

PLANNING COMMITTEE – 15 JANUARY 2019

QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 6th November 2018 which highlighted planning enforcement performance during the second quarter of 2018. This report relates to the quarter from 1st October to 31st December 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	1st to 31st October	1st to 30th November	1st to 31st December
Cases Received	37	27	32
Case Closed*	27	20	34
Notice Issued	2	1	1
Notice Complied With	1	2	1
Appeal Lodged**	1	1	0
Prosecutions/Injunctions	0	1	0

** Appeals lodged during Quarter 4, 2018 are:

- **18/00046/ENFNOT** - 43A Great North Road, Sutton On Trent, Nottinghamshire, NG23 6PL against the service of a enforcement notice (**18/00204/ENF**) in relation to the material change of use of the land from agricultural land to residential curtilage and the erection of a tractor repair workshop. *Appeal lodged 24th October 2018.*
- **18/00049/ENFNOT** - Corner House Farm, Hawton Lane, Farndon against the service of an enforcement notice (**18/00051/ENF**) served on the 27th September 2018 in relation to the material change of use from open countryside to industrial storage. *Appeal lodged 2nd November 2018.*

*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)
October 2018	27	10 (37%)	10 (37%)	5 (18.5%)	2 (7.4%)
November 2018	20	7 (35%)	9 (45%)	3 (15%)	1 (5%)
December 2018	34	15 (44%)	15 (44%)	4 (12%)	0 (0%)
Totals	81	32	34	12	3
Average	27	11 (41%)	11 (41%)	4 (15%)	1 (4%)

SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT

SCHEDULE C. FORMAL ACTION TAKEN (1ST OCTOBER TO 31ST DECEMBER 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 IN OCTOBER 2018

Enforcement Ref: 17/00070/ENF

Site Address: Bargain Booze, Unit 3, 2 Church Street, Edwinstowe, NG21 9QA

Alleged Breach: Development of land between shop and neighbouring hotel

Date Received: 22.03.2017

ACTION TO DATE: Notice Served 05.10.2018

Background

The local planning authority was made aware that a parcel of land atop a boundary wall had been hard surfaced, fenced and used for the display and sale of retail goods. A planning Enforcement Notice was first served in March 2018 and required the removal of the fencing, hard surfacing and the occupier to cease displaying retail goods on the land. On the advice of the Planning Inspectorate, this first Notice was withdrawn and a second Notice served on the 5th October 2018. This Notice clarified the steps for compliance, and requires the removal of

the hard surfacing and fencing, and the occupier to cease using the land as retail forecourt. No appeal has been lodged against this Notice and officers are in ongoing discussion with the owner/occupier regarding this matter.



Enforcement Ref: 17/00154/ENF

Site Address: Tresco, 5 Main Street, North Muskham, Newark On Trent, NG23 6EZ

Alleged Breach: Alleged construction of fence and summerhouse.

Date Received: 10.05.2017

ACTION TO DATE: Enforcement Notice Served 15.10.2018

Background

A revised Enforcement Notice was issued requiring the reduction in height of a length of fencing at Trent Close, North Muskham. The fences were erected without a grant of planning permission, with a retrospective planning application having been refused 17/01077/FUL on highway safety and visual impact grounds.

The Enforcement Notice was served to ensure the timely reduction in height of the fencing to 1 metre under the Town and Country Planning (General Permitted Development) Order 2015 allowances. An appeal has not been lodged against this Notice, with compliance being required by the 9th January 2019.



FORMAL ACTION TAKEN IN NOVEMBER 2018

Enforcement Ref: 18/00240/ENF

Site Address: 48 Mickledale Lane, Bilsthorpe, Nottinghamshire, NG22 8RB

Alleged Breach: Erection of structure to accomodate two vehicles

Date Received: 01.08.2018

ACTION TO DATE: Enforcement Notice Served 13.11.2018

Background

The breach relates to a building that has been erected within the garden of a dwellinghouse. As part of the investigation a retrospective planning application was submitted, ref 18/01752/FUL, which was refused due to the harmful impact of the building upon the character and appearance of the area by virtue of its design, large scale, massing and external materials and introduces a feature that is overly dominant and alien for its surroundings. Furthermore the height, scale and massing of the building is resulting in an overbearing and harmful impact on neighbouring amenity. The enforcement notice requires the height of the building to be reduced to no more than 2.5 metres. The deadline for compliance with the notice is 19th March 2019.



Enforcement Ref: 16/00356/ENF

Site Address: Barfield House, Greaves Lane, Edingley, Nottinghamshire, NG22 8BH

**Alleged Breach: Laying foundations and erection of dog kennel in field
and enclosure of land**

Date Received: 02.12.2016

ACTION TO DATE: Prosecution taken 13.11.2018

Background

The kennels was the subject of an enforcement notice in March 2017. The notice was issued after a retrospective planning application was refused. The enforcement notice requires the kennels to be removed from the site.

An appeal to the Planning Inspectorate by the defendants, Mr Harvey Sidney Sharpstone and Mrs Sharon Floretta Sharpstone, was later dismissed and the enforcement notice upheld in full. It was noted on August 20th 2018 that the kennels have not be removed as required by the enforcement notice and the case was therefore referred to Nottingham magistrates court.

The Sharpstones, who pleaded guilty to the offence of breaching planning control at Nottingham Magistrates, were fined £650 and ordered to pay costs of £1,200 and a victim surcharge of £65.

Enforcement Ref: 16/00108/ENF

Site Address: Land known as 'Boat Lane Caravan Site' Boat Lane Bleasby, Nottinghamshire NG14 7FT

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

Date Received: 04.04.2016

ACTION TO DATE: Enforcement Notice Served 28.11.2018

Background

The site benefits from number of permissions for use as a caravan site for holiday occupation by touring caravans between April and October, whilst a certificate of lawfulness allows a small field to be occupied by 5 touring caravans between March and October. In addition there is a certificate of lawfulness that recognises that 3 static caravans may remain on site at all times for residential purposes. In 2015 planning consent was granted to amalgamate the various historic permissions and certificate of lawfulness to allow use of the two fields for a set number of touring caravans between March and October, plus the 3 static caravans all year round. An application was made on the same year to revise the permission to allow the site to be used for the stationing of caravans all year round. This application was refused as the site is located within the Functional Floodplain and is at significant risk of flooding from the River Trent, objections were therefore received from the Environment Agency.

Following investigations it was observed that the number of caravans on the site had been significantly exceeded as had the periods that the caravans were permitted to remain on site. A planning enforcement notice has therefore been served that requires all caravans, other than the 3 permitted to remain on site all year, to be removed between October 31st and March 31st.

FORMAL ACTION TAKEN IN DECEMBER 2018

Enforcement Ref: 18/00296/ENF

**Site Address: The Flat Upstairs
45 Kirk Gate
Newark On Trent
Nottinghamshire
NG24 1AD**

Alleged Breach: Unauthorised amendments to listed building

Date Received: 11.09.2018

ACTION TO DATE: Listed Building Enforcement Notice served 11.12.2018

Background

The building is Grade II listed and a number of alterations have been undertaken without listed building consent including:

- The display of a fascia sign;
- The display of window vinyl's/graphics
- The installation of metal step casings
- Amendments to the top-left window pane to accommodate an extraction flue



The listed building enforcement notice requires the removal / replacement of the unauthorised works with various periods for compliance taking effect on January 10th 2019.

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: 18/00280/ENF

Site Address: The Poplars, Staythorpe Road, Averham, Newark On Trent, NG23 5RA

Alleged Breach: Alleged change of use of paddock to residential use

Date Received: 31.08.2018

Status: Case Closed – breach resolved.

Background

Officers were made aware that the paddock to the north of The Poplars was being used for residential purposes, including the siting of a domestic outbuilding and trampoline along the northern boundary (shown approximately in red in the below aerial photograph).



Officers wrote to the owners of the site confirming that the change of use was unlikely to receive a favourable recommendation if planning permission were applied for and therefore requested the removal of all domestic items and the use of the land for solely agricultural / grazing purposes.

A site visit on 22nd October 2018 confirmed that the request had been complied with:



Enforcement Ref: 17/00257/ENF

Site Address: Bentleys Bakery, Old Methodist Chapel, High Street, Edwinstowe, NG21

Alleged Breach: Removal of railings

Date Received: 26.07.2017

Status: Case Closed – breach resolved.

Background

Alleged breach was removal of railings from prominent building within Edwinstowe Conservation Area (CA). Case investigated alongside Conservation Officers and through negotiations led to an application being submitted to reinstate/ replace the original railings which had been lost (18/00366/FUL) with replicas. The permission was granted in July 2018. A site visit in November 2018 confirmed that the railings have been replaced with replicas of the originals and these have positively impacted upon the character of the CA.



Enforcement Ref: 18/00321/ENF

Site Address: Gothic House Farm, Langford Lane, Holme, NG23 7RY

Alleged Breach: Alleged untidy land

Date Received: 03.10.2018

Status: Case Closed – breach resolved.

Background

A site visit was undertaken on 1st October 2018 noting that an area of the farmyard was being used for the storage of building materials and debris.



This was determined as being visually harmful to both nearby heritage assets (the Grade I listed church) as well as neighbouring properties. Officers wrote to the owners on 3rd October requesting that the materials be removed from the land within a period of 28 days. The owner contacted Officers to negotiate a slightly longer timeframe but a site visit on 19th November 2018 has confirmed that the site has been cleared thereby negating the need to serve a Section 215 untidy land notice.



SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (01.10.2018 – 31.12.2018)

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

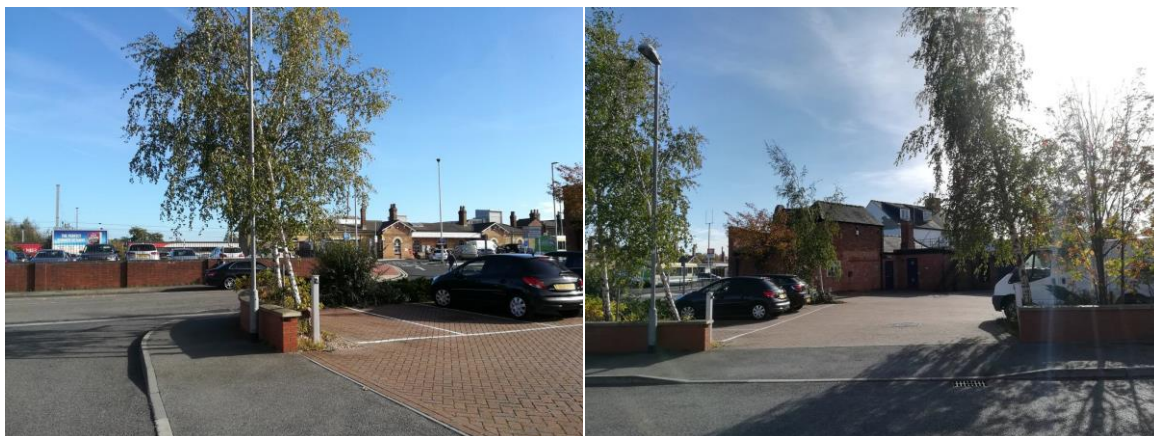
ACTION TO DATE: Service of Listed Building Enforcement Notice 09.08.2018

Background

As reported to Members in the previous quarterly report, Officers had served a Listed Building Enforcement notice requiring the ceasion of the use of the land for a pay and display car park and the removal of associated signage.



A site visit on 24th October 2018 confirming that the notice had been complied with within the prescribed timescale.



Enforcement Ref: 18/00107/ENF

Site Address: Wesley House, Guildhall Street, Newark On Trent

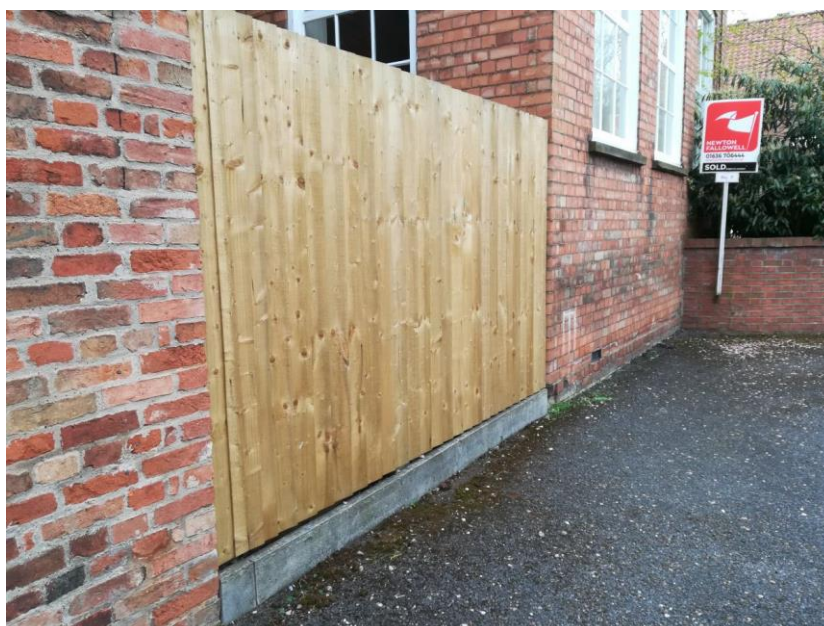
Alleged Breach: Boundary wall and fencing

Date Received: 14.04.2018

ACTION TO DATE: Listed building enforcement notice served.

Background

As reported to Members in the previous quarterly report, a site visit in April 2018 confirmed that a fence had been erected to enclose a courtyard area at the above property which is a Grade II Listed Building. A listed building enforcement notice was therefore served requiring compliance no later than 29th October 2018.



A site visit on 14th November confirmed that the fence has been removed in accordance with the notice:



Enforcement Ref: 17/00154/ENF

Site Address: Tresco, 5 Main Street, North Muskham, Newark On Trent, NG23 6EZ

Alleged Breach: Alleged construction of fence and summerhouse.

Date Received: 10.05.2017

ACTION TO DATE: Enforcement notice served.

Background

In May 2017 Officers were made aware that a length of hedgerow had been removed and 9, 2 metre high timber fence panels had been erected adjacent to the highway. This constituted a breach of the allowances granted under Schedule 2 Part 2 Class A of the GPDO 2015.



A retrospective application was refused (17/01077/FUL) and a corresponding enforcement notice served. The owner appealed the Notice, which was declared a nullity due to incorrect dates being given on the Notice.

A second enforcement notice was served in October 2018, which has now been complied with. All fence panels have been reduced to 1 metre in height, and therefore accord with the GPDO 2015 allowances.



Enforcement Ref: 17/00386/ENF

Site Address: Flat 1 And 2, 69 Main Street, Balderton, Newark On Trent, Nottinghamshire, NG24 3NN

Alleged Breach: Alleged 6 foot high fence erected adjacent highway

Date Received: 31.10.2017

ACTION TO DATE: Enforcement notice served.

Background

Permission was granted in 2014 and 2017 (14/01714/FUL & 17/01339/FUL) for the conversion of the former Balderton Working Men's Club to three residential units and the erection of 6 dwellings within the grounds.

Once the conversions were completed, a member of the public made the LPA aware that 1.8m high timber fencing had been erected, having had Schedule 2 Part 2 Class A (Means of Enclosure) PD rights removed under the 2014 permission.



A retrospective planning application was received and approved for one unit (18/00083/FUL), with the required screening planted a number of months ago.

Despite ongoing correspondence with the occupant of unit 1, a valid retrospective application never materialised. An enforcement notice was therefore served, requiring the removal of some of the fencing; the staining of the fence dark green; and mature hedgerow planted to screen the fencing from the public realm.

A site visit on 10th December 2018 confirmed that the enforcement notice has been complied with.



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 Laura Gardner on Extension 5907 or planning@nsdc.info

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