

REPORT FOR DECISION

Agenda Item	
----------------	--

MEETING: PLANNING CONTROL COMMITTEE
DATE: 18 April 2006
SUBJECT: PLANNING ENFORCEMENT
REPORT FROM: BOROUGH PLANNING & ECONOMIC DEVELOPMENT OFFICER
CONTACT OFFICER: TOM MITCHELL, DEVELOPMENT MANAGER

TYPE OF DECISION: Council
REPORT STATUS: For Publication

PURPOSE/SUMMARY:
The report summarises the Planning Enforcement Activity for the last municipal year 2005/6

OPTIONS AND RECOMMENDED OPTION (with reasons):
The Committee is recommended to note the decisions described below.

IMPLICATIONS –

Financial Implications and Risk Considerations N/A

Corporate Aims/Policy Framework:
Do the proposals accord with the Policy Framework? Yes No

Are there any legal implications? Yes No (see paragraph)
Considered by Monitoring Officer: Yes Comments

Statement by Director of Finance and E-Government: N/A

Staffing/ICT/Property: N/A

Wards Affected: All

TRACKING/PROCESS**ACTING EXECUTIVE DIRECTOR: Graham Atkinson**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Panel	Executive	Committee	Council

INTRODUCTION

This report presents Members with a description of the various Planning Enforcement Notices served and Actions taken during 2005/6 and makes some comparisons with the previous year.

All Enforcement Notices served and Actions taken are considered against the provisions of the Human Rights Act 1998. In taking account of whether to serve an Enforcement Notice or take Action, which is a discretionary power afforded to Councils under the Town and Country Planning Act, 1990 as amended, consideration is taken as to whether the individual's rights are affected and whether it is expedient to serve such a Notice or take Action against the individual.

CURRENT STAFFING LEVELS AND WORKING ARRANGEMENTS

The Enforcement Team is part of the Development Control Section and currently comprises of a Senior Planning Enforcement Officer (full time) and a Planning Enforcement Officer, who is employed working 4 days a week. Both Officers deal with complaint cases on a Borough – wide basis, in accordance with the Council's Customer Charter for the Planning Enforcement Service.

During 2005 there was some considerable disruption to the service due to the two previous post holders both leaving for employment elsewhere and for much of the year there was a single person in post.

WORKLOAD/COMPLAINT CASES RECEIVED

Enforcement is primarily a reactive service and does not generally monitor development in a proactive manner. The number of complaints received is therefore the only indicator of the case loads involved.

In 2004/5 - 370 complaint cases were received.

In 2005/6 - 461 cases were received.

The service does not include issues relating to Tree preservation Orders but does include the issue of High Hedges. To date there have been no formal complaints received in respect of High hedges although there have been a number of enquiries.

Each and every complaint is acknowledged and investigated firstly to identify whether there is an issue that involves Planning. In the past 12 months 138 cases were proven to not be about planning issues but nonetheless needed to be investigated.

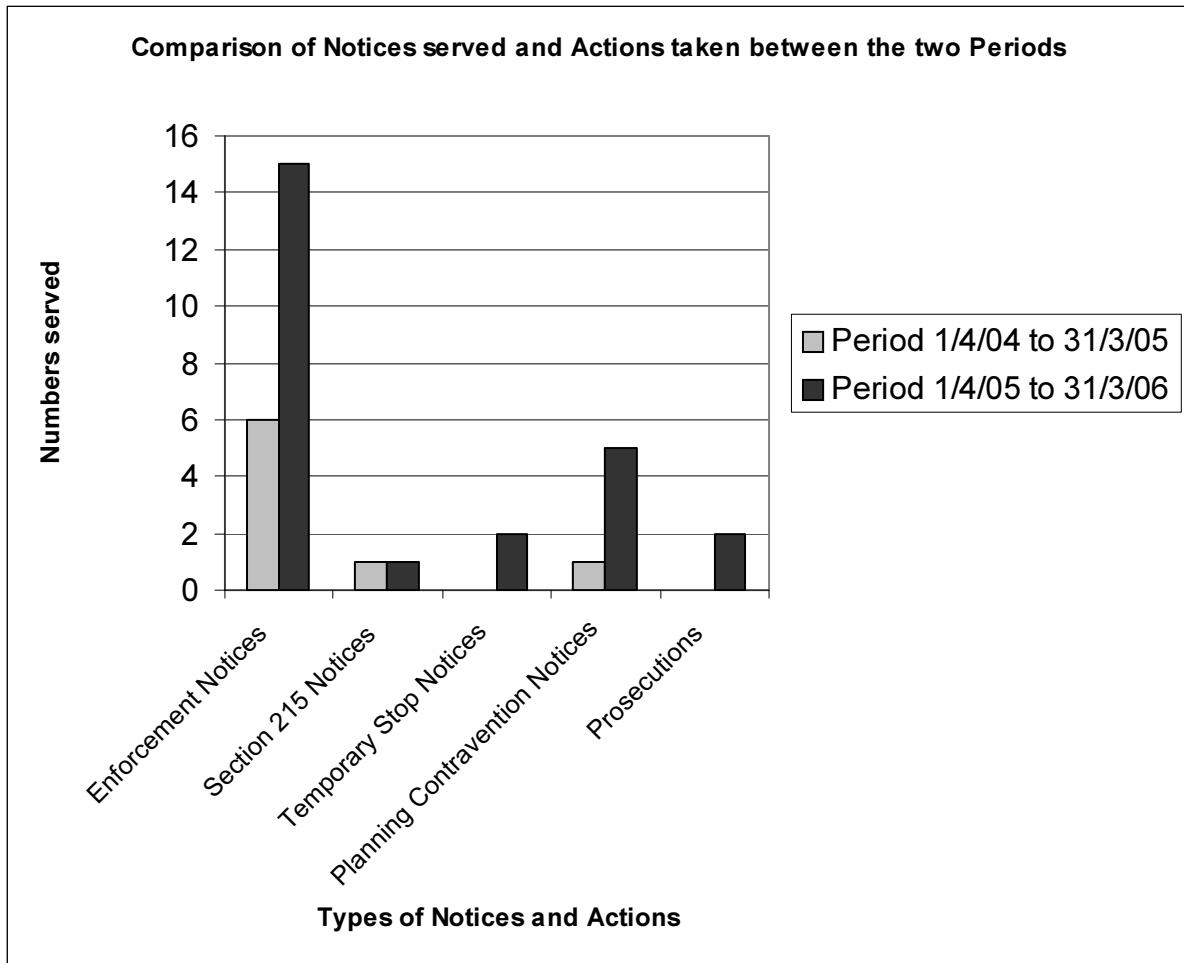
The majority of cases, involving planning issues, are resolved without recourse to formal Enforcement Action. These cases are subject to site visits, liaison with the complainant and negotiations with the individual about whom the complaint has been made. The time spent on each case is variable but often involves repeat visits and several rounds of negotiations. During the year there were 240 cases closed or resolved, however there was a significant increase in the number of Enforcement Notices served and other Actions taken during 2005/6, as indicated below.

Figure 1.

	Period 1/4/04 to 31/3/05	Period 1/4/05 to 31/3/06
Number of Complaints received	370	461
% where initial site visit within 10 working days	89%	55%
Number of complaints resulting in a breach of Planning Control	112	238
% of breaches where Enforcement Action is taken within 13 weeks	80%	73%
Number of breaches where Enforcement Action taken within 13 weeks	109	274
Number of Enforcement Notices served	6	15
Number of Section 215 Untidy land/building Notices served	1	1
Number of Temporary Stop Notices served	0	2
Number of Planning Contravention Notices served	1	5
Number of Prosecutions made	0	2

A Graph showing the direct comparison between the numbers and types of Notices served and Actions taken, between the two periods is shown below.

Figure 2.



FORMAL NOTICES SERVED/ACTIONS TAKEN

Where formal action is necessary the case officers liaise with and instruct the Head of Legal Services who drafts the required legal documentation. This formal action is the start of a complex process in which the offender has rights of appeal and where action in the Magistrates Court may be required to resolve the matter.

A breakdown of the Notices served for during 2005/6 is shown below, indicating the location and breach of Planning Control, the type of Notice served and the result of serving the Notice. The number of Appeals made in the Period is also indicated.

**LIST OF NOTICES SERVED AND ACTIONS TAKEN
FOR THE PERIOD 1/4/05 TO 31/3/06**

Figure 3.

ADDRESS / LOCATION	BREACH OF PLANNING CONTROL	TYPE OF NOTICE SERVED	APPEAL MADE AND RESULT	COMPLIANCE / ACTION TAKEN
Land at Arthur Lane, Bury	Tipping operations	Enforcement Notice served 18/5/05	Appeal made and withdrawn	Planning Permission granted 30/8/05, No Further Action required and Notice withdrawn.
223 Bell Lane, Bury	Formation and construction of access to a classified road	Enforcement Notice served 11/5/05	No Appeal	Notice part complied with further action continuing
Philips Park Road West, Whitefield	Tipping of materials on land	Temporary Stop Notice served 13/12/05	N/A (no Appeal available)	Complied with 13/12/05
10 Bell Lane, Bury	Unauthorised use of premises as a Health Club	Enforcement Notice served 13/12/05	No Appeal	Further action and Police involvement to ensure compliance
Land adjacent to 103 Walmersley Road, Bury	Erection of car port, fencing, adverts and portacabin	Enforcement Notice served 13/12/05	No Appeal	Prosecution case to be compiled
Land adjacent to Openshaw Fold Road, Bury	Tipping materials, storage of steel containers	Enforcement Notice served 5/7/05	Appeal made and dismissed with the Notice slightly varied	Further meeting to ensure compliance otherwise Prosecution case to be compiled
Land at Philips Park Road West, Whitefield	Tipping tarmac scrapings on access track	Enforcement Notice served 9/1/06	Appeal made - Hearing on 18/7/06	Awaiting result of Appeal

ADDRESS / LOCATION	BREACH OF PLANNING CONTROL	TYPE OF NOTICE SERVED	APPEAL MADE AND RESULT	COMPLIANCE / ACTION TAKEN
Land at Philips Park Road West, Whitefield	Tipping of clays, waste materials and engineering operation	Enforcement Notice served 9/1/06	Appeal made – Hearing on 18/7/06	Awaiting result of Appeal
75 Harvey Street, Bury	Erection of concrete block wall, and siting of metal container	Enforcement Notice served 10/1/06	No Appeal	Complied with
Land at Dofferfold Farm, St. Andrews Road, Radcliffe	Storage and residential use of static caravans	Enforcement Notice served 24/1/06	No Appeal	To check if Notice complied with after compliance period expires
Land at Watling Street, Affetside, Bury	Storage and residential use of caravans and mobile homes	Enforcement Notice served 13/2/06	Appeal made- Inquiry on 20/6/06	Awaiting result of Appeal
Land at Daisyfield, Wellington Street, Bury	Importation of soils and subsoils	Temporary Stop Notice served 22/2/06	N/A	Complied with 22/2/06
Land at Eaves Cottage, Hawkshaw Lane, Bury	Erection of wall and fencing	Enforcement Notice served 14/3/06	No Appeal to date	To check if Notice complied with after compliance period expires
Land at Eaves Cottage, Hawkshaw Lane, Bury	Change of use from open moorland to domestic curtilage	Enforcement Notice served 14/3/06	No Appeal to date	To check if Notice complied with after compliance period expires
Land at Eaves Cottage, Hawkshaw Lane, Bury	Building garage without planning permission	Enforcement Notice served 14/3/06	No Appeal to date	To check if Notice complied with after compliance period expires

ADDRESS / LOCATION	BREACH OF PLANNING CONTROL	TYPE OF NOTICE SERVED	APPEAL MADE AND RESULT	COMPLIANCE / ACTION TAKEN
Land at 8 Chapeltown Road, Radcliffe	Retention of dormer to garage following refusal of planning permission	Enforcement Notice served 20/3/06	No Appeal to date	To check if Notice complied with after compliance period expires
11 to 13 Victoria Buildings, Silver Street, Bury	Installation of new shop front without planning permission	Enforcement Notice served 20/3/06	No Appeal to date	To check if Notice complied with after compliance period expires
Irwell Sheet Metals, Kenyon Street, Ramsbottom	Construction and recycling business	Planning Contravention Notice served 26/5/05	N/A	Information required in the Notice completed and returned
Land at former Gin Hall Reservoir, Walmersley Road, Bury	Tipping materials	Planning Contravention Notice served 7/7/05	N/A	Information required in the Notice completed and returned
Yeomans Farm, Watling Street, Bury	Storage of residential caravans	Planning Contravention Notice served 22/11/05	N/A	Information required in the Notice completed and returned
FAM Engineering Ltd, Holly Bank Street, Radcliffe	Change of Use of site to vehicle recovery business	Planning Contravention Notice served 24/11/05	N/A	Information required in the Notice completed and returned
Land at Dofferfold Farm, St. Andrews Road, Radcliffe	Storage of static and residential caravans	Planning Contravention Notice served 14/12/05	N/A	Not returned Enforcement Notice served
Marcus Menswear, 821 to 823 Manchester Road, Bury	Untidy land and building	Section 215 Notice served 31/4/06	No Appeal to date	To check if Notice complied with after compliance period expires

CONCLUSIONS

The number of planning Enforcement complaints is rising and this is symptomatic of the greater interest in planning issues generally. The level of formal action is also increasing.

The current staffing levels are adequate to handle the current level of complaints and Enforcement Activity but there is not at this moment in time adequate resources to expand the service and be more proactive in monitoring development activity.

List of Background Papers:-

None

Contact Details:-

Tom Mitchell
Development Manager
Environment and Development Services
Craig House
5 Bank Street
Bury BL9 0DN

Tel: 0161 253 5321

Email: t.mitchell@bury.gov.uk