appropriate. The team intends to have that review process signed off with the cabinet member in Q1 of 2022.

#### **5. Performance**

- 5.1 In the calendar year ending 31 December 2022, the team received 1825 new reports of alleged breaches of planning control.
- 5.2 In the same period the team closed 1661, issued 126 formal notices and had received 58 enforcement notices appeals.
- 5.3 On average the team receive around 456 cases per quarter.
- 5.4 Of the 126 formal notices issues, 116 of those were planning enforcement notices (42.5% increase on FY21-22 (80) and a 132.6% increase on 2020/21 (49)).
- 5.5 The Department of levelling up, Housing and Communities publish on its website ([Live tables on planning application statistics - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/live-tables-on-planning-application-statistics)) details of the numbers of enforcement notices issued by Councils across England.
- 5.6 Over the past 3 years Buckinghamshire have steadily and continually risen up that 'league table' rankings and have become one of the most active Planning Enforcement teams in the country. At the end of 21/22 Buckinghamshire Council had issued 80 planning enforcement notices and sat 5<sup>th</sup> overall and the highest outside of London in terms of the number of enforcement notices issued. During that same period, Buckinghamshire had issued the most Breach of Condition Notices, and, with the support of the Councils legal team, been granted the highest number of High Court Injunctions.
- 5.7 As stated above the team has again increased its performance in this area with a further 42.5% increase in the number of enforcement notices issued. Final figures for the overall 'league table' standings for 2022 are still being awaited but at the end of 2022 Q3, Buckinghamshire sat 4<sup>th</sup> overall and we therefore anticipate a top 4 finish to 2022.

2022	Q1	Q2	Q3	Q4	Total
Brent	50	14	39		103
Westminster	37	24	32		93
Barnet	38	21	23		82
Buckinghamshire	31	23	24		78
Cornwall	15	23	19		57

5.8

5.9 In addition to the formal notices, the team has had successful prosecution proceedings, taken direct action on 6 sites and been granted 4 High Court Injunctions.

5.10 The direct action sites were located in the East and South Planning areas and saw the council employ specialist contractors to enter the sites and bring to resolution 6 unauthorised caravan sites removing mobile homes, utility buildings, rip up hardstanding, remove fences, remove unauthorised accesses and replant hedgerows. Following which the recovery of the costs incurred are being pursued through invoices and land charges.

## 6. Appeal performance

6.1 The increase in the number of enforcement notices over the past 2.5 years has resulted in an increase in the number of appeals we receive. We currently have 43 appeals that are either going through the process or awaiting a decision from the Planning Inspectorate.

6.2 Our performance on enforcement notice appeals remains very high. Whilst the Planning Inspectorate have only determined a limited enforcement notice appeals, all those that have been determined has been dismissed, thus upholding the Council's decision to issue a notice.

6.3 The high performance on appeals is a direct endorsement from the Planning Inspectorate that the Council are making the correct decisions in their planning Enforcement Notices.

## 7. Customer service/Customer experience

7.1 Following on from our last report to this committee, we have continued to maintain focus on the customer service element of the service.

7.2 The appointment of the area team leaders continued to provide team management stability and our dedicated and focussed case conference sessions continues to make a difference in the speed of our decision making. These initiatives continue to help free up officer time so that customer service is now a fundamental and well embedded part of the enforcement service.

7.3 The team received welcome positive feedback from numerous members during the Budget Scrutiny Inquiry in January 2023 highlighting the progress the team has made over the past couple of years in improving the overall planning enforcement service and its reputation with our members, Town and Parish Councils and the general public.

7.4 However, we continue to explore the potential for IT solutions for improving the public's self service to our service.

## **8. Legal and financial implications**

- 8.1 There are no direct legal or financial implications in terms of the content of this report.
- 8.2 However, one legal and financial implication being experienced by the team relates to the level of enforcement notices appeals being received.
- 8.3 This is an inevitable bi-product of issuing lots of notices but it is being experienced that dealing with lots of appeals take time and costs money to defend.
- 8.4 The government guidance on appeals sets out that *“Parties in planning appeals and other planning proceedings normally meet their own expenses. All parties are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs”*. ([Appeals - GOV.UK \(www.gov.uk\)](https://www.gov.uk))
- 8.5 Whilst the Council are able to apply to the Planning Inspectorate seeking to recover costs in appeals (and this is pursued where appropriate), such costs are only awarded where the appellant has behaved unreasonably. In most planning enforcement appeals, unreasonable behaviour may mean that deadlines have been missed or matters pursued without sound ground or planning merit.
- 8.6 In most cases however, there is little justification to show that the appellants have acted unreasonably and therefore the council are to bear their own costs in the vast majority of matters.
- 8.7 As a result, the increase in notices is having an increased financial implication in terms of money spent defending enforcement notice appeals.

## **9. Corporate implications**

- 9.1 Whilst the performance of the planning enforcement team has a direct influence of the corporate reputation of the Council, there are no direct corporate implications in relation to the content of this report.

## **10. Consultation with local councillors & community boards**

- 10.1 This report is for information only and whilst the relevant Cabinet member is aware of the content of the report, no formal consultation has taken place with local councillors or community boards.

## **11. Communication, engagement & further consultation**

- 11.1 No further consultation or engagement has been carried out.

## **12. Next steps and review**

- 12.1 This paper is for information and therefore recommends that the committee note its content.

## **13. Background papers**

None

## **14. Your questions and views (for key decisions)**

- 14.1 If you have any questions about the matters contained in this report please get in touch with the author of this report. If you have any views that you would like the cabinet member to consider please inform the democratic services team. This can be done by telephone email [darran.eggleton@buckinghamshire.gov.uk](mailto:darran.eggleton@buckinghamshire.gov.uk)

