

## **PLANNING COMMITTEE – 10 MAY 2022**

### **QUARTERLY AND YEAR ENDING ENFORCEMENT ACTIVITY UPDATE REPORT**

This report relates to the fourth quarter from the 1<sup>st</sup> January 2022 to the 31<sup>st</sup> March 2022 and provides an update on enforcement activity during this period, including 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, and Notices that have been complied with.

The report also includes key figures relating to overall planning enforcement activity for the 2021–22 financial year.

### **SCHEDULE A – OUTLINE OF ENFORCEMENT ACTIVITY**

Following a spike of enforcement complaints having been received at the start of the Covid-19 pandemic, the number of cases received has returned to pre-pandemic levels, as anticipated, now that restrictions have been lifted. Nevertheless, Members will note from Charts 3 and 4 that the enforcement team has continued to be extremely busy, with a total of 432 new enforcement cases having been lodged in the 2021/22 financial year.

Officers have noticed an increase in the number of complex and serious cases, which demand considerable time and resource to effectively investigate and enforce. This includes an increase in the number of Notices being issued compared to previous years as shown in Chart 6, and a return to the Magistrates Court for a number of complex, ongoing issues.

Members will note the positive trend of cases being closed where the breach has been resolved, which ultimately is a high priority for the planning service. As will inevitably be the case, there is a significant proportion of cases closed that are not a breach and this therefore demonstrates the need for staff and Members, where appropriate, to continue to educate the public where possible on planning legislation.

Chart 3 sets out the overall reasons for cases having been closed across the 2021/22 financial year. Whilst the common trend of a significant number of cases being closed is due to no breach having been identified, it is pleasing that approximately a quarter of overall cases were resolved by the enforcement team where a breach had been identified e.g. through the submission of a planning application, negotiation by the team or the service of a formal notice.

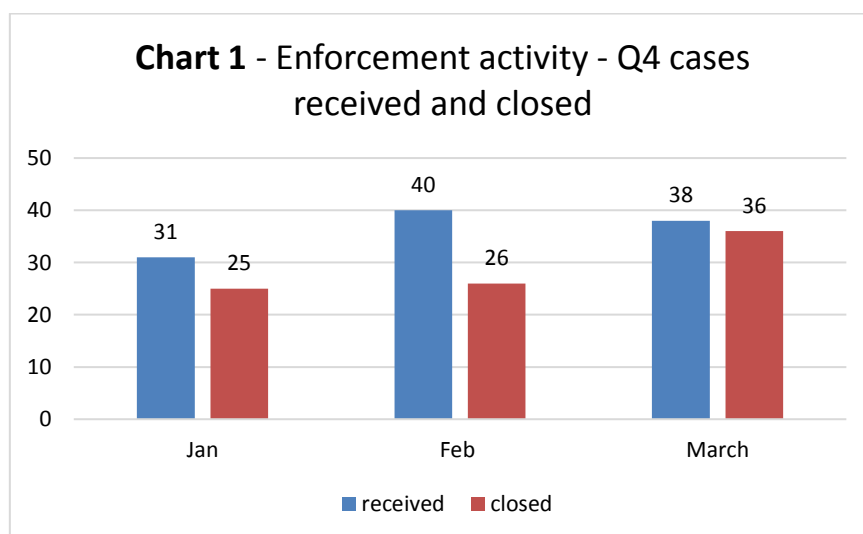


Chart 1 details the number of enforcement cases that have been formally registered and closed in Q4. Given that some investigations take time to investigate, correspond and resolve, it follows that many of the cases closed were received in previous quarters. Officers have also established an email point of contact for the public and Members ([Planningenforcement@newark-sherwooddc.gov.uk](mailto:Planningenforcement@newark-sherwooddc.gov.uk)), where some queries are regularly resolved or answered without having to formally register them.

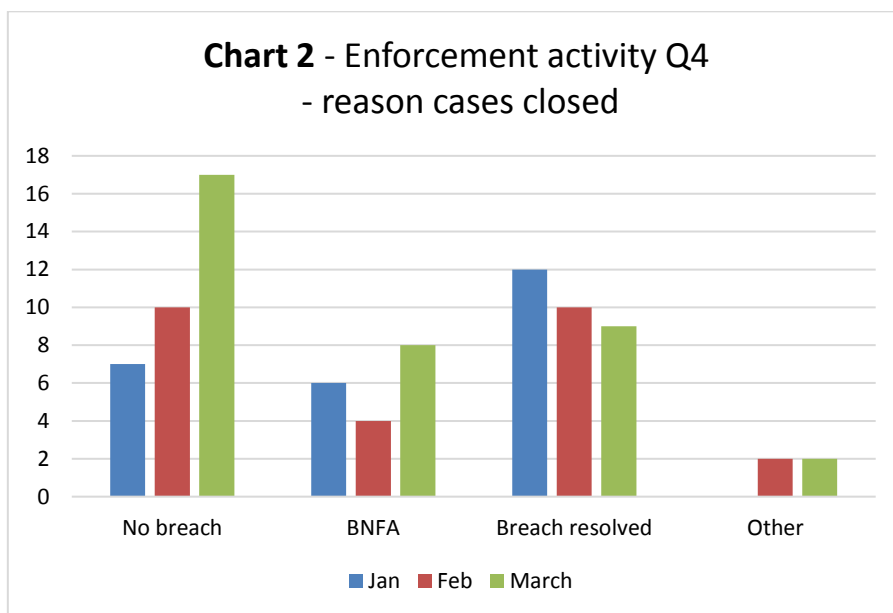


Chart 2 details the reasons for those cases having been closed in Q4. As is most often the case, many cases that have been formally registered were found to have not been a breach of planning control. Members will note a considerable proportion of cases have been resolved, either through cooperation with or formal enforcement action against the responsible party. BNFA (Breach No Further Action) cases are those where a breach of planning control has been identified but, in line with national and local planning policy, were considered to be acceptable had an application been submitted. In those instances whilst an application is encouraged to regularise the position, enforcement action has not justified as being expedient in the public interest and the cases have been closed. This allows Officers to focus resource on the more harmful issues.

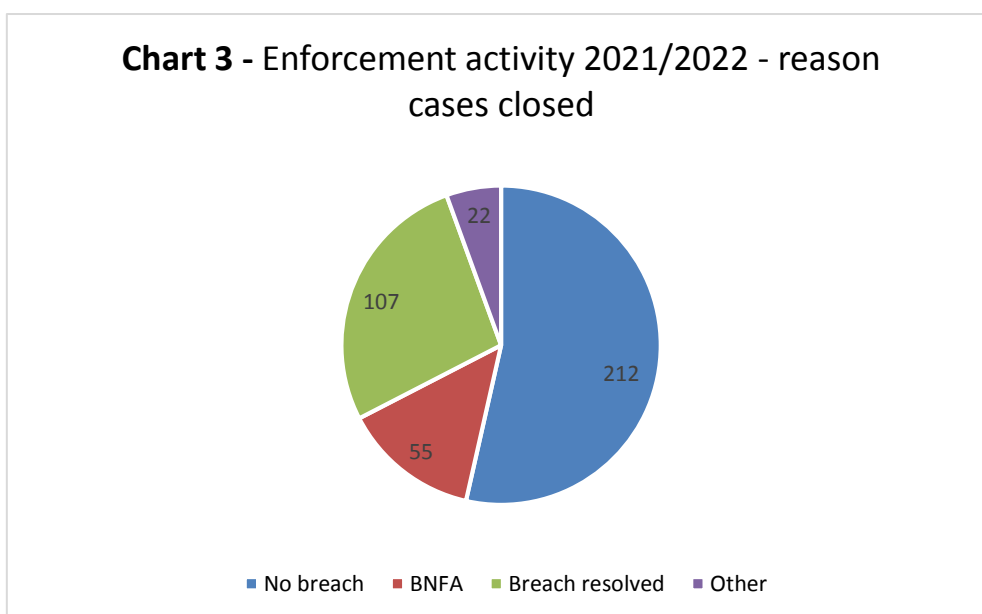


Chart 3 expands upon Chart 2, detailing the reasons for cases having been closed across the 2021/22 financial period. Breaches that have been resolved through cooperation or formal enforcement action continue to be the secondmost reason for closing cases.

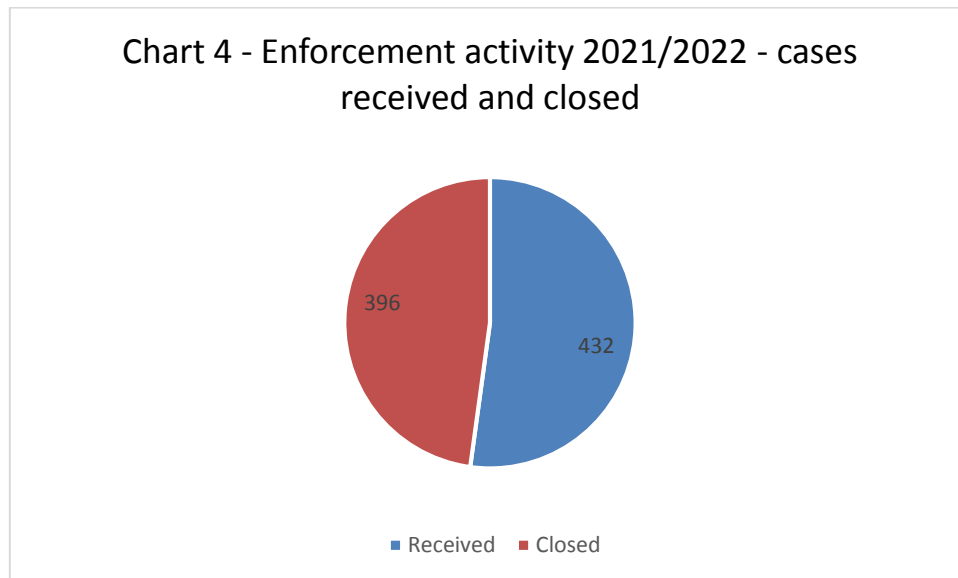


Chart 4 identifies that over the 2021/2022 financial year, 396 cases have been closed. As Officers continue to correspond with or issue formal enforcement action against landowners, it follows that while a high proportion of cases have been closed, some cases which are going through the enforcement or appeal process cannot be closed within the same financial year.

**Outcomes in Quarter 4**

	January	February	March	Total
<b>Notices Complied With</b>	0	3	1	4
<b>Appeal Lodged</b>	2	1	0	3
<b>Appeal Determined</b>	1	1	0	2

Table 1 – Details of planning enforcement notices issued and complied with during Q4 of 2021/22. Also included are details of appeals relating to enforcement notices.

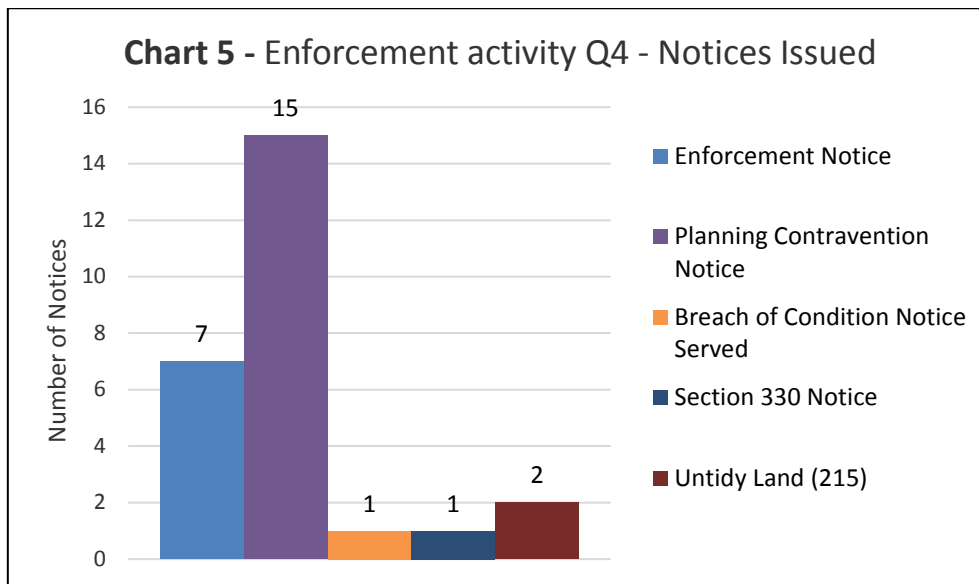


Chart 5 shows how Q4 has been an extremely busy period in terms of the number of Notices that have been issued, meaning that harmful development has been identified, and efforts of cooperatively resolving matters has not been taken up by the landowner, or where the development is so harmful that cooperation would only delay the inevitable action.

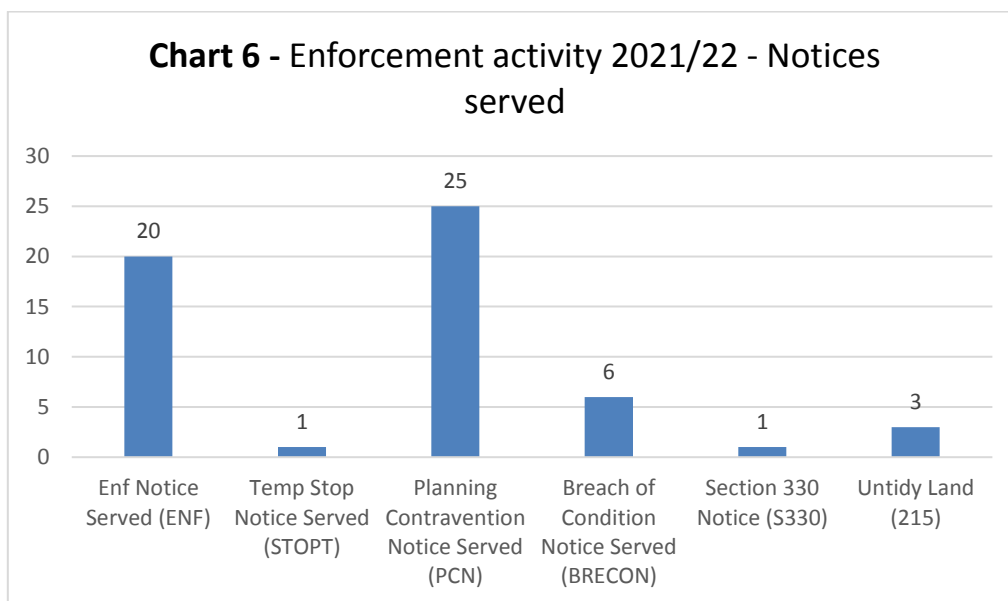


Chart 6 shows the total number of Notices issued across the 2021/2022 financial year. Planning Contravention Notices, shown in Charts 5 and 6, are requests for information in order to determine whether a breach of planning control has occurred and, if so, to inform what appropriate next steps may be.

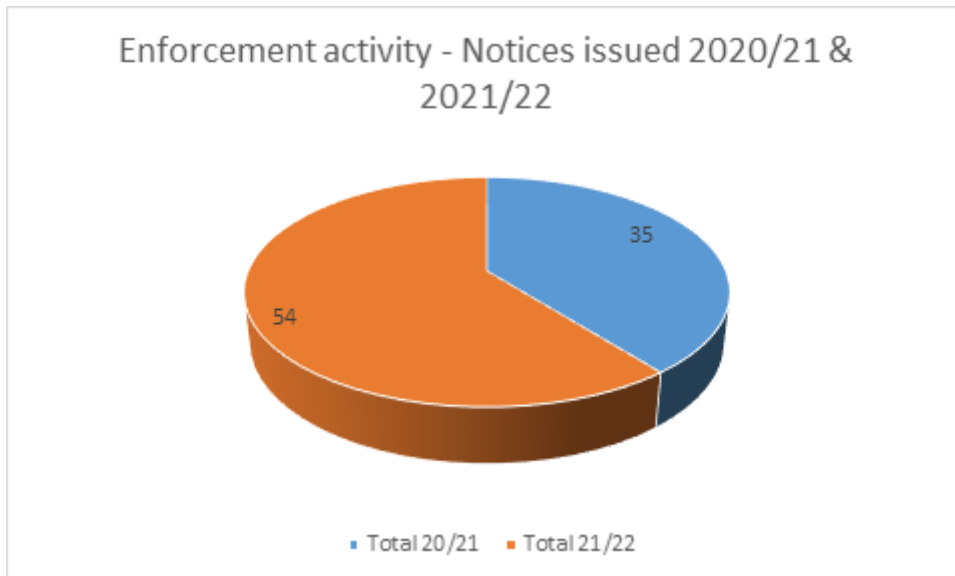


Chart 7 provides a breakdown of the number of formal Notices issued within the 2020/21 financial year, compared with the 2021/22 financial year. Members will note a considerable increase in the number of Notices served (54% increase), assisted by now having three full-time planning Enforcement Officers, with Michael Read having joined the team as a Trainee Planner in Autumn 2021.

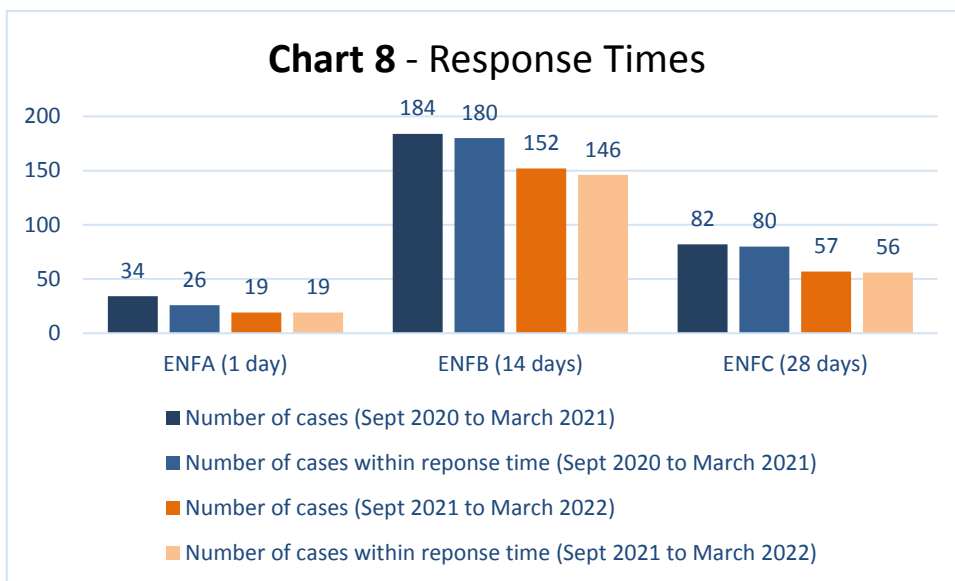


Chart 8 compares the Officer response times as stipulated within the Planning Enforcement Plan (PEP) (adopted September 2020) between the 2020/21 and 2021/22 financial years. This protocol sets response targets for Officers based on the seriousness of the alleged breach that has been lodged. ENFA cases are the most urgent, for example listed buildings or protected trees which have a 24 hour response target, ENFB cases with a 14 day response target, and ENFC cases are issues such as fences and outbuildings with a 28 day target. This shows that meeting these targets has remained consistently high since the PEP was first adopted, with target times for 221 of the 228 cases received over that period having been met, a 96.93% success rate and 100% for the previous financial year in terms of the most urgent, category A cases.

### **SCHEDULE B. FORMAL ACTION TAKEN**

Schedule B includes a small number of examples of where formal planning enforcement action has been taken (such as a notice being issued).

**Enforcement Ref: 21/00323/ENFA**

**Site Address:** 79 Appleton Gate, Newark

**Alleged Breach:** Unauthorised Removal of four TPO trees

**Date Received:** August 2021

**Action To Date:** Prosecution

**Background:** Officers received notification that a protected and prominent willow tree at 79 Appleton Gate, opposite Newark North Gate station had been felled. A site inspection found that three other trees also protected by a Tree Preservation Order had also been felled at the same time. No consent had been granted for these works, amounting to an offence.

Officers undertook an investigation and no satisfactory defence was provided. The owner of the property, the property occupier (Serendipity's Day Nursery) and the tree surgeon all pled guilty to the offence at the Magistrates Court in March 2022 and were fined approximately £2500, £4500 and £2500 respectively.

**Enforcement Ref: 21/00206/ENFA**

**Site Address:** The Corn Exchange, 18 Castle Gate, Newark On Trent

**Alleged Breach:** Poor Condition of the grade II listed building

**Date Received:** May 2021

**Action To Date:** Urgent Works Notice and Section 215 Notice (untidy land) issued March 2022

**Background:** The Senior Conservation Officer has been working extensively for some time with the owner of the building to improve the condition and facilitate the re-use of the long-empty Corn Exchange. This is being achieved by working with a range of contractors to determine key visual and structural issues with the building, and recently two Notices have been issued requiring immediate improvements to be made, as well as longer-term visual remedial works. The Urgent Works Notice has been satisfactorily complied with in a short timescale, while the Section 215 Notice compliance period is scheduled for later in 2022.



**Enforcement Ref: 20/00124/ENF**

**Site Address:** Land At Normanton Hall

**Date Received:** May 2020

**Action To Date:** Planning Contravention Notice and Section 215 Notice issued; commencement of legal action

**Background:** An area of land which once formed part of the formal parkland of Normanton Hall was in a poor condition with overgrown vegetation, a dilapidated caravan, building materials and machinery on the land. A section of the historic boundary wall had been damaged and never repaired.

Officers sought an improvement in the condition of the land but no action was undertaken. A Section 215 Notice (untidy land) was issued in November 2020. The land was cleared of the assortment of abandoned items but the boundary wall remained in a poor condition. The matter continued and non-compliance was eventually put before the Magistrates Court in February 2022. The responsible party claimed that the required remedial works had been complied within the days leading up to the court hearing, and as such the case was adjourned to allow for an Officer to inspect the site. This site visit confirmed that the Notice had been complied with, including the rebuilding of the historic boundary wall and clearance of the land of vegetation, detrious materials and abandoned items.



**Before**

**After**

### **SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION**

Schedule C provides just a few examples of how officers have resolved breaches through negotiation during the last quarter.

#### **Enforcement Ref: 22/00011/ENFA**

**Site Address: Snowdrop Orchard, Low Street, Collingham**

**Alleged Breach: Unauthorised Erection of Gates**

**Date received: December 2021**

**Background:** Unauthorised security gates were installed on a small parcel of agricultural land used as a small market garden, replacing the former rotten timber gates. The security gates had decorative spiked metalwork atop the frame and the timber panels painted a stark light grey. The gates are located within the Collingham Conservation Area and nearby to a number of listed buildings.

Officers engaged with the landowner to amend the design of the gate to reduce its visual impact while fulfilling security needs of the site. The timber panels have been painted dark brown and the unnecessary decorative metalwork removed. Although the gates do not have planning permission, their reduced impact is considered to be acceptable.



**Before**



**After**

**Enforcement Ref: 21/00243/ENFC**

**Site Address: Goldcrest Avenue, Rainworth**

**Alleged Breach: Unauthorised installation of decking**

**Date received: June 2021**

**Background:** The Local Planning Authority received expressions of concern following the unauthorised installation of decking in the rear garden of a new-build property. The gradient of the land led to serious overlooking issues over neighbouring properties to the rear of the decking.

A similar example in the locality had been refused planning permission on account of overlooking and an enforcement notice issued, and so the landowner of this property was invited to remove the decking to avoid an enforcement notice being issued. This has now been undertaken and the breach resolved.



**Before**



**After**

**SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER**

Schedule D provides examples of Notices that have previously been served and now complied with; resolving the breach of planning control, or reducing the harm and impact caused by unauthorised development to an acceptable degree.



**Enforcement Ref: 19/00224/ENF**

**Site Address:** 2-4 Balderton Gate, Newark on Trent

**Date Received:** June 2019

**Action To Date:** Planning Applications Refused, Enforcement Notice issued

**Background:** To enhance security at Smiths Jewellers, a modern box shutter was installed on this grade II listed building. Retrospective applications for listed building consent and planning permission were refused and an Enforcement Notice issued requiring their removal. The Notices were upheld at appeal, though the Local Planning Authority agreed to extend the compliance period on account of the impact of Covid-19 on the high street. The shutter has now been removed from the premises.



**Before**

**After**

**Enforcement Ref: 20/00411/ENFC**

**Site Address:** 2 Rose Cottage, Caunton

**Date Received:** October 2020

**Action To Date:** Enforcement Notice Issued

**Background:** The Local Planning Authority was notified that an outbuilding akin to a pergola with a log-burner flue and corrugated metal roof had been erected in the front garden of this property, located prominently within the Caunton Conservation Area. The impact was considered to be harmful and its removal was warranted. An Enforcement Notice was issued and upheld at appeal. The pergola has now been removed from the property.



**RECOMMENDATION**

**That Planning Committee notes the contents of the report and identifies any issues it wishes.**

**Background Papers**

None

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

**Matt Lamb**  
**Director – Growth & Regeneration**