



Report to Planning Committee 19 January 2023

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Report Summary	
Report Title	Quarterly planning enforcement activity update report
Purpose of Report	<p>To update Members as to the activity and performance of the planning enforcement function over the third of the current financial year.</p> <p>To provide Members with examples of cases that have been resolved (both through negotiation and via the service of notices) and to provide details and explanations of notices that have been issued during that period.</p>
Period covered	1 October 2022 – 31 December 2022
Recommendation	That Planning Committee accept the contents of the report and note the ongoing work of the planning enforcement team.

1.0 Background

This report relates to the third quarter from the 1 October to the 31 December 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 where Notices that have been complied with.

Schedule A outlines the enforcement activity for Q3 in terms of the numbers of cases that have been received and closed (Chart 1) and also provides a breakdown of the reasons that cases have been closed (Chart 2). Charts 3 and 4 detail the performance of the enforcement team when compared against time limits set out within the Newark and Sherwood District Planning Enforcement Plan (PEP) in both Q3 and since the adoption of the policy in September 2020 (<https://www.newark-sherwooddc.gov.uk/media/newark-and-sherwood/images-and-files/planning-policy/pdfs/planning-enforcement-plan/Planning-Enforcement-Plan---Adopted-September-2020.pdf>).

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

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

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

Members will note from Chart 1 that the enforcement team has continued to be extremely busy – with an ever increasing number of reports being received that require some form of active investigation.

What is not reflected within the figures provided is that the complexity and seriousness of cases are seemingly increasing. Officers are actively investigating cases that include the creation of reservoirs and new dwellings without planning permission, unauthorised works to Listed Buildings and illegal works to protected trees. Whilst the complexity of cases are not necessarily revealed within the figures provided, they nevertheless occupy a large amount of officer time and it is a credit to the ongoing commitment of the team that in addition to managing these complex cases, officers are continuing to complete investigations that relate to more ‘standard’ matters that are raised, as demonstrated within chart 1.

Members will note the continuing positive trend of cases being closed where the breach has been resolved, as shown within chart 2, which ultimately is a high priority for the planning enforcement 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 local members, where appropriate, to continue to educate the public where possible on planning legislation.

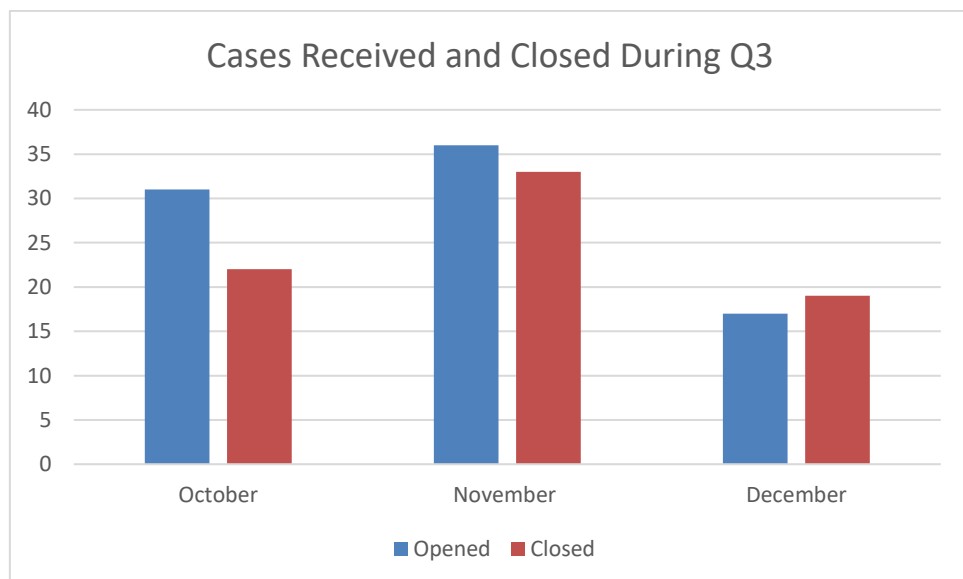


Chart 1 – Case numbers received and closed in Q3

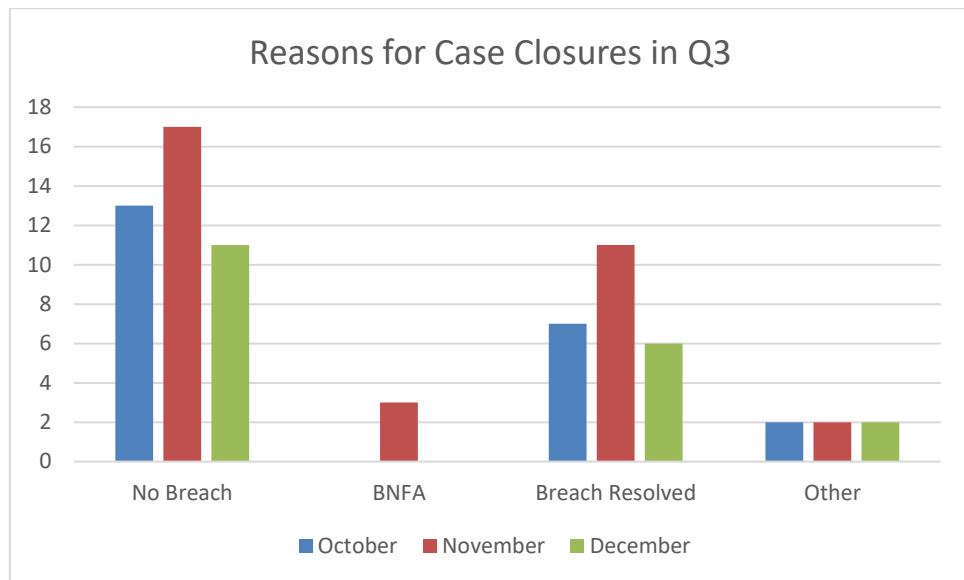


Chart 2 – Reason that enforcement cases have been closed during Q3 of 2022/2023

In addition Members will be aware that in September 2020 the planning enforcement plan (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 from Chart 3 below that despite the consistently high number of enforcement cases being dealt with, and the previously explained complexity of those matters investigated, the enforcement team has been working with continued commitment to achieving the highest standard of attainment and has reached close to (98.7%) a 100% compliance with the targets set within the PEP.

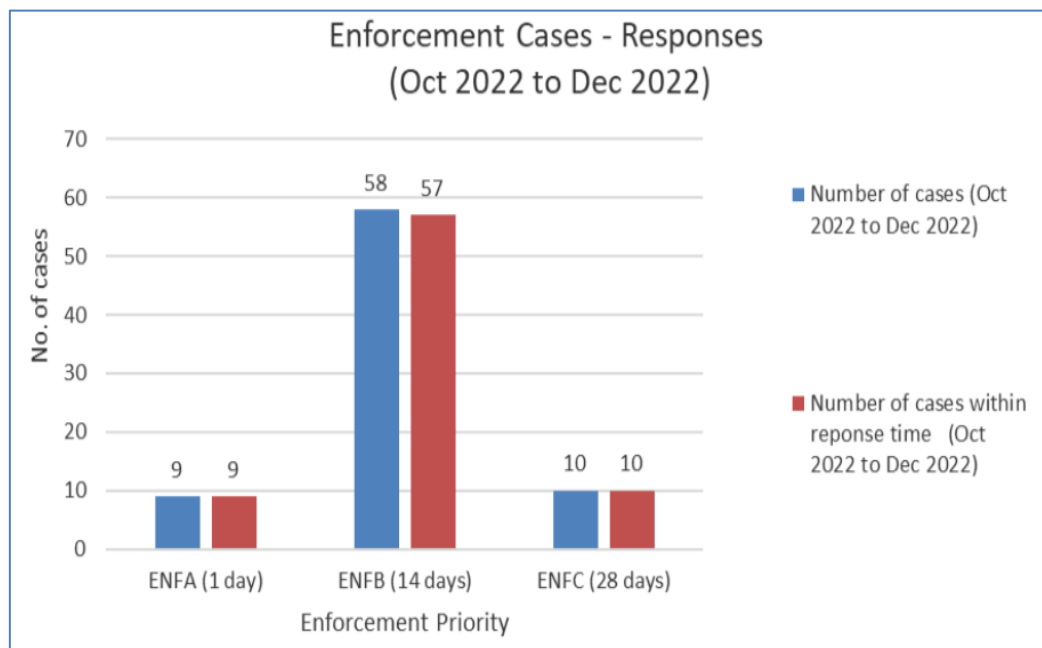


Chart 3 – Response Times in Q3 of 2022/2023

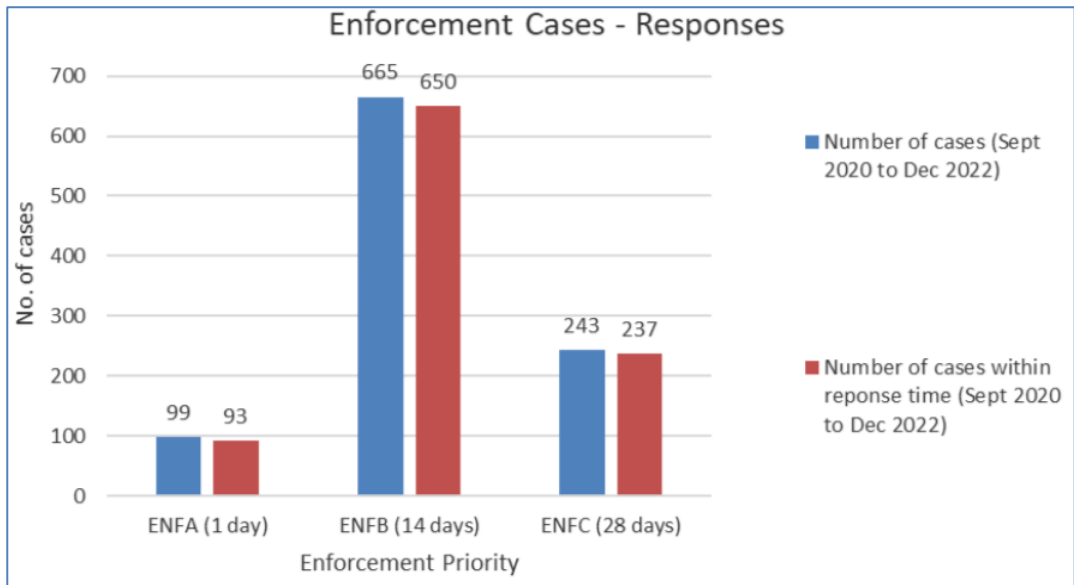


Chart 4 – Response Times Since September 2020

3.0 Outcomes in Quarter 3

	October	November	December	Total
Notices Issued	2	3	1	6
Notices Complied With	0	1	1	2
Appeals Lodged	3	0	2	5
Appeals Determined	0	0	0	0

Table 1 – Details of planning enforcement notices issued and complied with during Q3 of 2022/2023. Also included are details of appeals relating to enforcement notices.

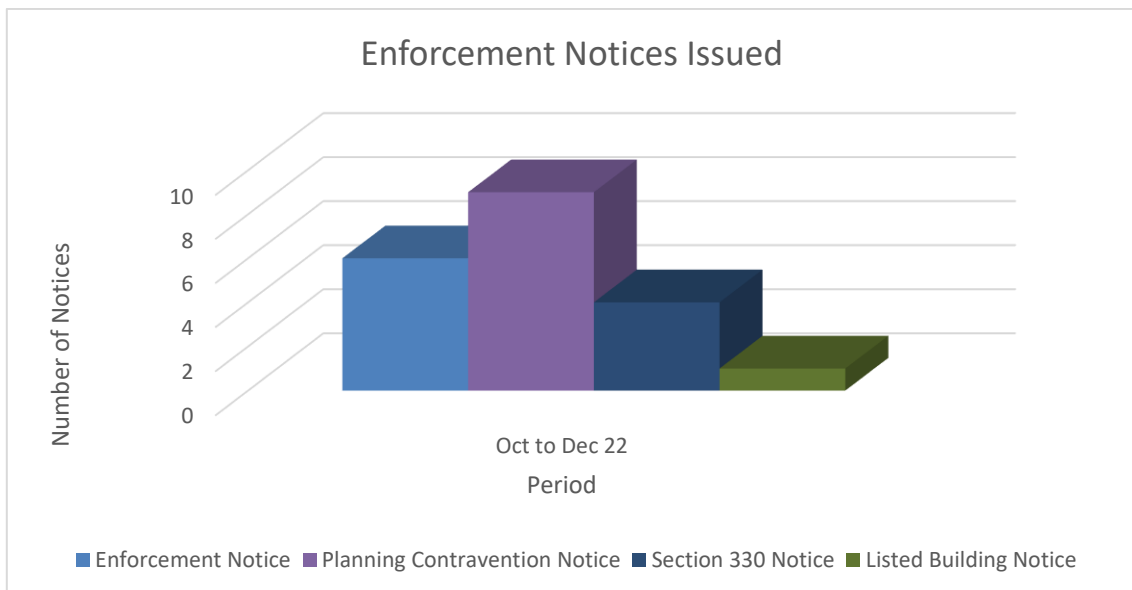


Chart 5 – Notices Served During Q3

SCHEDULE B. FORMAL ACTION TAKEN

Enforcement Ref: 20/00045/ENF

Site Address: Greaves Lane, Edingley

Alleged Breach: Untidy Land, Unauthorised Residential Use of an Agricultural Barn, Unauthorised Reservoir

Action To Date: Two Enforcement Notices, Section 215 Notice, ('untidy land'), two Injunctions

Background: The planning enforcement team, in collaboration with colleagues in the legal department, are dealing with a range of issues on agricultural land.

Officers are seeking an injunction scheduled for March 2023 to prevent the ongoing use of an agricultural building for residential occupation, following continued non-compliance with a planning Enforcement Notice and the refusal of a recent Lawful Development Certificate application.

Additional complaints have regularly been received about the general untidy condition of the land. A Section 215 Notice (untidy land notice) was issued in April 2021. The Notice requires substantial actions to improve the condition of the land, including the removal of a number of scrap vehicles and caravans, dismantling of structures and the removal of a substantial amount of waste and scrap from the land.

The requirements of the S215 were not met within the prescribed time frame and the Council have therefore sought to prosecute the owner of the land for failing to comply. The case is due to be heard in the Courts in February 2023.

A retrospective application for planning permission to retain an unauthorised reservoir was submitted and refused. Concurrently a planning enforcement notice was issued to require the infilling of the reservoir and the regrading of the land. An appeal against the Enforcement Notice was made to the Planning Inspectorate, and the appeal dismissed.

The Council has applied for an injunction requiring the reservoir to be emptied and then removed with the land reinstated to its former condition. An interim injunction was granted by the Court in November 2022. The interim injunction requires the reservoir to be emptied in accordance with the Structural Report, engagement and consultation with partner agencies (Environment and Internal Drainage Board) to ensure safe emptying by the 30th January 2023.

The application for a full injunction, for the removal of the reservoir and reinstatement of the land, is listed with the Courts along with the residential injunction application, for the end of March 2023.



Unauthorised Reservoir



Untidy Land

Enforcement Ref: 21/00320/ENFB

Site Address: London Road, Newark

Alleged Breach: Unauthorised installation of a new shopfront

Action To Date: Enforcement Notice

Background: Officers were made aware that a new shopfront using incongruous, modern materials had been installed without planning permission, within the Newark Conservation Area and nearby to several listed buildings. The design and materials are considered to be contrary to local and national planning policies. Efforts to work cooperatively with the occupant to obtain a revised scheme were not engaged with, and a planning Enforcement Notice has been issued, requiring the previous shopfront to be reinstated.



Enforcement Ref: 22/00238/ENFB

Site Address: London Road, Balderton

Alleged Breach: Unauthorised Fence and Gates

Action To Date: Enforcement Notice

Background: A retrospective application was submitted at the request of Officers, who had been notified that a set of tall black gates and fencing had been erected adjacent to the highway, requiring planning permission. The application was refused and a planning Enforcement Notice has been issued requiring the railings atop the wall to be removed and the gate to be reduced to no more than 1 metre in height, in accordance with permitted development legislation.



SCHEDULE C: EXAMPLES OF BREACHES RESOLVED WITHOUT FORMAL ACTION

Enforcement Ref: 22/00215/ENFB

Site Address: North End, Farndon

Alleged Breach: Unauthorised Use of Land for Camping and Caravanning

Background: Officers received complaints that for an extended period of time persons had been residing in motorhomes and caravans on an open parcel of land next to the river Trent. Vehicle movements, a lack of facilities and an increase in antisocial behaviour and litter were said to be resulting from the use.

The land is owned by a nearby public house, though they did not endorse or advertise the land as a camping site, which was popular amongst the caravanning community as a convenient location. The public house readily agreed to block vehicular access to the land by erecting a low fence, which has now resolved the problem.



Enforcement Ref: 22/00177/ENFB

Site Address: Mansfield Road, Clipstone

Alleged Breach: Change of Use of Shop for use as Car Sales

Background: Officers received complaints regarding the use of the forecourt of a closed retail premises for the sale of vans. Officers identified a point of contact for the landowner and issued a Planning Contravention Notice regarding the unauthorised use. The landowner agreed to cease using the forecourt for this use and the issue has now been resolved.



SCHEDULE D – NOTICES COMPLIED WITH DURING QUARTER

Enforcement Ref: 21/00270/ENFB

Site Address: Fiskerton Road, Bleasby

Action To Date: Planning Enforcement Notice Issued

Background: Officers were asked to investigate a parcel of agricultural land that had been used as a camping site since the onset of the Covid-19 pandemic. Although there were some short-term allowances for this introduced during the pandemic, the long-term use required planning permission. An application was submitted but refused on flood risk and highway

safety grounds, and a corresponding Enforcement Notice was issued requiring the use to cease. Site monitoring has confirmed that the Notice has been complied with.

Enforcement Ref: 18/00034/ENF

Site Address: Cockett Lane, Farnsfield

Action To Date: Enforcement Notice Issued

Background: Officers received a large number of complaints about the use of a large parcel of agricultural land for use as a storage and processing site of waste and construction materials including aggregates. The land had been regraded and large plant machinery was leading to noise disturbance across the locality, with an unsafe highway access point for such a use.

A joint investigation alongside Nottinghamshire County Council planning enforcement Officers – in their capacity as the minerals authority for the area - resulted in numerous LDC applications being received by NSDC, which sought to confirm that these uses of the site were lawful by virtue of the passage of time. These applications were all refused as evidence was present from historic enforcement investigations which refuted the claims of lawful use. Nottinghamshire County Council issued an Enforcement Notice requiring the use of the land as a minerals processing site to cease. This was complied with, returning the issue to NSDC to enforce against an unauthorised storage use. Officers issued an Enforcement Notice which was upheld at appeal, requiring the unauthorised use to cease and the land to be returned to its former condition.

Further site visits have confirmed that this has been complied with and the matter resolved after extensive effort from Officers.



Before



After

4.0 Implications

In writing this report and in putting forward recommendations, officers have considered the following implications; Data Protection, Equality and Diversity, Financial, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

5.0 RECOMMENDATION

That the Planning Committee considers 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 – Planning Development