

Subject:	Planning Investigations and Enforcement Team Yearly Report April 2013-March 2014
Date of meeting:	4 June 2014
Report of:	Head of Planning and Public Protection for Executive Director Environment, Development & Housing
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Ward(s) affected:	All

FOR GENERAL RELEASE**1. SUMMARY AND POLICY CONTEXT:**

- 1.1 This is an annual monitoring report presented to Planning Committee in order to update on the work of the Investigation and Enforcement Team.
- 1.2 The work of the team is informed by the adopted Planning Enforcement Policy Document (PEPD) which members agreed in 2011. As part of that process Members and residents expressed an interest in being informed about the progress and outcomes of enforcement investigations.
- 1.3 As such, the PEPD requires an annual update and monitoring report to be presented to the Planning Committee. The policy document is attached as Appendix 1.

2. RECOMMENDATIONS:

- 2.1 That Members' note the contents of this report.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 During the 12 months to April 2014 the team has experienced change in the working arrangements of the team and as a consequence of an uplift over the previous year in requests to investigate potential breaches of planning. At the same time some of the resources of the team have been used to support with the determination of planning applications which have also increased in the last 12 months.

- 3.2 In response to these circumstances we have adopted a more focussed and targeted approach in dealing with current cases. We have also concentrated on progressing older cases to satisfactory conclusion.
- 3.3 During this period we have also found short term support in the form of part time administration and a further investigation officer.

Case load management within planning enforcement

- 3.4 During the 2013-2014 period a total of 697 cases have been closed following enforcement investigation which is a slight decrease of 32 cases from the previous year. There are currently 364 live/on hand enforcement investigations
- 3.5 In thirty two percent (32%) almost a third of the cases closed, there was found to be no breach of planning control. This is a significant proportion and we are considering ways to minimising the time spent on such cases whilst ensuring they are fully investigated.
- 3.6 In twenty six percent (26%) of cases closed, it was determined that it was not expedient to pursue formal enforcement proceedings, as the breach was minor and not causing unacceptable harm.
- 3.7 In thirty nine percent (39%) of cases there were breaches of planning which needed to be assessed and required further investigation.
- 3.8 Where we found significant harm or unacceptable impact the teams achieved resolution of these by negotiation. This equate to ninety one percent (91%) of these cases.
- 3.9 In three percent (3%) of all cases closed, compliance was achieved through the issuing of a formal enforcement notice.
- 3.10 The table below provides a comparison between the last two performance years in terms of findings.

	No breach	Not expedient	Full Compliance	Compliance following notice	Total
2013/14	225 (32%)	178 (26%)	275 (39%)	19 (3%)	697
2012/13	255 (37%)	95 (14%)	291 (42%)	52 (7%)	

Enforcement notices

- 3.11 Serving an Enforcement Notice is the most common and most effective method of remedying unauthorised development when informal negotiation has not been successful. Enforcement notices are served

early in an investigation when the breach of planning control is causing significant harm or where the transgressor has made it clear that they are unwilling to remedy the breach. The transgressor has the right to appeal against the notice, and the appeal is considered by the planning inspectorate.

3.12 Twenty eight (28) Enforcement Notices were served in the 2013-14 period, a decrease of 33 from the previous year. The table in Appendix 2 “ summarises the breach of planning control and current status of the investigations in relation to each of the properties against which enforcement notices have been served.

3.13 The Enforcement Notices served take a variety of forms and can be appealed.

Enforcement Notice Appeals

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.

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 (PINS) 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.

Breach of Condition Notices

- 3.19 These can be used as an alternative to an Enforcement Notice. There is no right of appeal against a breach of condition notice.

Other significant achievements

3.20 *Increased Public Awareness*

Part of the work of the team involves raising public awareness. The strategy during the 2013-2014 period has been for the Planning Enforcement and Investigations Team to issue press releases to local newspapers and enhance and update the Planning Enforcement and Investigations web page.

- 3.21 When necessary, the team manager attends residents meetings to discuss planning enforcement matters that are of concern, be it generally or in relation to a specific investigation.

- 3.22 Awareness of the work of the team amongst residents has been raised significantly in the past three years. This was achieved in part through the publicity and consultation on the policy document but also as a consequence of the very positive impact the work of the team can have on the built environment and our willingness to engage with the community.

- 3.23 Awareness continues to improve and this in turn has a positive impact with residents and developers regularly remedying breaches of planning control without formal enforcement action becoming necessary. This is evidenced by the high proportion of all cases closed due to full compliance.

3.24 *Workload*

The Planning Investigations and Enforcement Team has progressed a high volume of cases over the past 12 months, and current live investigations are lower than they have been previously. This is due to a focused approach to ensure the number of active investigations is reduced to a manageable level seeking to match this with the team capacity. Officers have been successful in ensuring the thorough and successful processing of investigations in general accordance with the timeframes set out in the Planning Enforcement Policy. There is currently no backlog of cases waiting to be allocated, and all open investigations are progressing.

- 3.25 Every investigation is being carried out in depth, in a timely manner and seeking to resolve breaches to ensure material planning harm is removed.
- 3.26 The team has continued to take pro-active action which has focused on improving the condition and appearance of dilapidated properties through use of Section 215 powers. This action has seen significant improvements to the appearance of properties along Western Road, Brighton, Western Road, Hove and Preston Street, Brighton.
- 3.27 In addition, as a result of an increased number of resident complaints regarding satellite dishes, a pro-active programme to remove new and historic satellite dishes has progressed within conservation areas across the city.
- 3.28 This work is currently being undertaken within a target area of the Valley Gardens and College Conservation Areas, and its achievements will be reviewed once the programme has ended, with a view to rolling this out to other Conservation Areas across the City.
- 3.29 Reporting a breach during the 2013 – 14 year became much simpler as we were able to offer a webform on the B&HCC website to our customers. This has meant that the customer no longer needs to download the form, save the details and then email the form back. This had been a cause of frustration and we had received negative feedback about the older form. The new online is also compatible for use with tablets and mobile devices.

The coming year

- 3.30 The next 12 months are an exciting time for the Planning Investigations and Enforcement Team. As well as continuing the excellent work the team are currently undertaking, the following pieces of work are in our programme.
 - I. Continuing to work with other Council departments and external organisations to resolve breaches in legislation that are causing material planning harm;

- II. Continuing to identify areas in the City where pro-active area and target based enforcement projects will improve their character and appearance, this will be focused on the seafront to improve the image of the city, and the London Road area which is currently undergoing significant redevelopment;
- III. Promoting the success of the team through regular press briefings and use of the Council website;
- IV. Continue to improve the information on our webpages and how it is presented.
- V. The implementation of a monitoring process for planning conditions to ensure that those placed on planning approvals are complied with (subject to the successful implementation of the ICT project); and
- VI. A move towards a more active role in terms of issuing prosecutions and direct action to improve the image of the team and to act as a deterrent to other developers in the City.

4. CONSULTATION

- 4.1 None required.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

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

Legal Implications:

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

Equalities Implications:

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

Sustainability Implications:

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

Crime and Disorder Implications:

- 5.5 There are no crime and disorder implications relating to this enforcement report that fall outside the normal service delivery for the department.

Risk and Opportunity Management Implications:

- 5.6 There are no risk and opportunity management implications relating to this enforcement report that fall outside the normal service delivery for the department.

Corporate/Citywide Implications

- 5.7 There are no corporate or citywide implications relating to this enforcement report that fall outside the normal service delivery for the department.

APPENDIX 1 – PLANNING ENFORCEMENT POLICY DOCUMENT

**APPENDIX 2 – PLANNING ENFORCEMENT NOTICES ISSUED BETWEEN
APRIL 2013 – RCH 2014**