
**Executive Member for Economy and Strategic
Planning**

22 September 2020

Report of the Assistant Director for Planning and Public Protection.

Update on formal planning enforcement action

Summary

1. The purpose of this report is an information report to enable the Executive Members to review planning enforcement action and activity undertaken between April 2019 and April 2020 by the planning enforcement service.

Recommendations

2. That the Executive Member note and approve the content of the report.

Reason: To ensure Members are aware of the work currently being undertaken in Planning Enforcement and to provide oversight to the activity undertaken in the period.

Background

3. This report details planning enforcement action taken in the period specified. Annex A contains further details of the Enforcement Notices served within the period. It should be noted that a full list of Enforcement Notices served by the Council within the last 10 years is published on the Councils website via the Enforcement Register. This is updated every 6 months.

4. A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 as:

- The carrying out of development without the required planning permission; or
- Failing to comply with any condition or limitation subject to which planning permission has been granted.
- Any contravention of the limitations on, or conditions belonging to, permitted development rights, under the Town and Country Planning (General Permitted Development) (England) Order 2015, constitutes a breach of planning control against which enforcement action may be taken.

5. The National Planning Policy Framework para 58 deals with planning enforcement and states that “Effective enforcement is important to maintain public confidence in the planning system.”

6. The City of York Council Planning enforcement team responds to and investigates complaints about breaches of planning control. Planning enforcement complaints can be extremely complex and time consuming. The enforcement team visit and assess each case to consider the level of action required and this will depend on the harm the breach causes.

7. Government Guidance is clear that addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. Furthermore in some instances enforcement action may not be appropriate at all. Enforcement action should always be proportionate to the breach in which it relates to and action taken when it is expedient to do so. It is a long standing principal of the planning system that it is not punitive.

7. The Local Planning Authority will only pursue enforcement action when it is expedient to do so. In general terms a case will be considered not expedient to pursue if:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
- in their assessment, the local planning authority consider that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.

8. Where a breach of planning control is identified that is expedient to pursue, should informal attempts to rectify it be unsuccessful and it is concluded that formal action is required, the following Notice types are available to ensure any harm is rectified:

- Enforcement Notice
- Planning Enforcement Order
- Stop Notice
- Temporary Stop Notice
- Breach of Condition Notice
- *Section 215 Notice (untidy land)

9. Members receive updates on the number of outstanding enforcement cases on a quarterly basis through a report which is referred to the Planning Sub Committee. This has occurred since July 1998. A list of enforcement cases for their Ward are also sent to each Councillor by email as agreed by the Chair of

the Planning Committee. This list also contains a synopsis of progress made on each case.

Current position.

10. During the period of 1st April 2019 to 31st March 2020, 586 new planning enforcement investigation cases were received and 686 cases were closed. A total of 507 investigations remain open.

11. Of the cases closed, the principal reasons for closure were: 167 were not expedient to pursue, 48 were found to be permitted development, 242 were found to be not in breach of planning control and 93 breaches were rectified following work undertaken by the team. 62 were granted planning permission.

12. 11 Enforcement Notices were served during the period. These related to:

- Unauthorised siting of caravans in a field.
- Display of unauthorised signs.
- The erection of an extension without planning permission.
- The erection of a porch without planning permission.
- Windows not obscure glazed in accordance with approved plans.
- Failure to match construction materials.
- Unauthorised construction of an access road.
- Conversion of stables to a dwelling for holiday letting.
- Construction of a balcony not in accordance with approved plans.
- Replacement of timber windows in a conservation area.
- Failure to clad a development in accordance with plans and breaching of conditions controlling noise and occupancy.

13. A more detailed summary of these and other recent Notices served, taken from the Planning Enforcement Register, is contained within the Annex section of this report. It should be noted that the Council is required to remove Notices from the register under certain circumstances such as where an appeal is dismissed or where the Notice is later withdrawn. These Notices are not included in the Register.

Consultation

14. As this is an information report no consultation has been undertaken.

Options

15. Option 1 – note the action taken with comments as necessary.

Council Priorities

16. The enforcement actions support the Council's priorities in respect of the following:

- Good health and wellbeing
- Well paid jobs and an inclusive economy
- A greener and cleaner city
- Safe communities and culture for all

Implications

17. There are no direct implications associated with the recommendations of this report in relation to any of the following:

Financial
Human Resources
Equalities
Legal
Crime and Disorder
Information Technology (IT)
Property
Other

Risk Management

18. There are no known direct risk management implications associated with the recommendations in this report.

Contact Details

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Report Approved

Date 11/09/2020

Specialist Officer Implications: None

Wards Affected:

All

Background Papers:

None

Annexes

Annex A: Extract from the Planning Enforcement Register with details of the Enforcement Notices served within the period.

