

Committee: Planning and Licensing Committee	Date: 14 October 2020
Subject: Planning Enforcement Activity Overview	Wards Affected: All
Report of: Phil Drane, Director of Planning and Economy	Public
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Summary

This report summarises the Planning Enforcement activity undertaken in the Borough for the period between 1 July and 30 September 2020 (Quarter 2). Regular updates are to be brought to the committee to monitor the performance of the wider Planning service.

Main Report

Introduction and Background

1. The purpose of this report is to provide the Planning and Licencing Committee with an overview of the Planning Enforcement activity in the period July to September 2020 (Quarter 2).
2. The Council has a duty to investigate complaints about development, including building and engineering works and changes of use that may have been carried out without permission or consent.
3. Effective Planning Enforcement is a useful tool in tackling breaches that would otherwise have had an unacceptable impact on amenity in the Borough and to help maintain the integrity of the Development Management process.
4. There are a range of enforcement powers available to the Council. However, whether the Council takes any enforcement action is a discretionary matter. When considering taking any formal action the Council must consider if it is expedient to do so having had regard to the Development Plan, and any other material considerations including the Enforcement Plan. It is also necessary to weigh up whether taking enforcement action is in the public interest.
5. Taking formal enforcement action should be regarded as a last resort and many breaches of planning control can be resolved without formal action being taken. For example, retrospective planning permission can be obtained, or the breach ceases, or is remedied through negotiation.

6. Often the Council receives complaints regarding alleged breaches of planning control that involve other services within the Council or other organisations. Where this happens, the Planning Enforcement Team will work with other officers or organisations such as the Corporate Enforcement Team and neighbouring local planning authorities.
7. Ward Councillors are often the public face of the Council, and so Member involvement in planning matters is crucial to maintain an effective Planning Enforcement service. Therefore, this report has been prepared to provide an overview of the Planning Enforcement function between July and September 2020 (Quarter 2). Whilst serving Enforcement Notices can be high profile, the amount of work involved where informal action is taken and results in a breach ceasing or being regularised is often overlooked. It is important that Members understand the overall number of service requests and consequent workload that the service deals with.
8. Regular quarterly reports will be brought to the Planning and Licencing Committee, which will compare workload over previous quarters.

New Planning Enforcement Cases

9. Figure 1 shows the number of Planning Enforcement cases that have been opened and closed in Quarter 2. Figure 1 also gives a wider view of the number of cases opened and closed since 1 October 2019, showing trends over a 12-month period.

FIGURE 1: Number of Planning Enforcement cases opened and closed (October 2019 – September 2020):

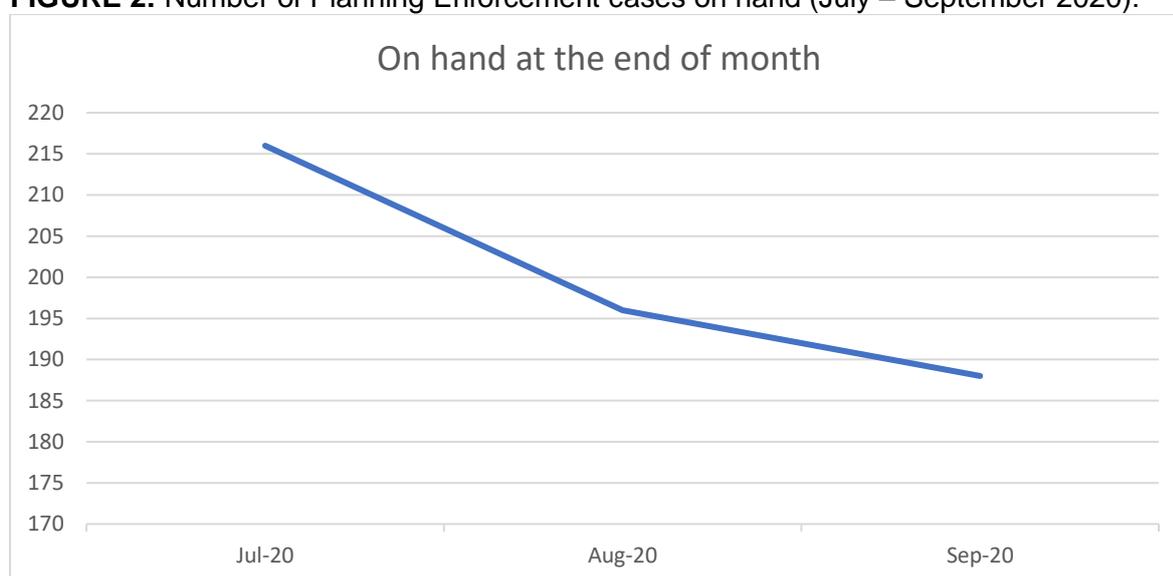


Cases opened Q2:	15
Cases closed Q2:	58
Total cases opened in 12 months:	161
Total cases closed in 12 months:	154

Planning Enforcement Cases on Hand for Investigation

10. Figure 2 shows the total number of enforcement cases on hand over Quarter 2. The total number of cases on hand is 188 as recorded at the end of this period. This is a decrease of 28 in the period.

FIGURE 2: Number of Planning Enforcement cases on hand (July – September 2020):



Enforcement Notices served

11. As noted above, the aim of the Planning Enforcement service is to resolve unauthorised development or uses of land primarily through negotiation without using formal enforcement powers as recommended by government through planning practice guidance.
12. In cases where negotiations cannot achieve a resolution, the Council has given delegated authority to relevant officers to exercise many of the legislative powers to resolve breaches of planning control.
13. Any notice has a period for compliance which will vary depending on the nature of the breach and the steps required to remedy the situation. After the compliance period the Planning Enforcement Team will visit to check whether the notice has been complied with. Failure to comply with the requirements of a notice may result in the Council seeking to prosecute.

14. Appendix A shows the current stage the Council is at following the serving of Enforcement Notices. Five Enforcement Notices have been served in the previous 12 month period and two within the Quarter 2 period of review. Three historic Notices have been complied with within this period. One Notice has not been complied with and constitutes an offence. Four Appeals have been received against an enforcement notice served; one has been allowed with the other three pending determination.
15. There are rights of appeal associated with any Enforcement Notice in the same way that an applicant can appeal against the refusal of a planning application. For example, an appeal against a planning Enforcement Notice (as opposed to a Listed Building Enforcement Notice) can be made based on the following grounds:
 - a) That planning permission ought to be granted or the condition or limitation concerned ought to be discharged;
 - b) The matters stated in the enforcement notice have not occurred;
 - c) The matters stated in the enforcement notice (if they occurred) do not constitute a breach of planning control;
 - d) At the date when the notice was issued, no enforcement action could be taken;
 - e) Copies of the enforcement notice were not served in accordance with the relevant statutory requirements;
 - f) The steps required by the notice exceed what is reasonably necessary to either remedy any breach or to remedy any injury to amenity (i.e. the steps are excessive); and/or
 - g) Any period for compliance falls short of what should reasonably be allowed.
16. Where an appeal is lodged, the notice is effectively held in abeyance pending the outcome of the appeal. Unfortunately, the appeals process tends to be slow. For appeals to be heard by written representations the Planning Inspectorate are taking approximately 33 weeks to determine. For public inquiries, this time can and has been significantly longer because of the need to cross examine witnesses and the availability of Inspectors, for example.
17. During the last 12 months, the following notices have been upheld at appeal:
 - a) Springvale Farm, Goatswood Lane, Navestock: Compliance now achieved (unauthorised earth bund/hardcore in Green Belt now removed);
 - b) Oakhurst Farm, Coxtie Green Road, Navestock: Compliance now achieved (unauthorised perimeter wall in Green Belt now removed);
 - c) The Chequers Pub, Chequers Road, Navestock: Compliance now achieved (unauthorised use of site for road haulage trailers in Green Belt now ceased); and

- d) Cherrytrees, Poplar Close, Blackmore: Compliance now achieved (perimeter wall adjacent to Conservation Area now removed).
18. During the last 12 months, one Enforcement Notice was dismissed and permission granted by the appointed Planning Inspector:
- a) Langdon House, Church Street, Blackmore: front wall in Conservation Area allowed by Inspector

Legal Action

19. During the last 12 months three Injunction Orders have been granted to cease unlawful development:
- a) Land adjacent The Spinney, School Road, Kelvedon Hatch: Served on 07/04/2020 (suspected development incursion on Green Belt land);
 - b) Land at Five Acre Farm, Warley Street, Great Warley: Served on 21/05/2020 (unauthorised Gypsy and Traveller site to prevent further breaches on Green Belt land); and
 - c) Land adjacent Elm Farm, Chelmsford Road, Blackmore: Served on 27/07/2020 (suspected development incursion on Green Belt land).
20. During the last 12 months, there have been two successful prosecutions following failure to comply with enforcement notices, both cases pleaded guilty, were fined and costs awarded to the Council, with compliance achieved in one of those cases. One further prosecution is pending for unlawful works to a listed building.

Ongoing Notable Planning Enforcement Cases

21. The following ongoing planning enforcement cases are of note:
- a) Oakwood Nursery, Ongar Road, Pilgrims Hatch: Appeal made by applicant to the Planning Inspectorate against unauthorised dwellings not being built in accordance, appeal dismissed & Enforcement Notice upheld; and
 - b) Twin Oaks, Stock Lane, Ingatestone: Appeal made by applicant to the Planning Inspectorate, Enforcement Notice dismissed and appeal upheld by the Inspector for the construction of an unauthorised dwelling on a Travellers site in the Green Belt).

Planning Enforcement Team Staffing

22. Despite recruitment campaigns the service has been carrying a vacant full time Enforcement Officer post for over two years. In July 2020, two temporary staff (one of which is part time) were employed to cover the vacancy. This has helped to reduce the number of historic cases being investigated by closing

several cases, as reflected in Figure 1. A current recruitment campaign is underway to employ a full-time Enforcement Officer.

Consultation

23. Not applicable

References to Corporate Strategy

24. The Council's Corporate Strategy "Brentwood 2025" identifies the Council's five key priorities. An effective Planning Development Management service, including Planning Enforcement, contributes towards objectives to grow our economy, protect our environment, develop our communities, and improve housing.

Implications

Financial Implications

Name/Title: Jacqueline Van Mellaerts, Director of Corporate Resources

Tel/Email: 01277 312829/jacqueline.vanmellaerts@brentwood.gov.uk

25. There are no direct financial implications. Recruitment costs and vacancies are reflected in the Development Management budget. Additional financial cost from enforcement and/or legal action must be met from existing resources. An Earmarked reserve was approved in the 2020/21 budget for enforcement activity, such as unauthorised development or the threat of this.

Legal Implications

Name & Title: Amanda Julian, Director of Law & Governance and Monitoring Officer

Tel & Email: 01277 312705/amanda.julian@brentwood.gov.uk

26. The power to issue an Enforcement Notice is discretionary. It should only be used where the Local Planning Authority is satisfied that there has been a breach of planning control and it is expedient to issue a notice, having regard to the provisions of the development plan and to any other material considerations.

Economic Implications

Name/Title: Phil Drane, Director of Planning and Economy

Tel/Email: 01277 312610/philip.drane@brentwood.gov.uk

27. There are no economic implications arising from this report.

Equality and Diversity Implications

Name/Title: Kim Anderson, Partnerships, Leisure & Funding Manager
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28. There are no diversity and equality issues arising from this report.

Health & Wellbeing Implications

Name/Title: Kimberley White, Corporate Health & Wellbeing Officer
Tel/Email: 01277 312688/kimberley.white@brentwood.gov.uk

29. There are no health and wellbeing implications arising from this report.

Other Implications (where significant) – i.e. Health and Safety, Asset Management, Equality and Diversity, Risk Management, Section 17 – Crime & Disorder, Sustainability, ICT.

30. None

Background Papers

- None

Appendices to this report

- Appendix A: Status of Enforcement Notices (January 2020 to present)