

PLANNING COMMITTEE – 6 NOVEMBER 2018

QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 7 August 2018 which highlighted planning enforcement performance during the first quarter of 2018. This report relates to the quarter from 1 July until 30 September 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 A

Table 1

SCHEDULE A: ENFORCEMENT CASES	1 to 31 July	1 to 31 August	1 to 30 September
Cases Received	30	41	35
Case Closed*	24	31	19
Notice Issued	2	3	4
Notice Complied With	0	1	0
Appeal Lodged**	1	1	1*
Prosecutions/Injunctions	1	0	0

** Appeals lodged during Quarter3, 2018 are:

- 18/00039/ENFNOT – Barfield House, Greaves Lane, Edingley against the service of an Enforcement Notice (16/00356/ENF) on 28 June 2018 for the material change of use of land to residential use and the erection of wooden stables.
- 18/00043/ENFNOT - Lurcher Farm, Mansfield Road, Farnsfield against the service of an Enforcement Notice (17/00337/ENF) on 21 August 2018 for the use of land for storage of caravans
- 18/00015/ENFNOT – Burgess House, Main Street, Farnsfield against an Listed Building Enforcement Notice (17/00427/ENF) served on 15 March 2018 for the removal of metal pedestrian gates and installation of wooden gates between Burgess House and Main Street.

*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)
July 2018	24	10 (41.66%)	6 (25%)	6 (25%)	2 (8.33%)
August 2018	31	20 (64.51%)	8 (25.80%)	2 (6.45%)	1 (3.22%)
September 2018	19	10 (52.6%)	4 (21.05%)	4 (21.05%)	1 (5.26%)
Totals/Average	74	40 (54.05%)	18 (24.32%)	12 (16.21%)	4 (5.40%)

SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT

SCHEDULE C. FORMAL ACTION TAKEN (1 JULY TO 30 SEPTEMBER 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 JULY 2018

Enforcement Ref:	14/00156/ENF
Site Address:	7 Victoria Street, Newark
Alleged Breach	Upvc Window installed in Grade II Listed Building
Date Received	04.06.2014
ACTION TO DATE:	Prosecution in Court for Non Compliance of a Listed Building Enforcement Notice on 31 July 2018
<u>Background</u>	
The installation of a plastic (upvc) window in a Grade II listed building was first brought to the Council's attention in June 2014. This was considered to be an alien and incongruous feature that causes harm to both the listed building and the wider Conservation Area.	
Failed attempts at negotiation to resolve the breach resulted in the service of a Listed Building Enforcement Notice in July 2015. However this was ignored and the Notice was not complied with, nor was an appeal lodged. Correspondence to warn of the prosecution was also ignored and the Authority was left with no choice but to prosecute in the Courts for non compliance of the Notice.	

On 31 July 2018, our legal department successfully prosecuted the landowner for breaching a Listed Building Enforcement Notice. A fine of £750 was imposed by Nottingham Magistrates Court, with total costs coming to £1060.

Whilst the prosecution was a success this does not remedy the breach. The Local Planning Authority will now look to work cooperatively with the landowner to resolve the matter.

Enforcement Ref: 17/00017/ENF

Site Address: Epperstone Manor, Main Street, Epperstone

Alleged Breach Untidy land - Concerns that development site left in a state which potentially raises Health and Safety concerns

Date Received 28.06.2018

ACTION TO DATE: Service of Section 215 Notices x 2 on 5 July 2018

Background

Members will be aware that following completion of a residential development, some two years on, portacabins, building equipment, skips, materials and debris etc were still present on site. These were considered to visually affect the amenity of the locality to its detriment. Given the time period this has been ongoing for, formal action was considered necessary in order to protect the Authorities position despite the owner beginning to cooperate with requests for site clearance.



Two separate Notices were served due to land ownerships matters. These notices relate to Manor Lodge, Manor Walk, Epperston & Land South of Epperstone Manor, Main Street, Epperstone.

They require removal of all items and machinery associated with the recent residential development of the land within 84 days from when the Notice takes effect as follows:

- A) Remove all site cabins, offices and other storage buildings - and any materials and equipment items stored within
- B) Remove all plant machinery, equipment and construction vehicles from the Land
- C) Remove all excess construction materials, products and storage containers including, but not limited to, any wood, bricks, pantiles, skips, storage containers, and pallets.

The Notice(s) take effect on 6 August 2018 requiring compliance by the end of October 2018. It is understood at the time of writing that good progress has been made and officers will continue to monitor progress.

FORMAL ACTION TAKEN IN AUGUST 2018

Enforcement Ref: 18/00199/ENF

Site Address: 19 Bridge Street, Newark, NG24 1EE

Alleged Breach: Unauthorised fascia signage attached to listed building

Date Received: 21.06.2018

ACTION TO DATE: Service of Listed Building Enforcement Notice on 03.08.2018

Background



The Local Planning Authority was made aware that an unauthorised and visually harmful fascia sign had been installed at 19 Bridge Street, Newark, a grade II listed building. Two letters were issued (on 26 June and 26 July 2018) to the owners and tenant, requesting the sign be removed. Compliance with this request was not forthcoming and so a Listed Building Enforcement Notice has been issued requiring its removal by the 1 October 2018. Although this has not been complied with to date, a decision has been taken not to prosecute at the current time given that the LPA are currently considering an LBC application for a revised fascia sign (which if approved would clearly include a condition for the existing signage to be removed in a timely manner which overall would save the costs associated with prosecution).

Enforcement Ref: 18/00107/ENF

Site Address: Apartment 5, Wesley House, Guildhall Street, Newark

Alleged Breach: Unauthorised erection of a means of enclosure attached to a listed building

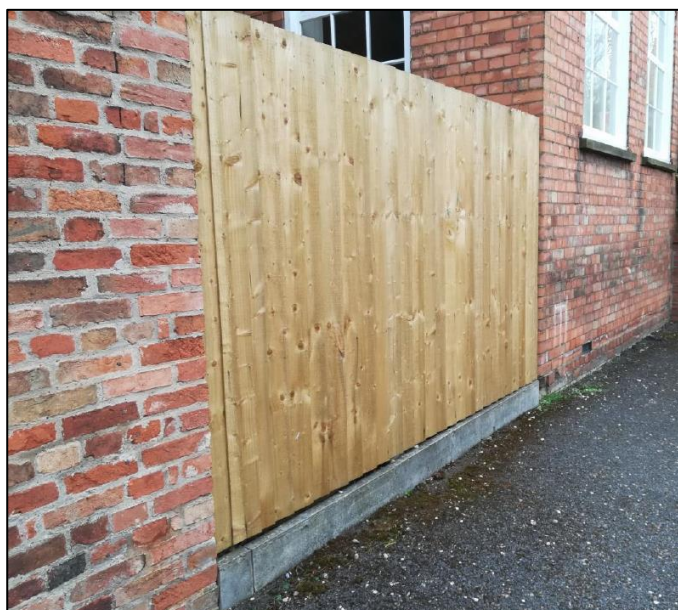
Date Received: 14.04.2018

ACTION TO DATE: Service of Listed Building Enforcement Notice 03.08.2018

Background

The Local Planning Authority was made aware that a timber fence panel and posts had been erected, enclosing a small courtyard area of a listed building. The posts are fixed to the listed building without planning permission or listed building consent having been granted.

Following a site meeting and a number of follow-up correspondences, no alternative scheme has been proposed to replace the fencing. A listed building enforcement notice has therefore been served, requiring the removal of the fence panel no later than the 29 October 2018 in order to account for the particular circumstances of the occupant. The latest site notice showed that works had commenced to comply with the notice.



Enforcement Ref: 18/00102/ENF

Site Address: Car Park to the north of 83-85 Appleton Gate, Newark, NG24 1LP

Alleged Breach: Change of use of car park associated with listed building to operate independently as a pay & display car park.

Date Received: 13.04.2018

ACTION TO DATE: Service of Listed Building Enforcement Notice 09.08.2018

Background

The Local Planning Authority was made aware that the car park associated with a vacant listed building on Appleton Gate had been diagggregated from the building and was being operated as an independant pay and display car park. This was found to be correct and a planning application was submitted in an attempt to remedy the breach of planning control.

The application was considered and refused under delegated powers as it was found that the severance of the commercial Listed Building and from its associated car parking area would reduce the commercial attractiveness and viability of the retail use of the existing listed building. The unauthorised use therefore restricts the viability of the listed building by making it less desirable and more likely lead to its decline in the long-term to the detriment and harm of the heritage asset. It was also considered that the loss of appropriate parking provision for the retail unit in this location will exacerbate existing traffic congestion and on-street parking problems within the locality by increasing the likelihood of illegal on-street parking in the area or through an increased risk to other road users as distracted drivers seek on-street parking. As such it was considered to be contrary to the Development Plan and the NPPF.

The application was refused and an Enforcement Notice was issued given its retrsospetive nature.



The Enforcement Notice takes effect on 7 September 2018 and requires the owners/ccoupiers to:

- Cease using the land as an independent pay and display car park, and ensure its availability for staff and customers of the associated commercial premises; and
- Remove from the land the payment meter and security frame, as identified in Figure 1 below;

The time for compliance given was **56 days**.

FORMAL ACTION TAKEN IN SEPTEMBER 2018

Enforcement Ref: 16/00108/ENF

Site Address: Caravan Park, Boat Lane, Bleasby

Alleged Breach: Alleged unauthorised erection of chalet, and possible breach of planning condition regarding number of caravans stationed on site.

Date Received: 14.04.2016

ACTION TO DATE: Service of Breach of Condition Notice 10 September 2018

Background

Upon investigation of this complaint it was established that a breach of condition no. 3 of planning permission 15/01174/FUL was occurring. The permission was granted for 'The use of land for the siting of caravans on land with the benefit of existing certificates of lawfulness between 1 March and 31 October'. Condition 3 states:

"Not more than 33 caravans (30 touring caravans, 3 static caravans) at any one time shall be stationed within the site between 1 March and 31 March within any year only. Outside of this period, only the 3 static caravans on the site granted permission under W/33/102 April 1962 shall be stationed on site within field OS2819 only."

The breach of condition was considered harmful and despite attempts to negotiate with the perpetrator to comply with the condition, this did not happen and consequently it resulted in a Notice being served requiring:

- 1) The reduction in the number of caravans to no more than 33 caravans between 1 March and 31 March; and
- 2) Cessation of the storage of caravans other than the 3 granted permission under W/33/102 in April 1962 within the site between 1 November and 1 March.

The compliance period was 90 days for each element.

Enforcement Ref: 18/00283/ENF

Site Address: Land on the east side of Cover Point, Halloughton, Southwell

Alleged Breach: Breach of planning condition relation to tree protection

Date Received: 04.09.2018

ACTION TO DATE: Service of Breach of Condition Notice 11 September 2018

Background

It came to the attention of the Local Planning Authority that a number of planning conditions in relation to tree and hedgerow protection were being breached during the construction of a dwelling. This was ascertained on site and it was established that Conditions 4, 7 and 8 were not being complied with.

In order to remedy the harm identified a Breach of Condition Notice was subsequently served requiring (in summary);

The erection of tree/hedgerow protection fencing within 30 days and the replanting of a new hedgerow (hawthorn, holly and hazel) along the eastern boundary of the site within 170 days.

Enforcement Ref: 18/00204/ENF

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

Alleged Breach: Unauthorised erection of tractor workshop and change of use of agricultural land to residential use

Date Received: 06.07.2018

ACTION TO DATE: Service of Enforcement Notice 26.09.2018.

Background

A complaint was raised regarding the unauthorised erection of a building on the site and the change of use of agricultural land to residential curtilage. Upon investigating the matter, the enforcement team confirmed the breach and an application was lodged in an attempt to regularise the matter.

The planning application was duly considered and refused on 26th September 2019 on the grounds that it constitutes unnecessary, unjustified development in the countryside that would encroach into the open countryside and be visually incongruous for the area and that in terms of flood risk, the application fails the Sequential Test, given the site lies in flood zone 2 and the development is not justified.

An Enforcement Notice was issued at the same time as the refusal of the planning permission for the same reasons. The Notice requires the perpetrators to:

- Cease using the land for domestic purposes, and only utilise the land for agriculture.
- Remove all residential 'paraphernalia', machinery, storage containers and items not associated with the agricultural use of the land.
- Dismantle and remove the structure referred to as a "tractor workshop and storage area" as part of planning application 18/01482/FUL

The period for compliance was given as 84 days from 24th October 2018 when the Notice takes effect.

Enforcement Ref: 18/00051/ENF

Site Address: Corner House Farm, Hawton Lane, Farndon

Alleged Breach: Unauthorised expansion of industrial storage site

Date Received: 08.02.2018

ACTION TO DATE: Service of Enforcement Notice 27.09.2018.

Background

It was brought to the attention of the Planning Enforcement Team that agricultural land adjacent to an existing premises in Farndon was being used for an unauthorised expansion of a commercial premises involving the storage of vehicles and equipment. The matter was investigated and it was established that the material change of use of the land had occurred within the last 4 years and is therefore not immune from formal action. Moreover the use was considered by officers to be a harmful encroachment into the countryside contrary to the Development Plan.

An Enforcement Notice was therefore issued on 27 September 2018 requiring the perpetrators to:

- A. Cease using the land for any purposes other than agriculture.
- B. Remove from the Land all items not associated with the agricultural use of the land. For the avoidance of doubt, this includes, but is not limited to, the following items and equipment as indicated in Figures 1, 2 and 3:

- (1) Articulated Trailers
- (2) Vehicles
- (3) Scrap and Waste Materials
- (4) Skips, Barrels and Pallets
- (5) Storage Containers

Figures 1 & 2



Figure 3



C. Remove the earth bund from the Land along the north-western and north-western boundaries of the land, as shown in Figure 4 and 5.

Figure 4 & 5



D. Remove all hard-surfacing and road planings from the ground, and return the land to its former agricultural condition as shown in Figure 6.



The period for compliance was given as 6 months from 29 October 2018 when the Notice takes effect.

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: 18/00156/ENF

Site Address: Aldi Stores Ltd., North Gate, Newark

Alleged Breach: Unauthorised Billboard Sign

Date Received: 11.05.2018

Status: Breach Resolved by Removal of Sign Through Negotiation

Background

Whilst dealing with an application for renovations to the Aldi supermarket in Newark, it was established that the large billboard on the forecourt of the premises was unauthorised. Whilst this had been in place for a number of years it was considered to be harmful to the character and appearance of the Conservation Area of Newark.

Our Enforcement and Planning Officers have successfully negotiated its removal without the need to serve a Discontinuance Notice. The before and after pictures are below.

Before



After



It should be noted that the Totem Sign that can be seen within the photographs is subject to separate planning appeal.

Enforcement Ref: 18/00231/ENF

Site Address: Land opposite Tesco Filling Station, Edison Rise, Ollerton

Alleged Breach: Unauthorised hoarding sign

Date Received: 23.07.2018

Status: Breach Resolved by Removal of Sign Through Negotiation

Background

Ollerton & Boughton Town Council raised concerns that an unauthorised hoarding sign was being displayed on land adjacent to the roundabout in front of the miners memorial garden.

It was established that temporary advert consent had been granted for a different sign in 2010 under reference 10/00090/ADV and Condition 3 of the consent required the advertisement to be removed from the site following a period of 2 years. It was established that this original advertisement was in place for considerably longer period of time. In any event this was replaced by the larger sign. As the display of this advert was unauthorised, officers contacted the agents responsible for the hoarding and requested its removal making them aware of the sensitive nature of the site. Those responsible for the hoarding eventually agreed to remove the sign when formal action was proposed. This has now been removed from the site.

Before

After



SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (01.07.2018 TO 30.09.2018)

Members will note that one case reported resulting in the service of a formal Notice in December 2017 has been resolved as reported above in Schedule A. This relates to the following:

Enforcement Ref: 17/00326/ENF

Site Address: The Old Library, High Street, Edwinstowe

Alleged Breach: Breach consisting of the alteration of the building including the removal of the existing windows on the east facing front elevation consisting of the insertion of 2 no Aluminium double doors and the removal of existing central entrance door and sidelights and replacement with a new wider accessible entrance door with glazed sidelights installed.

Date Received: 11.12.2017

ACTION TO DATE: Complied with Enforcement Notice Issued.

Background

Members might recall that this matter was previously reported to the Planning Committee. The matter involved the deviation from the approved plans which resulted in an Enforcement Notice being served on 12 December 2017. An appeal against the Notice was subsequently dismissed on appeal in May 2018.

It is noted that the windows have now been amended to the satisfaction of the conservation officer and in compliance with the Enf Notice and an application has been submitted to retain the door (which was installed to provide disabled access).

RECOMMENDATION

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

Background Papers

Enforcement Case Files

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

Matthew Lamb

Business Manager - Growth & Regeneration