



Hinckley & Bosworth
Borough Council

A Borough to be proud of

FORWARD TIMETABLE OF CONSULTATION AND DECISION MAKING

PLANNING COMMITTEE 19 February 2019

WARDS AFFECTED: All Wards

Planning Enforcement Update

Report of Interim Head of Planning and Development

1. **PURPOSE OF REPORT**

- 1.1 To provide an update to Members on the number of active and closed enforcement cases within the borough.
- 1.2 To provide an update on the current workload being handled by the team.
- 1.3 To provide an overview of the performance of the compliance, monitoring and enforcement function within the planning and development service.

2. **RECOMMENDATION**

- 2.1 That the report be noted.

3. **PLANNING ENFORCEMENT CASE UPDATE**

3.1 Newton Linford Lane, Groby (Known as Klondyke)

As previously reported, an appeal was lodged in response to the service of an enforcement notice on the bottom section of the site relating to the unauthorised use of the land for the storage and repair of motor vehicles; this appeal would have been heard by way of Public Inquiry. However, it was subsequently withdrawn and the owner of the site committed to complying with the requirements of the Notice. A site visit was carried out in November to check on progress. At the time of the visit it was noted that very little progress had been made.

Since the previous report; there have been several instances of tipping on a separate section of the site. The Environment Agency is taking the lead on this and has issued the owner of the land with a warning. The Enforcement team will continue to work

with the EA on this issue and have offered to supply historic information in relation to this section of the site and previous tipping should this be of assistance to the EA.

Responses were received to the Section 330 Notices served on unregistered sections of the site confirming ownership of these sections.

Given that this site is an extremely complex and time consuming issue for the Enforcement team, the decision has been taken to approach an independent Enforcement firm who have been asked to produce a report on the site with a view to taking over all enforcement action on the Klondyke. An update on this will be provided in the next report to Committee.

3.2 Land at the rear of 84 Leicester Road, Hinckley

Following refusal of the planning application on the site for 7 dwellings; an enforcement notice was served to require the removal of building materials being stored on the site. The date for compliance with the Notice was the 8th December 2018. A site visit was undertaken after this date and it was noted that compliance had not been achieved. An appeal against the refusal of planning permission has now been received. Action will therefore be held in abeyance pending determination of this appeal.

3.3 Veros Lane

An enforcement notice was served in relation to the creation of an area of hardstanding which has been laid without the benefit of planning permission. The enforcement notice was not appealed and the hardstanding should therefore have been removed by 10th June 2018. A planning application was then submitted for the erection of three dwellings on this piece of land. This was subsequently refused on 14th November 2018. The applicant has until May to appeal the refusal. Action will be held in abeyance until this time.

3.4 74 Alexander Avenue, Earl Shilton

Planning permission for the retention of a garage was refused and subsequently upheld on appeal on the basis that the garage has a detrimental impact on the character and appearance of the surrounding area. An enforcement notice has therefore been served requiring the garage and all associated materials be removed from the land. The time for compliance with the notice was three months; a site visit was undertaken on 1st Feb and the garage is in the process of being demolished. A further visit will be undertaken to ensure compliance with the notice is complete within the next couple of weeks.

3.5 138 High Street, Earl Shilton

Planning permission was granted for a 1.8 metre high fence; the fence was then constructed at a height of 2.4 metres. Officers have requested that this situation be remedied; however these requests have been ignored, a Breach of Condition Notice has therefore been served. The owner has 30 days to comply with the Notice, there is no right to appeal a Breach of Condition notice, therefore a site visit will be undertaken to check compliance and if not, the case will be passed to the legal department.

3.6 25 Warwick Gardens, Hinckley

A 2 metre high fence was erected without planning permission; to the side boundary of the above property which fronts onto the highway due to its corner plot location. An application was then submitted for the retention of the fence which was subsequently refused. An Enforcement Notice was served on 24th January 2019 alongside the refusal of planning permission. The applicant has appealed both the Enforcement Notice and Planning refusal. A start date has not as yet been received from the Planning Inspectorate.

3.7 Manor Farm, Main Street, Thornton

An Enforcement Notice was served on the 25th January 2019 in relation to the siting of three storage containers on land at Manor Farm. The notice requires that the containers are removed within 30 days after the notice takes effect. The site will therefore be revisited at the end of March to check compliance.

Enterprise Centre, Dawsons Lane, Barwell

On the 25th January, an Enforcement Notice was served in relation to the siting of two shipping containers at this location. The notice takes effect on 25 February unless an appeal is submitted within this time. The notice requires the removal of the containers from the land by the 25th March 2019. A further site visit will be undertaken to check compliance with the notice at the end of March.

3.8 S215/CPW/CPNs

From 1st July 2018 to 31st October 2018; the council received 14 complaints in respect of the appearance of properties around the Borough. In one of these cases; a S330 Notice has been served which is the step prior to formal S215 action; should the owner fail to tidy the site within the required timescales we will proceed to serve a S215 Notice. One report of untidy sites related to construction sites and six other cases were not considered notice worthy at this time. In these instances; we ask the complainant to continue to monitor the site in question and get back in touch e.g. if the state of the land deteriorates further or if the site is not left tidy following completion of construction work. Two sites were tidied up following initial contact from an Officer with no requirement to take formal action. Four properties are still under investigation.

Rather than using powers afforded under Section 215 of the Town & Country Planning Act 1990 which provides local planning authorities, in certain circumstances, to address sites whose condition adversely affects the amenity of an area, the planning enforcement section is now utilising the powers as set out in the Anti-Social Behaviour Crime and Policing Act 2014. This legislation gives Council's the authority to issue Community Protection Notices (CPNs), which are preceded by a Community Protection Warning (CPW), where behaviour of individuals or businesses is having a detrimental effect on the quality of life of those in the locality, is persistent or continuing in nature and is unreasonable. The legislation allows authorised officers to issue preventative notices for statutory and non-statutory issues and compel an individual or company to make good their actions or lack of actions or face a fixed penalty fine or court proceedings. Utilising these powers will assist the Council and its wider partners in tackling issues of anti-social behaviour, environmental crime and help to improve the quality of our street scene and open spaces.'

4.0 WORKLOAD, STAFFING UPDATE & PERFORMANCE

- 4.1 The following tables detail the current workload that the team is managing in respect of current enforcement investigations. Table 1 demonstrates the number of cases that have been opened within a specific period and how many cases have been closed within the same period. The team ensures that enforcement cases are resolved as expediently as possible. Table 2 sets out in more detail how the cases were closed. As of the 8 November 2018 there are 147 enforcement cases pending consideration.

Table 1: Number of Enforcement cases opened and closed

| Period of time | Number of cases opened | Number of cases closed |
|--------------------------------|-------------------------------|-------------------------------|
| 20 June 2018 – 6 November 2018 | 170 | 169 |

Table 2: How the enforcement cases were closed

| Period of time | Total Cases closed | Case closed by resolution of breach | Case closed due to there being no breach | Case closed as not expedient to take action |
|--------------------------------|---------------------------|--|---|--|
| 20 June 2018 – 6 November 2018 | 169 | 43 | 102 | 24 |

- 4.3 The approach to tackling enforcement cases continues to be a collaborative one; involving joined up working with other service areas within the council. A series of briefing notes are in production which will outline the role of each department on common areas of complaint and seek to better inform staff, members and members of the public of the powers available to the Local Authority and therefore who it is best to direct an enforcement enquiry to. We also continue to attend the Endeavour meetings to discuss matters of Community Safety with other colleagues and the Enforcement Officers Group for Leicestershire Local Authorities as a forum to share experiences and best practice. In addition, officers involved in Enforcement across the Local Authority meet regularly to discuss cases and ensure that all relevant areas are taking the required action.
- 4.4 Gemma Dennis leaves the authority on 15th February, interviews for this post will take place on 14th February. In the interim, Sally Hames will step up to cover the Team Leader position. Sally has worked for Blaby and North West Leicestershire previously and has a wealth of experience working in Planning Enforcement so should be a real asset to the team. As always, should members have a Planning enforcement issue raised with them by a member of the public please report this via the enforcement inbox which has a new email address:
planningenforcement@hinckley-bosworth.gov.uk

5. FINANCIAL IMPLICATIONS

5.1 None

6. LEGAL IMPLICATIONS

6.1 None

7. CORPORATE PLAN IMPLICATIONS

The 2017-2021 Corporate Plan sets out ambitions for improving neighbourhoods, parks and open spaces, improving the quality of homes and creating attractive places to live (Places theme). It also promotes regeneration, seeks to support rural communities and aims to raise aspirations for residents (Prosperity theme). This report explains how planning enforcement powers are being used to deliver these aims.

8. CONSULTATION

None

9. RISK IMPLICATIONS

It is the Council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

The following significant risks associated with this report / decisions were identified from this assessment:

| Management of significant (Net Red) Risks | | |
|---|--|---------------|
| Risk Description | Mitigating actions | Owner |
| Dealing with numerous Public Enquiries | Monthly monitoring of implications on revenue budget by Head of Service and Service Manager. Review and forecast overspend and review supplementary estimate/virement as part of budget review. Constant review of budget for public enquires for duration of the masterplan. Monitoring of budget in relation to appeal costs. Monitoring of planning decisions | Rob Parkinson |

10. KNOWING YOUR COMMUNITY – EQUALITY AND RURAL IMPLICATIONS

This report is for information purposes to update Members on the progress of recent enforcement cases. As this report is not seeking a decision it is envisaged that there are no equality or rural implications arising as a direct result of this report.

11. CORPORATE IMPLICATIONS

By submitting this report, the report author has taken the following into account:

- Community Safety implications
- Environmental implications
- ICT implications
- Asset Management implications
- Human Resources implications
- Voluntary Sector

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