

ENFORCEMENT UPDATE – JUNE 2021

Summary: This report provides the update for Members on a range of enforcement related issues arising from the work of the Enforcement Board and Combined Enforcement Team.

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.

This update had not been provided throughout the Covid pandemic as enforcement activities have been impacted by wider Human Rights implications. For example, actions were suspended for six months at the start of the Pandemic. The update will bring members up to date with actions since March 2020.

The report carries a refresher on the background to The Enforcement Board and Combined Enforcement team.

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

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| Cabinet Members | Ward(s) affected |
| Cllr John Toye (Planning) | |
| Cllr Nigel Lloyd (Environmental Health) | All Wards |
| Cllr Eric Seward (Revenues and Benefits) | |
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1. Introduction

- 1.1. The Enforcement Board was set up in 2013 to tackle difficult and longstanding enforcement issues. At that time, there was an additional focus on Long Term Empty (LTE) homes due to the financial issues arising, the initiative ran alongside actions to secure New Homes Bonus payments. In addition, Corporate Plan seek to promote local homes for local need, LTE initiatives can support this aim.
- 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. Strategic Housing Officers now attend the Enforcement Board meetings to ensure that developing housing strategy informs actions taken on LTE and enforcement actions.
- 1.3. The Board is designed to provide cross service working on more complex multi-agency cases which are often by their nature complex nature. Senior management level attendees from Environmental Health, Planning, Revenues Housing Strategy 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.
- 1.4. Dealing with difficult cases in this way has delivered more direct formulation of strategies and encouraged innovative approaches to the use of the Council's legislative powers. The Board has helped to ensure enhanced governance, with significant support from officers in both legal and finance teams.
- 1.5. Members do not sit at meetings of the Enforcement Board, due to legal sensitivities around enforcement decisions; where decisions have a wider implication and or risk, senior managers. Relevant members are involved in the decision making process.
- 1.6. A six monthly update on the work of the Board and wider enforcement activity will be 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. The Planning Enforcement backlog has been reduced, faster responses to new cases has been delivered and significant cases have been moved forward. The CET plays a key role in Revenues and LTE's, and also the work of the Board, at the intelligence gathering stage. CET apply the initial pressure on owners to press forward with sale, development or renovation plans to allow early re-occupation.

2. Case Progress update

- 2.1. 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 regularly to ensure good progress is maintained

across the full range of cases under consideration. Currently, the caseload of the Board is 22 ongoing matters across all areas of the district.

- 2.3. Since the reporting pre pandemic, 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 commencement of the long standing stalled project for redevelopment at Shannoeks Hotel, Sheringham for mixed use retail and residential uses. The actions of The Board have delivered a solution whereby the Council now have a clear schedule under a binding agreement with the developer which will see completion of demolition on or before 1 June 2021; Commencement of development no later than 1 June 2022; completion of development no later than 1 June 2023. The timeline is backed by a successful Compulsory Purchase Order which will give the Council the option to bring forward purchase and development of the site if significant departure. Every expectation is for delivery of this important site on or before June 2023.
- 2.5. Following on going action from the Board the owner of Tattersett Business Park has submitted a pre application enquiry for the redevelopment of the Business Park which will include enabling development proposals to facilitate clearance of the extensive and longstanding tyre dump. The Council will publish the enquiry and its details as soon as the case is made valid. A live enforcement notice remains in force which can be subject to prosecution action should the development proposals not be submitted as an application or be supported by the Council.
- 2.6. Following enforcement action, which was upheld by a Public Inquiry Appeal all businesses have departed the Beeches Farm, Tunstead site. The owners and lessees received support and advice from both Planning and the Economic Growth Teams on appropriate further use of the site.
- 2.7. The Board has been engaged in a complex matter relating to potentially dangerous structures at the grade II listed building, 9 Norwich Street, Fakenham. The Council are moving forward on two fronts in this case., The building is supported by structural props to the front facade. These props have been put in place as a result of concerns expressed from structural engineers and instructions to secure the building. The cost of the props rental is being levied against property owners who are being billed for the long term hire. Regrettably the case is complicated by numerous owners / lessees, progress has been hampered by ownership issues and complexity of the matter. The Board have instructed further structural surveys be undertaken, along with review of potential urgent works and repairs actions via Listed Building legislation. Surveys are completed and awaiting reporting, actions have been reviewed by legal services. Officers will be contacting owners with the outcomes of the survey and requiring commitment for actions to resolve the identified issues on an agreed timeline. Should commitment not be biding or provided then further actions will be pursued.
- 2.8. An enforcement notice was served at Arcady, Cley next the Sea requiring demolition of an unauthorised dwelling. The enforcement appeal is currently held in abeyance following submission of an application that seeks to deliver remediation of the unauthorised dwelling. The case is due to be determined by the Development Committee in June / July. Should the application be unsuccessful then the appeal process will resume. If the case is approved a legal agreement will be completed requiring the remediation to be delivered to an agreed timetable.
- 2.9. The enforcement notice requiring restoration of Sutton Mill remains in place.

The owner has constructed a replacement mill cap which will complete restoration required under the notice, the cap remains to be installed. Officers are instructed to give a final and binding timeline for the cap to be installed voluntarily or require further legal actions to bring about completion of the required works to this grade II listed building.

- 2.10. A good record of case closure has been achieved since last reporting with LTE properties brought back into use at:
- 14 Melton Street, Melton Constable
 - Maytrees, Heath Road, Hickling
 - 19 Pitt Street, Southrepps
 - Stirling Road, Sculthorpe
- 2.11. Council Tax are progressing charges against a number of outstanding properties both residential and commercial. These actions are primarily on the basis of revenue recovery but also bring about potential resolutions of LTE properties.
- 2.12. Cases for charging are being brought forward at:
- Pine Heath Care Home, High Kelling
 - Tattersett Business Park
 - Michaels House, Sharrington
 - 15 Pitt Street, Southrepps
- 2.13. Of the remaining properties on the Board's agenda, all are progressing with actions being promoted and followed up to bring them back into habitable condition or deliver compliance with required enforcement actions.

3. Long Term Empty Homes (LTEs)

- 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% (546 properties out of 55,267 as at 1 April 2021) 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 500 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

- 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 100% and after five years by another 200% and after ten years by another 300%.

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 290 live cases, since 1 January 2020 we have closed 264 cases. As previously advised we have a number of involved and challenging cases which are taking up large amounts of officer time with a number of potential criminal prosecutions that may be taken forward. The ongoing demands on staff are significant.
- 4.6. Staff have had recent refresher training in collecting evidence, criminal investigations and PACE with RIPA training due at the end of May.
- 4.7. Service transformation – It is recognised that not all enquiries are dealt with in

a timely manner as the team would like. Whilst triaging of cases remains on the basis of the adopted enforcement plan officers recognise that all cases are important to those making their concerns known to the council. We are intending to more effectively manage incoming customer enquiries by progressively moving to a web based form. This will help capture key details from customers and allow us to prioritise our work more effectively and optimise customer interactions. At the moment we get most reports via the e mail system which results in incomplete and limited information.

The Enforcement plan will also be reviewed and will benefit the understanding of the service. The web pages can be expanded to help with self-service and service expectation.

5. Performance Management

- 5.1. 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.
- 5.2. 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.
- 5.3. The Overview and Scrutiny Committee will continue to consider the Enforcement Board update report to provide additional oversight.

6. Financial Implications and Risks

- 6.1. 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
- 6.2. 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 will not always win the case at hand. Consideration of risk and use of cost benefit analysis when considering significant actions is promoted.
- 6.3. 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.
- 6.4. As the engagement of the enforcement team has accelerated 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.

7. Sustainability

The actions promote better use of existing housing stock and other buildings, and updating of buildings with contemporary insulation and building techniques which will reduce energy consumption. Promotion of an effective LTE strategy will reduce the need for new build development in the district.

8. Equality and Diversity

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

9. 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.

10. 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.