

Item No 4	Classification Open	Date 13/01/2004	Meeting Name Planning Committee
Report title:		Development control – Planning Enforcement Service	
Ward(s) or groups affected:		All	
From:		Development & Building Control Manager	

RECOMMENDATIONS

1. That the progress in reviewing and developing improvements in the Planning Enforcement Service be noted.
2. That the Committee agree to receive quarterly reports on Planning Enforcement performance commencing in April 2004.
3. That the Development & Building Control Manager prepares a statement of enforcement policy in accordance with the Government's Good Practice Guide for Enforcing Planning Control for future consideration by the Committee.
4. That a policy on enforcement be included in the Draft Southwark Plan

BACKGROUND

5. For many years it has been recognised by users, staff and councillors that the Council's Planning Enforcement Service has been weak and inadequately resourced to provide the level of service that meets the demands placed on it.
6. The weakness of the Planning Enforcement Service was recognised by the Council in its BV review of regulatory services and the BV Improvement Plan included a review of the resources needed to provide and develop an effective Planning Enforcement Service.
7. The Audit Commission's BV inspection report [September 2002] considered that planning enforcement was weak and recommended that the Council develop an effective enforcement service. The report found that:
 - there is no specific policy in the UDP to set out the remit of planning enforcement
 - there is no agreed enforcement policy which differentiates priorities for enforcement action
 - there is no up to date procedures manual to guide staff through the complex legal issues in enforcement
 - the team has been under-resourced for many years and that attempts at recruitment had been unsuccessful
 - although there are performance targets, councillors have not called for performance reports and poor database limits management information and monitoring.

- 8 The inspection report did however note that despite these problems improvements had recently been made in terms of the sending of acknowledgement letters on receipt of enforcement complaints and the preparation of an information note for customers explaining how enforcement complaints about a possible breach of planning control are dealt with.

KEY ISSUES FOR CONSIDERATION

Staff Resources and Recruitment

- 9 The number of established planning enforcement posts has recently been increased to five, comprising a new post of Team Leader, two senior planning enforcement officers and two planning enforcement officers. However, the weakness of the Planning Enforcement Service has not been helped by the difficulty experienced by many local authorities, and particularly those in Inner London, in recruiting suitably experienced staff to carry out this aspect of development control work. This has meant that for most of the last three years the service has relied on agency staff with staffing levels during that period varying between one and three enforcement officers.
- 10 Although the appointment to the Team Leader post has been successful [following re-grading of the post] with the post being filled from October 2003, recruitment to the other posts remains problematic. Permanent recruitment to two of the posts has only recently been successful. However, both appointments are from within the existing mainstream development control teams and their transfer to enforcement duties will be phased so as not to have an adverse effect on planning applications performance. Attracting external candidates still continues to be a problem.

Case Load Management and Performance Monitoring

- 11 A review is currently taking place of all outstanding cases, both registered and unregistered cases with view to closing as many as reasonably possible. Completion of this task is anticipated by the end of February 2004. Priority is being given to progress actionable cases.
- 12 The recently installed [December 2002] Acolaid system for development control has an enforcement module which provides a much improved database and monitoring capability to identify and track caseloads, deadlines, identified priority cases etc., for the preparation of performance monitoring reports and for the production of standard documents and letters to complainants.
- 13 The target is for new cases to be registered on Acolaid within 1 working day of receipt of complaint and an acknowledgement letter sent. The case is allocated to an enforcement officer by the team leader and a second letter sent informing complainant of the case officer's contact details, and enclosing a copy of the information note "Enforcement of Planning Control", within 5 working days of receipt.
- 14 Full reports are now prepared for all investigations and these are considered under delegated powers. The report will identify if there has been a breach of planning

control. If there is no breach of control then the investigation will be formally closed. If there is a breach of control the report will recommend whether or not it is expedient to take formal enforcement action through the service of an enforcement notice to remedy that breach.

- 15 A target has been set for the preparation of this report within 8 weeks of receipt of the complaint. This timescale follows that for the determination of planning applications and has been adopted because the amount of work involved and the matters to be taken into account in enforcement investigations is very similar to that of planning applications. Indeed, where it is considered that there has been a breach of planning control, in deciding whether or not to take enforcement action the Council must consider how it would have decided an application for the unauthorised development had an application been submitted.
- 16 Standard letters are currently being prepared which will enable complainants to be kept advised of progress and decisions made on the investigation of their complaint including, where it is agreed to take enforcement action, what the next steps are.
- 17 In the past there has been little attention given to prioritisation of complex or high profile cases. This will change and cases will be prioritised depending on the degree of contention and issues raised. These priorities will be formally set out in the statement of enforcement policy.
- 18 Currently the highest priority is given to those cases involving irreparable harm or having an immediate and adverse effect on amenity, e.g. works to listed buildings, demolition in conservation areas and the felling or lopping of protected, felling of trees. In these cases site visits will take place within 1 working day of receipt of complaint and generally take place the day the complaint is received.
- 19 For cases involving building work not complying with approved development or without the benefit of planning permission the target is for the site to be visited and warning letters sent within 5 working days. Lower priority is given to other types of cases such as changes of use and esoteric policy issues etc. where sites will be visited within 10 working days.
- 20 A listing is also now produced of those cases which are high profile and/or particularly contentious [e.g. Downings Roads Moorings, Kid's Co. type of cases]. Cases on this list will be subject to additional progress review meetings between the Enforcement Team Leader and case officer.

Future development of the Planning Enforcement Service

Liaison with Legal Services

- 21 To improve the efficiency and speed of taking formal action, it is proposed to set up regular (monthly/6 weekly) meetings to ensure that the progress and quality of service of enforcement notices and advice generally is improved.

Liaison with Design Officers

- 22 Set up regular design "surgeries" for detailed observations on design related cases to clarify expediency of action at an early stage as well as for advice on acceptability of proposed alternatives or amendments. This will assist in closing

non contentious cases efficiently and ensuring quality and consistency of advice to contravenors and agents.

Liaison with other Council Departments

- 23 Complaints about an alleged breach of planning control frequently involve more than the Planning Enforcement Service, particularly where noise or traffic issues are involved. Although liaison is carried out with other departments it is currently on an ad hoc basis. It is essential therefore that where other controls might exist to remedy a nuisance that these are investigated with other departments so that the most effective way of dealing with the matter can be pursued. It is therefore proposed to improve links with other departments and establish formal procedures to improve the effectiveness of enforcement investigations. This would be set out in the statement of enforcement policy and supported by appropriate procedure notes.

Direct Action

- 24 More robust action can be taken against advertisement hoardings. Meetings have been held with English Heritage and a planning consultancy with view to removing hoardings using direct action powers (Section 11 of the London Local Authorities Act 1995). These powers are simple, effective and have a powerful deterrent effect when enacted; they also allow for the retrieval of costs incurred in removing the hoarding. The consultancy would undertake the work and physically remove the hoardings on behalf of the Council.

Reporting to Committee

- 25 In future it is proposed to report to Planning Committee on a quarterly basis, starting in April 2004, the workload and performance of the Enforcement Team. The reports would set out information including the total number of enforcement cases received and closed, the number of cases closed where the breach of control has ceased due to our intervention and the number of enforcement notices issued. In addition a list highlighting the main high profile cases currently under investigation will also be reported to Committee.

Procedure manual

- 26 In order to ensure that all staff are aware of the targets and the procedures and processes for dealing with enforcement complaints a procedure manual will be produced identifying the key stages and responsibilities for action.

EFFECT OF PROPOSED CHANGES ON THOSE AFFECTED

- 27 It is considered that the implementation of the above changes and continuing development of the Planning Enforcement Service will provide a much more responsive and speedier service to those who have complained about a possible breach of planning control that is adversely affecting them.
- 28 The changes and continuing development of the Planning Enforcement Service will also address the areas of weakness in the Planning Enforcement Service identified by the Audit Commission.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Development and Building Control Business Unit: Best Value Improvement Plan	Regeneration Department, Council Offices, Chiltern, Portland Street, London SE17 2ES	Andrew Cook 020 7525 5437
Development and Building Control Business Unit: Business Plan 2003/2004	Regeneration Department, Council Offices, Chiltern, Portland Street, London SE17 2ES	Andrew Cook 020 7525 5437
Audit Commission Best Value Inspection Report: "Physical environment – Development Control and Building Control", Sept. 2002	Regeneration Department, Council Offices, Chiltern, Portland Street, London SE17 2ES	Andrew Cook 020 7525 5437

APPENDIX 1

Audit Trail

Lead Officer	Andrew Cook, Development & Building Control Manager	
Report Author	Phil Chambers, Manager Development Control Group 2 and Planning Enforcement	
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Key Decision	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments Included
None		