

Subject: Planning Enforcement Annual Report 2016/2017
Date of Meeting: 12th July 2017
Report of: Principal Planning Officer, Enforcement
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Ward(s) affected: All

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1 During the consultation period undertaken as part of the development of the Planning Enforcement Policy Document (PEPD), Members and the residents expressed an interest in being informed about the progress and outcomes of enforcement investigations. As such, the PEPD requires an annual monitoring report to be presented to the Planning Committee.

2. RECOMMENDATIONS:

- 2.1 That Members note the contents of this report.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Planning Enforcement Team investigated an extremely high number of cases and resolved a significant number of breaches of planning regulations during 2016/2017. 820 new cases were received and 604 cases were closed. Both of these figures represent a significant increase on previous years and is attributed to the significant increase in reports of unauthorised HMOs (Houses in Multiple Occupation) in the city. This was despite a large portion of the year in which there were only two Officers in the team.

- 3.2 The table below shows a comparison of figures for the previous 4 years.

Year	Cases received	No Breach	Not expedient	Full compliance	Compliance after notice	No reason	Total
2016/2017	820	314 (52%)	82 (14%)	170 (28%)	10 (2%)	28 (4%)	604
2015/2016	576	194 (45%)	69 (17%)	157 (36%)	12 (3%)	n/a	432
2014/2015	666	176 (34%)	91 (17%)	230 (44%)	20 (3%)	n/a	517
2013/2014	658	225 (32%)	178 (26%)	275 (39%)	19 (3%)	n/a	697
2012/2013	755	255 (37%)	95 (14%)	291 (42%)	52 (7%)	n/a	693

- 3.3 Despite the extremely difficult circumstances and such a high volume of cases, a good level of customer satisfaction was maintained. Only three corporate complaints were received in relation to enforcement activity/investigations for the year (the same as received in 2015/2016).
 - 3.4 The team was supported with some additional capacity, provided by temporary staff at administration and Officer levels. This provided significant assistance in the progression of cases and enabled the team to continue to function well during a time of significant pressures and reduced staffing.
 - 3.5 During the 2016-2017 period a total of 604 cases were closed after enforcement investigation which is a significant increase of 172 on the previous year.
 - 3.6 In 52% of the cases closed, there was found to be no breach of planning control. This figure has been increasing in recent years with the main reason being the increase in HMO's within the city and in particular the Lewes Road corridor. Most of these are referred to us with a significant number being established as authorised HMO's and as such not in breach of planning regulations.
 - 3.7 In 14% of cases closed, it was determined that it was not expedient to pursue formal enforcement proceedings, as the breach was minor, not causing unacceptable harm and not in the public interest. This is down 3% on the previous year.
 - 3.8 In 28% of cases there were breaches of planning identified which were significant enough to consider action but were resolved through negotiation instead. This is a decrease from 36% for the previous year.
 - 3.9 Where there was found to be a significant breach of planning control, or where development was considered to be causing unacceptable harm, compliance was achieved in 94% of the cases before formal action was required.
 - 3.10 In 2% of all cases received, compliance was achieved through the issuing of a formal enforcement notice
 - 3.11 Serving an Enforcement Notice is the most common and effective method of remedying unauthorised development when informal negotiation has failed. The Council is required to be proportionate and reasonable when serving a formal enforcement notice and significant harm must be identified.
 - 3.12 Forty three (43) formal notices were served in the 2016-17 period, an increase of 11 from the previous year. This comprised thirty seven (37) enforcement notices, three (3) Listed Building Enforcement Notices and three (3) Section 215 notices.
- Enforcement and Listed Building Notices**
- 3.13 Enforcement notices are served against unauthorised development

which consists of either a change of use or unauthorised development. A listed building enforcement notice is a very similar notice served only in relation to listed buildings. Those served the notice have a right to appeal against the notice which is then determined by the Planning Inspectorate. Forty three (43) enforcement notices were served in the period 2016/2017.

- 3.14 If an appeal is lodged against an enforcement notice, the requirements of the notice are held in abeyance until the appeal is determined by the Planning Inspectorate. Enforcement appeals are currently taking between 9 and 12 months to process.
- 3.15 The grounds upon which an enforcement notice can be appealed include:
- Ground (a) – That planning permission should be granted for what is alleged in the enforcement notice, or that the condition which is alleged not to have been complied with should be discharged.
 - Ground (b) – That the breach of planning control alleged in the enforcement notice has not occurred as a matter of fact.
 - Ground (c) – That there has not been a breach of planning control.
 - Ground (d) – That at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.
 - Ground (e) – That the notice was not properly served on everyone with an interest in the land.
 - Ground (f) – That steps required to comply with the requirements of the enforcement notice are excessive and lesser steps would overcome objections.
 - Ground (g) – The time given to comply with the notice is insufficient or unreasonable.
- 3.16 The Planning Inspectorate will dismiss or allow the appeal and also have the ability to vary the enforcement notice should they feel this necessary. On some occasions they make split decisions – part allowing and part dismissing the appeal.
- 3.17 With all enforcement investigations, every effort is made to encourage transgressors to carry out the required works prior to formal action becoming necessary.

Section 215 Notices

- 3.18 Where the condition of land or a building is adversely affecting the amenity of a neighbourhood, the Council may issue a Notice under Section 215 of the Town and Country Planning Act 1990, requiring the owner or occupier to improve the condition of the land or building. Failure to comply with the Notice is a criminal offence. The Council also has powers, where a Notice has not been complied with, to enter the land and carry out the work itself and recover the cost from the owner. Three (3) Section 215 notices were served in the period 2016/2017.
- 3.19 A Section 215 notice can only be appealed in the Magistrates Court. In 2016/2017 no appeals against the service of a 215 notice were made.

Other

- 3.20 There were no Breach of Condition or Stop notices served, nor were any injunctions applied for.

Other achievements

3.21 Uniform:

New database / case management software was successfully implemented last year. This involved a considerable amount of work transferring data, learning how to use the new system and establishing new methods of working to achieve time savings. Uniform has allowed the team to move to a paperless case management system, improving efficiency and saving money on printing costs. There are still many improvements that we can make to the Uniform system which will continue to be investigated and implemented wherever possible.

3.22 Workstyles

Following the refurbishment of Hove Town Hall, the team returned in September 2016 to a workstyles environment. This dovetailed with moving to paperless working and has led to a more modern and efficient service with increased flexibility.

3.26 Houses in Multiple Occupation:

The proliferation of Houses in Multiple Occupation (HMO's) across certain wards within the east of the city has continued to increase. Planning controls were introduced through an Article 4 Direction in 2013, requiring them to obtain planning permission. Awareness of this was raised across the whole city and methods of investigation were formulated. In 2016/2017 192 cases were received relating to HMO's, compared to 72 the previous year.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The year ahead (2017/2018)

The year ahead remains challenging for the Planning Enforcement Team, with continued pressure on the service in terms of caseloads and unauthorised HMO's within the city. An additional Officer has been resourced for the duration of this financial year which will help significantly but further efficiencies in how we handle cases will need to be found. This will be achieved through improved use of Uniform to process cases more quickly.

4.2 Targeted proactive Section 215 work

With an increase in the number of Officers within the team it will be possible to target particular areas of concern with some proactive Section 215 notices to secure a significant improvement in the appearance of an area / street.

4.3 Planning Enforcement Policy

Work will continue to formulate a new Planning Enforcement Policy to replace the existing one (2011). This will set out a framework on what the public can expect from the service and also what the scope of our powers are in relation to investigation and enforcement.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 None required.

6. CONCLUSION

6.1 2016/2017 was an extremely challenging year for the planning enforcement team with significant changes faced in terms of resources and caseloads. In spite of a significantly increased number of cases, reduced Officers, a new database to implement and an office relocation an extremely high number of cases were investigated to conclusion. This is due in no small part to the considerable hard work and dedication of the Officers within the team, along with improvements made to the way cases are progressed and handled.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

7.1 There are no financial implications relating to this enforcement report that fall outside the normal service delivery for the department.

Legal Implications:

7.2 There are no legal implications relating to this enforcement report that fall outside the normal service delivery for the department.

Equalities Implications:

7.3 There are no equalities implications relating to this enforcement report that fall outside the normal service delivery for the department.

Sustainability Implications:

7.4 There are no sustainability implications relating to this enforcement report that fall outside the normal service delivery for the department.

Any Other Significant Implications:

7.5 There are no other significant implications relating to this enforcement report that fall outside the normal service delivery for the department.

SUPPORTING DOCUMENTATION

Appendices:

1. There are no appendices for this report.

Documents in Members' Rooms

1. None.

Background Documents

1. Planning Enforcement Policy 2011