

Subject:	Planning Enforcement Annual Report 2017/2018		
Date of Meeting:	12 September 2018		
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 2017/2018. 595 new cases were received and 601 cases were closed.

This represents the first time since 2013/2014 that more cases were closed than were received and represents an improvement on the previous year, which had an unusually high number of complaints received – 820 in 2016/17 (see table overleaf).

As at the end of the period to which this report relates there were approximately 400 unallocated cases awaiting investigation. As a consequence there are currently 800 cases on hand. This is due to a significant increase in the number of cases received in previous years (largely HMO complaints) which corresponded with a reduced number of officers in the team in 2016/17 and earlier. The Team was subsequently fully staffed in 2017/18 and an additional member of staff recruited for a year following additional funding agreed and provided in 2017-18 (with particular focus on HMOs).

Another reason for the unallocated cases is the amount of allocated cases requiring action and they are taking to resolve. All HMO and Listed Building

cases are currently being treated as a priority and allocated to an Officer and these are generally resource intensive and time consuming to resolve.

3.2 The table below shows a comparison of figures for the previous 5 years.

Year	Cases received	No Breach	Not expedient	Full compliance	Compliance after notice	No reason	Total
2017/2018	595	271 (45%)	126 (21%)	181 (30%)	23 (4%)	n/a	601
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 In spite of challenging circumstances, and a high volume of cases, a reasonable level of customer satisfaction was maintained. Six corporate complaints were received in relation to enforcement activity/investigations for the year which is an increase on the three the previous year. One of these was upheld but it was found to cause no injury and did not proceed further.

3.5 During the 2017-2018 period a total of 601 cases were closed after enforcement investigation. In 45% of the cases closed, there was found to be no breach of planning control. This figure has been higher in recent years (since 2015). It is assumed the main reason relates to an increase in awareness of HMO controls by residents and local action groups and the subsequent increase in HMO complaints particularly in the Lewes Road corridor. Most of these are referred to the Enforcement Team with a significant number being established as authorised HMO's and as such not in breach of planning regulations.

3.7 In 21% 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 action not being in the public interest.

3.8 In 30% of cases there were breaches of planning identified which were significant enough to consider action but were resolved through negotiation or the granting of a planning permission instead.

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 89% of the cases before formal action was required.

3.10 In 4% of all cases closed, 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 where 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 Sixty Two (62) formal notices were served in the 2017-18 period, an increase of 19 from the previous year. This comprised fifty five (55) enforcement notices, four (4) Listed Building Enforcement Notices and three (3) Section 215 notices.
- 3.13 Two (2) successful prosecutions (one large HMO, one roof extension) with fines levied of £3000 plus costs and £2000 plus costs.

Enforcement and Listed Building Notices

- 3.14 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.
- 3.15 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 12 and 18 months to process.
- 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 most enforcement investigations, every effort is made to negotiate with owners to carry out the required works without 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. Two (2) Section 215 notices were served in the period 2016/2017. This figure is low as most cases relating to this are resolved without the need for a formal notice.
- 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 Modernisation

Continue to improve Uniform and digital working. The enforcement team work digitally, utilising IT solutions to replace paper files. The Service is currently implementing a mobile working application to allow Officers to take tablets on site visits which will create efficiencies in data management.

Recruitment is currently underway for an additional Enforcement Officer to be added to the team (funded through increased Planning Fee income achieved by the 20 per cent increase in fees introduced in January 2018). This will increase the Team to four permanent officers with a Principal Planning Officer leading the Team.

3.22 Field Officer

Work has continued to provide support and training for the Field Officer programme with a number of functions and tasks identified that will be carried out by them, with support of the Enforcement Team. The whole team has been involved with helping to shape this new role. Identified functions include work to control estate agent boards and to improve the condition of land or buildings which have fallen into disrepair along with assistance and site visits to assist the Enforcement Team with their investigations.

3.23 Houses in Multiple Occupation:

HMOs remain a priority for the team across the whole city and in particular the Lewes Road corridor. Planning controls were introduced through an Article 4 Direction in 2013, requiring small HMOs to obtain planning permission in five wards (new large HMOs always need planning permission). Awareness of this has been raised across the whole city and methods of investigation have been developed. In 2017/18 an officer was recruited to support HMO enforcement following the agreement of additional funding. This has been effective in increasing the focus on action against unauthorised HMOs.

In 2017/2018, ninety five (95) new cases were received relating to HMO's, compared to 192 the previous year. It is likely to be the case that this reduction is an indicator that enforcement action is working and developers/landlords are more aware of the restrictions and requirements when creating a new HMO and meeting guidance. This has also been helped by the publication on the website of a map setting out the location of all HMOs in the city which will assist landlords with avoiding areas with high concentrations of HMOs.

Of 62 formal enforcement notices served, 32 relate to unauthorised HMOs. Nine (9) of these have been complied with to date with the remaining either awaiting determination of an appeal or for the expiry of the notice.

There are currently 113 live HMO enforcement cases allocated to Officers. In addition a list of 400 licensed large HMOs has been referred to the Team from the Licensing team. A project is underway to ascertain which of these are authorised in planning terms. This will continue into 2018/2019.

4. OPTIONS FOR THE YEAR AHEAD

4.1 The year ahead (2018/2019)

The year ahead remains challenging for the Planning Enforcement Team, with continued pressure on the service in terms of caseloads and unauthorised HMOs within the city. The team will be fully staffed with one Principal Planning Officer, two Senior Planning Officers and two Assistant Planning Officers.

The proliferation of HMOs, while appearing to be reducing in terms of complaints, is still a significant challenge for the team with the majority of the cases being appealed and these appeals taking up significant time and resources.

4.2 Planning Enforcement Policy

A new Planning Enforcement Policy Document is going to Tourism Development and Culture Committee in September seeking approval for it to be implemented from January 2019. This sets out a framework on what the public can expect from the service, priorities for action and also what the scope of enforcement powers .

4.3 Field Officer

The planning enforcement team will continue to provide advice and support to the Field Officer programme in terms of identified functions and to improve customer service.

4.3 Modernisation

Multiple improvements are being worked on to improve digital working including tablets for Officers to take on site and Enterprise Workflow software to improve handling of cases and data management.

4.4 Business Process Improvement Review

A business process improvement review will be undertaken in the coming year to find further ways of improving case handling in terms of data management and efficiency.

5. COMMUNITY ENGAGEMENT & CONSULTATION

5.1 None carried out.

6. CONCLUSION

6.1 There have been a number of positives for the Enforcement Team during 2017/18 in spite of ongoing challenges with large caseloads and unallocated cases. In terms of numbers – there has been a reduction in the number of Enforcement complaints (compared to 2016/17); the number of closed cases exceeded new cases; and there has been a lot of proactive work against unauthorised HMOs. In terms of staffing – the team was fully staffed in 2017/18 with an additional member of staff to support HMO work. The future also points to significant improvements relating to modernisation and recruitment of an additional permanent member of staff to the team. In addition, an updated

Enforcement Policy Document should be introduced in early 2019 to improve transparency, customer service and prioritisation of work.

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. None

Documents in Members' Rooms

1. None.

Background Documents

1. Planning Enforcement Policy 2011