

REPORT FOR INFORMATION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	December 2023
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 Enforcement activity between 1 st January 2023 to 1st December 2023
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 January 2023 and 1st Dec 2023 and includes table 1 (below) showing a statistical analysis of performance over that period.

1.2 Development without planning permission

Constituents often express concern about development taking place without the appropriate planning permission.

Carrying out development without planning permission is generally not a criminal offence (unless in relation to making changes to listed buildings and advertisements, which operate under separate regimes). Failure to comply with an enforcement notice, however, is a criminal offence. An enforcement notice is a notice requiring compliance with planning consent. If the notice is upheld, the penalty for failure to comply is a fine of up to £20,000 on summary conviction or an unlimited fine on indictment.

1.3 Enforcement action

Enforcement action is discretionary and local planning authorities are told to act in a proportionate way in responding to suspected breaches of planning control. The National Planning Policy Framework states that enforcement can be important for maintaining public confidence in the planning system, but enforcement action is discretionary and must be proportionate. Detailed information about planning enforcement powers is given in the online Planning Practice Guidance on ensuring effective enforcement. For example, a local planning authority may decide not to take enforcement action if it believes that a development would have been granted planning permission.

There are often complaints about lack of enforcement action. Such complaints may be taken to the Local Government and Social Care Ombudsman (LGSCO),

although this step can only be taken once the local planning authority's own complaints procedures have been completed. More information about this process is available from the [LGSCO website](#).

- 1.4** 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 01/01/23 to 01/12/23
Number of Complaints received	458
% where initial site visit within 10 working days	88.50% (average time to visit 5 working days)
Number of complaints resulting in a breach of Planning Control	246
Number of Enforcement Notices served	9
Number of Stop Notices served	0
Number of Breach of Condition Notices served	0
Number of Section 215 Untidy land/building Notices served	2
Number of Temporary Stop Notices served	2
Number of Planning Contravention Notices served	0
Number of Injunctions served	0
Number of Prosecutions made	1 pending
Number of Prosecutions referred to Legal for Prosecution	0
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
Total Number of Notices/Actions	15

- 1.5 Of the above Notices/Actions 4 have made appeals to the Planning Inspectorate (PINS) and we are awaiting the adjudications from PINS. 5 notices are current and have yet to reach a conclusion, in terms of time to comply. The remainder have been concluded in that there has been compliance with the relevant Notice or Action.
- 1.6 In 2021 there were a total of 5 Notices/Actions and in 2022 there were 6. All but one of these were complied with. One went to Court but was settled prior to a formal hearing. This year's figures may be seen as high when compared with previous years. Generally speaking, negotiations with 'transgressors' have resulted in alterations or applications being made.

When looking at neighbouring authorities the department for Levelling Up, Housing and Communities statistics show the number of Notices/Actions as;

Bolton	12
Bury	15
Manchester	34
Oldham	9
Rochdale	5
Salford	0
Stockport	54
Tameside	5
Trafford	24
Wigan	2

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 January 2023 to the 1st December 2023.

We have received 458 'complaints' between the above dates which compares with 414 in 2021 and 416 for 2022, for the same time periods. The types of complaint are categorised in table form below.

3.2 It should be noted that complaints that have been logged towards the end of the month are still being investigated as we are awaiting responses from owners.

Where a site visit is required, we are currently visiting sites within 10 working days.

It should be noted that there are still delays in some areas following the Covid pandemic. Courts, Planning Inspectorate and Land Registry to name three, can have an impact on the conclusion of investigations or actions.

We still have a number of pending notices. Negotiations with the planning department have been undertaken and are awaiting information that can allow the planning matters to be discharged. We continue to monitor these cases.

4.0 Complaints Categorisation

4.1 The 458 complaints we have received between January 1st 2023 to the 1st of December 2023 can be largely categorised as follows (The previous year is within the brackets);

Untidy land –	53 (43)
Outbuildings -	103 (87)
Breach of Conditions –	82 (76)
Fences/Decking –	46 (38)
Not built in Accordance with approved Plans	47 (51)
Trees –	12 (24)
Business –	66 (52)
Change of Use –	49 (32)

5.0 FORMAL NOTICES SERVED/ACTIONS TAKEN

- 5.1 As previously stated, we have a number of Notices that are held in abeyance due to applications being made to the Planning department that are being currently being considered.

6.0 Enforcement Appeal Decisions

There are, currently, 4no Enforcement Appeal Decisions that are being considered by the Planning Inspectorate

These are;

- a) Enforcement Notice to demolish a house which has been wrongly sited (forward of the approved building line) and also a further storey added. The Planning Department would not support this.
- b) Enforcement Notice on a property which was not built to the approved plans. Effectively, the owners have added another storey to the building and have also added a balcony. The Planning Department would not support this.
- c) Enforcement Notice relating to extensive decking. This could not be supported by the Planning Department due to the area covered and the height.
- d) Enforcement Notice relating to the removal of buildings erected on land within a Conservation Area.

7.0 CONCLUSION

- 7.1 The majority of cases logged in the past 11 months have generally been dealt with via negotiation and applications being submitted to the Development Management Team. Others, when looked into, have complied with Permitted Development Rights and there has been no further action. There are three or four cases currently that may require more formal action. Action on those cases where notices have been issued and held in abeyance, will be dependent on planning application outcomes.
- 7.2 The need to thoroughly investigate complaints, draft and issue the formal notices, monitor existing enforcement notices served for compliance, prepare appeal statements is continuing to have a significant impact on the workload of the Enforcement Team, however, this is the nature of the work.
- 7.3 The service provided is primarily a reactive one in that we respond to complaints received from members of the public. It is recognised that the workload levels are such that the Enforcement Charter reply times are not being hit in some minor cases but where significant breaches arise, these are dealt with well within the Charter reply times.

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