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Strategic Planning and Environment Overview and Scrutiny Committee

Report for:	Strategic Planning and Environment Overview and Scrutiny Committee
Title of report:	Planning Enforcement Annual Report (July 2022)
Date:	27.06.22
Report on behalf of:	Councillor Anderson, Portfolio Holder for Place
Part:	I
If Part II, reason:	N/A
Appendices:	Appendix 1: Planning Enforcement Audit March 2022 Management Action Plan
Background papers:	Local Enforcement Plan (2019) Planning Enforcement Quarterly Report – April 2022.
Glossary of acronyms and any other abbreviations used in this report / commonly used in Planning Enforcement:	BCN Breach of Condition Notice EN Enforcement Notice GPDO General Permitted Development Order LBEN Listed Building Enforcement Notice LEP Local Enforcement Plan LPA Local Planning Authority (e.g. Dacorum Borough Council) NPPF National Planning Policy Framework PCN Planning Contravention Notice PEO Planning Enforcement Order PINS The Planning Inspectorate (the body that deals with planning appeals) PPG Planning Practice Guidance (sometimes referred to as the NPPG) TCPA Town and Country Planning Act 1990 TPO Tree Preservation Order TSN Temporary Stop Notice

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Corporate Priorities	A clean, safe and enjoyable environment Building strong and vibrant communities Ensuring economic growth and prosperity Ensuring efficient, effective and modern service delivery Climate and ecological emergency
Wards affected	ALL
Purpose of the report:	<ol style="list-style-type: none"> 1. To provide an update on the planning enforcement service, summarising its trends, performance over the past 12 months, and its approach moving forward. 2. To provide an update on the Development Management service response to the March 2022 planning enforcement audit.
Recommendation (s) to the decision maker (s):	<ol style="list-style-type: none"> 1. Report to be noted by the Committee.
Period for post policy/project review:	The actions and achievements of the planning enforcement service for 2022 will be reviewed as part of Corporate performance figures and in next year's Scrutiny Report.

1 Introduction/Background:

An effective planning enforcement service is vitally important in maintaining public confidence in the planning system by assisting in the delivery of the development that has been granted and in taking action against harmful development, which has not been approved.

This report is intended to provide information about DBC's Planning Enforcement Service. It will discuss the recent trends affecting the service, the performance of the team in the past 12 months, the issues it currently faces, and how the team are seeking to address these through 'The 400 Plan'. This report also provides the conclusions of the external audit of the Planning Enforcement service that took place at the beginning of 2022 and the actions that have already taken place to deal with the 'control' issues raised.

2 Key Issues/proposals/main body of the report:

This report is split into five parts, as follows:

Part 1: Recent trends in Planning Enforcement

Part 2: Planning Enforcement at DBC – how it currently stands

Part 3: Planning Enforcement at DBC – Performance over the past 12 months

Part 4: Planning Enforcement Audit – March 2022

Part 5: The '400 Plan' Update

Part 1: Recent trends in Planning Enforcement

1. The number of planning enforcement cases increased markedly from 2017-2019, when cases received each year went well above the 507 ten-year average. This is contrast to 2012-2103 and 2020-2021 when the number of cases received were markedly below 500. As such, there was a three-year period within the last 10 years where workload was consistently 10% higher than that previously experienced. It is unclear whether the recent fall in enforcement cases is a consequence of the Covid pandemic, the reputation of the Enforcement team, or some other factor. This will need to be monitored in the next few years. The following table provides a list of enforcement cases received per year in the last 10 years:

YEAR	No. CASES RECEIVED
2012	485
2013	473
2014	514
2015	508
2016	510
2017	538
2018	581
2019	531
2020	481
2021	451
AVERAGE	507.2

2. The number of planning enforcement cases being closed each year is inconsistent, ranging from a high of 675 in 2010 to a low of 380 in 2015. This will be a consequence of the complexity of cases being received, the amount of resources dedicated to dealing with complex cases requiring formal action versus focusing on closing simpler cases, and the overall resources available to the Planning Enforcement service at that particular time. The following table provides a list of enforcement cases closed per year in the last 10 years:

YEAR	No. CASES CLOSED
2012	578
2013	468
2014	481
2015	380
2016	519
2017	499
2018	541
2019	483
2020	460
2021	553
AVERAGE	496.2

3. When seen as an overall picture in the last 10 years the number of live cases has increased by 110 cases. This figure is certainly healthier than this time last year due to the efforts of the Enforcement team over the past 12 months (details of which are shown later in this report). Overall, however, this disguises the more recent trend of a significant increase in the amount of live enforcement cases, i.e. the cases currently on Enforcement Officers' books. Between 2013 and 2020 there was only one year when the Planning Enforcement Service were able to close more enforcement cases than were received. In particular, at the end of 2020 there were 299 more enforcement cases on the team's books than at the beginning of 2014.

In other words, the amount of live cases more than doubled since 2014. The following table provides a yearly analysis of the number of cases received versus the number of cases closed for the last 10 years:

YEAR	No. CASES RECEIVED	No. CASES CLOSED	DIFFERENCE
2012	485	578	-93
2013	473	468	5
2014	514	481	33
2015	508	380	128
2016	510	519	-9
2017	538	499	39
2018	581	541	40
2019	531	483	48
2020	481	460	21
2021	451	553	-102
TOTAL	507	496	11

- In the period 2014-2020, the number of live enforcement cases increased by an average of approximately 40 cases per year since 2014. This is broadly the same as the average increase in the number of enforcement cases received in the same period. In other words, the Planning Enforcement service has not been able to deal with the increase in the number of cases being received in recent years.
- It should also be mentioned that prior to 2011 the Planning Enforcement service had four full-time members of staff. Given the need for Council-wide savings at this time, this was subsequently reduced to three full-time members of staff. Therefore, the Planning Enforcement service has, through changes to its processes, managed to deal with approximately the same number of cases coming through with one less member of staff. However, the service has not been able to cope fully with an increased level of demand together with a reduced resource available to it.
- In terms of the type of planning enforcement cases received in the last 10 years, there a couple of trends that can be picked out. Firstly, the amount of cases the service has received regarding adverts and witnessed a noticeable increase in 2018-2019, but this has dropped significantly since. Secondly, there has also been an increase over the decade in the number of cases received regarding development not being carried out in accordance with the approved plans or with no planning permission at all. All of the other significant case types show no apparent trend, either up or down (especially when viewed as a proportion of overall caseload). The following table provides the yearly figures between 2012 and 2021 of the number of cases received by the most significant case types (with the top three case types for each year highlighted in red):

	Advert	Breach of Condition	Change of Use of building	Change of use of land	Estate Agent Board	Listed Building	Not in accordance with approved plans	No planning permission	s.215 (untidy land)	TPO
2012	33	43	32	47	41	30	55	119	30	4
2013	52	39	31	25	25	20	66	129	32	14
2014	49	43	35	37	37	31	55	122	21	8
2015	76	30	32	27	27	26	63	92	16	15
2016	48	34	27	34	34	20	77	124	18	10
2017	38	46	35	24	24	22	88	151	15	7
2018	71	40	21	26	26	22	107	140	19	12
2019	77	44	26	31	31	39	77	119	11	18
2020	43	36	15	14	14	17	79	173	14	22
2021	20	57	12	19	15	12	75	167	10	14

7. It should be noted that the above table does not include all case types, just those that occur the most frequently, which represent approximately 90% of all cases received. Furthermore, there is a case type 'Multiple Breach', which are not recorded in the above table, but which may include additional examples of the case types recorded in the table.
8. Planning Enforcement cases are given three levels of Priority, with level 1 being the highest and level 3 the lowest. Listed Building and TPO cases would typically (though not always) be given a Priority 1 status. From the table above it can be seen that these cases amount to around 35 cases per year (though this dropped to 26 last year). It is worth noting that priority 1 cases can be resource intensive due to the requirement to visit the site within 24 hours and the potential for a crime to have been committed.
9. In terms of formal action, i.e. the service of a Notice, it is worth noting that the first Enforcement Quarterly Report (July 2017) listed 38 cases where formal action was currently being taken. This compares to the 42 in the April 2022 edition, demonstrating that there is currently some additional work required of the team dealing with formal action, whether this be defending an appeal against a Notice, trying to secure voluntary compliance, or prosecuting / considering prosecution for non-compliance.
10. The Planning Enforcement service has consistently taken robust action where it is proportionate to the level of harm being caused by the breach of planning control and where it is expedient to do so. In respect of the particular Notice type, it is worth noting the fluctuation in Enforcement Notices, as well as the recent trend for an increased use of Temporary Stop Notices. The following table details the formal Notices that have been served from 2013 to 2021.

	Enforcement Notice	Listed Building Enforcement Notice	Stop Notice	Temporary Stop Notice	Breach of Condition Notice	s.215 Notice	TOTAL
2013	13	0	0	0	0	3	16
2014	6	0	0	0	0	0	6
2015	9	0	1	0	2	2	14
2016	12	1	1	1	2	3	20
2017	16	2	1	2	1	4	26
2018	4	2	1	3	0	4	14
2019	13	2	0	5	1	2	23
2020	12	2	1	7	3	2	27
2021	13	1	1	5	0	1	21
TOTAL	98	10	6	23	9	21	167

11. It is not possible for the recipient of a Stop Notice, a Temporary Stop Notice, a Breach of Condition Notice or a s.215 (untidy land) Notice to appeal – these, however, can be challenged in the Courts. Conversely, Enforcement Notices and Listed Building Notices can be, and are very often, appealed. This creates an issue for the Planning Enforcement Service in that it is necessary to take formal action against serious breaches of planning control, yet this has significant implications on the workload within the service, in terms of firstly defending any appeal, and then secondly trying to secure compliance once a Notice has taken effect. The following table provides details of the number of such appeals in the last 10 years.

YEAR	No. EN / LBEN APPEALS
2012	3
2013	6
2014	4
2015	6
2016	8
2017	10
2018	5
2019	10
2020	13
2021	5
AVERAGE	7

12. It is worth noting that the Development Management team as a whole received 72 appeals in 2020 and therefore nearly one in five appeal cases in that year were dealt with by Planning Enforcement. Last year (2021) the Development Management team as a whole received 67 appeals, meaning that approximately one in 13 appeals were dealt with by Planning Enforcement.

Part 2: Planning Enforcement at DBC – how it currently stands

13. Planning Enforcement is a service within the Development Management, led by Philip Stanley (interim Head of Service until August 2023), and within the Specialist Services Team, led by Neil Robertson. Development Management itself sits within the Place Directorship with James Doe as Strategic Director and Alex Robinson as Assistant Director. The service, in essence, deals with breaches of planning controls through a variety of mechanisms ranging from 'take no action' to 'invite retrospective planning application' to 'serve formal notice'. The route chosen depends on the severity of the harm caused by the breach and the expediency of the Council taking action in that matter.
14. The last 12 months have been a challenging period for Planning Enforcement, personnel wise. The Assistant Team Leader Planning Enforcement leads the day-to-day running of the Planning Enforcement service, in terms of allocating and signing off enforcement cases, the preparation of formal Notices, and dealing with all appeals. Unfortunately, Olivia Stapleford, who was in this role, left the Council at the end of August 2021. Since then, despite three rounds of recruitment, the service has been unable to fill this post on a permanent basis. The post has been filled in part with Agency staff. Firstly, Julian Thomas was in this role from the end of September 2021 until 17 February 2022. Currently Frank Whitley is in this role, having joined the team on 09 May 2022. This means that the team were without a 'head of Enforcement' for one month in 2021 and nearly 3 months in 2022.
15. The service also has two permanent Planning Enforcement Officers, who undertake the investigative work required in enforcement cases and who make recommendations within their reports. One of these Officers, Steve Hall, also left the Council in August 2021. His post was taken on a permanent basis by Caroline Durrant, who was previously employed on a one-year contract basis. The second permanent Planning Enforcement Officer is Cora Watson. Despite efforts to recruit a further one-year Planning Enforcement Officer, this post has remained unfilled since September 2021. An Agency Enforcement Officer was employed for two months at the end of 2021, who unfortunately had to be let go due to poor performance.
16. Neil Robertson, Team Leader Specialist Services, whilst not having day-to-day involvement in enforcement casework, leads the strategic direction of the service.

17. The Planning Enforcement Service up to the end of 2019 had a dedicated Technical Assistant, who dealt with the setting up of enforcement cases, the upkeep of the Planning Enforcement Register, Land Registry queries, and general Enforcement Officer support. This role was merged with the overall technical planning support in the Business Support team, and the same level of technical enforcement support is being provided in this new arrangement.
18. The service currently (as of 24 June 2022) has 466 live enforcement cases (i.e. cases received but not yet closed). Unsurprisingly, the number of live enforcement cases increases substantially the more recent the year the case was received. For example, there are 19 live enforcement cases in the years up to and including 2014, but 130 live enforcement cases received. 68% of current enforcement caseload relate to cases received since 01 January 2020. The full break down by year is as follows:

YEAR RECEIVED	LIVE CASES (as of 24.06.22)
Pre-2010	6
2011	2
2012	3
2013	3
2014	5
2015	11
2016	13
2017	21
2018	23
2019	62
2020	91
2021	130
2022	98
TOTAL	468

19. The above table also demonstrates that enforcement cases vary hugely in their complexity. Whilst some cases can be received and closed very quickly (in a matter of days or a couple of weeks), other cases can remain 'on our books' for a considerable number of years. The older cases will almost represent enforcement matters where formal action was undertaken (such as the service of an Enforcement Notice), but where securing compliance (such as meeting the requirements of a Notice) has proved difficult and / or complicated. It can take years, for example, to go through the Courts, if an offender is absolute resolute in their efforts not to comply with an Enforcement Notice. Such cases are very resource intensive and therefore the team (bearing in mind that new cases are coming in each month) have difficulties in finding the resources to deal with all older cases.
20. The service currently has 42 live enforcement cases where formal action has been taken and where full compliance has not yet been secured (as shown in the April 2022 Planning Enforcement Quarterly Report). These can be broken down by formal action taken as follows:

FORMAL ACTION TAKEN	LIVE CASES
Enforcement Notice	31
Listed Building Enforcement Notice	6
Stop Notice	1
Temporary Stop Notices	0
s.215 Notices	2
Breach of Condition Notices	2
TOTAL	42

21. It is worth noting that the total number of live cases where formal action has been taken represents approximately 10% of our live caseload. The other 90% will be at various stages of investigation, such as:
- A brand new case – site visit not yet undertaken.
 - Site visit undertaken – no breach or not expedient to take action – need to write up report / manager needs to sign-off report and close case.
 - Further information required – serve Planning Contravention Notice, discussions with other departments/external bodies, internet/Google Maps research, etc.
 - Retrospective planning application invited – waiting for submission / waiting for determination of application (and potentially subsequent appeal).
 - Breach has been resolved - need to write up report / manager needs to sign-off report and close case.
 - Formal Notice is being prepared, potentially in conjunction with Legal.
22. The Planning Enforcement service works primarily within the legislation of the Town and Country Planning Act 1990 and the Listed Buildings and Conservation Areas Act 1990, national policy within the National Planning Policy Framework (NPPF) and local planning policy in the Core Strategy (2013) and the Local Plan (1991-2011).
23. The actions of the Planning Enforcement service are further guided by its Local Enforcement Plan (LEP), which has recently been completely re-written and was adopted by the Council in November 2019. The LEP provides an up to date analysis of the planning enforcement tools at the team's disposal, and details its core principles when deciding to use them, and how the respective parties are engaged in the enforcement process. It also outlines the planning enforcement's priorities and its approach to proactive enforcement action. The LEP can be accessed following this link: http://www.dacorum.gov.uk/docs/default-source/planning-development/local-enforcement-plan.pdf?sfvrsn=7f37eb9f_8
24. A majority of planning enforcement cases are dealt with on a reactive basis, i.e. an investigation will commence after we have received a report of an alleged breach of planning control. However, this LEP acknowledges that there are some 'hot topics' or 'problem areas' where the team's resources can be focused to make the maximum impact.
25. As such, Section 9 of the LEP introduced 'Priorities and Projects'. This section will be reviewed on an annual basis to take into account changing priorities, as well as the overall resources of the Planning Enforcement team at that time. For the current year of this document (i.e. 2022), the LEP is prioritising Enforcement cases received in the years 2012, 2013, 2018 and 2019.

Part 3: Planning Enforcement at DBC – Performance over the past 12 months

26. For the purpose of this section of the report the last 12 months is taken to be the period 01 June 2021 to 31 May 2022, unless otherwise stated.
27. In the past 12 months, exactly 415 cases have been received by Planning Enforcement. During this period 578 cases were closed. As such the team have 129 less cases on their books overall at the end of this period than at the start. It must be reiterated that this great result has been achieved in spite of the retention and recruitment of staff described earlier in the report. The following table provides a monthly breakdown of cases received and cases closed:

	TOTAL		
	Rec'd	Dec'd	Difference
Jun-21	62	64	-2
Jul-21	50	57	-7
Aug-21	26	61	-35
Sep-21	34	47	-13
Oct-21	29	47	-18
Nov-21	26	53	-27
Dec-21	28	30	-2
Jan-22	34	34	0
Feb-22	28	36	-8
Mar-22	36	18	18
Apr-22	34	33	1
May-22	28	64	-36
TOTAL	415	544	-129

28. As can be seen from the above table the number of planning enforcement cases received by the team fluctuates each month, ranging from 26 to 62. New cases will require site visits and actions following those site visits, thereby taking up time to deal with and close older cases.
29. The number of cases being closed also fluctuates considerably. This is principally a reflection of the staff capacity at that time. For example, it is unsurprising that the number of enforcement cases closed in March and April 2022 dropped as this coincided with the period when the team were without an Assistant Team Leader. Overall, there were only two months when the team received more new cases than they closed. This result has been achieved due to the focus and change of approach arising from The 400 Plan, which is detailed later in this report.
30. In terms of the cases decided, the reason for closing a case can be broadly split into four main categories.
31. Firstly, there are cases where no further action was required at all because it was established there was no breach. This could be because, for example, the development being complained about had not occurred or was not 'development' in planning terms, or because the development was being carried out in accordance with the approved plans. In the past year this represents just over 30% of all case closures.
32. Secondly, there are cases which whilst being a breach of planning control, Planning Enforcement can take no action because the development has become lawful over the passage of time (benefiting from the 4 and 10 year timescales in which formal enforcement action must be commenced). In the past year this represents 4% of all case closures.
33. Thirdly, there are cases where it was concluded that a breach of planning controls had occurred, but it was concluded that the breach was of a minor nature so as not to cause any harm. In such cases it was not expedient to use further resources dealing with such matters. Also within this category can be placed examples where the team has taken action and there has been a resolution to some or all of the breaches, not to a level to completely resolve the breach, but down to a point where any harm caused would be minimal and therefore not expedient to take further action. In the past year this represents just over a quarter of all case closures.
34. Fourthly, there are cases where it was concluded that a breach of planning controls had occurred, and through the action of the Planning Enforcement team the breach had been resolved. This can take several forms. For example, the home or landowner may have resolved the breach voluntarily at the request of the Planning Enforcement Officer. Or, a planning application may have granted retrospective permission for

the development. Or, a formal notice may have been served that led to the development being removed or ceasing. In the past year this represents 26% of all case closures.

35. The full break down of case closures is as follows:

REASON FOR CASE CLOSURE	No. CASES	% CASES
No breach	167	31
Lawful over time	22	4
Not expedient to take action / further action	135	25
Breach resolved	143	26
Other	77	14
TOTAL	544	100

36. Corporately, the performance of the Planning Enforcement service is measured quarterly in how quickly a Planning Enforcement Officer first visits a site upon the receipt of a complaint / allegation. For Priority 1 cases the target is within 1 working day, for Priority 2 cases it is within 10 working days, and for Priority 3 cases it is within 15 working days. In all cases, the target is that 100% of site visits are completed within their respective timescales.

37. The table below provides the performance figures for the previous four quarters (representing the 2020/21 financial year). From these figures, it can be seen that the Planning Enforcement service failed to meet the 100% first site visit target across all quarters, except on one solitary measure.

	2021/2022							
	Q1		Q2		Q3		Q4	
	Cases in time	% in time	Cases in time	% in time	Cases in time	% in time	Cases in time	% in time
PEO 1	4/7	57.14	3/6	50	1/1	100	3/4	75
PEO 2	28/61	45.9	15/30	50	29/51	56.9	55/73	75.3
PEO 3	70/109	64.2	47/107	43.9	3/23	13	13/16	81.25

38. There are three main reasons for the Planning Enforcement team failing to hit these performance targets over the past year.

39. Firstly, the Covid-19 pandemic led to a couple of national lockdowns and other restrictions that made site visits much more difficult. In the initial weeks of the lockdown site visits were virtually all curtailed. Subsequently, it became possible to undertake site visits where we could guarantee no social contact. These restrictions curtailed unannounced site visits (which is a key part of investigating change of use breaches of planning control) and preventing site visits completely when an owner claims health issues. As the restrictions were lifted the team began to undertake site visits that could take externally. Finally the team were able undertake all types of site visits again. The overall result of this was a large backlog of site visits required (first site visits and compliance site visits), which the team have been endeavouring to go through over the past 12 months.

40. Secondly, as discussed above there has been considerable staff movement over the past 12 months for such a small team. Two departing Officers in particular, Steve Hall and the non-performing Agency staff member, left the Authority with large outstanding caseloads. This included several cases not even started. Therefore, when these cases were picked up by a new Enforcement Officer and the site visited, they were already 'late'.

41. Thirdly, as the team began to pick up site visits for the two reasons stated above, this has begun to be reflected in the first site visit statistics. In other words, as the team visit sites they previously could not access or which had not been visited, this triggers a first site visit date, which is beyond the 1, 10 and 15

day targets described above. The figures do not distinguish between how quickly new cases are visited and how quickly cases from last year are visited – they are merged into the figures seen in the table above.

42. The Annual Enforcement Performance Report that was written last year stated, “*Therefore, as the team continues to work its way through the outstanding site visits, the first site visit performance figures look, and are anticipated to look for this financial year, poor*”. This has indeed been the case. However, it is worth noting that the first site visit performances are improving with a considerably better performance in Q4 of the financial year 2021/22.
43. In addition, it must be recognised that the speed in undertaking a first site visit is only one way the performance of the Planning Enforcement team can be assessed. It is considered that, from a ‘customer’ perspective, whilst how quickly an Enforcement Officer goes out on site is important, they are likely to be more concerned on how quickly a case reaches a resolution. As such, there are times when the drafting of a formal notice, for example, takes priority over visiting a site.
44. It is certainly true that the Planning Enforcement service have been very busy in the past 12 months in terms of taking formal action, and dealing with the large appeal caseload than inevitably results.
45. In the past 12 months Planning Enforcement have served 15 formal notices, consisting of 10 Enforcement Notices, 3 Stop (or Temporary Stop) Notices and 1 Listed Building Enforcement Notice and 1 s.215 Notice. (I would add that a further Enforcement Notice has been served so far in June this year).
46. Central government provide annual Enforcement activity statistics and, as can be seen from the table below, the amount of formal enforcement work completed at Dacorum in the financial year 2021/22 was the highest in Hertfordshire. Indeed Dacorum is considerably above all other Hertfordshire local authorities in this measure.
47. Even when considering Unitary Authorities, which typically have larger geographic areas and /or higher population numbers, the formal Enforcement action undertaken by Dacorum exceeds that completed in Central Beds and in Milton Keynes. Only Bucks has served more Notices than Dacorum.

	<i>Enforcement Notice</i>	<i>Stop Notice</i>	<i>Temporary Stop Notice</i>	<i>Breach of Condition Notice</i>	<i>TOTAL</i>
Broxbourne	4	0	4	0	8
Dacorum	13	1	3	0	17
East Herts	4	0	1	2	7
Hertsmere	2	0	2	0	4
North Herts	2	0	0	0	2
St. Albans	3	0	0	0	3
Stevenage	0	0	0	0	0
Three Rivers	6	0	0	2	8
Watford	8	0	0	2	10
Bucks	80	0	3	47	130
Central Beds	7	1	3	2	13
Milton Keynes	4	1	0	0	5

48. Enforcement Notices are often challenged and therefore a busy Planning Enforcement team in terms of serving formal notices will have the knock-on consequences of having to deal with a significant appeal caseload.
49. In the last 12 months, Planning Enforcement have had to defend 5 appeals against Enforcement Notices / Listed Building Enforcement Notices, which is very resource intensive work. In particular, Planning Enforcement have been involved in a number of tricky sites such as land east of Watling Girth, Markyate, land at Church Road, Little Gaddesden and land at Cupid End Lane (near Gaddesden Row).
50. In terms of appeal performance in the past 12 months this has shown a dip in performance in that 50% of all enforcement appeal decisions were allowed:
- 2 appeals were dismissed
 - 4 were allowed
 - 2 were withdrawn.
51. In addition to the above, the Planning Enforcement team have secured a High Court Injunction (and then subsequently two extensions to this Injunction) to prevent development at the site of concern at Land at Church Road, Little Gaddesden.
52. Unsurprisingly, given the vacancies within the team during the past 12 months, the team have not been able to undertake any prosecution proceedings. However, as an alternative to prosecution the team did take Direct Action in the past 12 months to secure compliance with a s.215 'untidy land' Notice in Hemel Hempstead.

Part 4: Planning Enforcement Audit – March 2022

53. At the beginning of 2022, the Planning Enforcement service was externally audited with the final report published in March 2022.
54. The overall assessment was "Limited Assurance", which is described in the report as, "*The system of internal controls is generally inadequate or not operating effectively and significant improvements are required to ensure that risks are managed and process objectives received*".
55. The 'Key Strategic Findings' were as follows:

The Council has a comprehensive Local Enforcement Plan in place, this could be enhanced by including reference to the monitoring and review processes that are already in place. Furthermore, the Plan has not been subject to [the 2022] annual review and updates, as set out in the Plan, and formal Portfolio Holder approval for the [original 2019] Plan could not be located at the time of the audit.

The Council has made progress in reducing case numbers (both current and old), however, the service is consistently failing to meet the key performance indicators, as set out in the Plan and sample testing identified cases (old and new) with no apparent ongoing action.

The service has experienced significant staffing issues (staff turnover and reliance on Agency staff). The risks associated with this have not been identified and recoded in the Council's risk registers. The use of Agency staff has also resulted in increased expenditure over and above the budget.

Whilst new cases reported are allocated to existing team members, there are a significant number of previous cases that are allocated to individuals who no longer work for the Council or hold different positions.

56. The following elements of 'Good Practice' were recognised:

The number of open cases has reduced from 621 in March 2021 to 482 at the time of this review, within this there had been significant improvement in the number of 'old' cases remaining outstanding. This reduction has been achieved despite significant staffing changes/challenges within the department.

The Council has developed a 'harm level' assessment to support case prioritisation and action, this helps to ensure those cases that would cause the most harm if not addressed are actioned.

57. There were no fundamental control issues on which immediate action was needed. However, there were 8 'important' control issues, requiring action at the earliest opportunity and 5 'routine' control issues that require action. **Appendix A**, attached to this report, provides a list of all 13 control actions and what actions have already been taken in response.

58. Overall, therefore, the Planning Enforcement Audit recognised the good work that had already taken place to deal with rising case numbers.

59. It has simply not been possible for the Enforcement team to deal with the following simultaneously:

- Visiting and investigating all new cases coming in.
- Wrapping up cases that have been recently received.
- Unblocking / moving forward complex older cases.
- Taking formal action, e.g. serving an Enforcement Notice, where required.
- Ensuring compliance where Notices have been served.
- Commencing prosecution proceedings in the most harmful cases, where it would be in the public interest to do so.

60. As such, the desire of the Planning Enforcement Audit to work continuously on an entire live caseload of (currently) 468 enforcement cases at the same time is not realistic. This is why the '400 Plan' in 2021 provided a Case Type focus, so that over the course of 12 months all cases would be re-visited.

61. In addition, the Local Enforcement Plan has been updated to show that the priority for 2022 is the review, and ultimately closure, of cases received in 2011, 2012, 2018 and 2019. These cases may be subject to immunity deadlines. In other words, if the Council does not take action within 4 years (in respect of a building operation) and 10 years (in respect of a material change of use), then the breaches would then become unenforceable due to the passage of time.

Part 5: The '400 Plan' Update

62. The Planning Enforcement Service is a very busy team that is finding its workload, both in terms of enforcement cases and dealing with formal Notices, on the increase.

63. The Planning Enforcement Service has to balance the competing demands of undertaking the first site visit of a new case within the corporate performance timescales, ensuring that current cases reach a conclusion (and formal action is taken where required), and attempting to close historic cases. This balance has become increasingly difficult to perform for a number of reasons that were reported to SPEOSC in July 2020, summarised as follows:

- Resource shortfalls during periods of staff leaving / recruitment.

- The impact of the Covid-19 pandemic on site visits, appeals, serving of and timescales within Notices, and securing compliance.
64. As stated earlier in the report, live caseload had been increasing since 2014 to the point that it was at an unsustainable level. The large and increasing live caseload has had a number of other important implications, also reported to SPEOSC in July 2020, summarised as follows:
- Increasing the 'expediency bar', i.e. closing cases where the breach of planning controls is not considered sufficiently harmful to warrant further action.
 - Difficulties with dealing with criminal offences / prosecutions, which are very resource intensive.
 - Difficulties with dealing with a rise in case resulting from the new trends of land / woodland subdivision and the creation of HMOs (houses in multiple occupation).
65. It was accepted that the increasing number of live enforcement cases would only continue if we continue with business as usual. A high caseload has the following negative implications:
- Cases take longer to be initially looked and to reach a conclusion.
 - Elements of a case can be missed when there is so much on our plates.
 - No slack to allow for prosecutions.
 - Low staff wellbeing.
 - Lower job satisfaction - feeling like one is not able to do as good a job as one would like.
 - Increasing amount of 'failure demand' type e-mails, i.e. where a customer chases for an update, or complains about the service being provided.
66. To deal with these issues and pressures on the Planning Enforcement service, the department undertook a review of the service. This analysed in detail the following (but not limited to) measures: work in progress; the length of time taken to deal with particular tasks; the way we correspond and update neighbours and offenders; and increased use of templates and automated e-mails.
67. Fundamentally, in order to overcome these issues, it was deemed critical that live caseload be reduced back to pre-2014 levels. Ultimately, this work led to the formation of the '400 Plan – a targeted approach to reduce live caseload in Planning Enforcement'.
68. The 400 Plan represented a complete overhaul of the way in which Planning Enforcement team dealt with enforcement cases, with the core objective of reducing live caseload from more than 600 to 400 by the end of 2021/22 financial year. The strategy underpinning The 400 Plan includes:
- An emphasis on getting cases through the system quicker, especially for cases where there is no breach of planning rules or no harm caused by the breach.
 - Splitting 'old' cases, i.e. those received before 01 April 2021, into more manageable chunks by having dedicated periods to focus on dedicated case types, as opposed to trying to manage the entirety of a large caseload all at the same time.
 - Bolstering the capacity of the Enforcement team, through the recruitment of an additional Planning Enforcement Officer, on a one-year contract.
 - The introduction of a 'Structured Week', whereby the Enforcement Officers have specific allocated times in their calendars in which to complete key tasks, such as site visits, writing up reports, corresponding with alleged offenders and complainants.
 - Streamlining communication channels, such as providing additional guidance to the Customer Service Unit, introducing automated update templates, and directing new complaints to be lodged via the webform on the planning enforcement pages on the Council's website.

69. The 400 Plan has had the desired effect in that it has significantly reduced live caseload within the team. On 23 June 2021 the Enforcement team had 613 enforcement cases on their books. Over the course of the past 12 months this has reduced by 145 to 468 cases. This is a great achievement by the team, but must be tempered by the following factors:

- In 2021, the team received 60 fewer Enforcement cases than the 10-year average. Therefore, a proportion of the overall reduction will be a result of receiving fewer new cases than normal.
- The team did not hit the 400 live caseload figure. However, this is not unexpected taking into account the vacant Assistant Team Leader post for extended periods and not gaining the additional Enforcement officer resource since September 2021.

YEAR	LIVE CASES (as of 24.06.22)	LIVE CASES (as of 23.06.21)
Pre-2010	6	8
2011	2	3
2012	3	6
2013	3	3
2014	5	6
2015	11	15
2016	13	26
2017	21	27
2018	23	51
2019	62	103
2020	91	197
2021	130	168
2022	98	-
TOTAL	468	613

70. Overall, the 400 Plan is a very important first phase of a detailed analysis and review of the Planning Enforcement service. This work is ongoing with the ultimate aim of reducing live caseload to 300 cases, freeing up Officer time to focus their energies on responding promptly and robustly to the matters causing the most harm.

3 Options and alternatives considered

This report is primarily an update on the performance, activities, and achievements of the Planning Enforcement service. In that sense, 'options and alternatives' are not applicable.

The report also comments on the focus of the service for the remainder of 2022. The focus on enforcement cases received in 2011, 2012, 2018 and 2019 was agreed by Development Management Committee and is now incorporated into the 2022 Local Enforcement Plan.

4 Consultation

N/A

5 Financial and value for money implications

The Planning Enforcement service has had to recruit more expensive Agency staff to fill the vacant Assistant Team Leader position. However, any financial implications are currently off-set by not filling the 1-year Planning Enforcement Officer position.

6 Legal Implications

There are no legal implications arising from this report.

7 Risk implications

Please refer to Appendix 1 of this report for a detailed analysis of the 'control' measures highlighted by the March 2022 Planning Enforcement Audit and the Planning Enforcement service's response and actions taken.

The principal risk implication, to delivering an effective and timely planning enforcement service, is the retention and recruitment of staff, particularly experienced staff, which is discussed elsewhere within this report.

8 Equalities, Community Impact and Human Rights

Equalities / Community Impact Assessments have not been reviewed/carried out, as this report is an update on the performance, activities, and achievements of the Planning Enforcement service in the past 12 months.

There are no Human Rights Implications arising from this report.

Any decision whether or not to take formal action in respect of a breach of planning control will need to consider carefully the provisions of the European Convention on Human Rights.

9 Sustainability implications (including climate change, health and wellbeing, community safety)

There are no Sustainability Implications arising from this report.

10 Council infrastructure (including Health and Safety, HR/OD, assets and other resources)

There are no other above-standard implications on Council infrastructure arising from this report.

11 Conclusions

The Planning Enforcement service has made great strides in reducing live caseload in the past 12 months. The actions and changes to working practices arising from The 400 Plan, together with a notable drop in new cases received in this period, has enabled the team to close 129 more enforcement cases than they received.

The Planning Enforcement service have also continued to take formal action where required and lead, by some margin, a comparison of Notices served with other Hertfordshire local planning authorities.

These excellent results were achieved despite the significant staffing challenges that the team has faced over the past 12 months and the vacancies that still exist. Moving forward, it is very important that the service fills its vacant positions (Assistant Team Leader and 1 year Planning Enforcement Officer) so that the team can continue to reduce live caseload.

It is recognised that the March 2022 external audit of Planning Enforcement highlighted some 'control' deficiencies. These have already been, or are in the process of being, addressed.

It is not realistic to expect the Planning Enforcement service to deal with its entire live caseload continuously and simultaneously. The team will therefore, throughout the rest of 2022, continue to prioritise new cases by virtue of its harm level and older cases for those where the period of immunity is approaching.

The Planning Enforcement service strives to improve its efficiency and efficacy in order to continue to play a key role in the attractive and sustainable place making of this Borough.