

<b>Subject:</b>	Planning Enforcement Report	<b>Status:</b>	For Publication
<b>Report to:</b>	Development Control Committee	<b>Date:</b>	28 <sup>th</sup> February 2020
<b>Report of:</b>	Planning Manager	<b>Portfolio Holder:</b>	
<b>Key Decision:</b>	<input type="checkbox"/> Forward Plan <input type="checkbox"/>	General Exception <input type="checkbox"/>	Special Urgency <input type="checkbox"/>
<b>Equality Impact Assessment:</b>	Required:	No	Attached: No
<b>Biodiversity Impact Assessment</b>	Required:	No	Attached: No
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<b>RECOMMENDATION(S)</b>
Members are advised to note the report contents.

## 1.0 Introduction

1.1. This report has been prepared with a view to looking at the Council's planning enforcement performance since the last report in published in January 2019.

1.2. Since the publication of the last report Planning Enforcement has experienced staff changes with Mr Mark Bray having now left the Authority and his post as Lead Development Management Officer – Planning Enforcement (April 2019). Mr Nick Brookman continued to carry out planning enforcement investigations as the role of Development Management Officer before commencing the role as Lead Development Management Officer as of 1<sup>st</sup> August 2019. Mr Chris Dobson also started his role as Trainee Development Management Officer as of 1<sup>st</sup> August 2019.

1.3. Planning Enforcement however can be time consuming requiring constant engagement with those who breach planning control and to a lesser degree other stakeholders. Unless people are regularly encouraged and assisted to regularise breaches in planning control people are often not forthcoming and this can add to a build-up of cases for investigation. The team continues to work exceptionally hard to regularise breaches of planning control by negotiating resolutions with those who undertake unauthorised development and by pursuing with formal planning enforcement action for those who don't initially informally cooperate with Officers.

1.4. Our Planning Enforcement procedures are carried out having regard to paragraph 58 of the National Planning Policy Framework and the guidance contained within National Planning Practice Guidance. As stated within our adopted Enforcement Plan *"The Council will exercise its discretion in deciding whether to take enforcement action, having regard to the development plan and any other material considerations.* The particular circumstances of each case we receive must always be considered and the Council will then respond in a proportionate manner and it may not be expedient to take formal action against a breach of planning control that

causes no real harm.

1.5. Officers acknowledge that the integrity of maintaining public confidence in the planning system lies completely within the readiness of the Council to pursue appropriate enforcement action when necessary and Officers at Rossendale Borough Council strive to ensure that the public confidence is maintained with the planning system through the use of effective enforcement.

1.6. The number of cases handled by Officers since the last report is significant and Officers are now as a result able to concentrate on handling a controllable number of breaches of planning control which allows Officers to provide very efficient responses and to take the appropriate action swiftly when necessary.

1.7. There are a number of notices awaiting compliance and several court cases have been concluded. These will be expanded upon at the end this report

## **2.0 Cases Update**

2.1 The following table shows the status of cases at the end of February 2020:

Total cases recorded since previous enforcement report 15 <sup>th</sup> January 2019.	<b>213</b>
Total cases open for investigation at the time of writing this report.	<b>52</b>
Total cases investigated, finalised and concluded since previous enforcement report 15 <sup>th</sup> January 2019.	<b>161</b>

## **3.0 Enforcement Action Taken**

3.1 The following table shows the number of notices issued since the previous planning enforcement report.

Enforcement Notices Issued	<b>9</b>
Temporary stop Notices Issued	<b>0</b>
Breach of Condition Notices Issued	<b>1</b>
Section 215 Notices Issued	<b>1</b>
Urgent Works Notices Issued	<b>0</b>
S225 (Removal of Advertisements) Notices	<b>2</b>
Prosecutions	<b>3</b>
Convictions at Court	<b>3</b>
Cases where 'Direct Action'	<b>1</b>

taken	
Notices Complied with since previous planning enforcement report	<b>3</b>
Notices due for compliance this year	<b>8</b>
Notices currently going through appeal process.	<b>3</b>
Notices appealed but currently waiting to be validated by the Planning Inspectorate	<b>1</b>

### 3.2 Notices due for compliance this year:

1. Land at Top O The Bank Cottage, Tunstead, Bacup, OL13 8NL. Enforcement Notice issued on 7<sup>th</sup> August 2018 for the material change of use of the land from agriculture to a mixed use comprising a livery and storage. **This notice was appealed and the appeal was subsequently dismissed and varied by the Planning Inspectorate. Compliance was due on the 10<sup>th</sup> January 2020.** This notice has not yet been complied with but negotiation is ongoing and the landowners are currently working towards full compliance. This matter will be closed in due course.

2. Land at Woodland View Stables, Back Lane, Rising Bridge, BB5 2DZ. Enforcement Notice issued on 26<sup>th</sup> October 2018 for the unauthorised change of use of land from agriculture to a mixed use comprising agriculture and residential facilitated by the siting of a static caravan etc. **This notice was appealed and the appeal was subsequently dismissed by the Planning Inspectorate. Compliance is due on 3<sup>rd</sup> April 2020.**

3. Land known as Venomous Clough Stables, New Line, OL13 9RU. Enforcement Notice issued on 29<sup>th</sup> March 2019. Without planning permission engineering and excavation operations to being building a ménage and deposition of hardstanding to create access road. **This notice was appealed and the appeal was subsequently dismissed by the Planning Inspectorate. Compliance is due on 7<sup>th</sup> May 2020.**

4. Land at the Pump House, 480 Burnley Road, BB4 8LZ. Enforcement Notice issued on 20<sup>th</sup> August 2019. Without planning permission the erection of a dwelling, formation of an enclosed area and change of use of land from woodland to residential use. **This notice was appealed and the appeal was subsequently dismissed by the Planning Inspectorate. Compliance is due on 15<sup>th</sup> July 2020.**

5. Land at Farm Hill Farm, Edgeside Lane, Waterfoot, BB4 9TZ. Enforcement Notice issued on 20<sup>th</sup> August 2019 for the material change of use of the land from agriculture to residential facilitated by the siting of a mobile home etc. **This notice was appealed and the appeal was subsequently dismissed by the Planning Inspectorate. Compliance is due on 11<sup>th</sup> May 2020.**

6. Land at 64 Lane Head Lane, Bacup, OL13 9BT. Enforcement Notice

issued on 24 September 2019 for the erection of a boundary fence higher than one metre adjacent to a highway used by vehicular traffic. **This notice was due for compliance on the 20<sup>th</sup> December 2020 but through negotiation this was extended to the end of February 2020. Officers will visit week commencing 2<sup>nd</sup> March 2020 to ascertain compliance with the notice.**

7. Land at Hall Street Whitworth. Enforcement Notice issued on 6<sup>th</sup> February 2020. Without the benefit of planning permission, operational development comprising the erection of concrete posts and fencing over 1m in height adjacent to a highway and the siting of a container. **This notice is due for compliance on 21<sup>st</sup> April 2020.**

8. Land at Hall Street Whitworth. Breach of Condition Notice issued on 6<sup>th</sup> February 2020. Conditions relating to application 2019/0098 not complied with. **Details to discharge the conditions were requested to be submitted by 6<sup>th</sup> March 2020. At the time of writing this report no details have been submitted and it is likely that this will lead to a prosecution.**

Officers are currently preparing appeal statements for Enforcement Notices relating to the following 3 addresses:

- Land on the north east side of Edge Cote, Chapel Hill, Rawtenstall
- Land at Clough Bottom Farm, Cob Castle Road, Haslingden, BB4 5TS
- Land at Higher Hollin, Lumb Lane, Rossendale, BB4 9RR

In accordance with Section 188 of the Town and Country Planning Act 1990 every district authority must keep a register containing information as may be prescribed with respect to planning enforcement notices, stop notices, and breach of condition notices. Members are advised to please review the Enforcement Notice Register on the Council's website for further information on Notices. Copies of each Notice can and will be provided on request by contacting the Officer using the details above.

**Members should please be advised that all Ward Councillors will now be notified when Notices are both served and also when any subsequent appeal is made.**

#### **4.0 Update on Other Significant Matters**

##### **The Former Glory, Loveclough – Enforcement Notice**

Members will remember previous updates regarding The Former Glory Public House 1222, Burnley Road, Loveclough. The sentencing hearing took place on the 3<sup>rd</sup> June 2019 for breach of an enforcement notice on the matter of RBC v Ribble Valley Luxury Homes Limited and Stanley Ainsworth. The Enforcement Notice required numerous courses of action to be undertaken including the removal of stone, earth chippings, tarmac and rubble as well as the restoration of ground levels to their level prior to the breach of planning control and the seeding of all land to grass.

The defendants pleaded not guilty and elected for a crown court trial (29<sup>th</sup> April-7<sup>th</sup> May 2019 at Preston Crown Court) in which they were found guilty of non-compliance with the enforcement notice. Sentencing then took place on 3<sup>rd</sup> June 2019.

The defendants were fined £15,000 for each count which made a total fine of £45,000. Prosecution costs of £36,669.37 were also required to be paid in full. Total amount to be paid was £81,669.37.

### 2 Oaklands, Rawtenstall – Tree Preservation Order

1 x Mature tree covered by a Tree Preservation Order felled. This resulted in a prosecution under s210 of the Town and Country Planning Act 1990 for the wilful destruction of a tree in Burnley Magistrates Court on 1<sup>st</sup> August 2019 – Mr Harvey felled a tree that was subject to a tree preservation order. The District Judge found Mr Harvey guilty and fined him £2,500 and ordered him to pay £2,500 towards our costs. There was also a statutory charge of £150.

### 28 Peel Street, Rawtenstall – Conservation Area

Numerous mature trees were felled in the Cloughfold Conservation Area. This resulted in a prosecution under s211 of the Town and Country Planning Act 1990 for the wilful destruction of trees within a Conservation Area. Matthew James Cook pleaded guilty to the offence at Burnley magistrate's court on 7<sup>th</sup> February 2019 and was fined £125, £675 costs and victim surcharge of £30. Joseph St Ledger pleaded guilty to the offence at Burnley magistrate's court on 7<sup>th</sup> March 2020 and was fined also £125, £675 costs and victim surcharge of £30.

### Land at Cowm Park Way South (x3 New Build Homes)

A case of particular public concern raised previously (and ongoing) relates to Land at Cown Park Way South and the development of three dwelling houses at that location. Works had commenced prior to the discharge of conditions and this together with miscalculations from the developers resulted in the instability of a public road situated above the development.

Application 2019/0541 has been submitted and works are now ongoing to strengthen and complete the retaining walls to ensure the ongoing integrity of the road which the developers have confirmed will be repaired in full. The retaining walls will be completed first and backfilled accordingly prior to the reinstatement of Milner Street. Any concerns with regards to the application should please be reported to Neil Birtles (Planning Officer).

### Melba Swintex, Stubbins Vale Mill, Stubbins Vale Road, Ramsbottom, Bury BL0 0NT

A significant volume of complaints were made over the weekend of the 22<sup>nd</sup> and 23<sup>rd</sup> February with reports to a large scale tree felling operation at Melba Swintex in Stubbins/Strongstry.

Officers visited Monday morning 24<sup>th</sup> February and it was established that there had not been a breach of planning control as the trees with neither

protected nor located within the Strongstry/Chatterton Conservation Area. The Forestry Commission are now running their own investigation into this matter.

A planning application is due to be submitted by Melba Swintex in the very near future adjacent to where the tree felling works have taken place.

The Council issued a press statement as a result.

## 5.0 Other Matters

- Please be advised that the Planning Inspectorate is still experiencing significant delays in relation to enforcement appeals.
- There is no longer any backlog of Planning Enforcement cases.
- All planning enforcement enquiries/complaints should continue to be made under the methods contained within our adopted planning enforcement plan. **All** complaints must be made through the submission of a valid planning enforcement complaint form.
- The Planning Enforcement team recognises that formal enforcement action, (and in particular cases resulting in prosecution), can be costly to the authority. With this in mind and where there is no immediate risk to public amenity or safety or serious and irreversible harm to the environment or surrounding area the team will continue to negotiate resolutions or allow additional time for compliance where it is considered appropriate to do so.