



Leeds
CITY COUNCIL

Originator: Sue Wraith

Tel: ext 78172

Report of the Chief Planning Officer

Scrutiny Board (City Development)

Date: 22 April 2008

Subject: 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

This report arises from the quarter 3 performance report to Scrutiny Board (City Development) on 19 February 2008 and follows concerns expressed by Members regarding the management and capacity of the enforcement section of Planning and Development Services. It sets out background information relating to the present performance levels of the compliance service, the composition of the team and the enforcement tools available for use. The report draws attention to the national context and the Department of Communities and Local Government's (CLG) report on the national Review of Planning Enforcement. The CLG report indicates areas of focus which are relevant to the development of the compliance service in Leeds.

Already a number of actions have been taken towards improving the compliance service including through its re-alignment within planning services to achieve a better level of integration so that enforcement cases and related planning applications run together, improvements to the level of administrative and technical support to the enforcement team, ongoing development of the computer system and through staff training and development. The report sets out the main areas for ongoing development of the service, focused around the themes of *improving the customer experience*, *developing skills* and *building capacity*. Actions include the setting up and use of performance management systems, systems for providing information on the progress of cases to those reporting planning breaches and Members and prioritisation of key cases.

The report requests Scrutiny Board to consider and comment on the report and to give endorsement to the course and actions set out therein.

1.0 Purpose of this Report

1.1 The purpose of the report is to inform Scrutiny Board (City Development) of progress being made around the management and capacity of the enforcement section of the planning service.

2.0 Background Information

2.1 On 19 February 2008 Scrutiny Board (City Development) considered a report by the Head of Policy, Performance and Improvement which outlined the key performance issues for the City Development Directorate at the end of Quarter 3. Following concerns raised by Members, and with a view to a possible scrutiny inquiry, the Board made a request for a report from the Chief Planning Officer regarding the management and capacity of the enforcement section and their ability to take effective enforcement action when breaches of planning control are reported.

2.2 The planning compliance service responds to some 1600 alleged breaches of planning control per year. Initial site visits are carried out in accordance with priorities which were previously agreed in consultation with Members as follows:

Category 1 cases where there is a likelihood of irreparable harm occurring e.g. works to protected trees, demolition of protected buildings; and works that are giving rise to significant immediate harm to residential amenity, or pose a risk of pollution or harm to public health and safety	Visit within 1 working day
Category 2 cases where there is a significant nuisance or risk to public safety e.g. on going building or engineering works, except those of a minor nature, changes of use and breaches of conditions where the activity is having a significant adverse impact.	Visit within 2 working days
Category 3 less urgent cases e.g. less harmful developments and those where the situation is not likely to deteriorate further e.g. building operations where works are already complete; advertisement signs on business premises; boundary walls and fences; changes of use and breaches of conditions where the activity is not	Visit within 10 working days

Timescales for initial investigations in accordance with priorities are generally met. In particular, the service has 100% achievement on investigating category 1 (high priority) cases within 1 working day. The table at Appendix 1 shows response performance against the target timescales.

- 2.3 Most enforcement complaints are resolved without requiring the service of formal enforcement notices or taking actions through the Courts. Of the 1643 cases completed in 2007-08 44% (728 cases) were found not involve a breach of planning control. The majority of these cases relate to:
- works that fall within the scope of “permitted development” under the Town and Country Planning (General Permitted Development) Order
 - non material changes of use and changes permitted within the Town and Country Planning (Use Classes) Order
 - concerns that approved plans and conditions are not being complied with that are found not to be substantiated.

Of the 915 cases completed where a breach of planning control was found the outcomes were as shown in the table below:

Outcome	%
Satisfactory compliance obtained through discussion/negotiation	54
Planning permission granted a retrospective application or as a result of an enforcement notice appeal	20
Compliance secured by service of an enforcement notice or through Court action	15
Breach exists but decision made that it is not expedient to take formal action.	11
Total	100

- 2.4 The Planning Compliance Service normally seeks to resolve planning breaches through discussion and negotiation, unless the development is so demonstrably harmful that immediate enforcement action is required. 54% of cases were resolved in this manner in the last year. Compliance officers take a leading role in the process of negotiation, in consultation with planning officers, leading to agreed steps being taken to resolve the problem or to the submission of planning applications to regularise development and provide a basis for new conditions to be imposed to regulate a development in the light of changing circumstances. When account is taken of the new planning permissions successfully negotiated, around two thirds of breaches are resolved by agreement.
- 2.5 Planning Policy Guidance Note 18 “Enforcing Planning Controls” advises local planning authorities that enforcement action should not be taken solely to regularise unauthorised development that is acceptable in planning terms nor should action be taken against minor or technical breaches of planning control. In the light of this advice, cases such as those where planning applications have been requested but not submitted for development that is considered acceptable and would be approved without conditions or where permitted development limitations have been slightly exceeded, such a wall a few centimetres above the height limit a view is taken on whether taking enforcement action would result in any beneficial outcome and if it would not, the cases is closed.
- 2.6 Planning legislation provides a range of tools to assist in the investigation of breaches of planning control and, where breaches are identified, to take more formal action to remedy the breach. The enforcement toolkit is set out (with a short

explanation) at Appendix 2. The compliance service in Leeds has experience of using all of these. Sixty enforcement notices and twenty three Breach of Condition Notices were served in the accounting year Apr 07-Mar 08. Six temporary stop notices were prepared and authorised, but work ceased in four cases when advised that a notice was to be served. Of the two temporary stop notices which have been served, both were complied with without recourse to further action. One Stop Notice to accompany an enforcement notice was served.

- 2.7 40 appeals against enforcement notices were received in the period April 07 to March 08. During the same period 43 appeals were decided and a further 4 were withdrawn as a result of planning permissions being subsequently granted. 58% of the appeals were dismissed.
- 2.8 The service is active in serving enforcement and other legal notices and has been able to provide a timely and effective response to a number of higher profile cases with elected member and Parish Council involvement outlined at appendix 3.
- 2.9 Even though there is a comprehensive legislative tool kit, the enforcement process can be quite cumbersome and slow because of the many processes involved. For example, delays can arise when an application and/or appeal is pending or whilst investigations are ongoing into land ownerships, the true identity of the persons involved in an activity and/or the planning history of enforcement sites. It is not an offence to carry out development without planning permission and so it is not possible to interview possible offenders under caution prior at the initial stages of most investigations. In appeal cases, timescales are determined by the Planning Inspectorate and are not within the Council's control. Delays can also occur where prosecutions are pending and Court dates are awaited or where the Court has deferred conviction pending the outcome of an application or appeal. In some cases enforcement breaches will continue whilst these procedures run their course and matters are outside the Council's hands. It is important that the service keeps its customers, including those who are complaining about planning breaches, informed on the progress of cases on a proactive basis so that their expectations about what can realistically be achieved are managed and so that they are aware of the (sometimes protracted) nature of the enforcement process and timescales involved.

Resources

- 2.10 There are 13.5 fte posts within the team comprising Compliance Manager, Principal Compliance Officer, 3 no. Senior Compliance Officers and 8.5 Compliance Officers, plus administrative support. There are presently 2 no. vacant posts (1no. Senior Compliance Officer and 1no. Compliance Officer). Recruitment to the Compliance Officer vacancy is ongoing. There has been a high level of interest and it is likely an appointment will be made. However, the service has had difficulty, over a number of years, in attracting suitable external candidates to the more senior posts, and has twice been unsuccessful in recruiting to posts at a more senior level. The vacant Senior Compliance Officer post is currently under review, with a view to putting more emphasis on developing skills and competencies in house and "growing our own". In the meantime, temporary help is being "bought in" to cover the Senior Compliance Officer work.

CLG Report on Enforcement

- 2.11 The importance of planning enforcement has been emphasised in a recent CLG report on the national “Review of Planning Enforcement”. Key recommendations in the CLG report include:
- LPAs should take steps to **improve and promote the image of enforcement** including through better PR and publicity
 - LPAs should **publicise successful prosecutions and actions** taken to raise public awareness that enforcement is taken seriously
 - LPAs should be encouraged to spend a proportion of their Planning Delivery Grant on enforcement
 - Enforcement staff should have a **clear career structure**. There should be a **common salary structure for planning and enforcement staff** and skills levels should be raised so that all planning staff gain understanding of enforcement
 - Government to set indicators and give enforcement a higher priority in promoting planning.

- 2.12 CLG is now taking the recommendations forward. Best Practice guidance is expected shortly. These recommendations indicate appropriate areas of focus for the further development of the planning compliance service in Leeds.

Links with Legal Services

- 2.13 Close and timely liaison and support from legal advisers is key to an efficient and effective planning enforcement service. Whilst legislation, including statutory Orders and Regulations, exist to define the scope of planning controls, in many areas this scope is further defined by case law and precedents and is informed by the outcome of planning appeal decisions. The Council’s Legal service is involved at four key stages in the process:
- In providing initial advice in identifying whether an enforceable breach of planning control has taken place.
 - In the preparation of statutory notices – the Legal Service issues all Enforcement and Stop Notices.
 - In appeals against enforcement notices where the existence of a breach and the validity of the notice is challenged and in cases where a public inquiry is held including where evidence has to be tested under oath.
 - In taking forward matters to the Courts - mainly prosecutions in the Magistrates Court but can involve trial at higher courts or an application for an injunction.
- 2.14 There is a close working relationship between Compliance officers and the Legal Services officers who provide initial advice and deal with drafting notice and appeals, involving virtually daily contact. There are also regular review meetings of legal work, covering both planning application and enforcement case work, guidance and process issues held between the Head of Service and the Legal service Section Head. However, increasing levels of formal enforcement actions and consequent appeals plus the implications of skills gaps in the Compliance Service is creating resource pressures that have an impact on both the legal and planning compliance services in terms of obtaining preliminary advice to guide the progression of cases and in taking forward less urgent formal actions.

- 2.15 To address the resource pressures that occur from time to time Legal Services have entered into a 'Call Off' contract with several firms of leading planning solicitors in private practise and the instructing of Counsel to enable all planning and enforcement work to proceed efficiently in circumstances where there is insufficient capacity to deal with the matter in accordance with the time scale requested.
- 2.16 In the last year the Council has taken the prosecution of planning enforcement breaches back in house. Regular “surgery sessions” have been established with the prosecuting solicitors to discuss cases with Compliance officers prior to and during the preparation of prosecution Instructions. Processes for preparation of prosecution cases are being reviewed and the CAPS prosecution module is scheduled to be brought into operation by the end of the second quarter. The requirements of the Police and Criminal Evidence Act (PACE) and Court protocols are placing more emphasis on the use of taped interviews of alleged offenders under caution. The Compliance service is currently reliant on the use of other Services’ equipment and facilities for this purpose. The purchase of suitable equipment and training of more staff in this type of interview has been identified as a priority.

3.0 Main Issues

- 3.1 Whilst the service deals with a large amount of casework, there are some areas of concern around the effectiveness and responsiveness of the compliance service. We acknowledge that a number of improvements can be made. We have implemented a number of actions (set out below) and further actions are ongoing. One of the key areas for improvement is around **improving the customer experience** of our service. Members and other customers should be regularly updated and informed on the progress of enforcement cases and there is scope to improve the effectiveness of the service for customers through closer integration with the Planning Service. This will ensure closer liaison and being able to deliver a quicker planning view, and so that a programme of action for each case can be agreed between planning and enforcement officers to most effectively progress the case.
- 3.2 A further area for improvement is around **developing skills** within the team. Whilst the service generally has no problem in recruiting compliance officers to carry out basic investigation work, there is a skills gap at the more senior and professional levels. More complex casework has not been moved forward as quickly as we would have liked, simply because of the lack of capacity at the appropriate skills level. Effective enforcement involves a multidisciplinary approach. Planning, investigative, enforcement and customer care skills are an essential skills set for compliance officers. In addition, the service needs to be able to access legal and advocacy expertise, and a range of other technical expertise, such as arboricultural and historic buildings skills for cases involving unlawful works to trees and listed buildings. The service has found difficulty over a number of years in recruiting to more senior and specialised positions and needs to find other ways, such as developing skills in house and through career graded competency based progression and training to fill the skills gap.

3.3 The service also needs to focus on **building capacity**, by improving processes, focusing on its priorities, and through maximising efficiencies through the new CAPs computer system. Most of the work undertaken by the service at the moment is reactive in nature (i.e. responding to complaints). Through building capacity, depending on resource levels, it would be desirable to develop the proactive areas of the service as well, so that more specific project work can be pursued. Such proactive areas could include checking planning conditions and permissions for compliance, tackling unauthorised and undesirable advertisement hoarding sites and greater use of S215 (untidy land) notices to support environmental enhancement and regeneration initiatives.

3.4 Over the last few months a number of actions have been taken around these three main themes. These are set out below, together with future planned actions for improvements to the service.

4.0 Actions so far

Improving the customer experience

4.1 The compliance service has been re-aligned within Planning Services, under the line management of the Head of Planning Services. This has enabled a better level of integration between planners and compliance staff, the ability to provide a timely planning input and for an agreed plan of action to be put in place for each case.

4.2 An Enforcement seminar for Members was held on 28 September 2007. Feedback was good although attendance from Members was low.

4.3 The land charges search register has been updated and information on enforcement and other notices is now available to customers through the public access facility on the Council's web site.

Developing skills

4.4 A training programme for compliance staff has been put into place. Enforcement and planning policy and practice updates, appeals training and supervisory and staff development training for Senior Compliance officers has been undertaken. Further training with particular emphasis on prosecution processes is being developed.

4.5 Recruitment is ongoing to a vacant Compliance Officer post and it anticipated that an appointment will be able to be made.

4.6 The service is reviewing how it can best develop skills within the service and, in the meantime, is "buying in" temporary help to cover the work of the vacant Senior Compliance Officer post.

Building capacity

4.7 Administrative resources have been re-aligned to provide support to the team in its performance, case management, keeping of records and responsiveness to customers.

- 4.8 The enforcement module in the new computer system, accessible to both planning and legal staff, is being used for both the recording of events during investigations and the generation of all statutory notices.
- 4.9 Performance management systems have been set up on the computer system and are being actively used.

5.0 Ongoing and future actions and improvement

Improving the customer experience

- 5.1 We are improving the level of information available to customers on the progress of cases, including through sending letters to complainants at key stages.
- 5.2 We are setting up regular reporting mechanisms to ensure that Members, MPs and all complainants are kept fully informed on the progress of key enforcement cases.
- 5.3 A customer leaflet will be published shortly to provide information and guidance on reporting planning breaches setting out how the matter will be dealt with. We are also reviewing and updating the enforcement information on the Council's web site including an on line proforma to submit enquiries about possible planning breaches.
- 5.4 We will be providing better general information about the enforcement service, including in leaflet format and through the web site, and we will work with the press office on raising the profile of the service and publicising our successes.

Developing skills

- 5.5 We propose to review the career graded progression arrangements and training opportunities to maximise opportunities for developing skills levels in house and "growing our own". This will include raising skills levels in planning, enforcement, investigation and customer care.
- 5.6 We will be undertaking ongoing staff training and development, including through the broadening of skills across the whole of planning services to ensure planners gain skills in enforcement and that enforcement officers gain planning knowledge and skills.

Building capacity

- 5.7 We are continuing to review older cases to determine whether formal actions are justified to bring matters to a conclusion or whether the degree of harm being caused does not warrant further action and to close the case. This enables resources to be directed to resolving important/high profile cases effectively; using statutory powers as part of an agreed case plan not a last resort. Active case management is ongoing to ensure that this objective is achieved.
- 5.8 We are identifying key cases to which a high level of priority is given. These cases will include those of high Member and/or MP concern; breaches associated with formal customer complaints and with Ombudsman involvement and other cases where the breach is causing serious harm to amenity, public health and safety or would undermine the effectiveness of key Development Plan and national planning

policies. We will provide regular updates to ward members and those who have complained about planning breaches.

- 5.9 Monitoring and performance management systems have been set up and are being actively used to support the effective management of cases and to ensure that performance and case progress is reported upon.
- 5.10 Further process re-engineering is to be undertaken, together with the setting up of the prosecution and conditions monitoring modules on the CAPs computer system to ensure that efficiency benefits offered by the computer system are maximized.

6.0 Implications for Council Policy and Governance

- 6.1 A responsive and effective planning compliance service is necessary to meet political aspirations and for the integrity and credibility of the planning service in Leeds.

7.0 Legal and Resource Implications

- 7.1 Developing skills and capacity across planning, enforcement and legal services is necessary to support an effective compliance service.

8.0 Conclusions

- 8.1 Enforcement has been identified as a key area of focus for further development within the planning service. This is with a view to providing a service which is proactive in emphasis, which is effective, is responsive to customer needs; is appropriately resourced and has a closer integration with the planning service. As the above actions progress, the service should continue to raise its profile including through publicity of its successes on high profile cases. Reporting mechanisms will be put into place so that Members and customers are kept better informed and so that the performance levels and achievements of the service are transparent and open to public scrutiny.

9.0 Recommendations

- 9.1 Scrutiny Board (City Development) are recommended to note and comment upon the contents of this report and to give endorsement to the actions and further improvements set out in this report. In particular Scrutiny Board is asked to support and endorse the following actions:
- (i) 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) Review prosecution procedures including making provision for holding taped interviews compliant with PACE requirements and provide appropriate training for enforcement officer.

FIRST SITE VISIT PERFORMANCE

Category	PI 1 st visit	Q1 Apr –Jun	Q2 Jul – Sept	Q3 Oct - Dec	Q4 Jan - Mar
Category 1	1 working day	100%	100%	100%	100%
Category 2	2 working days	88%	97%	93%	77%
Category 3	10 working days	90%	91%	85%	73%
No. cases rec'd		457	428	313	300
No. cases closed		591	262	428	362

Category 1 cases where there is a likelihood of irreparable harm occurring e.g. works to protected trees, demolition of protected buildings; and works that are giving rise to significant immediate harm to residential amenity, or pose a risk of pollution or harm to public health and safety.

Category 2 cases where there is a significant nuisance or risk to public safety e.g. on going building or engineering works, except those of a minor nature, changes of use and breaches of conditions where the activity is having a significant adverse impact.

Category 3 less harmful developments and those where the situation is not likely to deteriorate further e.g. building operations where works are already complete; advertisement signs on business premises; boundary walls and fences; changes of use and breaches of conditions where the activity is not causing a significant immediate impact.

THE ENFORCEMENT TOOL KIT

1.0 Investigatory Powers

- 1.1 The **Planning Contravention Notice** (PCN) is a statutory requisition for information about the activities being carried out on a site and the identity of the persons involved. The Notice gives the recipient the opportunity to put forward any argument as to why planning permission is not required for the development or to show that the development is lawful. The notice can be served on the landowner or the persons carrying out the development that appears to be unauthorised. The recipient of the notice has 21 days to complete and return the PCN, failure to do so is an offence prosecutable in the Magistrates Court. The maximum fine is **£1000**. For legal reasons a PCN cannot be used in all cases. The Council can also obtain information about the identity of persons who have an interest in land by serving a notice under **Section 330** of the Town and Country Planning Act 1990. If a Planning Contravention Notice is not completed and returned this does not mean that enforcement action cannot proceed. There are other means of establishing ownership of land and the identity of persons involved, by a Land Registry Search or a company search, for example.

2.0 Enforcement Notices

- 2.1 The **Enforcement Notice** is the main measure used to deal with unauthorised development. The notice must give the planning reasons why the development is unacceptable. It sets out what steps are required to remedy the breach and the time limits for the steps to be carried out. There is a right of appeal to the Secretary of State against an enforcement notice, which must be made before the notice comes into effect, a minimum period of 28 days. An appeal effectively suspends the effect of the enforcement notice. Therefore to halt development pending the outcome of an appeal a **Stop Notice** must be served (see below).
- 2.2 Once an enforcement notice comes into effect it becomes an offence not to comply with it. The current penalties are a fine of up to **£20,000** for case tried in the Magistrates Court or an unlimited fine and/or a custodial sentence if tried in a higher court. There is a daily fine for continuing offences of up to 1/10 the maximum fine. There are also default powers for the Local Authority to enter on to the land to undertake the works required by an enforcement notice and to recover its costs from the owner/occupier; or place a charge on the land against future sale to secure the debt. It is possible to vary the requirements of an enforcement notice and the timescales for compliance without having to relinquish the control that the notice provides and so enable a negotiated solution to be achieved with a strong fall back position for the Council.

3.0 Breach of Condition Notice

- 3.1 Where a breach of a planning condition has occurred the Council can serve a **Breach of Condition Notice** (BCN). There is no right of appeal against such a notice and it is an offence not to comply with it. The minimum period for compliance is 28 days. On conviction in the Magistrates Court the maximum fine is only **£1000**. This notice has advantages of greater speed but it is inflexible and there are no default powers. The lack of appeal rights often encourages speculative planning applications to attempt to have the condition varied or removed so that an appeal can be made against a refusal.

4.0 Stop Notices

- 4.1 Development can continue lawfully prior to an enforcement notice coming into effect, including pending the outcome of an appeal, and so additional powers are required to halt development, or some part of it, where irreparable harm is being caused or would become more difficult to remedy if the development was allowed to continue. In such circumstances a **Stop Notice** can be served to accompany the enforcement notice. As a part of the consideration of the planning issues before serving a Stop Notice legislation requires that a cost/benefit assessment is carried out to justify the public interest benefits of requiring the unauthorised works to halt or use to cease when measured against the costs to the developer of halting the activity and any consequent public interest costs of requiring the development to stop.
- 4.2 Normally a Stop Notice becomes effective after three days, but a shorter period can be imposed where special circumstances justify it. It is an immediate offence not to comply with a Stop Notice. The maximum fine that can be levied in the Magistrates court is **£20,000** or an unlimited fine and/or custodial sentence, if tried in a higher court. There are compensation implications if a Stop Notice is served and the enforcement action is successfully challenged on the grounds that the decision to take enforcement action was flawed on legal grounds or that the activity was subsequently found to be lawful. However, no compensation arises if the development is subsequently granted planning permission by the Local Authority or on appeal.
- 4.3 The Planning and Compulsory Purchase Act 2004 introduced additional powers to halt unauthorised development by serving **Temporary Stop Notices**. Temporary Stop Notices (TSNs) do not require an enforcement notice to have been served and so the Local Authority does not have to make a case as to why the development may prove unacceptable. TSNs come into effect immediately but only last 28 days and a further TSN cannot be served unless the breach is resolved but then recommences. The penalties for failure to comply with a TSN is a fine of up to **£20,000** in the Magistrates Court or an unlimited fine and/or custodial sentence, if tried in a higher court. As with Stop Notices a cost benefit assessment is required before a TSN can be served and there are compensation provisions if the development halted is subsequently found to be lawful.

5.0 Injunctions

- 5.1 The Town and Country Planning Act enables local authorities to seek **Injunctions** in the County or High Court to deal with any actual or anticipated breach of planning control. The decision whether to grant an injunction is at the sole discretion of the Court. In practice Judges need to be convinced that the degree of harm is sufficiently great or that no other enforcement powers available are effective in restraining the breach of planning control before they will grant an injunction. Injunctions are, however, the only power available to prevent a breach from taking place and, because of the very real possibility of a punitive fine or custodial sentence, are almost certain to be obeyed. There is a financial risk to the local authority in that it has to give an undertaking in damages to pay costs arising out of its action if an initial injunction is not upheld at full hearing of the case.

6.0 Enforcement related to Listed Buildings and Conservation Area demolition

- 6.1 It is an immediate offence to demolish a Listed Building or undertake alterations that affect the character and appearance of Listed Buildings and to undertake unauthorised demolition in Conservation Areas. A fine of up to **£20,000** can be imposed for cases tried in the

Magistrates Court or an unlimited fine and/or a custodial sentence if tried in a higher court. Remedial works can be enforced through the service of **Listed Building Enforcement Notice and Conservation Area Enforcement notices**. There are again rights of appeal against these notices and the same penalties and powers to act in default are available as with general enforcement notices, as outlined above. As it is an immediate offence to undertake unauthorised works to Listed Buildings there are no separate stop notice powers. Prosecution action can be initiated or, where appropriate, an Injunction sought to restrain a breach.

7.0 Enforcement related to Protected Trees

7.1 As with Listed Buildings it is an immediate offence to fell, lop, or damage a tree protected by a Tree Preservation Order or any tree in a designated Conservation Area and similar penalties apply to those convicted of offences. There are powers for the Council to undertake remedial works to damaged trees and where a tree has been removed or has to be removed either as the consequence of an offence or due to accidents or storm damage the Council may serve a **Tree Replacement Notice**. There is a right of appeal to the First Secretary of State against such notices and the Council has default powers to enter on to the land to plant the trees required by the notice and then recover its costs.

8.0 Advertisement Controls

8.1 Planning control over advertisement displays are enforced in the first instance by prosecution in the Magistrates Court. The maximum fine for an illegal advertisement is **£2500** with a daily fine of up to 1/10 of the maximum fine for a continuing offence. Undesirable advertisements that have deemed consent granted by the Town and Country Planning (Control of Advertisements) Regulations can be removed by service of a **Discontinuance Notice** by the local authority. There is a right of appeal to the Secretary of State. It is an offence not to comply with the Discontinuance Notice once it is in effect, the same penalties as for illegal advertisements apply.

9.0 Property Adversely Affecting the Amenity of a Neighbourhood

9.1 **Section 215** of the Town and Country Planning Act provides local planning authorities with the powers to take steps to require that land, including buildings, are cleaned up when their condition adversely affects the amenity of an area. This power can be used against land that has been flytipped, severely overgrown land and gardens, gardens where old cars and domestic appliances are dumped and against run down and derelict buildings.

9.2 A notice made under Section 215 sets out the steps required to deal with adverse impact of the site and the timescales for compliance. There is a right of appeal to the Magistrates Court within 28 days of the service of the notice. If no appeal is lodged it then becomes an offence not to comply with the notice. Whilst the maximum fine on conviction is **£1000**, the power to undertake works in default is available with recovery of costs is available. There are parallel powers under **Section 79** of the **Building Act** to deal with ruinous and dilapidated buildings.

Kineholme Drive, Otley. Section 215 Notice issued for the overgrown garden and scrap vehicles/domestic appliances. Works undertaken in default to comply with the notice. S215 and S79 Building Act notices were issued for the condition of the house. Works were undertaken to comply with both notice. Otley Town Council Involved.

8 Woodhall Park Mount, Calverley. Car storage and sales business at unoccupied property undergoing renovation. Activity involving the parking of 40+ cars in a large garden, part covered by a TPO. Enforcement notice and Stop Notice authorised for service. Ward Councillor involved.

West End Lane and Layton Avenue. Garden extensions. Enforcement notices served and appeals dismissed. Works on going to comply with notices.

Moorland Crescent, Menston. House under construction. Enforcement Notice served for non compliance with approved plans. Works halted and height of house reduced and some further alterations undertaken to make development acceptable. Ward Councillor involved

Delph End, Gibraltar Road, Pudsey. Complaint received from ward councillors and site visit undertaken the same day. Number of gypsy caravans on site. PCN served and caravans removed within 2 weeks following negotiations.

49-53 Kirkgate, Otley Building in Conservation Area in a dangerous condition, extensive demolition taken place in the interests of safety. A planning application had been submitted for conversion to dwellings but withdrawn. Works started to rebuild the structure as 2 dwellings, halted and then recommenced. A Temporary Stop Notice served 14 November 2007 and works halted. Ward member involved.

Leys Lane Boston Spa. Formation of access road to agricultural land. Enquiry received from Parish Council 8/08/07 about excavations works and loads of hardcore being delivered to land in Green Belt. Site visited next day, established that roadway being constructed. Planning history checked and landowner traced. PCN served served 14 August 08. Works suspended. Meeting with owner and agent on 18/09. Explained why works were not "permitted development" on agricultural land, as claimed. Advised that a full planning application was required. Impact on landscape and protection of River Wharfe wash land would be issues. Warned that an enforcement notice would be served if breach not either regularised or resolved. Site checked during October, no change noted. Land owner decided to reinstate the land, works ongoing in November and fully completed in early 2008.