

15 MONITORING & ENFORCEMENT ANNUAL REVIEW – APRIL 2019 (A.1533/AJC)

Introduction

1. This report provides a summary of the work carried out by the Monitoring & Enforcement Team over the last year (April 2018 – March 2019) as well as information about the breaches of planning control we have resolved in the latest quarter (January – March 2019).
2. The report also includes: (a) an update on issues at Leanlow Farm, near Hartington as requested by members at the Planning Committee in January 2019 – see paragraphs 14 to 19; and (b) a response to a query raised by Members at the Planning Committee in February about the planning position in relation to horse riding arenas within the curtilage of a dwelling – see paragraphs 20 to 22.
3. Most breaches of planning control are resolved voluntarily or through negotiation without resorting to formal enforcement action. Where formal action is considered necessary, the Head of Development Management and Head of Law have joint delegated powers to authorise such action whereas authority not to take formal action is delegated to the Head of Development Management, the Monitoring & Enforcement Manager and Area Planning Managers.
4. The Authority has a duty to investigate alleged breaches of planning control, but enforcement action is discretionary and must only be taken where it is 'expedient' to do so, having regard to planning policies in the development plan and any other material considerations. This means that the breach must be causing unacceptable harm to the appearance of the landscape, conservation interests, public amenity or highway safety, for example. When we take formal action it must be proportionate with the breach of planning control. It must also be clear that resolving the breach would be in the public interest.
5. The National Planning Policy Framework states that Local Planning Authorities (LPAs) should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. Many, but by no means all, LPAs have published a Plan. In March 2014 we published our Local Enforcement Plan, which sets out what breaches of planning control are, how potential breaches can be brought to the attention of the Authority, what matters may or may not be investigated and the priorities for investigation and action. It also outlines the tools that are available to the Authority to resolve any breaches. The Local Enforcement Plan is available on the Authority's website.
6. Team Resources – In March 2019 we appointed two new Senior Monitoring and Enforcement Officers – Andy Grayson and Joe Freegard. This is in addition to the four established posts of Team Manager, Senior Monitoring and Enforcement Officer and two Monitoring and Enforcement Officers. Andy Grayson, who is full-time for two years, is mainly working on more complex cases and particularly those where formal action is likely to be required. Joe Freegard has a permanent part-time (2.5 days per week) role working on a backlog of listed building enforcement cases. He also works part-time (2.5 days per week) in the North Area Team dealing with planning applications etc. With these additional officers, we expect to continue to improve our performance and reduce the overall caseload.

RECOMMENDATION:

That the report be noted.

Summary of Activity 2018-19

7. Notices issued

18/0062 Land at Cartledge Flat/Rushy Dike, North of Hollingdale Plantation Bradfield	Laying of crushed stone to form a track	Enforcement Notice issued 15/06/2018 Appeal lodged and decision awaited.
14/0590 Field rear of Friden Cottages Friden Buxton	Erection of a timber building and provision of hardstanding	Enforcement Notice issued 21/08/2018. No appeal so Notice came into effect 1/10/2018. Building removed but hardstanding remains
17/0153 Bamford Hall Bamford Hope Valley	Change of use from dwellinghouse to mixed use as dwellinghouse and commercial short-let holiday accommodation	Enforcement Notice issued on 18/09/2018 Appeal lodged but later withdrawn. Notice came into effect 12/02/2019 Notice complied with 12/02/2019
15/0057 Land at Mickleden Edge Midhope Moor Bradfield	Engineering operations consisting of the laying of geotextile matting and wooden log 'rafts' to form a track	Enforcement Notice issued 21/09/2018. Appeal lodged. Awaiting Planning Inspectorate start letter
15/0078 Ye Olde Cheshire Cheese PH How Lane Castleton	Installation of extraction unit and ducting system	Enforcement Notice issued 5/11/2018 No appeal so came into effect 14/12/2018 Notice complied with 30/01/2019
14/0484(A) Land at Timberfell, between Station Approach and Little Timbers, Ninelands Road, Hathersage	Erection of dwellinghouse	Enforcement Notice issued 12/02/2019 No appeal so Notice took effect 22/03/2019 Compliance date 22/10/2019
14/0484(B) Land between Station Approach and Little Timbers, Ninelands Road, Hathersage	Erection of dwellinghouse	Enforcement Notice issued 12/02/2019 No appeal so Notice took effect 22/03/2019 Compliance date 22/10/2019
17/0039	Erection of timber building	Enforcement Notice

Land off Lane Head
Road,
Little Hayfield

issued 19/02/2019
Due to come into effect
9/04/2019

8. Appeals determined

17/0054 Land north of Mortimer Road Bradfield	Creation of track and engineering operations to create a flat area for erecting marquees for weddings	8/06/2018 - Appeal allowed in part – Notice upheld with varied requirements and compliance period extended – Compliance due 8/10/2018
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9. Workload and performance

10. This section of the report summarises the Monitoring & Enforcement Team's performance over the last year. Our main performance target in the Development Management Service Plan is to resolve 120 breaches of planning control. We have resolved 151 breaches in the past year – significantly exceeding our target. The number of new breaches found has increased from 186 in 2017/18 to 199 in 2018/19. This is reflected in the increase in outstanding breaches at the end of the year - from 551 (in 2017/18) to 592. In the two most recent quarters, however, there has been a small decrease in the number of outstanding breaches – reversing an upwards trend that has persisted since the second quarter of 2015.

11. We have continued to improve our performance on dealing with enquiries over the last year. 90% of enquiries have been investigated within 30 working days against a target of 80%. This is despite a large increase in the number of enquiries received from 400 to 491. The number of enquiries outstanding at the end of the year has increased from 63 to 88; although this is still well below the figure of 116 outstanding at the end of 2016/17.

12. The table below summarises the position at year end. The figures in brackets are for the previous year (2017/18).

	Received	Investigated/Resolved	Outstanding
Enquiries	491 (400)	467 (458)	88 (63)
Breaches	199 (186)	151 (122)	551(494)

12. Enquiries from different sources but relating to the same issue are logged as separate enquiries and included in the overall figure of 491 received. Over the year there have been 51 of these 'duplicate' enquiries so if these are discounted then the number of issues on which enquiries have been raised is 440.

13. Breaches resolved in the latest quarter (January – March 2019)

18/0109
Moscar Lodge

Change of use from dwelling house to holiday
accommodation

Planning permission
granted

Heathy Lane Hollow Meadows 15/0141 The Coach House High Peak House Blackbrook Chapel-en-le-Frith	Change of use of outbuilding to a dwellinghouse	Use ceased – enforcement notice complied with
18/0119 The Croft Ible Grange Mill	Subdivision of dwelling into two dwellings	Property being used as a single dwelling – no breach
18/0141 Cobbles Tea And Coffee Shop Bank House Market Place Longnor	LISTED BUILDING – Demolition of boundary wall	Works suspended and LBC application submitted
16/0156 Hazel Barrow Farm Upper Hulme Leek	Various breaches of condition on planning permission for holiday accommodation and campsite (NP/SM/0613/0466)	No evidence of current breach
13/0074 Park Hall Manor Park Hall Estate Little Hayfield	Change of use of dwelling to short-term holiday let	Use ceased
16/0077 Woodland at Abney/Highlow Hathersage	Creation of access tracks	Not expedient to take enforcement action
18/0165 Land Between Croft House and Keeling Lane Birchover	Creation of vehicular access	No breach of planning control
13/0112 The Old Cobblers Barratts Yard North Church Street Bakewell	Breach of conditions 2, 3, 4 & 6 on NP/DDD/1011/1031	Not expedient to take enforcement action
11/0198 The Rhododendrons Glossop Road Little Hayfield	Use of residential garden for storage of skips etc	Immune from enforcement action – not expedient to take enforcement action
11/0200 Land opposite 56 Old Dam Peak Forest Buxton	Creation of hardstanding and use for parking and storage	Enforcement notice complied with

18/0017 Heathy Lea Bed And Breakfast Heathy Lea Chesterfield Road Baslow	Use of dwelling as a wedding venue	Immune from enforcement action – not expedient to take enforcement action
17/0181 Fox House Inn Hathersage Road Sheffield	Timber 'smoking shelter' and external chiller unit	'Smoking shelter' removed, planning permission granted for chiller unit
17/0183 Newburgh Engineering Works Netherside Bradwell	Non-compliance with approved plans in relation to the construction of new industrial building (NP/DDD/0815/0779)	Planning permission granted
18/0029 Smiths Island Car Park Coombs Road Bakewell	Laying of hardstandings etc in breach of condition	Works considered to be repair and maintenance – no breach of planning control
18/0172 Fruit Shop 10 Castleton Road Hope	Change of use of shop to Indian restaurant and takeaway	Planning permission granted
13/0071 Hillside Earl Sterndale Buxton	Display of flag on pole	Flag replaced with one that has deemed consent
14/0007 Manor Farm Over Haddon Bakewell	LISTED BUILDING - Removal of stone trough from within the curtilage	Not expedient to take enforcement action
15/0002 15 Pike Close Hayfield	Erection of garden shed and associated structure	Immune from enforcement action – not expedient to take enforcement action
17/0138 The Timbers Main Street Great Longstone	Use of annex as holiday let	Planning permission granted
18/0087 44 Burton Edge Bakewell	Erection of garden shed	Planning permission granted
18/0088 Barn off Blakelow Lane Brightgate Bonsall	Storage of caravan	Caravan removed

17/0132 1 Railway Cottages Buxton Road Newton Grange Ashbourne	Change of use of land to storage	Use ceased
18/0054 4 Eagle Terrace Main Road Wensley Matlock	Erection of building	Permitted development – no breach
18/0140 The Old Meeting House Church Street Youlgrave	Recladding of barn	Planning permission granted
18/0161 Thornycroft Stables Neighbour Way Kettleshulme	Breach of planning permission for replacement dwelling (NP/CEC/1215/1170). Insertion of a door with adjoining windows	Works altered to comply with approved plan
18/0162 Green Farm Sparrowpit	Erection of agricultural building	Planning permission granted
15/0078 Ye Olde Cheshire Cheese How Lane Castleton	Installation of extraction unit	Enforcement notice complied with – extraction unit removed
17/0069 Land opposite Narrowgate Farm Main Road Wardlow	Alteration to vehicular access onto classified road	Planning permission granted
14/0586 Brackenburn Riddings Lane Curbar Calver	Erection of gates and gate posts.	Combined with 16/0118
18/0144 J E Nutch Funeral Directors Hope Road Bamford	Installation of air-conditioning unit	Planning permission granted
18/0121 Beighton Lodge Coach Lane Stanton In Peak	Breach of conditions 4 (spoil disposal) and 5 (construction management plan) on planning permission for erection of garage, workshop and store (NP/DDD/0917/0944)	Conditions discharged

17/0153 Bamford Hall The Hollow Bamford	Change of use from dwellinghouse to mixed use as dwellinghouse and commercial short-let holiday accommodation	Enforcement notice complied with – use ceased
16/0088 The Old Piggery Building fronting Ashford Road The Rock Bakewell	Possible change of use to dwelling	Building cleared of domestic items – no breach of planning control
19/0001 Land adjacent to layby on Hassop Road Calver	Untidy land – waste tipping	Tipped waste removed and land secured
18/0120 Primrose Cottage Windmill Great Hucklow	Partial demolition and rebuilding of dwelling	Planning permission granted
18/0129 Land south of A623 Between Peak Forest and Sparrowpit	Engineering operations/groundworks	Operations ceased and land restored to grass
18/0188 1 Park Lane Little Hayfield Glossop	Insertion of window frames in breach of condition 2 (development in accordance with submitted plans) of planning permission for construction of outbuilding (NP/HPK/0318/0233)	Section 73 application for variation of condition 2 approved
19/0014 Church Shop Next to Hannah Buildings Edale Road Hope	Change of use from shop to cafe	Use not yet started – planning application submitted
19/0005 Bollands Hall Butterton	Felling of trees in Conservation Area	Replacement of felled sycamore agreed – other trees felled were conifers so removal acceptable
12/0067 Gauledge Farm Longnor Buxton	Breach of conditions 6 (landscaping) & 7 (removal of van body) on planning permission for agricultural building (NP/SM/0709/0614)	Condition 7 complied with – not expedient to enforce condition 6

18/0145 The Knackers Yard Main Road Flagg	Erection of building for rearing of game birds	Planning permission granted
14/0468 Land north of the Plough Inn Leadmill Hathersage	Free-standing advertisement sign	Sign removed

Leanlow Farm, Hartington - Update

14. Leanlow Farm comprises a farmhouse and group of agricultural buildings a short distance to the west of the A515 road and approximately 2.5km north-east of Hartington. The farmhouse is in separate ownership to the agricultural buildings and land. It is the agricultural buildings and land that are the subject of this update. The property is open to public view from the A515 and is also seen from the B5054 road to the south.
15. A number of enforcement issues have been raised since 2011, mainly relating to the carrying out of building and engineering operations, ostensibly in connection with the agricultural activities taking place at the site. Several retrospective (and non-retrospective) permissions have been granted for building and engineering operations in connection with those activities. There have also been issues with non-compliance with conditions, particularly relating to landscaping; general untidiness; and possible operation of a plant hire business. Concerns about plant hire activities have arisen since mid-2013, following successful enforcement action against a plant hire business being operated from a site in Heathcote, near Hartington. It has been suggested that the plant hire business has relocated to Leanlow Farm since that action was taken.
16. Plant hire business - Officers have had extensive correspondence with the occupier, and his agent, and have attended site on many occasions, particularly since 2013. Despite this, and other related investigations, we have found no evidence that a plant hire business is being operated from the site. The occupier does run a plant hire business, but he maintains that plant and machinery is moved from one job to another, thereby negating the need for a depot. The available evidence appears to support this so no further action is currently proposed in relation to this issue.
17. Landscaping conditions – Although some planting has been done, landscaping approved under planning permissions granted between 2013 and 2015 has not been carried out in full. The reason for this is that building extensions approved in 2016 and 2017 have been built on areas previously set aside for planting. A comprehensive scheme of landscaping forms part of the most recent planning permission for the erection of a livestock building that was granted in January 2019. This planning permission reviewed the previous landscaping schemes and consolidated the outstanding elements into one comprehensive scheme. Condition 2 of that permission requires that the landscaping scheme is carried out before any built development takes place. At present, ground works are taking place in readiness for building works but no built development has taken place. The operator gave a commitment to carry out the agreed landscaping by the end of 2018 but this has not yet been done. Officers will continue to monitor compliance with condition 2 of the latest permission and look to pursue formal action, if necessary, to ensure that the landscaping is carried out.

18. General Untidiness - the condition of the site has remained fairly static over the past couple of years but it is still an issue we are trying to tackle. Unfortunately the occupier has cancelled our two pre-arranged meetings with him this year so we have not yet managed to meet to speak to him directly. The occupier is aware of our concerns because we have written to stress the condition of the land still presents an issue and to arrange the site visit.
19. It has been alleged that the untidiness is caused, at least in part, by the occupier running an eBay business; whereby vehicles, plant and machinery are regularly bought and sold, and equipment that is awaiting sale being stored on the land in the meantime. We've been actively looking for an eBay account and items being advertised for sale that could lead back to the site and to the occupier, but so far we've not been able to find any evidence of this sort.

Horse-riding arenas

20. At the Planning Committee on 8 February 2019, members approved an application for a stables and store at Westfield, Pinfold Hill, Curbar. Members had visited the site on the day before the Committee and had noted an existing horse-riding arena. As referred to in the report to February Committee, this had previously been investigated by the Monitoring and Enforcement Team, who concluded that it was 'permitted development' and so was not a breach of planning control. Before constructing the horse-riding arena the owner of the property contacted the Authority to check whether planning permission would be required. The owner was informed that the proposed work would constitute permitted development under Class F of Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. Members queried this conclusion so officers agreed to provide a more detailed explanation.
21. Part F allows for the provision within the curtilage of a dwellinghouse of a hard surface for any purpose incidental to the enjoyment of the dwellinghouse. As the arena was proposed to be located in the front garden, between the house and the road, and would exceed 5 square metres in area, it was subject to a condition in Class F which requires either the hard surface to be made of porous materials or provision being made to direct run-off water from the hard surface to a permeable or porous area or surface. The construction of the arena involved a very limited 'cut and fill' operation to create a level surface and the erection of a surrounding fence. As the change in ground levels was minor (i.e. approximately half a metre), this did not alter the conclusion that the works were 'permitted development'. As the fence did not exceed a height of 2 metres, it was 'permitted development' under Class A of Part 2.
22. It is important to understand that the provisions in Class F only apply to works within the curtilage of a dwellinghouse. The construction of a horse-riding arena in other circumstances would normally require planning permission as the necessary groundworks and surfacing would be classed as 'engineering operations'. In some cases, it may also result in a material change in the use of the land which requires planning permission.