

PLANNING COMMITTEE

DATE OF MEETING: 11TH MARCH 2021

TITLE OF REPORT: QUARTERLY UPDATE ON PLANNING ENFORCEMENT

Report of: Head of PLACE SERVICES

Cabinet member: COUNCILLOR GRAHAM COCKARILL

1 PURPOSE OF REPORT

1.1 To provide the Planning Committee with an overview of the Planning Enforcement function in the period April to December 2020 (Quarters 1-3).

2 OFFICER RECOMMENDATION

2.1 That the Planning Committee notes the overview of the Enforcement function.

3 BACKGROUND

3.1 The Council has a duty to investigate complaints about development, including building and engineering works and changes of use that may have been carried out without permission or consent.

3.2 Effective planning enforcement is a useful tool in tackling breaches that would otherwise have had an unacceptable impact on amenity in the District and to help maintain the integrity of the Development Management process.

3.3 There are a range of enforcement powers available to the Council, however whether the Council takes any enforcement action is a discretionary matter. When considering taking any formal action the Council must consider if it is expedient to do so having had regard to the Development Plan and any other material considerations including the Council's Planning Local Enforcement Plan (adopted January 2016). It is also necessary to weigh up whether taking Enforcement Action is in the public interest.

3.4 Taking formal Enforcement Action should be regarded as a last resort and many breaches of planning control can be resolved without formal action being taken. For example, retrospective planning permission can be obtained or the breach ceases or is remedied through negotiation.

3.5 Councillors are often the public face of the Council and Member involvement in planning matters is crucial in maintaining an effective enforcement service. This report has therefore been prepared to provide an overview of the enforcement function between April-December 2020. Whilst serving Enforcement Notices can be high profile what often gets overlooked is the amount of work involved where

informal action has been taken and resulted in a breach ceasing or being regularised. It is also important that Members understand the overall number of service requests and consequent workload that the service deals with.

4 CONSIDERATIONS

4.1 Number of Service Requests

To date this year has been rather extraordinary, this has been reflected in the number of service requests the team has received. This is similar to other parts of the Place Service, such as Environmental Health.

In the period 1st April to 30th June (Quarter 1), 79 requests to investigate alleged breaches of planning control were received. This was lower than during the same quarter last year but roughly equivalent to the previous years.

In the period 1st July to 30th September (Quarter 2), 102 requests were received. This is far more than any previous years during this quarter.

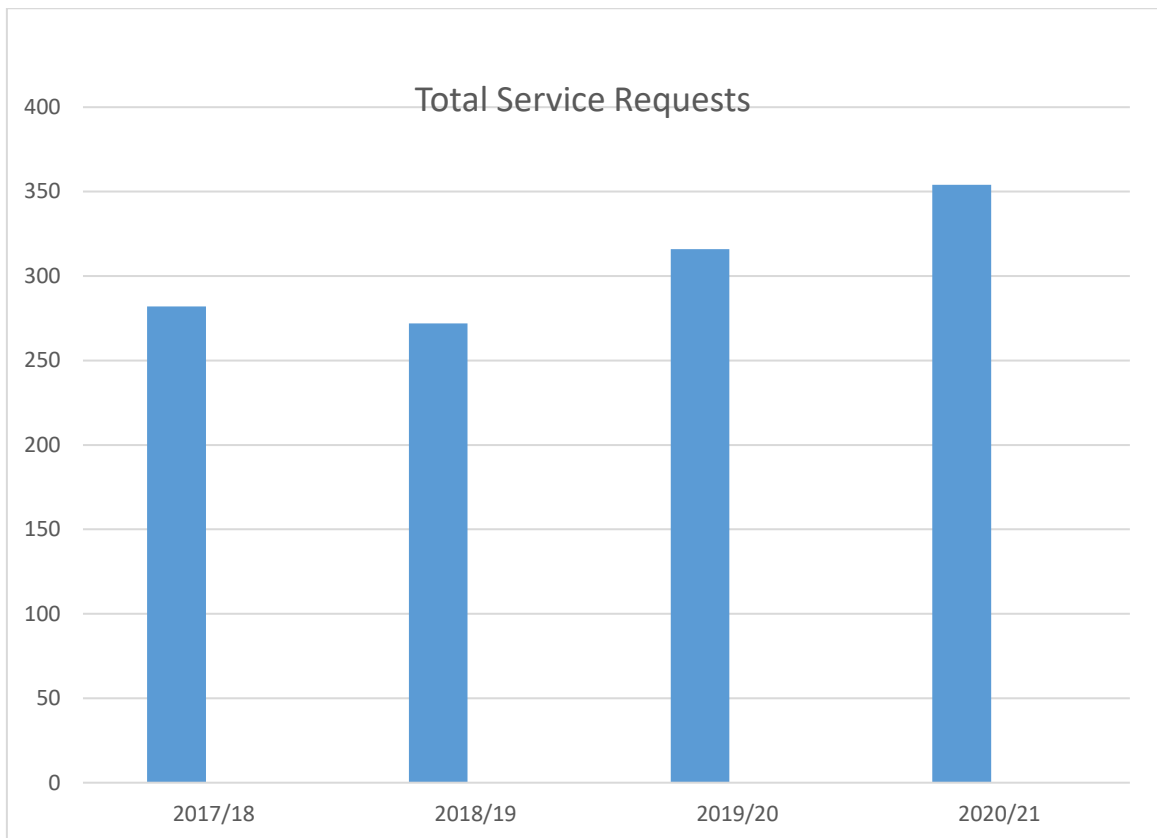
In the period 1st October to 31st December (Quarter 3), 85 requests were received which again far exceeds normal levels.

To date, during the current Quarter 4 which will end on 31st March, 88 requests have been received to date.

	Number of service requests			2020/21
	2017/18	2018/19	2019/20	
Q 1 April-June	74	80	90	79
Q2 July - September	73	77	87	102
Q3 October - December	68	55	67	85
Q4 January - March	67	60	72	88 to date

It is fair to therefore say that because of both the increasing number of cases and the pandemic related movement restrictions, the enforcement team has experienced an unprecedented year.

It is notable that over the last four years, overall case numbers have risen from 282 in 2017/18 to 354 during this financial year, however Officers acknowledge this marked increase might be directly related to the pandemic, as a result this will continue to be monitored.

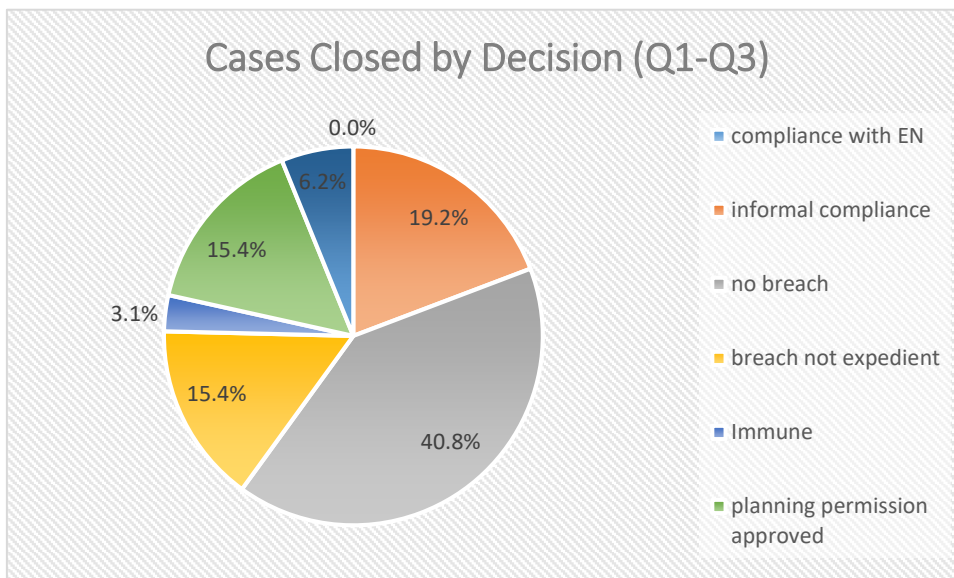
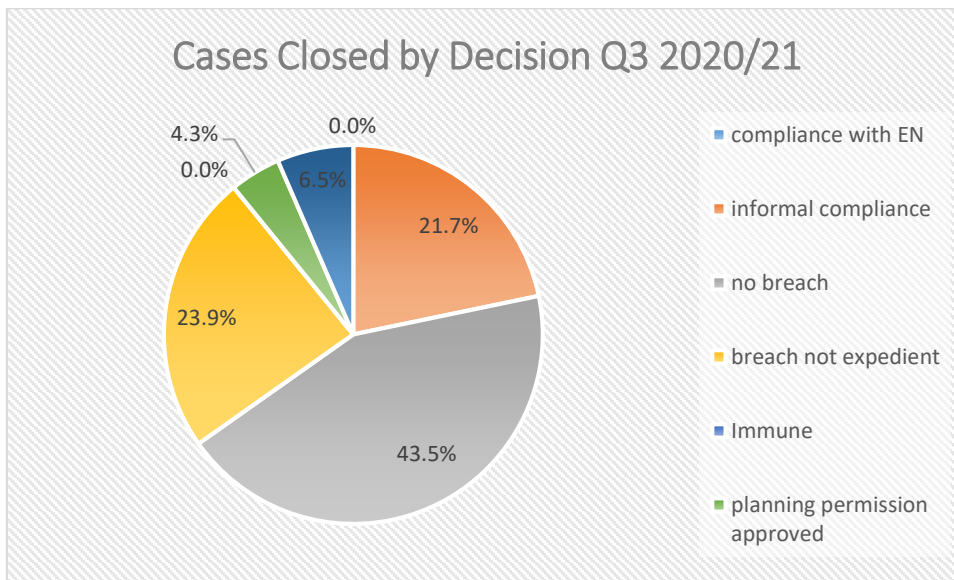


4.2 Number of Cases Closed and Resolution

When a request to investigate an alleged breach of planning control is received, the case is prioritised by the Enforcement Team Leader in accordance with the Planning Local Enforcement Plan. For example, an allegation against works to a Listed Building or protected tree are treated as High Priority cases and a site visit will be carried out within two working days.

Once the initial investigation has been completed, Officers will make a recommendation on the case. Cases are closed for a variety of reasons and the graph and table below sets out the cases closed and their reason for being closed.

The graph shows the split in the reasons for cases being closed in October-December 2020. Members will see that approximately 43% of the cases were closed because it was established that there was no breach in planning control. Approximately 20% of cases were subsequently closed because the breach had ceased due to negotiation. It is important to highlight these cases because they amount of a large proportion of workload that is otherwise unreported; these are successful outcomes for the Council.



In the first three quarters of this financial year (between April and December) the Council investigated and closed 130 enforcement cases.

2017/18 – 165
 2018/19 – 179
 2019/20 – 190
 2020/21 – 130

4.3 Formal Enforcement Action

There are a range of options open to the Council when considering enforcement action including the following:

- Enforcement Notice
- Breach of Conditions Notice
- Planning Enforcement Order
- Stop Notice

- Temporary Stop Notice
- Injunction
- S215 Notices (untidy site)
- Listed Building Enforcement Notices

Formal action including the serving of an Enforcement Notice should only be taken where the Council is satisfied that there appears to be a breach of planning control and it is expedient to issue a notice. In deciding whether to issue the Council has to take into account the provisions of the Development Plan and any other material considerations. Generally taking such action should be treated as a last resort where negotiations to remedy the issue have failed. There will of course be instances where negotiation is not appropriate.

Whilst Enforcement notices are a powerful tool, the fact that an Authority may not have served a large number of notices does not mean that it is failing to manage or deal with unauthorised development or works within its area.

Any notice has a period for compliance which will vary depending on the nature of the breach and the steps required to remedy the situation. After the compliance period the Enforcement Team will visit to check whether the notice has been complied with. Failure to comply with the requirements of a notice may result in the Council seeking to prosecute.

There are rights of appeal associated with any Enforcement Notice in the same way that an applicant can appeal against the refusal of a planning application. For example, an appeals against a planning Enforcement Notice (as opposed to a Listed Building Enforcement Notice for example) can be made on the basis of the following grounds:

- a. That planning permission ought to be granted or the condition or limitation concerned ought to be discharged;
- b. The matters stated in the enforcement notice have not occurred;
- c. The matters stated in the enforcement notice (if they occurred) do not constitute a breach of planning control;
- d. At the date when the notice was issued, no enforcement action could be taken;
- e. Copies of the enforcement notice were not served in accordance with the relevant statutory requirements;
- f. The steps required by the notice exceed what is reasonably necessary to either remedy any breach or to remedy any injury to amenity (i.e. the steps are excessive); and or
- g. Any period for compliance falls short of what should reasonably be allowed.

Where an appeal is lodged, the notice is effectively held in abeyance pending the outcome of the appeal. Unfortunately the appeals process is slow.

4.4 Notable Cases

Land rear of Chantryland, Eversley – development not in accordance with approved plans.

The development of this site does not accord with approved plans, specifically the landscaping and boundary treatments which have been implemented are a breach of planning control.

A Breach of Condition Notice has been issued requiring the development to be undertaken in accordance with the approved plans.

47 Dukes Mead, Yateley

An Enforcement Notice was issued in relation to unauthorised development at this residential dwelling.

The notice was subject of an appeal to the Planning Inspectorate and whilst it was varied, the notice was upheld.

Compliance with the Enforcement Notice will be monitored.

Paynes Cottage, Potbridge

An Enforcement Notice relating to change of use of land to commercial use has been issued.

The owner/occupiers have submitted an appeal against the notice and the appeal is to be heard by way of a Public Inquiry. No date has been set for the inquiry, however, it is likely to be heard through a virtual process.

15 Twisell Thorne

An Enforcement Notice was served regarding the unauthorised enclosure of amenity land and related fencing. The Notice was subject to an appeal but the appeal was dismissed and the Notice upheld.

A site visit took place on 1/12/20 and it was confirmed the notice had been complied with.

The year ahead.

Members will be aware that a Peer Review was undertaken in relation to the Planning Service, as part of this review several actions have been highlighted which form the basis of the team's action plan for the coming year.

In addition to the peer review, the Council has engaged a "critical friend" to review the enforcement function and the outcome of this further review is due imminently which will also contribute to aspirations and action plans for the year ahead.

5 FINANCIAL AND RESOURCE IMPLICATIONS

There are no anticipated financial implications although workloads will continue to be monitored.

6 ACTION

It is recommended that the Planning Committee notes the contents of this report.

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