



AGENDA ITEM NO.

Report Cover Sheet

Name of Meeting:	Planning Committee
Date of Meeting:	29 and 30 July 2009
Report Title:	Planning Enforcement Annual and Quarterly Report
Summary of report:	The report provides a summary of the workload and performance of the Planning Enforcement Team and a summary of the formal enforcement action taken since January 2008.
For Further Information Please Contact (report author):	Gary Fisher
Would the recommended decision be contrary to the Policy Framework:	No
Would the recommended decision be contrary to the Budgetary framework:	No
Wards of the District directly affected by this decision:	Whole District
Key Decision?	No
Included within the Forward Plan?	No (If Yes, include reference number)
Is the report Private & Confidential	No
Background Papers:	None

Consultation Undertaken

Consultees	Yes/ No	Who
Other Committees	N/A	-
Ward Councillors	N/A	-
Portfolio Holders	Yes	-
Other Councillors	No	-
Warwick District Council recognised Trades Unions	N/A	-
Other Warwick District	N/A	

Council Service Areas		
Project partners	N/A	
Parish/Town Council	N/A	
Highways Authority	N/A	
Residents	N/A	
Citizens Panel	N/A	
Other consultees	N/A	
Officer Approval		
With regard to officer approval all reports must be approved by the report author's relevant director, Finance Services and Legal Services.		
Officer Approval	Date	Name
Chief Executive	-	
CMT	-	
Section 151 Officer	-	
Director	-	
Legal	-	
Finance	-	
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1.0 **RECOMMENDATION**

1.1 That the Committee note the contents of this report.

2.0 **REASON(S) FOR THE RECOMMENDATION**

2.1 This report sets out the workload and performance of the Planning Enforcement Team since January 2008 and includes a summary of all enforcement action taken over the same period.

2.2 In order to ensure that Planning Committee are updated on a regular basis on the planning enforcement action taken by the Council, Officers propose that a report now be brought to this Committee on a quarterly basis identifying the action taken during the previous quarter.

3.0 **WORKLOAD**

3.1 The key areas of enforcement activity currently undertaken by the Enforcement Team can be summarized as:-

- The investigation of alleged breaches of planning control;
- The negotiation of the resolution of harmful breaches;
- The undertaking of formal action directed at the resolution of harmful breaches;
- The undertaking of related enforcement appeals and legal action.

3.2 The Team is also responsible for day to day tree and hedge preservation work including the making of Tree Preservation Orders; determining applications and notifications relating to proposed works to protected trees and hedges, and undertaking related appeals; along with the investigation of high hedge complaints.

3.3 The attached annexes 1, 2, 3, 4 and 5 outline the means by which the enforcement of planning control is undertaken (Annex 1); summarise the enforcement casework undertaken during 2008 (Annex 2); summarise that undertaken during the quarter 1 January 2009 – 31 March 2009 (Annex 3); summarise that undertaken during the quarter 1 April 2009 - 30 June 2009 (Annex 4) and set out the formal action taken since January 2008 (Annex 5).

3.4 During 2008, enforcement workload volumes continued to be high when the Team undertook 518 (518)¹ new investigations and over the course of the year completed 578 investigations. In the quarter to March 2009, whilst that has also been the case, with the Team undertaking 118 new investigations and completing 105 investigations, there was a small fall in the number of cases received relative to the same period last year.

¹ The equivalent figures for the previous year/quarter are shown in brackets.

- 3.5 However, over the Quarter to June 2009, the number of new investigations commenced, increased again to 140 when 116 investigations were also completed.
- 3.6 Of the cases completed over all three periods, it is noteworthy that 64% (371 cases), 56% (59 cases) and 58% (67 cases) respectively comprised breaches of planning control of which 278, 47 and 56 respectively were considered to be sufficiently harmful to require resolution. Those cases were resolved by negotiation (183, 33 and 36 cases); the submission and approval of further submissions (76, 9 and 17 cases) and the taking of formal action (19, 5 and 3 cases).
- 3.7 In 2008 itself, the Team issued 14 formal notices² and undertook 11 enforcement appeals. Of the enforcement appeal decisions that were received during 2008, 6 out of 9 (67%) were dismissed (ie. the Enforcement Notice was upheld) which is an indicator, not only of the quality of decision making but also of the manner in which those decisions are defended. That figure is comparable to the Council's equivalent target of 66% of planning permissions to be upheld on appeal against the refusal of permission.
- 3.8 To date, in 2009 the Team have issued 16 formal notices and successfully prosecuted 2 cases. There are currently 6 enforcement appeals being undertaken and 5 new notices in preparation.

4.0 **PERFORMANCE**

- 4.1 In addition to the above measure of the quality of decision making, the number of investigations on hand from year to year and the time taken to undertake initial investigation site inspections are used as measures of enforcement performance.
- 4.2 During 2008, 99% of such inspections were undertaken within 7 working days of an enforcement enquiry being logged. The equivalent figures for the quarters to March and June 2009 are 98% and 96% both exceeding the Council's target of 90% of inspections.
- 4.3 It is also noteworthy that in 2008 whilst the number of investigations received remained constant, the number of investigations closed significantly exceeded the number received and consequently the number of investigations on hand was reduced. This is considered to be the result of increased workload management at both an individual and team level. The more recent increase in the number of cases on hand is being actively monitored.

² This figure excludes Planning Contravention Notices and differs from that quoted in paragraph 3.6 because the earlier figure refers to cases which were completed in 2008 and would include formal action taken before the beginning of 2008.

5.0 **FORMAL ACTION**

5.1 The attached Annex 5 sets out the formal enforcement action taken since January 2008; identifies those cases where authorised action is either no longer required or in abeyance and lists the cases where action is forthcoming.

5.2 That Annex shows that over that period, the District Council issued 48 formal notices comprising 23 Enforcement Notices; 4 Breach of Condition Notices; 1 Temporary Stop Notice; 1 Stop Notice; 1 Untidy Land Notice and 18 Planning Contravention Notices.

5.3 The Enforcement Team in conjunction with the Legal Services Team is also currently pursuing several prosecutions relating to breaches of planning control the first examples of which resulted in 2 convictions, the first with fines and costs totaling nearly £2,000 in February this year, and the second with fines and costs totaling nearly £1,550 in May this year.

6.0 **ALTERNATIVE OPTION(S) CONSIDERED**

6.1 There are no relevant alternative options

7.0 **BUDGETARY FRAMEWORK**

7.1 There are no specific budgetary implications arising from the content of this report.

8.0 **POLICY FRAMEWORK**

8.1 There are no direct policy implications arising from this report.

PLANNING COMMITTEE: 29 and 30 JULY 2009

ANNEX 1: THE MEASURES USED IN THE ENFORCEMENT OF PLANNING CONTROL

<u>MEASURE</u>	<u>SUMMARY</u>
Submission of Planning Application, etc	<p>Commonly used in investigations where it is considered that there is potential for the breach of planning control to be resolved by means of the grant of a retrospective conditional planning permission.</p> <p>20% of the investigations requiring resolution which were completed during 2008 were resolved by this means.</p>
Negotiation	<p>Used in all but the most serious investigations as an initial means of informally resolving harmful breaches of planning control.</p> <p>49% of the investigations requiring resolution which were completed during 2008 were resolved by this means.</p>
Planning Contravention Notice	<p>A formal questionnaire which is served on those responsible for a potential breach of planning control and used as a means of identifying further information about the use of land. Failure to respond to a PCN within the required 21 days is an offence.</p> <p>In 2008, PCNs were used to gather information in 13 cases.</p>
Stop Notice	<p>Used in exceptional circumstances, where it is necessary to prevent serious irreversible harm in the environment as a matter of urgency.</p> <p>In 2008, it was not necessary to serve any Stop Notices. To date during 2009, 1 Stop Notice has been served.</p>
Temporary Stop Notice	<p>Used in exceptional circumstances, where it is urgently necessary to prevent potential serious irreversible harm in the environment for a period of 28 days in order to enable the consideration of the need for further formal action.</p> <p>In 2008, 1 Temporary Stop Notice was served.</p>

<p>Enforcement Notice</p>	<p>The most commonly used Notice used in circumstances where unauthorised development requires a formal remedy.</p> <p>In 2008, 9 Enforcement Notices were served . To date, since January 2009, 14 further such Notices have also been issued.</p>
<p>Breach of Condition Notice</p>	<p>A Notice which can be used as an alternative to an Enforcement Notice in directing formal action at non compliance with conditions imposed on a planning permission.</p> <p>4 Breach of Condition Notices were served during 2008.</p>
<p>Untidy Land Notice</p>	<p>A Notice directed at the remedying of the condition of land and buildings in the circumstances where that condition is impacting upon the visual amenities of the surrounding area.</p> <p>During 2008, no investigations required remedy by this means. To date, since January 2009, 1 such Notice has been issued.</p>
<p>Prosecution</p>	<p>The only means of formal action which can be used to deal with the unlawful display of advertisements. Also used in a variety of other scenarios, most commonly non compliance with the formal Notices listed above.</p> <p>During 2008, no investigations required remedy by this means. To date, since January 2009, 2 convictions have been secured by means of a prosecution and several other prosecution cases are currently being pursued.</p>
<p>Injunction</p>	<p>Used in exceptional circumstances particularly to remedy non compliance with formal Notices and Section 106 Agreements.</p> <p>During 2008, no investigations required remedy by this means.</p>

PLANNING COMMITTEE: 29 and 30 JULY 2009

ANNEX 2: ANNUAL REPORT: PLANNING ENFORCEMENT CASEWORK (1 January 2008 – 31 December 2008)

Cases on hand – January 2008: 243.

Investigation Requests

- Investigation requests received: 613.
- Investigation requests declined: 95.
- Investigations commenced: 518 (518).
- Investigations completed: 578.

Completed Investigations

- No. of breaches identified: 371/578 (64%).
- No. of breaches where action not justified: 93.
- No. of breaches resolved by negotiation: 183.
- No of breaches resolved by application submission: 76.
- No of breaches resolved by formal action: 19.

Formal Action Taken

- Enforcement Notices issued: 9.
- Temporary Stop Notices issued: 1
- Planning Contravention Notices issued: 13.
- Breach of Condition Notices issued: 4.

Appeals

- Enforcement Appeals undertaken: 11
- Enforcement Appeals dismissed and Notice upheld: 67% (6/9)

Cases on Hand - January 2009: 183.

Gary Fisher
Enforcement Manager
April 2009

PLANNING COMMITTEE: 29 and 30 JULY 2009

ANNEX 3: QUARTERLY REPORT: PLANNING ENFORCEMENT CASEWORK (1 January 2009 – 31 March 2009)

Cases on hand at beginning of quarter: 183.

Investigation Requests

- Investigation requests received: 135.
- Investigation requests declined: 17.
- Investigations commenced: 118 (136).
- Investigations completed: 105.

Completed Investigations

- No. of breaches identified: 59/105 (56%).
- No. of breaches where action not justified: 12.
- No. of breaches resolved by negotiation: 33.
- No of breaches resolved by application submission: 9.
- No of breaches resolved by formal action: 5.

Formal Action Taken

- Enforcement Notices issued: 6.
- Planning Contravention Notices issued: 3.
- Untidy Land Notices issued: 1
- Convictions secured: 1

Appeals

- Enforcement Appeals undertaken: 1
- Enforcement Appeals dismissed and Notice upheld: 100% (1/1)

Cases on Hand at end of Quarter: 196.

Gary Fisher
Enforcement Manager
April 2009

PLANNING COMMITTEE: 29 and 30 JULY 2009

ANNEX 4: QUARTERLY REPORT: PLANNING ENFORCEMENT CASEWORK (1 April 2009 – 30 June 2009)

Cases on hand at beginning of quarter: 196.

Investigation Requests

- Investigation requests received: 150 (135).
- Investigation requests declined: 10 (17).
- Investigations commenced: 140 (118).
- Investigations completed: 116 (105).

Completed Investigations

- No. of breaches identified: 67/116 (58%).
- No. of breaches where action not justified: 11.
- No. of breaches resolved by negotiation: 36.
- No of breaches resolved by application submission: 17.
- No of breaches resolved by formal action: 3.

Formal Action Taken

- Enforcement Notices issued: 8
- Stop Notices issued: 1
- Planning Contravention Notices issued: 2
- Untidy Land Notices issued: -
- Convictions secured: 1

Appeals

- Enforcement Appeals undertaken: 6
- Enforcement Appeals dismissed and Notice upheld: 50%(1/2)

Cases on Hand at end of Quarter: 220.

Gary Fisher
Enforcement Manager
July 2009