

Decision Maker: **DEVELOPMENT CONTROL COMMITTEE**

**RENEWAL, RECREATION AND HOUSING POLICY
DEVELOPMENT AND SCRUTINY COMMITTEE**

Date: Thursday 21 June 2018
 Tuesday 26 June 2018

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **PLANNING ENFORCEMENT PROGRESS AND MONITORING
REPORT**

Contact Officer: John Stephenson, Planning Investigation Officer
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Chief Officer: Chief Planner

Ward: (All Wards)

1. Reason for report

This report provides an update on the progress of current cases under investigation/ pending consideration, cases which are currently at appeal, cases which are awaiting compliance period, cases where enforcement action has been instigated, cases awaiting prosecution action, enforcement action authorised, cases that are currently with our legal department awaiting further action, together with a full breakdown on the range of the current complaints.

2. **RECOMMENDATION(S)**

That a briefing /updates meeting on planning appeals and enforcement for members of Planning Committees be arranged during Autumn 2018.

Impact on Vulnerable Adults and Children

1. Summary of Impact: None directly from this report
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Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Quality Environment
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Financial

1. Cost of proposal: N/A
 2. Ongoing costs: N/A
 3. Budget head/performance centre: Planning Division
 4. Total current budget for this head: £714.2k
 5. Source of funding: Existing revenue budget 2017/18
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Personnel

1. Number of staff (current and additional): 50.4ftes
 2. If from existing staff resources, number of staff hours: n/a
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Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Not Applicable:
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Procurement

1. Summary of Procurement Implications: None directly from this report
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): n/a
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments:

3. COMMENTARY

- 3.1 Since 2014 the planning enforcement investigation team have received in excess of over **3,029** complaints, the range of the complaints which are reported as part of the ongoing monitoring report give a full breakdown of the range of complaints.
- 3.2 The number of cases which have been closed after an investigation completed is **2,659** since 1 January 2014.
- 3.3 The **370** open enforcement cases which are currently under investigation or pending consideration range are attached (**Appendix 1- Part 2 report – not for publication**). Enforcement cases are dealt with in line with the Council's approved Enforcement Policy.
- 3.4 A number of enforcement cases (**15**) are currently held in abeyance pending the outcome of an appeal against the enforcement notice served or are subject to an appeal against a S78 refused decision. It should be noted that before taking formal enforcement action all enforcement cases would need to meet the expediency test/criteria as set out in national government guidance. **50** cases have resulted in planning applications as a result of an enforcement investigation/action. Progress on these cases which can include any pending formal enforcement action is often held in abeyance awaiting a decision on the application.
- 3.5 When considering taking action against Untidy Sites within the Borough formal enforcement action may require Direct Action to remedy the breach of planning control and further consideration should be given when the owner/occupier cannot carry out the works because of special circumstances. A longer time period for compliance with the notice can be agreed and given, however if compliance is unsatisfactory then direct action can be used. Direct Action will involve a cost, and as a result quotes will be obtained in order to carry out the works in default. Some of these cases will be presented to Committee with a recommendation for members to agree to authorise direct action, as this enforcement action may involve some considerable financial cost to the Council. A charge on the land can be considered by the Council in order to recover the Council's initial cost together with the appropriate interest rate charged until the bill is paid.
- 3.6 The majority of enforcement action is authorised under Delegated Authority and a list of cases where delegated enforcement action has been taken is regularly reported to Development Control Committee. In addition a monthly report of notices issued is circulated to all Members.

Range of Complaints		
Operational Development	121	33%
Untidy Sites (S215)	35	9%
Commercial Activity	8	2%
Breach of condition	32	9%
Adverts	13	4%
Boundary treatment	20	5%
Plans - not built according to	42	11%
Commercial vehicle - parking of	0	0%
Change of Use	70	19%
Access	1	0%
Shop shutters	3	1%
Satellite Dishes	0	0%
Trees	16	4%
General	9	2%
	370	

A wide range of complaints were received between 2014 and 2018 as shown in the table above. The most frequent relate to operational development 33%; breach of conditions 9%; not built in accordance with plans 11%; untidy sites 9%; change of use 19%; boundary treatment 5% and Trees 4%.

3.7 A substantial number of complaints are received which do not involve breaches of planning control which are not recorded on the planning enforcement monitoring system. These include some non-planning issues such as boundary disputes, anti-social behaviour and other civil matters which fall outside the remit of planning control.

These unregistered complaints are investigated and researched and advice given back to the complainant, via the telephone or emails. Considerable staff resources are required to maintain the service, this involves an estimated average of approximately 10 new complaints per day. As a result of this information it has been decided to register all complaints on our system.

3.8 In **10** cases where an enforcement notice has been effective and not been complied with, the Council may exercise its powers of prosecution. The Council is currently in the process of prosecuting on the following cases.

- i A property in Babbacombe Road - located in the Plaistow and Sundridge Ward.
- ii A property in Market Meadow – located in Cray Valley East Ward.
- iii A Property in Midfield Way – located in Cray Valley East Ward.
- iv Blackbrook Lane various plots - located in Bickley Ward.
- v A property in Blandford Road, Summons issued - located in Clock House Ward.
- vi A property in Manor Way – located in Kelsey and Eden Park Ward.
- vii Land Adj to Top Awards – located in Farnborough and Crofton Ward.
- viii A property in Lullingston Close - located in Cray Valley West.
- ix A property in High Street, Green Street Green -located in Chelsfield and Pratts Bottom Ward.
- x A property in Old Homesdale Road, Bromley -located Bromley Town Ward.

3.9 Proceeds of Crime Act or POCA, since successfully utilising this tool in a prosecution test case in Maple Road, located in the Penge and Cator Ward, Planning Enforcement together with Trading Standards and our Legal Services have successfully taken action, the result led to a confiscation order under the proceeds of crime legislation which was reported to members in March 2018 ARIS. The joint teams are in the process of taking further action on a number of other cases which meets the necessary criteria under POCA.

3.10 Planning Enforcement is a complaint led service. At least 95% of our cases for investigation are reported to us directly from local residents/ward councillors, members of the public or interested parties who may be directly affected by the development in some way.

Non-Applicable Sections:	Policy, Legal, Finance and Personnel Implications
Background Documents: (Access via Contact Officer)	Bromley Council Enforcement Policy