

ENFORCEMENT CO-ORDINATION PANEL

Wednesday, 3 February 2016

Commenced: 9.30 am

Terminated: 10.40 am

Present: Councillors S Quinn (Chair), Taylor, Middleton, Bowerman, Sweeton, D Lane and Robinson

In Attendance: Sandra Stewart – Executive Director (Governance and Resources)
Alan Jackson – Head of Environmental Services (Highways)
Sharon Smith – Head of Environmental Services (Public Protection)
Emma Varnam – Head of Stronger Communities
Jason Dugdale – Development Manager (Planning, Development and Investment)
Mark Hobson – Senior Enforcement Officer (Planning)

14. DECLARATIONS OF INTEREST

There were no declarations of interest submitted at this meeting.

15. MINUTES

The Minutes of the Enforcement Co-ordination Panel held on 28 October 2015 were approved as a correct record.

16. PLANNING AND BUILDING CONTROL

The Panel received a report of the Assistant Executive Director (Development, Growth and Investment) summarising the enforcement activities during the third quarter, October to December 2015, showing that 74 complaints were received alleging breach of planning and building control, of which 35 were found to be proven as breaches. This represented a level of breach of 47% meaning almost half of the complaints received required further investigation and possibly further action. This had reduced significantly from the second quarter July to September 2015 which was 71%.

During the reported period, 11 formal notices were issued. This included 7 Planning Contravention Notices, 3 Section 215 Notices and 1 Tree Replacement Notice. The Planning Contravention Notices all related to residential properties where breach of planning control had been alleged including unauthorised car sales, car repairs and hairdressing businesses and the construction of stables with menage in green belt. The Section 215 Notices related to properties in Hattersley, Stalybridge and Denton which were all untidy residential properties. The Tree Replacement Notice related to a property in Stalybridge where the owner was found guilty of felling a number of protected trees and the Notice required that the trees be replaced to protect the amenity of the area and migrating wildlife.

Prosecution proceedings had been brought against the owners of a commercial property in Ashton-under-Lyne where the company had failed to comply with a Section 215 Notice relating to the untidy condition of their workshop building. Complaints had been received concerning the appearance of the rear elevation of the workshop building and the Notice required the business to carry out improvement works to address the complaints.

At Tameside Magistrates Court on 6 October 2015 the company was found guilty of failing to comply with the requirements of the Notice and was fined £500, the company director was also fined £500 and the Council was awarded all of the costs associated with the prosecution.

Enforcement action had recently taken place with regard to a residential property in Mottram as the owner had failed to comply with the requirements of a Planning Enforcement Notice. The Council had received complaints alleging that the property was being used as a waste transfer station and a number of visits by Enforcement Officers witnessed that the land contained large accumulations of waste unrelated to a residential dwelling. The Notice served by the Council required the owner to remove all waste material from the land. The owner did not appeal the Notice and it became effective, giving the owner one month to remove the waste from the land. It was estimated that approximately 250 tonnes of waste was being stored on the land which would cost in the region of £40,000 to remove by the Council's approved contractors.

The owner failed to comply with this notice and a site visit confirmed that no waste had been removed from the land. The owner pleaded guilty at Tameside Magistrates Court on 1 December 2015 to failing to comply with the Notice and was fined £200. The Council was only awarded a small percentage of the costs associated with the prosecution. Convicting the owner also allowed the Court to give an instruction to the owner to clear the site within one month from the date of conviction.

The Panel was concerned to note that whilst in attendance at Court, the Enforcement Officer was threatened by the son of the owner of the property and an observer was also assaulted in the public waiting area. These issues had been reported to Greater Manchester Police.

Reference was also made to **Appendix 1** to the report which contained details of the current enforcement activity where formal notice had been served and cases recently concluded and the Planning Development Manager responded to queries raised relating to individual cases.

RESOLVED

That the content of the report be noted.

17. ENVIRONMENTAL SERVICES

Consideration was given to a report of the Assistant Executive Director (Environmental Services) summarising the key enforcement activities undertaken by the Environmental Services Enforcement Team during the period July to September 2015. In particular, reference was made to a Food Hygiene Improvement Notice served on a local dairy and 2 Health and Safety Prohibition Notices served on licensed premises in Stalybridge and a business in Droylsden.

It was also explained that the Authority had been audited by the Office of Surveillance Commission on using and obtaining authorisations under the Regulation of Investigatory Powers Act 2000 and Covert Human Intelligence Sources. Officers from different services were scrutinised about how they obtained such authorisations and under what circumstances these would be required. The officer from the Office of Surveillance Commissioners was satisfied with the way the Council was using its enforcement powers and commented positively on the range of activities covered by the Business Compliance Service.

On 9 December 2015, a Tameside Pub Watch event organised by the Chair of Droylsden Pub Watch, had taken place at Hyde Town Hall in an effort to expand Pub Watch to the whole of Tameside. The event was opened by the Executive Leader of the Council and presentations were received from Greater Manchester Police, Tameside Licensing and National Pub Watch.

The following matters / events were also highlighted:

- Prosecutions with convictions for a mobile trader and a car trader;
- Allergen Awareness course for business;
- The Greater Manchester Air Quality Plan;
- Licensing Review for Caesars Bar;

- Taxi dispute on 13 and 23 October 2015;
- Private hire driver application granted by Licensing Panel.

The Panel also heard that Licensing Authorities were obliged to review and revise their licensing policies on a regular basis to ensure they were up-to-date with change to legislation and accurately reflected the aims, ambitions and working practices currently employed by the Authority. The revised Statement of Licensing Policy 2016-2021, revised Statement of and Gambling Policy 2016-2019 and a new Sex Establishment Licensing Policy had been adopted by Council at its meeting on 21 January 2016.

In conclusion, reference was made to recent training session for elected members of the Speakers Panel (Licensing) and Speakers Panel (Liquor Licensing), providing an update on recent developments and clear guidance on the decision making process. The Executive Director (Governance and Resources) stated that attendance had been disappointing as she had previously made very clear the Council's position that all elected members had to be trained in order to take part in quasi-judicial decisions as this would leave the Council exposed to challenge and reputational damage. She requested that additional training be arranged for those elected members who had been unable to attend the previous session.

RESOLVED

- (i) That the content of the update report be noted.**
- (ii) That a further training session for members of the Speakers Panel (Licensing) and Speakers Panel (Liquor Licensing) be arranged to ensure all members were appropriately trained when determining issues brought before them.**

18. ENGINEERING SERVICES

The Environmental Services Manager (Highways) submitted a report detailing information on enforcement activities relating to abandoned vehicles, skips, scaffolding, pay and display car parking / on street parking, bus lane enforcement, and private draining and utility works and he responded to queries raised by the Panel.

In relation to banner permits, it was noted that 41 banner permits had been issued and 18 illegal banners had been removed. The Environmental Services Manager made reference to a list of the locations of approved banners and he would make arrangements for this to be circulated electronically to elected members on a weekly basis.

In addition, the report detailed all highway based claims where Tameside had been denied liability and subsequently taken to Court. A highway based claim could be defined as a claim where a defect within the infrastructure of the highway had resulted in a claim for compensation. The Courts had found in favour of Tameside in 17 of the 19 claims which went to trial and on these 17 occasions the Judge found that:

- Tameside's inspection regime was robust, fit for purpose and appropriate (8 judgements).
- The defect on the highway was not a foreseeable danger to the public (5 judgements).
- The claimant had not attended Court and the claim was struck out (2 judgements).
- The claimant had not proven sufficiently that the condition of the highway was the cause of their accident (1 judgement).
- Tameside's works had not been the cause of standing ice on the carriageway (1 judgement).

It was estimated that the successful defences the Risk Management Team had achieved in Court over the last 3 years had saved the Council well in excess of £350,000. In addition to the savings achieved in Court, the Risk Management Team ensured that the Council avoided significant costs in this area.

The Panel was pleased to learn of the valuable work undertaken by the Risk Management Team and that the Council had in place a robust inspection and repair regime and a reputation to match. This ensured that third party highway claims against the Council were at a minimum and that the 'no win, no fee' chasers were reluctant to pursue claims in Tameside.

RESOLVED

- (i) That the update report be noted.**
- (ii) That the Head of Environmental Services (Highways) make arrangements for the list of banner locations to be circulated to all elected members.**
- (iii) That the valuable work undertaken by the Risk Management Team in successful defences of highway based claims and associated savings to the Council be acknowledged.**

19. NEIGHBOURHOOD SERVICES

The Head of Stronger Communities presented a report detailing enforcement activities carried out by Neighbourhood Services over the reported period of July to September 2015.

Weekly partnership meetings were taking place bringing together key partners and agencies to address ongoing concerns and emerging issues. An example was provided of police action following reports of off-road motorcycles causing a nuisance in the Park Bridge area of Ashton.

The Chair made reference to recent incidents of anti-social behaviour by youths congregating at the Edge Lane and Audenshaw tram stops and in response, the Head of Stronger Communities, agreed to ensure this matter was raised at the weekly partnership meetings and with Transport for Greater Manchester.

A rise in complaints of increases in dog fouling in the Acresfield area of Hyde and at King George's Playing Fields in Ashton had led to regular patrols / observations until an improvement was seen. Councillor D Lane added that he had received an increase in complaints of dog fouling in the Denton West ward. These had been reported to the Clean and Safe Officer and the Head of Stronger Communities would ensure that this was being investigated and included in a future day of action with key partners.

In relation to fly tipping, the Head of Stronger Communities stated that Neighbourhood Services had received 1253 complaints during the reported period. A breakdown of the types of fly tipping found during each investigation and follow up action was also detailed. In particular, she made reference to a community clean up and the installation of alley gates at the rear of Kings Road in Ashton and the successful conclusion of an investigation into contamination of wheeled bins on Springs Lane, Stalybridge.

RESOLVED

- (i) That the update report be noted.**
- (ii) That the Head of Stronger Communities investigate issues raised regarding anti-social behaviour at the Edge Lane and Audenshaw tram stops and increased complaints of dog fouling in Denton West Ward.**

20. REVIEW OF DELIVERY OF FUNCTIONS WITHIN ENVIRONMENTAL SERVICES

Consideration was given to a report of the Assistant Executive Director (Environmental Services) proposing a review of the way functions were delivered within Environmental Services.

In response to the current economic climate and the need to work differently, the service had held a number of workforce engagement sessions to capture the views of colleagues from across the Authority. As a result of this consultation, seven themed groups had been established with the

purpose of reviewing current practices and achieving ongoing budget reductions and efficiencies. Two of the themed groups had been established to look at regulatory functions and operational functions and had identified that in order to achieve the ongoing savings rationalisation of the whole service was required.

One of the primary objectives of the Regulatory Service themed group was to integrate delivery of the Council's regulatory functions, reduce duplication and inefficiencies and ensure a clear line of accountability. The Authority could make better use of its resources and increase capacity in this area by pooling staff together. This would enable the opportunity to share knowledge and skills and enhance operational capacity to work on priority areas. Regulatory Services recognised its shared responsibilities with other agencies and this model would maintain the essential links with partners that would otherwise be at risk and would enhance delivery of shared priorities.

Similarly, the Operational Service themed group had identified that to achieve the savings and efficiencies required the preferred delivery model would be a single operational service with more generic job roles. Operational Services staff would continue to work closely with Regulatory Services and assist with the enforcement and works in default actions. In order to reduce demand on front line services, there needed to be one point of contact from which work was allocated.

Consideration had been given to alternative delivery models, for example, services delivered by a third party contractor NSL. In addition to the significant efficiencies, it was proposed that the operational responsibility of Civil Enforcement Officers be extended to include additional environmental enforcement duties. Whilst the Panel welcomed this proposal, it recognised that appropriate governance and procedures would need to be developed as the review progressed to ensure successful challenge was avoided.

RESOLVED

- (i) That the principles and scope of the review be agreed.**
- (ii) That the proposals be developed further to a delivery model and implementation plan.**
- (iii) That appropriate governance and procedures to the satisfaction of the Head of Legal Services be developed as the review progressed to ensure successful challenge was avoided.**

21. WASTE POLICY AND ENFORCEMENT STRATEGY

During 2015, the Enforcement Co-ordination Panel had considered the importance of the Council having a clear policy regarding waste collection, recycling and enforcement and had considered reports on the development of a Waste Policy and Enforcement Strategy.

The report of the Assistant Executive Director (Environmental Services) was pleased to advise that following a period of public consultation, the Waste Policy and Enforcement Strategy had been adopted by Council at its meeting on 21 January 2016, attached at **Appendix 1**. The Policy confirmed what residents and key stakeholders could expect from the Waste and Recycling Service and outlined the Council's approach to enforcement where it was necessary in occurrences of non-compliance. All avenues of education and support would be exhausted before enforcement was undertaken and a Communication Plan and Engagement Plan had been developed and attached at **Appendix 2**. A Project Board comprising of officers with responsibility for regulatory and operational functions had now been established and an implementation plan was being developed. The Enforcement Co-ordination Panel would receive regular update reports on activity over the coming months as the Waste Policy and Enforcement Strategy was implemented.

The Executive Director (Governance and Resources) reiterated the importance of ensuring that appropriate governance and procedures in place as soon as possible which aligned with the agreed strategy and policy. These must be fully understood and followed by trained enforcing officers at all levels to ensure successful challenge was avoided.

RESOLVED

- (i) That the adoption of the Waste Policy and Enforcement Strategy by Council at its meeting on 21 January 2016, and the content of the Communication and Engagement Plan be noted.**
- (ii) That Members receive regular update reports as the Waste Policy and Enforcement Strategy was implemented.**
- (iii) That appropriate governance and procedures to the satisfaction of the Head of Legal Services be developed which aligned with the agreed strategy and policy to ensure successful challenge was avoided.**

22. URGENT ITEMS

The Chair advised that there were no urgent items for consideration at this meeting.

23. DATE OF NEXT MEETING

The next meeting of the Enforcement Co-ordination Panel will take place on Wednesday 30 March 2016.

CHAIR