

Sustainable Development Select Committee		
Title	Planning enforcement	
Contributors	Head of Planning	Item 4
Class	Part 1 (open)	29 November 2016

## 1. Purpose

As part of their programme, the Sustainable Development Select Committee requested a report on Lewisham's planning enforcement service. This report gives background on the amalgamation of the Council's enforcement activity and outlines how planning enforcement operates generally.

## 2. Recommendations

- 2.1. The Select Committee is asked to note the content of this information report and direct any questions to officers.

## 3. Background

- 3.1 As part of the 2014/15 programme, the Sustainable Development Select Committee considered the structure and operation of the Council's enforcement activities and proposals for service redesign as part of the Lewisham Future Programme ([30 October 2014 reports and minutes](#) and [January 2015 minutes](#)).

- 3.2 This saw the restructure of the following services:

- Crime reduction service
- Environmental protection
- Food safety
- Health and Safety
- Public Health & Nuisance
- Licensing
- Trading standards

- 3.3 It did NOT include:

- Building control and planning
- Housing enforcement e.g. Rogue Landlords
- Clean streets & markets enforcement

- 3.4 This new structure was agreed as part of the 2015/16 budget and is now in operation.

#### **4. Policy context**

- 4.1 The contents of this report are consistent with the Council's Sustainable Community Strategy policy 'Dynamic and Prosperous – where people are part of vibrant communities and town centres, well connected to London and beyond' and Empowered and Responsible – where people are actively involved in their area and contribute to supportive communities.

#### **5. Planning Enforcement**

- 5.1 The Council has a number of enforcement responsibilities, one of which is planning enforcement. A breach of planning control is defined by section 171A of the Town and Country Planning act as the carrying out of development without the required planning permission or failing to comply with any condition or limitation subject to which planning permission has been granted. In addition, any contravention of the limitation or conditions belonging to permitted development rights, also constitutes a breach of planning control.
- 5.2 It is not an offence to carry out works without planning permission or in breach of any condition or limitation. Any decision on whether to take planning enforcement action is taken in the public interest and in accordance with the European Convention on Human Rights. Local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed enforcement action as well as those affected by the breach of planning control.
- 5.3 Local planning authorities have discretion to take planning enforcement action and should only do so when they regard it as expedient, having regard to the development plan and any other material considerations. Each decision on whether or not to take planning enforcement action therefore requires assessment of the planning merits of an individual case.
- 5.4 Planning enforcement is part of all planning officer job descriptions. However, there are dedicated planning enforcement compliance officer posts within the Planning Service. The purpose of these roles is to act as an authorised officer, taking action on complaints and reported infringements of planning law and regulations. They ensure that relevant statutory obligations, Council and Directorate policies are effectively implemented and assist Planning Officers in resolving planning applications and enforcement matters.
- 5.5 The Planning Service works closely with the Council's regulatory enforcement team and housing service and has worked with them on projects to tackle rogue landlords, unauthorised Houses in Multiple Occupation (HMOs) and brothels. Officers within the planning enforcement team regularly liaise over issues relating to reports of noise and licensing and attend site visits with regulatory enforcement officers as necessary. Recently, a planning enforcement officer has been seconded for a year into a role within the Community Services as a Crime, Enforcement and Regulation Officer.
- 5.6 In taking enforcement action and investigating cases, the Planning Service operates a priority list and looks to begin to investigate those cases that would cause irreparable harm or that are causing significant and continued harm to amenity before others. The priority list is:

### **1st priority cases**

Where works are being carried out which will cause irremediable harm, for example, works to a listed building, demolition of a listed building and works to trees with protection orders.

### **2nd priority cases**

Where works or uses are causing a significant and continued harm to amenity, for example, the unauthorised use of a residential property as a business premises, unauthorised conversions of properties to flats, and the unauthorised construction of an extension.

### **3rd priority cases**

Where works or uses cause harm to the amenity of an area but do not fall into the categories above, for example, installation of shop fronts, unauthorised detached structure and non-compliance with the approved consent. Visits to be carried out within 10–15 working days.

### **4th priority cases**

Where there is a breach of planning control but there is little or no immediate harm to amenity or where the harm can be easily remedied for example, the unauthorised installation of satellite dishes and adverts.

- 5.7 Planning enforcement officers initially carry out a site visit to ascertain whether there is a breach and may give the operator and/or owner a reasonable opportunity to regularise the breach. Where there is significant harm, officers discuss the case with the Council's legal team to ascertain whether there is a case to serve a Temporary Stop Notice. In assessing harm, officers take account the impact of the site or use in terms of visual amenity, noise and disturbance, parking and other environmental/strategic objectives. This stage can involve cross departmental working depending on the nature of the complaint. Regard is had to the sensitivity of adjoining uses and the related impact.
- 5.8 The owner may, if appropriate, regularise a Breach of Planning Control. They can:
- Submit an application for a Certificate of Lawfulness for an Existing Use or Development).
  - Submit a retrospective planning application (for the retention of the development).
  - Remove the unauthorised development from the site.
- 5.9 Should a planning application be submitted and fail to gain permission or if no action is taken to remedy the breach, the local planning authority will consider taking enforcement action, through the service of an enforcement notice.
- 5.10 The Council's planning enforcement dedicated email inbox receives an average of 150 emails a month. Not all emails or reported contraventions result in a case being opened (i.e. works may be permitted development or not constitute development etc). In 15/16, 379 cases were registered. Since April 2016 to date, 238 cases have been registered.

- 5.11 249 cases were successfully resolved in 15/16. From April 16 to date, 102 cases have been closed or are resolved to close. 33 enforcement notices were served in 15/16. From April to date, 17 notices have been served.
- 5.12 Planning enforcement can be distressing for all parties and planning officers therefore need to deal with cases sensitively and safely. However, officers recognise that effective enforcement is important not only to ensure that amenities are protected but to instill confidence in the planning system. The Planning Service have been reviewing the operation of the planning enforcement function including recruiting additional officer support, which is ongoing. Moving forward, it is intended to review the current service standards and communication (both directly and on the Council's webpages) to ensure that this complex and contentious aspect of the service is dealt with effectively.

## **6. Financial implications**

- 6.1 There are no direct financial implications arising from this report.

## **7. Legal implications**

- 7.1 The report sets out matters for noting and is an information report, there are accordingly no direct legal implications.

## **8. Crime and disorder implications**

- 8.1 There are no crime and disorder implications

## **9. Equalities implications**

- 9.1 Lewisham's Comprehensive Equalities Scheme (CES) 2012-16 describes the Council's commitment to equality for citizens, service users and employees. The CES is underpinned by a set of high level strategic objectives which incorporate the requirements of the Equality Act 2010 and the Public Sector Equality Duty:

- tackle victimisation, harassment and discrimination
- to improve access to services
- to close the gap in outcomes for citizens
- to increase understanding and mutual respect between communities
- to increase participation and engagement

## **10. Environmental implications**

- 10.1 There are no environmental implications

## **11. Conclusion**

- 11.1 The Committee is asked to note the content of this report setting out details of the planning enforcement function.

### **Background documents and originator**

[30 October 2014 reports and minutes](#) and [January 2015 minutes](#)

If you have any questions about this report, please contact Michael Johnson, Planning and Enforcement Manager (ext. 46245).