

PLANNING ENFORCEMENT TEAM

CONTACT OFFICER: Jim Lynn
Planning Enforcement Manager

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PLANNING ENFORCEMENT – QUARTERLY MONITORING REPORT

SUMMARY

This report provides information on the progress of the Planning Enforcement Team's caseload of alleged breaches of planning control, the cases that have been closed and those cases where no further action is recommended, in the North Planning Committee area, for the Quarter from 1 October 2009 up to 31 December 2009. Appendix 1 summarises the workload and performance figures during this period.

The information, which is compiled by Ward, is reported in Parts 1 and 2 and there are three schedules in each part.

Part 1 lists those cases where alleged breaches of planning control have been reported to the Planning Committee for resolution on further action.

Part 2 lists those cases where investigations are being carried out and this information is placed in Part 2 of the agenda on the advice of the Borough Solicitor. The information set out in the schedule is strictly confidential to Members and Officers of the Council and under no circumstances should be disclosed to any other person.

Schedule 1, in both Parts 1 and 2, lists those cases that have been reported in the preceding quarter and the progress made in seeking to remedy the breach.

Schedule 2, in both Parts 1 and 2, lists all the existing caseload, excluding the recent cases as reported in Schedule 1, and the action taken to date.

Schedule 3, in both Parts 1 and 2, lists those cases for proposed closure where it is judged expedient that no enforcement action be taken.

RECOMMENDATION

- 1. That members note the contents of this report**
- 2. That Members resolve that no further enforcement action be taken with regard to the alleged breaches of planning control in Schedule 3 of Parts 1 and 2 where it is considered not expedient in the public interest to take action.**

INFORMATION

Purpose of this Report

1. The purpose of this series of quarterly reports is to provide information to the Planning Committee of the work carried out by the Planning Enforcement Team, to update the Committee on those cases where the Committee has resolved that action be taken to remedy a breach of planning control and to enable the Planning Committee to agree that no action be taken where it is not considered expedient to do so.

The Role of Planning Enforcement

2. The role of Planning Enforcement is to resolve breaches of planning control, by informal methods wherever possible, but if necessary, through legal notices and court proceedings. Planning enforcement action can only be pursued where works have taken place without benefit of, or inconsistent with, planning permission.
3. It should be noted that whilst a Local Planning Authority (LPA) has a duty to investigate allegations of breaches of planning control, there is no obligation to take enforcement action; enforcement powers are discretionary. Government guidance (as set out in PPG 18 – Enforcing Planning Control: December 1991) makes clear that: -
 - Enforcement action is carried out in the public interest;
 - The Local Government Ombudsman has found in some cases that failure to take effective enforcement action may be ‘misadministration’
 - In considering any enforcement action, the diverse issue for the LPA is whether the breach of control would unacceptably affect the public amenity or the existing use of land and buildings meriting protection in the public interest;
 - Enforcement action should always be commensurate with breach of planning control to which it relates (for example, it is usually inappropriate to take enforcement action against a trivial or technical breach of control which causes no harm to amenity in locality of the site);

- Negotiations to voluntarily remedy the harmful effects of unauthorised development should not delay whatever formal enforcement action may be required to make the development acceptable on planning grounds, or to compel it to a stop.
4. The approach adopted to dealing with enforcement matters in Hillingdon is set out in the Planning Enforcement Policy Statement, adopted by Cabinet in September 2005 and in the leaflet 'A Guide to Planning Enforcement February 2006' (available on the Council's web site)
 5. Members are asked to note that in addition to the matters detailed within the attached schedules during the period under review the work of the Enforcement Team also encompassed the issue of notices and the taking of formal action as following:

Examples of Successful Outcomes in the Preceding Quarter:

Berkeley Nurseries, Vineries Close, Sipson – Successful prosecution against the owner and tenant of the site for non-compliance with enforcement notice stop the site being used for the storage and repair of motor vehicles. At Uxbridge Magistrates Court the owner of the land was fined £5000 and the Council were awarded their full costs in prosecuting the case. The tenant entered a plea of not guilty and at full trial the tenant was found to be guilty of non-compliance with the notice, the company was fined £5000 and the Council were awarded full costs.

45 Holloway Lane, Harmondsworth - Successful prosecution against owner of land for non-compliance of enforcement notice to remove a palisade fence from the front of the premises. The owner was fined £5000 and ordered to pay full Council costs of over £1900.

B & Q Store Hayes – Complaints received from residents regarding B& Q lorries queuing in the lay by near the store causing local traffic problems. Through successful negotiation and the re-configuration of the rear storage area for larger parking/ unloading area via the granting of a new planning permission. The parking of lorries on the lay/ highway by has stopped and the problem is fully resolved.

23 and 25 Shaftesbury Way – complaint received regarding large extensions built at the rear. Following successful negotiations by the enforcement officer, the owners applied for planning permission for smaller extensions which were in keeping the area and complied with the Council's UDP policies. Planning permission was granted by the Council and the rear extensions were substantially reduced.

Expediency of taking Enforcement Action

6. When deciding whether to take formal Enforcement action, the LPA must consider whether it is expedient to do so. In making such an assessment, it is

necessary to weigh the degree of benefit to the public at large against the impact that such action would have upon the individual (s) concerned. In particular, the action required to remove unauthorised development or to stop unauthorised activity, must be seen to be proportionate to the degree of harm to be overcome.

7. Schedule 3 of Parts 1 and 2 set out those cases where the Enforcement Team has investigated the complaint and consider that it is not expedient in the public interest to take further action. The reason for the recommendation that no further action be taken is set out in each case and the committee is asked to agree these recommendations.

Financial Implications

The recommendation to note has no financial implications. The financial implications of taking enforcement action in particular cases forms part of the report on that matter to the relevant Planning Committee.

CORPORATE CONSULTATIONS CARRIED OUT

OBSERVATIONS OF THE DIRECTOR OF FINANCE.

There are no financial implications for this Planning Committee of the Council.

OBSERVATION OF THE BOROUGH SOLICITOR

When making their decision, Members must have regard to all relevant planning legislation, regulations, guidance, circulars and Council policies. This will enable them to make an informed decision.

In addition Members should note that the Human Rights Act 1998 (HRA 1998) makes it unlawful for the Council to act incompatibly with Convention rights. Decisions by the Committee must take account of the HRA 1998. Therefore, Members need to be aware of the fact that the HRA 1998 makes the European Convention on Human Rights (the Convention) directly applicable to the actions of public bodies in England and Wales. The specific parts of the Convention relevant to planning matters are Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

Article 6 deals with procedural fairness. If normal committee procedures are followed, it is unlikely that this article will be breached.

Article 1 of the First Protocol and article 8 are not absolute rights and infringements of these rights protected under these are allowed in certain defined circumstances, for example where required by law. However any infringement must be proportionate, which means it must achieve a fair balance between the public interest and the private interest infringed and must not go beyond what is needed to achieve its objective.

Article 14 states that the rights under the Convention shall be secured without discrimination on grounds of 'sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status'.

EXTERNAL CONSULTATIONS CARRIED OUT

There are no external consultations required on the contents of this report.

BACKGROUND DOCUMENTS

PPG 18 – Enforcing Planning Control: December 1991

London Borough of Hillingdon – A guide to planning enforcement: February 2006

Enforcing Planning Control – Legislative Provisions and Procedural Requirements:

Circular 10/97

Temporary Stop Notice ODPM Circular 02/2005

The Royal Town Planning Institute Advice Note No.6: Enforcing of Planning Control

Abbreviations to be found within this report:

PD = 'Permitted Development'

CLEUD = Certificate of Lawfulness of Existing Use or Development

PP = Planning Permission

HMO = House of Multiple Occupation

TPO = Tree Preservation Order

B Regs = Building Regulations

B Con = Building Control

PSH = Private Sector Housing

EPU = Environmental Protection Unit

Performance figures for the Enforcement Team in the Central and South Area in the preceding 3 months:

	Part 1 cases where a report has been made to committee	Part 2 cases where investigations are being carried out
New cases reported	0	139

Number of outstanding cases	61	1130
Number of cases proposed for closure	0	57

Performance figures for the Enforcement Team in the preceding 3 months for the Borough as a whole:

Number of cases received	183	N/A
Number of cases acknowledged within 3 days	181	98.91%
Number of cases with site visit within 15 days	153	83.61%
Number of cases with an action other than above within 15 days.	52	28.42%
Number of cases closed within this period.	113	N/A

Performance figures for the Enforcement Team in the preceding 12 months (01-01-2009 to 31-12-2009) for the Borough as a whole:

Number of cases received	795	N/A
Number of cases acknowledged within 3 days	766	96.35%
Number of cases with site visit within 15 days	648	81.51%
Number of cases with an action other than above within 15 days.	238	29.94%
Number of cases closed within this period.	470	N/A

Item No.

Report of the Corporate Director of Planning and Community Services

CONTACT OFFICER: Jim Lynn
EXTENSION: 0788

**PART 1 QUARTERLY PROGRESS REPORT ON
BREACHES OF PLANNING CONTROL**

1.0 RECOMMENDATION

That Members note the contents of this report.

2.0 INFORMATION

- ☐ The attached schedule provides information on progress with breaches of planning control where enforcement action has been authorised by Committee in the preceding ten years. It updates Members on progress since the last schedule was presented to them, and it includes new investigations where a breach of planning control has been identified and reported to the Committee, and sets out those cases where it is recommended to the committee (in Schedule 3) that no further action be taken and the case closed.
- ☐ This information is placed on Part 1 of the Agenda.

3.0 CONTENTS

Schedule 1 - Enforcement cases reported to committee
between 01 October 2009 and 31 December 2009

Schedule 2 - Enforcement cases reported to committee
prior to 01 October 2009 but still open.

Schedule 3 - Enforcement cases proposed for closure.

Schedule 1

**Enforcement Cases Reported to Committee
between 01 October 2009 and 31 December 2009**

Schedule 2

Enforcement Cases Reported to Committee prior to 01 October 2009 but still open

BARNHILL

Reference ENF/827/06/
Site /Property 36 CRANBORNE WAYE HAYES

Date Received 01-10-1997 **Status** Complaint Received

Breach(es) Single storey rear extension
Resolution Remove extension and debris

Actions to date Appeal dismissed - awaiting further site visit & prosecution if required.

BOTWELL

Reference ENF/75/07/
Site /Property 10 First Avenue Hayes Middx

Date Received 25-01-2007 **Status** Comp.Investigation

Breach(es) Not built in accordance with approved plans.
Resolution Planning Application refused passed to Enforcement. Work has commenced on site.

Actions to date Report to committee being prepared for authorisation to enforce. Planning Application 54135/APP/2007/1524 awaiting decision (Delegated) recommended for Refusal.

BRUNEL

Reference ENF/874/06/
Site /Property 33 HILLINGDON ROAD UXBRIDGE

Date Received 11-10-2005 **Status** Complaint Received

Breach(es) USE AS HMO
Resolution Cease the use of the land as a HMO - enforcement notice served.

Actions to date Instructions with Legal to prosecute, officer attempting to gain access first to establish whether compliance has been secured.

CHARVILLE

Date Received	21-10-2004	Status	Complaint Received
Breach(es)	Retention of mono-pitched front canopy (retrospective)		
Resolution	The canopy and porch should either be reduced in size or demolished entirely. It contravenes policy BE13/15/19 of the UPD and A2 and B1.2 of the Council's Design Guide. Time for compliance - 2 months after notice.		

HEATHROW VILLAGES

Date Received	01-10-1996	Status	Complaint Received
Breach(es)	Change of use A1 to A3		
Resolution	Cease the use as a Take Away & revert to A1 use.		
Actions to date	The use continues to be A3 under further investigation with possible prosecution to follow.		

Date Received	21-07-2000	Status	Complaint Received
Breach(es)	Commercial storage & distribution centre		
Resolution	Enforcement Notice served to cease commercial use of land. Such activities airport related - thus contrary to Policy 4 of UDP.		

Actions to date Appeal dismissed - Enforcement Notice has not been complied with, prosecution being prepared.

Date Received	17-07-2001	Status	Complaint Received
Breach(es)	Continuance of use for crushing and recycling concrete		
Resolution	Unacceptable development in Green belt contrary to Policy OL1 and PPG2		
Actions to date	5 Enforcement Notice's issued - compliance not secured, prosecution required.		

Date Received	18-07-2001	Status	Complaint Received
Breach(es)	Renewal, retention of workshop used for servicing of vehicles		
Resolution	Unacceptable development in Green Belt contrary to Policy OL1 and PPG2		

Date Received	01-03-2005	Status	Complaint Received
Breach(es)	Change of use to long term airport parking		
Resolution	Cease the use of the land remove all vehicles and fencing / hardstanding		
Actions to date	Instructions to Legal to be submitted.		

Date Received	09-06-2005	Status	Complaint Received
Breach(es)	LATTICE GATE OVER ENTRANCE DOOR AND ROLLER SHUTTER TO STONEBRIDGE HOUSE		
Resolution	Detach & dismantle gate, remove from land all debris.		
Actions to date	Legal instructed to prepare Enforcement Notice		

Date Received	11-10-2005	Status	Complaint Received
Breach(es)	SINGLE STOREY DETACHED GARAGE		
Resolution	Remove existing garage and all debris.		
Actions to date	Legal instructed to prepare Enforcement Notice.		

Date Received	04-09-2007	Status	Comp.Investigation
Breach(es)	Car wash and erection of wooden structure		
Resolution			

Actions to date	Committee resolution for enforcement action against the use of the car park as car wash and removal of wooden structure. The car wash has now ceased operating but the wooden structure remains. They were given till the end of January to remove it, otherwise we would serve an enforcement notice.
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HILLINGDON EAST

Date Received	13-04-2007	Status	Complaint Received
Breach(es)	Unauthorised hours of opening		
Resolution	Committee refused application in April 2007 to vary hours of opening condition.		
Actions to date	Letter sent to owners on 18/06/2007.		

Date Received	19-02-2004	Status	Complaint Received
Breach(es)	Porch/canopy, extension and detached structure		
Resolution	Remove the front canopy and all debris from the site.		
Actions to date	Enforcement Notice issued, compliance has not been secured, legal to draft prosecution.		

Date Received	19-08-2004	Status	Comp.Investigation
Breach(es)	Erection of single-storey rear extension		
Resolution	Notice served stating that extension be demolished as detrimental to visual amenities of areas. Also issue of loss of privacy for neighbours due to overlooking. Contrary to policies BE15 and 19 of the UDP 3 months compliance.		

Actions to date	Enforcement notice served, compliance not secured as extension remains in place. Legal to draft prosecution.
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Reference	ENF/854/06/
Site /Property	72 CROWLAND AVENUE HAYES

Date Received	25-05-2005	Status	Comp.Investigation
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Breach(es)	Erection of single storey rear conservatory extension
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Resolution	Remove extension and reinstate land.
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Actions to date	Enforcement Notice issued, site visit in June 07 established that compliance not secured, Case Officer progressing with view to prosecution.
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TOWNFIELD

Reference	ENF/857/06/
Site /Property	222 & 224 COLDHARBOUR LANE HAYES

Date Received	19-05-2005	Status	Comp.Investigation
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Breach(es)	Change of use of residential properties to offices
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Resolution	Cease the office use B1 remove from the land all equipment & associated materials reinstate property to 2 residential units.
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Actions to date	Reported for prosecution, further visit in June 2007 established compliance still not secured, awaiting prosecution date.
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Reference	ENF/629/06/
Site /Property	10 Cotmans Close Hayes

Date Received	20-10-2006	Status	Comp.Investigation
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Breach(es)	A 2 Storey extension was approved, allegation is this has become a dwelling.
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Resolution	Enforce unauthorised single storey rear extension. Enforce unauthorised 2 storey side extension Enforce unauthorised conversion of a single dwelling house for use as 3 self-contained flats.
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Actions to date Successful prosecution early 2007, second prosecution now being prepared.

UXBRIDGE NORTH

Date Received	08-02-2005	Status	Complaint Received
Breach(es)	Installation of extractor fan		
Resolution	Remove extractor fan & debris from the site.		
Actions to date	Site to be re-inspected report to committee if appropriate.		

Date Received	13-09-2005	Status	Comp.Investigation
Breach(es)	Alterations to shopfront		
Resolution	Fascia board must be removed and replaced with one that conforms with drawing 2101/3 Insertion of brick course and replacing tough lighting with spot lights also required. 3 months to comply.		
Actions to date	Enforcement notice issued, compliance not secured as fascia not replaced, intention to prosecute.		

Date Received	12-12-2006	Status	Complaint Received
Breach(es)	Raising height of bathroom roof, amendment to planning application approval 26185/APP/2004/2268		
Resolution	Following refusal of planning permission case referred to enforcement		
Actions to date	Site Inspections carried out.		

WEST DRAYTON

Reference	ENF/824/06/		
Site /Property	WEST DRAYTON CAR SPARES DONKEY LANE WEST DRAYTON		
Date Received	08-04-2003	Status	Complaint Received
Breach(es)	Unauthorised use of land for parking, storing, valeting in connection with transport business		
Resolution	Cease the use for storage of vehicles for transport business.		
Actions to date	2 Enforcement Notices issued 25/05/2004, transport business no longer in situ.		

YEADING

Reference	ENF/878/06/		
Site /Property	41 DELAMERE ROAD HAYES		
Date Received	10-11-2005	Status	Complaint Received
Breach(es)	SINGLE STOREY REAR EXTENSION		
Resolution	Removal of extension and reinstatement of the land		
Actions to date	Enforcement Notice issued 3/2/2005 - Appeal dismissed 22/12/2005 - Agreement between Enforcement and Landowner for extension of time due to ill health, following further negotiations matter now being referred to legal for prosecution.		

YIEWSLEY

Reference	ENF/871/06/		
Site /Property	LAND FORMING PART OF 2 ACACIA AVENUE YIEWSLEY		
Date Received	11-10-2005	Status	Complaint Received
Breach(es)	ERECTION OF FOUR-BDROOM HOUSE WITH LOFT ACCOMMODATION		
Resolution	Contrary to Policy, reinstate the building in accordance of pp APP/2003/1084		
Actions to date	Enforcement Notices served in June 2006.		

Schedule 3

Enforcement Cases proposed for Closure