

Planning Enforcement Ad Hoc Scrutiny Committee 5th November 2008

Presentation of Assistant Director (Planning and Sustainability) and Head of Development Control on Committee Key Objectives (iii), (iv) and (v)

(iii) "To examine why so many cases are outstanding".

1. The following factors influence the timescale for dealing with cases: -

Process and Regulatory Procedure

2. As explained at the previous meeting there are various factors determining the length of time taken to resolve each case, including: -
 - The nature of the original complaint and the priority given to it, time/number of visits required to monitor for a breach
 - The speed of response from the alleged party in responding to and then addressing a complaint,
 - The allowing of a reasonable period of compliance prior to escalating action/or deciding if no formal action is justified
 - The time taken to formulate a case for formal action - can include regathering of evidence, preparation of papers (e.g. history, land ownership, third party comments etc)
 - Requirement for signing off and checking of documentation prepared by legal services, and authorisation
 - The allowance of period for compliance with initial action
 - The prospect of appeal against formal action and/or submission of retrospective planning application to be dealt with, including possible negotiations on the detail of the application. And submission of amendments requiring reconsultation
 - The need to prepare further documentation if there is non-compliance with initial action

Workload Issues

3. Whilst the of day to day working of enforcement officer has not been analysed as this part of this Review, there are a number of factors that can be identified at this stage:-

Increase in Number of Financial Obligations

4. An additional post was created within the Enforcement Section some years ago using interest received from financial contributions received via Section 106 agreements. Since the original setting up of the post, the number of applications which require the submission of financial contributions has increased dramatically. For example open space contributions are now applicable for schemes involving single dwellings whereas prior to 2005 the requirement applied to 10 dwellings or more. Similarly education contributions are now required for schemes involving any residential development comprising units of 2 bedrooms or more.
5. Each scheme would require an S 106 to secure the payment, prior to the issuing of decision. In order to ensure applications are determined in a timely manner despite this increase in number of obligations, conditions have been developed in accordance with Government guidance to require the relevant contribution to be made as part of a S106. Discussions have taken place to reduce the burden of this condition on Enforcement by reducing the number of trigger points in it from 2 to 1. Currently prior to commencement for the signing of the obligation and then prior to occupation for making the payment.
6. Whether this condition were to be used or not, the requirement for S106 monitoring arising from the greater number of schemes financial contributions would remain.
7. The time taken in monitoring agreements and payment needs to be quantified as part of the next stage of the review.

Reduced Officer Capacity

8. As part of required budget savings in 2006/07, 0.2 FTE was deleted from an Enforcement officer post, following approval of a request to reduce working hours from one member of staff. The implications for a reduced level service were highlighted at the time when the saving was made.

Managerial Reporting Arrangements

9. In a Directorate Restructure published in 2002/03, the Enforcement Officers were integrated into each of the Development Control area teams, with the intention of providing easier collaboration on cases and

increase the understanding and importance of enforcement to the DC case officers.

10. The focus in recent years has been to ensure that the section was removed from its Standards Authority Status for Development Control Performance. A substantial number of procedures and guidance has been produced to ensure the processing of applications more consistently and in timely way, where non previously existed.
11. Team Leaders have needed to prioritise application performance management, to some extent to the detriment of closer involvement with enforcement matters.
12. Other factors particularly for the east team is the physical location of the enforcement team away from the Team Leader and Assistant Team Leader (the east team is divided into 4 work areas within St Leonard's.)

Filing Systems

13. Members may be aware that much of the section's filing is stored off site at Elvington, which provides difficulties in terms of retrieval of individual files. Filing. However long standing arrangements for the return of enforcement files to secure storage at St Leonard's have recently been implemented and the files are now in the process of being returned, allowing immediate access to previous case files. This has also allowed improved filing of more recent case files

Responses From Consultees

14. The limited resources available within other sections of the Directorate and the competing priorities of other work areas can to lead to a delay in the time taken by specialists e.g. Highway Network Management, Conservation to give an opinion to the Enforcement Section on the acceptability or otherwise of a breach of control and the expediency of taking action. The recent appointment to the long-term vacant Head of Design, Conservation and Sustainable Development post provides an opportunity for a review of the process with the new appointee

Input from Legal Services

15. Perceived delays in the verification of case information and the processing of formal notices forwarded from the Enforcement staff to Legal Services colleagues led to a series of Improvement Workshops in 2004/05. Time constraint and workload of Legal Services officers were identified as major factors in causing delays. With staff changes in Legal Services the recommendations of the review were not fully addressed at the time. Pressure upon Legal services resources continues, with for example an increase in the number of large Planning Appeal inquiries to service.

(iv). “To review the Council’s processes and procedures to improve the handling of Planning Enforcement Cases”

16. From the Minutes of the previous Scoping meeting, the purpose of the next stage of the process following this meeting is to gather evidence and conduct a review of the processes and procedures involved, to be presented together with recommendations for possible actions at the next meeting (15th December 2008). The intention is therefore to collect information and hold a series of workshops with staff to review of the service ‘As Is’, mapping out current processes and procedures, and then to consider ‘to be’ scenarios to improve working practices or recourse allocation where benefits are identified.
17. In terms of current process and procedures, the guide to enforcement as posted on the Website sets out the process that the Authority follows. Other processes relate to section 106 agreements, Enforcement Notice appeals, logging new cases, closing cases, recording Enforcement Notices served. Processes were drafted out for new enforcement officers to follow in dealing with cases in 2006. Detailed guidance is available in the form of PPG 18 ‘Enforcing Planning Control’, Circular 10/97 ‘Enforcing Planning Control’, the Government publication ‘ Planning Enforcement Good Practice for Local Planning Authorities’. The Enforcement Officers have a clear and detailed knowledge of the operation of the planning system particularly relating to enforcement, as required by the current Job Description, and keep up to date on trends, issues and legislative changes in Development Control.
18. As has been produced for Development Control, the intention as part of the review of Enforcement was to provide a manual for enforcement staff to refer to for procedures and processes.
19. Once the review is completed and any new processes formulated, the manual will be produced and an enforcement policy/customer contract presented to Committee (along with the draft revised Development Control Customer contract) for adoption.

(v).“To explore the impact of the Scrutiny Review on Powers of Enforcement Takeaways on the way planning enforcement is now conducted”

20. Note: The Scrutiny Panel’s recommendations published in the agenda of 7th October 2008 meeting, recommendation 3 of the Panel’s Recommendations published on 23rd October 2005 having been omitted. The following relates to recommendations on the 7th October 2008: -
 - 1) Penalty Notice Support bid in the remit of Environmental Regulation
 - 2) Use of technology to integrate Planning Regulatory and Licensing functionality is being coordinated by colleagues in IT. In the meantime The UNiform system provides information including conditions imposed on

takeaways since 1996. This information is available to other Council departments. Environmental Regulation does now has access to UNIFORM, and can check for new takeaway applications received to enable them to comment. Limited information on Planning Enforcement cases is also available.

3) An enforcement protocol has been formulated and now being implemented. The Licensing Authority, Police, Fire, Environmental Protection Unit, Trading Standards meet on regular basis to discuss problem premises whether licensed or takeaways. Resulting from the Scrutiny and working with the above agencies conditions are attached to takeaway licences - for example conditions to reduce litter, noise nuisance or to prevent crime and disorder for example insisting on CCTV, Pager systems employing door staff. Working relationship with other Directorates is informal. Officers speak to each other, share information and apportion work depending on their statutory function

4) Risk assessments for loan working have been carried out and published. If there is a requirement for late night visits they are always carried out by officers in pairs, as are any other visits where there is potential for conflict, and using a Council vehicle where appropriate. Planning Enforcement use unmarked vehicles.

5) Both "marked" and "unmarked" pool cars are available during the day and in the evening, the latter subject to pre-booking. Planning Enforcement officers have permits valid for most Council owned car parks and residents parking zones in the City.

6) Enforcement officers have to date not processed their own prosecutions because of the lack of any although; officers have received training from Legal Services on how to prepare prosecution files. At least one enforcement officer has undergone Court Training, and officers have attended additional training in relation to formal cautions and prosecution procedures. Training budget is set aside for appropriate courses as and when they become available.

7) A 2007 internal report into the staffing resource shortfalls in Planning identified a requirements for dedicated enforcement and appeals administrative support, although resources and budgets constraints and other workload pressures for Support Services have to date prevented this issue from being addressed.

8) The equipment listed is available to Development Control and Enforcement staff, and can be purchased where replacement or additional equipment required.

21. In summary the impact and implications of the Takeaways Scrutiny Panel has been largely felt elsewhere in the Authority rather than within the Planning Enforcement.