

<b>Committee(s):</b> Planning	<b>Date:</b> 20 December 2022
<b>Subject:</b> Planning Enforcement Activity Overview	<b>Wards affected:</b> All
<b>Report of:</b> Phil Drane, Director - Place	<b>Public</b>
<b>Report Author:</b> Caroline Corrigan, Corporate Manager, Planning Development Management	<b>For information</b>

## Summary

1 This report summarises the enforcement activity undertaken in Brentwood Borough for the period between 1 January 2022 and 30 September 2022.

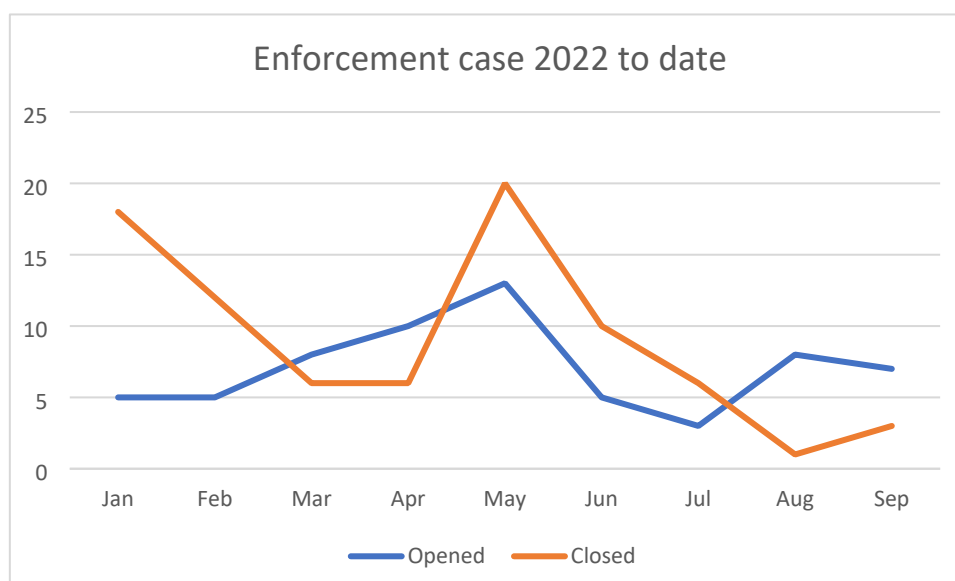
## Main report

2 The following information provides an overview of the number of enforcement cases opened during the three quarters in 2022 and the number that have been closed. The team is consistently successful in its negotiations with residents to achieve compliance with the Regulatory requirements of planning.

Table 1: Number of cases opened, and number closed in the year to date

Quarter	Cases Opened	Cases Closed
<b>Q4 (Jan 22-Mar 22)</b>	<b>18</b>	<b>36</b>
<b>Q1 (Apr 22-Jun 22)</b>	<b>28</b>	<b>36</b>
<b>Q2 (Jul 22-Sept 22)</b>	<b>18</b>	<b>10</b>
<b>Total</b>	<b>64</b>	<b>82</b>

Figure 1: Number of cases opened and number closed in the year to date



(NB: A further 19 enforcement case were closed in October and November 2022)

3 It should be noted that although the above graph shows the number of cases that are recorded in the Uniform enforcement module, and subsequently investigated, it does not show the greater number of enquiries received on a daily/weekly/monthly basis from various sources including Members, internal and external departments, and residents.

These enquiries/queries are dealt with at the first point of contact and go through an initial investigation process to establish whether they need to be registered as a formal enforcement case for a full investigation. Some of these enquiries do not become registered cases, for example because there has been no breach, or the alleged breach benefits from planning permission or Permitted Development, or do not raise planning issues (i.e. boundary/land ownership/deed/covenant disputes) or are matters only relevant to other bodies/departments (i.e. damage to grass verges, blocked drains, etc) which are not covered under planning legislation.

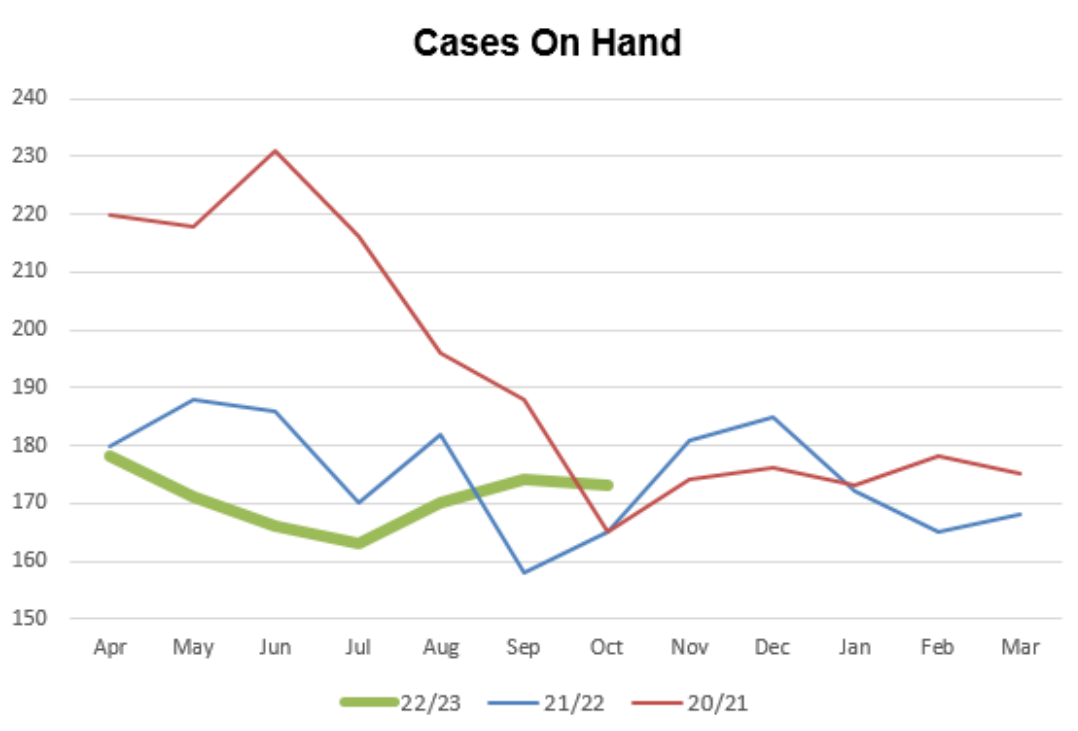
It is however important to note that these initial “triage” investigations may still take up significant officer time. Although these assessments are not represented within the graphs provided, the service has shown that this initial assessment is an effective use of officer time and resources due to the number of cases that would otherwise be logged and unnecessarily involve a full investigation.

Within the reported period, the planning enforcement team have also dealt with and **closed 101 initial enquiry investigations** in addition to the 82 recorded full investigations closed. Following investigation into the individual circumstances of each recorded enquiry, cases are recommended for closure by determining one of the following outcomes, either:

No Breach **or**; Breach Remedied **or**; No Further Action **or**; Take Legal Action.

Further details regarding the processes for recommending cases to be closed and also how investigations are undertaken are contained in the Brentwood Council Enforcement Plan on the Councils website, as approved by Members.

Figure 2: Number of cases on hand (past 3 years comparison figures)



4 As can be seen from the red line in the above graph (year 20/21) the lack of resources within the enforcement team at that time (1 FTE) was addressed during that year and resulted in a significant impact in reducing the number of outstanding cases. This is key to the efficiency of the front line service as enforcement enquiries are dealt with from the initial raising of the enquiry to the enforcement team through to resolution, be that negotiated compliance, remedial works being undertaken, submission of planning application, formal enforcement proceedings, dealing with the Pins appeals, court prosecutions, injunctions, etc. Some of these investigations also require liaison with the Heritage Consultant, Arboricultural Consultant to assess harm, gather evidence and possible formal caution and/or prosecution proceedings.

Therefore the length of time that an enforcement case can be subject to ongoing proceedings can vary greatly depending on the seriousness of the breach and the specific resources required and may involve several compliance site visits. Every effort is made to provide regular updates to the complainant(s), Councillor(s) (via Members Request system), and are provided following an email request to the specific enforcement case officer, eg from Parish Council, Senior Management, Leader, etc.

5 Although the number of Enforcement Notices issued over the three quarters in 2022 has reduced, this should be interpreted as the enforcement team succeeding in achieving successful resolutions and regularisations of the breaches identified. This is achieved through effective negotiations, liaison with the other departments/bodies, residents (both owners and complainants) and agents to ensure compliance with planning legislation, policy and guidance. Given that 89% of the borough lies within the green belt, this is a major factor in assessing the harm and expediency of planning breaches given the stringent local plan policies, national planning guidelines and the national permitted development regulations which need to be assessed based on the circumstances and merits of each case. As is shown by the individual enforcement cases listed within this report, a significant number of reported planning breaches have green belt implications.

6 This information should go some way to providing a clearer understanding of the volume of work that has been undertaken by the team over the previous three quarters. An effective enforcement team sets out to reduce the number of complaints/breaches of planning control that occur throughout the borough. The above figures show that the current enforcement team is consistently achieving this aim.

### **Planning Notices served**

7 Planning Contravention Notice (PCN) served to ascertain alleged breach of planning control circumstances to assist investigation in advance of consideration of formal planning enforcement proceedings:

Spring Farm, Murthering Lane, Navestock, RM4: PCN served on landowner following allegation of unauthorised equine use and associated structures on green belt land at the rear of the site. Negotiated compliance achieved by the cessation of the use and removal of structures, site cleared and restored to open green belt land.

Land Opp Clementines, Murthering Lane, Navestock, RM4: PCN served on landowner following allegation of unauthorised vehicle storage use and associated repairs on green belt land at the southern part. Negotiated compliance achieved by the cessation of the use and the removal of the vehicles from the site which has returned to open green belt land

Clapgates, Warley Gap, Little Warley, CM13: PCN's served on joint landowners following allegation of unauthorised development works on green belt land. Current ongoing enforcement investigation in conjunction with the owners planning agent.

Gardeners, Ongar Road, Kelvedon Hatch, CM15: PCN's served on joint landowners following allegation of unauthorised development works on green belt land. Current ongoing enforcement investigation in conjunction with the owner's representative.

## Legal Action

8 Further witness statements have been provided to Legal Services following the High Court injunction served in July 2021 on the owners and occupants of the newly created travellers site: **Saint Michael's View in Horseman side, Navestock**. Matter currently with external Legal Advisor for impending High Court hearing date.

Injunction sites previously served are 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). Awaiting planning refusal appeal hearing in February 2023. (Site remains unoccupied land.)

**Land at Five Acre Farm, Warley Street** served on 21/05/2020 (unauthorised travellers' site to prevent further breaches on green belt land). Awaiting Public Inquiry planning refusal and Enforcement Notice appeal(s) in January 2023.

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

## Consultation.

9 None

## References to Corporate Plan

10 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 enforcement 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**

11. 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: Andrew Hunkin, Interim Director (People & Governance) and Monitoring Officer**

**Tel & Email: 01277 312500/andrew.hunkin@brentwood.gov.uk**

12. 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 (Place)**

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

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

## **Background Papers**

## **Appendices to this report**

<b>Enforcement notices at appeal</b>				
<b>Case Number</b>	<b>Address</b>	<b>Breach</b>	<b>Notice Issued</b>	<b>Compliance/Appeal Status</b>
15/00039/UNLCOU	Karma Court Ashwells Road Pilgrims Hatch	Unauthorised change of use of land to commercial use and also residential use	Sep-18	Public Inquiry appeal dismissed June 2022 - requirements of Enforcement Notice are: 1) commercial use of land to cease (complied with by compliance date of 29/7/22) and also: 2) residential use of land to cease (compliance date is 29/12/22).
16/00080/UNOPDE	Craigielea, Chivers Road, Stondon Massey	Unauthorised change of use of land to residential use	March 2020 - withdrawn & re-issued Feb 2021	Enforcement Notice withdrawn and re-issued. Notice appealed, awaiting Public Inquiry date.
14/00100/UNOPDE	Chivers Farm Swallows Cross Wyatts Green	Unauthorised boundary treatment (brick walls, pillars, metal railings and wooden fencing)	Nov-16	Enforcement Notice upheld and appeal dismissed. Following two successful prosecutions for non-compliance, remedial works undertaken in May 2022 (walls, railings & pillars) and also by 31/12/22 (wooden fencing).

18/00008/UNOPDE	Hunts Farm, Old Church Road, Mountnessing	Unauthorised construction of a residential dwelling and change of use of land to builders yard	Nov-20	Enforcement Notice appealed - awaiting decision by Planning Inspectorate following appeal site visit on 1/11/22.
19/00152/UNLCOU	Rustic Dene, Parkwood, Doddinghurst	Unauthorised subdivision of planning unit to create additional primary residence	Nov-20	Public Inquiry took place Nov 2021. Enforcement Notice appeal upheld by Planning Inspectorate.
20/00129/UNOPDE	St Ninians, Alexander Lane, Hutton	Unauthorised erection of a balcony not in accordance with the approved planning permission	Nov-20	Enforcement Notice appeal dismissed Sept 2022- compliance now achieved (balcony has been removed).
20/00107/UNLCOU	Riverside, Albyns Lane, Navestock	Unauthorised change of use of land to residential use and commercial use	Dec-20	Enforcement Notice appealed - awaiting decision by Planning Inspectorate following appeal site visit on 20/9/22.
19/00103/UNOPDE	Five Acre Farm, Warley Street, Great Warley	Unauthorised change of use of land to residential travellers' site	Feb-20	Enforcement Notice appealed - Public Inquiry to take place Jan 2023.



19/00014/UNOPDE	Meadow View Murthering Lane Navestock	Unauthorised sunken garden(s)/basement to front and rear of authorised dwelling	July-22	Enforcement Notice issued (no appeal made, remedial works currently being undertaken to ensure compliance)
20/00068/UNLCOU	Meadow View Murthering Lane Navestock	Unauthorised builders compound/storage area on green belt land	July-22	Enforcement Notice issued (not complied with, prosecution proceedings pending)

(FOR INFORMATION: Additional enforcement case at above land re: unauthorised development on green belt land, i.e. Henge at Meadow View, Murthering Lane, Navestock recommended for closure following Planning Committee decision by Decision Notice dated 5/10/22 to grant a temporary planning permission for a period of 18 months to allow for a submission for a Turner Prize award).