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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 2023)
Date:	27.06.23
Report on behalf of:	Councillor Wilkie, Portfolio Holder for Place
Part:	I
If Part II, reason:	N/A
Background papers:	Local Enforcement Plan (2023) Planning Enforcement Quarterly Report – April 2023.
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

Report Author:

Philip Stanley, Head of Development Management



philip.stanley@dacorum.gov.uk / 01442 228579 (ext. 2579)

Responsible Officer: Simon Rowberry, Interim Assistant Director (Planning)

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:	1. To provide an update on the planning enforcement service, summarising its trends, performance over the past 12 months, and its approach moving forward.
Recommendation (s) to the decision maker (s):	1. Report to be noted by the Committee.
Period for post policy/project review:	The actions and achievements of the planning enforcement service for 2023 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 300 Plan'.

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: Key Performance Indicators

Part 5: The '300 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 496 ten-year average. This is contrast to the cases received in 2013 and 2020-2022 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. However, it has become clear that temporary Principal Planning Enforcement Officers did not create cases in all circumstances when work was done in 2021 and the first half of 2022, thereby accounting for a proportion in the fall in case numbers being received. The following table provides a list of enforcement cases received per year in the last 10 years:

YEAR	No. CASES RECEIVED
2013	473
2014	514
2015	508
2016	510
2017	538
2018	581
2019	531
2020	481
2021	451
2022	375
AVERAGE	496

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
2013	468
2014	481
2015	380
2016	519
2017	499
2018	541
2019	483
2020	460
2021	552
2022	449
AVERAGE	483

3. There is still a significant 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
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	552	-101
2022	375	449	-74
TOTAL	4,962	4,832	130

4. 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.
5. 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 2021 the sharp increase in closures was due to a focus of reducing historic enforcement cases, which no longer required any further action, i.e. the less complex cases.
6. Looking at the breakdown of live caseload, it can be seen that efforts over the past couple of years has reduced historic caseload, as well as the overall caseload.

YEAR	LIVE CASES (Jun 23)	LIVE CASES (Jun 22)	LIVE CASES (Jun 21)
Pre-2010	5	6	8
2011	1	2	3
2012	0	3	6
2013	0	3	3
2014	4	5	6
2015	10	11	15
2016	9	13	26
2017	13	21	27
2018	12	23	51
2019	21	62	103
2020	34	91	197
2021	69	130	168
2022	77	98	-
2023	145	-	-
TOTAL	401	468	613

7. In terms of the type of planning enforcement cases received in the last 10 years, there are a couple of trends that can be picked out. Firstly, the amount of cases the service has received regarding adverts and

Estate Agent boards 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 2013 and 2022 of the number of cases received by the most significant case types (with the top three case types for each year highlighted in red):

	<i>Advert</i>	<i>Breach of Condition</i>	<i>Change of Use of building</i>	<i>Change of Use of land</i>	<i>Estate Agent Board</i>	<i>Listed Building</i>	<i>Not in accordance with approved plans</i>	<i>No planning permission</i>	<i>s.215 (untidy land)</i>	<i>TPO</i>
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
2022	44	32	17	21	0	26	64	100	11	8

8. 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.
9. 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 amount to around 35 cases per year (and 2022 can be seen as a typical year in that respect). 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.
10. In terms of formal action, i.e. the service of a Notice, the Enforcement quarterly update which was started in April 2017 had 38 Notices. It is interesting to note that, after a few years of having higher numbers, we had once again reached 38 in the April 2023 edition. In other words the amount of live formal action work has returned to 2017 levels. However, this is still a high active formal action number and demonstrates that there is 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.
11. It is noted that the amount of formal action dropped in 2022, largely due to having either no or a temporary Principal Planning Enforcement Officer in place. However, please also note (later in this report) the performance of the team in this regard since the appointment of a permanent Principal Planning Enforcement Officer in November 2022.
12. Overall, 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. The following table details the formal Notices that have been served from 2013 to 2022.

	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
2022	9	0	0	1	0	0	10
TOTAL	107	10	6	24	9	21	177

13. 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
2013	6
2014	4
2015	6
2016	8
2017	10
2018	5
2019	10
2020	13
2021	5
2022	3
AVERAGE	7

14. 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 (2022) the Development Management team as a whole received 70 appeals of which enforcement were 3 of those.

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

15. 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 Simon Rowberry as (interim 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.
16. The last 12 months have continued to be a challenging period for Planning Enforcement, personnel wise.
17. The Assistant Team Leader Planning Enforcement (now known as Principal Planning Enforcement Officer) 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. The permanent post had been vacant since Olivia Stapleford's left the authority at the end of August 2021 and the post was filled with agency staff (the last of whom was Frank Whitley who was with us from 09 May 2022 until November 2022). After a successful recruitment campaign we managed to fill the permanent post with Kyle Dalton who has been with us since 12 December 2022.
18. 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, Cora Watson retired at the end of January 2023. This vacant position proved to be difficult to recruit into – certainly no candidates had any prior planning enforcement experience. The initial candidate who was offered the position unfortunately left on the second day after concluding that this was not the role for her. We have since recruited Muhammad Zia on a permanent basis. Although demonstrating considerable promise, as planning and planning enforcement are new, he will require further intensive training for a period of at least six months, which will have a consequential knock on effect on other resources within the team. Finally, in terms of Planning Enforcement Officers, we did secure an additional six month role from November 2022 to May 2023; however, the post holder did not provide the additional capacity hoped for due to their poor performance.
19. Neil Robertson, Team Leader Specialist Services, whilst not having day-to-day involvement in enforcement casework, leads the strategic direction of the service.
20. 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.
21. The service currently (as of 27 June 2023) has 401 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 20 live enforcement cases in the years up to and including 2015, but 145 live enforcement cases received in this year to date. 72% of current enforcement caseload relate to cases received since 01 January 2021. The full break down by year is as follows:

YEAR RECEIVED	LIVE CASES (as of 27.06.23)
Pre-2010	5
2011	1
2012	0
2013	0
2014	4
2015	10
2016	9
2017	13
2018	12
2019	21
2020	34
2021	69
2022	77
2023	145
TOTAL	401

22. 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.

23. The service currently has 38 live enforcement cases where formal action has been taken and where full compliance has not yet been secured (as shown in the April 2023 Planning Enforcement Quarterly Report). These can be broken down by formal action taken as follows:

FORMAL ACTION TAKEN	LIVE
Enforcement Notice	29
Listed Building Enforcement Notice	6
Stop Notice	0
Temporary Stop Notices	1
s.215 Notices	0
Breach of Condition Notices	2
TOTAL	38

24. 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.

25. 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).
26. The actions of the Planning Enforcement service are further guided by its Local Enforcement Plan (LEP), with the current version published in March 2023. 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
27. 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.
28. As such, Section 9 of the LEP introduced ‘Priorities and Projects’. This section is 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. 2023), the LEP is prioritising a review (and appropriate action taken against) A-board along Berkhamsted High street, Enforcement cases received prior to 2016 (and still open) to be reduced by half, and the 2020 case figure reduced by half. The figures for the current project is exceeding with regard to cases open from 2020 but more work is required to bring figures prior 2016 down, as the table below demonstrates.

	Open Cases received prior to 2016	Open cases received in 2020
No. as of Jan-23	22	73
No. as of Jun-23	20	34

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

29. For the purpose of this section of the report the last 12 months is taken to be the period 01 June 2022 to 31 May 2023, unless otherwise stated.
30. In the past 12 months, exactly 430 cases have been received by Planning Enforcement. During this period 479 cases were closed. As such, the team have 49 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 difficulties 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-22	37	52	-15
Jul-22	28	34	-6
Aug-22	24	55	-31
Sep-22	33	30	3
Oct-22	26	49	-23
Nov-22	26	32	-6
Dec-22	34	12	22
Jan-23	36	68	-32
Feb-23	59	23	36
Mar-23	48	53	-5
Apr-23	53	57	-4
May-23	48	44	4
TOTAL	452	509	-57

31. As can be seen from the above table the number of planning enforcement cases received by the team fluctuates each month, ranging from 5 to 59. New cases will require site visits and actions following those site visits, thereby taking up the time needed to deal with and close older cases.
32. 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 December 22 dropped as that month coincided with a staffing change (with the appointment of the permanent Principal Planning Enforcement Officer), and also in February 2023 as this coincided with the Principal Planning Enforcement Officer’s Paternity Leave. Overall, there were four 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. This is to be followed up with ‘The 300 Plan’ detailed later in this report.
33. In terms of the cases decided, the reason for closing a case can be broadly split into four main categories.
34. 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 21.1% of all case closures.
35. 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 2.9% of all case closures.

36. 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 would any harmed 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.

37. 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 48.8% of all case closures.

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

REASON FOR CASE CLOSURE	No. CASES	% CASES
No breach	120	23.1
Lawful over time	17	3.2
Not expedient to take action / further action	150	28.9
Breach resolved	123	23.7
Other	108	20.8
TOTAL	518	100

39. 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.

40. The table below provides the performance figures for the previous four quarters (representing the 2022/23 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.

	2022/2023							
	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	3/3	100	9/10	90	NA	NA	7/17	41.18
PEO 2	40/54	74.07	20/30	66.67	NA	NA	48/60	80
PEO 3	33/40	82.5	28/38	73.68	NA	NA	48/52	92.31

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

42. Firstly, as discussed above there has been considerable staff movement over the past 18 months for such a small team. Departing Officers have left large unresolved caseloads (including cases where no site visit had been undertaken). Therefore, when these cases were picked up by a new Planning Enforcement Officer and the site visited, they were already 'late'.

43. Secondly since March 2023, due to these resourcing issues, we had to take extra measures and create a separate backlog batch of cases. This batch includes all the cases left over from Officers who had left the council, but not yet reallocated, and new cases not yet allocated. In both circumstances the cases have been triaged to ensure that there were no cases causing significant immediate harm or were close to enforcement immunity through the passage of time, added to this batch. This backlog is currently being worked through and allocated as we obtain more capacity within the team. The consequence of this approach, however, is that some cases are already 'late' by the time they are allocated.
44. Thirdly, as described elsewhere in this report the Planning Enforcement team have had a focus on taking formal enforcement action, i.e. serving Enforcement Notices, over the past 6 months. The focus on dealing with these more complex (and harmful) cases has been at the expense of undertaking the first site visit for new (and not necessarily harmful) cases.
45. 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.
46. 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 that inevitably results.
47. In the past 12 months Planning Enforcement have served 28 formal notices, consisting of 20 Enforcement Notices, 2 Stop (or Temporary Stop) Notices and 2 Breach of Condition notices and 4 s.215 Notice.
48. The Department for Levelling Up, Housing and Communities (DLUHC) provide annual Enforcement activity statistics. As can be seen from the table below, the amount of formal enforcement work completed at Dacorum in the financial year 2022/23 is above all other Hertfordshire local authorities (for the second year running).
49. 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 Milton Keynes, and is considerably higher than Central Beds, if Temporary Stop Notices are excluded.

	<i>Enforcement notice</i>	<i>Stop Notice</i>	<i>Temporary Stop notice</i>	<i>Breach of condition notice</i>	<i>Total</i>
Broxbourne	11	0	1	1	13
Dacorum	15	0	2	1	18
East Herts	4	0	3	5	12
Hertsmere	1	0	2	0	3
North Herts	7	0	0	0	7
St Albans	6	0	0	0	6
Stevenage	0	0	0	0	0
Three Rivers	9	0	0	1	10
Watford	7	0	0	1	8
Bucks	117	0	6	10	133
Central Beds	4	4	10	7	25
Milton Keynes	10	1	1	5	17

50. 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.
51. In the last 12 months, Planning Enforcement have had to defend 12 appeals against Enforcement Notices and a section 215, 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).
52. In the past 12 months there have only been two Enforcement related appeal decisions. Both of these related to Land at Church Road, Little Gaddesden and both were dismissed.
53. During the past 12 months, the team have also undertaken one prosecution proceeding, relating to a site in Berkhamsted for failing to comply with the requirements of an Enforcement Notice, which is still ongoing, as well as secure multiple interim and then the Final Injunction in respect of development along Land at Church Road, Little Gaddesden.

Part 4: Key Performance Indicators

54. As stated in paragraph 38 the performance of the Planning Enforcement team is measured corporately by the speed of undertaking a first site visit. This is reported as a combined merged figure for Priority 1, Priority 2 and Priority 3 cases.
55. It is appreciated that this solitary measure only details one aspect of the work of the team. For example, it does not detail how long it takes to close an enforcement case. However, there are a number of difficulties associated with the introduction of such a measure:
- The complete and final closure of an Enforcement case can be outside of the control of the team. For example, should an Enforcement Notice be appealed, then the Council is beholden to the timescales of the Planning Inspectorate. Similarly, court cases can take several years to go through the legal system. Finally, enforcement action can lead to the submission of a retrospective planning application and how long the application takes to be determined is not within the control of planning enforcement.
 - As a result it would be necessary to create a definition of 'closed' that relates to actions within the control of the team. In this way, 'closed' could be defined as the team meeting one of these points:
 - i) The planning enforcement file is closed completely.
 - ii) A planning enforcement notice has been served.
 - iii) A valid retrospective planning application has been submitted.
 - Currently, we have no way of automating the collation of all the required data into one measure, e.g. 70% of planning enforcement cases 'closed' within 12 weeks of receipt.
56. Therefore, the collation of this data would be an overly onerous and manual task, and one which would use resources best employed in actually tackling enforcement cases. Nevertheless, it is accepted that the above measure, in conjunction with the measure for first site visits, would provide a more rounded analysis of the performance of the Planning Enforcement team. As a result, we will continue to explore ways in which a meaningful measure can be recorded automatically.

Part 5: The '300 Plan' Update

57. 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.
58. 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. Where work is focused on current cases so that, for example, an Enforcement Notice can be served, this is likely to be at the expense of visiting new sites in time or securing compliance with an existing Enforcement Notice. Similarly, if the team aimed for 100% first site visit compliance, this would be at the expense of actually concluding cases. As a specific example, the team currently have a list of 11 Enforcement Notices that need to be served. However, these will be need to be staggered over several months due to the resource implications of both serving and also defending these Notices.
59. 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 had a number of other important implications, as 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).
60. 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.
61. 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. This resulted in the creation of 'The 400 Plan' and the service was successful in reducing live enforcement caseload from 620 to 400.
62. It is now critical that the team undertake the second phase of this project, i.e. live caseload be reduced back to pre-2010 levels of 300. 'The 300' Plan project is still in an early phase where key decisions in how the target is met and by when are being carefully considered.
63. The strategy underpinning 'The 300 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', i.e. those received before 01 April 2021, cases into more manageable chunks by having dedicated periods of focus on dedicated case types, as opposed to trying to manage the entirety of a large caseload all at the same time.
- Seeking to bolster the capacity of the Enforcement team, through the recruitment of two additional temporary Planning Enforcement Officers to work alongside our 2 permanent posts.
- 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.

64. Overall, following the success of the 400 Plan similar principles are to be kept in place with further strategies to increase the teams output being implemented to achieve 'The 300' plan.

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 2023. The focus of the LEP is prioritising Berkhamsted High street A board review, Enforcement cases received prior to 2016 to be reduced by half and 2020 case figure reduced by half which has been agreed by the Development Management Committee.

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 vacant positions over the past 12-18 months.

6 Legal Implications

There are no legal implications arising from this report.

7 Risk implications

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.

It is also important to note that there is a risk that the enforcement of the Habitats Regulations and Biodiversity Net Gain requirements would add considerably to the work of the Planning Enforcement service.

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 in 2022 to close 74 more enforcement cases than they received.

The Planning Enforcement service have also continued to take formal action were 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.

It is very difficult indeed for the Planning Enforcement service to deal with its entire live caseload continuously and simultaneously. The team will therefore, throughout the rest of 2023, continue to prioritise new cases by virtue of its harm level and older cases for those were 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.