QUARTERLY ENFORCEMENT ACTIVITY UPDATE REPORT

This report follows on from the report that was presented to Members on 16 January 2018 which highlighted planning enforcement performance until the end of 2017. This report relates to the quarter from 1 January until 31 March 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 (January to March 2018) 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 guarter.
- 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 January 2018	1 to 28 February 2018	1 to 31 March 2018
Cases Received	41	31	22
Case closed*	56	49	25
Notice issued	4	4	6
Notice complied with	1	0	2
Appeal lodged	0	2	0
Prosecutions	0	0	0

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	No Breach	Breach	Breach - No	Other (such
	Number of	(No Further	Resolved	Further Action	as Duplicate
	Cases	Action	(through	(as not	Case)
	Closed	required)	negotiation,	expedient)	
			permission		
			granted etc)		
Jan 2018	56	28 (50%)	19 (33.92%)	8 (14.28%)	1 (1.78%)
Feb 2018	49	18 (36.73%)	7 (14.28%)	20 (40.81%)	4 (8.16%)
Mar 2018	25	14 (56%)	7 (28%)	3 (12%)	1 (4%)
Totals/Average	130	60 (47.56%)	33 (25.4%)	31 (22.36%)	6 (13.94%)

<u>SCHEDULE B – SEE SEPARATE SHEET AT END OF THIS REPORT.</u>

SCHEDULE C. FORMAL ACTION TAKEN (1st January to 31st March 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 JANUARY 2018

Enforcement Ref: 17/00307/ENF

Site Address: 71 Walesby Lane

Ollerton

Nottinghamshire

NG22 9UT

Alleged Breach Running a scrap business from home

Date received 31.08.2017

ACTION TO DATE: Section 215 (Untidy Land) Notice served 09.01.18

Background

Concern was expressed to the LPA that a scrap business was being operated from the front garden of a residential property which was confirmed during site inspections. The result was an untidy property frontage that was considered to harm the visual amenity of the area.



The owner/occupier was requested to tidy the land but no action was taken. Consequently a Notice under Section 215 was served upon the occupier. The Notice was served on 9 January 2018 and took effect on 6 February 2018. It required:

- 1) Remove from the land highlighted in blue on the attached plan, all vehicles that do not have an up-to-date MOT certificate; and
- 2) Remove from the land highlighted in blue on the attached plan, all vehicle parts, tools, accessories and any other materials, fluids or goods.

Compliance was required for point (1) within 4 months (so by 6 June 2018); and for point (2) within one month (so by 6 March 2018). As is demonstrated by Schedule E, a site visit has confirmed that the notice has been complied with.

The current position is that the has been almost full compliance with the notice and it is anticipated that the remaining requirements will be met soon.



Enforcement Ref: 16/0222/ENF

Site Address: Forge House

Westgate Southwell

Nottinghamshire

NG25 0LD

Alleged Breach Alteration to roof of dwelling with dormer loft extension to rear

Date received 2016

ACTION TO DATE: Service of Enforcement Notice 10/01/2018.

Background

Members may recall that a planning application was submitted retrospectively for this development (planning ref 16/02032/FUL) comprising a former window on a dwelling within the Conservation Area.



It was recommended for refusal on the grounds that the proportions had a harmful impact upon the dwelling, the wider Conservation Area and upon the amenities of neighbouring properties through an overbearing impact. Members resolved to refuse this in line with the officer recommendation but wanted to understand the enforcement options before any decision was made. A further enforcement report was presented to the Planning Committee in March 2017 where Members resolved to refuse permission and issue an Enforcement Notice. However Members expressed some sympathy for the position of the applicants and wanted officers to explore how we could assist the occupiers. Consequently officers have engaged with the applicants in efforts to secure an acceptable solution hence the delay in serving the Notice.

An Enforcement Notice was served on 10 January 2018 which takes effect on 7 February 2018 which requires:

- A) The removal of the dormer roof loft extension;
- B) The replacement of the roof to its former condition; and
- C) Removal of resultant waste from the site.

The Notice gives a compliance period of 730 days (2 years) so 7 February 2020. An appeal against the Notice has been received (but is not yet valid) on the grounds that planning permission should be granted.

Enforcement Ref: 17/00365/ENF

Site Address: Wellow Lodge

Rufford Lane Rufford

Nottinghamshire, NG22 9DJ

Alleged Breach Unauthorised fence adjoining a listed building

Date Received 16.10.2017

ACTION TO DATE: Service of Enforcement Notice 23/01/2018

Background

It was noted in October 2017 that an unauthorised boundary treatment had been erected at the above property which is Grade II listed. The boundary comprises gabion blocks with timber fencing above which enclose the north and east elevations, is constructed adjacent to a highway and exceeds the permitted 1 metre height. The means of enclosure requires planning permission and was judged by officers to be harmful to the setting of the listed building. The owner/occupier was written to regarding the matter but no response was received to our letters. Therefore an Enforcement Notice was served on 23rd January 2018 with the Notice taking effect on 20th February 2018.



The Notice requires:

- A) The removal of all means of enclosure (the gabion blocks and timber fence panels) from the North and East Elevations; and
- B) Remove resultant materials from the site

Compliance for the unauthorised works was by 24 May for (A) and by 3 June 2018 for (B).

Upon receipt of the Enforcement Notice the owner/occupier made contact with Officers stating they had not received previous correspondence sent out prior to the service of the Notice. The owner has since been in discussions with the Enforcement and Conservation Officers to negotiate a solution to the issues. It is proposed that the wooden addition to the top of the wall will be removed, along with the facing wire meshing as well as undertaking further foliage planting (in addition to works that have already been undertaken) to soften the effect and impact of the enclosure. A timetable for the remedy is now being discussed. On the basis of the applicants willingness to work with the Authority to resolve the breach the Notice was withdrawn on 19 February 2018. Failure to satisfactorily resolve the breach will result in the reservice of a further Notice.

Enforcement Ref: 17/00423/ENF

Site Address: 60A High Street

Collingham Newark NG23 7LB

Alleged Breach Untidy Land

Date received 20.11.2017

ACTION TO DATE: Service of Section 215 Notice on 23 January 2018

Background

A compliant was received from the Parish Council regarding the untidy state of the above land in November 2017. This was confirmed the following day when our Enforcement Officer inspected the site and judged the site to be harmful to the visual amenity of the area. Attempts to negotiate the clearance of the site via correspondence were unsuccessful culminating in the service of a Section 215 (Untidy Land) Notice.

The Notice requires:

- A) Remove all excess hard-core and debris from the site including, but not limited to, all rubble, wood and fence panels as shown in Figure 1.
- B) Remove from the site or conceal underground all blue and yellow piping, currently protruding from the unfinished groundwork addressed in step (A)
- C) Complete building operations to appropriately tarmac the area highlighted in Figure 1, following compliance with steps (A) and (B).
- D) Remove from the site the trench cover and appropriately replace the inspection chamber lid. This should comply with Part H of the Approved Documents/Building Regulations 2010, and be suitable to take loadings from any traffic above and be of an air tight fit.

The Notice took effect on 27 February 2017 with a time period for compliance as 56 days (25th April 2018) for A to C and 28 days for D (28 March 2018). Step D had been complied with by the 19 March 2018; however steps A-C remain outstanding.

FORMAL ACTION TAKEN IN FEBRUARY 2018

Enforcement Ref: 11/000018/ENF

Site Address: Lowfield Farm

111 Gainsborough Road

Langford NG23 7RN

Alleged Breach Use of land for commercial plant machinery hire

Date received 13.01.2011

ACTION TO DATE: Service of Breach of Condition 01.02.2018.

Background

This enforcement case is a long standing case where there is extensive site history including two appeals. The first appeal was dismissed albeit the latter appeal which related to the operation of the business from the site was allowed on appeal in 2013. In granting permission for this business, the Inspector did so subject to a number of conditions. Condition 2 states that;

2) No materials, vehicles or plant hire equipment shall be stored on the site outside the building, save for the parking of up to 3 vehicles at any time.

Information has been received alleging the breach of this condition. Upon inspection it is clear that the condition is being breached repeatedly and the service of a Breach of Condition Notice has become necessary which was served on 1 February 2018. Compliance is required 35 days from the date the Notice was served and a site inspection will take place after this time to establish if the breach has been resolved or whether further action will be necessary.

Enforcement Ref: 18/00036/ENF

Site Address: Land at Winthorpe Road

Newark

Nottinghamshire

Alleged Breach Unauthorised gypsy and traveller encampment

Date received 25.01.2018

ACTION TO DATE: Injunction Served and Enforcement Notice Served on 15.02.2018

<u>Background</u>

Concern was expressed to the Authority that an unauthorised gypsy and traveller encampment was being set up. Intelligence suggested that there was strong likelihood that the site was about to be occupied for residential purposes and therefore the Authority applied to the Court for a pre-exemptive Injunction. However before the case was heard in Court, families moved onto the site. An Injunction was therefore granted at the Court Hearing.

The site lies within the open break between settlements and lies within flood zone 2 and takes it access off the Newark bypass. As such it was considered there would be planning harm caused by the development and it was considered expedient to take formal action.

An Enforcement Notice was also served on 15 February 2018 with the Notice taking effect on 16 March 2018 requiring;

- The cessation of the use of the land for residential occupation (compliance period 56 days)
- Removal from the land all caravans and residential paraphernalia including all structures and planting undertaken on the land (time for compliance 58 days)
- Removal from the land, a brick structure (time for compliance is 63 days)

An appeal against the Notice has been lodged albeit it has not yet been validated by the Planning Inspectorate.

On 6 March 2018 the Courts determined that punitive injunction measures for its breach would be halted pending the outcome of the appeal.

Enforcement Ref: 17/00253/ENF

Site Address: 11 Newark Road

Ollerton

Nottinghamshire

Alleged Breach Erection of garden building without planning permission

Date received 21.07.2017

ACTION TO DATE: Service of Enforcement Notice on 08.02.2018

Background

A compliant was received that an unauthorised outbuilding was being erected within the rear garden that was very large. Upon inspection it was established that planning permission would be required for the structure, along with an associated raised platform surrounding it, due to their close proximity to the neighbouring boundary and heights from ground level which exceeded the permitted height allowance under the relevant legislation.



The owner was advised to reduce the sizes to comply with the legislation as the development was considered to have an adverse impact upon the character and appearance of the area given its overly dominant size and given that the introduction of the raised platform (and the structure) would introduce actual and perceived overlooking to the neighbours, contrary to the Development Plan. However no action was taken to reduce or remove the harm resulting in the service of an Enforcement Notice on 8 February 2018 which takes effect on 10 March 2018. The Notice requires the owners to:

- A) Reduce the height of the garden building to a height of no greater than 2.5m (as is permitted) and
- B) Reduce the height of the platform surrounding the garden building to no greater than 0.3m (as is permitted)

Compliance is required for both elements is 90 days.

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

The Local Planning Authority became aware that the above premises occupied by 'European Supermarket' had without planning permission installed an ATM through a composite security panel to the right hand side of the shop entrance, including associated integral illuminated screen, signage and halo lighting. It should be noted that the advert illumination will be dealt with separately by means of prosecution.







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 28 February 2018 which takes effect on 2 April 2018.

The Notice requires:

- A. The removal of the ATM and all associated development including, but not limited to, the composite security panel and illumination.
- B. Make good any holes created by the installation of the fixture with materials which match the existing building and remove all resultant material and debris from the site.

Compliance for the unauthorised development is 42 days so by 14 May 2018.

FORMAL ACTION TAKEN IN MARCH 2018

Enforcement Ref: 17/00136/ENF

Site Address: Railway Lake

Gonalston Lane Hoveringham

Alleged Breach Non-compliance with planning conditions attached to 15/01537/FULM

Date received 03.05.2017

ACTION TO DATE: Service of Breach of Condition Notice on 08.03.2018

Background

Members will recall that the Planning Committee resolved, at their March 2018 meeting, to refuse planning permission for the '...variation of conditions 2 and 13 of planning permission 15/01537/FULM (Change of Use of the Railway Lake to Watersport and Scouting Use, incorporating installation of portacabin for changing/training room and installation of septic tank) to allow the portacabin to be 9.6m x 9m, with rear decking area of 4.7m x 11.8m and painted Forest Green rather than clad. In addition retention of 2.35m high compound fence, 2.53m high compound gates and 4 metal storage containers and a timber shed within the compound area. (Retrospective)'

As this was retrospective, it was necessary when refusing the permission to also serve Breach of Condition Notice.

- Condition 2 of planning permission 15/01537/FULM required the applicant to undertake the
 development in accordance within the approved plans which was in breach due to the
 portacabins being larger than approved and have been painted green. The associated
 decking is deeper and wider than approved and 2 additional metal storage containers and
 timber shed have been sited within the boat storage compound.
- Condition 13 required the development to accord with the materials approved. However the
 portacabins which were to be finished in Yorkshire boarding have been painted green
 instead.
- Condition 17 required that no development commence until a hard and soft landscaping scheme was submitted and approved. A scheme was approved detailing a screening the compound with a 1.8m high fence and gates. However the fence erected is 2.35m in height and the gates were 2.53m.

A Breach of Condition Notice was served on 8^{th} March 2018 taking effect on 9^{th} April 2018 requiring the following measures:

- (1) Reduce the size of the portacabins comply with the approved details, to be 8.3m x 8.3m, and finish in Yorkshire boarding.
- (2) Reduce the size of the decking to the size as detailed, 3m deep by 10m wide.

- (3) Completely remove from the site the 2 additional metal storage containers (not shown on plan received 26/8/15) and a timber shed that have been placed within the boat stor compound, as identified on the amended site plan, submitted on 8th February 2018 as par planning application reference 17/01882/FULM.
- (4) Reduce the height of the compound fencing and gates to 1.8m in height.
- (5) Any trees/shrubs which have died, been removed or have become seriously damaged or diseased, shall be replaced in the current or next planting season with others of similar size and species in accordance with the details approved and contained on site layout plan 2016 received 01/08/16.

The time for compliance was given as follows.

- (1) 6 months after this notice takes effect.
- (2) 6 months after this notice takes effect.
- (3) 3 months after this notice takes effect.
- (4) 6 months after this notice takes effect.
- (5) 3 months after this notice takes effect.

Enforcement Ref: 17/00362/ENF

Site Address: Land on South Side of Ricket Lane

Blidworth Mansfield

Nottinghamshire

Alleged Breach Change of use from agricultural land to storage of vehicles and scrap

etc.

Date received 11.10.2017

ACTION TO DATE: Service of Enforcement Notice 15.03.2018.

Background

It was brought to the attention of the Local Planning Authority in October 2017 that the land was being used for the storage of a range of items not related to agriculture. The site is located within the green belt. Officers judged that this type of development would be unacceptable due to its scale, nature and its impact on the open and rural character of the surrounding landscape and that the untidy condition of the land negatively impacts the visual amenity of the area. The owner was contacted but no reply was received. Therefore an Enforcement Notice was served on 3 January 2018 with the Notice taking effect on 7 February 2018. However in displaying the Notice on site, we were contacted by another person (a tenant) who also had an interest in the land. This necessitated the withdrawal of the Notice so that it could be reserved (the same day) on <u>all</u> interested parties which was done on 15 March 2018. The reserved Notices take effect on 15 April 2018.









The Notice requires:

- A) The removal from the Land all items not used in conjunction with the agricultural use of the land including but not limited to; static caravan, boat and associated trailer, shipping container, motorhome, all floor-cleaners and any other debris; and
- B) Cease the use of the Land for the storage of non-agricultural 'paraphernalia'.

Compliance for the unauthorised development 2 months in each case so by 15 June 2018.

Enforcement Ref: 17/00427/ENF

Site Address: Burgess House

Main Street Farnsfield

Alleged Breach Gate piers not in accordance with approved plans - 17/00018/LBC

Date received 24.11.2017

ACTION TO DATE: Service of Breach of Condition Notice & Listed Building Enforcement

Notice on 15.03.2018

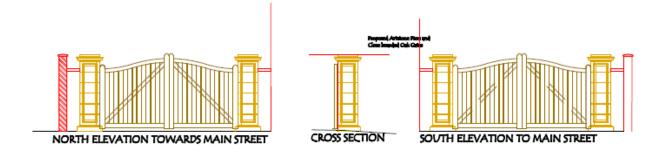
Background

Planning permission and listed building consent were granted on 15th March 2017 for the installation of a pair of gates to a vehicular entrance to a residential property. Condition 2 of the permission required that development be carried out in accordance with the approved plans and Condition 3 required details of the design and finish of the gates, piers, iron monger and control mechanism be submitted for approval before development was commenced. These conditions were not complied with and the resultant development was considered harmful to the setting of Grade II listed building. Resolution through negotiation proved ineffective resulting in the service of two Notices.



The Breach of Condition Notice, which takes effect on 14th April 2018 requires the owner to;

• Reduce the height of the gate piers to the height detailed within the approved plans 9shown below) within 56 days of the notice taking effect.



A Listed Building Enforcement Notice was also served taking effect on 14th April also giving the owner 56 days to remedy the breach by;

a) Removing the wooden gate (shown below) and;



b) Reinstating the metal gates (and necessary fixings) that separates the site from Main street, (as shown below)



The BCN has now been complied with in full.



Compliance with the Listed Building Enforcement Notice is awaited – an appeal against the service of the Notice has now been received.

Enforcement Ref: 17/00070/ENF

Site Address: Bargain Booze

Unit 3

2 Church Street Edwinstowe Nottinghamshire

Alleged Breach Development of land between shop and neighbouring hotel.

Date received 22.03.2017

ACTION TO DATE: Service of Enforcement Notice 13.03.2018.

Background

A district councillor brought to the attention of officers that land between the Bargain Booze premises and the neighbouring hotel was being used as a sales forecourt in connection with a retail premises, that a fence had been erected around this and a hard surface had been laid. Upon inspection it was established that the works undertaken needed planning permission along with the change of use of the land for a sales area. It was considered that the development was harmful to the character and appearance of the area (which is a Conservation Area) and to the setting of nearby listed buildings. Whilst negotiations have taken place with the occupiers (and have been to some extent successful in terms of reducing the number of advertisements displayed at the site) it has not resolved the breach and it has been considered necessary to serve a Notice.

The site before the breach





An Enforcement Notice was served on 15 March 2018 with the Notice taking effect on 16 April 2018.

The Notice requires:

- Remove from the land all unauthorised development including, but not limited to, the wire mesh fencing, posts and hard surfacing within 84 days.
- Cease using the land for the display and storage of goods, in particular items associated with the retail use of the surrounding land including, but not limited to, baskets, boxes, shelving units and pallets within 28 days.
- Return the land to its former grassed condition prior to the unauthorised development taking place to the satisfaction of the Local Planning Authority within 84 days.
- Remove all resultant material and debris from the site within 84 days.

Compliance is awaited. Officers will check the site upon the expiry of the compliance period which is 9 July 2018 for the physical breaches.

An appeal (currently invalid) has been lodged to the Planning Inspectorate on the grounds that (A) the development should be granted retrospective planning permission.

Enforcement Ref: 17/00335/ENF

Site Address: 3 Freeth Terraces

North Clifton NG23 7AX

Alleged Breach Erection of detached double garage (not in accordance with approved

plans)

Date received 22.09.2017

ACTION TO DATE: Service of Enforcement Notice on 29.03.2018

Background

Planning permission was granted on 21 September 2016 under planning permission 16/00524/FUL for a detached double garage following lengthy negotiations to secure an appropriate scheme. However upon site inspection it was established that the garage that has been erected was not in accordance with the approved plan, in that it is larger in width, length and height and the materials used in its construction and roof design do not reflect the approval. The garage as built by reason of its size, scale, design and materials is considered to be detrimental to the character and appearance of the area. Whilst the owner/occupier has cooperated thus far, it hasn't been as quickly as officers would have liked and it was considered that an Enforcement Notice was the most appropriate means of securing an appropriate timetable for its removal.





The Notice was served on 29 March 2018 and takes effect on 26 April 2018. It requires the demolition of the unauthorised structure and the removal of all resulting materials and debris from the site within 4 months; so by 26 August 2018.

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. It is worthwhile pointing out that where we refuse a retrospective application the Council would ordinarily issue a formal Notice to those with an interest in the land as this then limits the time for appeal to 28 days rather than the usual 6 months and avoids the applicant from having two opportunities of appeal which ultimately would cost the Council money to defend. 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 a few examples of how officers have resolved breaches through negotiation during the last quarter.

17/00420/ENF - BATHLEY

A compliant was received regarding the erection of a fence which was higher than the permitted 2m height allowed for by planning legislation. There was harm identified by Officers given the resultant visual appearance of this fence due to its excessive height, starkness and expanse. Originally it extended the entire length of the fenceline so was actually considered to be more harmful than the 'before' picture below shows. However following correspondence, the fence was removed, resolving the breach and the case is now closed.

Before After





16/00302/ENF - OXTON

A compliant was received regarding the siting of an unauthorised shipping container within Oxton Conservation Area. Upon investigation it was established that the container was on concrete pads and had a degree of permanence and as such required planning permission. However given its appearance it was considered unlikely that consent would be granted, a view shared by our Conservation officers. Negotiations took place and an application was lodged to clad and retain the container in a revised location, which was subsequently approved under planning reference 17/01242/FUL. This has now been approved and the container is now clad and re-sited with the breach of control having been resolved.

Before	After
	D. Notice and an Address
17/00126/ENF – NEWARK	
An elected Member raised a complia	ant that unauthorised signage was being displayed within the
	building in Newark. Upon inspection it was noted that a film
	hat was considered harmful to both the appearance of the
	vation Area within which the building sits. The applicant was
requested to remove this film and co	mpliance was forthcoming.
Before	After
	F Temperaturants share:

16/00291/ENF – OLLERTON

A Member of the public raised a complaint regarding the untidy state of a piece of land. Upon inspection it was clear that the land was overgrown and had been used as a dumping ground for various items including pallets and waste material. Through negotiations with the land owner the land has been cleared of all waste, a set of gates has been erected at the site entrance to control access as well as a warning sign.

Before



After



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

17/00370/ENF - Signage - 14 Castle Gate, Newark

It was reported at the Planning Committee in January 2018 that a Listed Building Enforcement Notice had been issued to secure the removal of a projecting 'Just Eat' sign at (Real Burger Company) 14 Castle Gate in Newark on 8 December 2017.

The sign was removed and the building made good as required by the Notice in January 2018. As the Notice has been complied with, the case has now been closed with no further action necessary.



17/00307/ENF – Untidy land, 71 Walesby Lane, Ollerton

As confirmed by Schedule C above, a notice was served on 9 January 2018. A site visit undertaken on 30 January 2018 confirms that the notice has been complied with.







RECOMMENDATION

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

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