



**Report to Planning Committee**

**Subject: Planning Enforcement Update Report**

**Date: 18<sup>th</sup> April 2018**

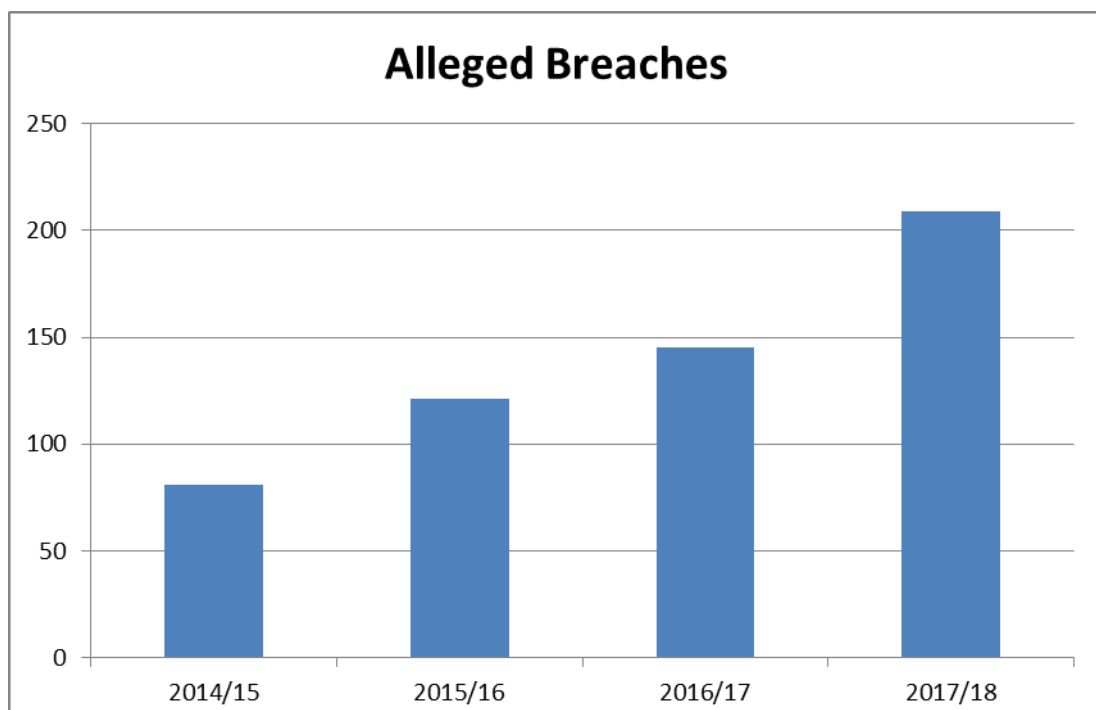
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**1 Purpose of the Report**

- 1.1 The report is to update the Planning Committee on the progress of the planning enforcement function and to inform Members of the outcome of cases which have previously been considered by the Committee and where formal action has been taken.

**2 Background**

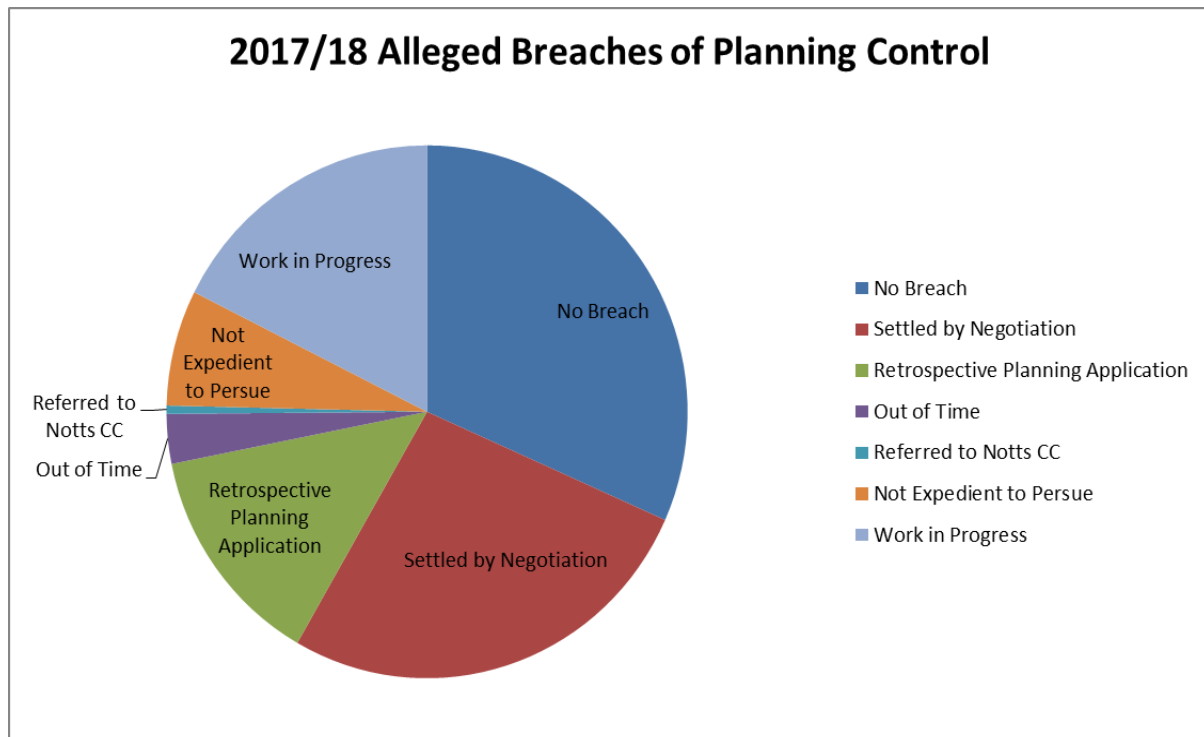
- 2.1 Local Planning Authorities (LPAs) have the discretion to take enforcement action when they regard it expedient to do so having regard to the development plan and other material planning considerations, LPAs should act proportionately in response to suspected breaches of planning control.
- 2.2 The report covers the period from the 1<sup>st</sup> April 2017 to 31<sup>st</sup> March 2018 when the Council recorded 209 complaints about alleged breaches of planning control. Over the past four years there have been an increasing number of complaints of alleged breaches, as shown in the graph below.



- 2.4 Compared to 2014/15 when only 94 complaints were received, the last year reflects almost a 125% increase in the number of alleged breaches reported.

- .5 In addition to the newly reported cases, there has been a legacy of unresolved cases from previous years. Consequently, a review has been undertaken of all cases reported to the Council since 2013 to ensure any concerns from residents reported between January 2013 and January 2017 have now reached a satisfactory conclusion.
- 2.6 With the exception of 4 cases still being monitored and another waiting for an appeal to be considered by the Planning Inspectorate, all cases have been addressed. This should give confidence to Members and the public that a high level of service to our customers is being provided and in addition it is sending a message to residents in the borough that planning control will be enforced and is safeguarding the Council in the event the planning enforcement function is audited or receives an Ombudsman complaint.
- 2.7 In the current year, the make-up of the 209 complaints received was as follows:
- 63 were found to not be in breach of planning control
  - 53 were resolved through negotiation
  - 27 resulted in retrospective planning applications being submitted
  - 6 were found to be out of time for the Council to take action
  - 1 case was referred to Nottingham County Council for investigation
  - 14 complaints were found to be in technical breach of planning but it was not to be expedient to pursue further (e.g. complaints about fences or boundary treatments exceeding the permitted height by 2 or 3 cm and therefore technically requiring planning permission but with no demonstrable harm identified). It should be noted here that Government's advice is that Councils should not be requesting planning applications where harm cannot be demonstrated just to gather a fee.
  - 45 are work in progress with these sites being monitored, considered for formal enforcement action or waiting decisions on planning applications.

2.8 In summary the breakdown of complaints in 2017/18 is:



2.9 Officers always try to resolve matters through negotiation but when issues cannot be resolved and are causing serious harm the Council may have no alternative but to take formal action. During in 2017/18 the Local Planning Authority issued 18 Planning Contravention Notices; 1 Notice requiring land to be tidied; 1 Breach of Condition Notice and 8 Planning Enforcement Notices.

2.10 The numbers of enforcement enquiries received or the number of enforcement notices issued are not a true indication of the amount of work undertaken by the enforcement function. Many complaints received require extensive monitoring and skill in negotiating satisfactory solutions in order to avoid formal action and appeal situations arising ensuring value for money to the tax payer and reducing costs for the Council.

2.11 Complaints which were not justified or where no breach was identified included neighbour disputes, boundary disputes, covenants on deeds being breached, allegations of development being built contrary to the plans when this was not the case, allegations of unauthorised businesses etc.

2.12 Despite not being in breach of the legislation, each complaint must still be fully investigated including a full history search of the site and it usually necessitates a site visit and discussions with the complainant and the landowner alleged to have breached planning control, followed by correspondence explaining the outcome and how the decision that a breach has not occurred has been reached. Although investigations into such cases are time consuming and therefore at a cost to the Council, this is still

important work which ensures the public is satisfied there is policing of the planning system and there is no detriment to the environment or to their own property.

- 2.13 In line with the NPPF recommendation, a Planning Enforcement Plan detailing how the enforcement function is carried out by the Local Planning Authority has now been drafted and the Planning Committee will be consulted on this in due course, prior to adoption by the Council.
- 2.14 Current Government advice to Local Planning Authorities is that they should be pro-active regarding planning enforcement and not just re-active to complaints received from the public. As a result a review will be undertaken of all temporary planning permissions granted in the last 10 years to ensure the permissions have either been renewed or the use has ceased or the temporary structure has been removed and future temporary permissions will be monitored. It is also intended to consider how the Council may improve its monitoring of planning conditions attached to permissions paying special attention to pre-commencement conditions.

### **3 Breaches of planning control previously considered by Planning Committee**

- 3.1 Below is a summary and update of cases considered by the Planning Committee and where formal action has been taken.

**Site;** **Agricultural land to the east of Cromwell Crescent, Lambley**  
**Breach;** **Material change of use of the agricultural land for a mixed agricultural and leisure use.**

Two large portable buildings/containers and a plastic and wooden open structure was placed on the land for use in connection with a leisure use, with one of the containers being used as a 'day room' for family members. A number of horses were also being kept on the land together with other items including horse jumps, a horse mounting block, picnic tables, benches, chairs, badminton rackets, lawn mowers, ornamental plant pots, wheel barrows and wooden pallets.

Type of Notice issued; Enforcement Notice  
Outcome; Buildings/Containers and all other items removed.  
Notice complied with

**Site;** **1 Central Avenue South, Arnold**  
**Breach;** **Untidy land**

Building work at a residential dwelling had continued for fifteen years without ever being completed. The works were extensive and required scaffolding to be erected around the dwelling. When works began on the roof of the dwelling, thirteen years ago, the property was made weatherproof with large blue tarpaulins tied firmly over the roof area and attached to the scaffolding poles. The Council received complaints about the unsightliness of the ongoing works and in particular the blue tarpaulin over the roof. A notice was served under s215 of the Town and Country Planning Act requiring the building works to be finished and the tarpaulin and scaffolding to be removed

Type of Notice served; Untidy Land Notice (s 215 Notice)

Outcome; The works are nearing completion and the blue tarpaulin has been removed together with the scaffolding above the eaves height of the roof. Negotiations are continuing. Notice partially complied with.

**Site; 8 Shorwell Road, Carlton**

**Breach; Material change of use of residential property to a mixed use of residential and a sales business and the storage of items in connection with that business**

8 Shorwell Road is a residential property with a small garden in close proximity to other similar semi-detached dwellings. The two open driveways side and rear garden were being used to keep and store unsold items and goods from the auctions before being sold at a later date. The garden contained three sheds in very poor condition as well as additional plastic storage units. The sheds were full of poor quality items and one of the sheds had been leaking water from the roof and the contents of the shed were sodden and rotting and an attraction for vermin. The land and buildings can be seen from neighbours' upstairs bedroom and landing windows. The open drive ways are visible from the street and neighbouring properties and the tops of the sheds are seen from over the 2 metre high fence. Complainants advised that items were being sold by the occupier on both the internet and at markets. On the days the occupier attended markets, work to load the vans with items from the sheds began at 3.30am, disturbing nearby residents from their sleep. Some items were dropped and left broken in the road during the loading and unloading of two transit vans and neighbours were left to clear up.

Type of Notice served; Enforcement Notice

Outcome; Land cleared of stored items, sheds demolished and removed from the land and the business use ceased. Notice fully complied with.

**Site; Santinis Restaurant, 3 Nottingham Road, Ravenshead**

**Breach; Failure to comply with Planning Conditions**

On the 13<sup>th</sup> October 2015, planning permission was granted for a Change of Use of the premises 3 Nottingham Road, Ravenshead to a restaurant and bar with an extension to the front and side. The permission was subject to a number of conditions relating to car parking and directional signage, drainage on the site and the installation of the extractor fan for the restaurant. Despite several requests to discharge the conditions and carry out the required work the owner declined to comply.

Type of Notice served; Breach of Condition Enforcement Notice

Outcome; All conditions now formally discharged, car parking marked out on the site, directional signage provided and extractor fan approved and in position. – Notice fully complied with.

**Site;** **Fletton Court, Old Brickyard, Carlton**

**Breach;** **Failure to comply with planning conditions**

Planning permission was granted to erect 12 apartments on land now known as Fletton Court, The Old Brickyard, Carlton, subject to a number of conditions. Several conditions were never complied with including conditions requiring boundary treatments, landscaping, parking spaces to be marked out, contamination investigation and contamination measures to be put into place.

Type of Notice served; Breach of Conditions Enforcement Notice

Outcome; Contamination investigation has been completed and is awaiting approval by the Council's Scientific Officer. Parking spaces have been marked out and some landscaping has been carried out but the owner has been advised the landscaping is not to an acceptable standard and the bin store cannot remain where sited. The Council has now received a formal application for a discharge of outstanding conditions and once approved the improved landscaping should be carried out and the bin store relocated. If full compliance of the notice is not achieved the Council will consider proceedings in the Magistrates Court. Monitoring on going. Notice partial complied with.

**Site;** **143 Gedling Road, Arnold**

**Breach;** **Failure to comply with planning conditions**

Planning permission was granted to erect a two storey side extension plus loft conversion with 1 dormer window at the property subject to a condition requiring the side first floor window to be obscured glazed. The occupiers failed to comply with the condition and a notice was served.

Type of Notice served; Breach of Condition Notice

Outcome; Window obscured glazed and now non opening.  
Notice complied with.

**Site;** **Longdale Plantation, Longdale Lane, Ravenshead**

**Breach;** **Construction of an unauthorised building and unauthorised engineering works**

This matter relates to unauthorised development, engineering works and tipping on a site of approximately 9.6 hectares of woodland to the south of Longdale Lane, Ravenshead. The Land lies within an area of countryside and also within the Nottinghamshire Green Belt. In addition it is part of a designated Site of Nature Conservation Interest.

An application made in 2010 under the GPDO proposed three large forestry buildings. It was claimed these buildings were necessary for the forestry business and they would be used for the storage of woodland machinery and logs as part of the woodland management scheme. The first building was erected in the summer of 2013 but no start was made on the other buildings. Schedule 2 of the GPDO, Parts 6 & 7 allows certain development to take

place on land used for the purposes of forestry, providing it is “reasonably necessary for those purposes” and subject to a number of conditions including that an application is submitted as a ‘Prior Notification’ and the development is ‘carried out’ within a period of five years.

The owner claimed the first building erected under the application was now redundant and he wished to convert it for holiday accommodation. In these circumstances the Council did not agree further buildings were ‘reasonably necessary’ for the forestry purposes of the site and so, the additional barns applied for failed to comply with the requirements of the GPDO on this point. It was also considered the GPDO approval given in 2010 had lapsed due to the conditions which require the development to be completed within 5 years from the date the approval was given.

A letter was sent to the applicant on the 20th April 2017 advising the GPDO approval had lapsed as the buildings had not been completed within 5 years from the date approval was given. In May 2017 it came to the Council’s attention that despite this advice works had commenced on site to construct the second building. Officers attended at the site and it was noted a water supply had been brought to the development site, cavity wall foundations had been laid and excavation works had been carried out in preparation for a new access from the new building to Longdale Lane. In addition a large amount of hard-core had been tipped on the land to make a hard standing in front of the new building.

Type of notice issued;	Enforcement Notice
Outcome;	The unauthorised development has been removed, the new access has been filled in and the vegetation is beginning to regenerate. Notice complied with.

**Site;**                **8 Middlebeck Avenue, Arnold**  
**Breach**            **Material change of use of residential garden for car sales business**

8 Middlebeck Avenue is a detached dwelling at the end of a cul-de-sac. It is a very large plot with a generous lawned area but is close to other residential properties. Complaints were received about a car sales business operating from the property. At the time of visits by Council Officers there were in excess of 30 vehicles on the site. Despite negotiations the occupier of the property refused to cease the activity.

Type of Notice issued;	Enforcement Notice
Outcome;	The unauthorised use has ceased and all vehicles associated with the business have been removed. Notice complied with.

**Site:**                **6 Jessops Lane, Gedling**

**Breach:**            **Unauthorised garage**

Planning permission was granted for extensions and a detached garage at No. 6 Jessops Lane, Gedling. The Council became aware the garage was being built closer to the boundary and highway than had been approved. A retrospective planning application to retain the garage in its built location was

refused and an enforcement notice was subsequently issued requiring its demolition.

Type of Notice issued; Enforcement Notice

Outcome; Garage demolished and is being rebuilt in approved location. – Notice complied with.

**Site; Seven Acres, 15 Mansfield Road, Papplewick**

**Breach; Material change of use of agricultural land for the commercial storage of caravans**

The property known as Seven Acres is a large modern detached property sited in the open countryside and Green Belt. The Council received a complaint about the unauthorised storage of caravans on the agricultural land just south of the residential dwelling. At the time of visits made to the site there were 18 caravans stored on the land and the owners made it clear they had no intentions to cease the use but that they wished to increase the number of caravans stored to fifty.

Type of Notice issued; Enforcement Notice

Outcome; Notice appealed and we are still waiting for a start date for the appeal from the Planning Inspectorate.

**Site; West Lodge, Newstead Abbey Park**

**Breach; Unauthorised construction of a gazebo, bridge and the storage of a shipping container**

A retrospective planning application was refused at appeal for the retention of the unauthorised gazebo and bridge constructed at this grade II listed building in Newstead Abbey Park. Officers also noted that a green shipping container had been placed on adjacent agricultural land by the owner without planning permission. The owner declined to remove the structures and as a result an enforcement notice was served.

Type of Notice issued; Enforcement Notice

Outcome; Compliance not required until the end of April 2018 but the gazebo and the bridge have already been removed and the owner has indicated the shipping container will also be removed. Notice partially complied with but full compliance not required for another four weeks.



4 **Recommendation**

**THAT:** Planning Committee note the content of the report

5 **Reason for Recommendation**

To update Members on the number of planning enforcement complaints received and investigated and the progress in respect of notices served.