

APPENDIX 1

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 5 JULY 2022



Title of Report	PLANNING ENFORCEMENT UPDATE Q4 2021/22	
Presented by	Dylan Jones Planning and Development Team Manager	
Background Papers	None	Public Report: Yes
Financial Implications	None	
Staffing and Corporate Implications	None	
	Signed off by the Director: Yes	
Legal Implications	None apparent from this report. Legal advice is provided on enforcement matters on a case-by-case basis.	
	Signed off by the Monitoring Officer: Yes	
Purpose of Report	To provide an update to Members on the work of the planning enforcement team. To provide an overview of the compliance and monitoring cases within the planning enforcement service.	
Recommendations	PLANNING COMMITTEE NOTE THE INFORMATION CONTAINED WITHIN THE REPORT.	

1 BACKGROUND

- 1.1 This report is to update Planning Committee members on the performance of the Planning Enforcement Team during Quarter 4 of the 2021/22 financial year. It also provides an opportunity to review the workload and the performance of the team in meeting its targets for investigating complaints against that which is specified in the Council's Enforcement Policy in the 2021/22 financial year and how that compares with how the team performed in the previous financial year to identify any trends.

2 Harm Scoring of Cases

- 2.1 Harm scoring is a process that the team uses to prioritise its workload. Below is Table 1 showing the results of the harm scoring process with the different priority levels given

to the cases listed along the left hand side of the table. Following an initial site visit, each case is given a harm score which determines the priority that should be given to the case, and this defines the timescale and process that the team will follow to investigate and resolve the matter.

- 2.2 To aid with clarity on this process, a copy of the harm scoring sheet is appended at the end of the report as appendix 1.
- 2.3 To clarify, the first heading under the urgent case/not required category is where a harm scoring exercise is not carried out as it's not necessary. This will be due to either the case falling into the high priority category where we investigate immediately, or no breach is found on site and there isn't a case to investigate.

Table 1 – Harm Scoring

	2020/2021					2021/2022				
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total
Urgent Case/Not Required	4	70	28	36	138	37	12	43	59	151
High Priority cases (score over 5)	16	39	49	23	107	36	34	17	8	95
Standard Priority case (score under 5)	30	13	16	6	65	28	10	27	12	77
No update (awaiting harm score)	n/a	2	3	28	33	3	11	24	19	57
Pending consideration (visit arranged but not completed or awaiting visit to be made)	n/a	17	17	20	54	13	18	31	14	76
Annual Total					397					456

- 2.4 Table 1 shows that the workload of the team has increased since the 2020/21 financial year and this is potentially because of the lifting of the Coronavirus restrictions and lockdowns which formed the majority of 2020 and into 2021.
- 2.5 The table shows that the cases that don't need to be harm scored due to their urgency are similar between the financial years although there are less high priority cases coming forwards in the 2021/22 financial year compared to the previous year. However, the team has received an increase in the standard priority cases in the last financial year to deal with compared to that in the previous period.

2.6 It should also be noted that the Enforcement Team experienced more delays with being able to arrange a site visit to the sites that they are investigating in the last financial year which has caused a delay in them being able to progress those cases. This has been due to an increased number of landowners not responding to the team's requests to access their land and this has resulted in the need for further contact with the landowners which has caused additional work for the team and increased delays.

3 PLANNING ENFORCEMENT CASE STATISTICS

Table 2 – Number of New Cases Opened

2020/21				
Months/Year	No. of new cases opened	No. of cases older than 6 months	No. of cases older than 1 year	Total no. of live cases within each quarter
Q1	111	91	56	258
Q2	141	75	78	294
Q3	113	44	88	245
Q4	113	35	95	243
Total in year	478	245	317	N/A
2021/2022				
Months/Year	No. of new cases opened	No. of cases older than 6 months	No. of cases older than 1 year	Total no. of live cases within each quarter
Q1	117	67	105	289
Q2	85	54	100	239
Q3	142	60	120	322
Q4	112	46	120	278
Total in year	456	227	445	N/A

3.1 Table 2 above shows the number of new cases opened by the team and the number of those that have been with the team for over six months and over a year. The table also shows in the last column a running total between the quarters of the live cases that the team has. Members are advised that that some cases which have been with the team for 6 months and over and up to a year are held in abeyance due to the necessity for scheduled monitoring, the submission of retrospective planning applications, appeals or the case may be in the initial stages of formal action being taken by the service of an enforcement notice. Whilst some cases may have been with

the team for a relatively longer period, this doesn't mean that the case is inactive, and the team aren't progressing with it.

3.2 The last column shows that the number of live cases that are with the team at any one time has remained similar between both financial years and averages around the 270 mark per quarter of the year. There are currently five officers within the team with two of these being temporary agency workers who work on a part time basis dealing with the more complex cases and three full time permanent staff picking up all the other cases. As the team has approximately 270 live cases at any time, this gives each case officer an average of approximately 54 live cases to deal with at any one time. It must however be noted that in reality, the three permanent staff members will carry more workload than this as they deal with more less complex cases than the agency workers who carry less cases but these are more complex cases.

3.3 The types of breaches investigated during Quarters 1, 2, 3 & 4 are summarised in Table 3 below.

Table 3 – Types of Breaches Investigated

2020/21					2021/22				
Type of breach	Q1	Q2	Q3	Q4		Q1	Q2	Q3	Q4
Breach of planning condition	6	3	15	12		17	6	23	17
Unauthorised works in conservation area	3	4	3	5		10	2	4	5
High hedges	0	0	0	0		2	2	0	0
Unauthorised works on a listed building	0	2	5	2		4	2	6	4
Not in accordance with approved plans	20	25	17	21		15	8	23	15
Unauthorised works on a protected tree	4	2	1	1		2	3	3	4
Unauthorised development – Domestic	30	41	38	25		37	27	30	24
Unauthorised development – Non domestic	13	11	7	12		7	10	23	20
Untidy land	9	0	1	1		0	0	0	2
Unauthorised advertisement	0	0	1	10		1	0	3	2
Material change of use	13	27	21	14		16	17	5	10
Advice	2	1	2	8		3	6	18	9

Breach of Section 106	0	1	0	0		0	1	4	0
Development Monitoring	11	14	1	2		3	1	0	0
Totals	111	141	112	113		117	85	142	112

3.4 This table shows the different types of cases that the team deal with. The statistics show that the highest number of cases dealt with relate to investigating unauthorised works at private dwellings where extensions may have been built to properties without obtaining the relevant planning permission or establishing if permission was required in the first place. They also deal with several cases relating to developers' buildings schemes not being in accordance with the approved plans and also cases where changes of use have happened without permission. The total number of cases received are similar in total between both financial years.

3.5 It should be noted that since Planning Enforcement returned to the Development Management Team, High Hedges and untidy land complaints have remained with the Environmental Protection Team to deal with.

3.6 **Prosecutions** - There have been no prosecutions during quarter 4, and there have been no prosecutions in the last financial year. However, there has been court action to gain injunctions and these sites are subject to continued monitoring and the injunctions have been adhered to with no requirement for committal proceedings. There are also extant Enforcement Notices in place where the period for compliance is coming to an end and the site will be monitored further and may result in legal action in the future.

3.7 It must be emphasised that as the service of an enforcement notice and prosecution for non-compliance with its requirements is a last resort where all other forms of negotiation to resolve the issue has failed. A low number of prosecutions annually is what would be expected in the team and is not indicative of the team not performing as it should do.

3.8 **Appeals** - During the period January 2022 to March 2022, there has been no new enforcement appeals lodged with the Planning Inspectorate.

4 Key Cases

4.1 Table 4 shows the cases that are complex cases that require more focus and time by the case officer. They may be at appeal stage, notice stage or of public interest.

Table 4 – Key Cases

SITE	DESCRIPTION
Whitegate Stables, Coleorton Lane, Packington	The site has an injunction order in place and an Enforcement Notice. The site has been given temporary approval for water and electricity supplies. Appeal has been lodged against the planning application refusal and the Enforcement Notice.

Aylesbury Gardens, Newton Road, Swebstone	Planning application due to be determined, but there is a Judicial Review relating to the users of the site.
Whitney Park, Shortheath Road, Moira	This is a gypsy/traveller site and feedback from the Lead Local Flood Authority on the acceptability of the site for the use is awaited before considering the next steps. Also awaited are details of who live on the site. The submitted planning application has been amended to propose that the site can be used for non-travellers and this is still being considered.
Ashby Woulds Residential Park, Spring Cottage Road, Overseal	Permission for the site has been granted via an appeal decision by the Planning Inspectorate. Therefore, there will not be any further action carried out at this site.
AJS Welding, Rempstone Road, Coleorton	Planning application approved, and the enforcement case is now closed and no further action is possible.
Brooks Lane, Whitwick	No travellers on site. Injunction being adhered to, and the site is continuing to be monitored.
Netherfield Lane, Hemington	Injunction being adhered to and continuing to monitor the site past the final compliance date.

5 Member Queries Relating to Enforcement Matters

5.1 Table 5 shows the number of member enquiries received in each quarter.

Table 5 – Member Queries

2020/2021						2021/22				
	Q1	Q2	Q3	Q4	Total	Q1	Q2	Q3	Q4	Total
Member Enquiries	15	9	17	24	65	23	11	18	7	59
Responded to within 10 day timescale	15	9	17	24	65	23	11	18	7	59

5.2 The table shows that the number of enquiries from the Council's locally elected members on enforcement matters has remained at a similar level between both financial years.

5.3 When the enquiries are submitted through the Feedback process officers have 10 days to respond back to the query made by the Member and the statistics show that all were responded to within the 10 day period. It must however be emphasised that the 10 day timescale relates to responding back to the initial query and is not intended to show that all cases which progress through to detailed investigations were resolved in this period.

6 Investigation of cases in line with the requirements of the Planning Enforcement Policy

6.1 Table 6 shows how the team performed in investigating their cases as per the timeframes as set in the planning enforcement policy.

Table 6 – Performance in line with the requirements of the Planning Enforcement Policy

2020/21					
	Q1	Q2	Q3	Q4	Total
Acknowledged in writing within 3 working days	72	92	111	103	378
Full assessment of operational development site visit completed within 5 working days	11	54	61	39	165
Full assessment of alleged material change of use within 5 working days of final site visit	6	8	31	2	47
2021/22					
	Q1	Q2	Q3	Q4	Total
Acknowledged in writing within 3 working days	111	77	102	91	381
Initial site visit carried out within 21 working days of receipt of the initial complaint	105	55	56	79	295

Please note that the changes in the table were made in 2021/22 to coincide with an agreed change in the Planning Enforcement Policy which gave the team a more realistic timescale of 21 days to be able to visit sites.

The table shows that the team have been consistent in acknowledging cases in writing between the two financial years and that the number of cases acknowledged within the 21 day period remains relatively similar between the months, except for quarter 1 which was higher and took account of the fact that the team received more cases to visit due to the end of the last Coronavirus lockdown.

The table shows that 295 site visits were carried out to assess the complaints received by the team and this shows an increase over that done in the previous financial year. Again, this reflects the lockdowns that were in place for most of the 2020/21 financial year and the increase in development that followed as the restrictions eased and the economy reopened in the 2021/22 financial year.

APPENDIX 1

Date:

Officer:

Case Reference:

North West Leicestershire District Council - HARM Prioritisation Assessment Form

To be completed by the officer who has seen the development

Note: this form is only to be used when a breach has been identified

- All retrospective refusals of planning permissions and complaints received regarding illegal works to listed buildings, illegal advertisements, hedge removal and trees covered by a tree preservation order/conservation area will automatically receive a full investigation.
- Each new complaint will be allocated scores as set out to assess its harm. The total will provide its harm score from which its priority will be based.
- Where there is no breach of planning control found, the file will be closed accordingly.

Points allocation		Score
Is the breach:	worsening (1) Stable (0)	
Highway safety issue: New unauthorised driveway/fence/gateway leading onto highway or anything that may restrict visibility	Yes (1) No (0)	
Other safety issues: Danger to pedestrian traffic, unsafe practices, certain businesses operating from home ie food	Yes (1) No (0)	
Causing a (potential) statutory nuisance: Smoke, dust, noise etc	Yes (1) No (0)	
Complainant:	Immediate neighbour/staff (2) Member/Parish Council (2) Other (1)	
Age of breach:	Within 3 months of immunity (3) Less than 1 month old (2) More than 1 month old (1)	
Is the harm: Local would be harm to the immediate vicinity ie next door neighbours affected. Widespread would be immediate vicinity and surrounding area	Widespread (2) Local (1) None (0)	
Irreversible harm: Eg removal of trees or demolition of listed building with no option to retrieve materials ie gone to land fill	Yes (1) No (0)	
Breach of planning condition: This should relate to a breach of a condition on an existing PP or a breach of a condition forming part of the GPDO	Yes (1) No (0)	
Conservation area	Yes (1) No (0)	
Affecting the setting of a listed building	Yes (1) No (0)	
Special exercise This is where the breach is likely to score under 5 but the Council believe that the development is so harmful that it requires further investigation (If yes provide more details)	Yes (1) No (0)	
Sensitive site (if yes provide more details) Politically sensitive, contentious site. This is a discretionary score to utilise if needed.	Yes (1) No (0)	
Undesirable precedent We don't want more of these in the area or others copying i.e. extended gardens into fields behind, car sales from home etc If yes provide more detail	Yes (1) No (0)	
Total Points (HARM score)		

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- Only complaints which score 5 or above will be investigated further. Those with a lesser score will be informed of the breach/likely breach and invited to remedy/regularise it. In both cases the complainant will be notified of our actions.