

Development Control Committee – 28th November 2005

Report of the Director of the Urban Environment

Enforcement Service between 1st April 2005 and 30th September 2005

Purpose of Report

- 1 To inform Committee of the work undertaken by the planning enforcement team over the period April 2005 – September 2005.

Background

- 2 The role of the planning enforcement team is to regulate planning issues within the Borough of Dudley. This will involve an investigation into alleged breaches of the Town and Country Planning Act of 1990 and the Town and Country Planning (Control of Advertisement) Regulations of 1992. Wherever possible it is advised by Planning Policy Guidance Note.18 'Enforcing Planning Control' that any enforcement action undertaken shall be reasonable and proportionate to the breach.
- 3 Only as a last resort and where it is deemed absolutely necessary should formal enforcement action be instigated. Formal enforcement action is considered to be the service of an enforcement notice and/or the instigation of prosecution proceedings.

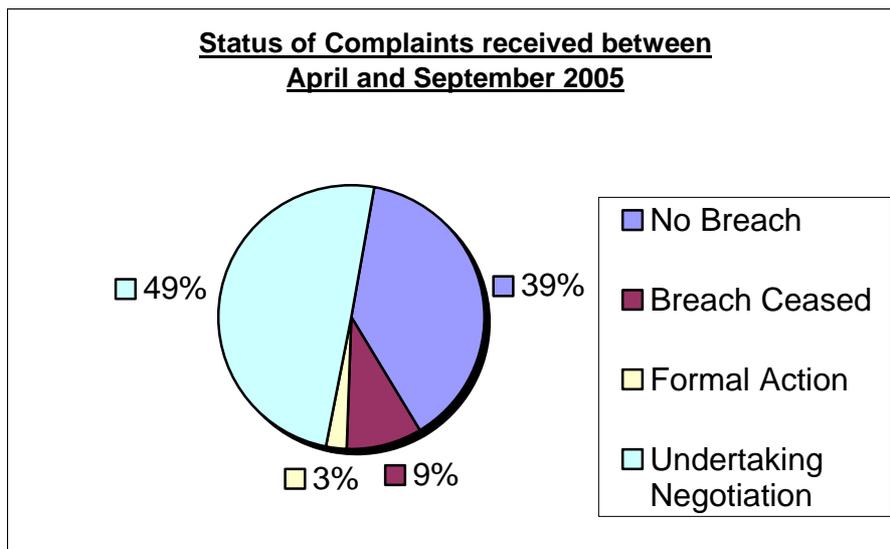
Performance and Workload

- 4 In the period between 1st April 2005 and 30th September 2005 the enforcement team received requests for services which resulted in 257 cases regarding planning issues being investigated. This number has increased from 176 in the same period in 2004. This is a total increase of approximately 90%, this has meant that there are some outstanding investigations pending. The breakdown of these cases is as follows:

STAGES <i>MONTHS</i>	ONGOING INVESTIGATION / NEGOTIATION	FORMAL ACTION TAKEN	CASE CLOSED	TOTAL
APRIL 2005	22	1	32	55
MAY 2005	26	2	29	57
JUNE 2005	15	1	24	40
JULY 2005	22	2	26	50
AUGUST 2005	17	0	19	36
SEPTEMBER 2005	15	0	4	19
TOTAL	117	6	134	257

This is accurate as of 7th October 2005.

- 5 The chart below shows how each of the 257 cases which have been investigated are progressing.



- 9% of cases have been resolved through negotiation, sometimes involving the instigation of formal action;
- 3% of cases received in the period are currently the subject of formal enforcement action. This means that an enforcement notice has been authorised, and may have been served and be awaiting compliance;
- In 39% of cases, investigation found that no breach had occurred;
- In 49% of the cases, a breach is found to have occurred and officers are negotiating a resolution. This negotiation is carried out in line with the national guidance outlined in paragraphs 2 and 3 of this report. This often means that time is being given for the breach to be rectified without the necessity to formalise the action.

6 Of the 257 cases which have or are being investigated, 134 of these cases have been resolved and subsequently closed. Of the 134 cases which have been closed, 93 of these were found not to be breaches of planning control. Despite this, an investigation would have to have been undertaken to ascertain that no breach had occurred.

Formal Enforcement Action

7 Circular 10/97 'Enforcing Planning Control' states that:

'The power (in the amended section 172 of the Town and Country Planning Act 1990 ("the 1990 Act")) to issue an enforcement notice is discretionary. A notice requires remedial steps to be taken within a specified time-limit. It should only be used where the LPA are satisfied that there has been a breach of planning control and it is expedient to issue a notice, having regard to the provisions of the development plan and to any other material considerations.'

8 Having regard for the above advice 8 enforcement notices have been served during the period in question. These are identified in the table below. Upon the expiry of the compliance dates of these notices further prosecutions may be necessary to achieve compliance with the requirements of the notice.

SITE ADDRESS	TYPE OF NOTICE	BREACH	DATE SERVED	RESULT
7 BEDCOTE PLACE, STOURBRIDGE	ENFORCEMENT	ENGINEERING OPERATION	21/04/05	AWAITING COMPLIANCE
4 FIRMSTONE STREET, WOLLASTON, STOURBRIDGE	ENFORCEMENT	STORAGE OF LORRY ON RESIDENTIAL PROPERTY	10/05/05	APPEAL LODGED AND AWAITING DECISION
14 JEWS LANE, UPPER GORNAL	ENFORCEMENT	STORE ROOM	27/05/05	APPEAL LODGED AGAINST THE REFUSAL OF PLANNING PERMISSION, AWAITING DECISION. NO APPEAL AGAINST ENFORCEMENT NOTICE
KING EDWARD VII PUBLIC HOUSE, 88 STOURBRIDGE ROAD, HALESOWEN	ENFORCEMENT	EXTENSION	13/06/05	APPEAL LODGED AND AWAITING DECISION
1 GOSPEL END ROAD, SEDGLEY	ENFORCEMENT	ROLLER SHUTTER	27/06/05	APPEAL SUBMITTED

1 BROADLANDS DRIVE, BRIERLEY HILL	ENFORCEMENT	WALLS, GATE, RAILING AND CHANGE OF USE	27/07/05	APPEAL SUBMITTED
MORRISONS SUPERMARKETS PLC, STALLINGS LANE, KINGSWINFORD	ENFORCEMENT	FENCING AND GATES	23/08/05	AWAITING COMPLIANCE
MORRISONS SUPERMARKETS PLC, STALLINGS LANE, KINGSWINFORD	BREACH OF CONDITIONS	BREACH OF PLANNING APPLICATION 99/51360	23/08/05	AWAITING COMPLIANCE

- 9 Enforcement notices are subject to appeal. Of those mentioned above four appeals were submitted, all of which are being dealt with under the written representations procedure. No decisions have yet been received.
- 10 During the past 6 months a prosecution has been undertaken. Two others are awaiting a court date following not guilty pleas. The prosecution which was undertaken is detailed below. Members will note that this was successful, however that a further prosecution may be necessary due to continuing non-compliance with the notice.

SITE ADDRESS	BREACH	DATE	RESULT	PENALTY
71 CAMPBELL STREET, BRIERLEY HILL	STORAGE OF CONTAINER	28/04/05	GUILTY	£1000 FINE AND £240 COSTS

Service Issues

- 11 Members will note the 90% increase in requests for service from the corresponding period in 2004/2005. This increase may be due to the heightened profile of the service and the ease with which a complaint can be logged.
- 12 Members will note that 257 cases commenced during this period, and 222 were resolved (134 of these were from those received in this period and 88 of these were historic cases). As a consequence of more complaints being received and the upward trend being maintained, response times in some instances will be affected.
- 13 Another review of the enforcement service will be presented to members in approximately six months.

Finance

- 14 There are no direct financial consequences arising from this report, however the increase in demands on the service will be considered as part of the annual budget process. All existing processes will be reviewed to identify any potential for improving efficiencies within the service. In addition the new work arising from the introduction on 1st June 2005 of Part 8 of the Anti-social Behaviour Act 2003 will be monitored to assess the level of resources required to fulfil this new area of work.
- 15 Costs may be awarded against Local Planning Authorities in public inquiry and hearing cases if in the opinion of an Inspector an authority has acted unreasonably in the service of an enforcement notice. During the past year this situation has not occurred.

Law

- 16 Sections 175 and 177 of the Town and Country Planning Act 1990 contain provisions relating to appeals to the Secretary of State against Enforcement Notices.

Equality Impact

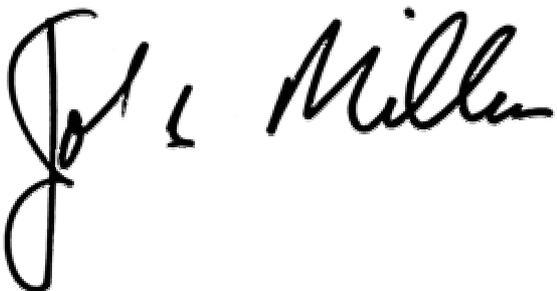
- 17 The proposal contained within this report takes into account the Council's equal opportunities policies and assist with the Council Plan's objective of achieving a fairer society.

Recommendation

- 18 It is proposed that Committee considers the statistics, the implications for the future of the planning enforcement service, and notes the report.

Background documents used in the preparation of this report:-

- 19 None.



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