

**\*PART 1 – PUBLIC DOCUMENT**

**Planning Enforcement Quarterly Report**

INFORMATION NOTE OF THE DEVELOPMENT AND CONSERVATION MANAGER

**1. SUMMARY**

- 1.1 This note is developed as the quarterly update of the Planning Enforcement Service. It is not an item to be voted upon but intended to supply Members with information relating to the work of the Planning Enforcement Team, as requested by Members.
- 1.2 Recent restructuring within the Planning Service brings together conservation and compliance through the creation of the Conservation and Enforcement Team to deliver on the NHDC's key priorities to put people first, deliver sustainable services and to enable a brighter future together.
- 1.3 The Planning Enforcement Team manages a wide and varied caseload, prioritising those with the highest level of harm and public interest. Throughout 2024 Compliance Officers have been implementing a work plan to established themes that support the delivery of high quality and efficient investigations. Progress on this plan remains effective and has resulted in consistently high numbers of cases resolved, and an increase in formal action, where required and expedient to do so.

**2. STEPS TO DATE**

- 2.1 This is a regular update of the Planning Enforcement as requested by Members. This is part 1 of the report which provides an update of work between July – October 2024 and does not include details of current enforcement cases which is restricted information.

**3. INFORMATION TO NOTE**

- 3.1 Planning Enforcement seeks to raise awareness that it is not an offence to undertake development without obtaining planning permission in advance. However, undertaking such development comes with the risk of enforcement action if Officers consider it expedient to do so.
- 3.2 A fundamental principle of the planning enforcement is that enforcement action should not be taken solely for the purpose of regularising unauthorised development. Therefore, we may not take action against technical or minor breaches, and we would not investigate concerns about breaches that reporters believe may occur at some point in the future.
- 3.3 Planning enforcement investigations are not a swift process, and officers are required to undertake site visits, review, and analyse legal and technical instruments before drawing conclusions about the breach and the appropriate action to be taken.
- 3.4 The Enforcement Team recognise that customers are keen for their cases to be resolved quickly, however it is also important that investigations are carried out robustly and in line with statutory requirements, enforcement principles and good practice.

- 3.5 A review of back-office systems and investigation decisions provided the backdrop for the implementation of support and processes to improve performance and the quality of investigations. Following a period of bedding-in new processes and quality outcomes, the strategic plan turned to focus on customer service as key to how members of the public perceive and experience the Planning Enforcement Service.
- 3.6 Officers have investigated and resolved 225 cases for far this year. As of the beginning of November, there were 132 cases awaiting resolution.

Investigation Cases:

| <b>2024</b>  | Q1: Jan-Apr | Q2: May-Jun | Jul-October | Total |
|--------------|-------------|-------------|-------------|-------|
| New          | 44          | 68          | 85          | 197   |
| Resolved     | 60          | 71          | 94          | 225   |
| Differential | +16         | +3          | +9          | +28   |

- 3.7 In line with the pattern of the number of breaches reported throughout the year, more cases are reported during the summer. Officers have managed to maintain the momentum of investigations, despite this time coinciding with the most popular period when Officers take annual leave and with two Officers on long-term absence.
- 3.8 The number of historic cases still to be resolved has steadily decreased and includes some of the most complex and challenging types of breaches.

**Planning Enforcement Plan**

- 3.9 The National Planning Policy Framework (NPPF) recommends that local planning authorities publish a local enforcement plan to manage planning enforcement proactively and in a way that is proportionate to their area.
- 3.10 The Planning Enforcement Plan features as Appendix E of the Corporate Enforcement Policy and was recently updated on the Council website. The Plan sets out NHDC's approach to planning enforcement to reflect the priorities and reinforces that formal enforcement action is only considered when informal efforts are unsuccessful, or a breach is so serious that immediate action is required.
- 3.11 Information on the Planning Enforcement webpage has also been refreshed to complement the updates to the Plan and investigative process and timelines.

**Performance**

- 3.12 In addition to the 131 cases resolved up until end June 2024, a further 94 cases have been resolved between July – end of October 2024. As of beginning November 2024, 132 cases are under investigation, and an additional 20 cases pending decisions by Development Management or the Planning Inspectorate.
- 3.13 It is important to note that the number of cases do not tell the full story, as complex cases typically take significantly longer to resolve than comparatively minor cases.

- 3.14 The following enforcement actions were taken during the period July - October 2024:
- 5 Planning Contravention Notices
  - 1 Enforcement Warning Notice
  - 2 Enforcement Notices
  - 1 Listed Building Enforcement Notice
  - Breach of Condition Notice
  - Injunction Order

### **Customer Experience**

- 3.15 Updates to the planning enforcement webpages now includes the most recent publication of the Corporate Enforcement Policy. The Planning Enforcement Policy is found at Appendix E and includes revised investigation timescales.
- 3.16 How customers experience and perceive the planning enforcement service is critical for the reputation and public understandings of what effective planning enforcement looks like. Equally, work to educate and communicate the limitations of the planning enforcement regime is well under way. Updates to the website includes:
1. What is a breach and what we investigate
  2. Reporting form submitted directly to planning enforcement inbox
  3. FAQs
  4. Enforcement Action during 2024
  5. S106 Monitoring Data
- 3.17 Planning enforcement, is a primarily reactive service, relies on members of the public to report alleged breaches to us. Although the remit for investigation is clearly established and defined, the range of requests that lie outside the remit for planning enforcement investigation has driven a number of changes to help educate and embed that understanding more broadly and clearly to all our stakeholders.
- 3.18 Opportunities for communicating / education include updates to the following:
- Planning enforcement webpage sets out what we do and do not investigate:
- Planning Enforcement email auto-reply message has been updated to highlight our role in investigating alleged breaches, and sign-posts customers to other agencies/services responsible for non-enforcement matters
  - Triage of reported matters filters out the information and makes clear the matters that will be investigated, and signposts to services relevant to the complaint
  - Acknowledgement letters describe the information in the complaint through the correct planning terminology for an alleged breach that the Compliance Officer will investigate. Also included are the different stages of investigations, and the stage at which customers will be updated.
- 3.19 Officers recognise that transgressors are our customers as well as reporters. However, they have needs and expectations that can be in opposition to each other.

3.20 Reporters commonly want:

- Information about the works taking place and anticipated breaches
- Confirmation that we will investigate their complaint
- Assurance that their identity will not be disclosed
- Details of Officer findings from the site visit
- Frequent updates and decisions, including on hypothetical situations
- A role in the decision-making and progress of investigations
- Decisions and action to be taken more swiftly
- Punishment for transgressors / to catch transgressor out
- Transgressors not to 'get away it' or 'play the system'

3.21 Transgressors typically want:

- To know the identity of the complainant/s
- The opportunity to negotiate a solution with complainants and neighbours
- Time to resolve (or avoid resolving) breaches
- To offer justification to override the harm arising from the breach
- To exercise their opportunity to seek planning permission for the development
- To exercise their right to appeal against a refused planning permission
- To delay processes for as long as possible in order to avoid/stall formal action
- Financial loss to negate the need to resolve the breaches

3.22 Officers seek to stress that the investigative process can take time and is centred on the objective to bring harmful development in line with the regulations. That means we will not take action against technical breaches or those resulted in limited planning harm. We will act against development that is unauthorised + unacceptable.

3.23 Terminology of 'harm' can be problematic when explaining the impact of development, as reporters feel 'harmed' by perceived planning transgressions and may not accept the differences between personal and planning harm, even when explained by Officers.

3.24 In cases where an alleged breach is confirmed, people want to see that something has been done. Officers may invite a retrospective application to regularise the matter under the provisions of Section 73A of the Town and Country Planning Act 1990, which details with planning permission for development already carried out.

3.25 This step also allows for conditions to be imposed onto development if doing so would make it acceptable in planning terms. In cases where an application is not forthcoming, an Enforcement Warning Notice (EWN) may be served, and the breach becomes a matter of public record.

3.26 Members are asked to note that although planning enforcement is not driven by income-generating objectives, over 40 retrospective applications were submitted so far this year due to enforcement investigations. Together with 4 pre-apps has generated income of approximately £15,000.

3.27 A strong message is that carrying out development without first obtaining planning permission is not an offence. Despite strong feelings and sense of justice, the purpose of the planning enforcement is not primarily to punish, and formal action remains a last resort and deployed when breaches are so serious or when informal attempts for compliance fail.

- 3.28 The Planning Enforcement Team do appreciate that when people feel that there is no consequence or see that no action is taken, planning enforcement - and it's personnel – are perceived as ineffective and people feel let down. Officers understand that this can causes stress and anxiety for reporters and transgressors, who may both consider decisions to be unjust and treated unfairly. However, the team remain committed to deliver sound results as evidenced within this report and propose to include quarterly information on the planning enforcement webpage. In demonstrating the work we deliver, it is hoped that reporters will be encouraged that we take action where possible, and that potential transgressors will be discouraged from breaching the planning regulations.

| <b>Enforcement Action 2024</b>      | COMPLETED/<br>ACTIONED | PENDING DECISION |
|-------------------------------------|------------------------|------------------|
| Investigations                      | 225                    | 130              |
| Retrospective Planning Applications | 40                     | 16               |
| Planning Contravention Notices      | 5                      | 2                |
| Formal Notices to Remove Breach     | 5                      | 4                |
| Prosecutions                        | 1                      | 1                |
| Injunctions                         | 1                      | 1                |
| Other                               | 0                      | 1                |

Last Updated 6<sup>th</sup> November 2024

#### **4.0 HIGH PROFILE CASES**

- 4.1 Officers prioritise breaches that Members report to us. Formal action is undertaken in line with the corporate enforcement approach, and with due regard to procedural propriety and collaboration with colleagues in other service areas and third-party expertise as required.
- 4.2 Investigating cases can be difficult to negotiate informal resolutions and complex to gather the evidence, meet the various tests required to serve formal Notices, and further enforcement action.
- 4.3 Decisions about whether to take formal action or further collaboration are balanced against the likelihood of an eventual outcome that sees the breach resolved. Issuing formal Notices do not in and of themselves resolve the breach, therefore due consideration is given to potential onward resources, time the breach will remain while awaiting a potential appeal decision, practicalities and other factors.
- 4.4 As such, strategic decisions are required that look beyond the immediate situation to include considerations of available resources to undertake prosecution action, injunction applications, and direct action if Notices are not complied with.
- 4.5 Officers fully appreciate that the cases brought to Members attention are often those where the public feel particularly passionate about or affected by. Invariably, prioritising some cases means deprioritising others, which is part and parcel of managing caseloads according to the seriousness of the harm arising from the breach.

## 5 S106 MONITORING AND DATA

- 5.1 Members have requested that details and information on the S106 monitoring and spend are published on the Council website as a mark of transparency and to give public visibility of the monies received, how it has been spent and the remaining balance that is available for allocation.
- 5.2 Following the appointment of the S106 Monitoring and Compliance Officer in August, a comprehensive review of the process and spending has been undertaken. Updates to the Council webpage is underway and proposed to include summarial information and an outline of the funds to be updated on a quarterly basis, as shown below:

### S106 Obligations – 01/04/2023 – 31/10/2024

| Total Amount of S106 Funding Received | Total Amount of S106 Funding Spent | Total Balance of Remaining S106 Funds Available |
|---------------------------------------|------------------------------------|---|
| £XXXXXX                               | £XXXXXXXX                          | £XXXXXX   |

Last updated xx xx xxxx

- 5.3 As part of this work, various reports will be made available both quarterly and annually for public information on the website:
- Breakdown of received
  - Breakdown of allocation
  - Breakdown of spend
  - Breakdown of live funds
- 5.4 Members will also find Appendix A attached as proposed wording to update s106 page on website and areas identified to be developed to expand and enhance s106 obligations information available.

## 6.0 CONCLUSION

- 6.1 Progress and performance within the team that is motivated and growing in experience continues in a positive direction. Examples in the report of formal action undertaken indicate willingness to take action necessary to resolve breaches that result in significant harm to the environment and community.
- 6.2 A polite reminder for members that in order to deliver the most efficient response, Members are encouraged to email [planning.enforcement@north-herts.gov.uk](mailto:planning.enforcement@north-herts.gov.uk) and copy in Ian Fullstone (as Director of Regulatory Services and responsible for the Planning Enforcement Service) and/or Shaun Greaves, Development and Conservation Manager.

## 7. NEXT STEPS

To note this report.

## 8. APPENDICES

Appendix A – Proposed S106 wording for website.

**9. CONTACT OFFICERS**

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**10. BACKGROUND PAPERS**

None