

Report to Resources Select Committee

Date of meeting: 13 October 2015

Subject: Planning Enforcement

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Committee Secretary: Adrian Hendry



Recommendations/Decisions Required:

That the Committee note the work of the Planning Enforcement Section

Report:

1. Planning Enforcement is a section of the Development Management Department in the Governance Directorate. It is a non-statutory discretionary function of the Council, but one which has historically been actively supported by Councillors to enable the Council to have “teeth” to deal with breaches of planning control. Breaches of the development regime generally cause disquiet, sometimes severe, with neighbours and Councillors, due to the actual or perceived harm of the breach and the actions of the person/organisation responsible for the breach.

2. The Enforcement Sections powers to act are primarily set out in the Town and Country Planning Act 1990 (as amended), and investigations have to be undertaken with due regard to the investigatory regulatory framework such as PACE, RIPA, CIPA and Central Government policy, guidance and the National Planning Policy Framework. The Council has adopted a Local Enforcement Plan which explains our policy, priorities and processes in detail. This is available on the Council website at:

<http://www.eppingforestdc.gov.uk/index.php/residents/planning-and-building/planning-development-control/planning-enforcement>.

3. The Section consists of a Principal Officer (who is also responsible for the Trees & Landscape Section and the Heritage and Conservation Section) who is a qualified planner manages the section and provides the professional planning advice to the section, a Senior Enforcement Officer who investigates the more complex cases, 3 Enforcement Officers who deal with the bulk of investigations and an Administration Officer. The Principal Officer reports directly to the AD Development Management.

4. Complaints are received from the public, Town and Parish Councils, Councillors and other departments and officers will respond within 24 hours to complaints involving Listed Buildings, Preserved Trees and new Gypsy & Traveller Sites and within 14 days for all other complaints, although most of these are visited within 4/5 days of receipt of the complaint. Officers spend a considerable amount of time on site investigating, evidence gathering, negotiating and advising with both complainants and complainers'. There is also a considerable amount of research that has to be carried out into sites and to comply with the current rules and regulations.

5. The Council can serve various notices in the event of proven breaches and also apply for High and County Court Injunctions. The Council can prosecute for breach of these notices and can also take direct action to enforce the notices. However, all prosecutions and actions must be legal, proportionate and expedient.

6. The complaints range from the serious and complex to the trivial and non-planning related. Enforcement Investigations can be completed after a first visit in simple cases; in complex cases the investigation can take several years. This is as a result of factors out of the control of officers including the planning system which allows appeals on planning and enforcement decisions, which can go as high as the Supreme Court and the legal system once a prosecution is undertaken. This is not ideal as it can often appear to the public and members that no action is being taken leading to frustration and cynicism. The Enforcement Section encourages those who have made complaints to keep in regular touch with officers to avoid this; due to workloads it is not feasible for officers to keep all complaints regularly updated as to the progress of a case.

7. A good example of this is a recent case of a Traveller Site established without planning permission in 2008 which was granted planning permission by a planning inspector for a temporary 3 year period in August 2015. This was after the service of 3 separate planning enforcement notices, 3 appeals including a 3 day public inquiry and a very proactive enforcement investigation.

8. The section is adequately resourced and has an active liaison with other Councils sections and the Essex Police. Officers generate income (see statistic detail below) for the Department by the receipt of retrospective planning applications and the pursuit of S106 Planning obligation monies.

Statistics:

Complaints received (note only one complaint is recorded even if multiple persons make complaints about the same site/issue):

2014 (from 01 Jan)	586
2015 (to 30 Sep)	474
Average work load per officer	60 - 70 cases at any time

Complaint Closed

2014 (from 01 Jan)	521
2015 (to 30 Sep)	377

Enforcement Notices issued (all types)

2014 (from 01 Jan)	24
2015 (to 30 Sep)	10 (a further 14 notices are being prepared)

The national average for the issue of enforcement notices is 16 per annum

Appeals (only enforcement related – does not include planning application appeals)

2014 (from 01 Jan)	10
2015 (to 30 Sep)	6

Income Generated

2014 (from 01 Jan)	£11992
2015 (to 30 Sep)	£9138
S106 monies recovered	£67,000

9. A comparison of enforcement costs between Councils is of limited use as costs are governed by how much effort the authority wish to put into enforcement in the first place. The Council spent £424,000 in 2014/15 which, compared to other Essex authorities, is higher, but the planning issues facing Epping are different to Braintree or Uttlesford. Parts of the district share similar characteristics to some outer London Boroughs but equally other parts are very different. It should be noted that we have the largest amount of Green Belt in Essex which imposes its own complexities and complications in investigations and enforcement.

10. This Council clearly invests more resources in planning enforcement than a number of other Essex Authorities which reflects the seriousness with which members see around the planning enforcement function and not to put in the additional resources would be detrimental to the authority and its residents.

11. Information was requested from other Essex authorities on costs and the 5 that responded were (with costs and number of officers dedicated to enforcement):-

Chelmsford	£343,000	no information provide in spite of request
Southend	£169,000	2 enforcement officers no full time admin
Uttlesford	£158,000	No dedicated planning team – all enforcement functions are centralised
Braintree	£80,000	2 ½ enforcement officer – no full time admin
Brentwood	£56,000	2 (only 1 post filled) enforcement officers, no full time admin

12. As can be seen the average section in Essex authorities is much smaller than EFDC and from anecdotal evidence take longer to deal with the middling and smaller investigations – if they are investigated at all.

Reason for decision:

See report above

Options considered and rejected:

Nil

Consultation undertaken:

With other Essex Planning Authorities

Resource implications:

Budget provision: n/a

Personnel: n/a

Land: n/a

Community Plan/BVPP reference:

Relevant statutory powers:

Background papers: Local Enforcement Plan

Environmental/Human Rights Act/Crime and Disorder Act Implications: n/a

Key Decision reference: (if required) n/a