

**North East Derbyshire District Council**

**Planning Committee**

**Meeting Date: 31 May 2022**

**PLANNING ENFORCEMENT SERVICE PROGRESS REPORT**

**Report of the Principal Planning Enforcement Officer (Development Management)**

**Classification:** This report is public

**Report By:** Principal Planning Enforcement Officer (Development Management)

**Contact Officer:** Julian Hawley

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**PURPOSE / SUMMARY**

To provide for all elected Members a breakdown of work carried out by the Planning Enforcement service in accordance with the Local Enforcement Plan adopted in June 2021.

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**RECOMMENDATIONS**

1. That the contents of this report and the information contained within Appendix A is noted

Approved by Councillor C Cupit, Portfolio Holder for Environmental Services

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**IMPLICATIONS**

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**Finance and Risk:** Yes  No

**Details:**

A failure to monitor and enforce planning control would leave the Council at risk of reputational damage and potential costs on appeal to the Local Government Ombudsman and/or Judicial Review of action or decisions not to act. This is not considered a viable alternative.

On Behalf of the Section 151 Officer

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**Legal (including Data Protection):** Yes  No

**Details:**

The specific details relating to each case are confidential and the report sets out information that is nonspecific. However, formal enforcement action is part of the planning register and a public document; a list of the formal enforcement action taken by the Council is set out in Appendix A

On Behalf of the Solicitor to the Council

**Staffing:**    **Yes**         **No**   
**Details:**

The proper monitoring and enforcing of planning control carries with it human resource implications. Currently these are being managed within existing resources

On behalf of the Head of Paid Service

**DECISION INFORMATION**

<b>Decision Information</b>	
<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <b>NEDDC:</b> <b>Revenue - £100,000</b> <input type="checkbox"/> <b>Capital - £250,000</b> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>District Wards Significantly Affected</b>	All
<b>Consultation:</b> <b>Leader / Deputy Leader</b> <input checked="" type="checkbox"/> <b>Cabinet</b> <input checked="" type="checkbox"/> <b>SAMT</b> <input type="checkbox"/> <b>Relevant Service Manager</b> <input checked="" type="checkbox"/> <b>Members</b> <input type="checkbox"/> <b>Public</b> <input type="checkbox"/> <b>Other</b> <input type="checkbox"/>	Yes  Details:  Richard Purcell – Assistant Director of Planning  Cllr Charlotte Cupit – Portfolio holder...

**Links to Council Plan (NED) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.**

Reporting on progress of the team and reporting to Members with updates is set out in the Councils adopted Local Enforcement Plan and the Council's adopted performance targets.

## **REPORT DETAILS**

### **1 Background** *(reasons for bringing the report)*

- 1.1 This report sets out information relating to the work carried out by the Planning Enforcement service over the preceding financial year 1 April 2021 to 31 March 2022. The intention is to bring a report before Members on a 6 month cycle, as per the Local Enforcement Plan, incorporating a more detailed annual report.
- 1.2 The attached Appendix A provides figures and information to show the work carried out by the Planning Enforcement service. Figures from the previous years have been also been presented to provide context where possible.

### **2. Details of Proposal or Information**

- 2.1 The number of planning enforcement enquiries received in 2018 to 2021 remained fairly consistent at an average of 225 cases per financial year. However during the latest reporting period 2021/22, the number of enquiries dealt with by the service has increased by nearly 80% to 358. There are a number of reasons for this: proactive enforcement investigations by the enforcement team, better information recording and easier ways of reporting alleged breaches such as the new 'report it' section on the website.
- 2.2 Work continues to be carried out in the background to improve the way information is stored and retrieved. This includes steps to introduce an electronic enforcement notice register to be integrated into the Council's online mapping system. Work is also ongoing to record the number of cases proactively investigated by the team.
- 2.3 The breakdown of reasons for case closures is set out in Appendix A and shows that 40% of the enquiries investigated and closed in 2021/22 were not found to be a breach of planning control. These are for reasons that an allegation is not a planning matter (it might be an Environmental Health issue for example), it does not fall within the definition of development, or it is permitted development.
- 2.4 This means 60% of enquiries investigated and closed in 2021/22 were a breach of planning control, for which the Council has to decide an appropriate course of action
- 2.5 The breakdown shows over 30% of the cases were resolved with the owner/developer taking positive steps to resolve an issue. Furthermore, 20% of the enforcement cases were closed following the grant of a retrospective or part retrospective planning application.

- 2.6 Members will note the number of outstanding enforcement cases that remain open. There are several reasons for this: most notably the pandemic, which severely limited the Council's ability to carry out investigations in 2020/21 but also a number of long-term vacant posts in the enforcement team.
- 2.7 The consequence of this is a backlog of cases where investigations need to be started, or started again because of the passage of time. The team was finally fully resourced in September 2021 and work is ongoing to reduce the backlog, as well as accommodate the significant increase in numbers. The team is reviewing cases to assign a 'priority' based on the severity of the breach so that the most serious issues are prioritised, again as set out in the Local Enforcement Plan.

### **3 Reasons for Recommendation**

- 3.1 The proper monitoring and enforcement of planning control maintains public confidence in the planning system and ensures that everyone who engages properly with the process is treated fairly and equally. It maintains confidence in the Councils adopted planning policies and remedies development that has, or continues to have, a detrimental impact on amenity.
- 3.2 This report affords Members the information on which to monitor progress of the planning enforcement service as well as providing information on the volume of work dealt with by the team.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 The Council has a duty to investigate all alleged breaches of planning control. It is then at the discretion of the Council as to whether formal enforcement action is taken, having regard to the development plan and other material considerations

## **DOCUMENT INFORMATION**

<b>Appendix No</b>	<b>Title</b>
A.	Planning enforcement update report
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) you must provide copies of the background papers)	
All alleged breaches of planning control recorded and investigated by the Council. All formal enforcement action taken by the Council, including formal requisition for information.	

**North East Derbyshire District Council**

**Planning Committee**

**31 May 2022**

<b>Planning Enforcement service progress report – APPENDIX A</b>
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Enforcement enquiries received, investigated and closed between 1 April 2021 and 31 March 2022

<b>1 April 2021 – 31 March 2022</b>			
Received	Closed	Outstanding	
358	388	321	

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358	388	321	

<b>Breakdown by reason for closure</b>		
	Number	Percentage
Not a planning matter	35	9%
Not a breach	79	20%
Permitted development	24	6%
Planning application approved	74	20%
Condition/detail complied with	29	8%
Work reversed/use ceased	94	24%
Direct Action	1	< 1%
Duplicate cases	12	3%
Immune/lawful	8	2%
Not expedient	32	8%

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<b>Formal Enforcement Action taken in the period 01 April 2021 – 31 March 2022</b>			
<b>Location</b>	<b>Action Type</b>	<b>Alleged Breach</b>	<b>Status</b>
Land at Clay lane, Clay Cross	Temporary Stop Notice	Commencement of the development in advance of discharge of conditions	Complied with
Land at Boiley Lane, Sheffield	Enforcement Notice	Material change of use of the land to a use for the siting of caravans for purposes of human habitation	Issued and appealed. Hearing date TBC
Whitegates, 129 Chesterfield Road, Dronfield	Direct Action	Removal of unauthorised advertisement	Complete and costs recovered

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Land at Brindwood House, Millthorpe	Enforcement Notice	<p>1) Without planning permission, building operations comprising the erection of an L-shaped garage building</p> <p>2) Without planning permission building operations, comprising the erection of a building</p>	Issued and appealed. Public Inquiry September 2022
Land at Brindwood House, Millthorpe	Enforcement Notice	Material change of use of a building to a use as a single dwellinghouse (use class C3)	Issued and appealed. Public Inquiry September 2022
Land To Rear Of 133-143, Holmley Lane, Dronfield	Enforcement Notice	<p>1) Without planning permission, engineering operations comprising the deposit of material and the alteration of the landform to create a terrace and associated embankment.</p> <p>2) Without planning permission, engineering operations comprising the deposit of material and the alteration of the landform to infill a void left over from the demolition of a building, and to create a terrace and associated embankment in connection with a barn conversion granted at appeal APP/R1038/W/18/3200789.</p>	In effect and being complied with
Land at the Fox and Goose, Wigley	Enforcement Notice	Building operations comprising the erection of a timber gazebo	In effect. Compliance by October 2022

### Enforcement Appeal Decisions in the period 01 April 2021 – 31 March 2022

Location	Action Type	Alleged breach	Decision
Land at Border View Farm, Rod Moor Road, Dronfield Woodhouse, Derbyshire	Enforcement notice	<p>Without planning permission, the erection of a building on the Land covering a riding arena</p> <p>Appeal A: APP/R1038/C/20/3263940 Appeal B: APP/R1038/C/20/3263941</p>	Dismissed
Land at Border View Farm, Rod Moor, Road, Dronfield Woodhouse, Derbyshire	Enforcement notice	<p>Without planning permission, the material change of use of the Building from agricultural use to use as a café.</p> <p>Appeal C: APP/R1038/C/20/3266493 Appeal D: APP/R1038/C/20/3266494</p>	Allowed, and planning permission is granted

Land at Border View Farm, Rod Moor Road, Dronfield Woodhouse, Derbyshire	Enforcement notice	Without planning permission, the erection of a shed/building on the Land  Appeal E: APP/R1038/C/20/3266496	Dismissed
Land adjacent to 1 Swathwick Lane, Wingerworth, Chesterfield.	Enforcement Notice	Change of use of land from agriculture to residential use including the creation of a concrete hardstanding and plinth, water tank, diesel generator and diesel tank  APP/R1038/C/21/3272250	Part allowed (on lawfulness), part dismissed.  Notice corrected and varied.

<b>Other Notices issued (action which does not form part of the planning register)</b>		
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Community Protection Warning Notices	2	
Planning Contravention Notices	12	