

BABERGH DISTRICT COUNCIL and/or MID SUFFOLK DISTRICT COUNCIL

TO: Joint Overview & Scrutiny Committee	REPORT NUMBER: JOS/20/7
FROM: BDC and MSDC CABINET MEMBER FOR PLANNING	DATE OF MEETING: 14 December 2020
OFFICER: Philip Isbell, Chief Planning Officer	

PLANNING ENFORCEMENT – TRANSFORMATION UPDATE

1. PURPOSE OF REPORT

- 1.1. To update the Committee on the progress made with service transformation work within the planning enforcement service area since February 2020 (report JOS/19/25 refers).

2. OPTIONS CONSIDERED

- 2.1. Alternative options to the approach to planning enforcement activity were described in report JOS/19/25. This report is an update on progress and the options remain as before.

3. RECOMMENDATIONS

- 3.1. That the contents of this report be noted.
- 3.2. That a further update on progress with service transformation work within planning enforcement be provided to the Committee in 6 months or at the conclusion of the work of the Joint Member/Officer Task & Finish Group recommended under 3.3 whichever is the later.
- 3.3. That the Chief Planning Officer establish a Joint Member/Officer Task & Finish Group, comprising the Members of the Joint Local Plan Member working group, to review and make recommendations on the Joint Local Planning Enforcement Policy (JLPEP) and that this group have regard to best practice and other examples of published local enforcement policies in that process of review.

REASON FOR DECISION

It is appropriate to review progress with the enforcement transformation programme and to review good practice in relation to the JLPEP

4. KEY INFORMATION

- 4.1. Shortly after the consideration of the report JOS/19/25 at Committee in late February 2020 the first Covid-19 Lockdown began. Some post committee work on enforcement service transformation had taken place by this time, including initial steps to map a typical enforcement process and to review older cases with a view to resolution or direction towards conclusion. This work, and active site visits in most cases, was suspended through first Lockdown and the service concentrated on tasks which could

be achieved securely whilst working remotely and process steps which could make remote working practice more effective.

- 4.2. During the first Lockdown the service continued to receive complaints including complaints regarding work that was lawful in planning terms but was perceived to be inappropriate having regard to the epidemic. Site visits were, at that time, suspended and this had a cumulative effect upon overall workloads as case closures and investigations could not be completed for the duration. At the end of the first Lockdown the service resumed risk assessed “covid secure” working practices. Site visits have resumed with appropriate mitigations.
- 4.3. Work has also resumed on service transformation activity including preparing a workflow process map for a generic enforcement investigation upon which to develop appropriate benchmark timetables for activity. The development and introduction of Enterprise, as a case management tool for officers and managers, is being based on the generic workflow map.
- 4.4. The Enforcement team have, from October, begun to use Enterprise and case management workload reports building on comparable practice in Development Management. This includes active review of tasks on a rolling 14-day basis, actions pending and overdue, and overall live workloads. The Enforcement team have also enlisted the assistance of colleagues in the Development Management team to progress assessment of active cases via the mechanism of ‘blitz days’ with planning officers working directly with enforcement officers to review and resolve next case steps already held on 13 July and 17 September. These have been primarily for the purpose of managing the backlog of cases arising during the first lockdown related to the Covid-19 crisis but have proved constructive more generally.
- 4.5. As a suite of transformation measures these review and assessment mechanisms are being used to help embed performance focused behaviours desirable to consistently progress investigations in accordance with the generic workflow process map.
- 4.6. Steps have been taken since February to progress actions with a focus on the oldest cases. Based on an approach modelled on that in Development Management and “the Planning Guarantee” this older workload has been actively reviewed with objectives by reference to [i] investigations Over 26 weeks old [ii] investigations between 13 – 26 weeks old and [iii] investigations under 13 weeks since opening.

CURRENT ENFORCEMENT INVESTIGATIONS

- 4.7. For comparison with report JOS/19/25 table 4.18 the planning enforcement activity for the first 10 months of 2020 was:

	BDC	MSDC
Total No. of Investigations into alleged breaches of planning control (inc. breaches of condition)	318	339
Total No. of which resolved into applications for planning permission, advertisement consent or listed building consent	1	7

Total No. of the following notices served:		
Planning Contravention Notices	9	30
Enforcement Notices	7	2
Breach of Condition Notices	2	4
Total No. of enforcement appeals in process at the start of 2020	1	8
Total No. of enforcement appeals in process by 31 October 2020	1	8
Total No. of prosecutions in 2020 (where enforcement notices were not complied with or it was expedient to pursue prosecution for other reasons)	Note 1	Note 1

Note 1 – No prosecutions have been advanced in the current year, due to the Covid-19 lockdown from March to July, and the restrictions imposed by the Courts on hearings due to risk mitigation measures imposed to manage the Covid-19 situation.

4.8. For comparison with report JOS/19/25 table 4.19 breaches of condition for the first 10 months of 2020 was:

	BDC	MSDC
Total No. of alleged breaches of condition Investigations	46	63
Total No. of which were resolved into discharge of condition applications or non-material amendment / minor material amendment applications	0	1
Total No. of Breach of Condition Notices served	2	4
Total No. of Enforcement Notices in relation to investigations of matters in breach of a condition	0	0
Total No. of these investigations that were concluded to be either unfounded, not expedient to pursue, not development, lawful or not a planning matter	18	22
Total No. of active remaining investigations	12	28

- 4.9. The caseload by age can be compared between the position at 1st January 2020 and at 31st October 2020 (see Appendix A). The cases reported for investigation month by month and cases closed are depicted over the past 3 years (see Appendix F).
- 4.10. It should be noted that, in line with government guidance, an approach of tolerance has been formally taken relation some matters relevant to the covid pandemic. These tolerances initially included construction works, out of hours food retail deliveries and pub outside facilities. This tolerance approach is to be extended to retail shopping hours over Christmas, works at care homes to facilitate covid secure visiting and to the temporary provision of vaccination facilities. To safeguard control in relation to these tolerances a series of open case files have been recorded with a review date in Spring 2021 assuming business as usual would have returned (Appendix B). At this future point it is expected that the necessary applications or remediation steps will be invited.
- 4.11. Work has been undertaken to develop a series of management reports including a rolling 14 day workload report which is now issued to the team daily (Appendix C) and a regular audit report to ensure that cases are properly coded within Uniform. The draft Ward specific “live” enforcement case report has been updated to include more information of use to Councillors and two examples are attached at Appendix D. The approach to sharing this information is under consideration.

WORKFLOW PROCESS MAPPING

- 4.12. The exercise of mapping a generic enforcement process was a necessary foundation to the development and inception of Enterprise workload management software. This mapping exercise began in early March 2020 and was refined through the Summer. Breaking down each element of the process has allowed us to ensure we can capture the progress of each live case. Inspections and actions are individually recorded by the Officers in Uniform and monitored in weekly workload reports.
- 4.13. The generic workflow map work (see attached Visio document Appendix E) now depicts each material step in a generic enforcement investigation from receipt of report to conclusion. This workflow mapping remains in development and elements such as Appeal and Prosecution processes are yet to be mapped.

ENTERPRISE SOFTWARE

- 4.14. The development of the software tasks within Enterprise for Enforcement began in August 2020 following the initial draft of the “Visio” flow chart (see appendix E). The development of our Enterprise software draws upon the steps in this generic workflow to identify key task stages and develop task alerts at appropriate times. This developmental work has, at the time of writing, set up alert tasks for the first administration stages and will be progressing to the next officer tasks in sequence. The first three tasks focussed on an overall workload report for each officer, a site visit task based on High/Medium/Low case priority (as required by the joint local planning enforcement policy (JLPEP)) and a site visit note completion task to ensure officers were completing their site visit notes within 3 working days of their initial site visit.

- 4.15. The team undertook initial training and introduced the first Enterprise task at the beginning of October. The next steps for development of Enterprise through into Spring 2021 are to add a full suite of enterprise tasks to the Enforcement process reflecting the workflow.

INTEGRATION OF SUPPORT TEAM ACTIVITY

- 4.16. Through the period since February the Development Management Customer Services team have started to include Enforcement administration and call handling support. This has given us flexibility to cover busy periods, sickness and annual leave along with multiskilling the wider support team. Training staff who are not familiar with the enforcement process has highlighted where existing procedures can be updated and streamlined. Having this additional resource available has ensured that investigation reports can be initially triaged, logged and acknowledged within three working days. Time previously spent researching site histories and constraints for all new cases has been rationalised to those sites where this information will be essential, with the proviso that officers can request this later in the process following a site visit or detailed case review.

REVIEW OF JOINT LOCAL PLANNING ENFORCEMENT POLICY

- 4.17. At the Overview & Scrutiny Committee meeting in February it was resolved to recommend the establishment of a Task and Finish Group to review the Councils joint local planning enforcement policy (JLPEP). This was not acted upon due to the commencement of Lockdown and it is now appropriate to take steps to establish this Group with appropriate Member and Officer representation. Fortunately the mapping of the generic workflow is likely to be informative and highly relevant to the work of this Group.
- 4.18. It is proposed that a Task and Finish group of Members and Officers familiar with planning and comprising those Members involved in the working group reviewing the Joint Local Plan be invited to participate in this review activity and make recommendations.

5. LINKS TO CORPORATE PLAN

- 5.1. Planning enforcement links most closely to Our Housing Outcomes.

6. FINANCIAL IMPLICATIONS

Revenue/Capital/ Expenditure/Income Item	Total	2019/20 £'000	2020/21 £'000
Employee costs (direct)		306	309
Employee costs (indirect e.g. travel)		12	12
Legal expenses		6	6
Other items		1	1
Net Effect		325	328

7. LEGAL IMPLICATIONS

- 7.1. The planning enforcement process, where notices are not complied with, may lead to prosecution of those who have failed to comply as described in report JOS/19/25. Any review of the Local Enforcement Policy will be the subject of consultation with Legal Services in order to ensure that any revisions are appropriate and that any legal implications can be addressed

8. RISK MANAGEMENT

- 8.1. This report is most closely linked with the Council's Corporate / Significant Business Risk No. 3. Key risks are set out below:

Risk Description	Likelihood	Impact	Mitigation Measures
Development does not come forward as planned and enforcement investigation delays the delivery of permitted schemes	3	1 to 3 subject to complexity and priority	A robust and timely investigation process that is transparent and is seen to be followed consistently underpinned by a published enforcement plan will safeguard public confidence and ensure that the delivery of schemes is not unduly affected.
Development takes place which has not been permitted	3	1 to 3 subject to complexity and priority	A robust and timely investigation process will safeguard public confidence and ensure that development is appropriately planned and managed.

9. CONSULTATIONS

- 9.1. No formal consultations have been undertaken in the preparation of this review report. Informal discussion is continuing with other Council services as transformation work and review of the JLPEP progresses.

10. EQUALITY ANALYSIS

10.1. It is not considered that any of the protected grounds may be affected as a result of this update report. A review of the Local Enforcement Policy will ensure that the approach of the Council to enforcement investigation safeguards equality. The analysis in JOS/19/25 remains relevant.

11. ENVIRONMENTAL IMPLICATIONS

11.1. The effective enforcement of planning control contributes to the safeguarding of environmental characteristics through appropriate regulation. The analysis in JOS/19/25 remains relevant.

12. APPENDICES

Title	Location
A. Enforcement investigation caseload by age January and November 2020.	Attached
B. Covid tolerance cases.	Attached
C. Daily rolling 14 day “inspections and actions” workload report.	Attached
D. Draft Ward specific live enforcement case report by Ward: Brantham & Needham Market examples.	Attached
E. Generic workflow map: Visio document	Attached
F. Cases closed and reported month by month (past 3 years).	Attached

13. BACKGROUND DOCUMENTS

13.1. None

14. REPORT AUTHORS

15. *John Mawdsley, Professional Lead - Digital Solutions; Julie Havard, Business Practice Manager; Simon Bailey, Team Leader – Heritage & Planning Compliance and Philip Isbell, Chief Planning Officer.*