

## Sustainable Communities Overview and Scrutiny Panel

8th March 2023

Wards: Borough Wide

### Planning Enforcement Update

Lead officer: Adrian Ash, Director Environment, Civic Pride and Climate

Lead member: Councillor Andrew Judge, Cabinet Member for Housing and Sustainable Development

Contact officer: Jonathan Berry, Head of Development Management & Building Control

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#### Recommendations:

- A. That the report be noted by the panel.

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#### 1 PURPOSE OF REPORT

- 1.1 Merton Council has previously stated that it recognises the importance of good town planning and understands local residents want planning applications which are approved to be adhered to and properly enforced. The enforcement of planning control is a key area of priority for the Council and its stakeholders. Residents demand and expect that all development in Merton is in accordance with sound planning principles and planning law.
- 1.2 “Merton 2030, our ambition for the Borough” sets out the Council’s ambition to make Merton a place every resident is proud to call home and where no one is excluded from education, learning new skills and finding employment.
- 1.3 By delivering on its climate-change commitments, Merton will become a cleaner, greener and more sustainable borough that sets a positive example to the rest of the country. It is vital that there is an effective planning enforcement process to help deliver these objectives.
- 1.4 The purpose of this report is to update Members on the current level of performance in the Planning Enforcement service with particular regard to the backlog of cases identified by Full Council in November 2021.

#### 2 THE CURRENT NATIONAL PICTURE

- 2.1 In terms of the current national picture, the Royal Town Planning Institution (RTPI) published a research paper report in November 2022 “The scale and nature of resourcing challenges faced by enforcement teams”.

## 2.2 The report states that;

Planning enforcement across the country is in a resourcing, skills, and performance crisis, as revealed by a RTPI survey of 103 local planning authorities.

- Almost 90% of Local Authorities surveyed reported a backlog of cases.
- 70% of Local Authorities surveyed report difficulties recruiting enforcement officers in the last five years.
- 80% of respondents reported that there were not enough officers to carry out the workload.
- 96% of those surveyed said they would benefit from a central government pot that they could use to fund direct action.

A 43% fall in resources to the planning system from Local Authorities since 2009/10 has led to a tangible and damaging impact on planning enforcement, creating major delays, and negatively affecting both officers and the public.

Planning enforcement sits at the heart of the planning system. Without it, planning legislation is meaningless. Our recent research indicates that there has been 43% decrease in net expenditure from local authorities on planning as a whole, from £844m in 2009/10 to £480m in 2020/2021. As a result of this long-term reduction in investment, local authorities are now facing major challenges in resourcing, skills and performance. This has been felt acutely by enforcement teams across England. The RTPI a conducted a survey with responses from 133 enforcement officers representing about a third of local authorities in England. The results were striking. 80% of respondents reported that there were not enough officers in their team to carry out the workload, 89% that their councils are currently experiencing a backlog, 73% that their authority had struggled to recruit in the last year and 96% supported central government funding for direct action. Under 50% of authorities now have the capacity to monitor compliance of conditions once successful enforcement action has been taken. Additionally, 71% reported that delays from the Planning Inspectorate are negatively impacting the service. Thus, the last decade of cuts has had a tangible and damaging impact on planning enforcement.

## **3 DETAILS OF ACTION TAKEN SINCE THE LAST SCRUTINY REPORT**

3.1. Since the last Planning Enforcement report was presented to the Sustainable Communities Scrutiny Panel on 22nd February 2022 there has been considerable improvement in the performance of the service, despite the national constraints identified above, as a result of a successful action plan led by the current Planning Enforcement Manager who has been with the Council for the last twelve months.

3.2. At that time the backlog amounted to nearly 900 cases and a target was set to halve this number to 450 by the end of 2022. As of February 2023 there are approximately 350 live cases being handled by the time, which is business as usual for a Borough the size of Merton. The backlog has been eradicated and the target has been comfortably exceeded.

- 3.3. This is enabling the officers in the service to be more proactive in terms of taking a harder line against failures of compliance. For example, there are more instances of direct action being taken and a higher number of enforcement and breach of condition notices being served.
- 3.4. However, there has recently been a reduction in the capacity of the team compared to 2022. A temporary enforcement contractor has left the Council and an experienced member of staff is currently attending a training course for one day per week. These shortfalls have not been backfilled due to budgeting concerns for the Development Management service as a whole. This puts the Council at risk of experiencing some of the issues identified in the aforementioned national report produced by the Royal Town Planning Institute. A fall in resources can lead to a tangible and damaging impact on planning enforcement, creating major delays, and negatively affecting both officers and the public.
- 3.5. The service receives an additional 20-30 new cases per month. The reason that business as usual includes approximately 350 cases is due to the time required to remedy breaches, particularly those that are retrospective and need to be put through a planning application process. Such circumstances will often take 4-5 months to resolve. Developers and landowners can lodge challenges and have the right of appeal. Decisions by the Planning Inspectorate have been known to take in the region of one year to come through and enforcement action is essentially put on hold until the outcome is issued. Cases needing legal proceedings such as prosecution can be very time consuming.
- 3.6. The next steps for the service are set out in a report for a staff restructure of the Planning Enforcement service which has been fully costed. This will be presented to the new Executive Director, Housing and Sustainable Development upon arrival in May, together with a draft Local Enforcement Plan to set out how the service will perform moving forward.

#### **4. FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 4.1 There are no specific implications at this time although there will be financial implications once a restructuring exercise has taken place. Additionally, there will be financial implications for putting in place new IT systems such as an online portal/New M3/data planning system but more work will have to be undertaken to identify the cost of these.

#### **5. LEGAL AND STATUTORY IMPLICATIONS**

5.1 No specific implications at this time.

## **6. HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

6.1 No specific implications at this time.

## **7. CRIME AND DISORDER IMPLICATIONS**

7.1 No specific implications at this time.

## **8. RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

8.1 No specific implications at this time.

## **9. APPENDICES**

9.1 None included.

## **10. BACKGROUND PAPERS**

10.1 Planning Enforcement Report to the Sustainable Communities Scrutiny Panel 22<sup>nd</sup> February 2022 (not appended).