
MEETING	PLANNING ENFORCEMENT AD HOC SCRUTINY COMMITTEE
DATE	7 OCTOBER 2008
PRESENT	COUNCILLORS HYMAN (CHAIR), DOUGLAS, PIERCE, I WAUDBY AND WISEMAN
IN ATTENDANCE	COUNCILLOR MOORE

1. DECLARATIONS OF INTEREST

Members were invited to declare at this point in the meeting, any personal or prejudicial interests they might have in the business on the agenda. None were declared.

2. PUBLIC PARTICIPATION

The Chair reported that no registrations to speak had been received under the Council's public participation scheme.

3. SCOPING REPORT

Consideration was given to the suggested scoping report and timetable for the Planning Enforcement Scrutiny Review. The review aims to identify ways of bringing enforcement cases to an earlier completion through reviewing City of York Council's approach to planning enforcement and court action.

Officers updated that a change was required to the timetable on page 5 of the report. Reference to a meeting on 7 November should read 7th October. Also that recommendation (d) on page 7 of the report should refer to paragraph 13 rather than paragraph 12.

Documents detailing Planning Enforcement figures for the East Area since June 2003, the possible routes to be taken by Enforcement Officers and the Executive Summary for a review into the Powers of Enforcement – Take Aways were distributed and are attached to these minutes at Annexes A, B and C.

The Authority's Head of Development Control gave Members a presentation entitled Planning Enforcement At York, attached at Annex D of these minutes. This gave Members an overview of Planning Enforcement at a local and national level, in particular the regulations that apply and the processes involved in tackling breaches of planning control.

Following on from the presentation, Members discussed the issues surrounding planning enforcement, in particular the timescale involved when bringing an enforcement case to a conclusion. Officers suggested that as part of the review it would be beneficial for Members to look at the current timetables for each stage of the enforcement process to establish where improvements can be made. Members went on to highlighted a number of other issues that were of concern to them such as :

- The role developers play in causing delays if any.
- The possibility of timings being introduced for the different stages of the enforcement process.
- How likely the authority is to bring court action against an individual.
- Whether delays are standard across all authorities
- If minor breaches could be tackled differently.

Members briefly discussed what they would like to see the review focused on but it was decided that queries such as the above, would be looked at in greater detail at future meetings.

Councillor Douglas expressed an interest in spending a day with an enforcement officer to obtain an overview of a typical day in the department and to see what the role involves.

In reference to the timetable for the review, Members suggested an additional meeting in December to enable the review to progress and it was decided that a training course on Planning Enforcement be held after the review.

RESOLVED: (i) That subject to the following changes to the timetable for the review, approval be given to the proposed timetable and scoping:

<p>Meeting 2 (informal meeting) on 5 November 2008. 1.30pm Start.</p>	<p>Presentations and discussions in relation to Key Objectives(iii), (iv) and (v).</p> <p>The Assistant Director (Planning and Sustainable Development) and Head of Development Control will give a presentation on the above key objectives.</p> <p>The following people will be invited to join the discussions after this:</p> <ul style="list-style-type: none"> ❑ Enforcement Officers ❑ Representative from Legal Services ❑ Planning Area Team Leaders ❑ Chair of the West and City Centre Planning Sub –
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	Committee and the recent Chair of the East Area Planning Sub Committee.
Meeting 3 December, tbc.	<ul style="list-style-type: none"> □ To receive an interim progress report.
Meeting 4 (formal) Mid January 2008	<ul style="list-style-type: none"> □ To receive feedback from the evidence gathering session in the form of an interim report. □ Ideas and possible actions arising from the information gathered from the Assistant Director (Planning and Sustainable Development) and Head of Development Control
Meeting 5 (formal)	<ul style="list-style-type: none"> □ Draft Final Report (by April)

- (ii) That the Chairs of the West & City Centre and East Area Planning Sub-Committees be invited to attend the November meeting.¹
- (iii) That Members be updated on what recommendations have been followed up and what SMC have advised following the Powers of Enforcement – Takeaways Review.²
- (iv) That Enforcement figures for West & City Centre area be circulated to Members.³
- (v) That no co-optee be involved in the review.
- (vi) That a training course on Planning Enforcement be held after the review
- (vii) That there was no need to call the Chair and Vice Chair of the Powers of Enforcement – Take Aways Scrutiny review.

REASON: To ensure the progression of this review and compliance with Scrutiny procedures, protocols and work plans.

Action Required

- 1. Invite the Chairs of East and West & City Centre Planning Committees to the meeting on 5 November GR
GR

2. Report back to Committee what recommendations have been followed up and what SMC have advised following the Powers of Enforcement – Takeaways Review.3 GR
3. Distribute Planning Enforcement figures for West & City Centre to Members

Councillor Hyman, Chair

[The meeting started at 5.00 pm and finished at 6.25 pm].

Planning Enforcement - East Area since June 2003

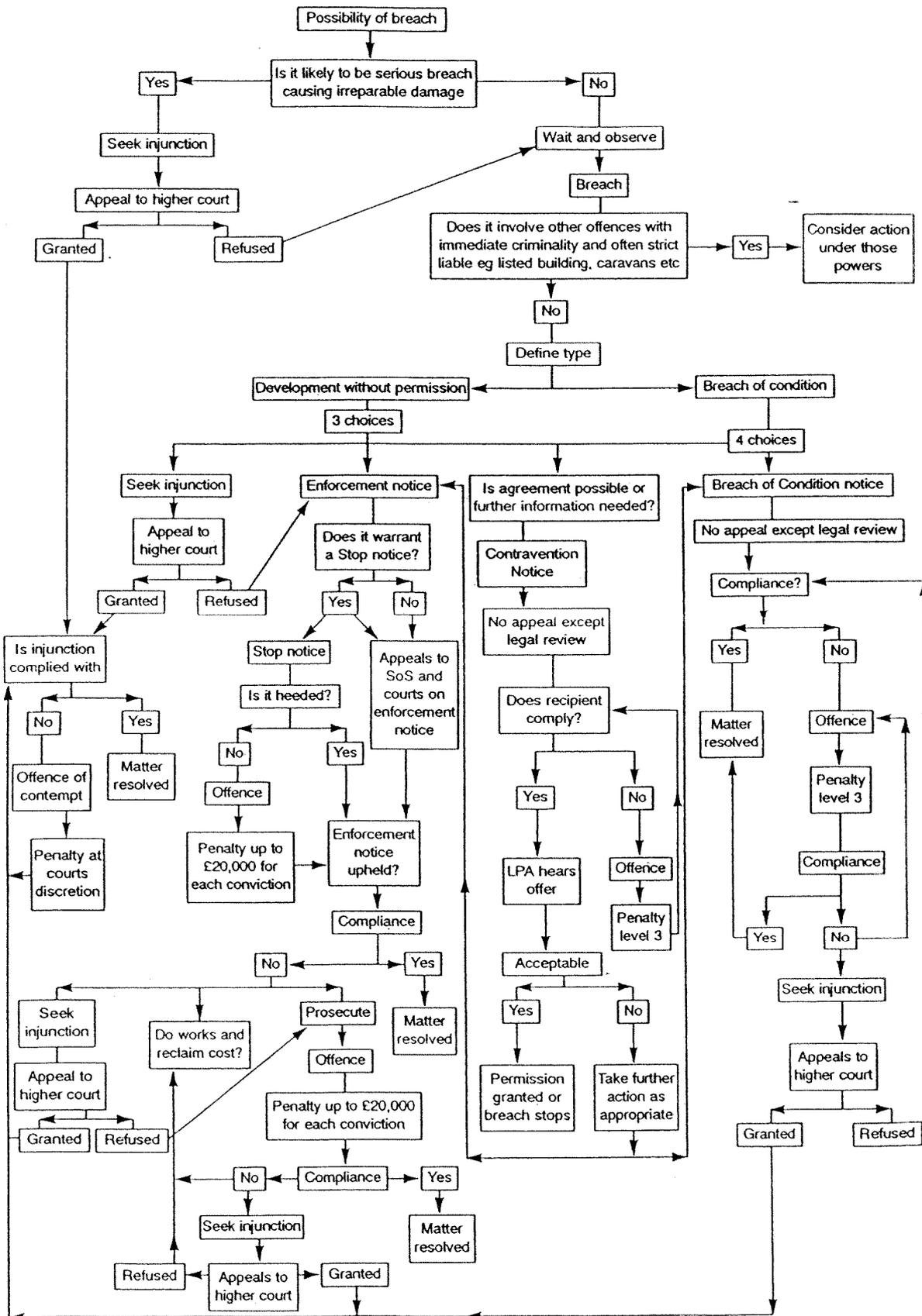
Date of report	Enforcement cases			Section 106 Agreements
	Opened	Closed	Outstanding	
July 2003	??	??	107	54
October 2003	80	80	101	55
January 2004	52	29	123	57
April 2004	??	??	125	61
July 2004	112	106	128	??
October 2004	87	70	127	??
January 2005	62	76	103	66
April 2005	72	22	150	66
July 2005	78	56	134	66
October 2005	88	88	127	??
January 2006	68	42	167	??
April 2006	64	44	159	30
July 2006	84	78	170	44
October 2006	80	79	168	39
January 2007	78	81	173	41
April 2007	89	84	175	48
July 2007	92	63	199	44
October 2007	94	74	212	40
January 2008	51	55	208	58
April 2008	76	69	219	62
July 2008	116	78	258	65
October 2008	86	63	283	71

Yes, I know the arithmetic's shot!!

Planning enforcement cases/Section 106 Agreements - East Area since June 2003



Figure 4: Enforcement - The Choice of Routes



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EXECUTIVE SUMMARY

Between September 2004 and May 2005, City of York Council's Environment and Sustainability Scrutiny Board conducted a detailed review into the subject of 'Powers of Enforcement – Take-Aways'. This topic was progressed in response to the concerns of York residents who live near to take-away outlets and suffer from late night noise, anti-social behaviour and the deterioration in street hygiene which a proportion of premises attract.

The Board has conducted a series of investigative meetings with officers in Planning, Licencing and North Yorkshire Police. The Board believes that this report should support greater public understanding of the legislative framework and the public's role in lodging complaints to the right places in a timely manner. In addition, the Board believes its recommendations will help improve the partnership arrangements (both internal and external) necessary for the Council to address the issues of enforcement in a more efficient manner than has been done previously.

Summary of Recommendations

Recommendation 1

The Environment and Sustainability Scrutiny Board would welcome the positive contribution that the success of the penalty notice support bid would make to addressing these issues.

Recommendation 2

A multi-agency access database containing details about all individual take-away properties should be created. Such details should be in the form of notes on disturbance, environmental health issues, actions taken to ensure compliance etc and updated by licensing, planning, environmental health and the community police as appropriate. This should be maintained to ensure that it remains current

Under Section 17 of the Crime & Disorder Act 1998 this information could, and should, be shared with North Yorkshire Police. This would allow Police Officers to assist in the collecting of evidence about late-night activities. The Environment and Sustainability Scrutiny Board would welcome the positive contribution that the success of the IT bid would make to addressing these issues.

Recommendation 3

That activities be coordinated between all relevant City of York Council Departments (including Street Environment, Environmental Protection Unit, Planning Enforcement and Licensing Officers); especially at the point of determining which enforcement regime would be most effective. Working practices need to be agreed and joint training sessions considered where relevant, to avoid duplication or unwitting interference in each other's cases.

Recommendation 4

That the Assistant Director in responsible for the Planning and Enforcement Team be instructed to review risk assessments carried out for all aspects of the officer's duties and to thereafter produce appropriate working practice agreements in consultation with the appropriate Officer In Human Resources.

Recommendation 5

An official vehicle should be available during the day, or close parking provided for the on-call officer's personal vehicle. Council owned transport should be provided if the officer is working a night shift. Both marked and unmarked vehicles should be available, as required; especially for out of hours working.

Recommendation 6

That Planning Enforcement Officers be enabled to process their own prosecutions, that at least one Planning Enforcement Officer to undergo formal Court Training in order to support this.

Recommendation 7

That an investigation should be undertaken to assess which other officers are able to supplement the Planning Enforcement team.

Recommendation 8

Officers should be equipped with the necessary tools to undertake their work. The present level of equipment between departments is variable. Equipment should be assessed to meet the needs of the work and ensure equality of access between equivalent areas of work. The equipment list below should be taken as a starting point.

Fluorescent tabard	These should be marked to identify the Council and the officer's position, like Street Environment Officers.
Fleece	These should be supplied and marked accordingly.
Laptop	A laptop should be available to the duty officer to ensure access to the data at all times.
Digital camera	Each officer should have a camera.
Safety boots	All officers should be supplied with a pair of safety boots and safety wellingtons.
Attack alarms	Should be provided
Hard hats	Should be provided for use where appropriate
Torch	Should be provided for use where appropriate
Mobile phone	Should be provided for use when appropriate
First Response Kit	Officers should have access to a kit for personal use or in cases where the required level of training has been undertaken wider use as appropriate. This could be kept in the pool cars.
Hazard flashing light	These should be supplied to ensure the safety of officers when parked to remove illegal adverts, etc.
Cars (pool)	Access should be available during the working day. If an Officer is on a night shift they should not be expected to hazard the safety of their personal car, whilst performing duties for the Council.

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Planning Enforcement at York



What needs planning permission?

- The development of land, defined as:-
 - ‘The carrying out of building, engineering, minor or other operations in, on, over or under land or
 - The making of a material change of use of any buildings or other land’

T&CP Act 1990

Breach of planning control

- a) carrying out development without the required planning permission, or
 - b) failing to comply with any condition or limitation subject to which planning permission has been granted
- Breach of control not a criminal offence

Limitations

- Can only act within 4 years of initial breach if operational development or conversion to dwelling
- Can only act within 10 years if change of use or breach of condition

Enforcement Powers:-

Town and Country Planning Act 1990

- Enforcement Notice S 172
- Stop Notice S 183
- Section 215 Notice
- Planning Contravention Notice S171 C
- Breach of Condition Notice S.187A
- Injunction from County or High Court S 187B
- Stop Notice for caravans S.183 &184
- Powers of Entry to land S.196 A,B,C

Planning and Compensation Act 2004

Temporary Stop Notice Regulations 2005

- Temporary Stop Notice: –
 - Can be served without an accompanying Enforcement Notice
 - Allows for 28 day cessation of activity

Expediency

- Power to take action discretionary and in the public interest
- Should be only used where it is expedient
- Appropriate to the scale and impact of the breach
- Maladministration if Council fails to take effective action where plainly necessary

Complaints- The Process

- Complaint received and logged by LPA
- Acknowledge within 3 working days*
- Check planning register and site history
- Establish facts – site visits (sometime with specialist officer), discuss with complainant/ owner
- May serve a PCN
- Decide on appropriate action
- * See website pages for detail of timescales for initial investigation

Types of Action

- Take no further action – where permission exists, development does not require consent, or breach minor with no harm to others
- Request retrospective application to regularise development, where conditions on an approval or amendment would suffice

Types of Action (Cont'd)

- Negotiate a solution to mitigate impact or secure removal/cessation



- Formal action to stop/remove/mitigate impact of a breach, with a Notice served. Notice specifies action required to correct or mitigate breach.

Factors affecting Timescales

- Need to collect relevant, sound and satisfactory evidence
- Negotiations to resolve a complaint without formal action
- Submission of retrospective application
- Submission of appeal against a formal notice

Enforcement Team in York



East

Alan Kendall

Mandy Swithenbank

West and Centre

Andy Blain

Hilary Shepherd

Enforcement Officers' Role at York

- ‘Responsible for monitoring conformity with planning conditions, agreements and obligations, investigating, following-up and resolving or recommending appropriate courses of action where breaches of planning and related controls are alleged to have occurred.’

Facts, and Stats and Issues

- 720 cases and investigated in 2007 including monitoring S106 agreement payments
- 17 Enforcement Notices, 9 Planning Contravention Notices, 1 Stop Notice served in 2007
- Timescales comparable to other LPAs
- No track record of Court action in York - negotiation favoured by LPA and Central Govt.
- No formal out of hours service

Other Reading

- Planning Policy Guidance Note 18 - 'Enforcing Planning Control'
- CLG Publication 'Review of Planning Enforcement- Summary of Recommendations'
- Circular 10/97 - 'Enforcing Planning Control'
- CLG publication 'Planning Enforcement Good Practice Guide for Local Authorities'
- Website pages 'Planning Enforcement Service'

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