

Committee: Planning and Licencing Committee	Date: 10 February 2021
Subject: Planning Enforcement Activity Overview (October to December 2020)	Wards Affected: All
Report of: Phil Drane, Corporate Director (Planning and Economy)	Public
Report Author/s: Name: Caroline McCaffrey/Richard Bates Telephone: 01277 312500 E-mail: caroline.mccaffrey@brentwood.gov.uk	For Information

Summary

This report summarises the enforcement activity undertaken in Brentwood Borough for the period between 1 October 2020 and 31 December 2020. This follows an update brought to the committee in October 2020.

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 October to December 2020 (Quarter 3). This follows an update brought to the committee on 14 October 2020 (Item 545), as part of regular updates on Planning Enforcement Activity.
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 Local 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

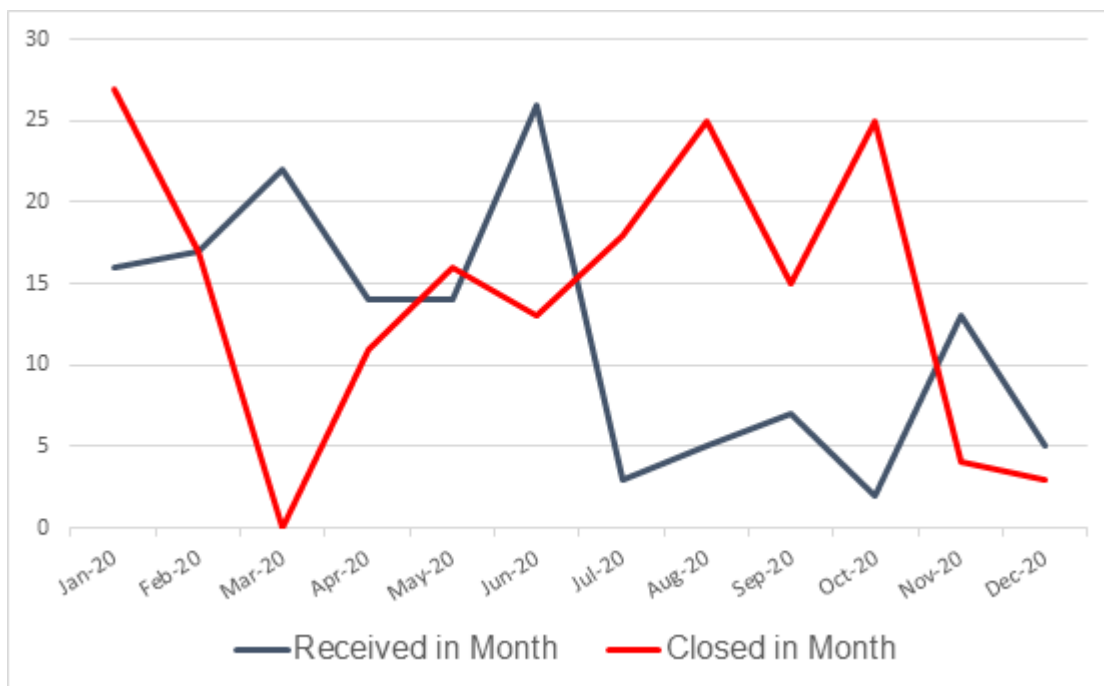
taken. For example, retrospective planning permission can be obtained or the breach ceases or is remedied through negotiation.

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. Councillors are often the public face of the Council and Member involvement in planning matters is crucial in maintaining an effective enforcement service. This report has therefore been prepared to provide an overview of the enforcement function between October and December. Whilst serving Enforcement Notices (EN) can be high profile what often gets overlooked is the amount of work involved where informal action has been taken and resulted in a breach ceasing or being regularised. It is important that Members understand the overall number of service requests and consequent workload that the service deals with.
8. It is intended to bring regular quarterly reports to the Planning and Licencing committee which will compare workload over previous quarters.

Number of new complaints

9. Figure 1 shows the number of enforcement cases that have been opened and closed in between January 2020 and December 2020 to show the trend over the 12-month period.

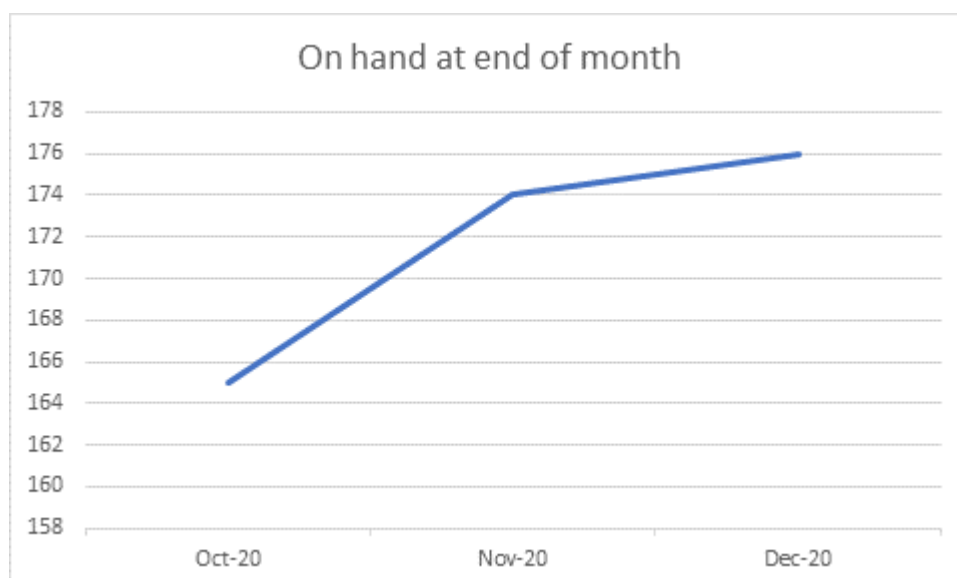
FIGURE 1: Number of cases opened and number of cases closed



Cases opened Q3	20
Cases opened Q2	15
Cases closed Q3	32
Cases closed Q2	58
Total Cases opened in 12 months	164
Total Cases closed in 12 months	206

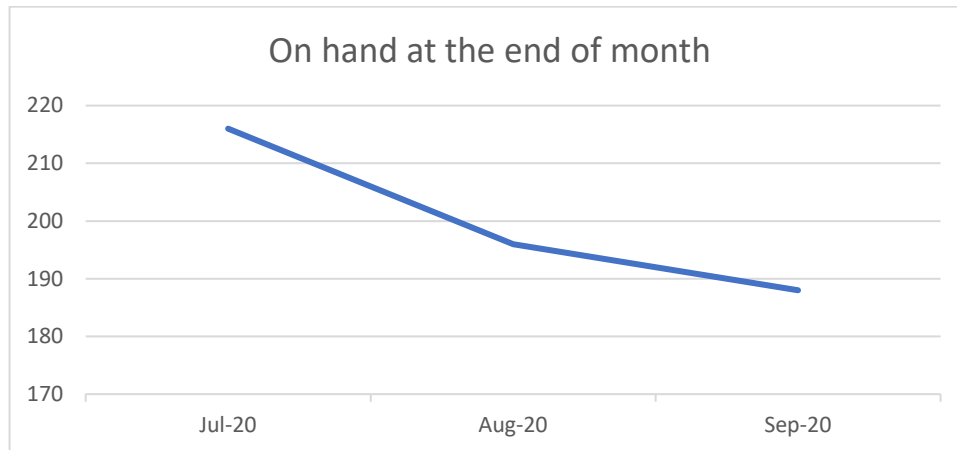
Total number of complaints on hand for investigation

FIGURE 2: Total number of enforcement complaints on hand (Oct-Dec 2020)



10. The total number of cases on hand is 176 as recorded at the end of this quarterly period. Although this graph shows an increase over the whole quarter, it still represents a decrease of 12 cases compared to the end of Q2 shown in Figure 3 below.

FIGURE 3: Total number of enforcement complaints on hand (Jul-Sep 2020)



Total number of Notices served

11. As noted previously, the aim of the enforcement service is to resolve unauthorised development or uses of land primarily through negotiation without using formal enforcement powers as recommended by government guidance set out within the national planning practice guidance.
12. In cases where negotiations cannot achieve a resolution, the Council has given delegated authority to its 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 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 sets out the current situation regarding serving of Enforcement Notices. In the period of review, four Enforcement Notices have been served, two of which are now at appeal stage and two are still within the period for compliance. This brings the total number of enforcement notices served within the last 12 months to eight, with six of those in the appeal process.

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 on the basis of 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 is slow. For example, appeals to be heard by written representations the Planning Inspectorate is taking approximately 37 weeks to determine them. The current appeal to be heard at Public Inquiry has been deferred until April 2021 because of the need to produce witnesses in person.

Legal Action

17. In the last quarter no new injunctions have been issued, however those sites previously reported are being kept under review, namely:

Land Adj The Spinney, School Road, Kelvedon Hatch served on 07/04/2020 (suspected impending traveller incursion on green belt land)

Land at Five Acre Farm, Warley Street served on 21/05/2020 (unauthorised travellers site to prevent further breaches on green belt land)

Land adj Elm Farm, Chelmsford Road served on 27/07/2020 (suspected impending traveller incursion on green belt land)

Staffing

18. Despite recruitment campaigns the service has been carrying a vacant full time Enforcement Officer post for more than two years. At the start of Q2 the service contracted 2 agency staff (one part time) to assist with the on-hand cases resulting in a number of historic cases being investigated and closed.

The service is reviewing the ongoing requirements of the post and considering the most appropriate way to recruit.

Consultation

19. None

References to Corporate Plan

20. The Corporate Plan 2020-2025 identifies the Council's five key priorities, the most relevant to the service "Protecting our Environment". The success of the service is paramount in maintaining a high level of confidence within the Planning System. The Council's Enforcement Plan provides the Councils' priorities for enforcement action, provides transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers, in turn providing clarity for all parties engaged in the development process.

Implications

Financial Implications

Name/Title: Jacqueline Van Mellaerts, Corporate Director (Finance & Resources)

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

21. This report is for noting and as such there are not direct financial implications. Any additional financial costs as a result of enforcement action has to be met from within existing resources.

Legal Implications

Name & Title: Amanda Julian, Corporate Director (Law & Governance) and Monitoring Officer

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

22. 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, Corporate Director (Planning & Economy)

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

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

Background Papers

- Item 545, Planning and Licensing Committee, 14 October 2020, Planning Enforcement Activity Overview

Appendices to this report

- Appendix A: Planning Enforcement Activity (October – December 2020)