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MEETING	DATE	ITEM
<b>TOWNS &amp; COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE</b>	21 December 2011	<b>7</b>

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## REPORT OF THE CHIEF EXECUTIVE

**SUBJECT: REPORT OF THE TOWNS & COMMUNITIES OVERVIEW  
AND SCRUTINY COMMITTEE: PLANNING ENFORCEMENT  
TOPIC GROUP**

### SUMMARY

This report contains the findings and recommendations that have emerged after the Topic Group scrutinised the subject selected by the Committee in March 2011.

The environmental, equalities & social inclusion, financial, legal and HR implications and risks are addressed within the topic group's report.

### RECOMMENDATION

That Members:

1. Note the report of the Towns & Communities Overview and Scrutiny Committee Topic Group (attached);
2. Decide whether to refer the recommendations of the Topic Group to Cabinet.

## REPORT DETAIL

At its meeting on 9 March 2011, the Towns & Communities Overview and Scrutiny Committee agreed to start a topic group to review Planning Enforcement in Havering.

Attached therefore is a copy of the Topic Group's report. The report includes details of the scrutiny work undertaken by Members in reaching the recommendations set out.

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Chief Executive

**Background Papers - None**



## REPORT OF THE TOWNS & COMMUNITIES OVERVIEW AND SCRUTINY COMMITTEE PLANNING ENFORCEMENT TOPIC GROUP

### 1.0 BACKGROUND

- 1.1 At its meeting on 9 March 2011, the Towns & Communities Overview and Scrutiny Committee agreed to start a topic group to scrutinise the Council's Planning Enforcement action.
- 1.2 The following Members formed the topic group at its outset: Councillors Wendy Brice-Thompson (Chairman) Linda Hawthorn and Garry Pain.
- 1.3 The topic group met on two occasions and carried out two site visits with officers.

### 2.0 SCOPE OF THE REVIEW (Agreed 31 March 2010)

- 2.1 To gain an understanding of the planning enforcement process and in particular the role of enforcement officers.
- 2.2 To consider the impact of the enforcement process on conservation areas within Havering.
- 2.3 To investigate how the enforcement process functions in other boroughs.

### 3.0 FINDINGS

#### Havering's Planning Enforcement Team

- 3.1 All three members of the topic Group spent half a day shadowing a member of the Planning enforcement team.
- 3.2 Members were advised that the enforcement team investigated alleged breaches of planning control including:

unauthorised changes of use or building development

non-compliance with plans or conditions

unlawful advertisements

unauthorised encampments

- 3.3 The Enforcement Team received about 600 allegations each year, by phone, email and in writing. A proportion of these were considered, after investigation, not to be matters that could be dealt with.

The majority of cases were resolved without the need to take formal action. In some cases however, formal action, including legal action was pursued to secure compliance.

- 3.4 The team were sometimes informed of matters that ultimately may not be in the broader public interest to investigate further. Complaints that appeared to be motivated by competition or neighbour disputes would also not be pursued.

However where formal action was necessary, proportionate and expedient, the team aimed to resolve matters by negotiation as a first option rather than take costly or protracted legal action.

- 3.5 When a complaint was made the team would acknowledge and register the complaint within 5 working days, report the complaint to the next meeting of the monitoring committee and, if a site visit was necessary, undertake this within 10 working days

- 3.6 If a breach was identified, the person responsible would be advised what steps were required to remedy the situation and reminded of their right to make a retrospective planning application. Advice would also be given on how likely an approval was on an application. The person would also be given a reasonable period of time for an application to be submitted

- 3.7 At the conclusion of the investigation the team would notify the suspected offender in writing of the action the team proposed to take and the timescales involved. Notification would also be sent to the complainant about the outcome of the investigation.

- 3.8 The aim was to close 80% of complaints within 3 months.

### **Gidea Park Conservation Area**

- 3.9 The topic group met with the Secretary of the Gidea Park Civic Society who felt that the Conservation Policy was not too strict and that consistency was the key to ensuring planning matters were adhered to.

- 3.10 Solicitors and estate agents were supposed to inform new residents of the policy and what could be done regarding improvements to properties. The Conservation Society could only advise. The Planning Department dealt with planning permission and enforcement.

- 3.11 The Secretary met with planning officers on a monthly basis as it was important to keep on top of enforcement otherwise the streetscene could change dramatically. In her view, responses from the Planning Department were usually very expedient.

Updates were being carried out to the Local Development Framework (LDF) Heritage and Supplementary Planning Documents (SPD) policies as these had been drawn up some time ago and needed updating

- 3.12 The Conservation Society had lettered residents recently advising what was required when applying for planning permission. The Secretary pointed out that it was sometimes difficult to explain the policy to residents of Gidea Park as the area was quite affluent, being a garden suburb, and residents wanted to improve their properties.

- 3.13 The Secretary also felt that statutory periods meant that enforcement was a lengthy process but the planners were dealing with all cases in an expedient manner.

- 3.14 Members noted that householders could normally make minor alterations to their houses without requiring planning permission. This was called "permitted development". However, in some areas, notably in Conservation Areas, the Council had removed these "permitted development rights" by making an Article 4 Direction.

- 3.15 Article 4 Directions were made under part of the planning legislation called the Town and Country Planning (General Permitted Development) Order 1995. The effect of a Direction was that planning permission was required for specified classes of works that were carried out on any elevation facing a highway. These were:

making any alteration to the roof - this included replacing the slates or tiles, putting in a rooflight or altering dormer windows (the insertion of dormer windows required planning permission in any event)

removal, replacement or alteration of windows and doors

painting or rendering external brickwork.

Additionally, planning permission was required to alter or erect any type of Boundary Treatment (e.g. walls, fences, gates, etc) which faced a highway.

- 3.16 A workaround of the Gidea Park area had taken place recently as there was a proposal to extend planning article 4. Trees were also controlled by article 4 legislation but not all properties were controlled by the article but the front gardens of properties were.

## Waltham Forest Planning Enforcement

- 3.17 On the 2 August 2011 Topic Group members met with officers from the London Borough of Waltham Forest's Planning Enforcement Team.
- 3.18 Officers explained that the Borough of Waltham Forest was bordered by Chingford to the north, Enfield/Haringey to the west, Redbridge to the east and Hackney to the south.
- 3.19 Officers explained that the following areas were dealt with
- Change of use commercial properties: where the use of a building/site had changed without planning permission
- Change of use residential properties: instances where the use of a residential property had changed without planning permission.
- Domestic extension: building works that had been carried out without planning permission or where planning conditions had not been kept to
- Flat conversion: properties that had been converted into flats without planning permission
- Home of Multiple Occupation (HMO): properties that were used as a HMO without the appropriate licence or planning permission
- Unauthorised advertising advertisements that were displayed without planning permission
- Untidy Land
- High Hedges/Trees
- Unightly satellite dishes etc.
- 3.20 The officers explained that in the past the Council had not been applying the legislation fully and a large enforcement caseload (4500) had accrued. Following a restructure permanent and agency staff had been recruited and the caseload was now in the region of 400.
- 3.20 Officers' duties were to investigate allegations and enquiries making contact with complainants and offenders and to make progress on an enquiry. Officers would negotiate with offenders offering remedial action and advise on submitting retrospective planning permission applications.
- 3.21 Officers would also liaise with other council departments to ensure consistency of approach and make recommendations as to the expediency of taking enforcement action and also check compliance

with enforcement notices and prosecute for non-compliance which meant appearing as a Council witness in the Magistrate Court.

- 3.22 The team was dealing with about 100 cases per month and officers were set a target of clearing up 25 cases each per month. Officers visited properties and if no one was in the officers would leave a card and return a week later with a notice of entry.
- 3.23 52 warrants had been served in the last month and often visits were carried out in association with other agencies. Two people had been prosecuted last month.
- 3.24 The officers explained that genuine mistakes, when applying for planning permission, were usually few and far between but where genuine mistakes regarding applications had been made the team offered support to the applicants.
- 3.25 There were very strict guidelines regarding conservation areas and these were closely adhered to. In the majority of cases where enforcement action had begun then the applicants began to communicate more freely.
- 3.26 The Waltham Forest officers explained that the Council was very supportive towards enforcement action and a direct action budget was made available. The Council had also made resources available such as re-deployable cameras and there had been support for RIPA action. Where enforcement action had taken place and prosecutions had resulted the people prosecuted had in some instances been “named and shamed” in local Council publications.
- 3.27 Members of the Topic Group asked if officer targets meant that officers rushed their work to achieve their targets. The officers explained that the system in fact worked very well and enabled officers to manage their workloads better.
- 3.28 Members were advised that the officers were making some progress regarding prosecutions and were seeking to reclaim the proceeds of crime in some instances but more direct action needed to be taken.
- 3.29 Members noted that the Councillors in the borough had a good understanding of enforcement action and encouraged officers to be more proactive rather than reactive.
- 3.30 There was expected to be a rise in enforcement action in the coming months as the countdown to the Olympics started. Problem areas had been identified as private properties advertising as hotels and the introduction of brothels.
- 3.31 Members noted that officers had undergone training on presenting in court recently which had seen prosecutions rise in the last six months.

## **4.0 RECOMMENDATIONS**

Following discussions the Topic Group agreed that Havering's Enforcement Team worked in an expedient manner and felt that little change was needed to improve the service offered to residents.

In particular the group felt that the Council's website offered clear practical advice to residents seeking clarification on planning matters.

The Topic Group agreed that the following points could be considered in the future.

- 4.1 Ensure that handouts in clear concise English were made available to residents when visiting the Planning offices.
- 4.2 Greater coverage in Council publications such as the Living magazine of planning enforcement action detailing instances of when enforcement action had taken place but **not** naming and shaming of individuals.
- 4.3 Possibility of including advice to residents regarding planning permission within the first Council tax bill that a resident received when moving into a conservation area.
- 4.4 Possibility of introducing a rider on all enforcement correspondence explaining to residents that enforcement could be a lengthy process

## **ACKNOWLEDGEMENTS**

During the course of its review, the topic group met and held discussions with the following people:

Patrick Keyes – Head of Development and Building Control (LBH)  
Simon Thelwell – Planning Control Manager (LBH)  
Bernie Long – Enforcement Planning Officer (LBH)  
Mrs Joyce Leicester – Chairman of the Gidea Park Civic Society  
Councillor Andrew Curtin (LBH)  
Gareth Jones – Head of Enforcement (LBWF)

### **Financial Implications and Risks:**

None

### **Legal Implications and Risks:**

None



**Human Resources Implications and Risks:**

None

**Equalities and Social Inclusion Implications and Risks:**

None

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**Background Papers List**

None