

## **Planning Enforcement Ad Hoc Scrutiny Committee**

**Briefing Note: 5<sup>th</sup> November 2008**

**Prepared by the Assistant Director (Planning and Sustainability) and Head of Development Control on Key Objective (iii)**

### **Key Objective (iii)**

**(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.