

**PLANNING COMMITTEE – 25 AUGUST 2015**

**REPORT OF DEPUTY CHIEF EXECUTIVE (COMMUNITY DIRECTION)  
PLANNING ENFORCEMENT UPDATE**



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**WARDS AFFECTED: ALL WARDS**

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**1. PURPOSE OF REPORT**

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

**2. RECOMMENDATION**

- 2.1 That the contents of the report be noted.

**3. PLANNING ENFORCEMENT CASE UPDATE**

Good Friday Caravan Site

- 3.1 Following the appeal of the enforcement notice to cease the use of the land for the purpose of a caravan site the owners of the site appealed against the Secretary of State's decision to dismiss the appeal in regard to the enforcement notice. Following an appeal to the High Court, the judge determined on the 15 July 2015 that the enforcement notice stands. Therefore, the occupiers of the Good Friday site have to vacate the site by 15 January 2017 and reinstate the land by 15 April 2017. If this is not adhered to the Council has the option to prosecute for failing to comply with an Enforcement Notice or to take direct action.

6 Station Road, Hinckley

- 3.2 A number of complaints have been received at 6 Station Road, Hinckley where an unauthorised change of use has occurred from a clothes shop to a café. After working with a number of departments within the Council the planning department are currently awaiting a planning application to be submitted in an attempt to regularise the matter.

Mallory Park Racing Circuit, Kirkby Mallory

- 3.3 Following the approval at the circuit to install earth bunds and acoustic fencing, there is still an outstanding issue in regard to the landscaping not being completed around the site. The owners of Mallory Park have been notified of the landscaping condition not being adhered to, and are therefore preparing the appropriate information to be submitted to the Council to comply with the conditions. It anticipated that landscaping works will start by the end of December 2015. If this has not been adhered then the Council will consider taking further action to resolve the matter.

#### Land North West of Cold Comfort Farm, Rogues Lane, Hinckley

- 3.4 At the beginning of July 2015 it was reported to the Council that an unauthorised gypsy and traveller incursion had taken place on the land. A Temporary Stop Notice was served requiring occupation of the site to be ceased within 28 days. Additionally to this, a formal injunction was also sought and granted from the County Court to prevent any further incursion onto the rest of the land. Following on from this the Council has now served a full Stop Notice and an Enforcement Notice to remove the caravans from the site. The Council is returning to court to seek a further injunction to remediate the breach of planning control and a further update will be provided in due course.

#### 2 Northfield Road, Bagworth

- 3.5 Between the months of the 1 April and the 30 June 2015 two enforcement notices were served. One was served at 2 Northfield Road, Bagworth in regard to the erection of a car port, gate and pillars forward of the principal elevation of the property without planning permission. No appeal has been received therefore the car port, gates and pillars have to be removed by the 26 October 2015.

#### 23 Station Road, Ratby

- 3.6 The second enforcement notice was at 23 Station Road, Ratby in regard to the unauthorised change of use from a restaurant to a hot food take away. Following the service of this notice the owners have appealed the Enforcement Notice and the local planning authority are currently awaiting details of the appeal from the Secretary of State.

#### Ellis Taylor, Leicester Road, Hinckley

- 3.9 Two Enforcement Notices were served, one in regard to the creation of hard standing for the parking of non agricultural vehicles. The second Enforcement Notice served on the site was in regard to the change of use of land from agricultural use to the storage of non-agricultural waste and equipment.

An appeal was made and this is scheduled for an informal hearing. All final comments have been submitted to the Planning Inspectorate and a hearing date is currently awaited.

#### 1 Temple Hall Farm Cottages, Wellsborough

- 3.10 On the 17 September 2015 the Council will be attending Leicester Magistrates Court for a first hearing in regard to a prosecution for failing to comply with an Enforcement Notice. The breach of planning control was in regard to the construction of a two storey rear extension without planning permission following authorisation from Planning Committee to take enforcement action to remediate the breach

- 3.11 Persimmon Homes, Bagworth – Play Open Space

On the entrance to the play open space, the original plans within the planning approval stated that access should be made at all times for maintenance. However, a gate has been constructed blocking access to the open space. Following on going discussions with Persimmon Homes a meeting has been arranged to discuss a way forward in regard to this matter. A further update will be provided in due course.

## S215 – Untidy Land Notices

- 3.12 Within the period of the 1 April 2015 to the 30 June 2015 the Local Planning Authority were made aware of a number of untidy properties. A property at 106 Teign Bank Road, Hinckley had a very untidy garden to the front of the property that was causing harm to the visual amenity of the area. Following discussions and co-operation from the owner the property was tidied to an acceptable standard.

At 37 Bagworth Road, Barlestone, there was a front and side garden which was in an untidy state that was affecting the amenity of the area. After discussions with the Council the fencing to the side was replaced and the side of the property was tidied to a more acceptable standard.

The team are still working on a number of other untidy properties within the borough and hope to provide more updates in the future where successful action has been taken to restore land to an acceptable visual standard in the future.

## **4.0 WORKLOAD & PERFORMANCE**

- 4.1 The following tables below show the current work load the team is managing in respect of current enforcement investigations. Table 1 demonstrates the number of cases that have been opened within that period and how many cases have been closed. This tables demonstrates the number of cases that the team is managing. The team ensures that enforcement cases are closed off as expediently as possible. The table as listed as Table 2 shows in more detail how the cases were closed. This table demonstrates that the majority of cases that the team are closed are either through negotiation, or by retrospective planning applications being received. As of the 31 July 2015 there are 187 enforcement cases; however a number of these are currently dormant i.e. awaiting further information or subject to ongoing monitoring to collate evidence. The team is taking a proactive approach to ensuring cases are resolved and closed as promptly as possible.

*Table 1: Number of Enforcement cases opened and closed*

| <b>Period of time</b>              | <b>Number of cases open</b> | <b>Number of cases closed</b> |
|------------------------------------|-----------------------------|-------------------------------|
| 1 April 2015 to 30 June 2015       | 61                          | 41                            |
| 1 January 2015 to 31 March 2015    | 82                          | 61                            |
| 1 October 2014 to 31 December 2014 | 70                          | 71                            |

*Table 2: How the enforcement cases were closed*

| <b>Period of time</b> | <b>Total Cases closed</b> | <b>Case closed by resolving breach</b> | <b>Case closed by not being a breach</b> | <b>Cases closed by being Permitted Development</b> |
|-----------------------|---------------------------|--|--|--|
| 1 April 2015 to       | 41                        | 18                                     | 17                                       | 6  |

|                                    |    |    |    |    |
|------------------------------------|----|----|----|----|
| 30 June 2015                       |    |    |    |    |
| 1 January 2015 to 31 March 2015    | 61 | 32 | 25 | 3  |
| 1 October 2014 to 31 December 2014 | 71 | 31 | 30 | 10 |

- 4.2 As outlined within the enforcement protocol there are two measures to determine the level of enforcement and compliance performance. One is to ensure that all site visits are undertaken within 15 working days. Currently the enforcement team are hitting this target at 100%. The second performance indicator is in regard to acknowledging complainants within 3 working days and this target is being met at 100%. The enforcement protocol is currently being reviewed to improve the speed at which site visits are carried out to alleged breaches to ensure evidence can be gathered and action taken as swiftly as possible.

## 5. **FINANCIAL IMPLICATIONS [MA]**

- 5.1 The 2015/16 legal cost budget for Planning Enforcement is £8,857. It is anticipated any legal costs arising from enforcement activities will be met within the existing budget amount.

## 6. **LEGAL IMPLICATIONS [MR]**

- 6.1 The Borough Council as Local Planning Authority has powers under the Town and Country Planning Act 1990 to take action to enforce against breaches of planning control.
- 6.2 The powers relating to the service of S215 Notices and to enter into agreements under S106 are set out in the report.

## 7. **CORPORATE PLAN IMPLICATIONS**

This document contributes to Strategic Aim 1 of the Corporate Plan

- Creating a vibrant place to work and live.

## 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 |
| None                                      | None               |       |

**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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