

<b>Committee(s):</b> Planning	<b>Date:</b> 12 March 2024
<b>Subject:</b> Planning Enforcement Activity Overview	<b>Wards affected:</b> All
<b>Report of:</b> Leigh Nicholson, Interim Director - Place	<b>Public</b>
<b>Report Author:</b> Caroline Corrigan, Corporate Manager, Planning Development Management	<b>For information</b>

## Summary

This report summarises the planning enforcement activity undertaken in Brentwood Borough for the period between 1 October 2022 and 31 January 2024.

## Assessment

The following information provides an overview of the number of enforcement cases opened for each quarter as shown below and the number that have been closed. The team is consistently successful in its negotiations with residents/agents and developers to achieve compliance with the Regulatory requirements of planning.

Table 1: Number of cases opened and number closed in the period

<b>Quarter</b>	<b>Cases Opened</b>	<b>Cases Closed</b>
<b>Q3 (Oct 22-Dec 22)</b>	<b>15</b>	<b>20</b>
<b>Q4 (Jan 23-Mar 23)</b>	<b>11</b>	<b>32</b>
<b>Q1 (Apr 23-Jun 23)</b>	<b>16</b>	<b>14</b>
<b>Q2 (Jul 23- Sep 23)</b>	<b>18</b>	<b>10</b>
<b>Q3 (Oct 23-Dec 23)</b>	<b>12</b>	<b>9</b>
<b>Q4 (Jan 24-Mar 24) Part Qtr</b>	<b>6</b>	<b>3</b>
<b>Total</b>	<b>78</b>	<b>88</b>

(NB: a further 21 enforcement cases which are not shown in the above figures have been recommended for closure by the investigating planning enforcement officer and are currently awaiting authorisation)

Figure 1: Comparison of number of cases opened in 22/23 and 23/24

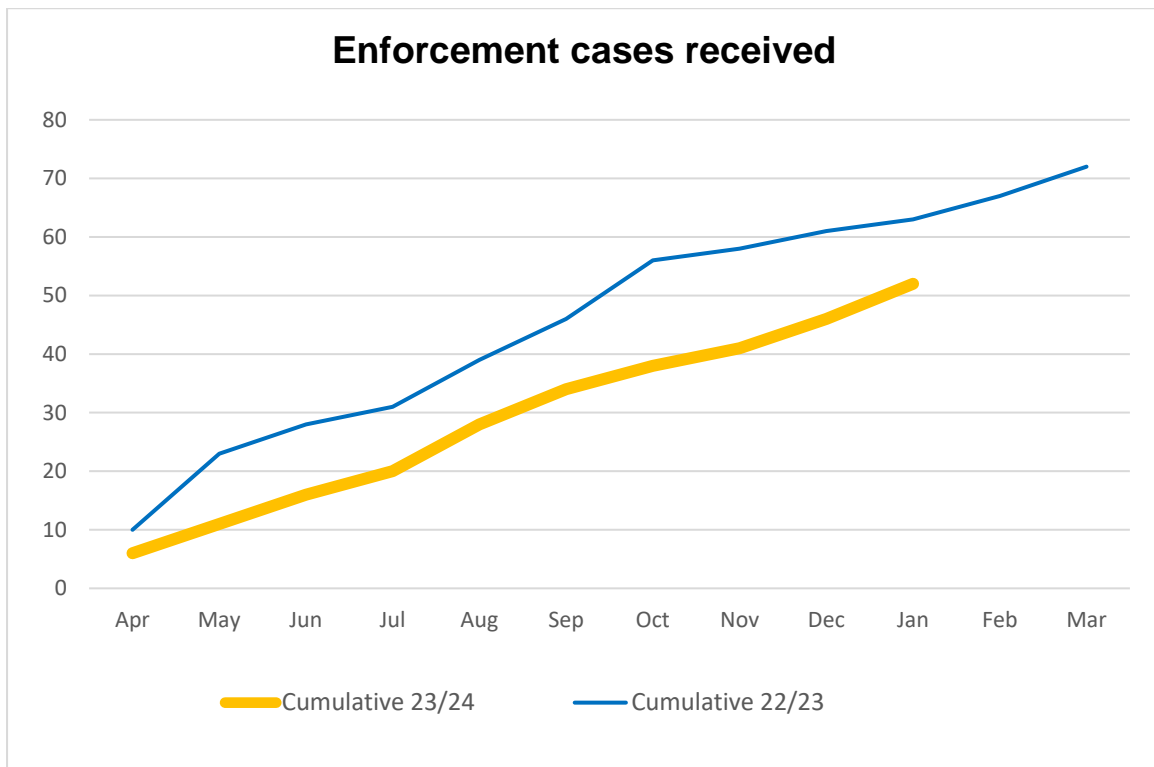
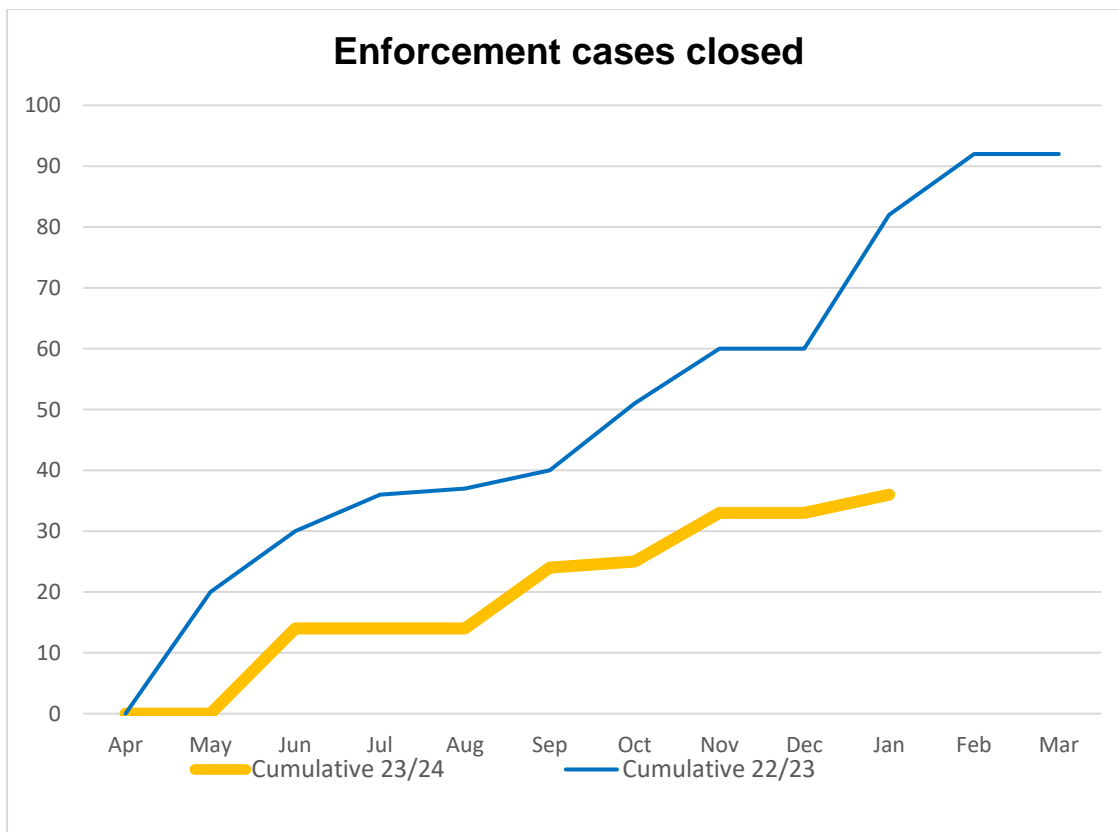


Figure 2: Comparison of number of cases closed in 22/23 and 23/24



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

These enquiries/queries are dealt with at the first point of contact and go through an initial triage assessment 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 statutory bodies/departments (i.e. damage to grass verges, blocked drains, etc) which are not covered under planning legislation.

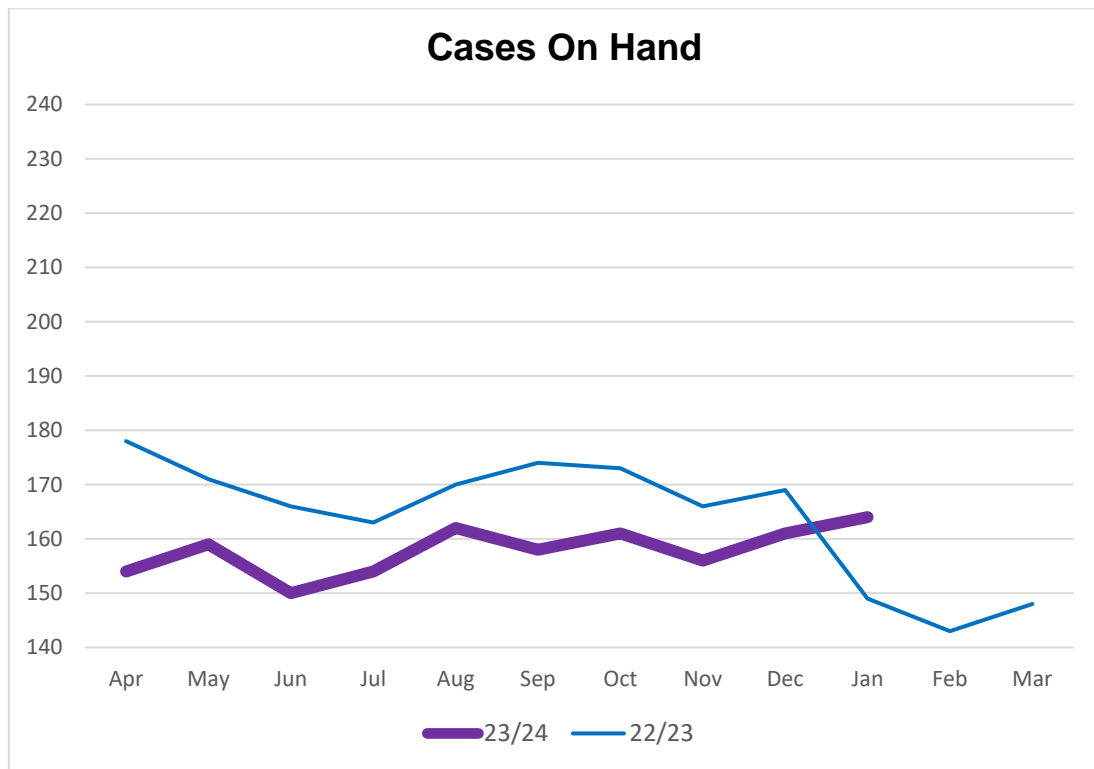
It is however important to note that these initial assessments may still take up significant officer time. Although these assessments are not represented within the graphs provided, the planning enforcement service has shown that this initial assessment is an effective use of officer time and resources 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 329 initial enquiry investigations** in addition to the 88 recorded full investigations closed (NB: a further 21 enforcement cases have been recommended for closure following a full investigation by a planning enforcement officer and are currently awaiting authorisation).

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”, “Breach Remedied”, “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 3: Comparison of number of cases on hand in 22/23 and 23/24



It should be noted that the current figure of 164 cases on hand as at the end of January 2024 does not include the 21 enforcement cases which have been recommended for closure following investigation and are currently awaiting authorisation. Following the authorisation of these additional cases, the cumulative total of cases on hand for the 23/24 period is 143 which is comparable with the 22/23 period.

All 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, gathering of evidence and possible formal caution and/or prosecution proceedings.

In accordance with the Councils Planning Enforcement Plan, an assessment of harm to amenity and the expediency of taking formal enforcement proceedings is undertaken in deciding what formal action may be taken according to the merits of each case, which in accordance with government guidance, must be proportionate to the nature of the breach and the harm being caused.

The length of time that an enforcement case can be subject to an ongoing investigation can vary greatly depending on the seriousness of the breach and the specific resources required and may involve several follow up compliance site visits. Every effort is made to provide regular updates to the complainant(s), Councillor(s) (via Councillor Casework system), and are provided following an email request to the

specific enforcement case officer, e.g. from Parish Council, Senior Management, Leader, etc.

Whilst the length of time taken by the Planning Inspectorate to list and allocate enforcement appeals has reduced significantly, it is apparent that there has been an increase in the number of appellants requesting a Public Inquiry appeal, as is shown by Enforcement Notice appeals recently for Five Acre Farm, Karma Court, Craigiliea and Fantails (see Enforcement Notice appeals table below for full details). These appeals necessitate significant officer time and resources (and also incur additional expense of legal representation, i.e. barrister, etc).

The relatively low number of Enforcement Notices issued 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 other relevant departments/bodies, residents (both owners and complainants) and planning representatives 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 when assessing the harm and expediency of planning breaches given the stringent Local Plan policies, national planning guidelines and also 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.

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 reporting period. 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**

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:

Land adjacent to McColls House, Ashwells Road, Pilgrims Hatch, CM15 : PCN served on occupant of land following an allegation of an unauthorised material change of use of green belt land for security/residential use, and also a separate equine/menage use and associated operational development. Negotiations are continuing with the planning agent regarding the submission of a planning application for temporary planning permission during the construction period of adjacent and associated McColls House development site.

38 Junction Road, Warley, CM14: PCN prepared for service on landowner following an allegation of the unauthorised material change of use of a residential dwelling to a

holiday let property. Consideration of formal planning enforcement proceedings will be assessed dependent on response/answers received from owner.

### **Legal Action**

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:

1. Land adj The Spinney, School Road/Eagle Lane, Kelvedon Hatch: served on 07/04/2020 (suspected impending traveller incursion on green belt land). Planning Inspector refused planning permission for use of the land for the stationing of caravans for residential purposes and dayroom following appeal hearing by Appeal Decision dated 13 June 2023. (Site remains unoccupied land.)

2. Land at Five Acre Farm, Warley Street: served on 21/05/2020 (unauthorised travellers' site to prevent further breaches on green belt land). Planning Inspector refused planning permission for use of the land as a residential caravan site by Public Inquiry Appeal Decision dated 7 February 2023. The Inspector upheld the Enforcement Notices and varied the compliance period requirement to vacate the land from 6 months to 12 months.

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

### **Planning Improvement Board programme**

Members may recall a report to the January 2024 Audit and Scrutiny Committee which outlined the progress of work to deliver improvements to the Development Management Service and Enforcement Service through the Planning Improvement Board programme. Within the current Phase 2 work presently underway there will be a focus on the structure of both Enforcement and the Development Management teams with a further tranche of work to include the following workstream:

*R15: An end-to-end review of existing processes, procedures, structures and resources relating to planning enforcement. It is important to review and update, where necessary, enforcement protocols, the public interface with enforcement and reporting arrangements to Members in both organisations.*

It is anticipated that the progress of this workstream will be reported to Members of the Planning Committee within these regular updates later in the year.

## **Consultation**

None

## **References to Corporate Plan**

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: Carrie Cox, Corporate Director (Finance & Accountancy)**

**Tel/Email: 01702 318029/carrie.cox@brentwood.rochford.gov.uk**

This report is for noting and as such there are no 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: Claire Mayhew, Joint Acting Director (People & Governance) and Monitoring Officer**

**Tel & Email: 01277 312741/claire.mayhew@brentwood.rochford.gov.uk**

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: Leigh Nicholson, Interim Director (Place)**

**Tel/Email: 01277 312500/leigh.nicholson@brentwood.rochford.gov.uk**

There are no economic implications arising from this report.

**Background Papers – N/A.**

**Appendices to this report : Enforcement Notices at appeal (Appendix 1).**



## Appendix 1

Enforcement notices at appeal				
Case Number	Address	Breach	Notice Issued	Compliance/Appeal Status
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 (complied with, removed mobile home from the land by compliance date of 29/12/22).
16/00080/UNOPDE	Craigielea, Chivers Road, Stondon Massey	Unauthorised change of use of land to residential use	Feb- 21	Enforcement Notice(s) appealed, awaiting Public Inquiry appeal in April 2024.
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). Compliance date extended to 31 March 2024 for fencing removal.
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 upheld and appeal dismissed by the Planning Inspector in Appeal Decision dated 27 March 2023. Compliance site visit undertaken on 7 February 2024 confirmed that compliance now achieved.
20/00052/UNOPDE	Fantails, Hook End Road, Hook End,	Unauthorised construction of agricultural barn building and associated hardstanding area and access track	Nov-23	Enforcement Notice appealed. Awaiting Public Inquiry appeal in April 2024.
21/00030/UNOPDE	9 Shenfield Road, Brentwood	Unauthorised construction of a roof extension at second floor level in a Conservation Area	Nov-21	Enforcement Notice upheld and appeal dismissed by the Planning Inspector in Appeal Decision dated 28 June 2023. Remedial works to achieve compliance currently being undertaken.

19/00123/UNLCOU	40 High Street, Brentwood	Unauthorised change of use from snooker hall (Class D2 Use) to nightclub (Sui Generis Use)	Dec-23	Enforcement Notice issued (no appeal made). Remedial works to achieve compliance currently being undertaken.
19/00103/UNOPDE	Five Acre Farm, Warley Street, Great Warley	Unauthorised change of use of land to residential travellers' site	Feb-20	Enforcement Notice upheld and appeal dismissed following 7-day Public Inquiry appeal, by Appeal Decision dated 7 February 2023. The Planning Inspector also varied the compliance period from 6 months to 12 months to vacate the land.
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 undertaken, compliance now achieved.
20/00068/UNLCOU	Meadow View Murthering Lane Navestock	Unauthorised builders' compound/storage area on green belt land	July-22	Enforcement Notice issued (no appeal made), remedial works undertaken, compliance now achieved.

(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).