

REPORT FOR INFORMATION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	20th December 2016
SUBJECT:	PLANNING ENFORCEMENT
REPORT FROM:	HEAD OF DEVELOPMENT MANAGEMENT
CONTACT OFFICER:	DAVID MARNO – HEAD OF DEVELOPMENT MANAGEMENT
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 Planning Enforcement activity between 1 st July 2016 and 30 th September 2016 ('the period').
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

This report presents a brief analysis of Enforcement performance and activity for the period between 1st July 2016 and 30th September 2016 and includes table 1 (below) showing a statistical analysis of performance over that period.

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.

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, National Planning Policy Framework and National Planning Policy 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 1/07/16 to 30/09/16
Number of Complaints received	138
% where initial site visit within 10 working days	97% (average time to visit 3.8 working days)
Number of complaints resulting in a breach of Planning Control	70 (49% of complaints resulted in a breach of planning control)
Number of Enforcement Notices served	0
Number of Stop Notices served	0
Number of Breach of Condition Notices served	12
Number of Section 215 Untidy land/building Notices served	0
Number of Temporary Stop Notices served	0
Number of Planning Contravention Notices served	2
Number of Injunctions served	0
Number of Prosecutions made	0
Number of Prosecutions referred to Legal for Prosecution	1
Number of Formal Cautions issued / Interviews Under Caution	0
Number of Works in Default actions taken	0
Number of High Hedges Remedial/Tree Replacement Notices served	0

2.0 ISSUES

CURRENT STAFFING LEVELS AND WORKING ARRANGEMENTS

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

Table 1 above sets out statistical information for the period 1st July to the 30th September 2016.

During this period, we received 138 complaints that required a formal investigation. Out of the 138 complaints 70 resulted in breaches of planning

control following investigation. 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 planning applications. The number of complaints where an initial site visit was carried out within 10 working days remains high at 97%, with the average number of days taken to make an initial site visit being 3.8.

3.1 FORMAL NOTICES SERVED/ACTIONS TAKEN

During the quarter period, the number of formal actions carried out totalled 15, with 12 of those being Breach of Condition Notices, 2 being Planning Contravention Notices and a prosecution file referred to the Legal Department for further action.

Land at Prestfield Road, Whitefield: Update – Members will be aware that planning permission was granted at the Planning Control Committee for the construction of 34 apartments and 1 detached dwelling, subject to the developer entering into a Section 106 agreement to commute a sum of money towards recreation provision. The developer however started construction of the apartments and dwelling before any agreement was finalised and before planning permission was issued. A formal Temporary Stop Notice was served on the developer which required all construction works to cease. Following service of the notice the developer then entered the agreement and commuted the required monies. Planning permission was then issued and we then served 10 Breach of Condition Notices for the failure to comply with pre-commencement conditions. The Planning Enforcement team are happy to report that, following service of the notices and the threat of prosecution, the required information has been submitted and all but one of the conditions part discharged. We are in positive negotiations for the remaining condition relating to drainage.

24 Holyrood Avenue, Prestwich – This case relates to a complaint received in July 2015 regarding the untidy condition of an empty property. Upon investigation it was found to be in a poor state and its condition was adversely affecting the amenity of the area, it had been fly tipped, had broken down spouts & guttering, rotten windows and doors, been the subject of graffiti, had flaking paint and was severely overgrown with vegetation. A Section 215 (Untidy Land) Notice was issued to the owner after no co-operation to remedy the condition of the site. The owner failed to comply with the Notice, despite, a number of warning letters he was eventually prosecuted in August 2016, he didn't appear in Court and was convicted in his absence and fined £660, had to pay the Council's costs of £1842.50 and pay a Victim Surcharge of £66. He later applied to the Magistrates Court for the case to be re-opened, this was rejected. He then applied to the Crown Court and again the claim was also rejected. However, after the prosecution and the threat of further action the owner finally complied with the Notice (and even exceeded the requirements) and the property has externally been fully refurbished. Please see Appendix 1 for the before and after photographs of the property.

4.0 CONCLUSION

The period has seen a large number of Breach of Condition Notices served to, mainly, tackle a problem site. This has ensured the developer is now complying with planning conditions which the Planning Control Committee approved in the grant of planning permission. The number of complaints that result in a breach of planning control remain high with 49% of the complaints resulting in a breach following formal investigation. The majority of cases however continue to be resolved without recourse to formal action. On average initial site visits were carried out within 3.8 days.

The need to thoroughly investigate complaints, draft and issue the formal notices, monitor existing enforcement notices served for compliance, prepare appeal statements and prepare prosecution files for failure to comply is continuing to have a big impact on the workload of the Enforcement Team.

The service provided is primarily a reactive one in that we respond to complaints received from members of the public.

Appendix 1 – 24 Holyrood Avenue, Prestwich: Before and After Photographs

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Appendix 1: Before and After Photographs – 24 Holyrood, Prestwich

Before: June 2015



After being prosecuted (August 2016): - Some improvement but Notice not fully complied with i.e. rotten windows, doors, flaking paint and broken/missing downspouts and guttering.



Present Day: Fully refurbished with new windows & door, new downspouts, external repainting and boundary fence erected.

