

Development Control Committee



St Edmundsbury
BOROUGH COUNCIL

Title of Report:	Overview and Update of Planning Enforcement Services	
Report No:	DEV/SE/15/42	
Report to and date/s:	Development Control Committee	2 July 2015
Portfolio holder:	Cllr Alaric Pugh Portfolio Holder for Planning and Growth Tel: 07930460899 Email: alaric.pugh@stedsbc.gov.uk	
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Purpose of report:	To note existing caseloads and receive an update on enforcement work moving forward.	
Recommendation:	<p>It is <u>RECOMMENDED</u> that the Committee notes the following:</p> <ul style="list-style-type: none"> (1) Caseload and Performance update; (2) Case update on The Birches, Glassfield Road, Bardwell; and (3) Enforcement Priorities and Work Programme. 	
Key Decision:	<p><i>Is this a Key Decision and, if so, under which definition?</i></p> <p>Yes, it is a Key Decision - <input type="checkbox"/></p> <p>No, it is not a Key Decision - <input checked="" type="checkbox"/></p>	
(Check the appropriate box and delete all those that do not apply.)		
<p>The key decision made as a result of this report will be published within 48 hours and cannot be actioned until seven working days have elapsed. This item is included on the Decisions Plan.</p>		

Consultation:		• None required for this report	
Alternative option(s):		• N/A	
Implications:			
Are there any financial implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any staffing implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any ICT implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any legal and/or policy implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Are there any equality implications? <i>If yes, please give details</i>		Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> •	
Risk/opportunity assessment:		<i>(potential hazards or opportunities affecting corporate, service or project objectives)</i>	
Risk area	Inherent level of risk (before controls)	Controls	Residual risk (after controls)
Information report only	To be noted		
Ward(s) affected:		All Wards	
Background papers: <i>(all background papers are to be published on the website and a link included)</i>		None	
Documents attached:		None	

Key issues and reasons for recommendation

Background

- (i) The purpose of this report is to give Members an update on Planning Enforcement including caseloads, performance, and how the function will develop in the future. Members may be aware that up until March 2015 enforcement was outsourced to LSR Solicitors, and has been since the summer of 2014 as a result of staffing issues.
- (ii) Since that time an Enforcement Team has been recruited, which now consists of 3 Enforcement Officers and one Officer providing administrative support. The team is also supported by one Principal Planner from the Development Management Team. During March 2015, the enforcement caseload was returned in-house. This consisted of approximately 75 St Edmundsbury cases that had previously been handled by LSR. That caseload, along with a longer standing backlog of more historic cases is now being worked through in conjunction with any new cases as they are raised. 4 cases have been retained by LSR for continuity purposes due to their complexity.

1. Caseload and Performance

- 1.1 The following statistics for St Edmundsbury give an indication of the workflow generated and closed:
 - (i) During the 12 months ending 31 May 2015, 186 new cases were opened (West Suffolk total 321).
 - (ii) In the same period 187 cases were investigated and closed (West Suffolk total 331).
 - (iii) As of 31 May 2015 there were 217 St Eds cases outstanding (West Suffolk total 301).
 - (iv) In the 12 months ending 31 May 2015, 19 notices have been served and one withdrawn.
- 1.2 There are currently two appeals outstanding with the Planning Inspectorate pending determination (four across West Suffolk). There are approximately 10 cases in West Suffolk where formal action is being considered as notices have not been complied with.

2. Case update: The Birches, Glassfield Road, Bardwell

- 2.1 An update is hereby provided due to the complex and controversial nature of this breach.
- 2.2 Members will recall the refusal of this retrospective planning application at the Committee's meeting on 5 March 2015. Members will note that the site as originally approved by the appeal Inspector had not been implemented in accordance with the approval, including the incorrect siting and use of the stable block and including a number of additional caravans, hardstanding and associated developments.

- 2.3 Officers had been alerted to this site in September 2014, after concerns were raised about unauthorised developments. At this stage the unauthorised development was noted as being the siting of additional touring caravans. Discussion with the Gypsy Liaison Officer indicated a transient siting and a 'watching brief' was adopted. However, in late November 2014 it was noted that additional physical works were being undertaken on site, including the creation of an extensive hardstanding and the siting and occupation of one additional static caravan and multiple (up to 8) additional touring caravans. Additionally, the site had been subdivided with three further unauthorised pitches having been created and the entire site contained a significant number of additional vehicles, including domestic and non-domestic.
- 2.4 At this stage it was also understood by Officers that there was the prospect of additional significant development occurring, including the siting of additional static caravans and the creation of a further pitch and hardstanding. Noting the significance of the breach, and noting the speed with which the unauthorised development had proceeded, Officers considered that injunctive relief in the High Court was the only possible recourse in these circumstances.
- 2.5 Accordingly, an injunction was sought, and granted, in the High Court. This injunction, noting the very significant visual harm arising from the unauthorised development, sought to rectify the breaches, including the creation of additional pitches, the siting of additional touring and static caravans, as well as the parking of a materially significant number of additional vehicles.
- 2.6 The requirement of the injunction to remedy the breaches was held in abeyance, but only until 19 March 2015, and only on the basis that a valid retrospective planning application (that refused by the Committee on 5 March 2015) was submitted by 12 January 2015.
- 2.7 Since the time of the refusal no extension of the time period for compliance with the terms of the injunction has been sought. A number of subsequent inspections have revealed that the matter is now closer to resolution, albeit breaches of the injunction remain despite repeated requests to the site owners to comply.
- 2.8 As a result of this the Local Planning Authority (LPA) has commenced formal committal proceedings to take this matter back before the Court. A hearing at the Court took place on 24 June and a further update on this can be provided at the meeting.

3. Enforcement Priorities and work programme.

3.1 Local Enforcement Plan

- 3.1.1 On publication of the National Planning Policy Framework (NPPF), the key enforcement guidance PPG18 was deleted. The NPPF does however give Local Planning Authorities (LPAs) the opportunity to produce a Local Enforcement Plan (LEP). This is a chance to make a statement as to what work we will do, how we will do it, and to begin to consider enforcement as a proactive, rather than a reactive service. Weight can be given to those matters that we will prioritise. The Government is promoting this approach by opening up

additional funding to those Authorities who have a LEP in place.

- 3.1.2 In relation to the Local Enforcement Plan, the Enforcement Team has been working with Corporate Officers with a view to consulting Members and Parish/Town Councils on what matters they consider locally important and what to prioritise, so that what is produced is representative of the communities in West Suffolk. The consultation should take place over the next few weeks and a plan put in place shortly after.
- 3.2 Compliance of outstanding notices.
 - 3.2.1 As indicated above, there are 10 ongoing cases where compliance with notices is outstanding. In these instances there are two options available to the Council. Firstly prosecution and secondly works in default – i.e. the Council entering the land and carrying out remedial works themselves. This is known as Direct Action.
 - 3.2.2 Prosecution has been the general route Councils have historically chosen, however this is costly and the Courts cannot order the remedial work to be done. Whilst Direct Action is also expensive, costs can be pursued and it does get the job done. Similarly it presents a good deterrent effect.
 - 3.2.3 Apart from cost, the procurement process has always been an internal barrier in taking this course of action. To address this, works are currently underway to establish a Procurement Framework so that in due course, taking Direct Action will be less onerous and a quicker process to pursue. It is hoped to have something in place by the end of the year.