

DR/44/20**Report to:** DEVELOPMENT & REGULATION (18 December 2020)**Proposal:** MINERALS, WASTE and COUNTY COUNCIL ENFORCEMENT – Temporary relaxation of response target times to respond to complaints/carry out site investigations.**Location:** Essex-wide**Report author:** Chief Planning Officer (County Planning and Major Development)**Enquiries to:** Richard Greaves Tel: 03330 316817

PURPOSE OF REPORT

The report seeks the Committee's approval to temporarily relax the target times to deal with planning enforcement complaints/investigations, as set out in the Local Enforcement and Site Monitoring Plan ('the Plan') previously endorsed by the Committee in May 2013.

BACKGROUND AND OPERATION OF ENFORCEMENT SERVICE

As a reminder, paragraph 207 of the National Planning Policy Framework (NPPF) states:

"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."

In accordance with the NPPF the [Essex Local Enforcement and Site Monitoring Plan](#) ('the Plan') sets out what enforcement and site monitoring service businesses and individuals can expect from Essex County Council as Mineral, Waste and County Planning Authority.

With the Committee's endorsement, the Plan was updated in 2016, however, in summary, the Plan sets out the planning authority's processes dealing with:

- The county council's monitoring and enforcement function;
- Taking formal enforcement action ;
- Resources allocated to enforcement and monitoring;
- Dealing with complaints;
- The appropriate course of action;
- The Human Rights Act 1998;
- Chargeable minerals and landfill monitoring visits, and;
- Non-chargeable waste management site monitoring visits.

The Plan sets out the county planning authority's procedure for dealing with complaints and site investigations setting out a defined process.

Section 5 of the Plan sets out how the service will deal with complaints, including normal response times, as follows:

- a) Acknowledgement of complaints: a complaint will normally be acknowledged within 2 working days of the Enforcement Officer receiving the complaint;
- b) Checking the facts: this may include a site inspection and checking records;
- c) If no breach is found: The complainant(s) and, if necessary, the operator involved will normally be informed within 14 working days of the date of the acknowledgement;
- d) If a breach is found but is not a 'County Matter': the relevant District/Borough Council/Environment Agency will normally be informed of the complaint within 14 working days of the date of the acknowledgement, whilst informing the complainant(s) and, if necessary, the operator involved within the same period;
- e) If a breach is found that is a County Matter: the necessary course of action will be considered in accordance with this Plan and all parties will normally be informed accordingly within 14 working days of the acknowledgement.

SERVICE UPDATE

As members will be aware, the County Council employs only one Planning Enforcement Officer who is supported by planning officers within the service. Historically the service has been operated very effectively with the (Enforcement) Officer dealing with complaints regarding unauthorised activities and breaches of planning control covering the whole county.

Nonetheless, in recent months, and especially since the COVID-19 outbreak, the number of complaints received has increased and this combined with the restrictions that were in place restricting site visits over the summer, especially jointly with officers of the Environment Agency, has meant that there is now a backlog in cases to be resolved.

The Committee receives a quarterly update on live enforcement cases and a snapshot of active cases shows that, comparatively, there has been a marked increase since the same time last year.

Table 1 – Number of active Enforcement Cases

	2019	2020
January	18	29
April	19	25
July	34	28
October	28	37
TOTAL	99	119

Whilst the reasons for the increase in complaints/cases is not exactly known, it has been suggested that, as more people are now at home during the day time combined with the waste volume increase caused by the COVID-19 pandemic, has meant not only more unauthorised activities taking place in Essex, but more vigilance within local communities and reporting such activities. As such, this has put a strain on the operation of the service, meaning that complaints received are often unable to be dealt with as expeditiously would normally happen. Whether this is a temporarily/short-term or longer term issue remains to be concluded.

Additionally, and somewhat ironically, because there has been delay in responding to enforcement complaints, this has led to complaints being raised against the service in general, given that some cases are not being resolved to swiftly to the satisfaction of the complainant.

As set out in the Plan, 'harm assessments' are still being utilised to prioritise investigations, however the timescales for responses are sometimes not able to be met. As such the Committee is being made aware of this issue and especially that the timescales for responses set out in the Plan will not always be able to be achieved.

RECOMMENDATION

That the normal target response times, as set out in Section 5 of the Local Enforcement and Site Monitoring Plan (the Plan), are relaxed until 30 June 2021 on the understanding that cases are continued to be prioritised in accordance with the procedures and processes detailed in the Plan.

BACKGROUND PAPERS

- [Essex Local Enforcement and Site Monitoring Plan](#)
- Committee statistic reports Jan 2019 - Oct 2020

LOCAL MEMBER NOTIFICATION

Countywide