

## **REPORT FOR: PLANNING COMMITTEE**

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**Date of Meeting:** 10<sup>th</sup> March 2010

**Subject:** **INFORMATION REPORT – Planning Enforcement**

**Responsible Officer:** Stephen Kelly – Divisional Director of Planning

**Exempt:** No

**Enclosures:** Schedule of Statutory Notices

### **Section 1 – Summary**

This report, in accordance with the commitment given by officers at the Committee in September 2009, provides an update and commentary to the planning committee on the activities of the enforcement team.

**FOR INFORMATION**

## Section 2 – Report

### Background

At the meeting of the planning committee in September 2009 a report outlining proposed actions in respect of the planning enforcement service was presented. The report also sought approval for wider delegation to the Divisional Director of Planning in respect of the pursuit of enforcement proceedings on behalf of the Council.

This report, in accordance with the commitment given by officers at that meeting, provides an update and commentary to the planning committee on the activities of the enforcement team.

### Overview

The planning enforcement team lies within the Place Shaping Directorate and is managed alongside the development management service by the Divisional Director for Planning. The current team comprises four posts, plus an administrative support officer.

Between April 2009 and 28 February 2010, the service has recorded 710 (64/month) new cases against unauthorised development. Of these, some 334 (47%) have been resolved or the case considered non expedient to pursue. For the whole of the previous year, the service recorded some 749 (62/month) new cases of which 71% were resolved or considered not expedient to pursue (in addition to another 565 historical cases that were closed).

Since April 2009, the enforcement team has issued a total of 51 statutory notices (see table below) against unauthorised developments. This compares with 20 statutory notices in 2008/9. The break down and type of notices issued is detailed below.

Table 1: Statutory Notices

<b>Statutory notices issued</b>	<b>2008/9</b>	<b>2009/10</b>
Enforcement notices	18	42
Section 11 (advert) notices	0	1
S215 (untidy site) notices	0	6
Breach of condition	2	2
Totals – statutory notices	20	51
Contravention notice (non-statutory)	8	3

Details of the address and summary breach for all of the statutory notices served, is appended to this report.

As a consequence of the greater number of notices served, the service has seen the number of appeals increase from 8 in 2008/9 to 16 so far this year. (Table 2)

Table 2: Enforcement Appeals

<b>Appeal Type</b>	<b>2008/9</b>	<b>2009/10</b>
Public Inquiry	1	3
Informal Hearing	0	2
Written representations	7	11
Withdrawn Appeals	1	1
Appeals allowed	1	1
Appeals Dismissed	6	6
Appeal decisions pending	-	8

Of the appeals so far determined, and allowing for the considerable time delay in the issue of a notice and a decision, success at appeal appears to be unchanged with 6 of the 7 appeals received in both years dismissed. The Council succeeded in securing an award of costs against unreasonable behaviour by two appellants in the case of enforcement appeals against an unauthorised rear extension at 85A Whitchurch Lane Edgware and an unauthorised first floor rear extension at 7 Wetheral Drive Stanmore.

#### Appraisal

The move towards more formal routes to planning enforcement (through statutory notices) reflects feedback received from Councillors, interest groups and members of the community about the need for a more effective and robust enforcement process across the borough. Officers have therefore sought to reappraise the expediency of pursuing cases through statutory means and have sought to use a wider range of legislative provisions (such as S11 and S215 notices) to secure outcomes which address both the importance and impact of a specific breach.

Within that context, the apparent reduction in the percentage of cases resolved is accounted for by a reduction in the number of cases where officers consider it not to be expedient to pursue the breach. The use of statutory notices has accordingly increased by some 150% over the year.

Alongside the greater resilience and determination to resolve breaches, officers have also begun the prosecution of breaches and are developing a programme for compliance. Securing compliance with enforcement notices is now seen as a central thread in addressing the current corporate priorities, member and community aspirations and ensuring the cost effective and efficient delivery of planning enforcement. Through the powers recently delegated to officers by the committee, a wider range of remedies provided by the legislation are being considered, including both prosecution and works carried out in default (with prosecution and recovery).

### Proactive enforcement

The Enforcement team have been able to undertake some proactive enforcement activity through the latter half of the year. Most notably, through the use of Section 215 notices (after S.215 of the Town and Country Planning Act - for untidy land), significant improvements to three properties within Harrow on the Hill conservation area has been achieved. A S215 notice in Fairholme Road in Harrow town centre is also expected to secure re-painting and improvements to an existing dilapidated commercial property shortly. Further use of S.215 notices to secure environmental improvements in line with the council's priority for cleaner safer streets is anticipated in the coming year.

### Staffing

Planning enforcement is a specialist area of planning, requiring specific skills that extend into areas of court procedure and the taking and giving of evidence (in some cases) under caution. Harrow enforcement team comprises only 2 permanent members of staff, supported by contract staff for both investigations and administration. The planning service is currently recruiting professional planning staff for enforcement as well as planning policy and development management in a drive to build skills and expertise across the service. Interest in working for Harrow has been high.

The service has also recruited a new Head of Development Management who will be given responsibility for day-to-day management of the enforcement service. This permanent appointment will increase capacity within the enforcement team and permit process efficiencies to be secured through greater integration between planning enforcement and development management alongside an opportunity to develop specific systems to improve process efficiencies using the current IT infrastructure and LEAN working practices.

Finally, the service was involved in the appointment of a senior planning lawyer with specific expertise in planning enforcement. This appointment together with greater proposed collaboration is expected to increase the capacity of the service both to investigate and secure compliance with (or prosecute) breaches of planning control.

### Enforcement Policy

In the report in September, the intention to produce an enforcement policy was highlighted. A draft enforcement policy has been prepared and is expected to be finalised shortly. In setting out priorities for action and investigation targets and providing information for those affected by or interested in planning enforcement, it is anticipated that greater clarity on this complex area of planning will be provided. This should assist both in avoiding breaches of control and by ensuring effective compliance where a breach occurs.

### Avoidance of Breaches

A number of the cases investigated each year arise from a genuine failure to understand or appreciate the importance of applying the requirements of permitted development to the letter. The resultant investigations result in considerable stress, anxiety and costs to those affected. Alongside ensuring that harmful breaches of control are resolved effectively and decisively, the service will be examining how it might help to avoid accidental breaches of control. In particular, officers are considering whether better information or alterations to existing information and advice services might avoid breaches taking place.

### Historical breaches of control

Alongside the resolution of new breaches, as outlined in the report to the committee in September, officers are seeking to address a large number of historical enforcement cases, which remain outstanding. In a number of cases, the case files will be revisited to establish whether prosecution should be pursued. In other cases, the passing of time without formal action may mean that no formal action is possible. Completing the review of the database on historical cases will then permit the preparation of new reporting measures for members to replace the previously published enforcement grid.

### Conclusions

Despite a downturn in development activity across the City, there is little evidence of a significant drop off in unlawful development. Recent changes in legislation (and the uncertain interpretation of such legislation breaches of planning control remain). The evolving strategy outlined above is nevertheless considered to be the most appropriate response to the ongoing challenge.

## **Section 3 – Financial Implications**

The report, for information, has no direct financial implications.

## **Section 4 – Corporate Priorities**

The delivery of effective planning enforcement has a direct role to play in the achievement of Council Corporate priorities regarding Cleaner Safer Streets and Building Stronger Communities. The objectives of the service, set out in this report will contribute directly to improving the physical environment of the Borough and reinforcing the integrity of the statutory planning process, for the benefit of the Borough and its residents and businesses.

Name: Kanta Hirani



on behalf of the  
Chief Financial Officer

Date: 1 March 2010.

## **Section 5 - Contact Details and Background Papers**

**Contact: Stephen Kelly**  
**Divisional Director of Planning**  
**0208 736 6149**

**Background Papers: None**