

PLANNING COMMITTEE – 26 JANUARY 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

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

That 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.

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

- 3.2 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. In addition 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 returned to court to seek a further injunction to remediate the breach of planning control. However the Court only granted a further interim Injunction until a decision has been made on the enforcement notice. The owner has appealed the enforcement notice and is currently going to be determined by written representations. All information is required to be submitted to the Planning Inspectorate by the 7 December 2015.

2 Northfield Road, Bagworth

- 3.3 At 2 Northfield Road, Bagworth an enforcement notice was served 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 was received therefore the car port, gates and pillars had to be removed by the 26 October 2015. As the structure has not been removed, the local planning authority will be taking legal action for its removal.

23 Station Road, Ratby

- 3.4 Following the enforcement notice served at 23 Station Road, Ratby in regard to the unauthorised change of use from a restaurant to a hot food take away. The owners have appealed the Enforcement Notice and the Council have submitted a written statement to the Planning Inspectorate. The Council is currently awaiting a decision from the Inspectorate.

Ellis Taylor, Leicester Road, Hinckley

- 3.5 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 an Informal Hearing took place on the 29 September 2015. The Inspector's decision was received on the 2 October 2015 which dismissed the two appeals. Therefore the whole site should be cleared by the 2 May 2016.

1 Temple Hall Farm Cottages, Wellsborough

- 3.6 On the 17 September 2015 the Council attended 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.

At the hearing the owners pleaded guilty to the offence and were ordered to pay a fine of £2,424.00 which included all the Council's legal costs. As the two storey extension is still in situ the local planning authority will continue to pursue the extension to be removed.

The Stables, Mill Lane, Witherley

- 3.7 At the beginning of July 2015 it was reported to the Council that an additional storey was being added to a property without any formal planning approval. The Council issued the owner with a Temporary Stop Notice which ceased all works on site for 28 days. Following ongoing discussions, a further planning application was submitted to regularise the matter. The application is still pending consideration by the local planning authority.

Unit D1, Apex Court, Maple Drive, Hinckley

- 3.8 Following a recent approval for the erection of four floodlights a condition was attached to the permission stating that the lights had to be turned off at 23:00 hours. However, it was reported that the lights were on all throughout the night.

Subsequently a Breach of Condition Notice was issued to ensure that the lights were turned off at 23:00. The notice was subsequently complied with.

Fields Farm, Goatham Lane, Osbaston

- 3.9 After an ongoing investigation it was reported that a commercial equestrian activity was occurring at the property without planning permission. An enforcement notice was served on the 1 July 2015 to cease use of the gallops for commercial purposes. The notice was not appealed and has been complied with.

S215 – Untidy Land Notices

- 3.10 Within the period of the 1 July 2015 to the 30 October 2015 the Local Planning Authority were made aware of only 7 untidy properties. The property at 162 Coventry Road, Hinckley was an untidy property. However after discussions with the owner the property it was tidied to a more acceptable standard.

A notice was served at 9 Henry Street, Hinckley and after discussions with the owner the occupier co-operated with the Council and the property is now tidied up to a more acceptable standard.

At 8 Flamville Road, Burbage, the local planning authority under took direct action to ensure that the front of the property was tidied to a more acceptable standard. Works were undertaken on the 25 September 2015 and the property is no longer affecting the public amenity of the area.

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 table 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 30 December 2015 there are 217 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

Period of time	Number of cases opened	Number of cases closed
1 October 2015 to 30 December 2015	67	58
1 July 2015 to 30 September 2015	72	49

1 April 2015 to 30 June 2015	61	41
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Table 2: How the enforcement cases were closed

Period of time	Total Cases closed	Case closed by resolving breach	Case closed by not being a breach	Cases closed by being Permitted Development
1 October 2015 to 30 December 2015	58	31	21	6
1 July 2015 to 30 September 2015	49	25	22	2
1 April 2015 to 30 June 2015	41	18	17	6

- 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 [TF]

- 5.1 In the case of 1 Temple Hall Farm, paragraph 3.6, the court awarded the council £750 of legal costs which are still to be recovered.
- 5.2 There are no further financial implications.

6. LEGAL IMPLICATIONS LEGAL IMPLICATIONS [MR]

- 6.1 Part VII of the Town and Country Planning Act 1990 empowers the Council as Local Planning Authority to take enforcement action to remedy breaches of planning control
- 6.2 Section 215 of the same act empowers the Council to take steps to secure the improvement of the condition of land where it is of the view that the amenity of the area is adversely affected by the condition of land

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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