Planning Control Committee

3rd April 2025

***PART 1 – PUBLIC DOCUMENT**

Planning Enforcement Quarterly Report

INFORMATION NOTE OF THE DEVELOPMENT AND CONSERVATION MANAGER

1.0 SUMMARY

1.1 This report is prepared to provide an overview of the Planning Enforcement service to the Planning Control Committee.

1.2 Since the last report in November 2024 the team has continued to improve internal systems and processes to provide a robust planning enforcement service. This includes updates to the Council planning enforcement webpages and back-office updates, and improved customer service experience and cross-service collaborations.

1.3 The team continues to address breaches of planning control in a firm but fair way, taking proportionate and justified enforcement action against breaches where necessary and appropriate.

2.0 STRATEGIC CONTEXT

2.1 Planning Compliance is concerned with works which have taken place in breach of planning control as set out in the Town and Country Planning Act 1990 (as amended). Established procedures and practices ensure that planning enforcement action complies with the relevant legislative framework whilst providing a service which maintains the public's confidence in the Council delivering effective planning enforcement and its contribution towards making North Herts a desirable place to live, work, learn and visit.

2.3 The team continues positive engagement with elected members, Parish Councils and community groups; officers welcome their respective roles and contributions in aiding the team to investigate and resolve matters.

3.0 TEAM STRUCTURE AND SERVICE IMPROVEMENTS

3.1 The Planning Enforcement Team has retained the overall staff structure of 1 Team Leader, 1 x Senior Compliance Officer, 2 x Compliance Officers, and 1 x S106 Monitoring and Compliance Officer.

3.2 Members are asked to note that Stephanie Blunt, Senior Compliance Officer, looks forward to retirement following approximately 7 years within the Planning Enforcement Team, and over 27 years working for North Herts Council.

3.3 Following a successful recruitment process, an experienced Senior Enforcement Officer will join the team in April.

3.4 In line with the update shared to Members during the last update in November 2024, data is now published on the planning enforcement web pages, which include details on the number of cases investigated and formal action taken.

3.5 Members are also asked to note the additions to the webpages, that are intended to improve the customer experience and encourage self-service to information on planning enforcement matters. Please see this link for more information: Planning enforcement | North Herts Council

3.6 In publicising this information, Officers aim to further build on community support and confidence in the work of the Planning Enforcement Service. Officers note that some customers prefer in-person engagement with investigating officers. However, this is not available as part of the enforcement service, although officers will continue to facilitate email contact and phone calls with reporters. In order to manage expectations on this, Officers would welcome Members assistance and support in sharing this message with residents directing reporters to the Council website.

3.7 Training on S106, Planning Enforcement, and Conservation matters was delivered to Members earlier this year. Officers welcome the positive feedback and are pleased that the training provided key insight into matters and decisions by respective officers. Officers are grateful for the interest from Members and Parish Councils and hope to continue strong relations and working together.

4.0 UPDATE SUMMARY OF 2024

4.1 The following summary reflects the enforcement work undertaken within the team in the calendar year ending 31 December 2024:

- New cases – 235
- Investigations closed – 283
- Retrospective Applications – 65
- Formal Notices – 7
- Other Enforcement Action – 3

Members are asked to note that 'other enforcement action' typically relates to non-compliance with formal notices. In this case, this relates to one prosecution, one injunction and one breach of an injunction.

4.2 The information shows that the number of investigations resolved exceeds the number of new cases opened during 2024. However, it is important to note that the numerical information does not capture the complexity of work required to resolve cases.

4.3 Planning Enforcement administrative functions continue to provide support that is instrumental for delivering an effective service. However, members are also asked to note that the team experienced significant and unavoidable officer absences that impacted on team outputs from Q4 of 2024 and into Q1 of 2025.

4.4 Collaborative work with other services across the organisation remains a core element of planning investigations and is being developed even further to include collaborative training.

5.0 PERFORMANCE AND ENFORCEMENT ACTION

5.1 The Enforcement Team are currently investigating 160 active cases and continue to simultaneously escalate cases to formal action for development that is unauthorised and results in unacceptable planning harm.

5.2 At the time of this report, 54 cases have been reported to the team for investigation so far this year. In addition, the team has responded to over 100 general enquiries on a wide range of planning and planning enforcement matters. The information has in part formed the basis of the 'Frequently Asked Questions' that area now added to the Council website.

5.3 Where breaches are alleged, a set of options are usually offered as a route to resolving matters:

a. Submit a retrospective planning application for the development as built,
b. Submit pre-app proposing amendments to the existing development to bring it in line with local and national policies and guidance,
c. Submit an application for a Certificate of Lawful Development to prove that the development does not require planning permission,
d. Remove the breach or cease the unauthorised use of the property or land
e. Sumit evidence to demonstrate the basis for the development

5.4 Pre-application submissions provide an informal view from a Planning Officer on whether planning permission or another form of planning consent may be support, the likelihood of such consents being granted, potential ways in which schemes could be improved, and the information that would need to accompany a formal application.

5.5 The pre-application service we provide, takes significant officer time, not only in reviewing the proposals submitted for advice, but also in meetings, and drafting written advice and the review of that written advice. However, officers recognise the importance of the pre-application process in terms of adding value to improve schemes before a formal application is submitted.

5.6 Approximately 65 retrospective applications were submitted in 2024 as a result of planning enforcement investigations. This information is in line with the approach to prioritise negotiation over formal enforcement action. In many cases, the submission of a planning application and subsequent grant of planning permission have resolved the breaches. This ensures people do not circumvent the need to go through formal routes and ensures that residents/local amenity groups have an opportunity to comment on the development.

5.7 The focus is for resolving alleged breaches of planning control in a timely fashion rather than to punish those who breach the planning regulations. Members are asked to note that the number of formal notices are not in themselves an indicator of effectiveness or resolution for enforcement breaches. In deciding the appropriate action to take for each case, Officers must consider the long-term objectives to resolve planning breaches, and whether the tools deployed can achieve that end.

5.8 Serving of Enforcement Notices does not resolve breaches of planning control; they are an enforcement tool. Resolution is reliant upon recipients accepting why the development is unauthorised and unacceptable and compliance with the stated requirements.

5.9 Recipients of a formal Notice have the right of appeal, usually to the Planning Inspectorate, which will hold the requirements in abeyance until the Inspector's decision. At the time of this report, the Council is awaiting decisions for six Notices; three of which have so far taken over two years to be processed, reviewed and determined by the Planning Inspectorate.

5.10 Therefore, the most expedient means of securing compliance may be through sustained informal negotiations, which is undoubtedly more protracted, but may resolve matters more swiftly than the route of serving a formal Notice. Officers understand that both the appeal process and elongated negotiations can be frustrating for reporters and Members. These concerns are shared by Officers, as the effect is to delay the investigation and progress of other cases. However, Officers recognise when informal negotiation has reached its limit and will escalate matters to formal consideration and action where required.

5.11 While formal notices do not resolve breaches, they can often be a necessary step towards resolving matters. Therefore, where compliance is not achieved, it falls to the Planning Enforcement Team Leader to consider matters and to take decisions on the appropriate course of action. Of the 7 formal notices served in 2024, the following outcomes are noted:

OUTCOME OF FORMAL NOTICES SERVED IN 2024

COMPLIED WITH	APPEALED	NOT COMPLIED WITH
3	1	3

5.12 Officers are currently progressing on actions to escalate matters by way of action pursuant to the provisions of the Town and Country Planning Act 1990 (as amended). Section 178 provides authority for LPAs to take direct action for the execution and cost of works required by and enforcement notice. Section 179 provides that non-compliance with an enforcement notice is a criminal offence, therefore the LPA can consider instituting prosecution action through the magistrate court instead of, or in addition to undertaking direct action.

6.0 S106 and MONITORING PLANNING CONDITIONS

6.1 The S106 Monitoring and Compliance Officer takes an increasingly proactive role in the monitoring the delivery of financial and non-financial S106 obligations to ensure that these are secured in accordance the relevant planning legal agreement. As part of this work Officers maintain a schedule of all the S106 financial contributions held, and processes are introduced to include the process for confirmation of approval of details/confirmation development in accordance with conditions applications.

6.2 Work is ongoing to update the information on the Council website, which is to include links to supplementary documents and guidance, and the annual Infrastructure Funding Statement. The search pathway for the S106 webpages is Planning > Planning Obligations.

7.0 PUBLICITY

7.1 Many formal notices are a matter of public record and are maintained in the S188 Register and available to view on the Council website.

7.2 In response to queries about publicity of enforcement action to increase the Council's profile and reputation on planning enforcement action, discussions take place with colleagues in the Press Office. However, where matters remain ongoing, decisions may be taken to defer publicity until the breach in question is fully resolved.

7.3 Enforcement actions across teams in Hertfordshire local authorities varies according to several factors including geographical area, breach types, officer experience, resources and capacity for formal action. Following discussions within the Herts Planning Enforcement Network, opportunities may exist to publicise planning enforcement actions through a county-wide voice. This would be through collaboration and with the objective to project a clear message that local planning authorities in Hertfordshire will act in relation to breaches of the planning control.

8.0 IMPLICATIONS

8.1 In terms of Planning Enforcement, the risks of development becoming potentially immune from action if the Local Planning Authority fails to investigate and take formal action if/when required should be recognised. However, the current time periods for immunity is generally 10 years and reduces the risk of such breaches becoming immune.

8.2 Officers highlight the legal and financial implication of defending enforcement notice appeals, and court action. This is an inevitable consequence of formal and escalated action, as they take up officer time and can be costly to defend and progress.

8.3 Members are also asked to note that the performance of the planning enforcement team has a direct influence of the Council's reputation in its provision of an effective planning enforcement service.

8.4 Strategic decisions are required from Leadership on the appropriate next steps and deployment of resources for non-compliance cases. Further updates are shared with Members in Part 2 of this report, which is confidential and restricted from publication.

9.5 The team continues to seek to investigate and resolve or take appropriate action on breaches of planning control as swiftly as possible whilst meeting the requirements of national legislation and the Corporate Enforcement Plan.

9.0 NEXT STEPS

To note this report.

10.0 CONTACT OFFICERS

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