

**PLANNING COMMITTEE – 21 JUNE 2016**

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

**WARDS AFFECTED: ALL WARDS**



Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

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**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 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 cease 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 this is now being determined by informal hearing. The Informal Hearing is due to be heard on the 7 June 2016, a further update will be provided once the Inspector has provided his response.

Newton Linford Lane, Groby (Known as Klondyke)

- 3.3 On the 7 September 2015, the owner of a piece of land within “Klondyke” submitted an “Application for a certificate of lawful existing use for a dwelling”. The application seeks to establish the use of an area within the site as a residential dwelling; the applicant was claiming that the site has been used as a permanent residential dwelling since 1985. This site is particularly well known to the Council and there is an extensive enforcement history on the whole of the site, with previous enforcement notices and Injunctions sought on the land. Based on the evidence provided by the applicant the Council refused the application and subsequently an enforcement notice was served on the 7 January 2016, stating that the dwelling had to be removed. Following the service of an enforcement notice, the applicant has appealed the notice and has been listed for a Public Inquiry between the 18 and 20 October 2016.

Section 124(1) of the Localism Act 2011 inserted new sections into the Town and Country Planning Act 1990 (as amended) to allow enforcement action to be taken in England against a breach of planning control when the time limits for taking enforcement action have expired and the breach has been concealed. Following a number of site visits by the Council, the local authority believes that the dwelling has deliberately been concealed by a person with a view to obtaining a certificate of lawful use.

There have been a number of high profile court cases where owners have sought to deceive the local planning authority in their initial application for planning permission or have concealed the development and then sought to argue that the local planning authority is out of time for taking enforcement action. Where it appears to the local planning authority that there may have been a breach of planning control in its area it may apply to a magistrates court for a planning enforcement order. If the Court makes such an order then the local planning authority may take enforcement action in respect of the apparent breach at any time within a period of one year and 22 days of the making of the order. Following the submission by the Council of a claim for a Planning Enforcement Order, the applicant has appealed against the claim on the basis that concealment has not occurred. The hearing of the case is due to be heard at Leicester Magistrates Court on the 7 October 2016.

Dagleys Farm, Earl Shilton

- 3.4 On the 3 August 2012, the Planning Inspectorate granted planning permission for the change of use of the land from use as agricultural land to a mixed use as agricultural land and residential use, and the siting of a twin unit mobile home for residential use but only on a three year temporary basis. This time period passed and the unit was still present and an enforcement notice was therefore issued for its removal. No appeal was lodged and the unit has to be removed by the 11 June 2016.

231 Shaw Lane, Markfield

- 3.5 On the 7 January 2016, the Council issued the owner of a property with an enforcement notice for the use of the land for a dog breeding establishment and the keeping of dogs. The owner appealed the decision and the Planning Inspectorate dismissed the appeal on the 25 April 2016 giving the owner three months to cease the change of use. Therefore all the dogs at the property need to be removed by the 25 July 2016.

Chequers Inn, Burbage

- 3.6 On the 21 January 2016, the Council issued the owner of the premises with an enforcement notice in relation to the erection of three wooden posts to the front of the premises. The notice was not appealed and the enforcement notice was complied with.

23 Station Road, Ratby

- 3.7 An enforcement notice was 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 appealed the Enforcement Notice and the Council submitted a written statement to the Planning Inspectorate. Following the appeal the Planning Inspectorate granted planning permission for the take away.

Ellis Taylor, Leicester Road, Hinckley

- 3.8 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. The two enforcement notices have not been complied with and the Council are now taking prosecution action against the owner for failing to comply with the notices.

1 Temple Hall Farm Cottages, Wellsborough

- 3.9 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. Following a successful prosecution, the applicant has now re submitted a further planning application in an attempt to regularise the matter, a decision has yet to be issued but discussions are being held with the owner to find a resolution to the matter.

The Stables, Mill Lane, Witherley

- 3.10 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.

S215 – Untidy Land Notices

- 3.11 Within the period from 1 January 2016 to the 31 May 2016 the Local Planning Authority were made aware of 9 untidy properties. The premises on the corner of

Glebe Road and Forest Road had rubble to the front of the premises; after serving the owner with a notice the premises were tidied to an acceptable standard.

Out of the other untidy properties 6 cases were closed off as these properties were not affecting the public amenity of the area, the other two are still under investigation with on going discussions being held with the owners to resolve the situation.

The team are still working on a number of other untidy property cases 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. Table 2 shows in more detail how the cases were closed. This table demonstrates that the majority of cases that the team have closed are either through negotiation, or by retrospective planning applications being received. As of the 3 June 2016 there are 208 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 opened</b>	<b>Number of cases closed</b>
1 April 2016 to 3 June 2016	53	57
1 January 2016 to 31 March 2016	76	64
1 October 2015 to 30 December 2015	67	58

*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 2016 to 3 June 2016	57	18	36	3
1 January 2016 to 31 March 2016	64	27	31	6
1 October 2015 to 30 December 2015	58	31	21	6

4.2 On the 9 March 2016, Council approved an updated Planning Enforcement Protocol as set out in Appendix 1. The Planning Enforcement Protocol has been updated to be in accordance with the NPPF and to also set out how the Council will proactively manage enforcement issues within the borough by monitoring the implementation of planning permissions and ensuring conditions are fully complied with. As part of a review of the protocol, in order to be more proactive in our investigations, time scales for carrying out a site visit in response to an alleged breach have been reviewed. The previous protocol set out that a site visit would be undertaken within 15 working days. This target time has been shortened to ensure visits are done within 7 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%.

**5. FINANCIAL IMPLICATIONS [TF]**

5.1 Currently a cost of £11,268 has been incurred for the Newton Linford Lane, Groby appeal. This and any other costs for appeals will be met from within existing budgets.

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

6.1 None

**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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