

**13. MONITORING AND ENFORCEMENT QUARTERLY REVIEW – JANUARY 2015
(A.1533/AJC)**

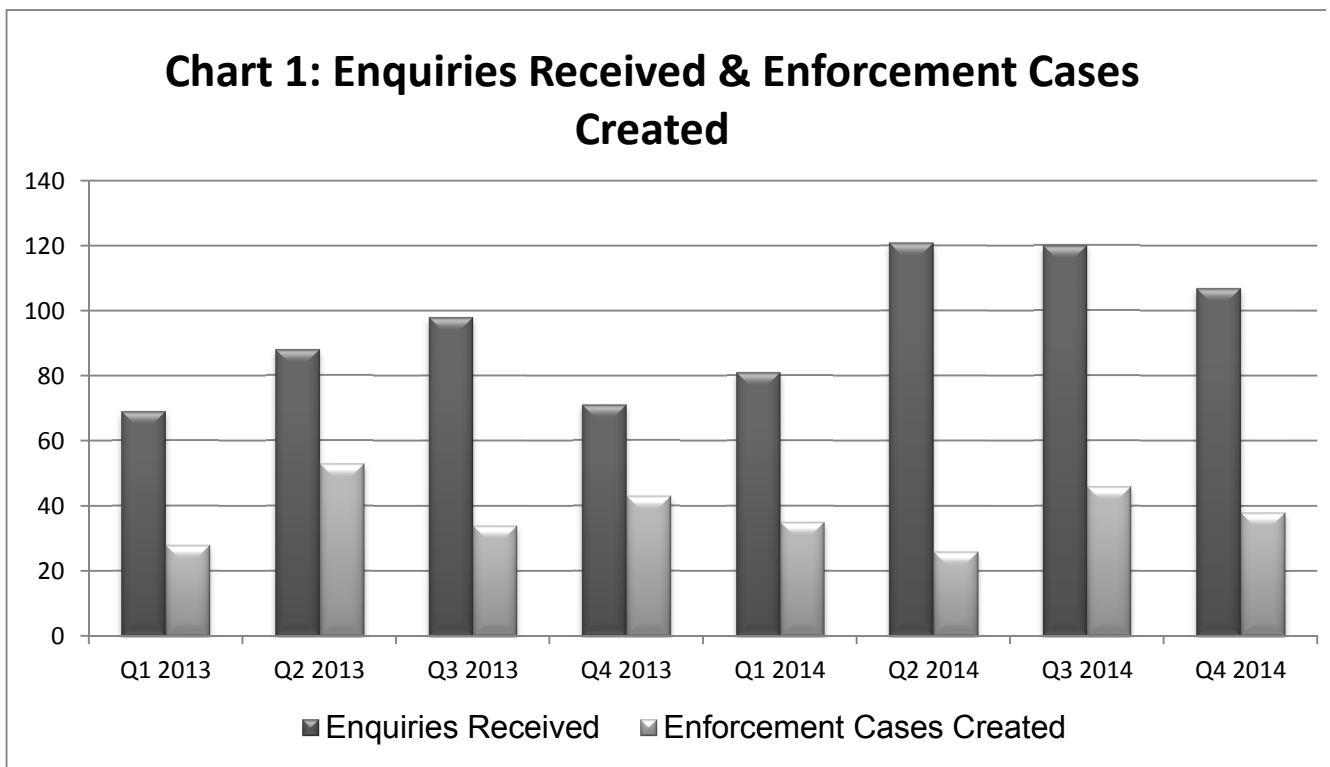
Purpose of the Report

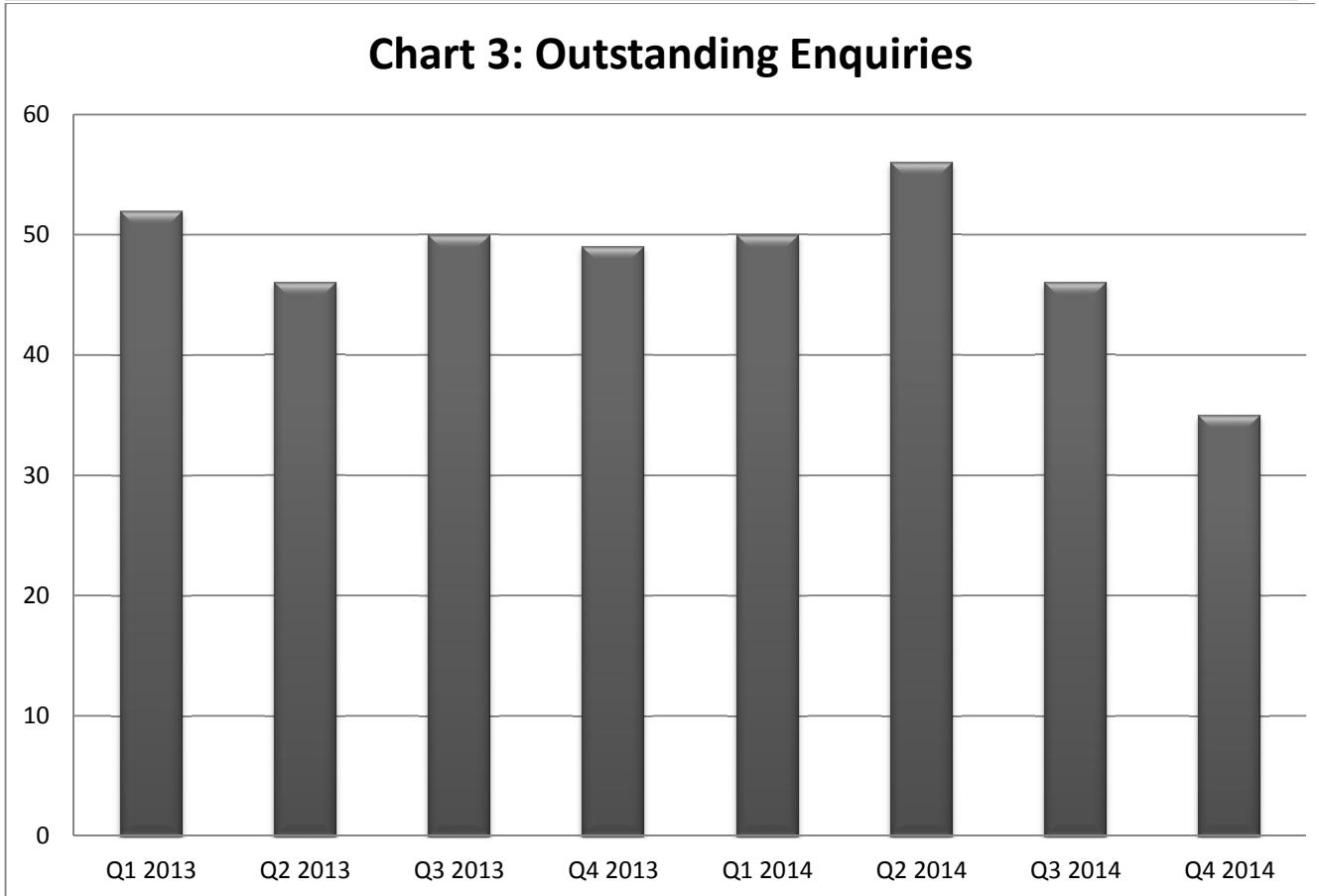
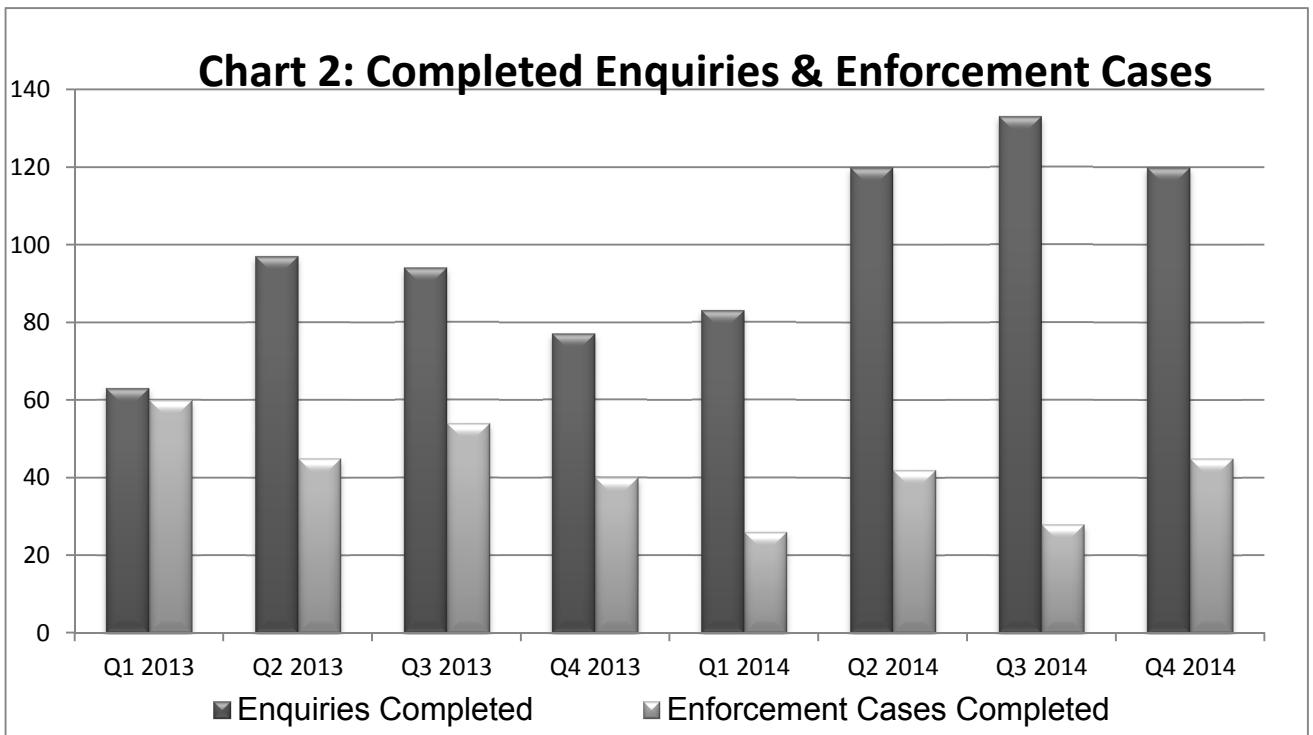
This report updates the Committee on the work being carried out by the Monitoring & Enforcement Team within the Planning Service. It includes a summary of enforcement activity over the last two years and an update on the high priority cases.

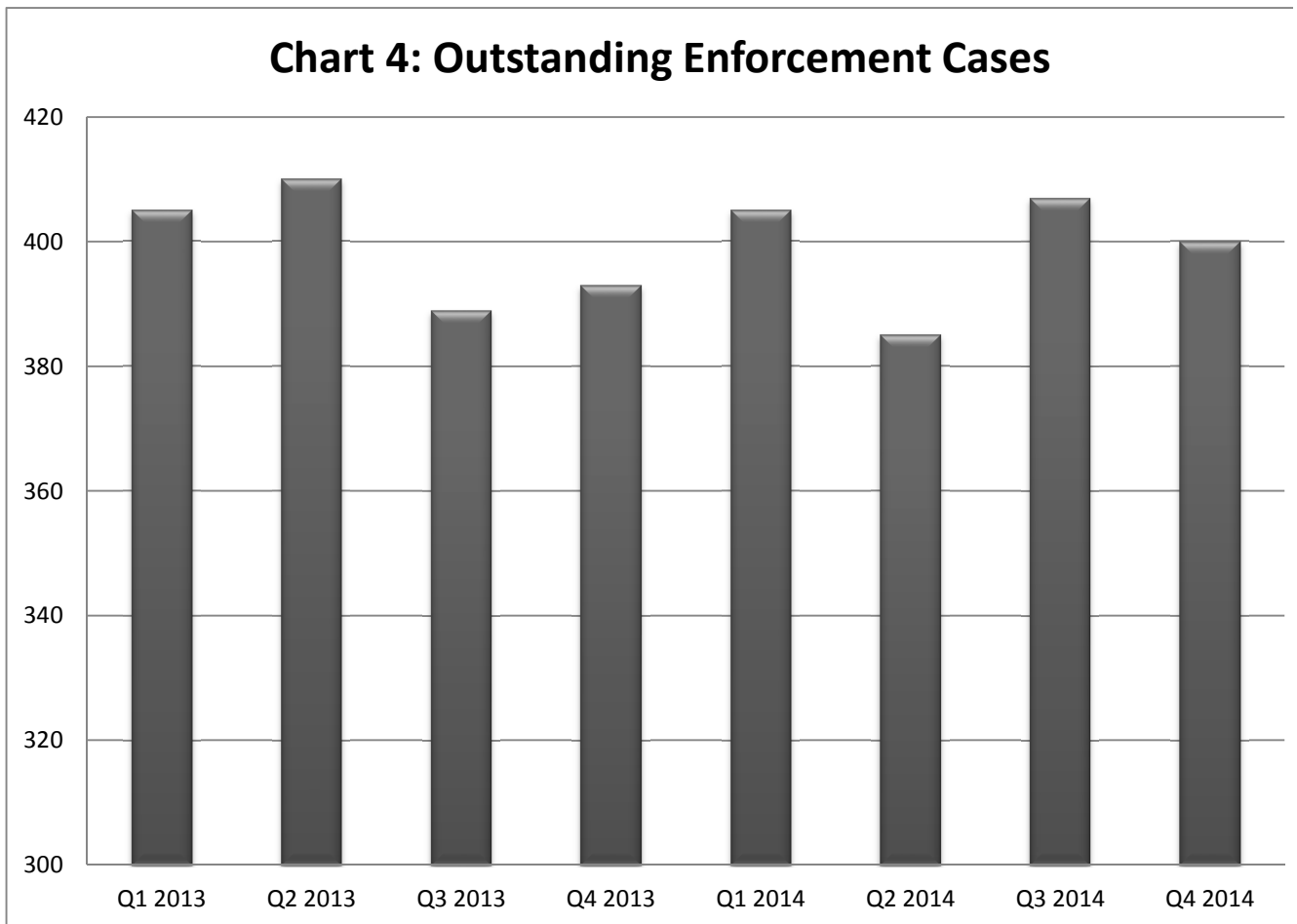
Following a request by Members the report for this quarter also includes a list of cases where formal notices have been issued but not complied with – see appendix 3.

RECOMMENDATION:

That the report be noted.







Interpretation of Charts

The above charts show a summary of activity in the team over the last two year period and below is a brief analysis of each chart.

Chart 1 – Enquiries Received and Enforcement Cases Created

This chart shows the number of enquiries received and the number of enforcement cases created for each quarter over the last two year period.

New enquiries are logged and acknowledged by the Customer Service Team and then allocated to Monitoring & Enforcement Officers to investigate. Our target is to conclude the investigation within six weeks and in the quarter just ended, 98% of investigations have been concluded within that target period. If, on investigating an enquiry, a breach of planning control is identified then an enforcement case is created.

In general the number of enquiries received is higher in the spring and summer, probably due to the higher rate of building construction and general activity, for example. For most of the last two years the number of new enquiries received each quarter has fluctuated between 60 and 100. However, in the second and third quarters of 2014 the number rose to around 120. Although the number has dropped back to 107 in the latest quarter this is still well above the figure of 71 for the corresponding quarter in 2013.

46 enforcement cases were created in the third quarter of 2014, which is higher than any quarter since June 2013. In the latest quarter, 38 cases were created – which is the average number per quarter over the last two years.

Chart 2 – Completed Enquiries and Enforcement Cases

This chart shows the number of enquiries and enforcement cases completed each quarter over the last two years.

Over the last two year period the team's performance on investigating and completing enquiries has exceeded the number of enquiries received. Similarly, the number of enforcement cases completed has been greater than the new cases created. In the last three quarters the performance on enquiries has been particularly strong, with at least 120 enquiries completed in each of those quarters. The performance on completing enforcement cases has improved this quarter, with 45 cases resolved, compared to 28 in the previous quarter. This quarter's figure is the highest since September 2013.

Chart 3 – Outstanding Enquiries

This chart shows the number of enquiries outstanding at the end of each quarter over the last two years. The number outstanding reached a peak of 120 in the second quarter of 2012 but had reduced to less than half that figure by the end of 2012 and has been maintained at around 50 over the last two years. The last two quarters have seen a further significant reduction with the number outstanding now standing at just 35.

Chart 4 – Outstanding Enforcement Cases

In the fourth quarter of 2012 the number of outstanding enforcement cases was just under 440 but in the first quarter of 2013 there was a significant decrease to just over 400 and the number has fluctuated between 385 and 410 since then. In the latest quarter the number of cases had dropped back to 400, from 407 in the previous quarter.

The Quarterly Enforcement Report

The quarterly enforcement report summarising activity on individual cases over the last three months is attached as an appendix to this report. It covers the period between 1 October and 31 December 2014.

Team Resources

The Monitoring & Enforcement Team permanent full-time establishment comprises a Team Manager, who also deals with casework, one Senior Monitoring & Enforcement Officer and two Monitoring & Enforcement Officers. Since 2010, additional funding has been used to create a temporary contract for an extra part-time Senior Officer post (0.6 FTE) and this currently runs until March 2015.

In July 2014, the full-time Senior Officer, Chris Fridlington, was permanently appointed to the post of Area Planning Manager (South), having provided maternity cover for that post since July 2013. The vacancy was filled in early November by Julian Hawley, who previously worked at Nottinghamshire County Council. He is now dealing with some of the more complex enforcement cases in the southern part of the National Park.

On 5 January 2015, Denise Hunt (one of the two Monitoring & Enforcement Officers) began a secondment to the North Area Planning Team, providing maternity cover for Laura Buckley. The resulting temporary vacancy in the Monitoring & Enforcement Team has been advertised and will be filled as soon as possible.

Summary of High Priority Cases

The cases listed below have been assessed as high priority, normally due to the significant landscape impact and/or level of public concern raised. In each case, a summary of the current position and the intended next step is given. In some cases only limited information is given because of the potential for legal or other action being taken. A map showing the location of the high priority cases is included at the end of this report.

1. New Mixon Hay Farm, Onecote – use of the site for storage of building materials etc.

Formal enforcement action has been authorised but this action has been held in abeyance since March 2013 following an agreement with the landowner that he would clear stored materials from significant parts of the land. Since then, officers have made a number of site inspections and a considerable area of land alongside the access track has now been cleared of stored materials.

Officers met with the owners at the site in September 2014 when the owners indicated that they were continuing to reorganise the site, so as to bring materials closer towards the main storage buildings adjacent to the farmhouse.

The chief views from the 'public zone' are from the road on top of the Morridge ridge at a distance of over 500 metres and the public rights of way near the site appear to be relatively lightly used. Given this, and the indication from the owners that they wish to continue making improvements to reorganise and tidy the site, it is intended to defer formal action at present and to continue to encourage the owners to improve the appearance of the site.

2. Tor Farmhouse, Middleton-by-Youlgreave – vehicle storage, alterations to the listed farmhouse, erection of agricultural building, erection of fence and untidy land

A site visit in December 2013 revealed that the agricultural building and fence had been dismantled and most of the materials removed. In addition, there had been some progress towards complying with the Section 215 Notice as the appearance of the top part of the site had improved. The occupier agreed to continue to tidy up the site and officers met with the owner at the site in September 2014 to review progress.

With regard to the overall appearance of the site, the situation is now much improved. Much of the top part of the site which had previously been used for storage of Trabant cars is now reasonably tidy and has the appearance of a domestic garden with vegetables and fruit trees being cultivated.

With regard to vehicle storage, there is now only a single Trabant on the site and this and another five cars/vans and two touring caravans for the occupier's own use are situated in the front yard/driveway to Tor farmhouse. A large military truck remains on this part of the site but the occupier has indicated that he intends selling this as soon as practicable.

With regard to the UPVC window and door, the occupier agreed that he would consult with the Authority's Cultural Heritage team prior to agreeing how to resolve the listed building issues.

Given the very considerable improvements to the appearance of the property, the only significant issue remaining to be resolved concerns the storage of scrap material on the front yard/driveway. Officers met again with the occupier in December 2014, and he confirmed that he was actively seeking to sell further vehicles and finish tidying the site. Therefore officers propose to continue to encourage the occupier to complete these actions so that hopefully the case can be finally closed.

3. Midfield, Kettlethulme – siting and storage of residential caravan and storage of vehicles, vehicle parts, building materials and equipment

Following the death of the owner in January 2013, his son has taken over responsibility for the site and is in the process of clearing scrap vehicles, building materials and other items from the land in accordance with the enforcement notice. Officers have been making accompanied site visits approximately every three months to check on the clearance works.

The latest accompanied visit was made on 18 December 2014 when it was apparent that further progress had been made on clearing the land. In view of the progress that has been made over the past two years it is not currently proposed to take any formal action, but to carry on with regular accompanied site visits, at least every three months, to ensure that appropriate progress continues to be made.

4. Middle Street Farm, Monyash – use of site as an agricultural/general contractor's base.

This case was initially added to the high priority list in February 2006 due to the significant landscape impact caused by the open storage of vehicles, equipment and materials associated with the unauthorised business use – resulting in a number of concerns being raised with the Authority. Between 2006 and 2010 the open storage was greatly reduced and was concentrated in the yard area close to the buildings which is largely screened from public viewpoints. The landscape harm has thus been mainly addressed and this is evidenced by the lack of public concern over the last four years.

In 2010, the owner submitted a planning application for continuation of the contracting use in the yard area incorporating use of one of the former agricultural buildings for workshop and storage purposes. Since then officers have been negotiating with the owner's agent regarding the terms of a possible legal agreement that could allow the application to be approved. Due to lack of progress by the owner/agent, despite several reminders, the application was treated as 'finally disposed of' on 6 October 2014 and no further action will be taken on it.

Officers inspected the site, with the owner, on 18 December 2014. The contracting activities, and associated storage, are still largely concentrated in the well-screened yard to the north of the farmhouse so the visual impact from public viewpoints is relatively limited. The owner indicated that he was proposing to submit a further planning application for the contracting business with a draft legal agreement. Officers remain of the view that a conditional planning permission, with a legal agreement, would provide proper control over the contracting activities so officers currently do not consider that it would be appropriate to take any formal enforcement action.

5. Home Farm, Sheldon – storage of caravans, use of part of guest house as tea room and excavations and erection of building

Excavations and underground accommodation:

In April 2013 an enforcement notice was issued with regard to an underground extension and excavations at the rear of the guest house. However, in November 2013 an appeal was allowed and planning permission granted for the development subject to conditions requiring a scheme of mitigating measures to be agreed and implemented. An application to discharge the conditions was approved under delegated powers in September 2014. As part of the work to complete the underground extension, part of the barn frame at the rear of the guest house was demolished and a further large hole excavated during May 2014.

When it became apparent that the owner intended to continue further building operations within the newly excavated hole, a Temporary Stop Notice was issued in July 2014, expiring on 1 August 2014. Since the issuing of the Temporary Stop Notice, no further building work has been carried out within the large hole except that required to complete the existing underground room as approved on appeal. This work was completed in September 2014, and therefore the underground room conditionally approved by the Inspector now has the benefit of planning permission.

A further planning application for 'ancillary leisure accommodation, owners flat and greenhouse' at the rear of the guest house, linked to the existing underground room and also partly below ground, was refused on 14 November 2014. At the time of preparing this report, no appeal had been submitted against the refusal (deadline for appeal submission is 14 May 2015).

Tearoom/Café use:

In August 2013, two enforcement notices were issued seeking to address the use of part of the property as a tea room/cafe, temporary planning permission for which expired in April 2013. A planning application to continue the tea room use was refused under delegated powers in May 2014. The tearoom/café continued to operate during 2014 (albeit at a low level) pending the outcome of an appeal against the refusal. That appeal was dismissed on 12 November 2014. The advertising signs for the café remain at the front of the property, but state 'Sorry Closed'.

Officers have had many meetings with the owner and his advisers and are continuing to seek a satisfactory resolution of the outstanding matters. Officers have also met with the Parish Meeting and are continuing to keep the Parish Meeting and village community updated.

6. Fernhill Cottage, Hollow Meadows – engineering operations and partial erection of building

At a court hearing in July 2012, the owner pleaded guilty to non-compliance with an enforcement notice, which requires restoration of the land and removal of walls, but he was conditionally discharged.

In February the Planning Committee considered a report, on the non-public part of the agenda, which set out the options for further action. It was resolved that authority be given in principle for direct action to secure compliance with the enforcement notice but that such action be deferred for a period of six months (that is, until mid-August 2014) to allow for negotiations with the owners over a suitable scheme and the submission and determination of a planning application. It was also resolved that, before taking any direct action, officers carry out an equality duty assessment.

Since February 2014 officers have continued to seek a meeting with the owners and have been in correspondence with the owners' solicitor. However, the owners have not agreed to a meeting date and have not entered into any meaningful negotiations with the Authority's officers. No proposals for an alternative scheme have been submitted.

Given the Planning Committee's resolution in February, officers are now making preparations for taking direct action to secure compliance with the enforcement notice.

7. Land and Buildings East of Lane End Farm, Abney – residential caravan, erection of access ramp and occupation of building in breach of holiday occupancy condition and highways conditions.

Two enforcement notices were issued in February 2012. Following appeals, which were heard at a public inquiry in August 2012, the residential caravan was due to be removed by 6 March 2013. In October 2013 officers met the owner's agent on site and it was apparent that the one remaining caravan (which is placed inside a building) was not in use for residential purposes. The owner's agent stated that it was being used as a shelter/messroom in connection with authorised activities on the site. A further meeting was held with the agent in early December 2013 at which the agent agreed actions to deal with other outstanding matters including the erection of a disabled access ramp and non-compliance with a number of conditions attached to the 2003 planning permission for conversion of barns to holiday accommodation

At the Planning Committee in December 2013, it was resolved to approve a planning application for conversion and change of use of the first floor of one of the traditional buildings to an open market dwelling, subject to a section 106 legal agreement. The legal agreement was signed on 17 December 2014. The planning permission would not normally be issued until the legal costs, which are currently outstanding, have been paid. Once the planning permission has been issued, officers will be pursuing resolution of the remaining matters with the owner/agent.

8. Shop Farm, Brandside, near Buxton – siting and storage of caravans, vehicles etc.

The Authority took direct action in September/October 2010 to remove a very significant quantity of derelict vehicles, scrap and general refuse to secure compliance with a previous enforcement notice. The enforcement case was then closed. The owner, who had been living elsewhere, subsequently moved back to the site and brought a number of items such as caravans, vehicles, old furniture and waste building materials onto the land. The landowner has also constructed a number of makeshift shelters, apparently for her sheep, from fabric, string and wood.

In terms of formal action, it appears that further direct action is the only realistic option open to the Authority. However, in view of the fact that the land owner is elderly and appears to be of limited means, officers do not consider that such action is appropriate at this stage.

Site inspections were carried out in September 2014 and January 2015. The appearance of the site had not significantly deteriorated any further over the past two years and the overall impact upon the visual amenity of the area was certainly less severe than it was before direct action was taken in 2010. There have been no recent complaints from the public about the appearance of the site and officers therefore propose to continue to maintain a 'watching brief' to ensure the condition of the site does not deteriorate further.

9. Five Acres Farm, Wardlow – use of site for parking and maintenance of HGVs and trailers.

In March 2013, an enforcement notice was issued with regard to the parking and maintenance of heavy goods vehicles and trailers. The notice came into effect on 23 December 2013 following an unsuccessful appeal. A concurrent appeal against the refusal of planning permission for "*use of yard for parking 2 lorries for commercial use, recreational vintage lorry and recreational competition tractor hauling unit, all in addition to existing use of yard for agricultural purposes*" was also dismissed. The four-month period for compliance with the enforcement notice expired on 23 April 2014. On 15 April 2014, an application for a lawful development certificate in respect of the parking of HGV lorries with trailers was refused by the Authority.

The owner's agent informed officers at the beginning of May that no haulage lorries were being parked on the site, as required by the enforcement notice. Since then officers have been making regular site inspections to check whether this is the case and in September/October 2014 officers made six unannounced visits. Observations made during these inspections and visits suggest that the notice is generally being complied with although on more than one occasion there have been one or two haulage vehicles parked on the site.

On 29 September 2014 a planning application for 'use of yard for parking 2 lorries, in addition to retention of use of yard for agricultural purposes' was received. The application was reported to the Planning Committee in December 2014 but consideration was deferred to allow for further information to be submitted; this application is reported elsewhere on this agenda. The outcome of the application will clearly have a bearing on whether any further action can or should be taken with regard to the enforcement notice.

Appendix 1 – Quarterly Enforcement Report

Appendix 2 – Map showing location of high priority enforcement cases

Appendix 3 - Formal Notices Issued 2009 – 2014: Notice Requirements Not Complied With