

This Report will be made public on 7 December 2020



Report Number: **DCL/20/41**

To: Planning and Licensing Committee
Date: 15 December 2020
Status: Non key Decision
Responsible Officer: Llywelyn Lloyd, Chief Planning Officer

SUBJECT: FORMAL ENFORCEMENT ACTION AND COMPLAINTS UPDATE REPORT

SUMMARY:

The purpose of this report is to provide the Committee with an update on formal action taken by the Council in respect of breaches of planning control where the committee has authorised officers to take formal enforcement action.

The Chief Planning Officer has delegated authority to serve many of the formal notices that are issued but the majority of Enforcement Notices require the authorisation of the Planning and Licensing Committee. Councillors have requested an update on the enforcement notices that they have authorised the Chief Planning Officer to serve.

This report also includes an update on the other formal notices that the Council can serve in exercising its planning enforcement powers and on the number of enforcement complaints that have been received and closed since 1st April 2019.

REASONS FOR RECOMMENDATIONS:

The Committee is asked to note the recommendations set out below because this report is for information only.

RECOMMENDATIONS:

- 1. To receive and note report DCL/20/41.**
- 2. To receive and note Appendix 1.**

1. ENFORCEMENT NOTICES

- 1.1 Attached at Appendix 1 is a table of the Enforcement Notices served over the last 6 years which are in progress or have been complied with. Members will note from looking at the current position that serving the Enforcement Notice can be the start of a very long process. The person responsible for the breach can submit a planning application; appeal against the Notice to the Planning Inspectorate; or simply refuse to comply with the Notice. An appeal to the Planning Inspectorate effectively puts the Notice on hold and the compliance period then starts afresh if the appeal is dismissed and the Notice upheld. In terms of failure to comply with the Notice, if there aren't good reasons for the person not complying with the notice by the compliance date the Council's next course of action is to commence prosecution proceedings. However, even if the prosecution is successful this does not remedy the breach of planning control with the only option then open to the Council being Direct Action, as is the case with the various breaches at land at Whitehall Farm Romney Road Lydd.

2. OTHER FORMAL NOTICES

- 2.1 The table at Appendix 1 only shows Enforcement Notices, however there are a number of formal notices available to the Council for resolving breaches of planning control, including the following:

Temporary Stop Notices – these take immediate effect and can be used to stop specified works or uses from taking place for up to 28 days. They can only be used where the harm or potential harm is so significant that it justifies immediate cessation. They are useful in securing time for officers to further investigate what is taking place and possibly serve an enforcement notice and stop notice or seek to achieve a resolution without needing to resort to further formal action. Since 1st April 2019 the Council has served one Temporary Stop Notice.

Breach of Condition Notices – these can be used when a breach of condition has taken place and can be used as an alternative to an enforcement notice depending on the circumstances. Since 1st April 2019 the Council has served nine Breach of Condition Notices.

S215 Notices – (also referred to as untidy site notices) can be used to require physical improvements to land or buildings when the appearance of it is adversely affecting the amenity of the area. Since 1st April 2020 the Council has served two S215 Notices.

Planning Contravention Notices (PCNs) – these are the most often used of all the notices and are used to obtain information required to investigate an alleged breach of planning control and to ensure the correct service of other notices such as enforcement notices. Since 1st April 2019 twenty five PCNs have been served.

Injunctions – these have to be obtained from the court and it is necessary for the Council to demonstrate why it considers it necessary or expedient to seek an injunction rather than using any of the other planning enforcement powers

that it is has. The Council has recently sought injunctions on two traveller sites in the district, one in Selsted and one in Old Romney.

3. ENFORCEMENT COMPLAINTS

- 3.1 In terms of numbers of complaints that the Planning Enforcement Team deal with, since 1st April this year they have received 238 new complaints and closed 199. During the period 1st April 2019 – 31.03.20, 310 new complaints were received and 225 were closed. At the time of writing the Team has 204 live cases. This compares to more than 450 at the start of 2019.
- 3.2 The Enforcement Team now has two permanent full time Enforcement Officers, Clive Satchell (Senior Enforcement Officer) and Jeff Redpath (Enforcement Officer) who joined the team in September this year. Until Jeff joined, the Development Management Team there had only been one Enforcement Officer FTE post since 2013. From 14th December there will also be a dedicated Enforcement and CIL Team Leader (Lisette Patching). Having a second Enforcement Officer in post has resulted in a significant increase in the number of older cases that have been able to be closed and also freed up capacity for the Senior Enforcement Officer to progress the older/more complex unresolved breaches that need progressing to formal action or prosecution.

4. RISK MANAGEMENT ISSUES

A summary of the perceived risks follows:

Perceived risk	Seriousness	Likelihood	Preventative action
NA	NA	NA	NA

5. LEGAL/FINANCIAL AND OTHER CONTROL/POLICY ISSUES

5.1 Legal Officer Comments (TH)

There are no legal implications arising directly from this report. Legal Services will continue to work closely with the Enforcement Team where suspected breaches of planning control are identified and enforcement action is considered necessary and proportionate.

5.2 Finance Officer Comments

None received to date.

5.3 Equalities & Diversity Officer Comments (GE)

There are no equality implications directly arising from this report.

CONTACT OFFICER AND BACKGROUND DOCUMENTS

Councillors with any questions arising from this report should contact the following officer prior to the meeting.

Lisette Patching – Principal Planning Officer
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The following background documents have been used in the preparation of this report: None