

## PLANS LIST – 17 JULY 2013

<b>Subject:</b>	<b>Planning Enforcement Yearly Report April 2012- March 2013</b>
<b>Date of meeting:</b>	<b>17 July 2013</b>
<b>Report of:</b>	<b>Head of Planning and Public Protection</b>
<b>Contact officer:</b>	
<b>Name:</b>	<b>Aidan Thatcher Tel: 292031</b>
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<b>Ward(s) affected:</b>	<b>All</b>

### **1. SUMMARY AND POLICT CONTEXT:**

During the consultation period undertaken as part of the development of the Planning Enforcement Policy Document (PEPD), Members and residents expressed an interest in being informed about the progress and outcomes of enforcement investigations. As such, the PEPD requires an annual monitoring report to be presented to the Planning Committee.

### **2. RECOMMENDATIONS:**

That Members' note the contents of this report.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

The planning enforcement team has undergone significant change in the past 12 months. The previous Planning Investigations and Enforcement Manager Gerard McCormack left the authority in November 2012, with an interim manger in post until Aidan Thatcher took post in January 2013.

#### **Case load management within planning enforcement**

During the 2012-13 period a total of 729 cases have been closed following enforcement investigation which is a slight decrease of 93 cases from the previous year. There are currently 417 live enforcement investigations being managed by the team

In 37% of the cases closed, there was found to be no breach of planning control.

In 14% of cases closed, it was determined that it was not expedient to pursue formal enforcement proceedings, as the breach was minor and not causing unacceptable harm.

In 49% of cases there were breaches of planning which needed to be investigated and were significant.

Where there was found to be a significant breach of planning control, or where development was considered to be causing unacceptable harm, compliance was achieved in 85% of cases, before formal action was required.

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In 7% of all cases closed, compliance was achieved through the issuing of a formal enforcement notice.

The table below provides a comparison between this year and last as to the reasons why cases were closed.

	<b>No breach</b>	<b>Not expedient</b>	<b>Full Compliance</b>	<b>Compliance following notice</b>
<b>2012/13</b>	255 (37%)	95 (14%)	291 (42%)	52 (7%)
<b>2011/12</b>	294 (36%)	66 (8%)	419 (51%)	43 (5%)

### **Enforcement notices**

Serving an Enforcement Notice is the most common and most effective method of remedying unauthorised development when informal negotiation has not been successful. Enforcement notices are served early in an investigation when the breach of planning control is causing significant harm or where the transgressor has made it clear that they are unwilling to remedy the breach. The transgressor has the right to appeal against the notice, and the appeal is considered by the Planning Inspectorate.

Fifty-two Enforcement Notices have been served in the 2012-13 period, an increase of twenty-eight from the previous year. The table in appendix 1 summarises the breach of planning control and current status of the investigations in relation to each of the properties against which enforcement notices have been served.

The Enforcement Notices served take a variety of forms as set out below.

### **Enforcement Notice Appeals**

If an appeal is lodged against an enforcement notice, the requirements of the notice are held in abeyance until the appeal is determined by the Planning Inspectorate.

The grounds upon which an enforcement notice can be appealed include:

Ground (a) – That planning permission should be granted for what is alleged in the enforcement notice, or that the condition which is alleged not to have been complied with should be discharged.

Ground (b) – That the breach of planning control alleged in the enforcement notice has not occurred as a matter of fact.

Ground (c) – That there has not been a breach of planning control.

Ground (d) – That at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.

Ground (e) – That the notice was not properly served on everyone with an interest in the land.

Ground (f) – That steps required to comply with the requirements of the enforcement notice are excessive and lesser steps would overcome objections.

Ground (g) – The time given to comply with the notice is insufficient or unreasonable.

The Planning Inspectorate will dismiss or allow the appeal and also have the ability to vary the enforcement notice should they feel this necessary. On some occasions they make split decisions – part allowing and part dismissing the appeal.

With all enforcement investigations, every effort is made to encourage transgressors to carry out the required works prior to formal action becoming necessary.

### **Section 215 Notices**

Where the condition of land or a building is adversely affecting the amenity of a neighbourhood, the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to improve the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council also has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner.

### **Breach of Condition Notices**

These can be used as an alternative to an Enforcement Notice. There is no right of appeal against a breach of condition notice.

### **Other significant achievements**

#### *Increased Public Awareness*

Part of the work of the team involves raising public awareness. The strategy during the 2012-2013 period has been for the Planning Enforcement and Investigations Team to issue press releases to local newspapers and regularly update the Planning Enforcement and Investigations web page.

When necessary, the team manager attends residents meetings to discuss planning enforcement matters that are of concern, be it generally or in relation to a specific investigation.

The awareness amongst residents has, and continues to improve with residents and developers regularly remedying breaches of planning control without formal enforcement action becoming necessary. This is supported by

the largest proportion of all cases closed being those due to full compliance (42%).

#### *Workload*

The Planning Investigations and Enforcement Team has progressed a high volume of cases over the past 12 months, and current live investigations are significantly higher than they have been previously. Officers have been successful in ensuring the thorough and successful processing of investigations in general in accordance with the timeframes set out in the Planning Enforcement Policy. All open investigations are progressing.

The team has continued with our pro-active action which has focused on improving the condition and appearance of dilapidated properties throughout the city with the use of Section 215 powers. This action has seen significant improvements to the appearance of properties along Western Road, Brighton, Western Road, Hove and Preston Street, Brighton.

#### **The coming year**

The next 12 months are an exciting time for the Planning Enforcement and Investigations Team. As well as continuing the excellent work the team are currently undertaking, the following measures will also take place.

- I. Continuing to work with other Council departments and external organisations to resolve breaches in legislation that are causing material planning harm;
- II. Continuing to identify areas in the City where pro-active enforcement projects will improve their character and appearance;
- III. Continuing to promote the success of the team through regular press briefings and use of the Council website;
- IV. Review and improvement of the Planning Enforcement Pages of the Council's website. This will improve the interaction of residents with the service and simplify the process of reporting potential unauthorised breaches of planning legislation;
- V. The implementation of a monitoring process for planning conditions to ensure that those placed on planning approvals are adhered to (subject to the successful implementation of the ICT project)
- VI. Further integration of the Planning Enforcement and Investigations Team within Development Management to ensure the profile of the team is increased within the department.

#### **4. CONSULTATION**

None required.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

Financial Implications:

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There are no financial implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Legal Implications:

There are no legal implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Equalities Implications:

There are no equalities implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Sustainability Implications:

There are no sustainability implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Crime and Disorder Implications:

There are no crime and disorder implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Risk and Opportunity Management Implications:

There are no risk and opportunity management implications relating to this enforcement report that fall outside the normal service delivery for the department.

### Corporate/Citywide Implications

There are no corporate or citywide implications relating to this enforcement report that fall outside the normal service delivery for the department.

### **APPENDIX 1 – PLANNING ENFORCEMENT NOTICES ISSUED BETWEEN APRIL 2012 – MARCH 2013**

	<b>ADDRESS</b>	<b>WARD</b>	<b>BREACH</b>	<b>UPDATE</b>
April	13 Preston Road	Preston Park	Unauthorised shopfront	Appeal allowed
April	62 Clyde Road	St Peters and North Laine	Conversion of property into four self contained flats	Complied
April	2 Berwick Road	Rottingdean Coastal	Two storey side	Awaiting compliance

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			extension	
April	2 Berwick Road	Rottingdean Coastal	Unauthorised conversion of property into two residential units	Awaiting compliance
April	78 St Georges Road	East Brighton	Listed building painted purple	Complied
April	7 Dorset Gardens	Queens Park	Condition and appearance	Complied
April	5 Regency Square	Regency	Condition and appearance	Awaiting compliance
April	105 Upper Lewes Road	St Peters and North Laine	Condition and appearance	Awaiting compliance
April	4 St Georges Road	Queens Park	Condition and appearance	Complied
May	29 Viaduct Road	St Peters North Laine	Condition and appearance of property	Complied
May	18 Richmond Road	St Peters North Laine	Condition and appearance of property	Awaiting compliance
June	Land adjacent to 1 Carlisle Road	Westbourne	Storage container	Appeal dismissed, awaiting compliance
June	129 Western Road	Regency	Removal of plastic windows	Complied
June	Pocket Rocket, Basement, 176 Church Road,	Central Hove	Ensure that rear door is kept shut other than in emergencies	Complied
June	24 Bonchurch	Hanover and	Condition and	Awaiting

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	Road	Elm Grove	appearance	compliance
June	39 St Pauls Street	St Peters and North Laine	Condition and appearance	Complied
June	30 Western Road	Brunswick and Adelaide	Condition and appearance	Complied
June	131 Edward Street	Queens Park	Condition and appearance	Complied
June	134 Edward Street	Queens Park	Condition and appearance	Awaiting compliance
June	31 Montpelier Street	Regency	Condition and appearance	Complied
June	17 Palmeira Square	Brunswick and Adelaide	Condition and appearance	Awaiting compliance
June	9 Western Road	Brunswick and Adelaide	Condition and appearance	Works currently being undertaken
June	10 Western Road	Brunswick and Adelaide	Condition and appearance	Works currently being undertaken
July	8 Western Road	Brunswick and Adelaide	Shopfront	Complied
July	The New Madeira Hotel, 19-23 Marine Hotel	Queens Park	Decking at front of unit	Complied
July	121-123 Davigdor Road	Goldsmith	Car wash and canopy	Awaiting removal of canopy, car wash approved
July	14 Egremont Place	Queens Park	Condition and appearance	Complied
July	8 Western Road	Brunswick and Adelaide	Condition and appearance	Complied

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July	32 Lansdowne Place	Brunswick and Adelaide	Condition and appearance	Awaiting compliance
August	46-48 Grand Crescent	Rottingdean	Boundary Wall	Complied
August	4 Cambridge Road	Brunswick and Adelaide	Solar panels on top of roof	Complied
August	13 Preston Street	Regency	Condition and appearance of property	Awaiting compliance
August	22 Preston Street	Regency	Condition and appearance of property	Awaiting compliance
August	12 Preston Street	Regency	Condition and appearance of property	Complied
August	44 Preston Street	Regency	Condition and appearance of property	Complied
August	26 Preston Street	Regency	Condition and appearance of property	Awaiting compliance
September	32-34 High Street, Rottingdean	Rottingdean Coastal	Condition and appearance of property	Complied
September	36-38 High Street, Rottingdean	Rottingdean Coastal	Condition and appearance of property	Complied
September	73 Portland Road	Westbourne	Condition and appearance of property	Complied
September	54 Preston Street	Regency	Condition and appearance of property	Complied
January	Land at 115 Carden Hill, Brighton	Patcham	Remove the raised, brick hardstanding from the land	Awaiting appeal hearing date

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			at the front of the property	
January	14 Kensington Place	St Peters and North Laine	Removal of porch on front elevation	Awaiting appeal decision
February	22 Eley Crescent	Rottingdean Coastal	Removal of boundary fence and gate	Awaiting appeal decision
March	F 10, 18 Brunswick Place	Brunswick and Adelaide	Internal works to a LB	Awaiting appeal decision

