



Date: Tuesday, 15 December 2020

Time: 10.00 am

Venue: THIS IS A VIRTUAL MEETING - PLEASE USE THE LINK ON THE AGENDA TO LISTEN TO THE MEETING

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## PERFORMANCE MANAGEMENT SCRUTINY COMMITTEE

### TO FOLLOW REPORT (S)

#### 7 **Planning Enforcement (Pages 1 - 4)**

To consider the effectiveness of the Council's enforcement of Development Control Planning decisions.

Contact Ian Kilby Tel 01743 258718

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<b><u>Committee and Date</u></b>
<b>Performance Management Scrutiny Committee</b>
<b>15 December 2020</b>

<b><u>Item</u></b>
<b><u>Public</u></b>

## **Planning enforcement**

### **Responsible Officer**

Ian Kilby, Planning Service Manager  
ian.kilby@shropshire.gov.uk

### **1.0 Summary**

1.1 This report provides an overview of the work of the council's planning enforcement function.

### **2.0 Recommendations**

- 2.1
- To note the report.
  - To make any recommendations to Cabinet with regards to the service.

### **3.0 Opportunities and risks**

3.1 This report is for information only.

### **4.0 Financial assessment**

4.1 There are no financial implications from this update report.

### **5.0 Report**

#### **5.1 What is planning enforcement?**

Planning enforcement is a process to investigate cases where development without planning permission is taking place and to ensure that development with planning permission takes place in accordance with the approved plans and planning conditions.

Planning enforcement is a discretionary function and the council will take a proportionate approach in responding to alleged breaches of planning control. This means that the impacts of any unauthorised development are assessed at an early stage and the case prioritised accordingly. The Councils focus will be on those cases where the impacts are significant.

It is recognised that public confidence in the planning system would be quickly undermined if development is not monitored or unauthorised development is allowed to proceed without intervention by the Local Planning Authority. The Council has the primary responsibility for taking enforcement action in the public

interest, having regard to the risk and harm arising from the alleged breach. In this respect the approach taken by Shropshire Council is to seek relevant information from complainants at an early stage. This will help prioritise the case, and officers will work with complainants and other relevant parties to identify resolution quickly, having regard to the wider public interest.

5.2 Breaches of planning include:

- Unauthorised erection of a building
- Development not in accordance with the approved plans of planning permissions
- Unauthorised change of use of a property
- Unauthorised works to trees protected by a tree preservation order or in a conservation area
- Carrying out works to a listed building without listed building consent
- Unauthorised demolition in a conservation area
- Failure to comply with the conditions attached to a planning permission
- Failure to properly maintain land so that it affects the amenity of the area
- Displaying a sign or advertisement without advertisement consent

5.3 Things that are not breaches of planning include:

- Parking of commercial vehicles in residential areas or on grass verges.
- Operating a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity.
- Clearing land of undergrowth, bushes and trees provided they are not subject to planning protection
- Parking of a caravan within the curtilage of a residential property provided that it is stored, or used as an extra bedroom, and not used as a separate, self-contained residential unit.
- Obstruction of a highway or right of way
- Boundary disputes (civil matter)
- Deeds and covenants (civil matter)
- Where development is 'permitted development'

5.4 ***How are planning enforcement enquiries dealt with?***

There are a number of ways that alleged breaches of planning control can be tackled, and in delivering their planning compliance functions Councils are encouraged to act in a proportionate way. The Council has discretion to take formal enforcement action, when it considers it expedient to do so having regard to the risk and harm arising, the development plan and any other material considerations. In considering any enforcement action Shropshire Council is guided by the Council's Enforcement Policy, the Planning Enforcement Protocol and the National Planning Policy Framework 2019, in particular paragraph 58.

*“Effective enforcement is important as a means of maintaining 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. Local planning authorities 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 it is appropriate to do so.”*

- 5.5 To manage the planning enforcement process more effectively we encourage enforcement queries to be made through a single channel wherever possible. The link above is now the primary channel for customers to report a planning problem. In all cases we ask the complainant to complete a form which provides essential information in order to progress a case effectively, this is a key benefit of using this single channel to report planning enforcement problems. One of the questions asked seeks to identify the harm arising to you. If you are making the complaint as a parish council on behalf of the community or as a local member then please express this as the impact expressed by those bringing the complaint to you.

On receipt of a completed planning enforcement form officers will determine whether there is a breach of planning control and then decide what action will be taken so it is helpful to provide evidenced and specific information here including a location plan. Shropshire Council deals with enforcement enquiries in accordance with its Planning Enforcement Protocol which can be found on the council's external website. The protocol explains the enforcement process and the circumstances where formal enforcement action will be taken.

- 5.6 Straightforward cases or those where it is not considered expedient to take formal action will be concluded more effectively and we will aim to make a recommendation with most cases within eight weeks. Complex cases will inevitably take time to resolve and some enforcement investigations can be very lengthy particularly where evidence is required over a period of time, Notices are served or a prosecution is brought. In such cases the complainant will be updated periodically by e mail when a key decision is taken.
- 5.7 We will not communicate outside these key decision points but those reporting enforcement issues are welcome to communicate directly with investigating officers for updates. The investigating officer is usually appointed within a week of receipt of the enquiry.
- 5.8 We understand that not everyone will have internet access or complete the online form when raising an enforcement enquiry, however as the form requires all essential information this will remain the most effective way of progressing an enforcement query. A pdf of the form is available to download from the Council's website.

## 5.9 Enforcement figures

The Enforcement team has been capturing data since 2017/18 and this is reflected in the table below. It confirms that the team is closing broadly the number of cases it receives annually, there are always around 400 cases under investigation at any one time. It is worth noting that the number of cases received annually has increased by 25% since 2017/18 and the team has also experienced an increase this year through the pandemic. Annual enforcement figures on 3 December 2020 were as follows:

FINANCIAL YEAR	ENFORCEMENT CASES RECEIVED	ENFORCEMENT CASES CLOSED	ENFORCEMENT NOTICES ISSUED
2017/18	531	519	14
2018/19	625	557	10
2019/20	608	627	16
2020/21 (to date)	460	380	10

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Shropshire Council Planning Enforcement Protocol  
<https://www.shropshire.gov.uk/planning/submit-a-planning-enforcement-query/planning-enforcement-protocol/>

**Cabinet Member (Portfolio Holder)**

Cllr Gwilym Butler, Communities, Place Planning and Regulatory Services

**Local Member**

All

**Appendices**

None