
REPORT TO:	Environmental and Development Services Committee	AGENDA ITEM: 7
DATE OF MEETING:	16 April 2009	CATEGORY: DELEGATED
REPORT FROM:	Director of Community Services	OPEN
MEMBERS' CONTACT POINT:	Tony Sylvester (5743)	DOC:
SUBJECT:	The enforcement of planning conditions	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE: EDS13

1.0 Recommendation

1.1 That the committee acknowledge and agree the approach to the enforcement of planning conditions as set out in the detail below.

2.0 Purpose of Report

2.1 At a meeting of the Audit Sub-Committee held on 25th February 2009, it was resolved that the Head of Planning Services submit a report to this Committee regarding the department's approach to the enforcement of planning conditions.

3.0 Detail

3.1 The Head of Planning Services last reported to this committee on the subject of planning enforcement in December 2002 when authority was obtained for a policy that prioritised enforcement work. The purpose of this was to ensure Members set priorities and targets to measure performance in line with the agreed priorities. This was necessary to meet a recommendation of a then recent Best Value Inspection (the adopted policy on priorities is attached as Annexe A). An Enforcement Manual was also published in 2005 for the benefit of all involved in the system to raise awareness of expectations. This is currently being updated.

3.2 When a breach of control is reported as having taken place the Council has discretion as to whether or not to take action. This will depend on the extent of any breach of control. Given that enforcement work is so time consuming and resource intensive it is necessary to prioritise cases to ensure that vigorous action is taken against the most damaging breaches of planning control (see para 3.1 above). The aim of the policy is to determine a priority for dealing with all enforcement work in order that resources are best utilised and the most urgent cases dealt with more quickly. All complaints are however given an initial assessment and consequently may be moved from one priority to another as the situation and the facts become clearer.

- 3.3 It has long been the case that the Planning Enforcement Section only responds to complaints regarding breaches of control. In other words like most Local Authority Enforcement Teams it is a reactive service rather than a proactive one. This is because the service is currently staffed by one full time Senior Enforcement Officer who until recently was supported by a part-time assistant to deal with an average 400 enforcement complaints a year (a full time Enforcement Officer replaced the part-time assistant post on 1 April 2009 in line with the agreed planning service re-engineering exercise outcomes). Of complaints received an average of 15% concern the enforcement of planning conditions.
- 3.4 Notwithstanding the resourcing issue, from time to time working practices and policies are reassessed, the most recent opportunity being when the new Senior Enforcement Officer started. Long standing unresolved issues were dealt with, several enforcement notices served and old files closed. Standardised letters are used wherever possible. However it is unlikely that the service will ever become proactive without a considerable injection of additional resources.
- 3.5 With regard specifically to planning conditions it should be remembered that the Council grants on average 1000 planning permissions a year and each of those contains a number of conditions ranging from about 1 to 50. This amounts probably to an average of about 5 per application. Even at this conservative estimate, this would add investigating 5,000 new conditions per year in addition to those complaints already received.
- 3.6 Generally, applicants do see the need to comply with conditions if only because if land is later sold on, solicitors enquire of the Council whether conditions have been discharged or complied with. If they have not then the sale may well be jeopardised. Even so, it is recognised that many conditions are ignored. Any complaint regarding such a condition is always investigated but what action is taken will depend upon the nature of the harm and thus the priority rating as set out in the approved policy.

4.0 Financial Implications

None unless additional resources are agreed.

5.0 Corporate Implications

None beyond the current situation.

6.0 Community Implications

6.1 None beyond the current situation.

7.0 Conclusions

7.1 Whilst breaches of control regarding planning conditions are acted upon on the receipt of a complaint, there is little or no proactive work in this field because of the lack of staff capacity that would otherwise be required given the scope of the task.

8.0 Background Papers

Enforcement Manual 2005