

Agenda item:

**[No.]**

**Regulatory Committee**

**On 24<sup>th</sup> November 2011**

Report Title. **Planning Enforcement Update- Half Year Report 2011-12**

Report of **Director of Place and Sustainability**

Signed :

Contact Officer : **Marc Dorfman, Assistant Director, Planning and Regeneration**  
**Telephone 020 8489 5538**

Wards(s) affected: **All**

Report for: **Non-Key Decision**

**1. Purpose of the report**

1.1. To inform Members on Planning Enforcement's progress in maintaining service delivery 2011/12.

**2. State link(s) with Council Plan Priorities and actions and /or other Strategies:**

2.1. Enforcement of planning control plays a role in delivering policy objectives of the Council's Unitary Development Plan and the future Local Development Framework

2.2. The Council's Enforcement Strategy has an explicit objective to prevent unauthorised use and non permitted development and seek to reverse this when it occurs taking formal enforcement action when expedient to do so.

**3. Recommendation**

3.1. That member's note the first half performance for 2012/12, April-September 2011 inclusive.

#### **4. Reason for recommendation**

4.1. Good progress continues with maintaining the number of open cases at a manageable level, which were 249 at 1<sup>st</sup> October 2011. The first half of the year is quarter has seen a high degree of formal enforcement activity with 48 Enforcement Notices served and 25 Appeals against Enforcement Notices lodged

#### **5. Other options considered**

5.1. Not applicable

#### **6. Summary**

6.1. This report advises members on service performance for the first half of 2011/12 and the teams' incorporation into Development Management within the Planning regeneration and Economy Business Unit from 16 May 2011.

#### **7. Chief Financial Officer Comments**

7.1 Planning Enforcement now forms part of the Planning, Regeneration and Economy business unit within Place and Sustainability and the staffing budget for the posts in this team is £193,100. The costs of preparing this report have been contained within existing budgets.

#### **8. Head of Legal Services Comments**

8.1 The Head of Legal Services notes the contents of this report

#### **9. Equalities & Community Cohesion Comments**

9.1 There are no equalities, and community cohesion issues raised by this report as it updates members on Planning Enforcement's performance April-June 2011 inclusive.

## **10. Consultation**

10.1 The report identifies steps to consult service users.

## **11. Service Financial Comments**

11.1 The service will continue to ensure that Planning Enforcement remains within budget. The Team Currently has three Planning Officers and a Team Leader. Increase in the number of enforcement cases in the last quarter has been in part due to the reduction in staff numbers but also the undertaking of formal enforcement action for a large number of cases especially with the lodgement of an unusually high number of appeals against enforcement notices.

## **12. Use of appendices /Tables and photographs**

Appendix 1 - The number of open cases by the year received

Appendix 2 – April-Sept 2011-Breakdown of Cases by Breach

Appendix 3 - April-Sept 11- Enforcement action and Appeals by Type of Breach

Appendix 4 – April-Sept 2011 Performance indicators

Appendix 5 - April-Sept 2011 Outcomes of Planning Enforcement Closed Cases

Appendix 6 – Table showing planning enforcement prosecution & caution outcomes

## **13. Local Government (Access to Information) Act 1985**

13.1 Case files held by the Team Leader for Planning Enforcement

## **14. Planning Enforcement Performance**

14.1 Appendix 1 provides a table showing cases still open by the year the case was opened. Our current caseload is 249. These include 121 cases received in 2010/11 which remain open. 65 cases received from before April 2010 remain open. Eight cases opened before 2007 remain open and non compliant. All of these cases are at an advanced stage and actions against these are ongoing. The overall caseload compares favourable with the end of 2010-11 when the overall caseload was 241. The sustained caseload management is encouraging especially given the loss of 1.5 members of staff, a subsequent increase in the overall workload for existing staff and the very high degree of formal enforcement action undertaken in the first half of 2011-12.

14.2 Appendices 2 and 3 breaks down the cases by nature of the breach and formal enforcement action taken. There is likely to be some error estimated at 5-10% as some of the breaches alleged on investigation turn out to be a different type of breach. This in

part explains the high return for general unauthorised development cases at 27% of the whole caseload.

- 14.3 With regard to formal enforcement action, the dominance of cases regarding unauthorised conversions to flats or unauthorised HMOs are found is reflected in the fact that although these account for 17% of cases, they account for 59% of enforcement notices issued and 76% of appeals lodged with the Planning Inspectorate against appeals. Satellite dishes by contrast account for 10% of all notices served mostly due to a specific project in Crouch End but have resulted in no appeals being lodged against them.
- 14.4 Appendix 4 deals with Planning Enforcement's performance indicators. Performance remains broadly consistent across the suite of indicators. There has been a slight decline in the proportion of cases resolved within 8 week and 6 month. However this is largely explained by the resolution of a significant number of older cases which lies outside of the 6 month bracket and the recent concentration on formal enforcement action.
- 14.3 Customer feedback response remained very low and did not provide any real insight into general perception by service users. It is considered necessary to discuss with Service Management how the response rate could be improved going forward.
- 14.4 Appendix 5 is a table of closed cases in the first half of 2011/12 by outcomes. Of the cases closed 57% were due to no breach, or those allowed under permitted development rights. Of the cases closed, only 7% was due to immunity from enforcement action. It is worth noting that this is less than half the proportion that was typically reported three years ago. It is suggested that the huge reduction in backlog cases and the improvements made with regard to background investigations prior to opening cases through liaising with other service providers and sharing of information have played a significant part in this reduction.
- 14.5 In 15% of the cases closed, it was considered that enforcement action was not expedient, a reduction on 19% recorded at the end of the first quarter of 2011-12 and 20% were closed as a result of compliance, remediation or regularisation of the development including formal enforcement action maintaining the quarter figure.
- 14.5 Appendix 6 is a table of planning enforcement prosecution and caution outcomes. As shown on this table, good process through prosecution cases has been made. During the first half of 2011-12. The total fines accrued for convictions was £36,150 and the total costs awarded to the Council was £5,429. Costs recovered by the Council when defendants accepted simple cautions in lieu of prosecution was £5,855.

### **Other matters**

- 14.6 During the 2009-2010 Development Management undertook a process of revoking Established Use Certificates at several properties where it was found that the evidence submitted which led to their issue was false. Enforcement Action was taken in the autumn of 2010 and the following progress has been made:
- 10 Hampden Lane N17 Prosecuted and convicted. Notice now complied with
  - 69 Roseberry Gardens Enforcement Appeal withdrawn. Notice complied with

- 13 Harringay Gardens Enforcement Appeal withdrawn. Notice now in breach
- 82 Warham Road Enforcement Appeal allowed. Case closed
- 49 Warham Road Enforcement Appeal withdrawn. Notice now complied with

14.7 It is worth noting that the decision to revoke has been upheld on all of the above. 82 Warham Road was allowed due to material planning considerations outweighing development plan policy. The grounds of challenge which if successful would undermine the decision to revoke the Certificates have been upheld on each appeal or the appeal has been withdrawn. The Planning Inspectorate has awarded costs against the appellant with further cost applications outstanding for 49 Warham Road and 13 Harringay Gardens.

### **Appendix 1 – Table demonstrating Planning Enforcement Caseload**

<b>Year</b>	<b>No. cases opened for investigation</b>	<b>No. of cases remaining open</b>
2001/2002	401	0
2002/2003	782	0
2003/2004	881	0
<b>sub total 2001/2 - 2003/4</b>	<b>2064</b>	<b>0</b>
2004/2005	899	1
2005/2006	941	4
2006/2007	687	1
<b>sub total 2004/5- 2006/7</b>	<b>2527</b>	<b>6*</b>
2007/2008	919	2
2008/2009	1056	19
<b>sub total 2007/8 - 2008/9</b>	<b>1975</b>	<b>21</b>
2009-2010	881	32
2010-2011	760	69
2011-2012 (up to 30.09.11)	328	121
<b>Total for all years</b>	<b>8535</b>	<b>249</b>

**\*Of the 6 open cases pre 2007**

- 1 warrant case
- 2 both 2<sup>nd</sup> convictions secured against the same owner
- 1 cases referred to Crown Court for confiscation proceeding under Proceedings Of Crime Act (POCA) (2 further cases to referred). Outcome anticipated by Spring 2012
- 2 appeal against re-issued Enforcement Notices

It should be noted that all of the above cases deal with unauthorised conversion of houses into multiple self-contained units. Underlining that both the enforcement of and achieving compliance with regard to such breaches can be a lengthy and resource intensive process.

**Appendix 2: Breakdown of Investigations by Type of Breach April-Sept 11**

Type of Case	No of Cases	Percentage
AT4-Breach of Article 4 direction	9	3
ADV-Advertisement	6	2
CON-Breach of Condition	14	4
COU-Change of Use	43	12
DEP-Departure from Plans	37	11
EXT-Extension	46	12
FCV-Conversion to flats	52	14
HMO-House in Multiple Occupation	11	3
LBW-Listed Building	9	3
SAT-Satellite Dish	12	3
SOC-Social Club	2	1
TPC- Works to Trees	15	4
UNT-Untidy Land	1	0
UPW-Place of Worship	3	1
UNW-Unauthorised Development	98	27
<b>TOTAL</b>	<b>348</b>	<b>100</b>

**Appendix 3: Enforcement Action by Case and Appeals Lodged April-Sept 11**

Type of Breach	Number	Percentage	Appealed	Percentage
<b>SOC/COU</b>	1	2	0	0
<b>FCV</b>	23	49	15	60
<b>UNW</b>	6	13	2	8
<b>LBW</b>	2	4	1	4
<b>EXT</b>	4	8	2	8
<b>SAT</b>	5	10	0	0
<b>COU</b>	2	4	0	0
<b>HMO</b>	4	8	4	16
<b>ADV</b>	0	0	1	4
<b>UNW/FCV</b>	1	2	0	0
<b>TOTAL</b>	<b>48</b>	<b>100</b>	<b>25</b>	<b>100</b>



**Appendix 4 Table indicating Performance indicators for Planning Enforcement April-Sept 11**

Table of performance indicators			
Performance Indicator Number	Performance Indicator description	Performance Indicator target	Performance Output April June 2011
ENF PLAN 1	Successful resolution of a case after 8 weeks	40%	39% (111 from 286 cases closed)
ENF PLAN 3	Customer satisfaction with the service received	To be determined	10% of closed cases to be contacted by the service manager
ENF PLAN 4	Cases closed within target time of 6 months	80%	77% (220 out of 286 cases closed)
ENF PLAN 5	Cases acknowledged within 3 working days	90%	88% (287 out of 325 cases)
ENF PLAN 6	Planning Enforcement Initial site inspections 3, 10, 15 working days	90%	95% (259 from 272 cases initial visit within the time period)
Performance Indicator Number	Performance Indicator description	Performance output April – June 2011	
ENF PLAN 7	Number of Planning Contravention Notices served	40	
ENF PLAN 8	Number of Enforcement Notices Served	48	
ENF PLAN 9	Number of enforcement notices appealed	25	
ENF PLAN 10	Number of enforcement notices withdrawn by Council	5	
ENF PLAN 10a	Number of Enforcement Appeals Allowed	1	
ENF PLAN 10b	Number of Withdrawn Appeals	1	
ENF PLAN 11	Number of prosecutions for non-compliance with enforcement notice	10	
ENF PLAN 12	Number of Notices (Other) served	1	

**Appendix 5 – Table showing Outcomes of Planning Enforcement Closed Cases April-September 11**

<b>Closure reason</b>	<b>Output April-Sept 2011</b>
No breach/Permitted Development	163 (57%)
Not expedient	43 (15%)
Compliance/ Remediation/Regularisation	59 (20%)
Immune from enforcement action	23 (8%)
<b>Total</b>	<b>288</b>

## Appendix 6: Prosecutions and Outcomes April-Sept 11

No	Client Department, address and Lead Officer)	Legislation (inc section) prosecution under	Breach Address	Latest Action
1	Fortune Gumbo	s179 TCPA 1990	31 Siward Road N17	Warrant Case. No progress
2	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>11 Burgoyne Road N4</i>	<i>Prosecution withdrawn</i>
3	Fortune Gumbo	s179 TCPA 1990	13 Bounds Green Road	Hearing 17.11.
4	Myles Joyce	s179 TCPA 1990	13 Whitley Road	Trial 24.1.12
5	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>22 Black Boy Lane</i>	<i>Caution Accepted October</i>
6	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>75 Hermitage Road</i>	<i>Caution Accepted Costs £2070 paid to Council for 5 and 6</i>
7	Myles Joyce	s179 TCPA 1990	216 West Green Road	Summons Issued.
8	<b>Fortune Gumbo</b>	<b>s179 TCPA 1990</b>	<b>38 Thackerary Avenue</b>	<b>Convicted and fined £15000 costs £645</b>
9	<b>Fortune Gumbo</b>	<b>s179 TCPA 1990</b>	<b>100 Myddleton Road</b>	<b>Prosecuted and Convicted</b>
10	<b>Fortune Gumbo</b>	<b>s179 TCPA 1990</b>	<b>25 Cumberton Road</b>	<b>Convicted and Fined £600 costs awarded</b>

11	Fortune Gumbo	s179 TCPA 1990	22 Cumberton Road	Summons Issued
12	Lorcan Lynch	s179 TCPA 1990	8 Harringay Gardens	Compliance secured £2500 costs paid to Council
113	Fortune Gumbo	s179 TCPA 1990	rear of 110-118 Myddleton Road	Cautioned £1480 costs paid
14	Myles Joyce	s179 TCPA 1990	403 Lordship Lane	Prosecuted and Convicted £300 fine and £1500 costs. Notice complied with
15	Myles Joyce	s179 TCPA 1990	101 Lealand Road N15	Prosecuted and Convicted in Crown Court. Conditional discharge
16	Myles Joyce	s179 TCPA 1990	180 Park Lane N17	Complied with
17	<b>Myles Joyce</b>	<b>s179 TCPA 1990</b>	<b>2 Goodwyns Vale</b>	<b>Found guilty. Case in Crown Court for Confiscation under Proceeds of Crime Act. Hearing end 2011.</b>
18	Lorcan Lynch	s179 TCPA 1990	9 Heybourne Road	Pleaded of guilty. Case in Crown Court for Confiscation under Proceeds of Crime Act hearing Spring 2012

19	Lorcan Lynch	s179 TCPA 1990	1 Bruce Castle Road	Found guilty Case in Crown Court for Confiscation under Proceeds of Crime Act. Hearing Spring 2012
20	Lorcan Lynch	s179 TCPA 1990	22 Gladesmore Road	Already Convicted
21	Myles Joyce	s179 TCPA 1990	74 Umfreville Road	Already convicted
22	Lorcan Lynch	s179 TCPA 1990	98 Hewitt Avenue	Already convicted
23	Myles Joyce	s179 TCPA 1990	23 Hewitt Avenue	Convicted for 2 <sup>nd</sup> time £8000 fine £11617 costs
24	Myles Joyce	s179 TCPA 1990	89 Burgoyne Road	Convicted 2 <sup>nd</sup> time £800 fine



**Haringey** Council