

Agenda item:

[No.]

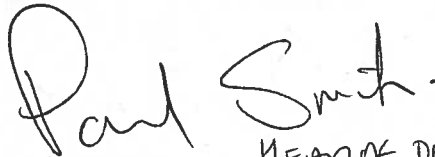
Regulatory Committee

On 29th May 2012

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

Report of **Director of Place and Sustainability**

Signed :



HEAD OF DEVELOPMENT MANAGEMENT.

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.

2.3. The Appeal process is a reflection of the strength of planning policies and planning decisions taken within PRE. Its effective management and ability to defend the above policies and decisions is a clear indication of the health of the Business Unit.

3. Recommendation

3.1. That member's note the year performance for 2012/12 for Planning Enforcement and Appeals.

4. Reason for recommendation

4.1. Good progress continues with maintaining the number of open cases at a manageable level, which were 280 at 1st April 2012. This year has seen a significant increase in the enforcement notices issued (84 up from 68) and Appeal lodged 43 up from 32).

5. Other options considered

5.1. Not applicable

6. Summary

6.1. This report advises members on service performance for 2011/12 and the teams' incorporation into Development Management within the Planning regeneration and Economy Business Unit from 16 May 2011 and the incorporation of the management of the appeal service from September 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 the Planning Enforcement and Appeals caseload remains manageable and seeks to maintain the good performance of both services. The Appeal services involves all Planning Officers and the planning enforcement team has currently three dedicated Planning Officers and a Team Leader. Since late March 2012 a planner involved in the enforcement of issues along Tottenham High Road and its surrounds has been appointed as part of the Tottenham Project. The workload has remains consistently high throughout 2011-12.

12. Use of appendices /Tables and photographs

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

Appendix 2 – April-March 2011-12 Breakdown of Cases by Breach

Appendix 3 - April-March 2011-12- Enforcement action and Appeals by Type of Breach

Appendix 4-Planning and Enforcement Appeals Received and Determined 2011-12

Appendix 5-Planning and Enforcement Appeal by type 2011-12

Appendix 6- Planning and Enforcement Appeals by way of determination 2011-12

Appendix 7 – April-March 2011-12 Planning Enforcement Performance indicators

Appendix 8 - April-Sept 2011 Outcomes of Planning Enforcement Closed Cases

Appendix 9 – Table showing planning enforcement prosecution & caution outcomes

13. Local Government (Access to Information) Act 1985

13.1 Planning Enforcement Case files held by the Team Leader for Planning Enforcement, and Appeal case files by the Head of DMPE

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 280. These include 81 cases received up to 2010/11 which remain open or 28% of the total. Only 21 cases remain open from before 1st April 2009 which are the more complex cases (7.5% of total live cases). All of these cases are at an advanced stage and actions against these are ongoing. The overall caseload compares favourably with the end of 2010-11 when the overall caseload was 241 when one considers the increase in Notices issued and subsequent appeals lodged against them.

- 14.2 Appendices 2 and 3 break 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. One of the most common is where an extension is logged as unauthorised development. It is also considered that breaches of Article 4 direction may also be underrepresented due to the reporting of cases. This in part explains the high return for general unauthorised development cases at 32% of the whole caseload. However of note is 23% of cases are for alleged HMO/flat conversion.
- 14.3 With regard to formal enforcement action (where Enforcement Notices are issued), the dominance of cases regarding unauthorised conversions to flats or unauthorised HMOs are found is reflected in the fact that although these account for 64% of all Notices issued. Where appeals are lodged the numbers are even more dominant with 43/33 or 77% of appeals lodged for this type of breach. Breaches of Article 4 directions, breaches of condition or satellite dishes did not attract an appeal at all despite some 11 Notices being issues for these types of breach.
- 14.5 With regard to Appeals performance, Planning Appeals indicate good returns with only 23% of appeals upheld by the Planning Inspectorate. The figure for Householder appeals at 88% is even more impressive when set against the performance indicator of 35% and the London average of over 30%. Planning Enforcement appeals also recorded a good return with only 11% or 4 appeals upheld by the Planning Inspectorate. This compares well with 15% upheld in 2010-11 from fewer determined appeals. (Appendices 4, 5 and 6)
- 14.4 Appendix 7 deals with Planning Enforcement's performance indicators. Performance remains broadly consistent across the suite of indicators. It is noted that 42% of cases were resolved within 8 weeks, an increase from 41% for 2010-11. With regard to 6 month closures this remains at 77%, slightly below the 80% PI. This is explained in part by the high degree of formal enforcement action and number of quite difficult cases which could not be resolved within this timeframe. ENFPLAN 5 and ENFPLAN 6 both show high returns with regard to cases acknowledgement and initial site visit within timescale.
- 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 8 is a table of closed cases in the first half of 2011/12 by outcomes. Of the cases closed 54% were due to no breach, or those allowed under permitted development rights. Of the cases closed, only 6% was due to immunity from enforcement action. Of 18% of the cases closed, it was considered that enforcement action was not expedient, lower than the 19% in terms of proportion and lower overall figure than was recorded for 2010-11. The proportion of cases closed through remediation regularisation or compliance increased to 22% from the 20% recorded for 2010-11.
- 14.5 Appendix 9 is a table of planning enforcement prosecution and caution outcomes. Good process through prosecution cases has been made. For 2011-12, the total fines accrued for convictions were £59,400 and the total costs awarded to the Council was

£12,477. Costs recovered by the Council when defendants accepted a simple caution in lieu of prosecution was £14,100.

Other matters

- 14.6 Some of the more difficult cases involving problematic landlords have seen progress made during 2010-11. At present the current status is as follows:
- 11 Burgoyne Road Enforcement Notice upheld on appeal. Compliance works have commenced
 - 69 Effingham Road Enforcement Notice upheld on appeal. Compliance works agreed to commence summer 2012
 - 13 Harringay Gardens Enforcement Appeal withdrawn. Compliance works agreed to commence autumn 2012
 - 10 Woollaston Road Enforcement Appeal upheld on appeal. Implementing planning permission for 2 flats commenced
 - 23 Hewitt Road Prosecuted and convicted twice. Schedule of compliance works to commence June
 - 89 Burgoyne Road Prosecuted and convicted twice. Schedule of compliance works to commence June
- 14.7 It is worth noting that all of the above can be prosecuted further should compliance works which have been agreed stall for insufficient reason. However it is anticipated that the considerable previous work should realise full compliance before the end of

Appendix 1 – Table demonstrating Planning Enforcement Caseload

Year	No. cases opened for investigation	No. of cases remaining open
2001/2002	401	0
2002/2003	782	0
2003/2004	881	0
sub total 2001/2 - 2003/4	2064	0
2004/2005	899	1
2005/2006	941	4
2006/2007	687	1
sub total 2004/5- 2006/7	2527	6*
2007/2008	919	2
2008/2009	1062	13
sub total 2007/8 - 2008/9	1975	15
2009-2010	881	18
2010-2011	760	42
2011-2012 (up to 30.09.11)	718	1
Total for all years	8914	280

Appendix 2: Breakdown of Investigations by Type of Breach

Type of Case	No of Cases	Percentage
AT4-Breach of Article 4 direction	18	3
ADV-Advertisement	15	3
CON-Breach of Condition	24	3
COU-Change of Use	73	10
DEP-Departure from Plans	66	9
EXT-Extension	46	6
FCV-Conversion to flats	149	21
HMO-House in Multiple Occupation	13	2
LBW-Listed Building	11	2
SAT-Satellite Dish	29	4
SOC-Social Club	4	0
TPC- Works to Trees	26	4
UNT-Untidy Land	1	0
UPW-Place of Worship	5	0
UNW-Unauthorised Development	230	32
TOTAL	718	100

Appendix 3: Enforcement Action by Case and Appeals Lodged 2011-12

Type of Breach	Number	Percentage	Appealed	Percentage
CON	3	4	0	0
AT4	2	2	0	0
FCV/HMO	54	64	33	77
LBW	2	2	2	4
SAT	6	8	0	0
COU	3	4	1	2
ADV	2	3	1	2
UNW/EXT	12	13	6	15
TOTAL	84	100	43	100

Appendix 4: Planning and Enforcement Appeals Received and Determined 2011-12

	Planning Appeals	%	Planning Enforcement Appeals	%
Received	96	100	43	100
Determined	89	100	35	100
Dismissed	65	73	23	66
Allowed	21 (+1 split decision)	23	4	11
Withdrawn	3	4	5	14
Notice withdrawn	Not applicable	n/a	3	9

Appendix 5: Determination of Planning Appeals by Type 2011-12

	Planning Appeals	%	Householder Appeals	%	Conservation and LB Appeals	%	LDC Appeals	%	Tree Appeals	%	Total
Received	64	67	26	27	2	3	3	1	1	100	
Determined	54	60	28	31	2	4	5	1	1	100	
Dismissed	35	64	25	89	1	50	3	75	1	100	n/a
Allowed	17	31	3	11	1	50	0	0	0	0	n/a
Withdrawn	2	5	0	0	0	1	25	0	0	0	n/a
Total	54	100	28	100	2	100	4	100	1	100	n/a

Appendix 6: Appeals by Method of Determination 2011-12

Appeals lodged	By Written Representations	By Hearing	By Public Inquiry	TOTAL
Planning	91	2	3	96
Enforcement	34	0	9	43
Appeals determined	By Written Representations	By Hearing	By Public Inquiry	TOTAL
Planning	89	2	2	96
Enforcement	35	0	2	32

Appendix 7 Table indicating Performance indicators for Planning Enforcement 2011-12

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%	41% (274 from 666 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% (512 out of 666 cases closed)
ENF PLAN 5	Cases acknowledged within 3 working days	90%	96% (681 out of 712 cases)
ENF PLAN 6	Planning Enforcement Initial site inspections 3, 10, 15 working days	90%	95% (440 from 462) cases initial visit within the time period)
Performance Indicator Number	Performance Indicator description	Performance output April 2011 –March 2011-12	

ENF PLAN 7	Number of Planning Contravention Notices served	118
ENF PLAN 8	Number of Enforcement Notices Served	84 (3 BCNs)
ENF PLAN 9	Number of enforcement notices appealed	43
ENF PLAN 10	Number of enforcement notices withdrawn by Council	8
ENF PLAN 10a	Number of Enforcement Appeals Allowed	5
ENF PLAN 10b	Number of Withdrawn Appeals	5
ENF PLAN 10C	Number of Notice Appealed withdrawn	3
ENF PLAN 11	Number of prosecutions for non-compliance with enforcement notice	15
ENF PLAN 12	Number of Notices (Other) served	5

Appendix 8 – Table showing Outcomes of Planning Enforcement Closed Cases April-September 11

Closure reason	Output April-Sept 2011
No breach/Permitted Development	363 (54%)
Not expedient	118 (18%)
Compliance/ Remediation/Regularisation	149 (22%)
Immune from enforcement action	43 (6%)
Total	673

Appendix 9: Prosecutions and Outcomes 2011-12

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	Myles Joyce	S179 TCPA 1990	646 Green Lanes	Hearing 1.2.12
3	Myles Joyce	S179 TCPA 1990	76 Scales Road	Complied. Trial 29.6.12
4	Fortune Gumbo	S179 TCPA 1990	60 St Pauls Road n17	Hearing 1.2.12
5	Abby Oloyede	S179 TCPA 1990	143-5 Philip Lane	Prosecuted and Convicted £1250 Fine £902 costs. Negotiation with Conservation and application submitted
6	Abby Oloyede	S179 TCPA 1990	2 Moorefield Road	Convicted and fined £2000 and £2073 cots

	<i>Myles Joyce</i>	<i>S179 TCPA 1990</i>	<i>19 Warham Road</i>	<i>Compliance-Caution to be accepted 28.3.12</i>
	<i>Fortune Gumbo</i>	<i>S179 TCPA 1990</i>	<i>181 Tower Garden Road N17</i>	<i>Simple caution accepted and £570 costs paid</i>
7	Fortune Gumbo	s181 TCPA 1990	13 Bounds Green Road	Found guilty-Fined £5000 and costs £2073. Defendants have case stated in high court
8	Fortune Gumbo	s181 TCPA 1990	13 Bounds Green Road	Prosecution for outbuilding separate from above. Bundle submitted April 2012
9	Myles Joyce	s179 TCPA 1990	13 Whitley Road	Trial 25.1.12 Found guilty and fined £5000x3 £2000 costs in total. Appeal lodged to be heard on 21st May 2012
	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>216 West Green Road</i>	<i>Complied simple caution accepted £650 costs paid</i>
	<i>Myles Joyce</i>	<i>S179 TCPA 1990</i>	<i>646 Green Lanes</i>	<i>Complied. Simple caution and £890 costs paid</i>
11	Fortune Gumbo	s179 TCPA 1990	38 Thackerary Avenue	Convicted and fined £15000 costs £645. Compliance

				visit required
12	Fortune Gumbo	s179 TCPA 1990	100 Myddleton Road	Prosecuted and Convicted. Further action required as no compliance
13	Fortune Gumbo	s179 TCPA 1990	25 Cumberton Road	Convicted and Fined £600 costs awarded. To close
	<i>Fortune Gumbo</i>	<i>s179 TCPA 1990</i>	<i>22 Cumberton Road</i>	<i>Warrant Case. Complied</i>
14	Myles Joyce	s179 TCPA 1990	2 Goodwyns Vale	Found guilty. Case in Crown Court for Confiscation under Proceeds of Crime Act. Matter listed in Wood Green Crown Court for final hearing on 2nd July 2012.
15	Lorcan Lynch	s179 TCPA 1990	9 Heybourne Road	Pleaded of guilty. Case in Crown Court for Confiscation under Proceeds of Crime Act Hearing August 2012

16	Lorcan Lynch	s179 TCPA 1990	1 Bruce Castle Road	Found guilty Case in Crown Court for Confiscation under Proceeds of Crime Act. Hearing August 2012
	Myles Joyce	s179 TCPA 1990	74 Umfreville Road	Compliance. Simple caution to be accepted 28 th March 2012
17	Lorcan Lynch	s179 TCPA 1990	98 Hewitt Avenue	Already convicted. LBA for 2 nd prosecution to be sent
				Convicted for 2 nd time £8000 fine £11617 costs. Letter before action brought response and schedule of works for compliance June –August 2012
18	Myles Joyce	s179 TCPA 1990	23 Hewitt Avenue	Convicted 2 nd time £8000 fine Letter before action brought response and schedule of works for compliance June –August 2012
19	Myles Joyce	s179 TCPA 1990	89 Burgoyne Road	Convicted 2 nd time £8000 fine Letter before action brought response and schedule of works for compliance June –August 2012
	Myles Joyce	s179 TCPA 1990	180 Park Lane N17	Complied with

	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>22 Black Boy Lane</i>	<i>Caution Accepted October</i>
	<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>
	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>11 Burgoyne Road N4</i>	<i>Prosecution withdrawn</i>
	<i>Lorcan Lynch</i>	<i>s179 TCPA 1990</i>	<i>8 Harringay Gardens</i>	<i>Compliance secured £2500 costs paid to Council</i>
	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>101 Lealand Road N15</i>	<i>Prosecuted and Convicted in Crown Court. Conditional discharge</i>
	<i>Fortune Gumbo</i>	<i>s179 TCPA 1990</i>	<i>rear of 110-118 Myddleton Road</i>	<i>Cautioned £1480 costs paid</i>
	<i>Myles Joyce</i>	<i>s179 TCPA 1990</i>	<i>403 Lordship Lane</i>	<i>Prosecuted and Convicted £300 fine and £1500 costs. Notice complied with</i>
	<i>Lorcan Lynch</i>	<i>s179 TCPA 1990</i>	<i>22 Gladesmore Road</i>	<i>Notice complied with after conviction</i>