

# Value for Money Review of Planning Enforcement Summary report

## Background

1. As part of the corporate Value for Money programme, the planning enforcement service was reviewed in 2007/2008.
2. The Planning enforcement service investigates reported breaches of planning permissions and conditions and reports of unauthorised developments, operating in a contractor role to PEPP (Planning, Environmental Policy and Performance). It is a very high profile service, with stakeholders that include residents, (complainants and those who breach planning regulations), elected members, developers, builders, estate agents and solicitors.
3. Planning enforcement has recently become part of the new Front Line Services business unit in Urban Environment, having previously been part of the enforcement business unit.

## Objectives of the review

4. The following objectives for the review were agreed by the Project Board;
  - To examine and understand the structure and operation of the planning enforcement service
  - To explore Best Practice in planning enforcement with a view to improving how the service is provided, including benchmarking with other authorities;
  - To consider whether the service should concentrate its resources on a number of priority areas where it can have the greatest impact or continue to enforce planning across the board;
  - To make recommendations on how to improve the performance of the Planning enforcement service, whilst adhering to the Enforcement Principles outlined in the Draft Haringey Council Enforcement Policy.

## Review Methodology

5. A number of other London authorities were visited between July and September 2007 to compare how they manage planning enforcement: Barnet, Enfield, Camden, Westminster, and Brent. The authorities chosen for visits were either nearest neighbours or recognised as best practice services.
6. A series of detailed case studies were examined to understand current processes used in the planning enforcement service.
7. Officers from both within planning enforcement and those in related services were consulted through a series of interviews and focus groups. A Member focus group was held and questionnaires were sent to complainants, those being enforced against and professionals and agents involved in the process.

8. Information from these different exercises was collated and used to provide a series of recommendations for the service to develop into an improvement plan.

## **Findings and Recommendations**

9. The findings and recommendations of this review are set out under four headings: People, Performance & Cost, Processes and Perception. The findings are derived from all the activities undertaken in the course of the review. The details of the findings are contained in the main report.

### **People**

10. There were a number of key themes in the findings from visits to other authorities, focus groups and case studies.
11. There was broad agreement that use of temporary staff leads to inconsistency and delays for example, one case was handled by four different officers in a nine month period. A number of authorities visited had made a policy decision not to recruit temporary staff and the remaining authorities had very few temporary staff. All staff interviewed raised the issue that reliance on temporary staff means that information gets lost in the handover and background knowledge of a case can be lost.
12. Another common theme was the recruitment of Planners within the Planning enforcement service. With the exception of Enfield, which does not seek to recruit qualified planners, all the authorities visited cited a number of recruitment and retention incentives to attract qualified planners to their service, including graduate trainee schemes and career grade structures. Planning enforcement staff believe that planning knowledge is very important in conducting their work and that the job could not be done to the required standard by non-planners.
13. All planning enforcement services visited (except Enfield) were headed up by a qualified planner.

*People - Recommendations:*

1. The planning enforcement service may consider whether the service should be headed up by a qualified planner.
2. The planning enforcement service needs to prepare a strategy for the recruitment, retention and development of permanent staff.
3. A comprehensive training package needs to be developed for planning enforcement staff to address the two sets of skills identified:
  - Technical training
    - Basic training in planning enforcement law
    - Training in standards for drafting and serving enforcement notices
    - The use of an agreed template/checklist for enforcement notices
    - Ensuring that all decisions are documented, monitored and enforced
  - Skills based training
    - dealing with difficult/demanding members of the public
    - basic enforcement skills

**Performance and Cost**

14. Compared to other London boroughs participating in the review Haringey's volume of new cases received in 2006/7 is not high although year to date figures suggest that this is set to increase in 2007/8. In 2006/07 the service received 686 new cases and this has increased to 727 in 2007/08. In addition to new cases the service continues to reduce its backlog from 1682 in 2006/07 to 1304 so far in this current year.
15. Looking at the cases closed between 2005/6 and 2006/7 the majority (68%) were due to there not being an enforceable breach.
16. Haringey's performance on winning planning enforcement appeals remained constant between 2005/6 and 2006/7 despite the total number of appeals doubling over that period. Compared to other London Boroughs participating in the review Haringey's performance on winning planning enforcement appeals is average.
17. The net cost of the service for 2006/7 was £365,273 of which 78% (£286,882) was staffing costs (£119,225 on salaried staff; £167,657 on agency staff). This shows heavy reliance on agency staff. In 2006/7 the key additional cost for the service was the cost of legal advice and support from Legal services which amounted to £74,442.
18. The review tested the robustness of performance management in the service and found that it is limited and needs to be strengthened. The service does not monitor outcomes or timescales in resolving cases.
19. A random sample of case files found that the service needs to strengthen its systems and processes for caseload recording, to accurately reflect receipt and

closure of complaints. Clear timescales for dealing with investigations need to be set and performance monitored against these.

### *Performance & Cost - Recommendations*

1. The planning enforcement service needs to introduce a meaningful set of performance indicators. These performance indicators should be reported to the appropriate level of management and to the Planning Advisory sub-Committee on a quarterly basis. These indicators should also be used for setting targets and for monitoring the performance of staff.
2. Potential indicators may include the following:
  - Successful resolution of a case at an early stage e.g. retrospective planning permission sought
  - Breaches stopped
  - Customer satisfaction with the service received
  - % of cases closed within target time(s)
  - % of cases resolved through negotiation
  - % of cases closed through direct action
  - % of PCNs complied with/responded to
  - % of prosecutions for non-compliance with PCN
  - % of enforcement notices complied with
  - % of enforcement notices appealed
  - % of enforcement notices withdrawn by Council
  - No of prosecutions for non-compliance with enforcement notice
  - Outcome of appeals
3. The service should carry out robust analysis of all its performance information in order to understand its strengths and weaknesses and where it needs to focus action for improvement.

### **Perception**

20. Generally perceptions about the service are poor. Members cited a number of problems that they had experienced with the service:
  - The service seems very disorganised and staff do not keep on top of cases.
  - Files and information get lost regularly and members say that they have to constantly chase the service.
  - Work is not being programmed and monitored.
  - Quality of appeals evidence provided by the Council is poor
  - Officers do not go to appeal equipped to deal with the case. Costs are being awarded against the Council for cases which have been poorly prepared or have no merit.
21. Members made a number of helpful suggestions as to how communication with residents could be improved; including keeping complainants informed as cases

progresses. This observation is in line with the findings of the file audit. A number of authorities shared examples of good practice in communicating with the public, in particular being clear with customers that their case can take a long time, including long waits between stages.

22. There is a perception among staff interviewed that Haringey's planning enforcement has a poor reputation leading to recruitment difficulties.
23. Complainants, those complained about and other agents linked to the service (builders, developers, estate agents, solicitors etc.) were all contacted to find out their experiences of using the planning enforcement service. No one who the Council had enforced against, or agents, responded to the survey. Of the 288 complainants contacted, 64 responded, representing a respectable 22% response rate.
24. The main findings of this survey are as follows:
  - The majority of complainants (64%) said that the Council completed its investigations and made a decision about their complaint within 3 months
  - About two thirds of respondents said that they were not kept informed of progress in dealing with their complaint
  - Over half of complainants said that they did not receive a satisfactory explanation of the Council's decision
  - Only one fifth of those whose complaint *was not* upheld understood why this was
  - Less than half of those whose complaint *was* upheld said that the unauthorised works had stopped as a result
  - Just over a fifth of complainants were satisfied with the way in which their complaint was dealt with.

#### *Perception - Recommendations*

1. The service needs to consider ways of communicating better to members and residents the aims and limitations of the planning enforcement service.
2. The planning enforcement service should publicise successful prosecutions and actions to raise public awareness that planning enforcement is taken seriously in Haringey
  - Through press releases
  - Through the website
  - Consider 'Quality Audit'
3. The service needs to improve its presence on the Council's website.
4. Planning enforcement staff representing the service in public need to be trained to speak confidently about the service.

#### **Processes**

25. A number of planning enforcement cases were analysed to see how cases are being handled by the service. The key findings were:

- Accuracy and attention to detail in handling cases needs to be improved. A number of cases reviewed were missing information, included inaccurate information or undated correspondence. In some cases it was not clear if the case had been resolved and closed.
- There were often unexplained delays in cases where nothing happened for many months.
- Not communicating with complainants ultimately generates further work as officers have to deal with their enquires.

26. These findings were mirrored in the file audit and views from the Council's Legal service who highlighted the need for correct evidence in the issuing of enforcement notices and the presentation of successful cases at appeals and criminal prosecutions. They pointed out that many notices have to be withdrawn because of the poor quality of enforcement notices.

#### *Processes - Recommendations*

1. A set of criteria for the issuing of planning enforcement notices needs to be developed and agreed. Enforcement notices should only be issued when these agreed criteria have been met.
2. Planning enforcement needs to increase its use of other actions available to tackle unauthorised development e.g. PCNs, direct action etc.
3. The service could use the street enforcement service, the street wardens' service and the 'Out of Hours' service to check compliance and to assist with other evidence gathering wherever possible.
4. To ensure that cases are being dealt with in a consistent manner, the service should have regular one to one meetings with the senior planning officer responsible for signing off planning enforcement cases.
5. Case conferences between planning enforcement, Development Control and Legal could be convened to resolve the most difficult cases.
6. Planning enforcement should consider having discussions with the head of Building Control to see whether Building Control could be part of the 'early warning' system for unauthorised development, particularly on high profile cases.
7. Day to day management of cases needs to be improved:
  - Key dates should prompt action on the part of an officer
  - All correspondence should be scanned and dated and stored appropriately
  - When an officer resigns from the service a key task should be the proper handover of all cases.
8. One member of staff within the service should be a contact for the resident.

9. All complaints to planning enforcement should be responded to with a standard acknowledgement letter in line with the Council's agreed corporate timescale.
10. Complainants should be written to at key points in the investigation of a breach. If there is a delay, complainants should be notified with the reasons for the delay and an indication of the new timescales. Complainants should also be written to when a case is closed with an explanation as to why a case was/was not upheld.
11. The service may consider producing an information leaflet/ guide to planning enforcement setting out the planning enforcement process and target timescales for each stage.
12. The service should consider using a series of Standard letters where Permitted Development is suspected, asking the complainant to check the development against a permitted development criteria.
13. The service should review its IT to see if some of the problems highlighted such as tracking cases, flagging actions, storing and retrieving information and case handover could be resolved.
14. A system and protocol to effectively prioritise cases, ensuring that substantive breaches are tackled robustly should be developed.

## **Next Steps**

27. Recommendations made in this report were presented to the Project Board and service managers for discussion at the project away day in November 2007. Since then the service has been working with the Project Manager of this review and with other colleagues to prepare an Action Plan setting out how these recommendations will be achieved.