

Subject:	Planning Enforcement Report	Status:	For Publication
Report to:	Development Control Committee	Date:	28 th August 2018
Report of:	Planning Manager	Portfolio Holder:	
Key Decision:	<input type="checkbox"/> Forward Plan <input type="checkbox"/>	General Exception	<input type="checkbox"/> Special Urgency <input type="checkbox"/>
Equality Impact Assessment:	Required:	No	Attached: No
Biodiversity Impact Assessment	Required:	No	Attached: No
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RECOMMENDATION(S)
Members are advised to note the report contents.

1.0 Introduction

This report has been prepared with a view to looking at the Council's Planning Enforcement performance in the last quarter April – June 2018.

Planning Enforcement can be notoriously 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 many are not forthcoming and this can add to a build-up of cases for investigation.

Rossendale is extremely positive in its approach to planning enforcement as this can be seen as a result of instances of positive enforcement action taken against recorded complaints measured in terms of Enforcement Notices issued together with, although lesser in number, prosecutions under the Town and Country Planning Act and Listed Buildings and Conservation Areas Act.

Enforcement action should always be a last resort. Good enforcement action seeks to secure resolutions on behalf of the Council to the satisfaction, if possible, of all parties including those who contravene planning regulations and those who may be affected by such regulations, including neighbours and those who might visit Rossendale for work or leisure.

Planning enforcement should be dealt with by way of education and negotiation followed by, if appropriate, robust investigation together with necessary and proportionate enforcement action. The later of this can at times take place after many months of negotiation and investigation and when all else has failed to secure an acceptable resolution, with the exception of irreversible criminal offences subject of the aforementioned planning acts i.e. unauthorised works to listed buildings and unauthorised works to trees subject of tree preservation orders.

Given the high number of instances where the Council have found it necessary to take positive enforcement action together with finite resources available to deal with such time consuming work, a backlog of enforcement cases has inevitably built up. The enforcement team has worked hard in reducing this backlog as will be seen by the reduction in outstanding enforcement cases later in this report, enabling officers to concentrate their efforts on cases that are more time consuming to investigate or are of particular public concern. The ultimate

goal of these efforts is aimed at ensuring that the people of Rossendale are given a fast and effective level of service from the planning enforcement team and that public confidence in the planning system is maintained.

The following statistics have been collated from the beginning of April 2018 to the end of June 2018. In addition a short precis of those cases that have attracted the most public concern or have been particularly time consuming are included together with the status of those cases at the date of this report.

1.1 Cases Update

The following table shows the status of cases at the beginning of April 2018.

Total Number of Cases For Investigation	195
Cases Allocated and Under investigation	132
Total Number of Backlog Cases	63
Oldest Backlog Case (To allocate for investigation)	2009

Cases were reviewed in order of priority including those that required urgent enforcement action i.e. the issuing of enforcement notices and those requiring more serious action taking i.e. prosecutions.

It was identified that greater utilisation could be made of the planning enforcement database (Uniform) and that this could be used more effectively to manage and prioritise cases or greater urgency or seriousness.

A good example of this could be cited when researching the number of outstanding enforcement notices that had resulted in non-compliance. The only way of carrying this out prior to greater use of the database was by going through all the outstanding paper case files manually. Now all enforcement notices are input on to the database at the time of issue. Establishing those cases resulting in non-compliance now only takes a matter of seconds.

In addition to the above cases notes are now entered directly on to the database allowing managers (or others in need of access), to immediately access the status of an investigation in response to queries from complainants, councillors or other stakeholders. In addition an immediate overview of the enforcement caseload can now be seen allowing managers or supervisors a more effective and efficient overview of the current caseload for the more effective and efficient placement of resources allowing more officer time to be spent on more complex or contentious enforcement investigations or non-compliant sites.

The following table shows the status of cases at the end of June 2018.

Total Number of Cases For Investigation	115
Cases Allocated and Under investigation	83
Total Number of Backlog Cases	32
New Cases Recorded April – June 2018	40
Cases Investigated and Finalised April – June 2018	120
Oldest Backlog Case (To allocate for investigation)	2016

In addition to the above the team carried out formal enforcement action as follows:

Enforcement Notices Issued	=	4
Section 215 Notices Issued	=	2
Prosecutions	=	2

Of particular note are costly and time consuming prosecutions that were considered necessary and within the public interest as follows:

1.2 The Former Glory Public House 1222, Burnley Road, Rawtenstall Breach of an Enforcement Notice

In 2014 the former Glory public house closed down and was purchased by Ribble Valley Luxury Homes Limited. The property received planning permission for a change of use to six luxury apartments. Works commenced in October 2014 before planning permission was granted. The scheme received planning permission however the developer purchased a large area of open countryside to the rear of the development and extended the curtilage of the property into the open countryside. In addition previously unspoilt land levels were altered and built up with brick and rubble from the development.

Despite attempts to negotiate a resolution the owner refused to acknowledge any wrongdoing. As a result in 2016 an Enforcement Notice was served on the company to restore the land levels and return the land back to its former condition. An appeal was submitted against the Enforcement Notice and upheld on 26th April 2017. The owner was given a period of eight months to comply with the Enforcement Notice.

The Enforcement Notice was not complied with. Extensive negotiations were entered into with the developers planning agent (Steven Hartley), who despite the presentation of evidence in support of the breach of the Enforcement Notice was resolute in his support for his client and was insistent that the notice had been complied with.

The breach of the Enforcement Notice was investigated as a criminal matter and the owner of Ribble Valley Luxury Homes Limited, Stanley Ainsworth was invited to attend Rossendale Borough Council Offices for an interview under caution but refused to attend.

Extensive officer time and effort was spent in putting the prosecution case together in order to prove an alteration in the land levels going back to 2012. The case is now for listed for a first hearing at Burnley Magistrates Court on 23rd August 2018. In addition to the prosecution of Ribble Valley Luxury Homes Limited its director Stanley Ainsworth is also being prosecuted for showing considerable connivance in his efforts to thwart the efforts of council officers to investigate the breach of the Enforcement Notice and for his efforts as director of the company in allowing the offence to take place.

1.3 2, Oaklands, Rawtenstall – Removal of a Preserved Sycamore Tree

Another time consuming investigation (although considerably less so than the above), was the felling of a preserved sycamore tree at the above property by a neighbouring household next to the site where the preserved tree had been located.

Following an investigation both the neighbour who caused the tree to be felled and the private tree surgeon carrying out the work are now subject to prosecution proceedings as a result of the removal of a mature sycamore tree that had both a high amenity value and a monetary value of nearly eight thousand pounds.

2.0 Other Matters

A case of particular public concern related 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.

The above case would have been suitable for a stop notice but the planning department sought another solution and allowed necessary works to continue to strengthen retaining walls and ensure amended conditions were urgently submitted and assessed to ensure the integrity of the structure. Planning and planning enforcement worked closely with the developer to ensure that only necessary works were carried out to the development resulting in matters being dealt with much more swiftly and effectively than via the implementation of formal enforcement action and is perhaps a good example of seeking alternative solutions on occasions for the greater benefit of the public.

Works are now ongoing to strengthen the retaining walls and ensure the ongoing integrity of the road which the developers have undertaken to repair in full.

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.

2.1 Statistical Overview and Looking Forward

In respect of the current and ongoing cases during the coming quarter July to August 2018 there are no less than 6 x enforcement notices and 3 x section 215 notices due for compliance throughout this period alone. Given the history of non-compliance of some of these sites, despite officer's attempts at negotiation, it is anticipated that both prosecution and direct action may be necessary to secure compliance with the notices and maintain public confidence in the planning system.

Despite the above anticipated requirement for formal enforcement action however, it can be anticipated that the remaining backlog of planning enforcement cases will all be allocated for continued investigation during the same period and that the majority of these investigations concluded. This will allow officers to concentrate on dealing with current and ongoing cases and be able to offer a swift and effective service to members of the public who report breaches in planning control. In addition officers will continue to concentrate their efforts on matters that are of the utmost public concern or where additional investigation time is required to gather the necessary evidence to prove or disprove that a breach in planning control is taking place.

All the issues raised and the recommendation(s) in this report involve risk considerations as set out below:

- The Council has a statutory duty to investigate alleged planning contraventions. Failure to regulate in this area will likely result in a lack of confidence in the Development Control Service; and
- Failure to carry out effective planning enforcement could result in harm being caused to the local environment, residential amenity, highway safety and the appearance of the borough.

3.0 The Planning Inspectorate

The Planning Inspectorate is still experiencing significant delays in relation to enforcement appeals. Validation of the appeals alone (checking that all required documents and fees have been received) is taking approximately thirteen weeks.

COMMENTS FROM STATUTORY OFFICERS:

SECTION 151 OFFICER

None contained within this report.

MONITORING OFFICER

Report is for information purposes only.

POLICY IMPLICATIONS AND CONSULTATION CARRIED OUT

None contained within this report, however, appeal decisions can inform interpretation / implementation of Planning Policies.

CONCLUSION

For Members to note the update provided in the report. Should Members wish to view any of the Enforcement Notices that have been served or require any further information regarding them it is advised that they contact the Planning Enforcement Team.