



Haringey Council

Overview & Scrutiny

On 27th October 2008

Report Title: **Planning Enforcement Update**

Forward PLAN reference number **Not Applicable**

Report of: Director of Urban Environment

Wards(s) affected: **All**

Report for: **Information**

1. Purpose

- 1.1 To inform Members of the progress on reducing open planning enforcement cases and on service improvements.

2. Recommendations

- 2.1 That Members note the planning enforcement progress on reducing open cases.
- 2.2 That Members note the progress made to date in improving service performance and the arrangements in place for the delivery and monitoring of these service improvements

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3. Chief Financial Officer Comments

- 3.1 The planning enforcement improvement action plan contains proposals to improve service performance and reduce the number of open enforcement cases. The costs of these proposals must be contained within the existing approved Enforcement Service budgets. This assumes that the contribution from the Planning Service of £70k per annum can continue in the medium term. However, there may be some risk associated with this as the amount of housing and Planning Delivery Grant received by the Planning service is reducing. The efficiency savings in respect of legal costs will need to be delivered, albeit it may impact on service delivery. The implications of these risk areas may need to be

highlighted as part of the Council's future financial Planning process.

4. Head of Legal Services Comments

- 4.1 Performance Indicators should be meaningful and measurable. These measures need to be reviewed and considered further to ensure that they provide useful information.
- 4.2 In order to prove a useful tool in the enforcement process, consideration should be given to more extensive prosecution for non-compliance with a planning contravention notice.
- 4.3 The Head of Legal Services comments that it is not generally appropriate to use cautions in planning enforcement cases and discussions will take place at the Service Improvement Group to consider future use.
- 4.4 The Government advises Local Planning Authorities to have a Planning Enforcement Policy. Action in any particular case is discretionary based on the policy, sound planning judgement and expediency. The Council's Planning Enforcement Policy will need to be updated in due course.

5. Local Government (Access to Information) Act 1985

- 5.1 Planning Enforcement Review Full Report (2008)

6. Strategic Implications

- 6.1 Planning Enforcement has been undertaking a range of improvements to improve standards of service. Improvements have been based upon a reduction of open cases and improvements resulting from a stable workforce and improving customer perception.

7. Financial Implications

- 7.1 Temporary funding remains in place to support additional staff to tackle the historical high caseload. This is being achieved through vacancy savings achieved elsewhere within the Enforcement service. The service expects to continue supporting planning enforcement through under spend but this position will be reviewed in December 2008.
- 7.2 The Enforcement service has planned efficiency savings of £13k for 2008/9 and a further £37k for 2009/10. Expenditure on planning enforcement cases alone has been on average about £80k per year. However, enforcement activity now being undertaken is projected to be above £120k for 2008/9 and will exceed the legal budget available. The use of simple cautions as an alternative to prosecution is being used to help achieve these efficiency savings.

- 7.3 One of the recommendations of the review was to begin the use of direct action to reverse unauthorised development. This requires use of a contractor to complete works and then recover costs. There is no budget provision for this and any debt would be held against the Enforcement service budget.
- 7.4 The Enforcement service budget has received £70k of funding from Planning this year, to replace Planning Delivery Grant which ended in 2007/8. This pays for one Planning Enforcement Officer post and a contribution to legal costs.

8. Equalities Implications

- 8.1 There are no equalities issues raised by this issue.

9. Consultation

- 9.1 No consultation apart from the Head of Finance and Legal Services. The service meets routinely with colleagues from Development Control and Legal Services to review performance and improvements; information reported here is discussed at these meetings.

10. Planning Enforcement Performance

- 10.1 Open Cases - In January 2007, the Planning Enforcement service initiated a project approved by the Planning Application Sub-Committee (PASC) to reduce the number of open planning enforcement from 1531 cases by two thirds. This target has been achieved and we are now working to a new target of reducing the number of open cases to 120 per case officer. Based on a permanent establishment of 4 case officers, this is 480 overall.
- 10.2 The table below demonstrates the number of open cases by the year received. The table shows the high number of cases that have been closed after investigation resulted in only 599 open cases to date.

Year	No. cases opened for investigation	No. of cases remaining open
2001/2002	401	0
2002/2003	782	12
2003/2004	881	9
sub total 2001/2 - 2003/4	2064	21*
2004/2005	898	15
2005/2006	939	50
2006/2007	686	61

Year	No. cases opened for investigation	No. of cases remaining open
sub total 2004/5- 2006/7	2523	126
2007/2008	914	193
2008/2009 to August 22 nd	458	248
sub total 2007/8 - to 22.7.2008	1372	441
Total for all years		599

* This figure represents the number of open cases received pre 2004. Of the 21 open cases, 7 have been prosecuted but remain con compliant; 9 have a scheduled court date; and 5 are awaiting service of summons.

- 10.3 At the time of review only our initial response to planning complaints was being formally reported as an indicator, although monitoring of formal actions and project performance was undertaken locally. From the review a new set of performance indicators were proposed for the planning enforcement service, these are listed in Appendix 1.
- 10.4 At present a number of these new indicators are presenting technical reporting problems for our database, however we are able to report the following: -
- 10.5 ENF PLAN (1) – Percentage of cases decided after 8 weeks – This indicator monitors closed cases and shows our speed of investigating cases over the first 8 weeks. We have estimated that as from 1st January 2008, 50% of all cases opened and investigated should be either resolved and closed or have an actionable breach determined within the first 8 weeks from receipt.
- 10.6 Between April to July 2008 a total of 235 of cases closed achieved this target representing 48% of all cases investigated. The remaining 52% of cases are requiring a longer period to investigate the allegations made. This demonstrates good performance against the target and that around half of cases that should proceed to an early decision have done so.
- 10.7 ENF PLAN (2) – Breaches stopped through by Temporary Stop Notice/Stop Notice - Between April to July 2008 there have been 5 Notices served.
- 10.8 ENF PLAN (3) - Customer satisfaction with the service received – Standard processes for Enforcement are now being extended to planning enforcement cases. We have begun seeking customer feedback for 10% of all closed actions as from July.

- 10.9 ENF PLAN (4) – Percentage of cases closed within 6 months – This indicator monitors closed cases and shows how quickly we complete our investigations. We have estimated that 90% of cases opened and investigated since 1st January 2008 should be resolved within 6 months, and that only complex cases that have ongoing enforcement activity or appeal should be open for longer.
- 10.10 As 6 months from April has not yet been reached our performance for cases opened is effectively all cases. As we move towards October it is envisaged that this indicator will become more representative.
- 10.11 ENF PLAN (5) (6) Planning Contravention Notices compliance – This notice is one method used for collecting information about relevant interest in a property. Non compliance is not routinely considered to be grounds for prosecution in the absence of other offending. However, it is a valuable tool and is routinely used to gather evidence within an investigation. There have been no prosecutions warranted for non compliance between April and July 2008.
- 10.12 ENF PLAN (7) – Number of Planning Enforcement Notices served - Between April to July 2008, 35 notices have been served. This is approximately 9% of all cases opened in that period.
- 10.13 ENF PLAN (8) (9) (11) Planning Enforcement Notices appealed - Between April to July 2008, 16 appeals have been lodged representing 45% of all notices issued over that same period. Four appeals have been withdrawn and none have been lost.
- 10.14 ENF PLAN (10) Number of prosecutions for non-compliance with Enforcement Notice – Between April and July 2008 we have prosecuted 5 offenders for failure to comply with an Enforcement Notice.
- 10.15 Initial response to complaint – This is an existing performance measure. All planning enforcement cases that are opened and require an initial site inspection are prioritised against a 3, 10 or 15 working day performance indicator.
- 10.16 Between April and July 2008 we have received 402 requests for investigation. This is a very high level of referral and reflects a 30% increase over the average for 2004/5 to 2007/8.
- 10.17 For this period initial site inspections are at 96% against a target of 95%. This reflects continued strong performance for initial response.

11. Action Plan Update

- 11.1 To ensure that the recommendations of the review are progressed an officer Service Improvement Group has been established. This is chaired by the Assistant Director of Frontline Services and meets monthly to review progress on all the

recommendations and to review progress on the key performance measures identified by the review by way of an action plan.

- 11.2 Provided as Appendix 2 is an updated action plan showing actions completed and planned. Key improvements completed and issues arising are as follows: –
- 11.3 A permanent team leader has been recruited; however, two rounds of recruitment have filled only one enforcement officer post, leaving two vacant. Further recruitment is due to take place with a £2k recruitment package attached. One post is currently funded by £70k of resources and no replacement funding has been identified long term. Although we have extended the range of Enforcement Officers that capture evidence for planning enforcement, the ability to recruit and retain a dedicated stable workforce remains a key issue.
- 11.4 The service is introducing a range of improvements to ensure complainants are better informed. Activity to improve Member awareness of service standards and limitations are also planned. New standard letters at key stage of investigation and closure are being used and a service standard has been submitted for Crystal Marking, this will ensure that it is written in plain English. Once approved this will form part of a pack to be sent to all service users when they submit a request for service. This pack will include a standard letter and service standard leaflet, an optional questionnaire on permitted development where relevant, a flow chart on key stages for investigation and update, and a leaflet identifying the powers we have and when we will use them. A draft pack will be tabled at the meeting for Members to examine.
- 11.5 Performance measures for the service are proving difficult to introduce as there are limitations in both the software used and resources to collate all the proposed performance measures.
- 11.6 Service priorities for planning enforcement is an area for further development and which will need to be captured in a review of the Enforcement Strategy and Policy. A new House in Multiple Occupation Strategy with pilots for Myddleton Road and Green Lanes will be a specific service priority for the service that will be developed over the next few months.

12. Conclusion

- 12.1 Good progress has been made in reducing the number of open cases, however, older cases now open reflect some of our most complex cases and those requiring formal action.
- 12.2 There is good evidence that high levels of enforcement activity are being maintained, however, a small number of cases that have been prosecuted have not resulted in compliance. There will be a need to consider whether such cases should continue to repeat prosecutions or action including direct action to reverse unauthorised development.

- 12.3 The Planning enforcement action plan will continue to be used to improve the performance of the service particularly aimed at establishing a stable work force and improving perception.
- 12.4 Planning Enforcement has continued make excellent progress on reducing open cases. The service will continue to make good progress in this and to enable the service to meet the challenges of the future.

13. Use of Appendices

- 13.1 Appendix 1 – Proposed New Performance indicators
- 13.2 Appendix 2 – Planning Enforcement Review Action Plan (to be tabled)

Appendix 1 Proposed performance indicators for Planning Enforcement

Performance Indicator N0.	Performance Indicator description	Performance Indicator
ENF PLAN 1	Successful decision of a case after 8 weeks	50%
ENF PLAN 2	No Breaches `stopped` through TSN or Stop Notices only	To be determined
ENF PLAN 3	Customer satisfaction with the service received	To be determined
ENF PLAN 4	% of cases closed within target time of 6 months	80%
ENF PLAN 5	% of Planning Contravention Notices complied with	95%
ENF PLAN 6	% of non compliant Planning Contravention Notices prosecuted	95%
ENF PLAN 7	% of Enforcement Notices complied with	To be determined
ENF PLAN 8	% of enforcement notices appealed	To be determined
ENF PLAN 9	% of enforcement notices withdrawn by Council	To be determined
ENF PLAN 10	No of prosecutions for non-compliance with enforcement notice	To be determined
ENF PLAN 11	Outcome of appeals	To be determined