

# **Report to Planning Services Scrutiny Standing Panel**

**Date of meeting: 12 March 2009**

**Subject: Introduction to Planning Enforcement**



**Officer contact for further information: S Solon (Principal Planning Officer – 01992 56 4103)**

**Committee Secretary: M Jenkins (Democratic Services Assistant – 01992 56 4607)**

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## **Recommendations/Decisions Required:**

### **To note the Introduction to Planning Enforcement Report**

#### **Report:**

1. The Panel's Terms of Reference had indicated that they were to consider Value for Money within Planning Enforcement. This report is designed to give general background on planning enforcement and to allow the Panel to consider the scope of future discussion.

1.1 The main purposes of the Councils' planning enforcement service is to:

- Investigate allegations of breaches of planning control.
- Remedy the harm caused by actual breaches of planning control.
- Regularise acceptable development carried out in breach of planning control.

1.2 In fulfilling its purpose the planning enforcement service has regard to relevant legislation, case law, national planning policy and adopted development plan policy. The planning merits of all actual breaches of planning control are assessed prior to an appropriate course of action being decided on. The service primarily draws on the resources of other sections within the Planning Directorate and on legal advice provided by and through the corporate Support Services Directorate.

1.3 Planning enforcement is a discretionary function of the Council. However, experience suggests the demand for the delivery of a planning enforcement service is high. The failure of a Council to take appropriate and timely enforcement action can lead to a Council being found guilty of maladministration and required to compensate those whose interests are harmed by the consequences of breaches of planning control.

## **2. PLANNING ENFORCEMENT TEAM**

2.1 The Council's Planning Enforcement Team is part of the Development Control Group of the Planning and Economic Development Directorate and is made up of 7 staff. That comprises a Principal Planning Officer, Senior Enforcement Officer, 3 Enforcement Officers, a Compliance Officer and a dedicated administrative officer. The Compliance Officer post is a part time post that is currently vacant.

2.2 The Principal Planning Officer and Senior Enforcement Officer are the only posts where the post holder is required to have a relevant planning qualification.

2.3 The role of the Principal Planning Officer is not confined to dealing with planning enforcement and management of the Team. It includes responsibility for dealing with planning applications and preparing and presenting reports to Committee on a 3

weekly cycle resulting in approximately half that post being used for work outside of the Team.

### 3. PERFORMANCE

3.1 Indicators of planning enforcement activity include the numbers of investigations into allegations of breaches of planning control that have been started, the number of investigations completed, the number of notices issued and the number of prosecutions completed. Further indicators are numbers of notices defended at appeal and instances of direct action.

3.2 Comparable data exists from 1 January 2006. The performance data for the Team is set out on the following page.

#### **Turnover of investigations:** (provisional)

Year	Investigations started	Investigations completed	Investigations on hand at end of year
2006	999 (incl c/f cases)	657	342
2007	747	739	350
2008	715	759	306

#### **Investigations completed on resolution of a breach of planning control:**

2006	147	(22% of total for year)
2007	136	(18% of total for year)
2008	145	(19% of total for year)

**Notices Issued:** (Note – Planning Contravention Notices (PCN's) are requests for information)

	Notices other Than PCN's	PCN's
2006	23	20
2007	29	31
2008	27	16

#### **Appeals against enforcement notices received:**

2006	8	(2 inquiries, 4 hearings, 2 written representations	2 allowed)
2007	20	(9 inquiries, 4 hearings, 7 written representations	2 allowed)
2008	10	(2 inquiries, 8 written representations	0 allowed but decision pending on 5 appeals)

#### **Prosecutions started:**

2006	15
2007	9
2008	11

#### **Injunctions sought:**

2006	1
2007	0
2008	1

## **Direct Action:**

The Planning Enforcement Team has taken direct action on one occasion during the last 3 years. The action was to obliterate an advertisement painted on a single trailer parked in a field when the owner of the field and the trailer could not be traced.

## **4. ISSUES/CHALLENGES**

### **4.1 Staffing:**

4.1.1 Between August 2006 and February 2009 the Team has been fully staffed. However, some staff have had extended periods of absence due to illness/bereavement. Since February 2009 the Compliance Officer post has been vacant pending a decision on whether to replace that post with either a further Senior Officer post or a full time Compliance Officer post. At the same time, one Enforcement Officer has been taken seriously ill and is unlikely to return to work for a number of months.

4.1.2 To ensure the turnover of investigations is maintained in the short term the Teams' Principal Officer will no longer do Committee work, however, he will continue to jointly act up to cover the Assistant Director of Planning (Development Control) post.

### **4.2 Skills:**

4.2.1 It is proposed to address a skills shortage in the longer term by seeking the creation of a new Senior Enforcement Officer post to replace that of the part time Compliance Officer. In the short term, the increased time given to planning enforcement work by the Teams' Principal Officer will partially address this issue.

### **4.3 Achieving improved performance:**

4.3.1 Dealing with this issue depends on successfully addressing the staffing and skills issues. However, improved performance could create similar issues for other Directorates if demand for their support increases beyond their current capacity.

4.3.2 The Teams' Principal Officer is concerned that the number of investigations closed for the reason that a breach of planning control has been resolved is low and that the numbers of enforcement notices issued each year is low. He recognises there is a lack of control over the nature and number of allegations of breaches of planning control received and that enforcement action is taken as a last resort when all reasonable attempts to secure the cooperation of a contravener have failed. Nevertheless, there would appear to be a case for the adoption of local performance targets as a mechanism for driving up the Team's performance. Members should be aware that there are currently no performance targets for planning enforcement.

### **4.4 Expectations of the public and Members:**

4.4.1 Experience suggests the expectations of the public and Members of the Council's planning enforcement service are high and goes beyond a service that is primarily reactive as at present. The capability of the Planning Enforcement Team to meet such expectations is limited by the resources available to it. Addressing staffing and skills issues would go some way to deal with that gap. In addition, measures to create a better understanding of the work of the Team on the part of the public and Members could assist in narrowing the gap between capability and expectation. However, improved performance would be a more effective way of doing so.

## **5. MATTERS FOR SCRUTINY**

5.1 Officers have no fixed views on the issues and challenges set out above. They are

set out with the aim of stimulating discussion. Officers would welcome a clear statement from the Panel on their vision for the delivery of the planning enforcement service with particular reference to the following:

- What view do the Panel take of the above issues and challenges?
- Have efforts to reduce the number of investigations on hand been recognised?
- What is the Panels sense of the reporting of results?
- Do Members feel they adequately understand the planning enforcement processes?