

REPORT FOR INFORMATION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	25 NOVEMBER 2014
SUBJECT:	PLANNING ENFORCEMENT
REPORT FROM:	DEVELOPMENT MANAGER
CONTACT OFFICER:	DAVID MARNO – DEVELOPMENT MANAGER
TYPE OF DECISION:	COUNCIL (NON KEY DECISION) COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	This Report provides statistical information on Enforcement activity between 1 st July 2014 and 30 th September 2014. It also provides statistical information and a comparison with other Planning Authorities Enforcement activity between 1 st April 2013 and 31 st March 2014.
OPTIONS & RECOMMENDED OPTION	The Committee is recommended to note the Report
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? No
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management N/A
Statement by Executive Director of Resources:	N/A
Equality/Diversity implications:	No (see paragraph below)
Considered by Monitoring Officer:	Yes Comments

Wards Affected:	ALL
Scrutiny Interest:	N/A

TRACKING/PROCESS

DIRECTOR:

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 This report presents a brief analysis of Enforcement performance and activity for the period between 1st July 2014 and 30th September 2014 and includes table 1 (below) showing a statistical analysis of performance over that period.
- 1.2 All Enforcement Notices served and Actions taken are considered against the provisions of the Human Rights Act 1998. In taking account of whether to serve an Enforcement Notice or take Action, which is a discretionary power afforded to Councils under the Town and Country Planning Act 1990 (as amended), consideration is taken as to whether the individual's rights are affected and whether it is expedient to serve such a Notice or take Action against the individual.
- 1.3 Any Enforcement Notice served is considered as to whether it is expedient to do so in accordance with the Council's adopted Unitary Development Plan and the National Planning Policy Framework Guidance.

Table 1 provides a detailed breakdown of the number and type of notice issued and other actions such as prosecutions during the quarter period. It also includes a performance standard in terms of the speed of the responses to initial site visits having been carried out.

Table 1

	Period 1/07/14 to 30/09/14
Number of Complaints received	125
% where initial site visit within 10 working days	96% (average time to visit 4 days)
Number of complaints resulting in a breach of Planning Control	59 (47% of complaints resulted in a breach of planning control)
Number of Enforcement Notices served	4
Number of Stop Notices served	0
Number of Breach of Condition Notices served	6
Number of Section 215 Untidy land/building Notices served	0
Number of Temporary Stop Notices served	0
Number of Planning Contravention Notices served	6
Number of Injunctions served	0
Number of Prosecutions made	0
Number of Prosecutions referred to Legal for Prosecution	0
Number of Formal Cautions issued	0
Number of Works in Default actions taken	0
Number of High Hedges Remedial/Tree Replacement Notices served	0

2.0 CURRENT STAFFING LEVELS AND WORKING ARRANGEMENTS

- 2.1 The Enforcement Team currently comprises of a Senior Planning Enforcement Officer and a Planning Enforcement Officer, who are employed full time. The Officers deal with complaint cases on a Borough wide basis, in accordance with the Council's Customer Charter for the Planning Enforcement Service.

3.0 WORKLOAD/COMPLAINT CASES RECEIVED AND TRENDS IDENTIFIED

- 3.1 Table 1 above sets out statistical information for the period 1st July to 30th September 2014.

Members may be interested to note that during this period, we received 125 complaints, of which 59 were breaches of Planning Control. That is slightly under half of all complaints within the period resulting in a breach of planning control. The number of breaches remains at a fairly high level. The vast majority of these cases in this period were again

resolved without recourse to formal Enforcement Action, having been resolved by other means such as negotiation, or where appropriate, the invitation of a planning application.

4.0 PROSECUTIONS

- 4.1 It has also been noted that the trend of Enforcement Notices not being complied with, within the required compliance periods is continuing, resulting in a continuing need to prepare prosecution cases for the Legal Team to ensure that such Notices *are* complied with. Prosecutions are made as a last resort following written requests for compliance with notices.
- 4.2 Members will be interested to know of a recent successful prosecution for the failure to comply with an Enforcement Notice. The case in question, concerns a hard-standing access track being constructed through a field in the Green Belt, off Helmsore Road, Holcombe. The defendant pleaded not guilty at the first Court hearing. This meant that a trial had to be set for a later date. The defendant's case was that he never received the Enforcement Notice, as such, the Enforcement Team needed to prove that he did. Further investigation resulted in obtaining a formal witness statement from the defendant's former planning agent, which confirmed the defendant *did* receive the enforcement notice not least, because he gave a copy of the notice to his agent. Subsequently, at the beginning of the trial, the defendant changed his plea to guilty.
- 4.3 The defendant was fined £1,800, ordered to pay a victim surcharge of £120 (the maximum allowed) and £2,500 for the Council's costs. A total financial penalty of £4,420.

5.0 FORMAL NOTICES SERVED/ACTIONS TAKEN

- 5.1 During the quarter period, the number of formal Notices served totalled 16, covering a wide variety of breaches of planning control, including failure to comply with planning conditions, changes of use land and the erection of buildings/structures.

Two appeals against 2 Enforcement Notices were also received within the quarter period.

6.0 CONCLUSION

- 6.1 The number of Notices being served is remaining at a fairly high level. The majority of cases continue to be resolved without recourse to formal action.
- 6.2 The Enforcement Section is continuing to encounter high levels of cases of non-compliance with enforcement notices served, which is resulting in more prosecutions to secure compliance. The need to thoroughly investigate complaints, draft and issue the high numbers of notices and preparing prosecution files for failure to comply is continuing to have an impact on the workload of the Enforcement Team. However, it

nevertheless demonstrates the Council's commitment to appropriate enforcement action when it is expedient to do so.

- 6.3 The service provided is primarily a reactive one in that it responds to complaints received from members of the public, which is a reasonable expectation. However there is a process of monitoring development and the fostering of good working relationships between departments, Councillors and members of the public is a key part of this.
-

Contact Details:-

David Marno
Development Manager
Environment and Development Services
3 Knowsley Place
Duke Street
Bury BL9 0EJ

Tel: 0161 253 5291

Email: d.marno@bury.gov.uk