

CAMBRIDGE CITY COUNCIL

REPORT OF: Head of Planning Services

TO: Planning Committee DATE: 02/12/15

WARDS: ALL

PLANNING ENFORCEMENT REPORT UPDATE

SUMMARY	Planning Enforcement update
RECOMMENDATION	That the Committee notes the information contained in the report

1 INTRODUCTION

This report provides an update on the work of Planning Enforcement team.

2 PLANNING POLICY, LEGAL AND OTHER CONSIDERATIONS

2.1 The National Planning Policy Framework states:

'Para 207 Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.'

2.2 National Planning Policy Guidance states:

Para 17b-003: 'There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control'.

2.3 Officers investigating breaches of planning control are mindful of, and comply with the Planning Enforcement Policy and the City Council's Corporate Enforcement Policy.

2.4 In recommending and pursuing enforcement action, officers give consideration to the Human Rights Act 1998 and to the Equality Act 2010.

3 STATISTICS RELATING TO PERFORMANCE TARGETS

3.1 The Planning Enforcement Policy sets out the categories of complaints that are dealt with by the Planning Enforcement team.

3.2 The targets for the team to assess whether there is a breach and advise the complainant of their intended actions are:

- Category 1: Target for site visit within 3 working days from receipt of the complaint.
- Category 2: Target for site visit within 5 working days from receipt of the complaint.
- Category 3: Target for site visit within 15 working days from receipt of the complaint.

3.3 **Statistics for 2015 (1st January to 31 October)**

In the period between 01/01/2015 and 31/10/2015, a total of 343 complaints were received by the Planning Enforcement Team 222 of which have been investigated and closed.

A further 107 pre - existing investigations have been closed in this time period.

Target response times

71% of Category 1 complaints were visited within the 3 working day target.

59% of Category 2 complaints were visited within the 5 working day target.

62% of Category 3 complaints were visited within the 15 working day target.

- 3.4 Officers responded to with 64 Premises Licence applications and 36 requests for information about proposed alterations by tenants to Cambridge City Council properties.

Officers also checked Building Control applications and licences issued by Environmental Services for any works or changes of use that may require planning permission.

3.5 Enforcement Notices served

Enforcement Notices	
Operational Development	5
Material Change of use	3
Breach of Condition	1
S215 condition of land	1

3.6 Intended Entry Notices served

Notice of Intended Entry	
To gain entry to a property	2

3.7 Planning Contravention Notices (PCNs) served

PCNs	
Notices requiring information	15

3.8 Enforcement Notices that have been complied with June to Oct

Officers have confirmed that the following enforcement notices which have been complied with between 01/06/15 and 31/10/15:

Operational Development

Land to the rear of 91/93 Burnside

Section 215 Notice

49 Woodlark Road

3.9 Results of Appeals against Enforcement Notices

43 Aberdeen Avenue - dismissed

591 Newmarket Road – dismissed

4 UPDATE ON ENFORCEMENT CASES

4.1 The following case summaries have been compiled to provide members with information and updates on investigations where formal enforcement action has been initiated.

4.2 Material change of use of 136 Perne Road

On 11 September 2014 East Area Committee authorised the service of an enforcement notice for the creation of a separate residential planning unit and the stationing of a mobile home for permanent residential use at 136 Perne Road.

On appeal the Inspector found the enforcement notice to be flawed and invited the City Council to withdraw the notice and reissue it under s. 171B (4)(b) TCPA 1990.

On 16 July 2015 the Council's urgency powers were used to withdraw the enforcement notice.

On 7 October 2015 Planning Committee authorised the service of a revised enforcement notice in respect of 'the material change of use of the land to a mixed use comprising a single dwellinghouse and land used for purposes incidental thereto and use for the stationing of a mobile home occupied as a separate unit of residential accommodation'.

On 13 November 2015 the enforcement notice was served on the owner of 136 Perne Road and all those with an interest in the land.

4.3 Material change of use of 4 Laburnum Close

On 20 February 2002 an enforcement notice requiring the owners of the land to stop using a caravan that had been brought onto the land for residential accommodation and to remove the dividing fence in the garden of 4 Laburnum Close.

In August 2010 a second caravan was brought onto the land which then became used for residential occupation (instead of the original caravan).

In 2014 the original caravan was removed from the land, therefore the enforcement notice had been partially complied with. Although the dividing fence remained in place, it benefits from permitted development rights and therefore compliance with this requirement was not pursued.

On 10 September 2012 a further enforcement notice was served requiring the land owner "To remove the residential caravan that was brought onto the Land on 20/08/10 permanently from the Land."

On 4 June 2015 Cambridge Magistrates Court the owners of the land pleaded guilty to the offence of failing to comply with an enforcement notice under Section 179 of the Town and Country Planning Act 1990 (as amended).

Officers have confirmed that the residential caravan that was brought onto the Land on 20/08/10 remains in place and in use.

On 14 October 2015 letters were sent to the owners of the land advising that a prosecution for the continuing offence of failing to comply with the Enforcement Notice under section 179(6) is being considered by Cambridge City Council.

4.4 Operational Development at 8 Richard Foster Road

On 16 September 2013 members of the South Area Committee refused a retrospective planning application to 'Provide roof and roof lights over upper floor terrace, convert car port to playroom and provide storage in entrance lobby (retrospective)' at 8 Richard Foster Road on the Accordia site.

On 7 May 2014 the Planning Enforcement Service used their delegated authority to serve an enforcement notice in relation to works which have failed to gain approval by means of a retrospective application for Planning Permission.

Officers noted that there had been an error made in relation to the process followed in issuing the planning enforcement notice and so on 15 October 2014 the Notice was withdrawn by the Council.

Officers intended to take further formal enforcement action in respect of the works to the car port and roof terrace at 8 Richard Foster Road.

4.5 Breach of condition at 107 Darwin Drive

In August 2006 planning approval was granted for 'Change of use from single family residential space to community house for the Bangladeshi community, including residential space for key worker.' Reference 06/0473/FUL.

Planning Enforcement received allegations that the condition restricting number using the premises was not being complied with and following confirmation of the breach a Breach of Condition Notice was served on 23 June 2010.

Officers have undertaken monitoring of the Community House during key periods throughout 2011, 2012, 2013, 2014 and 2015 to check compliance with condition 5 and the other conditions attached to the planning permission for the property.

Officers have not witnessed any breaches of condition that would warrant formal enforcement action.

In September 2015 officers advised the complainant and the Shah Jalal Islamic Centre that they were considering closing the investigation.

Further alleged breaches of planning control have been reported to the Council and the case currently remains open.

4.6 Condition of land at 49 Woodlark Road

A Section 215 (S215) notice requiring improvements to be made to the condition of the land and property at 49 Woodlark Road, Cambridge was served on 19 November 2014. The notice was not complied with as required and a report requesting authority to prosecute for non-compliance with the notice was granted at the Planning Committee in March 2015.

In June 2015 Planning Committee agreed that prosecution proceedings be delayed in light of the improvements that had been made to the property.

On 25 September 2015 officers visited the property and noted that further improvements to the condition of the land had taken place and a further site meeting has been arranged for 25 November 2015 to check the condition of the land.

Officers will provide a verbal update to members on the findings of that visit.

4.7 Illegal advertisements on Kings Parade

On 5 November 2014 Planning Committee delegated authority to officers to serve notices under Section 225 and 225A of the Town and Country Planning Act 1990 (as amended) to remove illegally displayed signs and the associated structures (flag banners) used for the display of the signs for punt tours on Kings Parade.

The legislation provides that Notices served under Section 225 and 225A of the Act only relate to specific signs and structures. Once the relevant notices had been served and effective, officers removed the specified signs and structures.

Officers are aware that since the removal of the flag banners, further, different types of signs advertising punt tours are being displayed illegally in the Kings Parade area. As the Notices specified the signs and referenced them pictorially, the Notice does not give powers to remove the more recently displayed (different) signage.

In the light of this, officers are mindful that the use of the powers under Section 225 and 225A of the Act may not be the most effective measures to address the advertisements currently displayed illegally on Kings Parade in the long term. Officers are working with other Council departments to address the problem of illegal punt tour signage in the central area. The City Centre Accessibility Study will

also look at an integrated approach to tackling signage in the central core area of the City Centre.

5 RECOMMENDATIONS

5.1 That the Committee note the contents of this report.

6 IMPLICATIONS IN RELATION TO THE RECOMMENDATION

- (a) **Financial Implications** - None
- (b) **Staffing Implications** - None
- (c) **Equal Opportunities Implications** - None
- (d) **Environmental Implications** - None
- (e) **Community Safety** - None
- (f) **Human Rights** – None.

APPENDICES: None

BACKGROUND PAPERS: Planning Enforcement Policy and the City Council's Corporate Enforcement Policy

The contact officer for queries on the report is Deborah Jeakins on extension 7163.