

Subject:	Planning Enforcement Annual Report 2015/2016		
Date of Meeting:	11th January 2017		
Report of:	Head of Planning		
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Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1 During the consultation period undertaken as part of the development of the Planning Enforcement Policy Document (PEPD), Members and the 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:

- 2.1 That Members note the contents of this report.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Planning Enforcement Team progressed a high number of investigations and resolved a significant number of breaches of planning control during 2015/2016. 576 new cases were received and there were 432 closures. This was despite a significant reduction in the resources within the team with a number of long term absences and a Principal Officer that was part-time.
- 3.2 Despite these challenging circumstances a high volume of investigations were progressed and a good level of customer satisfaction was achieved. Few corporate complaints were received in relation to enforcement activity/investigations.
- 3.3 The team was supported with some additional capacity, provided by temporary staff at administration and Officer levels. This assisted in progressing investigations and enabled the team to function well during a time of significant pressures.
- 3.4 During the 2015-2016 period a total of 432 cases were closed following enforcement investigation which is a decrease of 85 on the previous year.

- 3.5 In 45% of the cases closed, there was found to be no breach of planning control. This is a significant proportion and we are considering ways to minimise the time spent on such cases whilst ensuring they are fully investigated and continuing to deliver a good level of customer service. This figure was 34% for the previous year so has seen a significant increase.
- 3.6 In 17% 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. This is the same figure as for the previous year.
- 3.7 In 36% of cases there were breaches of planning which needed to be investigated and were significant but which were resolved through negotiation. This is a decrease from 44% for the previous year.
- 3.8 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 93% of these cases, before formal action was required.
- 3.9 In 3% of all cases received, compliance was achieved through the issuing of a formal enforcement notice.

3.10 The table below shows a comparison of figures for the previous 4 years.

Year	Cases received	No Breach	Not expedient	Full compliance	Compliance after notice	Total Closures
2015/2016	576	194 (45%)	69 (17%)	157 (36%)	12 (3%)	432
2014/2015	666	176 (34%)	91 (17%)	230 (44%)	20 (3%)	517
2013/2014	658	225 (32%)	178 (26%)	275 (39%)	19 (3%)	697
2012/2013	755	255 (37%)	95 (14%)	291 (42%)	52 (7%)	693

- 3.11 Serving an Enforcement Notice is the most common and effective method of remedying unauthorised development when informal negotiation has failed. The Council is required to be proportionate and reasonable when serving a formal enforcement notice and significant harm must be identified.
- 3.12 Thirty two (32) formal notices were served in the 2015-16 period, a decrease of 9 from the previous year. This comprised twenty four (24) enforcement notices and eight (8) Section 215 notices.

Enforcement Notices

- 3.13 Enforcement notices are served against unauthorised development which consists of either a change of use or unauthorised development. A listed building enforcement notice is a very similar notice served only in relation to listed buildings. Those served the notice have a right to appeal against the notice which is then determined by the Planning Inspectorate. Twenty four (24) enforcement notices were served in the period 2015/2016.
- 3.14 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.
- 3.15 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.
- 3.16 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.
- 3.17 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

- 3.18 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. Eight (8) Section 215 notices were served in the period 2015/2016.
- 3.19 A Section 215 notice can only be appealed in the Magistrates Court. In 2015/2016 no appeals against the service of a 215 notice were made.

Breach of Condition Notices

3.20 These can be used as an alternative to an Enforcement Notice. There is no right of appeal against a breach of condition notice. No Breach of Conditions Notices were served in 2015/2016.

Stop Notices

3.21 Stop Notices can be used to require the immediate cessation of the most serious breaches of planning control, where unacceptable harm to amenity or the environment is being caused. A stop notice can only be used in connection with an enforcement notice and requires the breach/operation (that is defined within the enforcement notice) to cease until such time as an appeal has been heard. Normally an enforcement notice will cease to take effect if an appeal is heard, if a stop notice is served the enforcement notice continues to take effect. There is a risk of compensation to the local authority if an appeal is eventually successful against the notice. No Stop Notices were served in 2015/2016.

Injunctions

3.22 An injunction can be served to restrain or require an operation to cease. The actions required to cease must be of a criminal nature and must be causing unacceptable and irreversible harm. No injunctions were applied for in 2015/2016.

Other achievements

3.23 Where necessary, the Principal Officer attended a number of residents meetings (LAT's) to discuss planning enforcement matters that are of particular concern.

3.24 A programme of proactive work was undertaken in the London Road area to get owners to improve the condition of their properties. This achieved a number of improvements to the built environment in the area without the need for any formal notices.

3.25 The proliferation of Houses in Multiple Occupation (HMO's) across certain wards within the east of the city became an increasing priority. Planning controls were introduced through an Article 4 Direction in 2013, requiring them to obtain planning permission but a significant amount were created without. Awareness of this was raised across the whole city and methods of investigation were formulated.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 None required.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 None required.

6. CONCLUSION

- 6.1 2015/2016 was a challenging year for the planning enforcement team with significant challenges faced in terms of resource within the team. Despite this a high number of cases were progressed and brought to a satisfactory conclusion through either negotiation with land owners or the service of a formal notice where necessary.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

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

Legal Implications:

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

Equalities Implications:

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

Sustainability Implications:

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

Any Other Significant Implications:

- 7.5 There are no other significant implications relating to this enforcement report that fall outside the normal service delivery for the department.

SUPPORTING DOCUMENTATION

Appendices:

1. There are no appendices for this report.

Documents in Members' Rooms

1. None.

Background Documents

1. Planning Enforcement Policy 2011

