

Report to Planning Services Scrutiny Standing Panel

Date of meeting: 18 June 2009

Subject: Staffing within Planning Enforcement

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Recommendations/Decisions Required:

To consider and comment on the Staffing within Planning Enforcement

Report:

1. Introduction:

1.1 At the last meeting of the Planning Services Standing Panel it was resolved that a report should be submitted to the panel dealing with the matter of planning expertise in the Planning Enforcement Team. This report discusses that matter, identifies a shortfall in planning expertise available for the delivery of the Councils' planning enforcement function and put forward options for dealing with it. Members are requested to express their view on the availability of planning expertise in the Team and on a proposal for addressing a staffing numbers shortfall identified by officers.

2. Report:

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.

2.2 The Team has a weakness identified in that it has only one fulltime qualified planning officer dedicated to carrying out planning enforcement work; the Teams' Senior Enforcement Officer. The Enforcement and Compliance Officers are not required to have any planning qualification. Although the Teams' Principal Planning Officer is a qualified planning officer, that resource is not solely dedicated to the work of the Team. The role of the Principal Planning Officer normally 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. Time dedicated to the Team by the Principal Planning Officer is split between management of the Team, reviewing officers' assessments of the planning merits of unauthorised development, appeal work and pursuing a very small number of planning enforcement investigations.

2.3 Consequently, the Team has insufficient capacity to deal with peaks of work requiring the input of senior level planning expertise. This constrains the Council's ability to take effective and timely enforcement action, especially where the matter being investigated is complex. It also constrains the Council's ability to defend enforcement action at appeal. Furthermore, while the dedicated senior officer is dealing with peaks of work requiring their input that has a knock on effect on their ability to

continue to progress other investigations. Over the past 3 years nearly all planning enforcement appeals have been dealt with by the Senior Enforcement Officer and the Teams' Principal Planning Officer. While those officers are working on appeals or, indeed pursuing action through court, there is normally no time available for other work. It is not unusual for them to both be carrying out such work at the same time.

- 2.4 The restricted expert capacity also leaves the Council's planning enforcement function exposed should the Senior Enforcement Officer post become vacant. In the recent past it has proven difficult to recruit to that post resulting in it being vacant for a number of years.
- 2.5 In respect of appeals, the shortfall of planning expertise has previously been dealt with by a combination of assigning planning appeals to mainstream Development Control Staff or to planning consultants employed to deal with that particular appeal. Due to a combination of budget constraints and a reduction in professional staff working in Development Control, that option is normally reserved only for the most complex cases or where there is a clash in the timetables for 2 or more appeals.
- 2.6 In respect of progressing complex investigations, due to their time consuming nature it has not been possible to assign other planning staff to deal with them since that would undermine their effectiveness in their own roles. It has also not been considered a good use of resources to employ consultants to carry out complex planning enforcement investigations due to the unpredictable timescale for dealing with them.
- 2.7 The number of new investigations started and investigations closed over the last 3 years has been consistent at about 750 started and a similar amount closed. However, the proportion of investigations closed for the reason that the breach has been resolved has remained at less than 25% (ranging between 18% and 22%) and the number of enforcement notices issued each year is consistently low at approximately 26. Approximately 60% of all enforcement notices issued are appealed and a similar proportion of planning enforcement appeals are decided by way of a hearing or public inquiry. Although the Council's enforcement appeal success rate is very high with nearly all appeals being dismissed and the notice upheld, that success generates a need for further work to be carried out to be taken to ensure compliance with the requirements of notices. Such work can include court action.
- 2.8 Officers are generally aware from informal discussions with Members and members of the public that there is a desire for the Council to increase its planning enforcement activity. Although that is an unreliable indicator of demand for the service, officers are aware that if the council fails to take appropriate and timely enforcement action where it is expedient to do so it could be found guilty of maladministration by the local government ombudsman and required to compensate members of the public. Officers are also aware that, from time to time, concern is expressed about the progress and outcome of planning enforcement investigations by members of the public in the form of complaints or even in the local press.
- 2.9 Consequently it is concluded that there is a need to address the lack of planning expertise at a senior level in the Planning Enforcement Team. Furthermore, it is not possible to do so in a manner that is sustainable by allocating planning enforcement work to development control officers or employing planning consultants.

3. Options for dealing with a lack of planning expertise in the Planning Enforcement Team:

3.1 Option 1:

Delete Existing Post PEF/06 Compliance Officer (0.5 FTE) Grade 5 and replace with new Post PEF/06 Senior Enforcement Officer (1.0 FTE) Grade 8.

An opportunity to deal with the matter of planning expertise in the Planning enforcement Team has arisen with the retirement of the person appointed to the post of Compliance Officer (PEF06). That post is a part time grade 5 position with the primary responsibilities of investigating allegations of unauthorised development in general, taking action to remedy the harm caused by breaches found and to check and ensure compliance with conditions of planning conditions in particular. In practice the post holder has carried out similar work to enforcement officers within the Planning Enforcement Team while the work of verifying and enforcing compliance with planning conditions has been spread across all enforcement officers.

It is proposed that post PEF06 is replaced by a full time senior enforcement officer position (Grade 8). If implemented this would result in a total increase in salary costs of £24,570 at the mid point of each grade. This would have to be met through new funding.

The increase in cost reflects both the increase in time worked and the gain in planning expertise at a senior level for the Council's planning enforcement function.

The creation of the post would in practice nearly double the available planning expertise within the Planning Enforcement Team that is dedicated to progressing investigations. It would create the capacity of dealing with approximately 100 additional complex investigations each year and is likely to result the number of enforcement notices issued each year increasing by at least one third. The new post is also likely to result in faster resolution of the harm caused by more complex contraventions since planning expertise could be more readily brought to such cases.

3.2 Option 2:

Replace post PEF06 with a new full time enforcement officer post (Grade 6).

That would result in a total increase in salary costs of £15,000, which would have to be met through new funding. While of benefit in terms of an increase in hours worked it is of no value at all in dealing with the lack of planning expertise at a senior level within the Planning enforcement Team. It would create additional capacity for dealing with less complex investigations and the early stages of complex investigations, that would be of benefit in general terms. It would be likely to result in a very small increase in the number of enforcement notices issued (3-4 notices a year).

3.3 Option 3:

Make post PEF06 (Grade 5) a full time post.

That would result in a total increase in salary costs of £10,900, which would have to be met through new funding. The benefits are similar to Option 2, although the expertise attracted to the post is likely to be less than that of a

new full time enforcement officer. This option does, however, offer greater value for money than option 2.

3.4 *Option 4:*

Replace post PEF06 with 2 full time trainee planner (enforcement) posts at Grade 3.

The posts would be aimed at post graduate or under graduate planning students who are required to gain work experience in a relevant position over one year of their degree course. The posts would be filled alternately on a fixed term 14 month contract. The last 2 months of the contract for one post would overlap with the first 2 months of the other post. It would result in a total increase in salary costs of £7,500, which would have to be met through new funding..

While of benefit in terms of an increase in hours worked it is of no value at all in dealing with the lack of planning expertise at a senior level within the Planning Enforcement Team. The benefit in terms of hours worked would be undermined by the additional training and coaching that would be given by the permanent staff of the Team. It is likely to create additional capacity for dealing with less complex investigations and the early stages of complex investigations, that would be of benefit in general terms. It would be unlikely to result in any increase in the number of enforcement notices issued.

3.5 *Option 5:*

Make no change and fill post PEF06.

That would not result in any increase in salary costs to the Council. No benefit could be achieved in terms of hours worked or dealing with the lack of planning expertise at a senior level within the Planning enforcement Team.