



Haringey Council

Quarterly meeting

On 11th February 2008

[No.]

Report Title: **Planning Enforcement Project Update**

Forward Plan reference number (no applicable):

Report of: **Eubert Malcolm Service Manager Enforcement Response**

Wards(s) affected: All

Report for: **Non Key Decision**

1. Purpose To update committee Members on the progress of the planning enforcement Project

2. Introduction by Cabinet Member (not necessary)

Recommendations: To note progress of the planning enforcement project

Report Authorised by: **Robin Payne Head of Enforcement** *pp E. Malcolm*

Contact Officer: **Brian Ellick Interim Team Leader Planning Enforcement**

3. Director of Finance Comments

The project is currently being funded by salary under spends across the business unit. Recruitment following restructuring of the enforcement service is expected to allow continued funding until the end of March 2008.

4. Head of Legal Services Comments

It should be noted that the Council may face the potential of having abuse of process arguments raised on behalf of defendants for undue delay in the Council bringing prosecution action against land owners and occupiers especially when many years have lapsed after the initial Enforcement Notice was served without any particularly persuasive reason. It has been suggested in leading case law however that this argument should only be successful in exceptional circumstances. Since the implementation of the Human Rights Act 1998, direct regard should also be had to Article 6(1) of the European Convention for the Protection of Human Rights and the related Strasbourg jurisprudence which states, in broad terms that in the determination of a person's obligations or of any

criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time and Article 6(3) sets out a list of what are described as minimum rights which must be afforded to any one charged with a criminal offence. These include the following:

- (a) to be informed promptly, in a language he understands and in detail, of the nature and cause of the accusation against him;
- (b) to have adequate time and facilities for the preparation of his defense.

5. Local Government (Access to Information) Act 1985

6. Strategic Implications

6.1 The aim of this project was to reduce the number of planning enforcement open cases to enable an improvement in planning enforcement performance. This project included all work being carried out in the service, i.e. Support of the planning enforcement review, Houses in Multiple occupation (HMO) project where licensed HMOs files were investigated and used for prosecution evidence where possible. The service also supported Middleton road and Green lanes projects.

7. Financial Implications

7.1 The service expects to continue supporting planning enforcement through under spends in service until April 08. A review will then take place to establish further support as a priority.

8. Legal Implications

8.1 The project identified cases where no enforcement could be taken but could be negotiated through other interventions. Planning enforcement cases where the work was carried out over four previously are immune from Enforcement action.

9. Equalities Implications

9.1 Providing an effective planning enforcement service will help ensure fair and equal outcomes for all service users.

10. Consultation

10.1 No consultation apart from head of finance and legal services

11. Background

11.1 The Planning Enforcement Project commenced in January 2007 and has been running for twelve months. The Project was the result of a proposal put forward to Planning Application Committee (PAC) to reduce and manage the open planning enforcement cases.

- 11.2 In order to better manage the open cases the project was broken into three phases. At the start of the project there were a reported 1531 open cases. At the end of December 2007 there were a reported 659 open cases.
- 11.3 The process for closing any case within the project requires authorisation from either one of the two heads Development Control (DC). It was agreed by DC that in the first phase of the project 20 cases per week could be referred over to the two heads of DC for closure. This rate of closures would have limited closures to 480 in six months.

PHASE 1 FOUR YEAR RULE

- 11.4 Under the four year rule, any case where work was carried out over four years ago is immune from legal action.
- 11.5 In the first phase of the project **495** cases were originally deemed to fall within the four year rule, however after close examination of each case a 62% of the cases were deemed not suitable to close under this rule and as a result required further investigation through negotiation.
- 495 cases received
 - 311 cases closed (immune)
 - 184 requiring further enforcement investigation

PHASE 2

- 11.6 Phase two addressed cases that were received from 2004 - 2006. As the project moved into phase two there was a reduction in the amount of cases referred to the two heads of DC for closure. This was due to cases requiring further investigation into the alleged breach resulting in more enforcement action being taken.
- 1036 Cases received
 - 475 Cases closed
 - 561 Cases open

PHASE 3

11.7 Phase three was to deal with the remaining cases, and would effectively incorporate the regular cases received on a daily basis. Phase three is envisaged to address the regular cases which are received daily. These cases are the new complaints received from January 2007 until present. Once the caseload in phase 1 & 2 are deemed manageable then the regular cases received will be incorporated into the phase 3 of the project.

- Cases since Jan 07 876
- Cases closed 533
- Cases open 343

Overview phases 1& 2

11.8 To date 872 cases in total have been closed on the project. This means that 57 % of the 1531 cases are closed. There is a remaining 659 cases (43%) which require further investigations. At least 90% of the remaining open cases have had some form of planning enforcement investigation action taken. Planning Enforcement is continuing to review the open cases in an attempt to ensure that cases are being effectively closed.

11.9 The remaining open cases are being reviewed and will be dealt with in order of priority, namely:

Priority 1

11.10 Cases which have the most detrimental effect to the environment / amenity i.e. those that breach planning control regulations in relation to Article four areas, conservation areas, and listed / protected buildings.

Priority 2

11.11 reaches which are unlikely to be granted permission without substantial modification to the development. These breaches could effectively be of a similar nature to the types currently being addressed in priority one.

Priority 3

11.12 Breach of Planning Control of a minor/temporary nature with limited planning concerns. These types of breaches would only require minimum remediation in order to comply with planning regulations and have a very limited negative impact on the local amenity.

12 Conclusion

- 12.1 Although it has taken longer than expected to reach the current milestone of closing 57% of the original 1531 open cases. The project has been successful in reducing cases considerably and we are continually reviewing our processes in attempt reduce the open cases even further. During the course of this project a number of cases have been satisfactorily resolved without the need for Enforcement Notices or prosecution. A number of cases have been resolved through negotiation, removal of unauthorised, sheds, satellite dishes, fences and advertisements.

Overall closed cases:	1405
Open cases received up to 2007	343
Cases received pre 2007	659
Total open cases:	1002

Enforcement Notices:	120
S330 (request for information)	90
TSN (Temporary stop notice)	1
PCN (planning contravention Notice)	9

13 Recommendations

- 13.1 To report back to PAC at the end of March 2008 regarding further arrangements for the management of planning enforcement activity.
- 13.2 Heads of DC, enforcement response service manager and the Director of Urban environment to carry out a review of the remaining open cases with a view to prioritise cases further.

