

PLANNING COMMITTEE – 7 AUGUST 2018

QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 8th May 2018 which highlighted planning enforcement performance during the first quarter of 2018. This report relates to the quarter from 1st April until 30th June 2018 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.

This report presents a snap shot on the general volumes of cases received and dealt with as follows:

- Schedule A outlines the enforcement activity during the quarter which captures the overall split to show of the cases investigated, how many are found to be a breach of planning or otherwise.
- Schedule B (separate attachment) sets this (on a pro-rata basis) against the activity over previous quarters). Please note that cases closed exceed, on occasion, cases received as a case received in an earlier quarter may have been closed.
- Schedule C details a summary of formal action taken since the last report was compiled which in this case is for the quarter.
- Schedule D – provides examples of cases where breaches of planning control have been resolved without formal action having been taken.
- Schedule E – Notices complied with.
- Schedule F - Examples of recent heritage successes as a result of an enforcement investigation.

SCHEDULE A

Table 1

SCHEDULE A: ENFORCEMENT CASES	1st to 30th April 2018	1st to 31st May 2018	1st to 30th June
Cases Received	34	39	28
Case closed*	34	33	34
Notice issued	4	2	1
Notice complied with	0	1	2
Appeal lodged	3*	0	1*
Prosecutions/Injunctions	0	1	0

* Appeals lodged during Quarter 2, 2018 are:

- 18/00084/ENF - The Scarecrow Patch, Eagle Road, Spalford against the service of an Enforcement Notice served as detailed in Schedule C in this report below.
- 17/00427/ENF - Burgess House, Main Street, Farnsfield against a Breach of Condition Notice served 15th March 2018 reported to Members on 16th January 2018 in the Quarterly Enforcement Report.

- 17/00070/ENF - Bargain Booze, Unit 3, Edwinstowe against an Enforcement Notice served on 15th March 2018 reported to the planning committee reported to Members on 16th January 2018 in the Quarterly Enforcement Report.
- 18/00437/ENF - 24 Post Office Row, Coddington against an Enforcement Notice served (see case in Schedule C for June below)

It should be noted that 'case closed' can include a number of outcomes, which are generally breach resolved (through planning application or removal), no breach identified (not development or permitted development), or that a breach exists but it is not expedient to pursue. Please note that 'Notice' for the purposes of these statistics does not include Planning Contravention Notices issued.

Of the cases closed, the reasons for these closures are detailed below in Table 2:

Table 2

Month/Year	Total Number of Cases Closed	No Breach (No Further Action required)	Breach Resolved (through negotiation, permission granted etc)	Breach – No Further Action (as not expedient)	Other (such as Duplicate Case)
April 2018	34	12 (35.29%)	19 (55.88%)	0	3 (8.23%)
May 2018	33	15 (45.45%)	12 (36.36%)	5 (15.15%)	1 (3.03%)
June 2018	34	16 (47%)	11 (32.35%)	6 (17.6%)	1 (2.94%)
Totals/Average	101	43 (42.57%)	42 (41.58%)	11 (10.89%)	5 (4.95%)

SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT

SCHEDULE C. FORMAL ACTION TAKEN (1ST APRIL TO 30TH JUNE 2018)

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

FORMAL ACTION TAKEN APRIL 2018

Enforcement Ref:	17/00386/ENF
Site Address:	Flat 1 and 2, 1 Balderton House 69 Main Street Balderton
Alleged Breach	Erection of 6ft high fence adjacent to a highway
Date received	31.10.2017
ACTION TO DATE: Enforcement Notice Served 27.04.2018	

Background

Concern was expressed to the Local Planning Authority that a high close boarded fence had been erected adjacent to a public highway within the Balderton Conservation Area.

Upon inspection it transpired that a fence had been erected and that given its height, it would require planning permission. The fence as erected was judged however to be a harmful addition to the character and appearance of the Conservation Area, including the host dwelling and the setting of a number of nearby listed buildings.



Despite efforts to resolve the matter on an informal basis this was not possible resulting in an Enforcement Notice being served in April 2018. This Notice requires:

- Removal of all fencing erected forward of the front façade of Balderton House and enclose the land with 1.8 metre fencing to be flush with the principal elevation of Balderton House within 2 months of the effective date (by 28th July 2018).
- Staining the fencing with olive green paint along all outward-facing elevations of the fencing within 2 months of the effective date (by 28th July 2018).
- Plant a continuous Cherry Laurel hedgerow no less than 1.8 metres in height and spaced no more than 60 centimetres apart immediately in front of the fence sited in line with the principal elevation. The hedgerow must be maintained at a height of no less than 1.8 metres within 7 months of the effective date (by 28th December 2018).

The Notice takes effect on 28th May 2018.

Enforcement Ref: 17/00335/ENF

Site Address: 3 Freeth Terrace
North Clifton

Newark

Alleged Breach Garage not erected in accordance with approved plans

Date received 22.09.2017

ACTION TO DATE: Service of Enforcement Notice 29.03.2018.

Background

It was brought to the attention of the Local Planning Authority that a garage was being erected not in accordance with an approved plan (16/00524/FUL). A site visit confirmed that this was the case and that the applicant had built the garage to the wrong plan; consequently it was too big and of the incorrect design. The enlarged garage as built was judged to be inappropriate and was a size that officers had carefully negotiated during the lifetime of the planning application.

Numerous correspondence took place between the Enforcement Officers and the owners of the property culminating in the service of an Enforcement Notice in March 2018.

The Notice, which took effect on 26th April 2018, required the demolition of the unauthorised structure and the removal of the resulting materials and debris from the site within 4 months from the date the Notice took effect (so by 26th August 2018).

The Notice has since been complied with so the breach has now been resolved and the case has been closed.

Enforcement Ref: 18/00084/ENF

Site Address: Scarecrow Patch
Eagle Road
Spalford

Alleged Breach Siting of HGV trailers on agricultural land

Date received 20.03.2018

ACTION TO DATE: Service of Enforcement Notice 4th April 2018

Background

On the 20th March 2018, planning enforcement officers were made aware that development was taking place on a parcel of agricultural land known as Scarecrow Patch, Eagle Road, Spalford. A site inspection was undertaken on the 29th March 2018, where it was observed that

a number of HGV trailers had been delivered and UPVC windows installed, a low-rise brick structure used for housing electricity connections recently constructed and a number of miscellaneous, domestic storage unit and items were stored on the land. Although the intended use of the land was not known, it was anticipated that the unauthorised development was to be utilised as a leisure plot not appropriately associated with agriculture.



A Planning Enforcement Notice was served on the 4th April 2018, requiring the unauthorised development to be removed from the Land, and for the land to only be used for agricultural purposes. The landowner has lodged an appeal to the Planning Inspectorate against the requirements of the Notice, and has advised that the intended use of the land remains agricultural.

A number of further site inspections and meetings have been held, and it is expected that the Land is to be used for a small-scale poultry farm using the equipment stored on the Land, having clad the trailer units in timber panels. The Council maintains the position that the uncharacteristic design and materials used fail to meet the policy objectives of the local development framework, and that the agricultural use of the land has yet to be convincingly evidenced.



FORMAL ACTION TAKEN IN MAY 2018

Enforcement Ref: 17/00437/ENF

Site Address: 24 Post Office Row
Main Street
Coddington

Alleged Breach Alleged unauthorised conservatory erected

Date received 06.12.2017

ACTION TO DATE: Service of Breach of Condition 21.05.2018.

Background

A complaint was raised with the Council that an unauthorised conservatory had been erected within the Conservation Area. A site visit confirmed this to be the case the conservatory was judged to be inappropriate by reason of its form, detailing and context in relation to the existing built form of the host dwelling. This was considered to result in an awkward and cluttered appearance, at odds with the buildings simple plan form and appearance and is considered to represent an incongruous, alien feature that detracts from the host dwelling and the consistency and charm of the row of cottages as a whole.



An Enforcement Notice, taking effect on 20th June 2018, was served requiring the conservatory to be demolished and all resulting materials and debris to be removed from the land within 4 months; so by 20th October 2018.

An appeal has been lodged and a start date is awaited.

Enforcement Ref:	18/00171/ENF
Site Address:	Shady Oaks Eagle Road Spalford
Alleged Breach	Structures and pond under construction and possible intent to form caravan site
Date received	22.05.2018

ACTION TO DATE: Injunction obtained from Court in May 2018.

Background

In May 2018, the local planning authority's enforcement officers were made aware that large-scale excavation works and the laying of a hard surface had commenced on a parcel of land known as Shady Oaks, Eagle Road, Spalford.

Having attended the site on the 22nd and 24th May 2018 and discussed the development with the site operatives, it was advised that an extant permission for the erection of a stable block and installation of a vehicular entranceway through the site (reference 14/02071/FUL) was being implemented. It was considered that the extent of excavation works taking place, the additional areas of hard-surfacing installed and the erection of a low-rise brick structure in the screened north-east corner of the site was indicative of additional development being scheduled by the landowner. In any event the permission from 2014 had expired without having been implemented.



Having conducted background research into the landowners, it was evident that they are members of the gypsy and traveller community. The Council was also made aware that the land was in the process of being sold to a person suspected of residing on Tolney Lane, Newark. It was therefore suspected that a gypsy and traveller caravan site was due to be established over the following days.

Given the pace at which development was being undertaken prior to the May bank holiday weekend, a temporary injunction was approved on the 25th May 2018 at Nottingham County Court, requiring all persons to cease any further development of the land and forbidding any persons from bringing a caravan onto the site. The full injunction hearing was held on the 31st May 2018, where it was determined that the development of the approved stable block could continue, but the measures restricting the use of the land for the siting of a caravan be maintained. The Injunction will remain in effect on the land for a period of 12 months.

FORMAL ACTION TAKEN IN JUNE 2018

Enforcement Ref:	16/00356/ENF
Site Address:	Barfield House Greaves Lane Edingley
Alleged Breach	Laying foundations and erection of dog kennel in field and enclosure of land
Date received	02.12.2016

ACTION TO DATE: Service of Enforcement Notice 28.06.2018.

Background

An application for a Certificate of Lawful development (18/00406/LDC) for the existing use of land to the rear of Barfield House for domestic purposes including a timber stable block used for domestic storage associated with the residential occupation was submitted earlier this year on the basis that the use had been ongoing for in excess of 10 years. However insufficient evidence was provided to prove that on the balance of probability that the use had indeed been ongoing for the required amount of time and the application was therefore refused.

A previous planning application (17/00064/FUL) which related to a different parcel of land for retrospective change of use of land the erection of dog kennels was refused on 21st March 2017 and an Enforcement Notice was issued. These were both subject to appeals which were dismissed by the Planning Inspectorate.

The change of use of countryside to garden has been ongoing for some time, in respect of both parcels of land. The applicant has now been given every chance to regularise these matters and all applications and appeals have failed. The land remains in an unauthorised use and consequently a further Enforcement Notice was considered expedient and necessary due to the encroachment into the countryside.

The second Enforcement Notice requires the cessation of the use of the land and wooden stable building for residential purposes within 1 day of the notice taking effect and the removal of all residential paraphernalia within 28 days of the notice taking effect. The Notice takes effect on 28th July 2018.

The first Enforcement Notice has not been complied with and prosecution proceedings are now being commenced.

SCHEDULE D: 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:	17/00297/ENF
Site Address:	Muskham Ferry Ferry Lane North Muskham
Alleged Breach	Parking Motor Homes/Camper Vans parking overnight
Date received	02.09.2017
Status:	Breach Resolved

Background

This case relates to the re-occurring use of the pub's car park for the siting of mobile homes/caravans overnight. The alleged harm related to the impact on neighbour residents who felt their privacy had been impinged as a result. The investigating enforcement officer established that indeed the car park was being used for overnight stays and that this was not confined to any one particular area of the car park . With reference to case law and legal advice it was judged initially that the car park primarily remained as a car park and that the use would be monitored to establish if a change of use had occurred, dependent upon the level of use, its frequency etc. The enforcement officer had extensive communication with both residents, the Parish Council, Local members and the landlords during this investigation.

Local residents and the Parish Council were asked to monitor the use in an attempt to collate evidence to move matters forward. Based on the submission of the evidence, officers established that the frequency of the use exceeded the permitted allowances of Part 5 Class A of the *Town and Country Planning (General Permitted Development (England) Order 2015)* which permits this taking place for up to 28 days per calendar year, amongst other restrictions on caravans for human habitation.

On that basis officers contacted the landlords advising that we are duty bound to ensure that the car park is operated in an appropriate manner which limits harm to the amenity of the local area and community and therefore requested that the stationing of caravans overnight be reduced to the permitted 28 days per year, or a planning application to regularise matters be submitted to our office for consideration (It should be noted that officers were mindful that the use could be considered appropriate if limited to certain areas within the car park and over caveats such as restricting numbers etc and were not closed to the submission of an application). The landlord was advised that if the overnight siting of caravans were not to be restricted or if an application was not submitted that formal action would be taken.

In response, a sign has now been erected by the pub to deter the use and no further incidents have been reported. The case has now been closed with no further action necessary at this time.

Enforcement Ref:	18/00116/ENF
Site Address:	Rufford Abbey Old Rufford Road Rufford
Alleged Breach	Possible unauthorised Porch
Date received	19.04.2018
Status:	Breach Resolved

Background

It was noted that a poor quality/ design false porch/ facade had been attached around the door frame of one of the stables buildings.



The building is Grade II listed and as such consent would be required for the modification. In officers opinion it would have been unlikely to be granted given its harmful impact upon the heritage asset.

As the alterations were not acceptable, a letter was sent to the company currently managing Rufford Park requesting that the facade be removed. The management company agreed to remove the porch and subsequently provided evidence of the porch having been removed and the original façade having been revealed once again.



As the breach was removed and resolved the enforcement case was closed with no further action necessary.

SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (01.01.2018 TO 31.03.2018)

Members will note that two cases reported resulting in the service of formal Notices in April 2018 have been resolved as reported above in Schedule C. In addition the following has been complied with:

Enforcement Ref: 17/00143/ENF

Site Address: 3-5 Bar Gate
Newark
Nottinghamshire
NG24 1ES

Alleged Breach Installation of ATM, shopfront and associated illumination

Date received 08.05.2017

ACTION TO DATE: Service of Enforcement Notice 28.02.2018.

Background

Members may recall it was previously reported that an Enforcement Notice had been served requiring the removal of an unauthorised ATM and associated integral illuminated screen, signage and halo lighting.

Before:



The development was considered harmful to the character and appearance of the Newark Conservation Area and attempts to negotiate a resolution failed resulting in the service of an Enforcement Notice on 28th February 2018 which took effect on 2nd April 2018.

The Notice requiring its removal has now been complied with and the building has been restored to an acceptable condition. The breach has been resolved and the case has been closed.

SCHEDULE F – HERITAGE SUCCESSES

Whilst dealing with all Enforcement cases in a timely manner remains a priority within the team, Officers have been making a concerted effort to address enforcement matters which have a potential impact on the integrity of the District's heritage assets. This includes investigation of reports of unauthorised development and works likely to have an impact on the District's Listed Buildings and Conservation Areas. In recent months, Officers have been able to address several reported breaches of Planning Control through Enforcement Notices seeking specific remedial works or in some cases negotiations with the landowner. There are too many to report but below are some examples. More can be provided next quarter if Members wish.

Enforcement Ref: 13/00408/ENF

Site Address: Castle Gate Fish Bar
47 - 51 Castle Gate
Newark On Trent
Nottinghamshire
NG24 1BE

Alleged Breach Unauthorised alterations to shopfront

Background

The occupier of the premises had installed internally illuminated signage to the fascia and projecting sign which was considered harmful to special interest of the listed building and the surrounding Conservation Area. Following a lengthy period of unsuccessful negotiations with the occupiers, a Listed Building Enforcement Notice was issued in October 2015. That notice was appealed and was subsequently dismissed.

Upon commencement of prosecution proceedings, the occupier has now removed the offending signage and replaced with signage which is considered appropriate to the listed building and the CA setting, being externally illuminated. The enforcement case has now been closed with no further action deemed necessary.

Before:

After:



Enforcement Ref: 14/00205/ENF

Site Address: 7 High Street
Edwinstowe
Nottinghamshire
NG21 9QP

Alleged Breach Unauthorised illuminated signage.

Background

Advert in Edwinstowe Conservation Area being illuminated in an inappropriate manor.

Following negotiation the unauthorised illumination has now been removed.



Enforcement Ref: 14/00400/ENF

Site Address: 29 Wilson Street
Newark On Trent
Nottinghamshire
NG24 1EN

Alleged Breach Unauthorised display of advertisements

Background

Display of numerous, poor quality, unauthorised adverts on Listed Building.

Listed Building enforcement notice issued in November 2015 requiring the removal of the adverts.

The adverts have now been removed, the damage to the building repaired and new, more appropriate signage displayed.

Before



After



Enforcement Ref: 14/00214/ENF

Site Address: Lord Nelson Inn Public House
Gainsborough Road
Winthorpe
Newark On Trent
Nottinghamshire
NG24 2NN

Alleged Breach **Unauthorised replacement of timber windows with inappropriate new windows in a listed building**

Background

It was noted that a large number of the windows to the front of the building had been replaced. Although the windows were timber sash, as originally and recorded in the Listing, the replacements were of a very plain style not in keeping with the originals, of which some still remain within the building.

In response to the breach a Listed Building enforcement notice was issued in November 2015. against the owners of the property who had undertaken the works, Enterprise Inns PLC.

The Notice required the removal of 8 top opening mock-sash windows within the building and the replacement with timber sash windows to match the older sash windows on the building.

The windows have been replaced as required and the enforcement case has therefore been closed.

Before



After



Enforcement Ref: 17/00365/ENF

Site Address: Wellow Lodge
Rufford Lane
Rufford
Nottinghamshire
NG22 9DJ

Alleged Breach **Unauthorised boundary abounding a listed building**

Date received

16.10.2018

Background

Members might recall the above case which was reported to the Planning Committee earlier this year.

It was recorded that a means of enclosure consisting of gabion cages and a timber fence had been erected around the front elevation of Wellow Lodge which is grade II Listed. The development was considered to be unacceptable in terms of the overly modern appearance created by the use of inappropriate materials, it was requested that the enclosure be removed. No response was received to the initial letter and therefore a planning enforcement notice was issued on 23.01.2018.

The property owner subsequently made contact and explained that they had not received the initial letter and explained that the gabion wall had been erected as defence for the property due to its location on a corner and a number of road traffic accidents that had occurred, where the listed building had been damaged.

It was subsequently agreed that the matter could be resolved by retaining the gabion wall element but the impact being offset by removing the fence panels and undertaking further planting of foliage plants. The planning enforcement notice that was subsequently withdrawn subject to the modifications proposed being undertaken.

A site inspected has subsequently been undertaken and it has been noted that the fence above the gabion wall has been removed and a double depth beech hedge has been planted in front of the wall. Officers are now satisfied that the breach has been resolved in a satisfactory manner and the case has been closed with no further action being considered necessary.



Enclosure including gabion wall with fence above – October 2017



Enclosure including gabion wall with fence panels removed and beech hedge – May 2018

RECOMMENDATION

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

BACKGROUND PAPERS

Enforcement case files.

For further information please contact Clare Walker on Extension 5834 or planning@nsdc.info

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