

REPORT FOR INFORMATION

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	21st April 2015
SUBJECT:	PLANNING ENFORCEMENT
REPORT FROM:	ASSISTANT DIRECTOR OF RESOURCES AND REGULATION
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 the annual statistical information on Enforcement activity for the year between 1 st April 2014 and 31 st March 2015
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 for the year 2014/15 and includes a table (below) showing a comparative statistical analysis of performance over the past five years.

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 Government Guidelines of Circular 10/97 and National Planning Policy Framework Guidance

The table below includes reference to two performance standards in terms of the speed of the responses to a) site visits and b) cases being closed.

Table indicating comparisons with previous years

	2010/11	2011/12	2012/13	2013/14	2014/15
Number of Complaints received	630	637	562	636	492
% where initial site visit within 10 working days	97%	95%	88%	92%	94%
% of breaches where Enforcement Action is taken or the matter resolved within 13 weeks	75%	75%	72%	80%	82%
Number of Enforcement Notices served	37	17	17	17	13
Number of Stop Notices served	0	0	0	0	0
Number of Breach of Condition Notices served	14	5	1	1	11
Number of Section 215 Untidy land/building Notices served	16	19	6	7	8
Number of Temporary Stop Notices served	4	5	5	2	2
Number Planning Contravention Notices / Section 330 Notice served	33	49	32	25	20
Number of Injunctions served	0	0	0	0	0
Number of Prosecutions made	13	17	19	18	1
Number of Formal Cautions issued	0	0	0	0	0
Number of Works in Default actions taken	1	0	0	0	0
Number of High Hedges Remedial Notices served	0	0	2	0	0
Total of Notices and actions taken	118	112	82	70	55

2.0 ISSUES

CURRENT STAFFING LEVELS AND WORKING ARRANGEMENTS

The Enforcement Team currently comprises 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. Members will be aware that the former Senior Planning Enforcement Officer took Early Retirement on the 30th May 2014, which reduced the size of the team down to two.

3.0 WORKLOAD/COMPLAINT CASES RECEIVED AND TRENDS IDENTIFIED

The table above sets out statistical information for the past five years.

Members may be interested to note that during the period 2014/15, we received 492 complaints.

This period saw a drop in the number of cases received, this may, in part, be due to the department introducing a "screening process" for certain complaints before they are formally logged as a Enforcement case by the Technical Support Team, other than cases which may clearly require a full investigation including a site visit etc. The purpose of the screening is to reduce Officer time in carrying out full investigations where they are not needed, for example, where a complaint is not a planning matter (e.g should be dealt with by another department), it is clearly 'permitted development', not development or it's a civil matter for instance. The screening process does require a level of time and resources by the Enforcement Team where they need to carryout desk based research, make phone calls or send emails to the complainant and advise or request further information. This has reduced the number of cases unnecessarily being logged for a full investigation.

Of the 492 complaints logged for a full investigation the vast majority of these cases in this period were resolved without recourse to formal Enforcement Action. Members will be interested to know that 82% of all cases this period were resolved or Enforcement Action taken within our 13 week performance indicator period, this is the highest level over the last 5 years. Other means of resolution include negotiation, or where appropriate, the invitation of a planning application.

There has been significant drop in the number of prosecutions made during the period compared to previous years, due to notices being complied with through negotiation and the threat of prosecution. For example, taking the total number of enforcement notices, breach of condition notices and temporary stop notices served within this period (excluding 6 notices those which are still within their respective compliance periods) 14 out of the remaining 27, that's 52%, have been complied with without the need for prosecution and some others are nearly or partly complied with.

Members will also be interested to note that during the period 4 separate appeals against 4 of the 13 Enforcement Notices served were made, these were determined by the Planning Inspectorate. The Enforcement Team were 100% successful and the 4 appeals were all dismissed. Some Enforcement appeals can be quite complicated but even relatively simple ones take time and resources to prepare appeal statements, obtain supporting evidence etc. However the risk of an appeal is an inevitable part of serving Enforcement Notices.

Compared to the previous 2013/14 period, the following trends have also been noted:

- i. The number of complaints logged has dropped from 636 to 492.
- ii. The percentage where initial site visits were made within 10 working days has increased from 92% to 94%, making it an average of 4 working days to make an initial site visit.
- iii. There has been a large increase in the number of Breach of Condition Notices served, from 1 last period to 11 this period, to ensure planning conditions are adhered to.
- iv. There has been a significant reduction in the number of prosecutions made.
- v. There has been small increase in the total number of formal notices issued, from 52 last period to 55 this period.

4.0 FORMAL NOTICES SERVED/ACTIONS TAKEN

During the past 12 months a total of 55 formal Notices having been served. Examples of very successful outcomes during this period include:

Euro House, 30-34 Walmersley Road, Bury

- This was a severely dilapidated property at the bottom of Walmersley Road, just outside the town centre. We issued a Section 215 (untidy land) Notice in April 2014 and requiring significant external works to be carried out to remedy the condition of the building. The Notice was initially not complied with but due to negotiation and a short extension of time the building was fully restore, without the need to take prosecution proceedings. See below before and after photographs in Appendix 1 attached.

Former Peel Health Centre, Angouleme Way, Bury

- This building, located in a prime town centre location adjacent to Bury Collage was in a poor and untidy condition, including graffiti, fly tipping, temporary fencing and overgrown vegetation. A Section 215 Notice was issued to remedy its condition. Again, the Notice was initially not complied with but due to negotiation and a short extension of time the building the notice was fully complied with, without the need to take prosecution proceedings. See below before and after photographs in Appendix 1 attached.

Land at The Barn, Higher Tops Farm, Moor Road, Holcombe

- This site is in a remote, rural location on Holcombe Hill, within the Green Belt, West Pennine Moors and Special Landscape Area. The owner constructed, without planning permission, 200 metre long hard-surfaced access road leading from Helmsore Road to a stables building and the dwelling on Moor Road. An Enforcement Notice was issued requiring the removal of the access track. Despite warnings and after a number of

failed planning applications the Enforcement Notice was still not complied with. The Council commenced prosecution proceedings for the failure to comply with the Enforcement Notice and the defendant pleaded not guilty, on the basis that he never received the Enforcement Notice, a trial date was set for the 31st October 2014. Due to further investigation the Council was able to obtain evidence that the defendant did receive the Enforcement Notice and as a result of this the defendant changed his plea to guilty at the beginning of the trial. He was fined £1,800, ordered to pay a £120 victim surcharge (the maximum) and pay £2,500 towards the Council's costs, a total financial penalty of £4,420. The owner is now well underway with works to comply with the notice.

27 Hazel Road, Whitefield

- This case relates to the installation of a steel staircase and balcony at the rear of the property, the staircase is used to access a flat at first floor level. Following the refusal of a retrospective planning application, and Enforcement Notice was served requiring the remove of the staircase and balcony. The recipient of the Notice appealed the refusal but this was subsequently dismissed in February 2015, negotiations have since taken place and the owner is now underway with works to comply with the notice.

5.0 CONCLUSION

The number of Notices being served and formal action being taken is remaining at a high level. The majority of cases continue to be resolved without recourse to formal action.

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

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Appendix 1

Euro House, 30-34 Walmersley Road, Bury – Before and after photographs



Former Peel Health Centre, Bury – Before and after photographs



