



Committee	Strategic Planning Committee
Date	08/07/2024
Subject	Enforcement Improvement Action Plan Update
Cabinet Member	Councillor Kay Yule Cabinet Member with responsibility for Planning and Coastal Management
Report Author(s)	Katherine Scott Principal Planner (Technical Lead, Development Management) Katherine.scott@eastssuffolk.gov.uk
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Key Decision?	No
Is the report Open or Exempt?	OPEN

Category of Exempt Information and reason why it is NOT in the public interest to disclose the exempt information.	Not Applicable
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Purpose/Summary

To provide an update on progress in relation to the Enforcement Improvement Action Plan.

Recommendation(s)

That the report concerning the Enforcement Improvement Action Plan is noted and that further reports are provided to update the Strategic Planning Committee regarding progress on an annual basis, but in the usual quarterly report any updates on progress will be provided and officers will be happy to take questions on those changes/progress.

That members of Strategic Planning Committee recognise and agree to overseeing the Actions in Appendix A, also being provided to the Audit and Governance Committee on 8th July 2024.

Strategic plan

How does this proposal support Our Direction 2028?

Environmental Impact	The information presented in this report are not directly applicable to this. However, it is recognised that resolving breaches of planning control can assist in reducing potentially harmful impacts upon the environment
Sustainable Housing	The information presented in this report are not directly applicable to this. However, it is recognised that planning enforcement can be required to ensure that requirements of planning consents are complied with, including those relating to housing size and tenure mix, provision of community facilities areas such as public open space and connecting pathways etc, and the provision of appropriate provisions of renewable energy technology.
Tackling Inequalities	The Planning Service and the determination of planning and planning related applications is a statutory function of the Council. It also provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors, no matter their personal circumstances.
Thriving Economy	The Planning Service and the determination of planning and planning related applications is a statutory function of the Council. It also provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors, including the provision of buildings for employment uses, and supporting uses that add to vitality within district and town centres.

**Our Foundations /
governance of the
organisation**

The Planning Service and the determination of planning and planning related applications is a statutory function of the Council, which provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors.

Although Planning Enforcement is technically a discretionary function, it is required to ensure that the necessary planning consents are obtained and conditions/requirements of such consents are adhered to.

Without an effective planning enforcement service there would be pressure for those within the district to comply with planning regulations, and the benefits to the environment, the economy and communities that arise from the application and consenting process would not necessarily be obtained.

Justification for recommendations

1. Background

- 1.1. This report provides details on the role and activities of Planning Enforcement at East Suffolk Council, the current situations and actions that are proposed to improve the way in which the service functions, providing an update on progress, since this matter was previously considered by Strategic Planning Committee in October 2022 ([CMIS > Meetings](#)).
- 1.2. The key points raised within this report have been identified through an Audit Report produced in 2018/19, comments raised by the Planning Committees, comments raised in the June 2021 Scrutiny Committee, and those raised in Audit Reports in 2022, and in more recent Audit and Governance Committees, and officer consideration of related matters/ways of improvement, both in relation to technical and operational processes.
- 1.3. There has been officer input into the attached Enforcement Improvement Action Plan (**Appendix A**) by officers in both Planning Services (particularly Planning Enforcement) and the ICT team who will be vital in facilitating a number of the changes proposed to the way in which software etc is utilised.
- 1.4. This report sets out the current position, progress made since 2022 and how we plan to further make improvements.

2. Introduction

- 2.1 In considering the role and activities of Planning Enforcement at East Suffolk Council, key consideration should be given to paragraph 59 of the NPPF which states:

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.”

- 2.2 Therefore, it is important that the enforcement team and its processes are supported with robust and effective processes and tools.
- 2.3 The findings of the Audit Report from 2018/19 were:
 - It remains the case that improvements to the use of software and monitoring, are required primarily the need to use the system software effectively to improve electronic and efficient working, and data quality concerns existed, with specific reference to:
 - the enforcement module of Uniform is currently underutilised,

- Monitoring against the Enforcement Performance standards is not in place and there is doubt over whether the data inputted is sufficient to be relied upon in quarterly reports to members without manual checks, which means the service is unable to measure its own success,
- The 'access reports' that pull data from the system do not currently pull data for the last day of the month, so require manual adjustments to be made to quarterly reporting to Strategic Planning Committee,
- Accidentally created duplicate cases cannot be closed off as such so on the rare occasions these are logged, they cannot be easily identified and/or removed from overall case numbers.
- Lack of formal review/signing off process prior to closer of cases. Reasons for closure and reasons for decision options within the uniform system do not align.

2.4 The report to Strategic Planning Committee in October 2022 identified and was laid out with 5 areas of action which are updated on below:

- 1) [Caseloads and resources](#)
- 2) [Use of Software and digitisation](#)
- 3) [Signing off Process](#)
- 4) [Reporting of updates on cases to members](#)
- 5) [Questions from members on enforcement cases](#)

2.5 Further details on the various elements/steps which will contribute to the above areas of action are provided in **Appendix A**.

Caseloads and resources

2.6 As set out in the Planning Performance Report which is also on this agenda to Strategic Planning Committee, and as illustrated in the graphs in **Appendix G** to that report, the Local Planning Authority continues to receive a significant number of reports of potential breaches of Planning Control, all of which have to be logged and investigated (in most cases including a site visit), even though once investigations have been made, a significant proportion turn out not to be breaches of planning control (**Appendix J** to the Planning Performance Report).

2.7 The process of logging every reported case and undertaking even simple investigations such as a site visit to establish what has taken place (or not taken place as the case may be), takes significant officer time. This means that often the process generally takes a few weeks to complete, even if there is no breach and the process runs smoothly, which in turn means that often even the simplest cases often cannot closed within the same month that they are received, and therefore these potentially simpler cases accumulate along with those that are more complex requiring longer investigations, more communication with site owners and complainants etc and potentially leading to formal action, meaning that the number of cases open at any one time is significant greater than the number of cases reported in that particular month.

2.8 Therefore, as part of the Enforcement Improvement Action Plan included in **Appendix A**, it is recommended that the current online reporting tool is reviewed and updated/rewritten, with an aim of directing customers to suitable alternative locations for matters that aren't planning enforcement issues, rather than allowing them to log a

complaint for such matters. This should also assist in managing expectations of such customers, rather than giving them false hope that Planning Enforcement can solve matters beyond its control such as civil disputes. Although it must be recognized that however this form is set up some customers will likely still report matters that aren't breaches of planning control, and a balance will need to be struck between the level of information required of customers to filter out the non-planning matters and accessibility of the form, because if the form is too onerous they will likely seek to report such breaches via email or phone, which will defeat the objectives.

- 2.9 Since the report to Strategic Planning Committee in October 2022 ([CMIS > Meetings](#)), an additional Assistant Enforcement Officer joined the team in September 2023. This additional team member and assignment to team areas has increased capacity within the Enforcement Team and enabled the alignment of the areas they each cover with Development Management Team Areas, i.e. the North, Central and South Teams.
- 2.10 As noted in the Planning Performance Report also on this meeting's agenda, between 1 April 2023 and 31 March 2024, there were 456 new planning enforcement cases logged and 495 planning enforcement cases were closed. Therefore, the team closed more cases than were received/created during this period. This will have included closing cases received during the previous financial year, but shows that the additional officer has provided additional capacity with the team to investigate and where appropriate close cases.
- 2.11 During the past year, a more proactive approach has been taken in relation to the monitoring and auditing of landscape implementation, with a member of the Landscape Team taking the lead on such matters on major developments by visiting and checking if all elements of approved landscaping schemes have been undertaken and identifying any missing, diseased or damaged planting. This has included an initial officer produced landscape audit followed by a responsive audit with actions being submitted by the developer. A number of such cases have now been resolved with replanting or agreed replanting plans and a programme of ongoing monitoring and this process is working well. This year the process will be better formalised with routine review reminders established.
- 2.12 Although outside Planning Services, it is noted that Legal Services has also filled their litigation lead lawyer position. This will create more capacity within that service area, which is a positive in terms of planning enforcement, as the Legal Services Team are involved in many steps of the process including providing legal advice, reviewing enforcement notices and proceeding with court action where appropriate.
- 2.13 In order to enable the Principal Planner Technical Lead to have more capacity to devote to the various aspects of the attached Enforcement Improvement Action Plan (**Appendix A**), the two Development Management Officers in her team have transferred to the relevant area teams, reducing her line management and associated responsibilities from 6 officers to 4. This will enable her to have a greater focus on improvements to the way in which the Enforcement Team is able to function, not only in terms of working with the ICT on the technical/software requirements/functionality but also in terms of the practical tasks and processes that have to be undertaken alongside.

- 2.14 Alongside this, changes have been made to the Planning Support Team in 2023 to create the 3 geographical area teams aligning with those for Development Management, and the recruitment of two additional Technical Officers. Those new officers have been trained and have now increased capacity in terms of administrative support for those within Planning Services including the ability to commence support for Planning Enforcement this year.
- 2.15 As set out in the attached Enforcement Improvement Action Plan, the intention is for planning support to undertake similar tasks for Enforcement Officers as they already do for Development Management Officers, such as indexing correspondence and other documents to the Document Management System, and in time once various other improvements have been made to the setup of the uniform software, including the setting up of templates for emails/letters, there may be scope for them to also assist with sending out notifications when cases are closed.
- 2.16 The best way in which to resource the other digital related actions outlined in **Appendix A**, is being explored. Whilst many of these actions can be completed using existing resources, it is likely that additional administrative resources are likely to be required to enable the transfer of historic data into the Idox document management system (DMS).
- 2.17 In order to support the existing team of enforcement officers, it is also appropriate to seek to create an additional Assistant Enforcement or Enforcement Planner level position with a focus on visual amenity and street scene. This would take some lead from the 'East Suffolk's Amazing' campaign and the emerging East Suffolk Environment Impact Plan. They will focus specifically on advertisements and shopfronts, to support the enhancement project within the Historic Action Zones and complement the recent shopfront funding initiative whilst also tackling opportunistic advertisements in the countryside, such as those along the A12, which may well increase with Sizewell C construction. They will also have a second element in supporting and assisting with investigating reports to Building Control of unauthorised building works. This will further our collaborative working across teams in the service.
- 2.18 This new position would reduce the caseloads of the existing officers, allowing them more time to focus on other cases within their geographical patches. However, the usual recruitment processes will need to be followed and a business case made for a new position.
- 2.19 In summary, the addition of a further Enforcement Officer has been beneficial in terms of the overall number of Enforcement cases closed. The Planning Support Team are going to assist Planning Enforcement with indexing documents etc, which will enable documents to be added straight into the DMS, and free up enforcement officer. It is recommended that additional resource is added to the planning service in the form of an additional officer within the enforcement team, who would have a focus on shopfronts and advertisements, but also an overlapping role with Building Control.

Use of Software and digitisation

- 2.20 The potential benefits of greater utilisation of the uniform and associated software are recognised by officers, and therefore as set out in **Appendix A**, a variety of ways in which

the software can be utilised have been identified, including various aspects of uniform itself, utilisation of the DMS for document storage, and use of enterprise to manage caseloads etc. This is provided in response to the remaining Audit actions and is also being provided to the Audit and Governance Committee on 8th July 2024 recommending that the remaining Audit actions are closed and that Strategic Planning Committee is recognised in overseeing these to conclusion, as per this report.

- 2.21 However, officers also recognise that setting up the means by which these processes can be implemented is likely to require significant work both in terms of technical set up but also in terms of setting up processes outside of the software.
- 2.22 It is also recognised that a number of the action points for increased utilisation of software and digitisation are interlinked and co-dependent so they will potentially need to be undertaken co-currently (although at different rates).
- 2.23 It must also be recognised that whilst better use of uniform and associated software can have significant benefits and potential efficiencies in the longer term, setting these things up will likely take significant officer time.
- 2.24 It is also acknowledged that the benefits will not necessarily show in terms of significant changes in numerical figures for cases opened/closed etc, but will more likely be beneficial in terms of the way in which officers are able to access information, and undertake various tasks including during direct interaction with customers, etc.
- 2.25 Alongside the software related improvements, tablets are currently being trialled for site visits and software for remote site access to plans and application information has been developed. The intention is to roll them out to all Development Management and Planning Enforcement Officers later in the year. Whilst the full potential for enforcement officers will not be realised until the other software and data improvements have been completed, these tablets will still enable enforcement officers to download data on to the tablets so it is accessible to them during their visits. The use of these tablets will therefore enable them to check measurements etc against the approved plans and check planning histories and constraints whilst on site, rather than to either take a paper copy or consult the plans at a later date. The professional impression this will present of Council Officers undertaking their work will be considerably elevated alongside the efficiencies gained.

Signing off Process

- 2.26 In order for the signing off process to function technically, it must be set up so that ensures that case files pass smoothly within the uniform database system from the case officer to a reviewing officer and then on to an officer to send out notifications of the outcome etc, and that the process is set up so that electronic case files cannot go astray, appropriate trigger points/electronic mechanisms for case files to transfer need to be identified, and set up within the software.
- 2.27 Those trigger points and file transfers must be set up in a way that ensures that files follow a correct process route and those triggers do not have knock on effects upon other automated processes within the uniform software, or other aspects of the way the

team has to function. Therefore, they will need to form part of the process mapping identified by officers and set out in the section above, as being required for the whole enforcement case processes in order to assist with ensuring that better use is being made of the uniform and associated software.

- 2.28 Until it is possible to introduce that technical solution within the system, enforcement officers will continue to discuss and agree the outcomes of cases with the Senior Enforcement Officer and/or the Principal Planner (Technical Lead), prior to closing or otherwise proceeding with action on cases.
- 2.29 Such discussions will still continue via teams calls and meetings once we have the technical software solution in place to ensure that we have consistency and agreement of any formal action or closure of cases, but the software solution will provide a formal auditable electronic 'paper trail' alongside.

Reporting of updates on cases to members

- 2.30 It was recognised in the October 2022 report that the way in which "East Suffolk Enforcement Action – Case Update" report to Planning Committees was set out, which resulted in the information on some cases stretching across several pages and it wasn't always immediately clear on what the current status and/or latest action on a case was.
- 2.31 Following that report, a new template for Enforcement Action – Case Update reports to the North and South Planning Committee's was introduced for the North and South Planning Committees in July 2022 and has been in use since that time. It has a different layout from the previous report template, and is split into sections, each of which relate to applications with a particular status i.e. those we have served notice on that are within the compliance period, those that are the subject of an appeal etc.
- 2.32 It is noted based upon comments from some members at some committee meeting that they would like more information on certain cases. There is a limit as to level of information that can be published or reported in a public forum such as a Planning Committee meeting, as to reveal certain information could prejudice any subsequent formal or legal action and/or mean that others are aware of details relating to an enforcement case prior to the owners/developers of a site.
- 2.33 However, it is recognised that there are ways in which further details can potentially be provided on the potential next steps/process that could follow if legal action is deemed necessary and potential timescales for such action if it is deemed necessary, in the form of a 'potential next steps and consequences' summary.
- 2.34 Officers will need to take care to not reveal personal/sensitive information, and they will also need to be carefully worked to ensure that they are not confirming legal action is being taken until that action has actually commenced, because otherwise it would be stated in a public forum that legal action is being taken prior to the landowner/developer being aware, which would be unfair on those individuals. Going forward, Enforcement Update Reports will have direct Legal team contribution in their drafting to ensure opportunities to expand the explanation of progress and process are maximised.

- 2.35 However, if a ward member would like additional information on a particular case, they should contact the enforcement officer for that case (as per the next section of this report). The case officer may be able to provide them with further information in confidence, outside of the public forum of a Planning Committee Meeting.
- 2.36 In summary, the new report template for case summaries was introduced in July 2022, and is working well, but could be improved with more details on what could happen once cases are passed to legal services. Therefore, the intention is to provide a 'potential next steps and consequences' summary as outlined above.

Questions from members on enforcement cases

- 2.37 The October 2022 report to Strategic Planning Committee highlighted that officers had concerns regarding some of the questions that were being asked during Planning Committee meetings, in relation to cases that were under investigation but were not at a point of any formal action and therefore not included on the Enforcement Action – Case Update Reports.
- 2.38 As explained in the October 2022 report:
- whilst the members wish for an update on such cases recognised, the information provided in a public forum such as Planning Committee, has to be carefully considered in a sensitive manner. In some circumstances, particularly if a case has only recently been received/logged, contact with the site or property owner may not have been made and therefore they may not be aware that there is a potential issue, prior to it being raised in this public forum.
 - Discussing cases that are not in the Enforcement Report could also result in data protection breaches, as details can be revealed that should not be in the public domain, particularly when reference is made to named individuals and/or their addresses. Other potentially sensitive data can also be revealed which should not be discussed in a public forum, on cases at all stages of investigation.
 - It should also be recognised that if certain details are revealed about a case. it can potentially affect how any action can proceed, particularly if we reveal that formal action is about to take place or that certain legal advice on how to proceed has been received. Therefore, officers are limited in what information they can provide in such a forum.
- 2.39 As part of the October 2022 a new protocol was introduced for members raising queries on enforcement cases (attached as Appendix B to that report [CMIS > Meetings](#)). That was circulated to all members within a few days of that meeting.
- 2.40 Since the introduction of that process, there have been no problems noted. However, requests have been received from Ward Members and Town/Parish Councils for more comprehensive updates on cases in their area. This can create significant challenges, not only in terms of officer time to collate the information, but also on ensuring that the

information shared does not result in data protection breaches and/or a breach of the policy to keep the identity of the compliant confidential (as set out within the adopted [East-Suffolk-Planning-Enforcement-Policy.pdf \(eastsuffolk.gov.uk\)](#) and/or the sharing of information which may prejudice any potential future legal action.

- 2.41 However, it is recognised that there are potential opportunities for keeping Ward Members and Town/Parish Councils updated on cases. The proposed changes to the uniform and related software (including the DMS) will ensure the data is better organised and more accessible to officers, making it easier for them to provide updates. Officers will produce a template for sharing information on live investigations within a specific area for Members or Town/Parish Councils, ensuring it is informative whilst also protecting the confidentiality and sensitivities of the process.

3. Proposal

- 3.1 It is recommended that the content of this report and the recommendations outlined in the attached action plan (**Appendix A**) for continued improvements to the Planning Enforcement Service are noted, and support is provided to its implementation.

4. Financial Implications

- 4.1 The resources required for the digital improvements outlined in the plan can largely be covered by the existing teams, with the potential exception of the digitisation of older documents/records.
- 4.2 However, for the additional resources outlined above for the other actions, additional resourcing is likely to be required. A business case will need to be made for all additional resources and budget requirements. That lies outside the scope of the Strategic Planning Committee and will follow the usual organisational processes.

5. Legal Implications

- 5.1. There are no specific legal implications arising from the information presented in this report. However, it should be recognised that planning enforcement sits with the wider planning regulatory framework and those requirements must be accorded with.
- 5.2. Breaches of planning control can result in legal implications for the land/building owner and other parties with an interest in the land.
- 5.3. The Local Planning Authority has to follow certain legal processes in the way it investigates, considers and undertakes action against breaches, including not only the process by which it serves notices, but also ensuring that appropriate and sufficient evidence of the breach has been gathered, and that those in breach have been given sufficient opportunity to resolve the breach prior to formal action being taken.

6. Risk Implications

- 6.1. If the Local Planning Authority fails to investigate and take formal action if/when required, unauthorised development can become immune from enforcement action.

However, the time periods for immunity in terms of breaches requiring planning permission are currently 4 years or 10 years (depending upon the breach), and therefore this time reduces the risk of such breaches becoming immune.

- 6.2. The team continues to seek to investigate and resolve or take action (if appropriate) on breaches of planning control as swiftly as possible whilst meeting the requirements of national legislation and according with the [East-Suffolk-Planning-Enforcement-Policy.pdf \(eastsuffolk.gov.uk\)](https://eastsuffolk.gov.uk).

7. Options

- 7.1. One option would be to only undertake the actions required in order to meet the findings of the original audit report. However, this would result in a piecemeal type approach and would be a wasted opportunity. Such limited actions/changes would be of limited benefit in the longer term in terms of the way in which the Enforcement Team is able to utilise the software and the way it can function in order to register, investigate, service notices when required and/or close cases as no breach etc as appropriate.
- 7.2. The additional changes identified by officers and added to the Enforcement Improvement Action Plan would enable various improvements including potential benefits related to some of the issues raised by members in committee meetings since the initial audit process from 2018/2019 (i.e. those which are not part of the formal audit action points).
- 7.3. Therefore, the only realistic option is to progress with the Enforcement Improvement Action Plan, including the various matters that go beyond the scope of the findings of the previous Audit.

8. Recommendations

- 8.1. That the report concerning the Enforcement Improvement Action Plan is noted and that further reports are provided to update the Strategic Planning Committee regarding progress on an annual basis, but in the usual quarterly report any updates on progress will be provided and officers will be happy to take questions on those changes/progress.
- 8.2. That members of Strategic Planning Committee recognise and agree to overseeing the Actions in **Appendix A**, also being provided to the Audit and Governance Committee on 8th July 2024.

9. Reasons for Recommendations

- 9.1. That the report concerning Enforcement Improvement Action Plan be received.

10. Conclusions/Next Steps

- 10.1. Strategic Planning Committee should note the report regarding the Enforcement Improvement Action Plan and allow officers to progress with the continued development and implementation of the various action points identified within it.

Areas of consideration comments

Section 151 Officer comments:

The Section 151 Officer has received a copy of the report and has no further comments'

Monitoring Officer comments:

The Monitoring Officer has been consulted on this report and has no additional comments.

Equality, Diversity and Inclusion/EQIA:

There are no specific implications arising in terms of this matter from the information included within this report.

Safeguarding:

There are no specific implications arising in terms of this matter from the information included within this report.

Crime and Disorder:

The majority of breaches of planning control are not criminal offences. However, some breaches such as unauthorised works to Listed Buildings and displaying an advertisement in contravention of the Advertisement Regulations are both a criminal offence. However, it still has to be expedient and in the public interest in order for such matters to be pursued by the Local Planning Authority.

Corporate Services implications:

(i.e., Legal, Finance, Procurement, Human Resources, Digital, Customer Services, Asset Management)

Legal Services support the Planning Enforcement Team and are required in order to assist with and/or undertake elements of formal Planning Enforcement processes including reviewing enforcement notices and the process of prosecution through the courts.

Residents and Businesses consultation/consideration:

Not Applicable to the information presented in this report.

Appendices:

Appendix A	Enforcement Improvement Action Plan
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Background reference papers:

Date	Type	Available From
March 2019	East Suffolk Council Local Planning Enforcement Plan	East-Suffolk-Planning-Enforcement-Policy.pdf (eastsuffolk.gov.uk)

10 October 2022	Proposals to Improve the Delivery and Performance Monitoring of Planning Enforcement at East Suffolk Council (Strategic Planning Committee)	CMIS > Meetings
10 October 2022	Minutes (Strategic Planning Committee)	CMIS > Meetings