

Meeting:	Environment & Economy Scrutiny Sub-Committee
Date:	9 th March 2006
Subject:	Effectiveness of Planning Enforcement
Responsible Officer:	Andy Parsons, Group Manager – Planning & Development
Contact Officer:	Andy Parsons, Group Manager – Planning & Development
Portfolio Holder:	Keith Burchell – Portfolio Holder - Planning, Development & Housing
Key Decision:	No
Status:	Part 1

Section 1: Summary

Decision Required

None.

Reason for report

Update on effectiveness of Planning Enforcement following request from this Committee March 2005 (minute 144).

Benefits

Effective enforcement of breaches of planning permissions provides credency to the overall planning process. Proactively aim to prevent breaches occurring. Meet stakeholder expectations that enforcement breaches of planning permission should be actively progressed. Protects and enhances the built environment within Harrow.

Cost of Proposals

Contained within existing Development Control budget and Planning Development Grant.

Risks

Staff cannot be recruited/retained when necessary. Higher profile enforcement may result in more complaints as stakeholder expectations of the service increase. Reduction in budget/Planning Delivery Grant.

Implications if recommendations rejected

For information only.

Section 2: Report

2.1 Brief History

For several years the Planning Enforcement team has seen an increase in the number of complaints in respect of alleged breaches of planning permission (2003 – 719; 2004 – 1014; 2005 – 992).

The Planning Enforcement team also processes approximately 500 applications per annum for Certificates of Lawful Use or Development. These applications feed into BVPI 109c, and as such, the Government require 80% of these applications to be dealt with within 8 weeks. In 2003, the Enforcement team determined 89% within 8 weeks, rising to 93% in 2004 and 98% in 2005.

Two new pieces of legislation have come into force which have increased workload within the enforcement team.

The Licensing Act 2003 came into full force in England and Wales on 24th November 2005 following the transitional period between 6th February and 24th November 2005. The Act makes express provision for Planning to have a role in the liquor licensing process, as a 'responsible authority'. To obtain a premises license, the applicant must serve a copy of the application to a number of 'responsible authorities' which includes the Local Planning Authority. It is then open for the Local Planning Authority to object to the application by means of 'relevant representations'. This has resulted in the Enforcement team to date considering 274 applications and preparing 29 reports detailing objections to applications and attending Licensing Panel meetings. This has resulted in 34 cases being referred to the enforcement team.

On 1st June 2005 the high hedges element of the Anti-Social Behaviour Act 2004 Part 8 came into effect. The Planning Enforcement team is responsible for enforcement of this element of the Act, due to the means of appeal being through the Planning Inspectorate. To date two complaints have been lodged and 50 enquiries received.

Although a relevant small number, these are very time consuming as it is a prerequisite that the complainant must be able to prove that they have made all reasonable efforts to resolve the issue locally by negotiation with their neighbours and the complaint is not vexatious. In effect, the Local Authority becomes the arbitrator in what may have been a prolonged neighbour dispute.

2.2 Options considered

The table below illustrates the average staffing level within Planning Enforcement over the last 3 years.

FTE Staff Numbers										
	1	2	3	4	5	6	7	8	9	10
2003 Spring										
Summer										
Autumn										
Winter										
2004 Spring										
Summer										
Autumn										
Winter										
2005 Spring										
Summer										
Autumn										
Winter										
2006 Spring										

Currently the Enforcement team comprises a Manager (a contractor employed 2 days a week – vacancy being advertised externally early March 2006), three full-time Enforcement Officers (2 commenced February 2006), and 5 temporary agency contractors (2 dealing with licensing and high hedges; 1 dealing with hereditary case backlog, 2 case officers).

It is anticipated that the amount of work involved in licensing and clearing the backlog will reduce sufficiently in the next 3 months, to allow for the reduction of agency contractors by 2. This will leave an establishment including the Manager of seven, one of which will continue to deal with licensing and high hedges.

Typical across the country staffing levels for planning enforcement work have a ratio of cases per officer of between 200-250. This figure allows for a mixed level of experience relating to a mixed caseload.

Comparing average staffing levels and workload in the last few years, it is evident that the service was significantly under resourced until the last quarter of 2005.

Year	Average staff dealing with planning enforcement cases only	Workload	Cases per officer per annum
2003	3	719	373
2004	3.1	1500	483
2005	5.5	1492	271
2006 projected	6	1600	276

The low staff numbers in 2003/04 generated a considerable backlog of cases, which has taken until the start of 2006 to effectively remove. The increased staffing level introduced in the Autumn of 2005 was necessary to effectively deal with the introduction of new legislation and the backlog of cases. Performance has increased in respect of the number of enforcement cases being put to the Development Control Committee recommending that enforcement action be pursued.

Year	Quarter	Number of cases to DCC
2004	Q1	7
2004	Q2	4
2004	Q3	3
2004	Q4	1
2005	Q1	1
2005	Q2	3
2005	Q3	7
2005	Q4	12
2006	Q1	13

The table above when compared with staffing levels during those periods accurately reflects the relationship between resource and effective enforcement.

It should be noted that the serving of an increasing number of enforcement notices has the knock on effect of increasing the number of appeals lodged and therefore work in this area is starting to increase.

The target for the average number of days between complaint being received and the first site visit is 10 working days. The table below compares actuals for the month of November in the last 3 years.

	Average number of days between complaint registered and first site visit
November 2003	11.48
November 2004	9.13
November 2005	10.8

The above indicates that the target was not being met during these snapshot periods. The introduction of the MVM IT system will improve performance monitoring and enable an efficient system of site visits to be implemented. The increase in 2005 compared with 2004 can be partially attributed to the targeting of resources to increase the speed of processing Certificates of Lawful Use or Development which impacts on BVPI109c and hence PDG.

Additional measures to improve the overall efficiency have been considered and the following have been or are due to be implemented:

- Building Control surveyors from the 1st March 2006 are to take a proactive role in preventing breaches of planning permissions. Setting out of foundations/walls will be measured during initial construction stages and checked with plans that have been granted planning permission. Any discrepancies will be notified to the builder/owner at an early stage of the construction in order that corrections can be made with the minimal inconvenience/cost. Continuing breaches will be notified to the Planning Enforcement team to progress.

This should have the effect of minimising the number of breaches of planning permission at an early stage; improve service to the residents; re-focus planning enforcement resources to actual enforcement work rather than fact finding, provide a more efficient joined-up, cohesive Building Control and Development Control service. It may also have the effect of uncovering breaches that may not have resulted in a complaint at a later time and thus increase workload.

- Since November 2005 all valid planning applications are being scanned on receipt and are available for viewing online. This will improve the efficiency in which Building Control are able to compare site developments with planning permissions. This service is available to internal and external users of the website and a campaign to advertise this is planned in March 2006.
- Introduction of new MVM IT system in Spring 2006 will improve the performance management of the enforcement team and the sharing of information between service areas within the Council.
- Evaluation of whether it would be more efficient for the Certificates of Lawful Use or Development to be processed by the main Development Control team and not Planning Enforcement is currently being carried out. This may result in Planning Enforcement concentrating solely on dealing with processing complaints in respect to alleged breaches of planning permission.

Prior to Autumn 2005 the service area had been under resourced for a considerable period of time, which created a large backlog of cases. Additional staff resources have been able to effectively remove the backlog; increase the number of notices served; improve response time between receipt of complaint and first visit; deal with the new legislative requirements in respect to the Licensing Act 2003 and Anti-Social Behaviour Act 2004, Part 8 – High Hedges.

By Summer 2006 the planning enforcement service will be in a strong position to respond effectively to complaints and meet stakeholder expectations of the service. New permanent staff that have minimal enforcement experience would have settled in; proactive work by Building Control on checking setting out on site will have started to have an impact and the efficiencies to be gained through the new MVM and online viewing of applications will have begun to be realised.

2.3 Consultation

The proposals will be taken forward in accordance with the relevant Council policies and procedures, including consultation with staff and trade unions.

2.4 Financial Implications

This report is for information only and provides an update. Costs will be contained within existing Development Control budget and Planning Delivery Grant.

2.5 Legal Implications

The enforcement powers available to local planning authorities are extensive; but it is the manner of their use which will determine the perceived and actual effectiveness of enforcement as a tool to guide development in the right place and remedy unacceptable breaches of planning control.

2.6 Equalities Impact

The operation of the Planning Enforcement service will be considered as part of the Development Control Equality Impact Assessment.

2.7 Section 17 Crime and Disorder Act 1998 Considerations

Indirectly a positive impact by ensuring Planning legislative enforcement powers are used effectively which will enhance the built environment within Harrow.

Section 3: Supporting Information/Background Documents

Background Documents: None.