

15. MONITORING & ENFORCEMENT QUARTERLY REVIEW – APRIL 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.

RECOMMENDATION:

That the report be noted.

Chart 1: Enquiries Received & Enforcement Cases Created

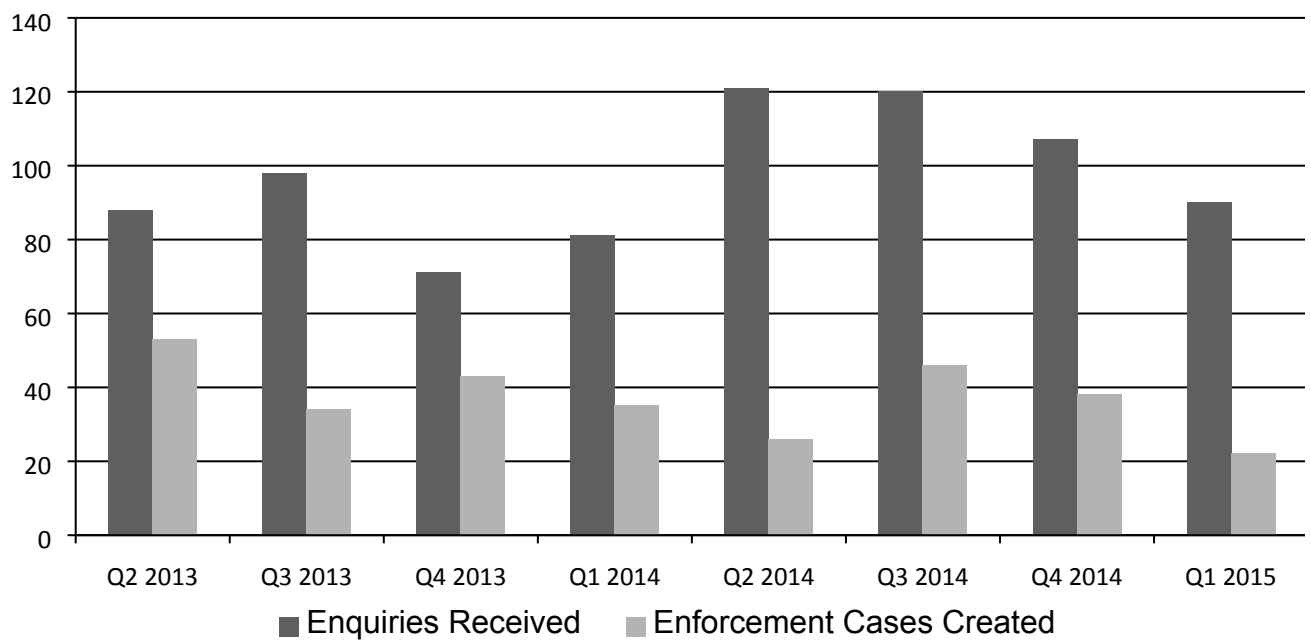


Chart 2: Completed Enquiries & Enforcement Cases

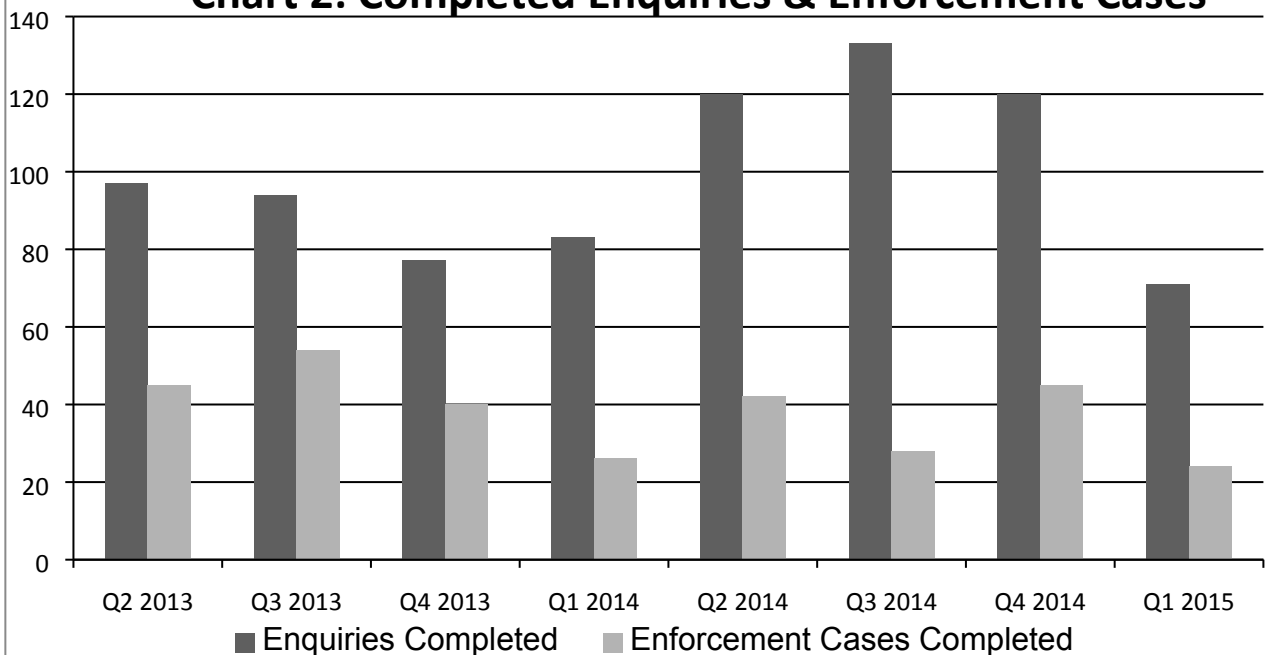


Chart 3: Outstanding Enquiries

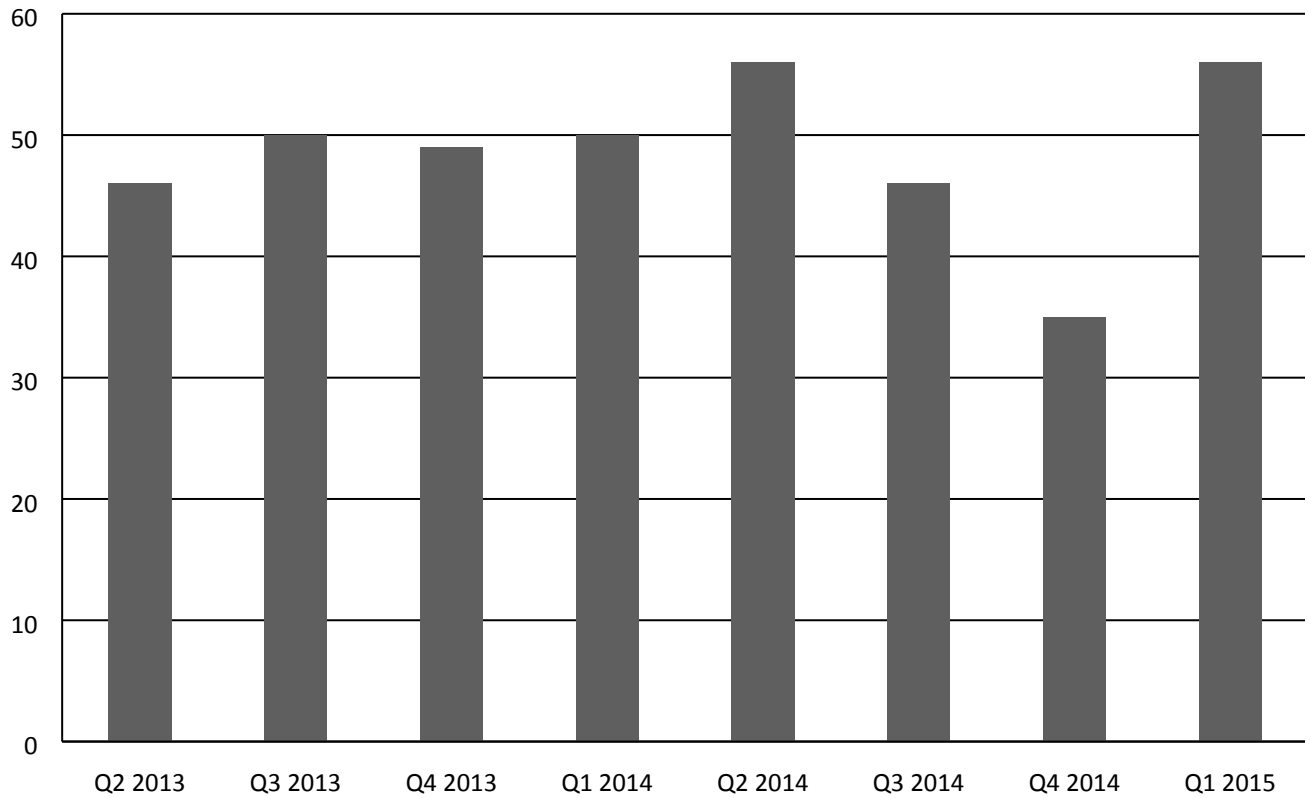
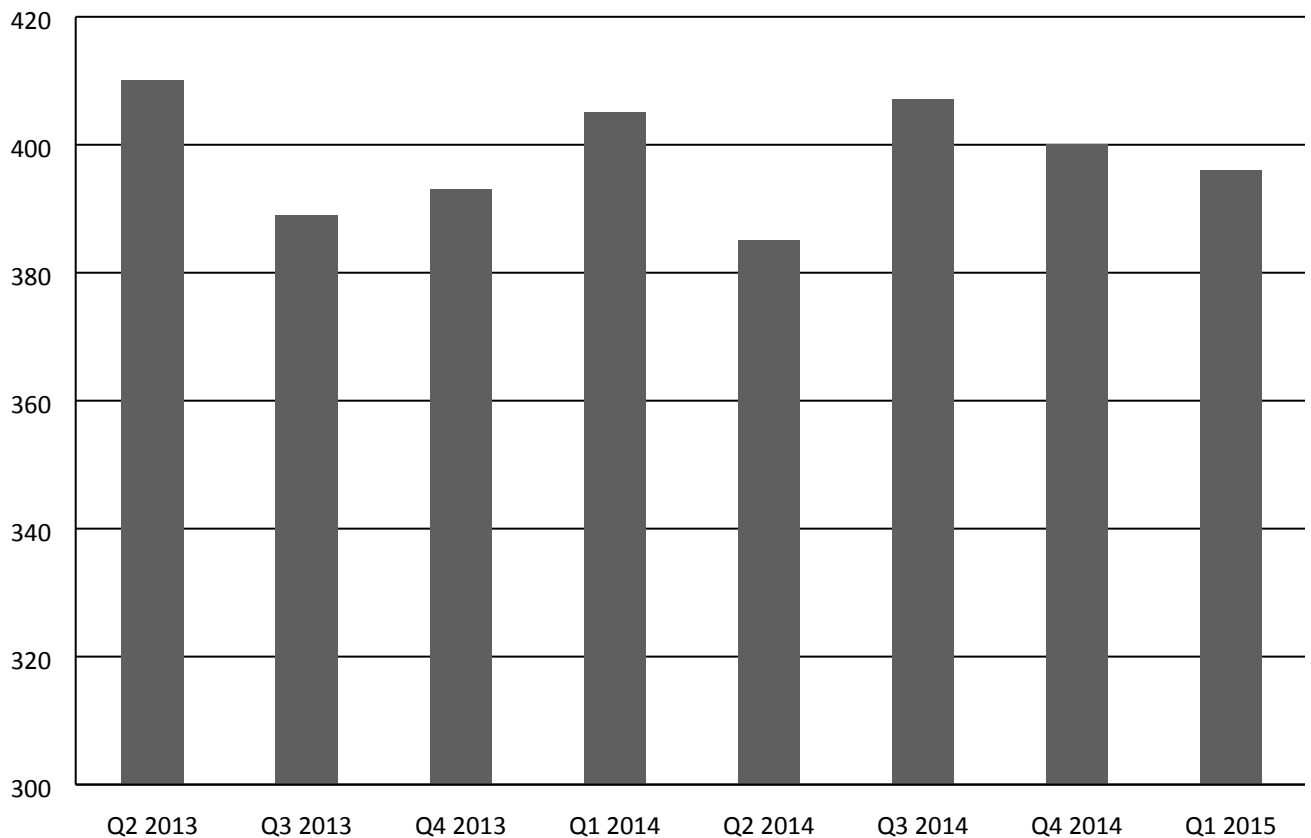


Chart 4: Outstanding Enforcement Cases



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, 97% 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. Since then the number has dropped back to 107 and then 90 in the latest quarter. However, this is still above the figure of 81 for the corresponding quarter in 2014.

In the latest quarter, 22 new enforcement cases were created – this is the lowest number of new cases created over the last two years and compares with 35 cases in the corresponding quarter last year.

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 third and fourth quarters of 2014 the performance on enquiries was particularly strong, with 133 and 120 enquiries completed. The number of enquiries investigated has dropped back to 71 in the latest quarter – this is partly explained by the drop in new enquiries received but is also a result of the vacancy in one of the Monitoring & Enforcement Officer posts – as referred to in the section below on team resources. The vacancy has also had an impact on the completion of enforcement cases which has reduced from 45 to 24 since the last quarter. The previous quarter's figure was 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. In the last quarter the number outstanding stood at just 35. This has increased to 56 in the latest quarter.

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 has dropped back to 396, from 400 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 January and 31 March 2015.

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 has recently been extended for another year until 31 March 2016.

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 remained unfilled for nearly two months until Christian Anslow-Johnson joined the Team on 2 March 2015. This period of vacancy has inevitably had an impact on performance – as detailed above.

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 attended a site meeting 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 and untidy land

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. There are two further small vans parked alongside the farmhouse itself, but these are not visible from the public zone.

With regard to the unauthorised UPVC window and door, it has been agreed that these can remain in situ until ownership of the property changes, at which time satisfactory alterations will be required to be carried out.

Given the very considerable improvements to the appearance of the property, as referred to in recent quarterly reports, the only significant issue remaining to be resolved concerns the storage of scrap material on the front yard/driveway. The occupier has confirmed that he is still actively seeking to sell further vehicles (including the military truck and the haulage trailer which is parked on the roadside). Officers will continue to encourage the occupier to finish tidying the site 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 took 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. Significant progress has been made as mentioned in previous quarterly reports.

Officers had intended to hold a site meeting in March 2015 to check on progress but the owner has stated that no further progress has been made since the last visit in December 2014. This is not surprising given the weather and ground conditions over the last three months. Officers have now written to the owner, as agreed with him, to identify specific areas where it is expected items will be cleared over the next three months. It is also intended to visit the site in early May to check on progress with this. Although the lack of progress since December is disappointing, this should be viewed in the context of the significant improvements that have been made over the past two years. For this reason, 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.

Officers inspected the site, with the owner, in 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. Officers remain of the view that a conditional planning permission, with a legal agreement, would provide proper control over the contracting activities so do not currently consider that it would be appropriate to take any formal enforcement action.

Since the quarterly report in January, officers have prepared a draft legal agreement and this is currently being considered by the owner.

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 (which have since been discharged) requiring a scheme of mitigating measures to be agreed and implemented. During 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 (TSN) was issued in July 2014. No further building work has been carried out since the TSN expired in August 2014, except that required to complete the existing underground room as approved on appeal.

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 in November 2014. No appeal has yet been submitted against the refusal; the 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/café, temporary planning permission for which expired in April 2013. A planning application to continue the tea room use was refused 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 in November 2014, and since that date, the signs at the front of the property advertising the tearoom/café use have been removed and the tearoom/café appears not to have been open for business.

Officers have indicated to the owner in writing (January 2015), that the Authority is still willing to negotiate with him, so as to secure a satisfactory resolution of all the outstanding matters at Home Farm. The owner has responded by letter (February 2015), stating that he is still considering what action to take next. At the time of preparing this report, Home Farm, both in terms of the tearoom use and any further building work, has remained inactive.

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

At a court hearing in 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. The enforcement notice, and a stop notice, were issued in 2009 and the enforcement notice was upheld on appeal in 2010

In February 2014 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 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.

Officers have been making preparations for taking direct action to secure compliance with some of the requirements of the enforcement notice. These preparations are almost complete so work could start in the next three months. The owner has recently instructed new solicitors who have requested a meeting with officers to see if a solution can be reached that is both achievable for their client and mutually agreeable for all parties. Officers are currently seeking to arrange such a meeting.

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 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 eventually signed in December 2014 and the planning permission was issued on 27 February 2015. Officers now intend to meet with the owner's agent to seek resolution of the remaining matters referred to in the previous paragraph.

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 much less than it was before direct action was taken in 2010. 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 2014 that no haulage lorries were being parked on the site, as required by the enforcement notice. Since then officers made a number of site inspections to check whether this was the case and in September/October 2014 six unannounced visits were made. These inspections and visits suggested that the notice was generally being complied with although on a couple of occasions one or two haulage vehicles were parked on the site.

On 23 January 2015 a planning application for 'use of yard for parking 2 lorries, in addition to retention of use of yard for agricultural purposes' was refused. Officers are continuing to monitor the site and have also written to the traffic commissioners pointing out that planning permission does not exist for a haulage base. It is understood that two vehicle operator's licences are in place which authorise up to 16 vehicles and 22 trailers.