

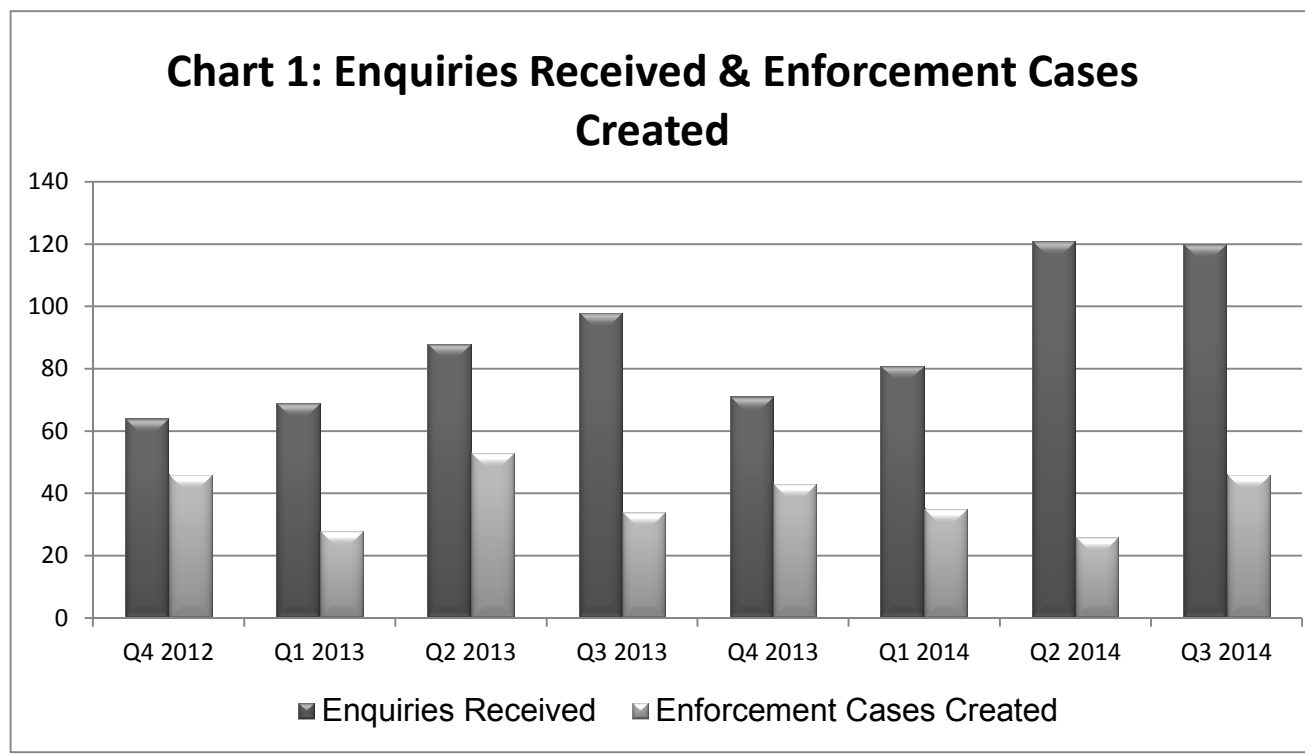
## MONITORING & ENFORCEMENT QUARTERLY REVIEW – OCTOBER 2014 (A.1533/AJC)

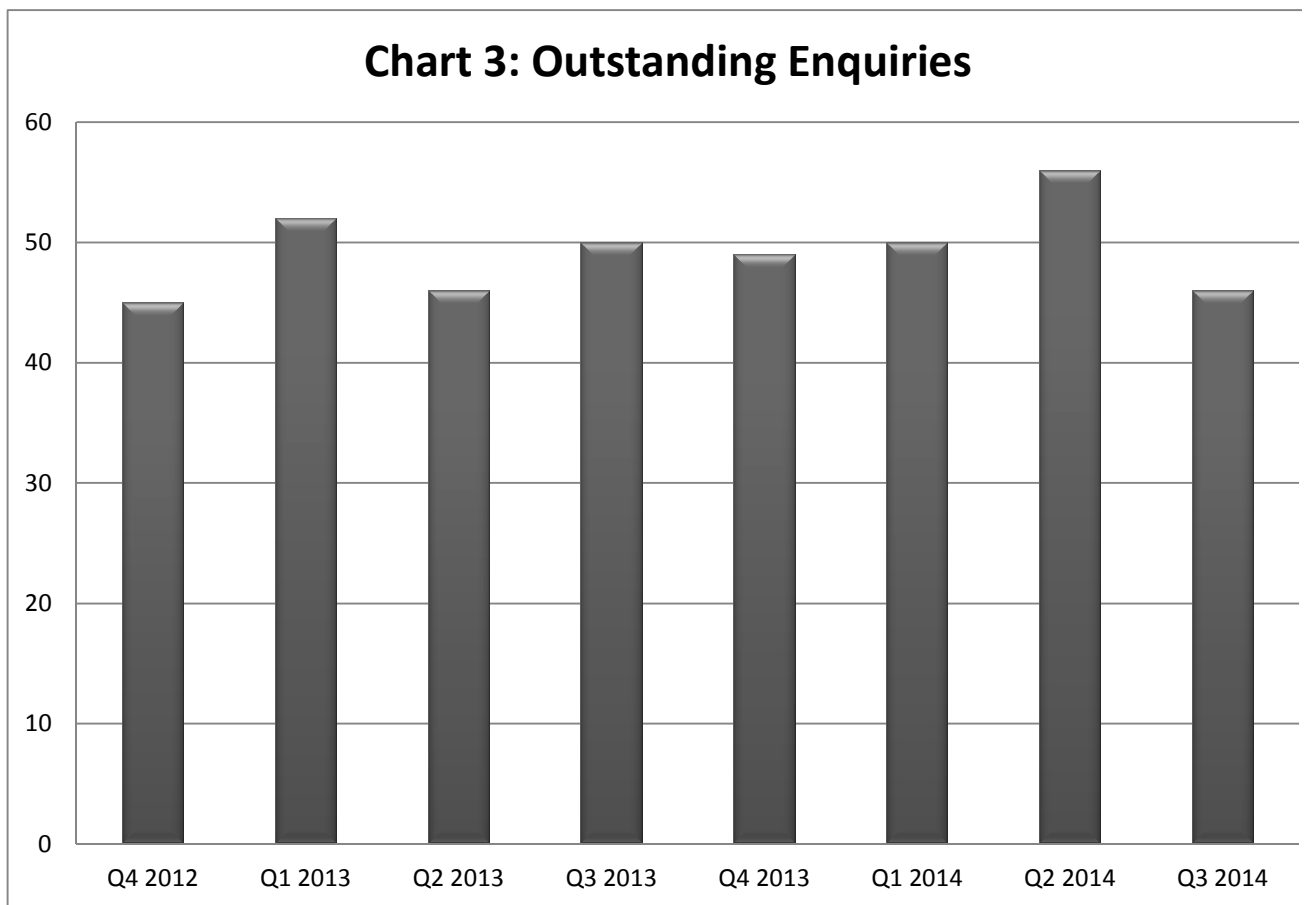
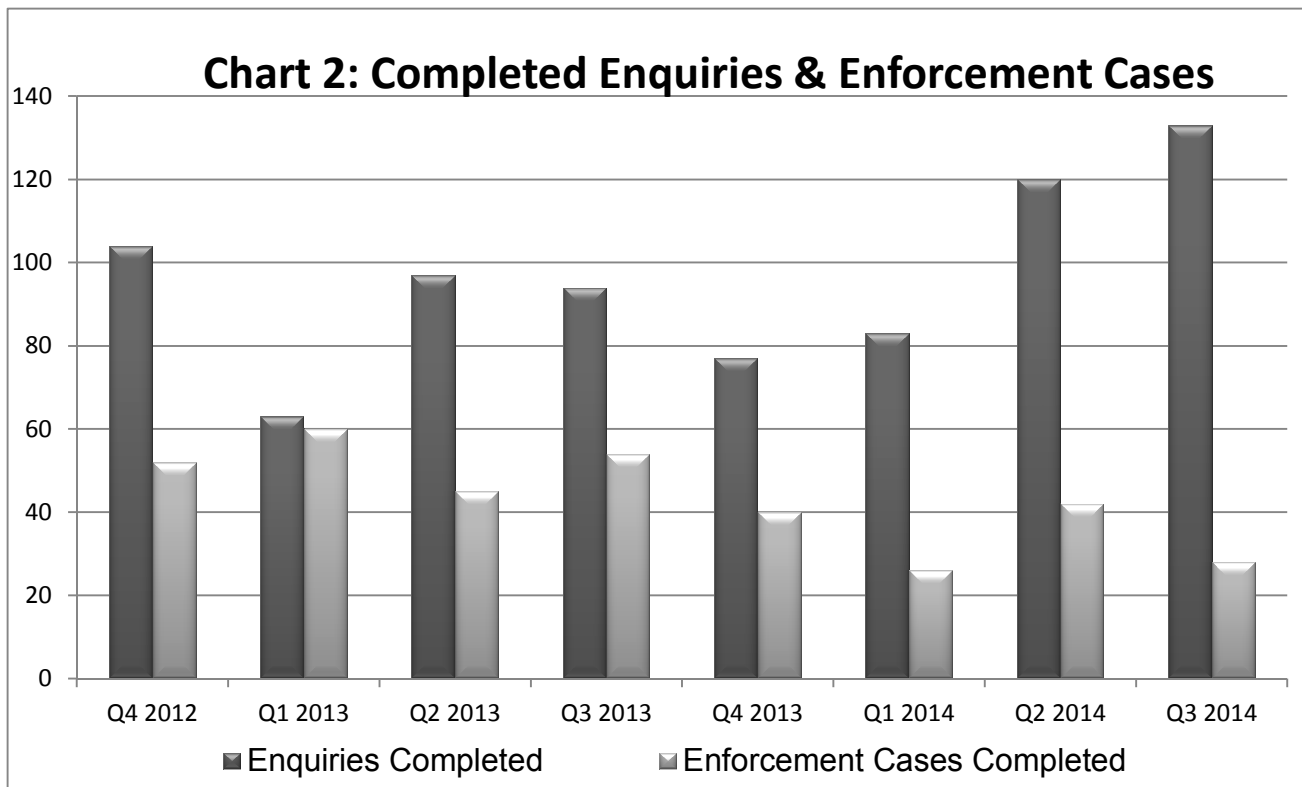
### Purpose of the Report

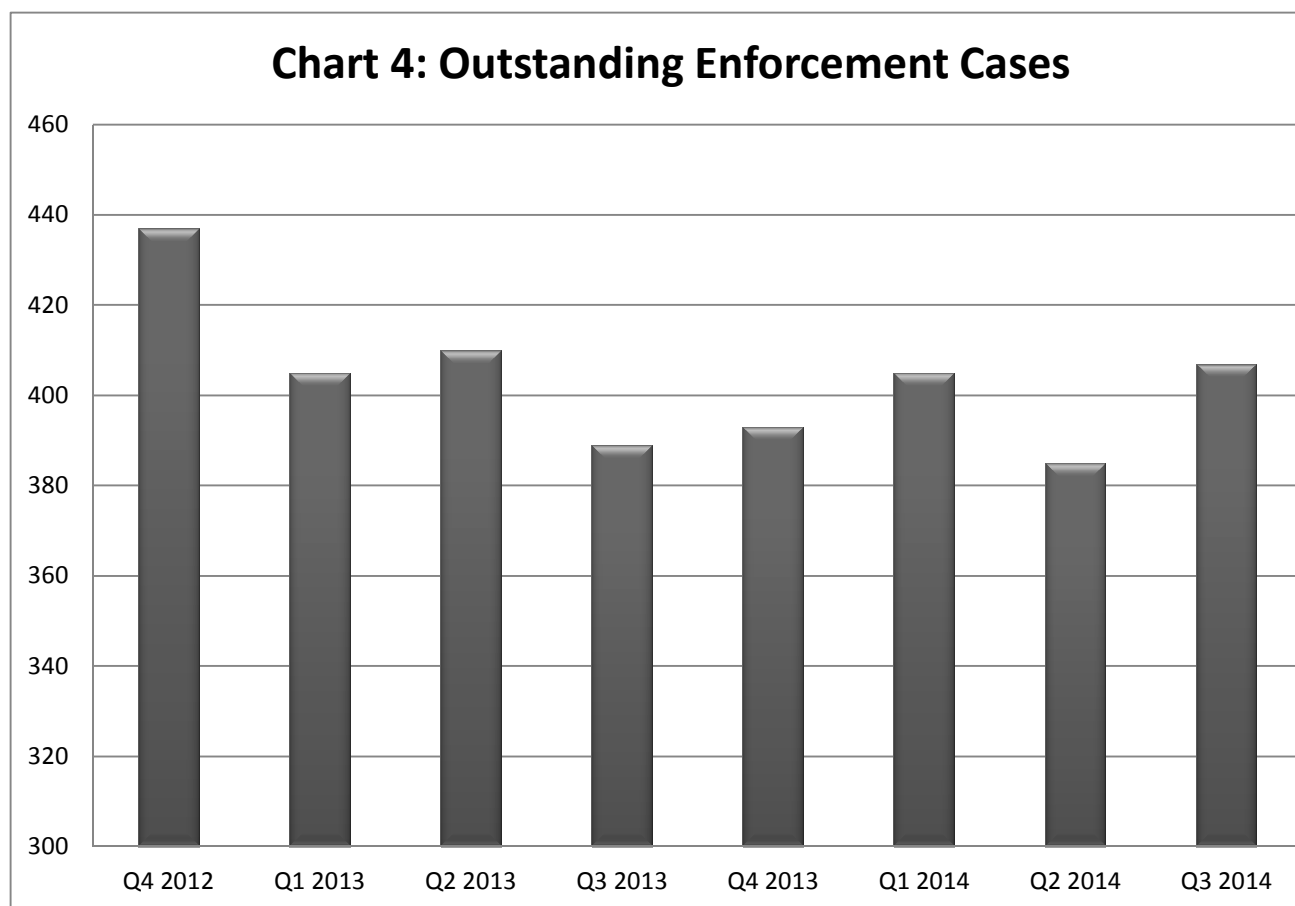
This report updates the Committee on the work being carried out by the Monitoring & Enforcement Team within the Planning Service. It includes a summary of enforcement activity over the last two years and an update on the high priority cases.

### RECOMMENDATION:

That the report be noted.







#### 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, 95% 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. This is the case for approximately half of all enquiries investigated.

In general the number of enquiries received is higher in the spring and summer, probably due to greater building activity, for example, and lower in the autumn and winter. For most of the last two years the number of new enquiries received each quarter has fluctuated between 60 and 100. However, at the Planning Committee in July 2014, it was reported that between April and June 2014 the number received had significantly increased to 121 and that if the seasonal trend continued it was likely that this high level would continue into the next quarter. This is the case as the number received in the latest quarter was 120.

As a result of the high number of enquiries received and the high rate of investigation, mentioned below, the number of enforcement cases created in the latest quarter (46) is also relatively high and is in fact at its highest level since the quarter ending in June 2013.

### 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 latest quarter the performance on enquiries has been particularly strong, with 133 enquiries completed, exceeding all previous quarters over the last two years. For the corresponding quarter in 2013, there were 94 enquiries completed. The performance on completing enforcement cases in the latest quarter has not been as good, with 28 cases resolved, compared to 42 in the previous quarter. This is probably due to the full-time vacancy in the team, referred to below.

### 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 of enquiries outstanding reached a peak of 120 in the second quarter of 2012 but by the end of 2012 this had significantly decreased to around 40 and has been maintained at a relatively low level over the last two years. At the end of the latest quarter there were 45 enquiries outstanding – a reduction of seven from the previous quarter.

### Chart 4 – Outstanding Enforcement Cases

In the fourth quarter of 2012 the number of outstanding enforcement cases was just under 440. There was a significant decrease to just over 400 in the following quarter and the number has been at or around that level since then. In the quarter ending June 2014 the number had reduced to 385, which was the lowest level since March 2010 when it stood at 371. The latest quarter has seen an increase to 407 outstanding cases which is partly as a result of the high rate of investigation of enquiries which has led to the creation of more enforcement cases and partly to the vacancy in the team over the last three months.

### **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 July and 30 September 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 2013 the full-time Senior Officer post became vacant following Chris Fridlington's temporary appointment as Area Planning Manager (South) to cover Sarah Foster's maternity leave. Additionally, in January 2014, the part-time Senior Officer, Alexandra Cotton, left the Authority. The resulting vacancies were only partially covered by a combination of appointing a replacement in the part-time Senior Officer role, and temporarily increasing the hours of that post and of other part-time posts in the Planning Service. Chris Fridlington returned to his full-time post in the team at the end of May but in July 2014 was permanently appointed to the post of Area Planning Manager (South) following Sarah Foster's departure. Since then the full-time Senior Officer post in the Monitoring & Enforcement Team has been vacant and, as mentioned above, this has had an inevitable impact on overall performance, particularly in relation to enforcement cases.

Following a recruitment process, it is anticipated that the vacancy will be filled in early November; the post has been offered to, and accepted by, the successful candidate following an interview in early September.

### **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 reorganize 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 reorganize 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. The previous unauthorised agricultural building and unauthorised fencing have been removed and 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 together with another 5 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, officers consider that the only other significant issue remaining to be resolved concerns a collection of scrap material in the front yard/driveway. The occupier has indicated that he wishes to finish tidying the site, and therefore officers propose to continue to encourage the occupier to finish improvements at the property so that hopefully the case can be finally closed.

### **3. Midfield, Kettleshulme – 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 9 September 2014 when it was apparent that further significant progress had been made on clearing the land. In view of the progress that has been made over the past 18 months 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 retrospective planning permission to be granted. Unfortunately, despite a number of requests for progress to be made the agreement was not completed. Given the time that had passed officers set a final deadline of 8 September 2014 for significant progress to be made towards completing the agreement. No progress was made by that date so the planning application has now been 'finally disposed of' and no further action will be taken on it.

In the next quarter, officers intend to make a site inspection and assess whether any formal enforcement action should be pursued. If it is considered that such action should be taken then that will be commenced.

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

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 seeking to discharge the conditions was submitted in February 2014 but this did not satisfy all the appeal inspector's requirements. Further details were submitted and an approval was eventually issued by officers under delegated powers on 9 September 2014. As part of the work to complete the underground extension, the western half of the barn frame at the rear of the guest house was demolished and a further large hole excavated at the rear of the guest house 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 served which took effect for the month of July, expiring on 1<sup>st</sup> 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 by the Planning Inspector. The finishing work to the underground room was completed during the last week in September, and therefore the underground room conditionally approved by the inspector now finally has the benefit of planning permission.

In August 2013, two further 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. The notices came into effect on 27 September 2013 and were due to be complied with by 27 October 2013. In March 2014, a planning application to continue the tea room use was received but this was refused under delegated powers on 30 May 2014. The tearoom/café use is continuing to operate, but an appeal has been submitted, the outcome of which is awaited prior to pursuing any further enforcement action regarding the tearoom/café use.

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 has not yet been completed although the terms of the agreement have now been established and it is likely the agreement will be signed in mid-November.

Once the legal agreement has been completed and the planning permission issued, officers will be pursuing resolution of the remaining issues 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.

Officers have been in contact with the owner and a site inspection was carried out in September 2014. The appearance of the site has not significantly deteriorated any further over the past two years and the overall impact upon the visual amenity of the area is 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 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. Officers are continuing to make regular visits to check whether this is the case. So far the indications are that the notice is being complied with. Officers have observed lorries parked on the site but these appear to be either in use for legitimate agricultural purposes or are recreational vehicles parked within the residential curtilage. Officers are seeking to confirm this in writing with the owner/agent with a view to closing the enforcement case. In that event, the enforcement notice would remain in place so that action could be taken against any future resumption of the use, in breach of the notice.

Appendix 1 – Quarterly Enforcement Report

Appendix 2 – Map showing location of high priority enforcement cases