

**REPORT TO THE PLANNING COMMITTEE MEETING OF
18th July 2017**

Status: For information
Title: Planning Enforcement Update Report
Originator: Christine Zacharia Team Leader Planning Enforcement
Where from: n/a
Where to next: For information only

Planning Enforcement Portfolio Holder: Councillor Jo Brodrick

1 Purpose Report

1.1 This report on planning enforcement performance advises the Committee on the work of the planning enforcement service for the periods January to March 2017 (Quarter 4).

2 **Recommendation:**

2.1 **That the Committee notes the information contained in the report.**

3 Summary of Reasons for the Recommendation

3.1 To ensure that Committee are kept updated on the performance of the Council's planning enforcement service.

4 Impact on Communities

4.1 Enforcement is referred to in paragraph 207 of the National Planning Policy Framework (NPPF) 2012. The discretionary and proportionate nature of enforcement is stressed and states that; *"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control"*.

5 Key Facts

5.1 Performance Targets

5.2 All complaints and enquiries received by the Planning Enforcement Service are categorised as one of the following:

1. *Top Priority Cases* - where works are being carried out which will cause irreparable harm/damage.
2. *High Priority Cases* - where works or uses are causing a significant and continued harm to amenity, time sensitive breaches or development that compromise safety.
3. *Standard Priority Cases* – new structures or changes of use having limited degree of disturbance to local residents or damage to the environment and which do fall within the foregoing priority groups.

5.3 In order to assess whether the planning enforcement service is meeting its targets it is assessed monthly against local performance targets which include 4 main indicators. These are set out in Table 1 below:

Table 1 - Performance indicators

Indicator	Target
% of Planning Enforcement Notices served within 28 days of instruction(DM 10)	100%
% of Planning Enforcement Cases closed within 8 week of registration where no formal action is deemed necessary or appropriate (DM TP 108)	80%
% of Cases responded to within target date set out in Planning Enforcement Protocol Top priority cases – 1 working day High priority cases – 5 working days Standard priority cases – 10 working days (DM TP 109)	90%
% of Complainants updated on progress of planning enforcement investigations within 20 days of receipt of complaint (DM TP 111)	90%

5.4 A summary of the planning enforcement service data collated for the period January 2017 to March 2017 (Quarters 4) is set out in Table 2 below along with data covering April to December 2016 (Quarters 1, 2 & 3) the data shows that the service continually meets its targets.

Table 2 - Performance April – December 2016 (Quarters 1, 2 & 3) and January – March 2017 (Quarter 4)

Indicator	Q1	Q2	Q3	Q4	Outturn 2016/17
% of Planning Enforcement Notices served within 28 days of instruction during 2016/17 (100%)	100%	100% (1 notice served)	33.3% (7 notices served)	100% (6 notices served)	83.33%
% of Planning Enforcement Cases closed within 8 week of registration where no formal action is deemed necessary or appropriate (80%)	79.9%	78.8%	83.3%	82.36%	81.1%
% of Cases responded to within target date set out in Planning Enforcement Protocol (90%)	100%	99.2%	95.6%	99.2%	98.5%
% of Complainants updated on progress of planning enforcement investigations within 20 days of receipt of complaint (90%)	95.7%	91.6%	92.23%	89.63%	92.29%

5.5 For comparison, the previous quarter's data for April 2015 to March 2016 is set out in Table 3 below.

Table 3 Performance data Quarters 1, 2, 3 & 4 (Year 2015/16)

Indicator	Q1	Q2	Q3	Q4	Outturn 2015/16
% Enforcement Notices served within 28 days of instruction (100%)	100%	100%	100%	83.3%	95.83%
% Planning enforcement cases closed within 8 weeks of registration where no formal action is deemed necessary or appropriate (80%)	74.1%	82.7%	80.4%	81.6%	79.7%
% Cases responded to within target date set out in Planning Enforcement Protocol (90%)	94.83%	95.6%	99.3%	99%	97.2%
% of Complainants updated on progress of planning enforcement investigations within 20 days of receipt of complaint 90%	92.3%	93%	92.2%	91.9%	92.35%

5.6 Planning Enforcement Statistics

5.7 Table 4, below is a summary of enforcement statistics for Quarters 1, 2, 3 and 4, 15/16 & Quarters 1, 2, 3 and 4 16/17.

Table 4: Enforcement Statistics by Quarter

Months/Year	No. of new cases opened	No. of cases closed	No. of cases pending consideration older than 1 year	No. of cases pending consideration older than 6 months
15/16				
Q1	108	88	6	14
Q2	116	128	5	12
Q3	95	106	9	21
Q4	100	99	7	6
Totals 15/16	419	421	7 carried over	6 carried over
Months/Year				
16/17 (to date)				
Q1	118	112	8	5
Q2	108	116	7	4
Q3	98	117	9	7
Q4	113	98	4	3
Totals 16/17	437	443	4 carried over	3 carried over

It should be noted that some cases > 6 months and > 1 year are held in abeyance due to the necessity for scheduled monitoring; the submission of retrospective planning applications or are in the initial stages of formal action being taken by the service of an enforcement notice.

5.8 The figures show that in the last quarter (Q4), the number of open cases > 6 months and > 1 year old has dropped, and in addition is lower than the figures for 15/16. The number of new cases opened and closed is slightly higher than the previous same 15/16 quarters. In summary, the figures indicate that the planning enforcement service is meeting demands for its service and coping with the increase in cases received.

5.9 The types of breaches investigated during the Quarters 1, 2, 3 & 4 of 16/17 is summarised in Table 5 below. The table shows a consistency in some types of breaches reported and investigated through the quarter's e.g. non compliance of conditions. There is a marked increase in the number of advert breaches investigated in Quarter 3, due to the Council's proactive initiative to remove unlawful advertisements on the highway, this dropped in Quarter 4 which could be an indication that the Council's initiative has been effective in reducing unlawful adverts in the District.

Table 5: Types of breaches investigated 2016/17

Breach type Year 16/17	Q1	Q2	Q3	Q4	Totals 2016/17 (% of all cases)
Advert	8	7	21	9	45 (10.29%)
Condition non compliance	25	35	31	32	123 (28.14%)
Change of use	24	22	14	17	77 (17.62%)
Unauthorised Development	43	25	20	37	125 (28.6%)
Hedge removal	2	2	4	1	9 (2.05%)
Unauthorised works to trees	5	3	3	4	15 (3.43%)
Untidy Land	8	14	4	12	38 (8.69%)
Works in a Conservation Area	3	0	1	1	5 (1.14%)

5.10 An overview of current high profile enforcement cases is attached at Appendix 1 of this report, (exempt and not available in public copies of this agenda). It should be noted that the casework summarised in the overview is supported by further extensive background work, much of which is confidential due to its nature as part of current enforcement investigations.

5.11 Notices Served

5.12 During the period January to March 2017 (Q4), 6 notices were served.

In summary these relate to:

- Land at Winnington Barns, Palmers Lane, Goadby, Leicestershire, LE7 9GP – planning enforcement notice served for unauthorised change of use of the Land from agricultural use to storage and distribution use (Class B8) – **No appeal submitted. Retrospective planning application submitted for unauthorised use (planning ref: 17/00519/FUL)**
- Land at Winnington Barns, Palmers Lane, Goadby, Leicestershire, LE7 9GP – Breach of Condition notice served for Non Compliance with Condition 2 (15/01784/FUL) relating to storage of materials outside of existing buildings - **No appeal submitted. Retrospective planning application submitted for variation of condition 2 (planning ref: 17/00520/VAC)**
- 13 Knoll Street, Market Harborough, Leicestershire LE16 9QR- planning enforcement notice served for the unauthorised erection of a first floor rear balcony – **No appeal submitted. Date for compliance i.e. removal of balcony 20.04.2017. Notice not complied with.**

- Land at 2 Beeby Road, Scraptoft, Leicestershire, LE7 9SG – planning enforcement notice served for unauthorised use of an outbuilding sited within the residential curtilage of the Land as a self contained unit of accommodation – **Appeal submitted**
- Land at Amos Lodge, Ashby Road, Ullesthorpe, Leicestershire, LE17 5DN – planning enforcement notice served for unauthorised use of the land for the storage of haulage vehicles – **Appeal submitted. Notice likely to be withdrawn by the Council following the subsequent issue of a certificate of lawful use for the uses set out in the notice. The applicant provided significant evidence with the certificate application (ref: 17/00329/CLU) to demonstrate that on balance the use of the land for storage of haulage vehicles has persisted continuously for 10 years.**
- 31 High Street, Lutterworth, LE17 4AY – listed building enforcement notice served for the unlawful execution of alterations and works to the building namely the unauthorised installation of white double glazed UPVC windows to the 1st and 2nd floors - **No appeal submitted. Compliance due by 23.09.2017.**

5.13 Ongoing appeals

- Land at Halstead House Farm, Oakham Road, Halstead, Tilton on the Hill – Planning enforcement notice for the unauthorised change of use of land from agriculture, residential, wedding events/events, (Class D2) with ancillary car park and office to a mixed use of agriculture, residential, wedding events/events (Class D2), holding of civil ceremonies (sui generis) with ancillary office and car park – **Public Inquiry Scheduled 12th & 13th September 2017.**
- Land at Keythorpe Valley Farm, Crackbottle Road, Keythorpe, Leicestershire, LE7 9XG – Planning enforcement notice for the unauthorised material change of use of the land from agricultural use to a mixed use of agricultural use and use as a salvage yard, and storage (B8) - **Hearing scheduled 22 August 2017**
- Land and buildings at Vale Cottage, Frolesworth Road, Leire, Leicestershire, LE17 5HP (3 planning enforcement notices served on separate parcels of land but within the holding of Vale Cottage).
 - i. Without planning permission the erection of two single storey detached outbuildings to provide self contained residential units.
 - ii. without planning permission, the material change of use from mixed agricultural/equestrian use to mixed agricultural/equestrian and storage use (Class B8), including the erection of 2 buildings. (Land at rear of Vale Cottage).

iii. Without planning permission, the change of use of the Land from mixed agricultural and equestrian use to the use for B8 storage use (of cars and lorries and other items unrelated to agriculture and equestrian uses).

Appeal submitted on all 3 of the above notices - likely to be heard by way of a hearing or public inquiry. Dates yet to be set by Planning Inspectorate.

5.14 Appeal decisions:

- Disused Quarry, Oakham Road, Tilton On The Hill, Leicestershire – planning enforcement notice for unauthorised change of use of agricultural land for siting of storage container (for B8 use).

Appeal dismissed and enforcement notice upheld, and planning permission refused. In summary the Inspector found conflict with policies CS11 (promoting Design and Built Heritage) and CS17 concluding that the development had an unacceptable impact on the character and appearance of the countryside (Appeal decision attached at Appendix 2).

6. Legal Issues

- 6.1 There are no direct legal implications arising from the report itself but legal resources will be required to progress any individual cases reported.

7. Resource Issues

- 7.1 There are direct resource implications arising from action being taken for injunctive proceedings. These are currently within budget and are recoverable costs if the Council are successful in cases of being granted an Injunctive Order by the court.

8. Equality Implications

- 8.1 The primary objective of the planning enforcement function is to remedy harm to public amenity resulting from unauthorised development. The Council will not take disproportionate action and will seek to redress any issue through the most appropriate means. Under the general principles of the Council's equality plan officers will have due regard of equality impacts during any investigation and before a decision is made.

9. Impact on the Organisation

- 9.1 None identified.

10. Community Safety Implications

10.1 None identified.

11. Carbon Management Implications

11.1 None identified.

12. Risk Management Implications

12.1 The integrity of the Development Management process depends on the Councils' readiness to take enforcement action when it is necessary to do so, in order to remedy the undesirable effects of unauthorised activity. Failure to take enforcement action when it is clearly required would damage the reputation of the Council's Planning Enforcement Service.

13. Consultation

13.1 The Portfolio Holder has been consulted on the content of this report and the accompanying Appendices.

14. Options Considered

14.1 Taking effective enforcement action for a breach of planning control is important as a means of maintaining public confidence in the planning system. However the Council's decision to take enforcement action is discretionary and the Council will act proportionately in responding to suspected breaches of planning control.

15. Background Papers

15.1 None.

16. Enforcement Appeal Decisions

16.1 Attached.

Previous report(s): None

Information Issued Under Sensitive Issue Procedure: n/a

Ward Members Notified: N

Appendices:

Appendix 1 Enforcement Cases and Proposed Injunctive Proceedings (exempt)

Appendix 2 Enforcement appeal decision –Disused Quarry, Oakham Road, Tilton on the Hill