

## ENFORCEMENT UPDATE

Summary: This report provides the six monthly update for Members on a range of enforcement related issues arising from the work of the Enforcement Board and Combined Enforcement Team, both over the past six months but also an assessment of progress made since the Board's inception over 5 years ago.

The Council has a far wider range of regulatory and enforcement powers and it should be noted that this report deals only with those covered by the Enforcement Board the Combined Enforcement Team.

With the recent changes to the Member cohort, following the May election, the opportunity has been taken to give a more historical overview of enforcement issues, to help bring new Members up to date on this area of work.

Conclusions: The Enforcement Board continues to make significant progress towards its objectives of dealing with difficult and long-standing enforcement cases and bringing long term empty properties back into use, across all areas of the District, with both social and economic benefits to the community, and financial benefits to the Council.

As well as the above, the combined Enforcement Team has achieved considerable success in reducing the backlog on the planning enforcement caseload and ensuring that property level Council Tax enforcement is taken forward at the earliest opportunity.

Recommendations: **1. That Cabinet notes the continued progress of the Enforcement Board and the Combined Enforcement Team**

Reasons for Recommendations:   
1. To ensure appropriate governance of the Board's activities  
2. To show the progress of Combined Enforcement Team cases and contribution to the work of the Enforcement Board

Cabinet Members Cllr Karen Ward (Planning) Cllr Nigel Lloyd (Environmental Health) Cllr Eric Seward (Revenues and Benefits)	Ward(s) affected  All Wards
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## **ENFORCEMENT BOARD UPDATE**

### **1. Introduction**

- 1.1. The Enforcement Board was set up in 2013 to tackle difficult, often longstanding enforcement issues, mainly related to property. At the time, there was an additional focus on Long Term Empty (LTE) homes due to the financial issues arising from the New Homes Bonus and, although the financial impact has reduced over time, the social impact of bringing LTEs back into use remains.
- 1.2. From the lessons learned with cases considered by the Board, the formation of the Combined Enforcement Team (CET) arose, which brought together property level Revenues (Council Tax) and LTE inspections and Planning Enforcement. This is covered in more detail, later in the report.
- 1.3. The Board works best where the issues under consideration are likely to benefit from cross service working due to their complex nature and the senior management level attendees from Environmental Health, Planning, Revenues and Legal Services enable the best course of action to be brought to bear on the issues at hand and to be implemented quickly and effectively. That said, due to the complexity of some cases, the resolution may take a very long time to achieve.
- 1.4. Dealing with difficult cases in this way has also encouraged more innovative approaches to the use of the Council's legislative powers. Whilst this may sometimes give rise to additional risk, much work has been done to ensure enhanced governance, with significant support from officers in both legal and finance teams.
- 1.5. Whilst Members do not sit at meetings of the Enforcement Board, because of legal sensitivities around enforcement decisions; where decisions have a wider implication and or risk, senior managers and or relevant members are involved in the decision making process. Other decisions are taken under officer delegated powers, with expenditure from the Enforcement Reserve authorised at Corporate Director/s151 Officer level.
- 1.6. A six monthly update on the work of the Board and wider enforcement activity is provided to Cabinet, and all Members are kept informed of progress on the individual cases being dealt with by the Board, through a confidential case update report stored on the Members' area of the Intranet. These are listed by ward to make access easier for Members.
- 1.7. The Combined Enforcement Team (CET) was set up in 2016 to address both a large backlog of Planning Enforcement cases, and also to take on property level investigation work on Council Tax cases, including much of the Long Term Empty property work referred to above.
- 1.8. This has given a significant reduction in the Planning Enforcement backlog and also a much faster response to new cases. The CET plays a key role in Revenues and LTE's, and also the work of the Board, at the intelligence gathering stage, along with its officers applying the initial pressure on owners to press forward with sale, development or renovation plans to allow early re-occupation. It also ensures that neglected properties are subject to low-level enforcement action to improve the appearance and condition of long-term problem properties, before they become bad enough to be referred to the Board.

### **2. Case Progress update**

- 2.1. Normally, this section the report gives an update on some specific enforcement cases being handled by the Board. Whilst some cases are covered below, the full details of all cases can be found in the confidential updates on the Members' Intranet area.

- 2.2. The Board continues to meet fortnightly to ensure good progress is maintained across the full range of cases under consideration. Currently, the caseload of the Board is 32 ongoing matters across all areas of the district.
- 2.3. Since the last report, a number of long standing cases have been progressed or completed and key cases of note are highlighted below:
- 2.4. Action by the Board has brought about a change in ownership of 55 and 56 Beeston Common which have been out of banding for many years, and have now been the subject of re-development which is near completion.
- 2.5. The Board also took action to ensure a number of long-term empty properties in Northrepps within a family trust were brought back into use under new ownership. Again, work is ongoing and nearing completion.
- 2.6. In another case, essential maintenance continues to safeguard a vulnerable resident living in a substantial residence in Cromer which was historically dilapidated and causing concern to neighbouring properties. Under the guidance of the Board, Adult Social Services are working to allow the resident to continue to live safely in their long-term family home.
- 2.7. The renovation works at 33 Oak Street, Fakenham, which had been empty for over ten years, are now complete and the property is sold, subject to contract.
- 2.8. The new owner of Sutton Mill is continuing to make progress in restoring this Grade 2 listed building and works are being closely monitored by officers to ensure that these are sympathetic to the original features and design; also that the works are not causing nuisance to neighbouring residents.
- 2.9. Following enforcement action, which was upheld by the Planning Inspectorate, progress is being made in the relocation of the businesses as required to depart the Beeches Farm, Tunstead site. The owners and lessees are receiving support and advice from both Planning and the Economic Growth Teams on appropriate further use of the site.
- 2.10. Removal of tyres from the massive tyre dump at Tattersett continues, albeit, extremely slowly. Given that the site owner has missed previous, staged deadlines for compliance, imposed by the Council's Planning Enforcement Notice, and upheld by the Planning Inspector, officers are now pressing the owner to increase the rate of removal of the tyres to prevent escalation of enforcement action including potential prosecution.
- 2.11. Planning Enforcement Notices have now been served on the archery/rifle shooting site at High Kelling, which has been operating without the required Planning Approval since 2016 and which has been the subject of complaints.
- 2.12. The Council has completed the purchase of two properties in Sculthorpe which have been empty for over 20 years. One property has already been retained by the Council for Community Housing, while the other, needing significant renovation, is being considered for temporary accommodation for homeless clients which will hopefully reduce the Council's reliance on expensive Bed and Breakfast options.
- 2.13. The board is applying pressure to the owners of the former Pineheath Nursing home in High Kelling, who illegally sought to rent out care bungalows to private residential tenants. The site is now dormant but the Board continue to explore options to bring the site back to an acceptable use.
- 2.14. One of the longest running cases has been the old Shannoeks Hotel site in Sheringham. The Council has maintained pressure on the owners to now

demolish and built out their proposed development and as this work has stalled for some months, a review of the case is ongoing to further consider the Council's options around potential compulsory purchase.

- 2.15. Of the remaining properties on the Board's agenda, all are progressing; many with major renovation works required to bring them back into habitable condition.

### 3. **Long Term Empty Homes (LTEs) Update**

- 3.1. In terms of LTEs, there remains a number of good reasons to act. It is essential that we enable occupation of as much of the District's housing stock as possible, thereby maximising housing provision.

A number of LTEs become the target of anti-social behaviour and the Board has had a number of successes in acting to prevent this and bring homes back into use.

In addition, many LTEs attract New Homes Bonus to the Council when brought back into use, although this is decreasing over time.

The percentage of LTE's in our housing stock remains lower than the national average with less than 1% (around 450 properties) in this category at any time. Given the many reasons for properties becoming and/or remaining empty, and the length of time taken for owners to complete issues such as complex probate cases, it is unlikely that the numbers of LTE's will drop below 400 and much of our effort is therefore targeted at preventing these numbers from increasing.

- 3.2. The current challenge with empty homes is to ensure that information held within the Council Tax database is accurate. Owners do not always inform the Council as soon as a property becomes empty, or when they move into a previously LTE property.

This means that the Council may not be collecting what is due in terms of Council Tax and may also be missing out on New Homes Bonus income if the statistical numbers of LTE properties are not kept up to date.

Previous reports have highlighted a major effort by officers to prioritise and process LTE data and to compare this on site with actual occupancy or vacancy of the property. A number of anomalies were found to exist and officers have worked to improve digital processes and accuracy of data. This resulted in a significant reduction in the number of reported long term empty properties and this specific project will now be completed annually.

- 3.3. In addition, a wider piece of work regarding data matching across the Council will be undertaken as part of the Digital Transformation Programme. This will be rolled out as wider digital investment enables better sharing of the Council's larger data sets as the Programme moves forward.

- 3.4. As well as the data centred tools for dealing with LTEs, the Council is able to bring a number of options forward to incentivise owners to bring them back into use as early as possible. The Council Tax system allows for both discounts (for instance, where major renovation makes properties inhabitable), and levy payments. In the case of levy payments, where a house has been unoccupied for over two years the Council Tax rises by 50% and after three years by another 50%.

In addition, there are schemes available to enable financial assistance for those who are renovating LTE's where there is a genuine need for such help. Potentially, such a grant scheme will be the subject of a future report.

#### **4. Combined Enforcement Team Update**

- 4.1. As noted above, the Combined Enforcement Team was set up to bring consistency of approach and efficiencies in the way the Council deals with Empty Homes, Council Tax Completions and Planning Enforcement, as these are mainly property level inspection based cases.
- 4.2. Empty Homes work is important to maximise New Homes Bonus but the introduction of new build properties and larger developments into Council Tax banding also helps to maximise the collection of Council Tax. The team carry out regular inspections of known developments to ensure properties are brought into banding at the earliest opportunity.
- 4.3. The work of the Combined Enforcement Team underpins much of the work of the Enforcement Board, both in terms of finding new cases to be worked on but also in moving forward many of the current caseload.
- 4.4. The team work with Council tax colleagues to ensure owners of long-term empty properties receive chasing letters promoting the need to for all types of accommodation. The team actively target properties where owners have failed to respond to these letters, specifically trying to identify properties most likely to have a damaging effect on neighbourhoods and communities. These properties ensure a regular throughput of properties for the Enforcement Board.
- 4.5. The team's planning enforcement caseload currently stands at 301, but when set up on 1st April 2016 the caseload was 733, many of which had been open for several years. The team have closed over a thousand cases in total in the three years it has existed. Since the last report, 109 new cases have been opened and 96 cases have been closed.
- 4.6. Whilst much of the progress made in these cases is via informal means, eight new Enforcement notices have been served in 2019 to date.
- 4.7. The team continue to deal with some very challenging cases. Since the last report the CET have successfully resolved a difficult case of major excavation works in East Runton, which, it was initially believed may lead to structural instability of a number of homes around its periphery. After pressure from the team, and the service of a Planning Enforcement Notice, excavations were safely filled back in without detriment to the surrounding properties.

#### **5. Future Working**

- 5.1. Central to the work of the Enforcement Board and the CET, is the range of enforcement options open to the Council and the use of these in an appropriate and proportionate manner.

The vast majority of cases reported to the Council can be resolved by informal means, often by just a discussion between the appropriate officer and the property owner. There may be wider, informal actions which can be achieved, and contact, especially with owners of LTE's, is also used to explain potential options available to the owner and also providing an underlying threat of enforcement if appropriate action is not taken.

However, where this initial resolution cannot be achieved, normally the next stage will be a notice issued under the most relevant legislation. One of the lessons learned has been to initiate formal proceedings such as a notice at the earliest possible date after informal resolution fails. Once the requirements of a notice are not complied with, various options are then normally available, including undertaking works in default, and prosecution.

Depending on the legislation, the costs of works in default can be recovered from the owner by direct means including placing a charge on the property or in some cases, an enforced sale of the property.

Compulsory Purchase options will continue to be explored but can only be considered as a last resort. Within the compulsory purchase regime, the first stage following evaluation of the property, is a voluntary offer by the Council to buy the property at its current market value. If this fails, the Council can then apply for a compulsory purchase order. It is important, however, to stress that compulsory purchase, if defended, is a long process with significant capital costs to the Council and in such cases, it is likely that the Enforcement Board will request Full Council to provide an appropriate budget for action,

- 5.2. The business processes for information gathering relating to long-term empty properties are to be reviewed. This should further improve the availability of real time information on long-term empty properties and make it easier to identify and target specific problem properties.
- 5.3. Targeted inspection exercises, carried out en-masse, if repeated annually, will produce significant savings for Council budgets while providing the opportunity to maximise income from New Homes Bonus and Council Tax for LTEs returned to use or brought into banding.

## **6. Performance Management**

- 6.1. Members continue to be kept informed of enforcement board cases being taken forward in their wards and Group Leaders are also being kept informed of all cases. This continues to be well received.
- 6.2. Where appropriate, Town and Parish Councils are also kept informed of progress and where there is an obvious legal risk or implication, the relevant Portfolio holder is also informed, as well as the local member and CLT.
- 6.3. The Overview and Scrutiny Committee also consider the Enforcement Board update report to provide additional oversight. As a result of this, the list of current cases was improved for Members' access and future updates to Overview and Scrutiny will be considered as part of the work planning meeting of that committee.

## **7. Financial Implications and Risks**

- 7.1. The work of the Enforcement Board is partly driven by the need to maximise revenue from both Council Tax and, for Long Term Empty Properties, the New Homes Bonus scheme. Significant contributions have already been made by bringing properties back into use and/or back into Council Tax banding, in the four years the Board has been working
- 7.2. As has been stated above, a number of these properties give rise to local blight and therefore an expectation from local communities on the Council to resolve the issues, with accompanying reputational risk if we do not act.
- 7.3. It is however, also important that we act sensitively in some cases, and that we adhere to our own Enforcement Policies in terms of proportionality of approach.
- 7.4. There is also a reputational risk involved, if we lose legal action. Whilst this can be mitigated by good process and evidence gathering etc, we are seeking to be innovative in our use of legal powers and we may not always win the case at hand.
- 7.5. The use of the Council's powers in different ways will almost certainly cause some complaint from those who have not previously seen direct action from the

Council in respect of the issues concerned. It is therefore essential that we ensure both the technical and legal processes used are sound and that, in terms of our reputation, our rationale for action is clearly understood.

- 7.6. There is, in some cases, a risk of not being able to recover costs; for both officer and legal costs, and where works in default are undertaken. However, these risks are being mitigated, through good intelligence and evidence gathering and ensuring that the correct legal processes are followed during any action taken.

In addition, where necessary, valuation advice is taken to ensure that there is enough value in a site against which to provide proceeds of an enforced sale if necessary to recover costs.

It should be noted that all expenditure allocated to the Enforcement Board Reserve is approved by both the s151 Officer and a Head of Paid Service.

- 7.7. The Enforcement Board Reserve covers the costs of dealing with these cases and in general, most of the costs concerned are recovered. However, formal action takes place in a number of cases, where some costs are simply not recoverable.
- 7.8. There has been the need for significant additional legal input to the cases and although much of the cost is recovered, this has been underwritten by the Reserve.

## **8. Sustainability**

The only sustainability implications directly resulting from this report are around better use of existing housing stock and other buildings, as opposed to new build and therefore the potential use of green field sites.

## **9. Equality and Diversity**

There are no equality and diversity implications directly resulting from the recommendations or options considered in this report.

## **10. Section 17 Crime and Disorder considerations**

Some of the work being undertaken by the Board has a direct link to criminal activity, around deliberate Council Tax avoidance. In addition, a number of empty properties have been associated with anti-social behaviour, which of course will be removed when properties are brought back into use.

## **11. Conclusions**

The Enforcement Board continues to make significant progress towards its objectives of dealing with difficult and long-standing enforcement cases and bringing long term empty properties back into use, across all areas of the District, with both social and economic benefits to the community, and financial benefits to the Council.

As well as the above, the combined Enforcement Team has achieved considerable success in reducing the backlog on the planning enforcement caseload and ensuring that property level Council Tax enforcement is taken forward at the earliest opportunity.