

## PLANNING COMMITTEE – 6 AUGUST 2019

### QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 2<sup>nd</sup> July 2019 which highlighted planning enforcement performance during the first quarter of 2019. This report relates to the quarter from 1<sup>st</sup> April to 30<sup>th</sup> June 2019 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

<b>SCHEDULE A: ENFORCEMENT CASES</b>	<b>1<sup>st</sup> to 30<sup>th</sup> April 2019</b>	<b>1<sup>st</sup> to 31<sup>st</sup> May 2019</b>	<b>1<sup>st</sup> to 30<sup>th</sup> June 2019</b>	<b>Totals</b>
<b>Cases Received</b>	48	39	33	120
<b>Case Closed*</b>	31	25	46	102
<b>Notice Issued</b>	3	3	1	7
<b>Notice Complied With</b>	1	1	3	5
<b>Appeal Lodged**</b>	2	0	0	2
<b>Prosecutions/Injunctions***</b>	0	1	0	1

\*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.

\*\* Appeals lodged during Quarter 2, 2019 are:

- 18/00271/ENF (**19/00021/ENFNOT**) appeal received 18<sup>th</sup> April 2019 – 18 Sherwood Avenue, Edwinstowe relating to the unauthorised erection of an extension to which the enforcement notice (served 18<sup>th</sup> March 2019) required removal.
- 18/00346/ENF (**19/00022/ENFNOT**) appeal received 19<sup>th</sup> April 2019 – 29 California Road, Farndon in which the enforcement notice served 18<sup>th</sup> March 2019 required the removal of a balcony and associated rail and platform.

\*\*\*The Prosecution referred to was in relation to Rickett Lane in Blidworth. The prosecution relates to the failure to comply with an enforcement notice for open air storage in the Green Belt. The total fine given was £1,264.50.

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

**Table 2**

<b>Month/Year</b>	<b>Total Number of Cases Closed</b>	<b>No Breach (No Further Action required)</b>	<b>Breach Resolved (through negotiation, permission granted etc)</b>	<b>Breach – No Further Action (as not expedient)</b>	<b>Other (such as Duplicate Case)</b>
April 2019	31	17 (54.8%)	11 (35.5%)	2 (6.5%)	1 (3.2%)
May 2019	25	13 (52%)	8 (32%)	3 (12%)	1 (4%)
June 2019	46	21 (45.7%)	14 (30.4%)	9 (19.6%)	2 (4.3%)
<b>Totals</b>	<b>102</b>	<b>51</b>	<b>33</b>	<b>14</b>	<b>4</b>
<b>Average</b>	<b>34</b>	<b>17 (50%)</b>	<b>11 (32%)</b>	<b>4.6 (14%)</b>	<b>1.3 (4%)</b>

**SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT**

**SCHEDULE C. FORMAL ACTION TAKEN (1<sup>ST</sup> APRIL TO 30<sup>TH</sup> JUNE 2019)**

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 APRIL 2019**

**Enforcement Ref:** 19/00133/ENF

**Site Address:** The Bearings, Bowbridge Road, Newark, NG24 4BZ

**Alleged Breach:** Unauthorised removal of trees

**Date Received:** 02.04.2019

**ACTION TO DATE:** Breach of Condition and Temporary Stop Notices Served 2<sup>nd</sup> April 2019.

**Background**

Concerns were raised to the LPA in respect to the removal of trees in connection with the development of the site under planning reference 18/00973/FULM (Erection of 62 residential dwellings including new vehicular access road and removal of eight TPO trees (TPO N313).

Whilst the works were in accordance with the plans as submitted, they were done before discharging relevant conditions which were specifically imposed to protect the trees subject to a TPO.

Officers served a Temporary Stop and Breach of Condition Notice requiring all works to cease until a scheme for the protection of the retained trees and hedgerows (as required by condition) had been submitted and agreed in writing.

**Enforcement Ref:** 19/00138/ENF

**Site Address:** Unit 3 The Paddock, Newark Road, Wellow

**Alleged Breach:** Alleged breach of conditions – 15/00457/FUL

**Date Received:** 04.04.2019

**ACTION TO DATE:** Temporary Stop Notice Served 4<sup>th</sup> April 2019.

#### Background

Planning permission was granted at appeal in April 2017 for the development of a traveller site including short term transit pitches and a utility block. In approving the application the inspector imposed 19 conditions, amongst which one prohibits vegetation clearance during the bird nesting season, and another requires that tree protection measures should be put in place in accordance with an approved scheme.

A site visit by Enforcement Officers noted that whilst measures had been put in place, these were not exact to the agreed details in that the fencing was not far enough out to the edges of the canopies and the membrane around one of the specimens (T39) was not implemented correctly. This was discussed with the Council's Tree Officer and it was confirmed that the measures were insufficient. A temporary stop notice was therefore served.

Subsequent to the notice being served the owner agreed to undertake remedial works, including removing the hard standing from the canopy of some areas of trees and the application of a revised surfacing and membrane to others areas in accordance with details approved by the tree officer.

The Council considers the requirements of the Notice to be complied with and the enforcement case has now been closed.

**Enforcement Ref:** 19/00107/ENF

**Site Address:** The Bungalow, 7 Crab Lane, North Muskham, NG23 6HH

**Alleged Breach:** Unauthorised loft conversion with insertion of French doors

**Date Received:** 19.03.2019

**ACTION TO DATE:** Enforcement Notice Served 8<sup>th</sup> April 2019.

#### Background

The LPA received concern regarding the conversion of a loft which included the installation of French doors which opened out on to a flat roof, and the insertion of windows on the opposite gable.



Having visited the site, Officers noted that the doors and windows have the potential to affect neighbouring amenity.



The exit is required for building regulations but the insertion of the doors would require planning permission as they are at first floor on a side elevation and not obscurely glazed.

An enforcement notice was served requiring that all glass panes be obscurely glazed and made non opening up to a height of 1.7m (i.e. to meet the permitted development right regulations). The works were required to be complied with by 18<sup>th</sup> June 2019.

### **FORMAL ACTION TAKEN IN MAY 2019**

**Enforcement Ref:** 19/00170/ENF

**Site Address:** Land to the South Side of 9-18 Hounsfield Way, Sutton on Trent

**Alleged Breach:** Breaching permitted working hours

**Date Received:** 23.04.2019

**ACTION TO DATE:** Breach of Condition and Temporary Stop Notices Served 10<sup>th</sup> May 2019.

#### **Background**

Planning permission was granted in January 2018 for the erection of 50 dwellings with associated infrastructure, landscaping and public open space and surgery car park extension providing 11 car park spaces (14/00161/FULM).

Condition 05 of the permission restricted working hours including allowing no works on bank holidays.

Concern was received that works were taking place outside of the restricted hours (including over the Easter weekend) which the developer conceded had happened.

A Temporary Stop and Breach of Condition Notice were therefore served requiring compliance with working hours as conditioned.

**Enforcement Ref:** 18/00034/ENF

**Site Address:** The Workshop, Cockett Lane, Farnsfield, NG22 8QJ

**Alleged Breach:** Change of use to waste transfer site

**Date Received:** 25.01.2018

**ACTION TO DATE:** Breach of Condition Notice Served 15<sup>th</sup> May 2019.

#### **Background**

Planning permission was granted for an agricultural storage unit (retrospective) under planning reference 14/01948/FUL. Condition 03 required that the building be used solely for agricultural purposes.

It was brought to the LPA's attention that the site was allegedly being used as a waste transfer site and therefore not for the agricultural purposes approved.

The breach of condition notice relates solely to the unauthorised change of use albeit there are ongoing investigations from Nottinghamshire County Council (as the waste authority) in respect to the end use as a waste operation. NCC have also served a planning enforcement notice to which an appeal has been lodged against. NCC have notified NSDC as an interested party in the appeal process and the LPA will continue to work with NCC through the proceedings.

It is worthy of note that there is no right of appeal against a breach of condition notice and therefore the owner does not have the ability to appeal the NSDC notice.

**Enforcement Ref:** 19/00210/ENF

**Site Address:** Land adj. The Old Rectory, Church Street, Southwell, NG25 0HG

**Alleged Breach:** Alleged unauthorised works beyond consent

**Date Received:** 29.05.2019

**ACTION TO DATE:** Temporary Stop Notice Served 29<sup>th</sup> May 2019.

#### Background

The building in question is curtilage listed and despite consent for residential conversion (16/02036/FUL), a site visit from the Conservation Officer noted that the building had in fact almost been demolished in its entirety due to the alleged instability of the building.



A temporary stop notice was served requiring the cessation of development and restricting the removal of already demolished materials from the site. The notice ceased to have effect on 26<sup>th</sup> June 2019. Officers continue to liaise with the landowner and are looking to arrange interviews under caution to establish the facts of the matter.

### **FORMAL ACTION TAKEN IN JUNE 2019**

**Enforcement Ref:** 19/00209/ENF

**Site Address:** Land at Girton Farm, New Lane, Girton

**Alleged Breach:** Demolition of Buildings

**Date Received:** 29.05.2019

**ACTION TO DATE:** Temporary Stop Notice Served 20.06.2019

#### **Background**

A number of large buildings have been demolished on the site with the materials burnt on site including asbestos.

The breach in planning terms is that there was no notification of the buildings demolition to consider their removal to be permitted development.

Officers are working with colleagues in Environmental Health in order to rectify the issues.



## **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:** 18/00410/ENF

**Site Address:** 24 Lawrence Street, Newark, NG24 1NE

**Alleged Breach:** Unauthorised hard standing area

**Status:** Breach resolved

### Background

The LPA received notification that the approved hard and soft landscaping scheme for the driveway/front garden of application 18/00005/FUL had not been complied with. Instead of block pavers for one vehicle and a small soft landscaping area, the entire driveway space had been tarmacked.



A soft landscaped area and off-street parking for one vehicle only was considered to be a crucial consideration in the approval of this scheme.



After a number of warning letters and emails, the block pavers were installed, and low-level shrubs implemented in accordance with the approved hard & soft landscaping scheme as confirmed by a site visit on 4<sup>th</sup> June 2019.



**Enforcement Ref:** 19/00165/ENF

**Site Address:** Land off Southwell Road, Farnsfield

**Alleged Breach:** Plot 24 allegedly not built in accordance with approved plans - 14/01469/OUTM

**Status:** Breach resolved

#### Background

Officers attended the site following concerns by neighbouring residents and noted that the roof timbers that were beginning to be installed for PLOT 24, (which is the closest plot to the existing dwellings) were incorrect. The roof being installed was a gable with the associated brickwork. The approved plans (elevation and block plans, shows a hipped structure).



Officer negotiated with the developer, Bellway Homes. After considerable chasing Bellway accepted the 'error' (claiming that the wrong roof timbers were ordered) and agreed to make the necessary amendments.

The amendments have now been made to the roof structure and the enforcement case has now been closed.

#### **SCHEDULE E – NOTICES COMPLIED WITH DURING QUARTER (1<sup>st</sup> April to 30<sup>th</sup> June)**

In addition to the notices complied with that were issued this quarter and detailed within the sections above, further notices issued previously can also be reported as complied with as follows:

**Enforcement Ref:** 18/00393/ENF

**Site Address:** Kelham Hall, Main Street, Kelham, NG23 5QX

**Alleged Breach:** Alleged non-compliance with conditions attached to 17/02071/FULM

**ACTION TO DATE:** Breach of Condition Notice served 30<sup>th</sup> January 2019.

#### **Background**

A large number of complaints were received regarding alleged non-compliance with a number of conditions at Kelham Hall, regarding the October 2018 permission for a caravan and camping use (17/02071/FULM).

Condition 06 of that permission required the 3x security camera poles and bases to be painted

black and green respectively. A Breach of Condition Notice was issued on the 30th January 2019, requiring compliance with the condition. A site visit on the 3rd April 2019 saw that compliance had been met, resolving the breach. The shade of green is not what the LPA would have sought, but the conditioned heritage statement simply requires the bases to be painted "green".

A range of hoardings and banners were displayed on the grade II listed Lodge Gate, and along the grass verge at the main vehicular entrance. After a number of letters were issued threatening direct action, the banners were removed and the second breach resolved.

Condition 08 and 09 of the permission made it clear that no caravan was to be used for residential occupation, nor sited on the land for more than 28 days. The LPA received allegations that the caravans were being occupied and had been on the land for a number of months.

A number of officers undertook regular inspections in order to determine a breach of the 28 day condition. After approximately 15 visits, which appeared to show clear residential occupation, Mr Pass became aware and moved all the caravans off the land. Further site visits have found that none of the caravans remain, and the few that are on the land appear to be for holidaymakers.

**Enforcement Ref:** 19/00133/ENF

**Site Address:** The Bearings, Bowbridge Road, Newark, NG24 4BZ

**Alleged Breach:** Unauthorised removal of trees

**ACTION TO DATE:** Breach of Condition and Temporary Stop Notices Served 2<sup>nd</sup> April 2019.

Background

On the basis of the notices detailed above, a discharge of condition request was made in line with the planning application detailing the means of protection for retained trees and hedgerows. These details were agreed in correspondence with advice from the Council's Tree Consultant and the condition discharged by letter dated 20<sup>th</sup> May 2019.

**Enforcement Ref:** 18/00226/ENF

**Site Address:** Land to the rear of the Bungalow, Staythorpe Road, Averham, NG23 5RA

**Alleged Breach:** Change of use of land from paddock to residential

**ACTION TO DATE:** Enforcement Notice served 24<sup>th</sup> August 2018.

Background

In July 2018, the LPA received an allegation that a paddock to the rear of The Bungalow, Averham, was being used for residential purposes. A site visit found the meadow - when not

being used for grazing horses - was used as additional domestic space for the owners children to enjoy. Although this usage was minimal, a large domestic fish pond had been installed to the immediate rear of the curtilage of the residential boundary.

A planning enforcement notice was served on the owner of the land on the 24th August 2018, requiring the domestic use of the land to cease, the fish pond to be removed and the resulting hole infilled back to its former condition. The notice was not appealed and compliance required by the 17th December 2018.

Further site visits found that the fish pond had not been removed, allegedly due to the winter being the incorrect time to remove the live fish. The owner was informally granted an extension of time to comply with the Notice.

A later site visit found that the fish pond and all associated materials had been removed, and any domestic furniture (including trampoline and toys) removed from the land. The hole remained on the land until a site visit of the 4th June 2019.

**Enforcement Ref:** 17/00427/ENF

**Site Address:** Burgess House, Main Street, Farnsfield, NG22 8EF

**Alleged Breach:** Gate Plans not in accordance with approved plans

**Status:** Enforcement Notice Served 15<sup>th</sup> March 2018.

#### Background

A Listed Building Enforcement Notice was served on 15<sup>th</sup> March 2018 following unauthorised works including the removal of a metal pedestrian gate and its replacement with a wooden gate.



The Notice was appealed but the Inspector upheld the notice by decision dated 11<sup>th</sup> January 2019.

A site visit on 4<sup>th</sup> June 2019 has confirmed that the original metal gate has now been reinstated.





**Enforcement Ref:** 18/00283/ENF

**Site Address:** Land adjacent Cover Point, Halloughton, NG25 0QP

**Alleged Breach:** Breach of Planning Conditions

**Status:** Breach of Condition Notice Served 11<sup>th</sup> September 2018.

Background

A site visit by the Council's Tree Officer noted that the hedgerow to the front of the site had been removed and building materials had been placed within the canopy of the trees to be retained with no measures of protection as required by the planning condition.

The notice required the means of protection to be implemented as well as the replanting of a new hedge along the front boundary of the site. A site visit on 19<sup>th</sup> June 2019 confirmed that this has now been complied with.



**Enforcement Ref:** 19/00107/ENF

**Site Address:** The Bungalow, 7 Crab Lane, North Muskham, NG23 6HH

**Alleged Breach:** Unauthorised loft conversion with insertion of French doors

**Date Received:** 19.03.2019

**ACTION TO DATE:** Enforcement Notice Served 8<sup>th</sup> April 2019.

Background

As is detailed above in Schedule C, the LPA served an enforcement notice requiring that all glass panes be obscurely glazed and made non opening up to a height of 1.7m (i.e. to meet the permitted development right regulations). The works were required to be complied with by 18<sup>th</sup>

June 2019. A site visit found that the Notice had been complied with and the breach of planning control resolved.



**Before**



**After**

### **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](mailto:planning@nsdc.info)

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