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Report of the Chief Planning Officer

Scrutiny Board (City Development)

Date: 18th November 2008

Subject: Progress Report on the Management and Capacity of the Planning Compliance Service

Electoral Wards Affected: ALL

Specific Implications For:

Equality and Diversity ☐

Community Cohesion ☐

Narrowing the Gap ☐

Executive Summary

Members of Scrutiny Board (City Development) at its meeting of 22nd April 2008 considered and commented upon a report of the Chief Planning Officer on the management and capacity of the planning compliance function. Scrutiny Board requested a progress report to be provided in Autumn 2008 on actions being taken to address the key issues set out in the report.

This is a report on work in progress, which sets out actions being taken focused around the themes of *improving the customer experience*, *developing skills* and *building capacity*. It also provides a brief overview of enforcement actions and outcomes during Quarters 1 and 2 of 2008/09. The report outlines the reporting mechanisms on key cases to elected members and provision of information about new cases to be introduced in Quarter 3; the information leaflet and new web page content now available and management measures to ensure that customers receive a timely response to the outcome of their initial enquiry. The service training plan is attached and explained with particular reference to training now carried out and currently ongoing. Recruitment and career development issues and actions to build capacity in the service and to improve communication and working relationships with the area planning teams are also explained.

The report requests Scrutiny Board to consider and comment on the report and to request a further update in Spring 2009.

1.0 Purpose of this Report

- 1.1 The purpose of the report is to update Scrutiny Board (City Development) on the actions being taken to implement changes to improve the process management and increase the capacity of the planning enforcement service.

2.0 Background Information

- 2.1 On 22nd April 2008 Scrutiny Board (City Development) considered a report by the Chief Planning Officer on the management and capacity of the planning compliance team. The report set out the main areas of ongoing development focused on improving the customer experience, developing skills and building capacity. The report also set out background information on the current staff establishment and present performance levels. It outlined the main procedures for investigating and resolving breaches of planning control and the enforcement mechanisms used and the penalties that can be imposed where matters are not resolved by negotiation or the granting of planning permission. Scrutiny Board resolved to note the report and to support and endorse the actions and further improvements set out in the report relating to:

- (i) A review of the career graded progression and training and development opportunities available to compliance staff.
- (ii) Regular progress reports to appropriate parties on key enforcement cases.
- (iii) A review of prosecution procedures and the use of PACE interviews.

3.0 Progress Report on the Key Themes

3.1 Improving the Customer Experience

- 3.1.1 A customer leaflet has been published which provides information on the planning enforcement process, guidance on reporting potential breaches, including the types of information needed to assist us in investigating the matter, and setting out how we respond to the enquiries that we receive. A copy of the leaflet is appended to this report. The Council's web site content has been updated to include the same information as is contained in the leaflet. An on line proforma is available for reporting issues but the leaflet and website publicise the planning.enforcement@leeds.gov.uk e-mail address and the contact telephone number for the Development Enquiry Centre. Around 75% of requests for investigation of possible breaches of planning control are now received via e-mail.
- 3.1.2 It is proposed to include on the website a quarterly summary of levels of enforcement activity including formal actions taken and outcomes of those actions including appeal decisions and prosecution results. Much of this information is already being collected for performance management purposes and is proposed for reporting to Plans Panels. To publicise successful outcomes on high profile and significant cases press releases are now being prepared for early submission to the Communications team so that they can be released as newsworthy items for reporting in the press. This will also act as discouragement to others contemplating undertaking work without planning permission.

As most planning enforcement case work is not, of itself, high profile and newsworthy it is proposed to discuss with the Communications team making an item out of the quarterly report on enforcement activity and highlighting some key issues, for example the unauthorised variation of developments from the approved plans, to give publicity to the Councils role in compliance, both through enforcement actions and through guidance to help people comply.

- 3.1.3 To ensure that, in every case, a person making an enquiry to the Council about a possible breach of planning control receives information on the outcome of the initial investigation and the course of action being taken within a timely period a reporting mechanism is being established to check that an initial letter/ e-mail is sent out within 3 weeks of the receipt of the enquiry. The acknowledgement letter is being changed to more clearly explain when a substantive response to an enquiry can be expected as customers often interpret the stated timescale for undertaking an initial site visit as the time in which a response will be provided to them. This process will be operational in Quarter 3 and performance reporting will take place from Quarter 4. An initial target of 90% achieved in 3 weeks with 100% in four weeks is proposed.
- 3.1.4 Scrutiny Board indicated that elected Members should be advised of the receipt of new cases when they are received. To address this it is proposed to provide a fortnightly list of new cases registered by Ward and distributed in the same way as lists of planning applications received. It is proposed to commence this by the end of quarter 3 when the system report has been adapted for this purpose. It is not, however, proposed to make this information available on the Council's public access website. In around 50% of the cases investigated no actual breach is identified and in very many cases the person investigated is not aware that specific complaint has been made. It is not considered helpful for the Council to publicise a list of properties where development activity has been investigated and which may turn out to be fully compliant with planning requirements.
- 3.1.5 To keep elected Members better informed on the progress of the identified key enforcement cases a report on the current status and intended course of action of those cases will be produced on six weekly basis for all ward Members. Where formal enforcement actions are proposed the report will indicate the time scales for the proposed actions. A draft of the template is attached showing the layout of the report and indicative content. It is intended to produce one report in Quarter 3 and two reports per quarter thereafter. Feedback on the format and content of the report will be invited from Members.

3.2.0 Building Capacity

- 3.2.1 To provide an effective and timely planning enforcement service within a realistic level of staffing it is necessary to focus efforts on priority cases. This requires making decisions at an early stage on those matters where it is not expedient to take further action, having regard to adopted national and local planning policies and the degree of impact that the development causes. A list of key cases has been established which comprises of cases arising from elected member and MP complaints; those matters that are subject of Ombudsman investigation or are being dealt with through the Council's own complaints process (the complaint may be one arising from a planning decision and not the enforcement process itself);

and priority cases identified due to the degree of harm and/or immediacy e.g on going unauthorised and potentially unacceptable building works or particularly intrusive uses. This list is used in the management of case reviews and forms the basis for the report to be provided to ward members referred to at para 3.1.5 above. The list currently comprises of some 180 cases citywide, which is being added to as part of the ongoing case review process.

- 3.2.2 Work is ongoing to review dormant cases to identify those where it is not appropriate to take further action. In doing this a broad risk based approach is taken to assess if whether the lack of action at this point even though the activity may not be causing harm could enable a more harmful level of activity to take place in the future that would then be immune from enforcement action. Compliance officer case loads remain at a high level due to effects of staff turnover and the build up of cases in 2007 due to sickness absences. The Planning Advisory Service, in an enforcement good practice note, indicates that, nationally, an officer caseload of around 150 is regarded as a manageable amount. Caseloads of some officers in the team are running at 20-25% above this level.
- 3.2.3 Staff recruitment has continued to be an issue for the service. We were successful in recruiting an additional staff member however, a further vacancy at Compliance Officer level has occurred. It has been agreed that this post can be released, notwithstanding the current constraints on the budget. Approval has also been granted for the appointment a temporary compliance officer post for a period of six months and to advertise again for a senior compliance officer, as the job market conditions may result in more interest from of a qualified planner with development management/enforcement experience. This process is now underway.
- 3.2.4 Temporary external assistance was employed for a three-month period over the summer to assist with the drafting of enforcement notices and written representation appeals. Whilst this was beneficial to work output it was not considered to be a cost effective solution, particularly as continuity of staff could not be provided.
- 3.2.5 Administrative support has been increased from within the Planning and Building Standards pool to provide assistance with inputting new cases. This has provided a better level of cover to deal with peaks in receipt of new enquiries and releases time for other support activities. Training has been carried out to enable the section's administrative officer to produce the documentation required to serve enforcement notices, currently undertaken by legal services. This task is to be taken over by Compliance during Quarter 3 and, in turn, this will release some more time for the legal officer to scrutinise draft notices and respond to general enquiries for legal advice on enforcement matters.
- 3.2.6 The administrative officer will have a key role in compiling and issuing reports to elected members on ongoing case work outlined above. The section's administrative capacity is under review as maximising the use of that resource is cost effective in freeing up time of compliance officers and senior compliance officers to concentrate on their primary tasks and in providing a better level of service to customers.

3.3 Developing skills

- 3.3.1 The Compliance team training plan 2008/09 is attached for information at Appendix 2. An objective of the training plan is for compliance officers and planning officers to receive the same training and development opportunities, where this is relevant to their common work areas. In particular that necessary training opportunities to enable career progression and build the skills base and help retain staff within the planning service at Leeds is available to both planning assistants and compliance officers.
- 3.3.2 The plan is “a work in progress” but has broken new ground with a compliance officer commencing the day release course at Leeds Metropolitan University (LMU) leading to qualification for membership of the RTPI. A second compliance officer wishes to take up the course from September 2009. There is also interest from staff without the required qualifications in taking up a bridging year course to qualify them for the LMU course. The attendance of staff on day release courses has implications for workloads in the team and the staff resources required to maintain service levels.
- 3.3.3 The training plan identifies a number of areas for technical training on planning enforcement matters including training for newer starters in both the compliance and planning application teams. It is proposed to arrange such sessions in the New Year. Training for all planning and compliance staff on the GPDO changes for Householder development, introduced on 1st October, has been held recently. Training in supervisory skills and management processes is scheduled for senior compliance officers in the new programme being developed by Human Resources to reflect and apply the One Council ethos and its key service delivery objectives.
- 3.3.4 A specific issue discussed by Scrutiny Board related to prosecution processes. Training on assembling cases for prosecution, including obtaining evidence through surveillance, explanation of the disclosure process, and the application of the Police and Criminal Evidence Act has been provided to all compliance staff. The prosecution and development team solicitors attended the session. The training clarified issues about where PACE interviews were needed and when such an approach was unnecessary. Surgery sessions and one to one meetings with prosecution solicitors have been taking place. Discussing potential prosecution cases at an early stage with the prosecution solicitors is also providing coaching for case offices in assembling evidence and drafting witness statements. Coaching of staff by those already experienced in PACE interviews takes place to broaden the skills base.
- 3.3.5 An Elected Member training event on planning enforcement is scheduled for 29th October 2008 as part of the member training programme in Planning matters. Parish and Town Councils have also been invited to send representatives to this event and a small number have indicated their intention to attend. At a more local level, a meeting was held in September with representatives of parish councils in Harewood ward, arranged with Cllr. Rachael Procter. It provided a useful opportunity for dialogue on wider issues of the application of planning enforcement processes and powers and local concerns and priorities as well as addressing some case specific matters. In October a well attended forum on planning control processes, including enforcement, organised by Cllr Campbell, was held at Otley Civic Centre for parish councils and amenity bodies in the north west of the city.

3.4 Making closer links with the planning applications teams

- 3.4.1 The development of closer working relationships between compliance officers and planning officers in the planning applications team is a key objective of the Compliance service improvement plan that draws on the above themes of building capacity, developing skills and improving customer service. To improve links a principal planner in each of the area teams has been identified as a first point of contact for planning advice on enforcement matters and to review current enforcement case work in the team's area. Key cases for the areas are being identified for inclusion on the Compliance priority cases list and new case lists provided so that the teams are aware of new cases in their areas. Compliance officers are also to attend area team meetings to discuss enforcement issues.
- 3.4.2 Establishing a better process of liaison between compliance officers and the planning teams will improve customer service by providing a speedier process for decision making on whether enforcement action is expedient and ensuring that a consistent message is provided by both planning and compliance officers. It will help develop skills through increased knowledge and understanding of the enforcement process for planning officers and a better understanding of the planning issues by the compliance officer.

4.0 **Update on Enforcement Actions and Outcomes.**

- 4.1 A brief overview of enforcement actions and outcomes during Quarters 1 and 2 are set out below. 809 cases were received, a reduction of 8% compared to the same period in 2007. 887 cases were resolved, an increase of 4%. For the fourth successive quarter the numbers of cases resolved has exceeded the number received, making an inroad into the total number of cases in the system.

4.2 Prosecutions

- 4.2.1 During the period the following convictions were secured in the Magistrates Court:

- * Three offences for non compliance with enforcement notices relating to the stationing of caravans on Green Belt land. Found guilty in each case. A fine of £1000 was imposed on one defendant and in two cases an absolute discharge was granted but costs were awarded to the Council totalling £1350. An offence of non compliance with an enforcement notice requiring the removal of tall and intrusive fencing at a sports ground resulted in a fine of £1500 being imposed and costs awarded of £1400.
- * One offence relating to non compliance with a S.215 (untidy land) notice. Found guilty and fined £140 with Council's costs of £606 awarded.
- * Eight offences for breaches of advertisement controls (relating to "To Let" boards on separate premises in Headingley). Found guilty in each case. Fines totalling £2000 imposed and Council's costs of £4484 awarded.

Two cases have been before the Courts and deferred. There are three cases for breaches of enforcement notices and two cases for non compliance with S.215 notices awaiting issue of summonses and a further nine cases for non compliance with enforcement notices and three for breaches of advertisement controls are in course of preparation with prosecution solicitors.

4.3 Enforcement and Other Statutory Notices

- 4.3.1 39 enforcement notices and nine breach of condition notices have been served. 54 enforcement notices have been drafted and authorised for issue by the Chief Legal Officer. A Stop Notice and enforcement notice were served in respect of the use of land within the Green Belt at Otley Old Road Bramhope for car parking for airport customers. The Stop Notice effectively brought the use to an end over a three week period and the site is being restored. Without the use of a Stop Notice the Council would have been faced with an appeal, which although it would have had little chance of success, would have resulted in the breach continuing for up to a year. Two Temporary Stop Notices relating to householder developments have been served. In both cases the developments have now been completed in accordance with approved plans.
- 4.3.2 In the period 10 enforcement appeals have been received and 16 others resolved. Of these 9 (75%) were dismissed and 3 (25%) allowed. In two cases appeals were withdrawn by the appellants and the enforcement notices are now in effect. In two further cases the enforcement notices were withdrawn, in one case on legal advice and in the other because compelling evidence was provided as to the lawfulness of the use. In the latter case the Council had not received any response to its enquiries until an enforcement notice was served.
- 4.3.3 One S.215 (untidy land notice) has been served along with a notice under Section 79 of the Building Act in respect of a ruinous and dilapidated dwelling which also has a derelict garden with vehicles and building materials dumped in it. No appeal has been lodged and no works carried out. Works in default are being costed for consideration. S.215 powers have been used to support regeneration efforts in the Morley Bottoms Conservation Area. Five properties were targeted in 2007/08, two premises are being restored, in one case without recourse to serving the statutory notice. In two others prosecution action is being taken (see above) and a notice is being prepared for the fifth.

5.0 Conclusions

- 5.1 This report outlines work in progress towards the goals set in April 2008. The numbers of formal enforcement actions taken is increasing. Results of these actions, reflected in planning appeal decisions and in the Magistrates Court, show a high level of success. The development of skills and knowledge is an ongoing task that supports the growth of experience gained by staff as they undertake their daily tasks. It is important that able staff are retained so that the service can benefit from their growing knowledge, skills and experience. Further work is required in developing career progression opportunities across Planning Services. Making effective the conduits established for communication between the planning teams and compliance is a key responsibility for staff at all levels in their respective teams.

- 5.2 Improvements in communication with all customers and elected members will be operational during Quarter 3 and this process will be kept under review to provide the type and amount of information that is helpful to the users needs.
- 5.3 Building capacity in the Compliance service to address a skills gap and provide the scope for a more responsive and proactive service is central to ensuring that service improvements are fully embedded and sustained. Recruitment to the compliance officer and senior compliance officer posts is needed to enable officers to have more manageable case loads leading to the speedier resolution of cases and to provide a higher level planning input into the work of the section. The latter has been a difficult post to recruit to and so alternative methods of providing that input need to be considered as a fall back position. Appropriate administrative support is a cost effective method of freeing up compliance officer time to concentrate on investigative task and to provide better levels of customer service.

6.0 Recommendation

- 6.1 Scrutiny Board (City Development) are recommended to note and comment upon the content of this report and to receive a further progress report in Spring 2009.

Background Papers

Report of Chief Planning Officer to Scrutiny Board (City Development) 22nd April 2008 – Management and Capacity of the Planning Compliance Service.