

REPORT FOR INFORMATION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	17th April 2012
SUBJECT:	PLANNING ENFORCEMENT
REPORT FROM:	CHIEF PLANNING OFFICER
CONTACT OFFICER:	DAVID MARNO – DEVELOPMENT MANAGER
TYPE OF DECISION:	COUNCIL (NON KEY DECISION) COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This Report provides statistical information on Enforcement activity for the year between 1 st April 2011 and 31 st March 2012, together with an update (see Appendix) of Enforcement Activity since the last update on 24 th January 2012.
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to note the Report
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management N/A
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No (see paragraph below)
Considered by Monitoring Officer:	Yes Comments

Wards Affected:	ALL
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

This report presents a brief analysis of Enforcement performance for the year 2011/12 and includes a table (below) showing a comparative statistical analysis of performance over the past five years. The report also provides an update on the Enforcement Action since the last report on 24th January 2012.

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.

Any Enforcement Notice served is considered as to whether it is expedient to do so in accordance with the Government Guidelines of Circular 10/97 and Planning Policy Guidance 18.

The table below includes reference to two performance standards in terms of the speed of the responses to a) site visits and b) cases being closed.

Table indicating comparisons with previous years

	2007/8	2008/9	2009/10	2010/11	2011/12
Number of Complaints received	569	576	632	630	637
% where initial site visit within 10 working days	88%	77%	96%	97%	95%
Number of complaints resulting in a breach of Planning Control	257	404	432	432	511
% of breaches where Enforcement Action is taken within 13 weeks	69%	74%	75%	77%	75%
Number of Enforcement Notices served	18	28	30	37	17
Number of Stop Notices served	0	0	0	0	0
Number of Breach of Condition Notices served	7	4	11	14	5
Number of Section 215 Untidy land/building Notices served	13	2	15	16	19
Number of Temporary Stop Notices served	3	2	4	4	5
Number of Planning Contravention Notices served	15	15	32	33	49
Number of Injunctions served	0	0	0	0	0
Number of Prosecutions made	2	9	10	13	17
Number of Formal Cautions issued	0	0	0	0	0
Number of Works in Default actions taken	0	0	0	1	0
Number of High Hedges Remedial Notices served	1	0	9	0	0

2.0 ISSUES

CURRENT STAFFING LEVELS AND WORKING ARRANGEMENTS

The Enforcement Team currently comprises of a Senior Planning Enforcement Officer, a Planning Enforcement Officer and a Planning Enforcement Technician, who are employed full time. The Officers deal with complaint cases on a Borough – wide basis, in accordance with the Council’s Customer Charter for the Planning Enforcement Service.

3.0 WORKLOAD/COMPLAINT CASES RECEIVED AND TRENDS IDENTIFIED

The table above sets out statistical information for the past five years.

Members may be interested to note that during the period 2011/12, we received 637 complaints, of which 511 were breaches of Planning Control, which continues to remain at a high level. The vast majority of these cases in this period were again resolved without recourse to formal Enforcement Action, having been resolved by other means such as negotiation, or where appropriate, invitation of planning application.

It has also been noted that the trend of Enforcement Notices not being complied with within the compliance periods is continuing, resulting in a continued increase in the number of prosecutions required to ensure such Notices are complied with. This trend may continue to be a reflection of the current financial and economic position.

Over the last five years the following trends have also been noted:

- i. the number of complaints for the year has levelled off around the 630 mark.
- ii. the number of complaints of actual breaches of planning control taking place has doubled from 257 to 511 a year, indicating that people are more aware of what amounts to a breach of planning control, and are not reporting matters which are not planning related or are minor in nature.
- iii. The number of section 215 Notices served has slowly increased. This may again reflect current financial trends with people purchasing or having purchased land and property and not developing further and it then becoming untidy over time, by factors such as incidents involving flytipping or minor damage.
- iv. The number of Planning Contravention Notices served has significantly increased from 15 five years ago, to 49 this year. This indicates that breaches of planning control have been identified following reporting of complaints, but offenders have resolved the breach following receiving a Planning Contravention Notice requesting information about a breach; before the need for any further follow up action in the form of an Enforcement Notice. As a result, the number of Enforcement Notices served has fallen.
- v. The number of prosecutions have steadily risen each year from 2 five years ago, to 17 this year. Of these 17 cases, 14 have been Guilty Pleas with fines or Conditional Discharges being imposed and costs have been awarded to the Council's Enforcement and Legal Sections to the total of £5,860. Of the remaining 3 cases, 2 have been adjourned and the remaining 1 is awaiting a court date.

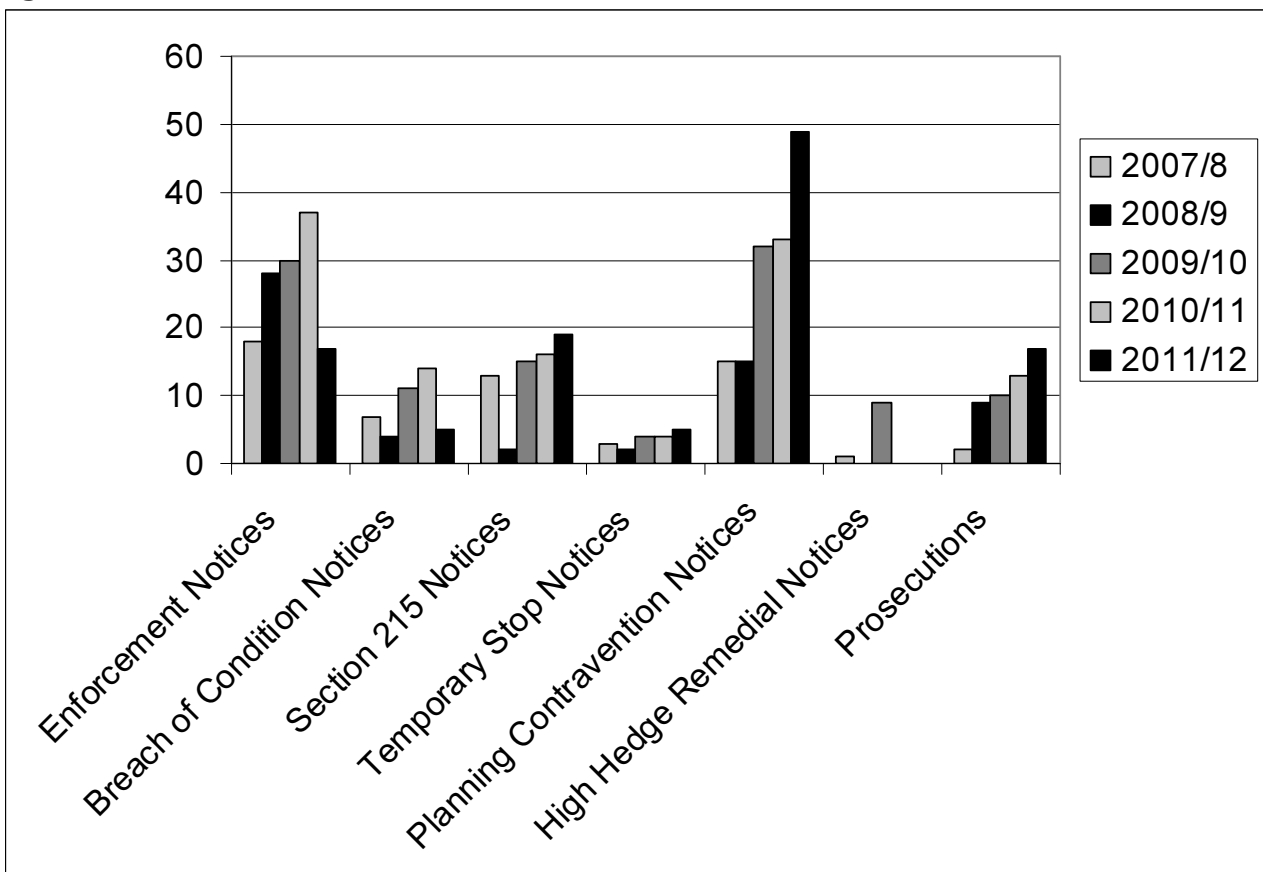
4.0 FORMAL NOTICES SERVED/ACTIONS TAKEN

During the past 12 months the number of cases which have been pursued through formal action remains at a high level with a total of 95 formal Notices having been served and 17 prosecutions made, for non compliance with Notices served. This has resulted in fines totalling £12,889 being imposed.

Following Court action during the last 12 months, Notices have been complied with and ownership of problem sites has changed, with new owners wanting to now resolve matters, thus justifying the Court action being taken.

Please see figure 1 below for a comparison of notices served and actions taken over the past five years.

Figure 1



A comprehensive list of Notices served and Actions taken can be seen at Appendix 1 attached.

5.0 TABLE OF ENFORCEMENT ACTION NATIONWIDE

A table of Enforcement Action taken by each Planning Authority for the period 1/1/10 to 31/12/10 has recently been released which is also attached to this report for consideration. See Appendix 2 attached.

3.0 CONCLUSION

The number of Notices being served and formal action being taken is remaining at a high level. The majority of cases continue to be resolved without recourse to formal action.

The enforcement section is continuing to encounter a rise in cases of non compliance with enforcement notices served, which is resulting in more prosecutions needing to be carried out in order to secure compliance. As indicated previously, 17 prosecutions have been carried out during the period of this Report. It has also been noted that there is a continued rise in the number of complaints relating to unauthorised building works taking place, which require planning permission. This has led to a continued increase in the number of retrospective planning applications being submitted. This may again be attributable to the present financial climate, and certain members of the public attempting to avoid paying planning fees.

The service provided is primarily a reactive one in that we respond to complaints received from members of the public.

List of Background Papers:- Past statistics

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