



Committee report

Committee	PLANNING COMMITTEE
Date	25 OCTOBER 2016
Title	PLANNING ENFORCEMENT PERFORMANCE UPDATE
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INTRODUCTION

1. Local planning authorities have discretionary powers for taking whatever enforcement action may be proportionate and necessary, in the public interest, in their local area against development which is unauthorised. The National Planning Policy Framework (NPPF, paragraph 207) recommends that a local enforcement plan should be published so that enforcement is managed appropriately to local areas.
2. This report, which is for noting purposes only, aims to provide a brief background summary of the Planning Enforcement function and reflect on the team's performance since the Enforcement Policy was adopted in August 2015. It also seeks to identify key enforcement aspects and achievements within the past 6 months.

ENFORCEMENT ACTIVITIES

3. Between the period of 01 April 2016 - 30 September 2016 the Enforcement Team registered **88 new enforcement cases**. Records of complaints not registered as formal cases are not retained.
4. Dealing with enforcement cases can be a lengthy and complex process. The different types of enforcement cases vary considerably in complexity as does the time taken for their resolution. Some factors which can result in apparently slow progress include:
 - The gathering of evidence;
 - Continuing negotiation to try and resolve the matter without pursuing formal action;
 - Consideration of an application to remedy the matter;
 - Awaiting determination of an appeal against formal notice.
 - Lack of co-operation from landowners
5. As a consequence, the number of cases registered by the team within a financial year does not reflect the number of cases which are closed within the

same period. The active case load for an officer is therefore often higher than that received within a year.

6. As stated above, the team has received 88 new cases within the last 6 months (01 April – 30 September 2016). Within the same period, 96 enforcement cases were closed. The service area currently holds 233 active enforcement cases.

FORMAL ACTION

7. The carrying out of work or changing the use of land or buildings without planning permission is **not** a criminal offence, unless the works involve the demolition of an unlisted building in a conservation area or works of alteration, extension or demolition are undertaken to a listed building without listed building consent for example.
8. Whilst the Council does not condone wilful breaches of planning control, both the law and government guidance is clear that planning enforcement action is discretionary and any enforcement action taken must be proportionate to the harm generated by the unauthorised development.
9. The Enforcement Service will only take enforcement action when it is considered expedient to do so. Formal enforcement action will not be instigated solely to regularise breaches of planning control. In taking formal enforcement action we use all the enforcement powers available commensurate with the seriousness of the breach. The action taken will always be proportionate to the breach of planning control and the harm it causes.
10. The table below quantifies the legal action initiated within the last 6 months;

<u>LEGAL ACTION</u> (01 April 2016 – 30 September 2016)		Quantity
Instructions to legal		3
Notices served	Planning Contravention Notice (PCN)	1
	Enforcement Notice (EN)	2
	Section 215 Notice (s.215)	0
	Breach of Condition Notice (BCN)	2
	Urgent Works Notice (UWN)	1
	Urgent Repairs Notice (URN)	0
	Temporary / stop notice (T/SN)	0
Prosecution proceedings initiated		1

11. The two Enforcement Notices served within the past 6 months relate to:
 - a. E/30400/D 43 Solent View Road, Seaview – Non-compliance with open plan condition. The notice comes into effect on the 10 November 2016 unless an appeal is lodged against its service before this date.
 - b. E/12128/H - Stickworth Farm Cottage, Horryngford, Newport – Unauthorised erection of an open fronted pole barn - the service of the Enforcement Notice has been appealed against on ground (g) – the time given to comply with the notice is too short. The notice and associated requirements will be placed on hold whilst the appeal is determined by the Planning Inspectorate.
12. The two Breach of condition Notices were served in August 2016 relating to land north of Great Pan Farm, Pan Lane Newport for the non-compliance with a restrictive outside storage condition. Within 28 days of the notice being served, the notice had been complied with and all outside storage had been removed from the land remedying the breach of planning control.
13. An Urgent Works Notice was served in September 2016 in respect of the Hammerhead Crane in Cowes - achieving compliance remains ongoing.
14. Prosecution proceedings were initiated against the land owner for Woodhouse Copse, Brooks Copse Road, Whippingham by the authority for the ongoing of failure to comply with the planning enforcement notice served in June 2014. The land owner was convicted in his absence on the 10 October 2016 for failure to comply with a planning enforcement notice contrary to section 179(2) of the Town and Country Planning Act 1990. The land owner was fined £660, with a surcharge of £66 and the authority was awarded £500 in costs, making a total of £1,226 for which a collection order was made.
15. Other matters subject to legal action within the same period: Four Enforcement Notices were served for one site in July 2015 alleging the unauthorised change of use of the land for the stationing of mobile homes used for permanent residential accommodation in the wider rural area. Appeals were lodged against all four notices on grounds relating to immunity. A Public Inquiry was held in April 2016 which tested the authorities and appellants evidence under oath. The preparation for the inquiry was resource intensive, however in June 2016 the appeal was determined and all four enforcement notices were upheld by the Independent Planning Inspectorate and the appeals were dismissed. In accordance with the notice requirements, the mobile homes and associated domestic paraphernalia are to be removed by June 2017 and the land returned to pasture land.
16. An Enforcement Notice was served in February 2016 for the unauthorised stationing of a mobile home used for permanent residential accommodation in the wider rural area. The service of the notice was appealed against to the Planning Inspectorate in March 2016. Before appeal statements were due to be prepared, the land owner complied with the notice, expediting the need for the appeal procedure. The appeal was withdrawn followed by the withdrawal of the enforcement notice as compliance had been achieved.

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