

Committee:	PLANNING APPLICATIONS SUB-COMMITTEE		
Date:	25TH JULY 2006		
Report Of:	INTERIM DIRECTOR OF ENVIRONMENTAL SERVICES		
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Designation:			
Report Title:	PLANNING ENFORCEMENT REVIEW FOR 2005.		

1. PURPOSE:

To review planning enforcement current performance and suggest changes to facilitate and secure further improvements.

2. SUMMARY:

2.1 There has been a significant increase on case closures in 2005 part of this reduces the existing backlog of 1600 cases. Additionally, new cases are still being registered each month, resulting in an average caseload of 300 cases per officer which is excessive. It is important to further reduce the current caseload and re-assess priorities for enforcement action in order to improve efficiency and effectiveness.

There is the need for a service with a sharper focus and this will necessitate proactive linkages with other enforcement teams where their powers are complementary. It is essential therefore to set in place a formal process to reflect the fact that more can be done when joined up with other enforcement teams as recently demonstrated in dealings with social clubs, public eyesores, estate agent boards, fly posting, satellite dishes and advertisement hoardings. Public education remains vital as the provision of planning enforcement powers are seen to be at odds with customer expectation.

3. RECOMMENDATIONS:

3.1 That the report be noted and the recommendation to draw a line and close old cases registered before the end of December 2003, be agreed.

Report Authorised By: ROBIN PAYNE
ASSISTANT DIRECTOR ENFORCEMENT SERVICES

4.0 ACCESS TO INFORMATION PROVISIONS

Not applicable

5.00 BRIEF BACKGROUND

Planning enforcement investigates and resolve alleged breaches of planning controls. Complaints that the service currently deals with involve the following:

- a) **Householder development** Such as an extension or shed being erected, a new fence or wall being erected or raised in height, formation of a roof terrace, converting a house into flats, running a business from home, installation of a satellite dish on a property, pruning and felling of privately owned trees and replacing timber windows with UPVC double glazed units.
- b) **Commercial developments** Such as a shop being used as a café or restaurant, shopfront alterations, an advertisement panel being erected on private land or on the side of a building and a car repair business taking place from private domestic garage
- c) **Other types of development** include not complying with a condition(s) attached to a planning permission, carrying out works to a listed building, and erecting a building not in accordance with the approved plans.

Since January 2004, the delivery of planning enforcement has been the responsibility of the Enforcement Service, but with enforcement decisions made through the Planning Policy and Performance Service. A protocol is in place to ensure the continuing planning input from the Heads of Development Control (both North & South) especially the retention of the responsibility for decisions to take enforcement action and/or close enforcement investigations.

5.01 UPDATE ON NUMBER OF CASES (tables 1 & 2)

- A total of 2699 cases were registered between January 2002 and November 2004, 1097 were resolved and closed by November 2004 (about 41% of all cases), leaving 1602 active cases by end of 2004.
- 73% of the closures (i.e. 805 out of 1097) happened between March and November 2004 when the team was moved from PEPP to join the enforcement services.
- The number of complaints received in 2005 was 885 - which is 3.6% lower than that for 2004. However, 1432 cases were resolved and closed for 2005, as against 832 closures for 2004. This represents a 72% increase on closures helping to reduce the existing backlog.
- The subsequent increase in staff level to 8, though temporary, made the achievements possible. Two other officers were separately involved in dealing with licensing applications and house conversions, making a total of ten.
- In the last quarter of 2005, 410 cases were resolved and closed. Of this 299 (73%) were part of the complaints received within the year, 17% (69) were 2004 cases while the remaining 10% (42) came from complaints received between 2001-2003.
- About two-thirds (65%) of the 2005 cases still remain active. The proportion of active cases reduces significantly to 43% for cases registered in 2004. Overall,

the active cases for these two years form 60% of current open cases.

- Therefore a recommendation to draw a line and close old cases registered before the end of December 2003, if accepted would reduce the current backlog by about 40%.

5.02 BREAKDOWN OF CLOSURES (table 3 & 7)

A sample of 195 cases, which were resolved and closed during a particular period (October to December 2005), were analysed to give a borough-wide picture and also to allow for individual ward by ward comparison.

Of the 195 closures, a third (33%) did not constitute a planning breach, and it was not expedient to take enforcement action with a further 25%. The implication is that half of all complaints can be resolved without resorting to enforcement action.

In almost a third (30%) of the cases, officer intervention was essential in getting developers to take action to remove the breach (11% the activity ceased, 13% took required remedial action, 5.5% submitted applications which were approved). A small proportion (4.5%) was immune from enforcement action.

5.03 OVERVIEW OF CASES BY WARDS (table 4)

Of the 19 wards, **Harringay Ward** has the largest number of cases at 194 out of the borough total of 1459. This is 13% of all cases and is followed by **Highgate** and **Noel Park** Wards at 9% and 8% respectively. Together, these three wards take 30.6% of the number of cases for the borough.

Then, seven (7) other wards (**Muswell Hill, Bounds Green, St Anns, Fortis Green, Woodside, West Green & Seven Sisters**) follow in descending order each taking about 5% of cases. The first seven wards received about half (52%) of all complaints and the first ten wards collectively account for two-thirds, (67%) of all cases for the borough. The other nine (9) wards take the remaining third of the cases.

Tottenham Hale has the least number of complaints at 2.5%. This with **Stroud Green** (3.2%) and **Bruce Grove** (3.3%) together received less than a tenth of cases (9%). The three wards with the least number of cases are all in the East of the Borough.

5.04 BREAKDOWN OF CASES BY COMPLAINTS (table 5)

There are 14 potential breaches on the planning enforcement complaints system. The first 5 main types of complaints cover about two-thirds (65%) of all cases. Adding the next four set of complaints increase the proportion to 90%. It might be tempting, if not prudent to restrict our investigation to dealing with the first nine (9) areas that account for 9/10 of all complaints. However, some minor complaints such as tree works, social clubs and nuisance garages may be of particular concern to residents due to their serious adverse impact on residential amenity and cannot be ignored.

Complaints relating to house conversion top the table with 20%, followed by erection of structures at 15% and departure from approved plans at 12%. Advertisement hoardings, satellite dishes and upvc window replacements are registered as 8.4%, 7% and 5.8% respectively.

For simplicity, the breaches are grouped into 4 main areas in Table 4.3 as:

- **Building works** (Erection of structure, extension, roof extension etc)
- **Land use change** (Change of use, house conversion, Social club, Car repairs and Mini cabs)
- **Alterations to properties** (Shopfront alteration, Departure from approved plans, UPVC window replacement, satellite dish)
- **Others** (Advertisement hoarding, Listed Buildings, Trees works, and non – planning matters)

For the whole Borough, **Land use change** is the largest, accounting for more than a third (35%) of all cases. This is followed by **alterations to buildings** at 27%, then by **building works** closely at 24%. '**Others**' takes the last 14%.

5.05 ENFORCEMENT APPEALS

From April 2004 to December 2005 146 enforcement notices were served. There were 26 enforcement appeals (18%), half were allowed and half were dismissed. This leaves 120 cases where prosecuting the respective developers for non-compliance remains crucial and should be a high priority. This is an important part of ensuring the right message that unauthorised development and identified planning breaches will be fully dealt with is properly embedded in the community.

The enforcement appeals form 25% of all planning appeals and are mainly dealt with by the appeals officer if it is by written representation. However, public inquiries require legal assistance and involvement from planning officers while informal hearings need the involvement of both planning and enforcement officers. Taking enforcement action has far reaching implications on resource allocations.

5.06 Dealings with Legal Services

Due to recent re-organisation and new staff, provision of Legal Services to support planning enforcement is improving in the area of serving enforcement notices and prosecutions. Further improvements can be made by increasing the number of current prosecutions within resource limitations. Significant progress has been made in issuing limited notices such as PCN, Discontinuance Notices and S215 Notices in house. But without a trained stable staff, the team is not in a position to take on additional tasks such as drafting own enforcement notices in-house.

5.07 OTHER ACTIVITIES AND ACHIEVEMENTS

- **HMO WORK:** Dealing effectively with unauthorised house conversions had been a problem in the past as two separate services dealt with different aspects of the investigation, resulting in lack of co-ordination and potential conflict. A pilot Work on Houses in Multiple Occupation (HMO) in the Ladder carried out as a joint investigation by a dedicated officer has proved effective and the programme should be extended to cover the rest of the Borough. So far (For the first quarter of 2006 (January – March)) a total of 113 properties were investigated. Out of this, 40 cases have been resolved and closed as no planning breach or housing regulation breaches were identified. 73 cases are still under investigation. 119 site visits in total were carried out within the period and 51 Planning Contravention Notices (PCNs) were issued and 5 enforcement notices served.
- **TOWER GARDENS ESTATE:** Planning Enforcement has taken a leading role in enforcing breaches in the Tower Gardens Estate, concentrating enforcement

efforts on non-reversible alterations such as upvc window replacements, removal of front hedges and the installation of satellite dishes. Given that there had been limited enforcement action in the past, a Council letter was distributed to all residents within the area in September 2005, advising that a joint enforcement strategy involving Planning, Housing and Neighbourhood management, is now in place to tackle and enforce on unauthorised development. (This is an on-going investigation as new tenants are moving in and out resulting in new breaches.)

- **Estate Agents Boards:** Together with wardens the team has undertaken proactive work to identify offending boards for removal. But this is a recurring problem and so the next stage is to prosecute one or two persistent offenders as an example to others.
- **Fly posting:** Assisted Street Enforcement in delivering effective enforcement to dramatically reduce fly posting using Section 215 notices as appropriate.
- **Public Eyesores Programme:** The use of section 215 notices has been a key element of a joint effort in resolving public eyesores such as uncleared land . The programme initially has focussed on Network Rail Land.
- **Continuous improvements** – Consistently meeting target for initial site visits.
- **Closing more cases** now and reducing the backlog.
- **400 licensing applications** were successfully advised on in time between July 2005 and January 2006
- **Serving more notices in house.** Making frequent use of Planning Contravention Notices to request for information, Section 11 Notices requiring the removal of unauthorised advertisement hoarding and Section 215 notices to require sites to be cleaned. All these are drafted and served in-house with no additional costs to the service.

5.08 PROBLEMS & RECOMMENDATIONS

- 1) **Problems of dealing with large officer case loads.** The service continues to experience problems of sustaining delivery e.g. inability to update all complainants due to the difficulty of 'completing the circle' of investigating more than 250 cases at a time. Regular redistribution of cases to even out caseloads and regular monitoring of individual and group performance figures are some of the measures introduced to resolve the problem. A significant reduction of current caseload is needed to improve performance and sustain improvements.
- 2) **Some problem developers are reluctant to engage with the service,** by not responding to our letters and delaying the investigative process. Using powers of entry or seeking a warrant to enter properties where owners are unco-operative or serving enforcement notice if a breach has been identified are some of the recommended measures. Notices not appealed against should be taken further. However, needed prosecutions are still slow and few.
- 3) **Difficulty in recruiting full time permanent staff.** Stability is very important—high officer turn over in the past has hampered sustained performance and training programmes have not yielded their full benefits. The department continues to rely on agency staff so recruitment and retention of staff are essential.

6.0 WAY FORWARD

There is a high expectation from the public for planning enforcement to deliver. Having assessed current service requirements demanded by clients, the realistic way to meet service goals within available resources is to establish

effective linkages with other enforcement teams and concentrate our focus on achieving a manageable caseload and sustainable actions.

6.1 INVESTIGATION

The Council's policy is to investigate all enforcement complaints. For officers, the initial investigation may comprise an assessment of the site history from planning and sometimes building control records, followed by a site inspection basically to:

- Establish whether there is a possible breach of planning control, and
- If so, to recommend what remedial action or enforcement action, if any, may be appropriate.

In order to ensure that urgent/serious cases are given the highest priority during the initial investigation, a procedure is in place which categorises all complaints into three levels of priority and performance is monitored. Essentially, Planning enforcement powers are discretionary and can only be used where there is good planning reason. Mere regulation of a breach for the sake of regulation without achieving environmental or other benefits is not effective or efficient.

Therefore it is vital to re-focus and agree that:

1. Some breaches of planning control will not be pursued beyond an initial investigation where subsequent action is found not to be expedient.
2. Enforcement action will not be taken simply to regulate the unregulated. Cases will only be pursued to achieve specific benefits for the environment.
3. High priority cases, by definition, will be progressed at the expense of other cases and therefore progress of non-priority cases will be subject to other demands upon the service. Consistent enforcement standards will be maintained at all times.

6.2 PRIORITIES FOR SEEKING REMEDIAL ACTIONS will be given to:

1. **Developments causing irreversible harm or damage**, e.g. removal of trees subject to Tree Preservation Orders, damage to listed buildings etc
2. **Developments giving rise to immediate threats to public safety** or to public health e.g. vehicle spraying in a residential area, uses posing a threat to the public.
3. **Developments seriously prejudicing the (UDP) Unitary Development Plan** e.g. development which is inconsistent with any stated policy or proposal such as roof terraces resulting in overlooking and loss of privacy to neighbours.
4. Developments which by reason of their location or character, bring into **question the integrity of the Council's enforcement service** e.g. unauthorized hoardings on major thoroughfares or other gateways through the Borough, unauthorized development on high streets,
5. Unacceptable developments which, by reason of time, **present imminent possibilities of becoming immune from enforcement and gaining planning permission by default**
6. Action directly **supportive of corporate initiatives** such as public eyesores.

6.3 To move on the team will consider:

- Ways of being proactive in monitoring given planning conditions. Will set up better links with Development Control (Planning) and Building Control officers.

- Must review procedure for receiving and logging cases for investigation – with adequate screening, checking whether cases are picked up too early.
- An acceptance that the Service must be planning policy driven and cannot be enforcement driven. Currently we try to do everything. Planning as a regulatory service needs support in controlling unauthorised development.

6.4 Action Plan

1. Reducing heavy caseload (currently over 300 per officer) to 180 cases per officer by December 2006.

Existing cases range from 2001 and is currently at 1600. Steps are being taken to reduce this figure. It is important to get rid off the old cases as quickly as possible.

Suggestions to reduce the caseload include:

- **Cases where the complaint was made before 30 June 2002** will be closed under the 4-year rule given that any building operations not actioned by now would be immune from enforcement action under planning regulations. .
 - **Cases where no breach is found or where there is no current complaint** and there are grounds to believe that no one is any longer concerned would also be closed.
 - If a case has been **superseded by a planning permission or by a later complaint**, it would also be closed.
2. To produce yearly Report of Enforcement Cases by end of November each year. This will include ward based analysis, mapping planning hotspots and identifying special problems. It should also include a break down of monthly outputs, enforcement appeals and related statistics, enforcement action etc.
 3. Education of the public on what powers and services are available and can be provided by planning enforcement - Target for September 2006

7.0 CONCLUSION

Investigating and dealing with alleged breaches of planning control in Haringey remains a huge but an essential task. There is the need for a service with a sharper focus and this will necessitate proactive linkages with other relevant enforcement teams where their powers are complementary. It is now essential to set in place a formal process to reflect the fact that planning enforcement can do more when joined up with other enforcement teams as recently demonstrated in dealing with social clubs, public eyesores, estate agent boards, fly posting, satellite dishes and advertisement hoardings.