

PLANNING COMMITTEE – 30 MARCH 2021

QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 3rd November 2020 which highlighted planning enforcement performance during the second quarter of 2020/21. This report relates to the third quarter 1st October to the 31st December 2020 and provides an update on cases where formal action has been taken. It also includes case studies which show how the breaches of planning control have been resolved through negotiation.

It should be noted that due to periods of national and local lockdowns due to Covid-19, response times for visits and compliance periods for remedial works have been affected. Members will also note that Officers have received more cases than in previous years and achieved positive results despite these challenges.

This report presents a snap shot on the general volumes of cases received and dealt with and shows an overview of the enforcement activity compared to previous quarters;

Chart 1 demonstrates the numbers of cases received by the enforcement team in comparison to those that have been closed. Members will note the positive trend that has been experienced over the Q3 period following the increase in the enforcement resource. The chart shows a continuing progressive increase in the number of investigations that have been closed in comparison to those received/ opened and demonstrates a clear return on the work of officers despite the challenges presented by the ongoing Covid situation and the difficulties posed to resolving investigations.

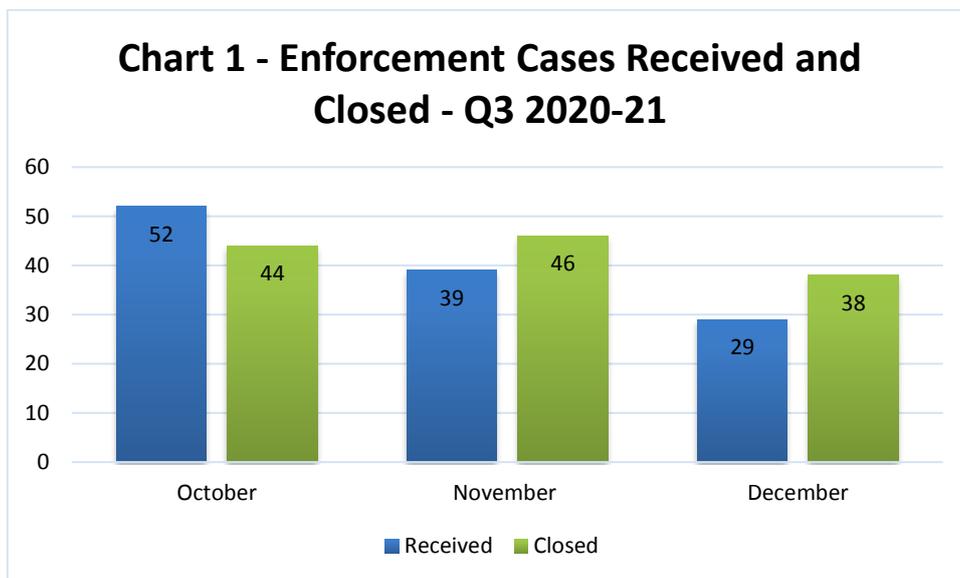
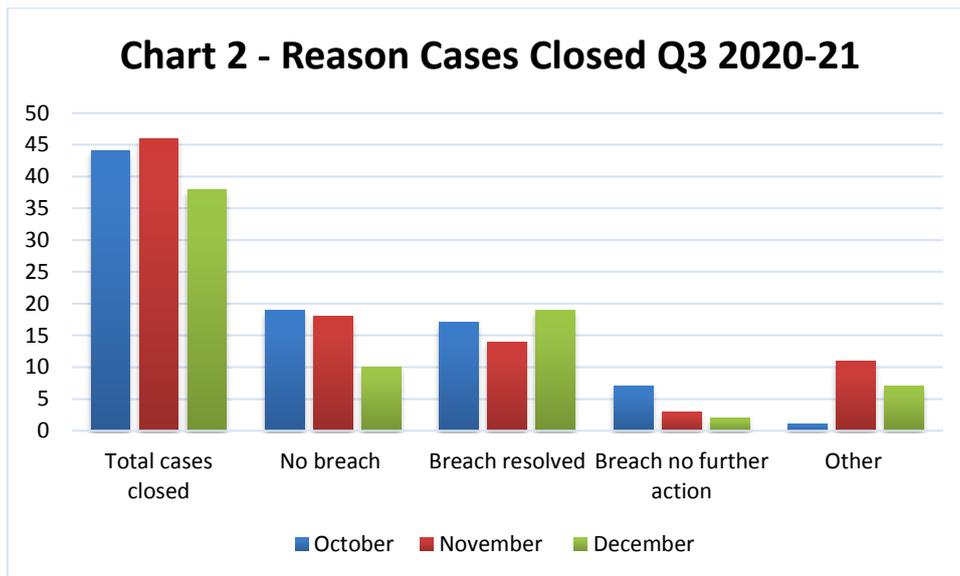
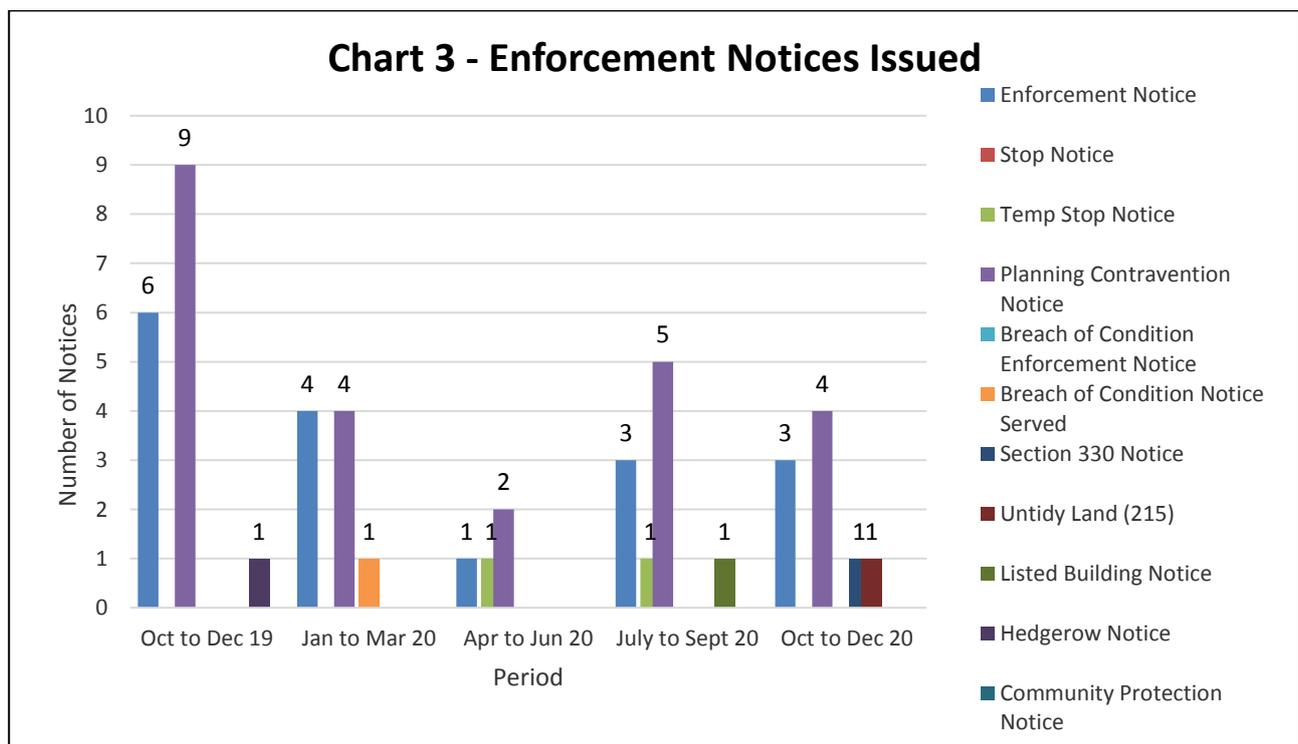


Chart 2 represents the reason that enforcement cases have been closed. Members will note the positive trend of the number of cases having been closed due to breaches having been resolved (this can include notices having been complied with, breaches resolved via negotiation with contraveners and planning permission having been granted retrospectively). The chart includes those cases that have been closed for ‘other’ reasons. These include duplicate cases that have been created for the same breach and cases closed pending further action (such as we are awaiting compliance with a notice which may have a long compliance period). It must be noted that a system has been put in place to ‘pick’ these cases up again at a later date to check for compliance or possible further action.



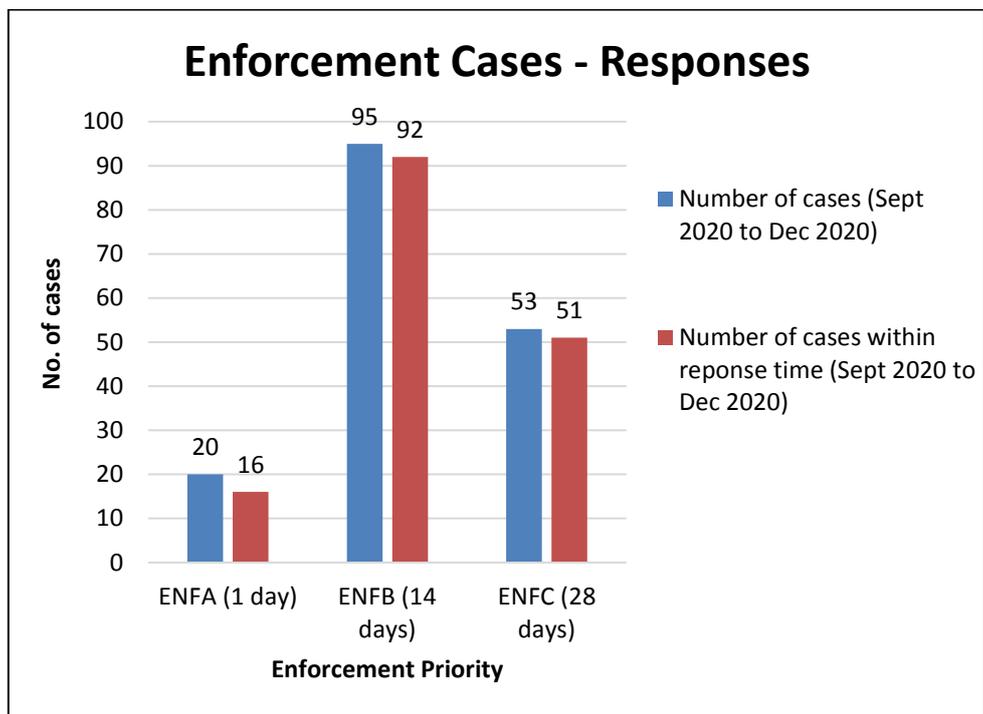
Members will note from chart 3 that the overall number of notices issued has reduced slightly in comparison to Quarter 2. However, as noted within Chart 2, the team has successfully managed to resolve an increased number of enforcement cases during Q3. As Members will be aware from the Planning Enforcement Plan (PEP), the aim of planning enforcement is to resolve the breach of planning control and that the issue of a notice should be a last resort and not used for punitive purposes. As such it is therefore considered that the figures being presented to Members, when taken as a whole, present a positive trend.



In addition Members will be aware that in September the PEP was adopted. As well as setting out how the enforcement service will operate and what Members and the public can expect from the service, the PEP also put in place a system of case prioritisation which encompassed targets for initial investigations to take place.

Members will note that the target for initial action has been met in 94.6% of investigations over the Q3 period. Whilst it is hoped that Members will agree that this is a significant achievement for the

enforcement team, in order to try and achieve full compliance, measures have been put in place for all members of the team to be made aware of priority A cases when received (some targets were missed due to officers being on leave) and regular reviews of cases have been designed so as to pick up those remaining priority B & C cases.



Appeal Outcomes in Quarter 3

18/00036/ENF – ‘Stable Yards’, Winthorpe Road, Newark – This case relates to the unauthorised gypsy and traveller caravan site which was established without the grant of planning permission in February 2018. Members will recall that the Planning Inspectorate originally upheld the Council’s two Enforcement Notices in April 2019.

The Planning Inspectorate’s decision was appealed to the High Court by the owners of the land, and the Inspectorate’s decision quashed in October 2020 on account of the Inspector not having had satisfactory regard for the need of the Local Planning Authority’s capacity to meet a 5-year supply of deliverable sites.

The Matter has returned to the Planning Inspectorate to re-determine the Enforcement Notices served by the LPA in February 2018 and November 2018. We await further instruction on when this process will commence.

SCHEDULE B. FORMAL ACTION TAKEN (1st October to 31st December 2020)

Schedule B provides a more detailed position statement on formal action (such as enforcement notices served) since the previous performance report was brought before Members. This section does not detail Planning Contravention Notices served.

Enforcement Ref: 20/00205/ENF

Site Address: Manor Cottage, Beck Street, Thurgarton, NG14 7HB

Alleged Breach: The erection of a means of enclosure adjacent to the highway measuring more than 1 metre in height

Date Received: June 2020

Action To Date: Enforcement Notice Served

Background: A considerable length of wall has been erected around the boundaries of Manor Cottage, a prominent property within the Thurgarton Conservation Area. The owner of the property had previously been advised that planning permission would be required for such a means of enclosure, but no application was submitted prior to the wall and fencing being erected. The wall is considered to be contrary to policies regarding good design and preserving and enhancing the Conservation Area, and as such an Enforcement Notice has been served requiring the height to be lowered in accordance with permitted development allowances.

Compliance Timescale: 56 days after the notice takes effect (being 4 January 2021)



Enforcement Ref: 20/00210/ENF

Site Address: 5 Mount Pleasant, Lowdham, NG14 7BL

Date Received: June 2020

Action To Date: Planning Application Refused and Enforcement Notice Served

Background: A high area of decking and a summerhouse (the summerhouse alone was 'permitted development and therefore not a breach) had been erected. A retrospective application for planning permission was submitted seeking to retain the decking but refused in October 2020 on account of a considerable loss of privacy for the occupants of nearby dwellings. A corresponding Enforcement Notice was issued requiring the decking height to be reduced in accordance with permitted development allowances.

Compliance Timescale: 90 days after the notice takes effect (being 14th December 2020)



SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION

Formal enforcement action is usually the last resort and where negotiations have failed to produce a satisfactory resolution of a breach of planning control. In the vast majority of cases negotiation, or the threat of formal action, is enough to secure compliance with planning legislation and the following are just a few examples of how officers have resolved breaches through negotiation during the last quarter.

Enforcement Ref: 19/00327/ENF

Site Address: 59 & 61 Syerston Way, Newark On Trent, NG24 2SU

Alleged Breach: Unauthorised Extension of Residential Garden and Infilling of Drainage Ditch

Date received: August 2019

Background: Two properties on Syerston Way had purchased vacant overgrown land bordering the rear gardens and those of properties along Beacon Hill Road; extending their residential garden space and infilling a drainage ditch which runs along the length of this housing development. These cases followed on from three other properties having undertaken similar works. The infilling of the drainage ditch and concerns over biodiversity were addressed in the retrospective applications for planning permission which were approved on the proviso that the drainage ditch was reinstated, and hedgerow planted.



Before



After

Enforcement Ref: 20/00334/ENFB

Site Address: 10 Edward Jermyn Drive, Newark On Trent, NG24 2FP

Alleged Breach: Unauthorised Rear Extension/Canopy

Date Received: September 2020

Background: The LPA was notified that a timber canopy affixed to the rear elevation of 10 Edward Jermyn Drive was under construction, with no planning permission having been approved. The structure was of considerable scale, to be finished with felt roofing thus required planning permission on account of its scale and the materials used.

Officers required the scale of the structure to be reduced to a size that would be permitted development. Felt roofing was considered to be an inappropriate material on a rear extension, and mock slate tiles were requested and implemented. The property owner promptly undertook the

works and the structure is now finished. The structure technically still requires planning permission on account of the materials used; however the finish is considered to be satisfactorily acceptable that further enforcement action is not considered necessary.



Before



After

SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER 3

Enforcement Ref: 18/00051/ENF

Site Address: Hardy's Business Park, Hawton Lane, Farndon

Alleged Breach: Unauthorised Extension of Storage Yard

Date Received: February 2018

Action To Date: Two Enforcement Notice Served

Background: An area of agricultural land to the rear of the established Hardy's Business Park, an industrial area on the outskirts of Farndon, was being used for open-air storage of shipping containers for self-storage purposes on a considerable scale. A Lawful Development Certificate was granted for a portion of the land on the basis that the unauthorised use was now immune from enforcement action due to the passage of time.

However, a later expansion of the site was not immune and enforcement action was taken. A 2018 Enforcement Notice was quashed by the Planning Inspectorate in June 2019. A second Enforcement Notice was served in November 2019 following the service of two Planning Contravention Notices to ascertain further information.

The second Notice was upheld by the Planning Inspectorate in June 2020, with compliance required by the end of 2020. A site visit in November found that the expanded area of open-air storage had been cleared, secured and returned to agricultural usage.

Enforcement Ref: 18/00204/ENF

Site Address: 43A Great North Road, Sutton on Trent

Alleged Breach: Unauthorised Domestic Outbuilding on Agricultural Land

Date Received: June 2018

Action To Date: Enforcement Notice Served

Background: A makeshift building had been erected on agricultural land, comprising of a number of storage containers and other materials. The unit was used for domestic purposes, being the repair of tractors for domestic enjoyment. This change of use and the building both required planning permission.

Retrospective planning permission was refused (reference 18/01482/FUL) and an enforcement notice issued requiring the reversal of the works. The Notice was appealed but the appeal dismissed by the Planning Inspectorate in June 2019. A site inspection in October 2020 confirmed full compliance.



Before



After

RECOMMENDATION

That Planning Committee notes the contents of the report.

Background Papers

None

For further information please contact Richard Marshall (Senior Planner, Enforcement - Planning Development).

Matt Lamb
Director – Planning & Regeneration