

Strategic Planning Board

Date of Meeting: 18th November 2020

Report Title: Performance of the Planning Enforcement Service First Two Quarters 2020-2021

Portfolio Holder: Councillor Toni Fox - Planning

Senior Officer: David Malcolm- Head of Planning

1.0 Report Summary

1.1 The purpose of this report is to provide the Strategic Planning Board with information relating to the activities and performance of the Council's planning enforcement service during the period 1st April 2020 - 30th September 2020 including a status report on those cases where formal enforcement action has already been taken.

2.0 Recommendation

2.1 Members are requested to note the content of the report.

3.0 Reason for Recommendation

3.1 The information contained within the report is to update Members on performance only.

4.0 Background

4.1 Introduction

4.2 Members will no doubt have read many reports which highlight the impact which the current pandemic has had and continues to have on service delivery. Planning enforcement has not escaped this. The early part of the reporting period was impacted upon most significantly i.e. in April when the country was in full lockdown and officers were unable to make any visits other than those considered to be an emergency. Officers in Planning Enforcement, as they have across the Council, have displayed great flexibility and resilience during this time and continue to do so. Whilst,

in accordance with corporate guidance officers continue to work from home they are now able to carry out the majority of visits whilst still having careful regard to social distancing guidelines and a site visit protocol which has been put in place.

- 4.3 Other than during the early stages of lockdown, there has been no discernible downturn in the volume of cases being received however due to current circumstances investigations can be more protracted. Throughout this reporting period 550 new cases have been received compared to 561 cases during the same period in 2019.
- 4.4 Added to this, since early August a significant proportion of officer time has been taken up by one single case which relates to an unauthorised material change of use of land to a caravan site within the Green Belt in Mobberley.
- 4.5 The service specific Enforcement Policy has been reviewed and now approved. It will be placed on the Council's website where it will be available for viewing.

Report Format

- 4.6 The information contained in this report is divided into three sections:
- 4.7 Section 5 provides a summary of investigative activity and formal enforcement action undertaken during the period 1st April 2020 – 30th September 2020.
- 4.8 Section 6 provides an update of those cases where formal enforcement action has been authorised and has taken place (see Appendix 1).
- 4.9 Section 7 advises on future reports.

5.0 Reported Information

CHART 1

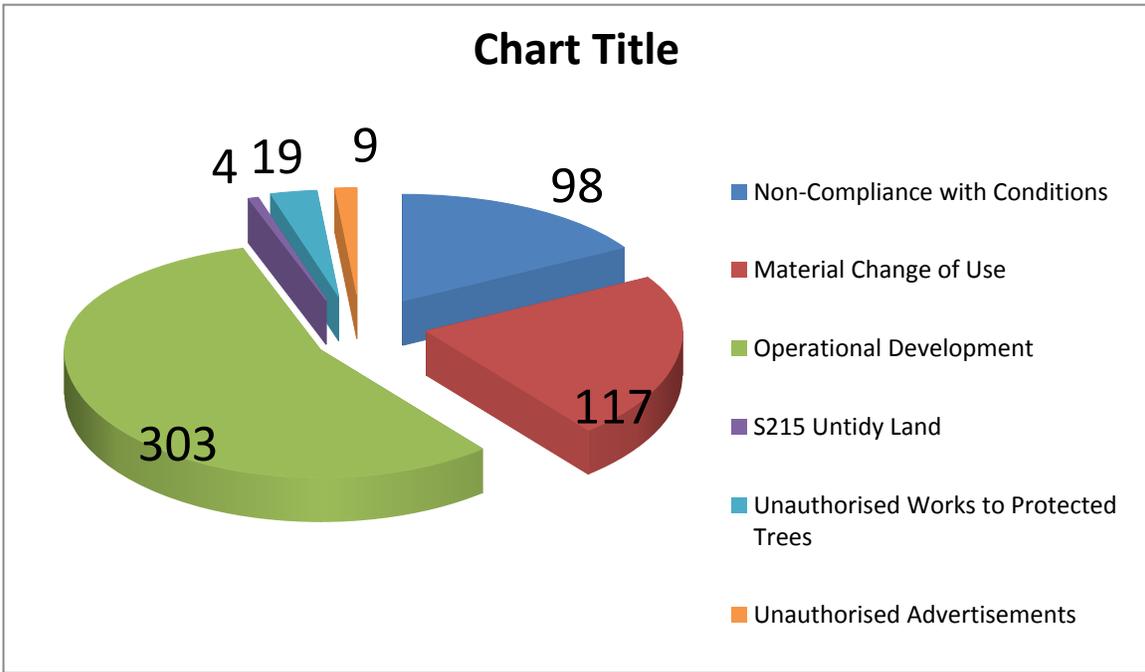
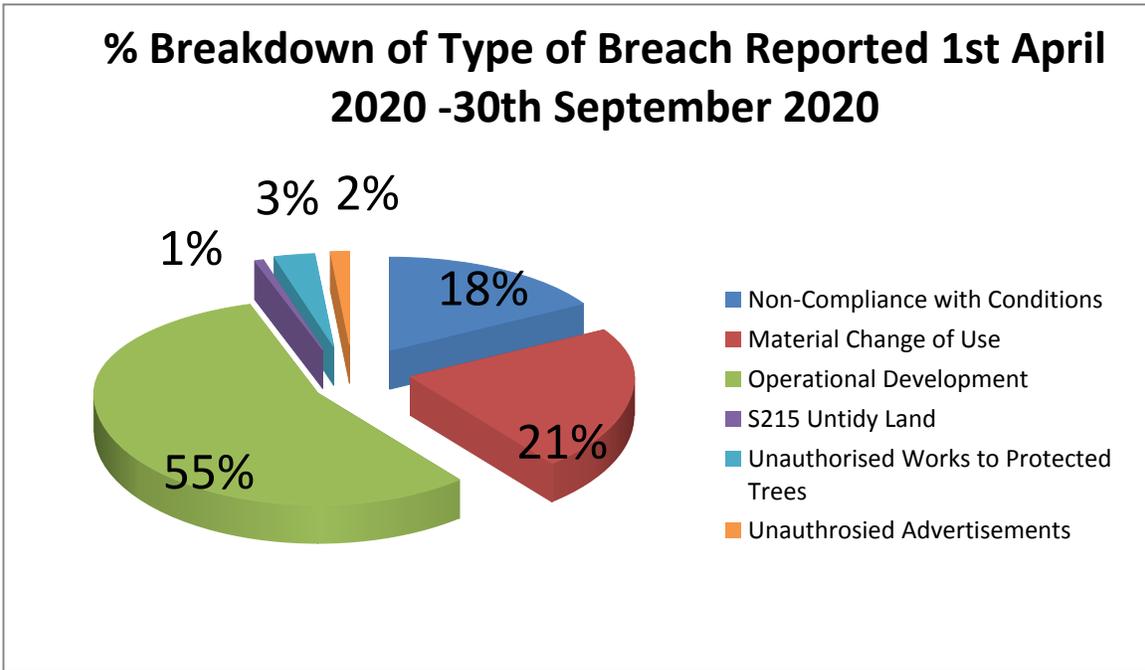


CHART 2



5.1 Incidences of reports of alleged unauthorised operational development have increased by 9% since the last report was presented. It appears that the lockdown period has seen an increase in the construction of outbuildings in gardens.

5.2 150 of the alleged breaches reported during this period were closed because no breach was identified i.e. 27%. Overall during the reporting period 165 cases were closed owing to no breach being identified. Chart 3 provides a more detail breakdown of all reasons for closure.

CHART 3

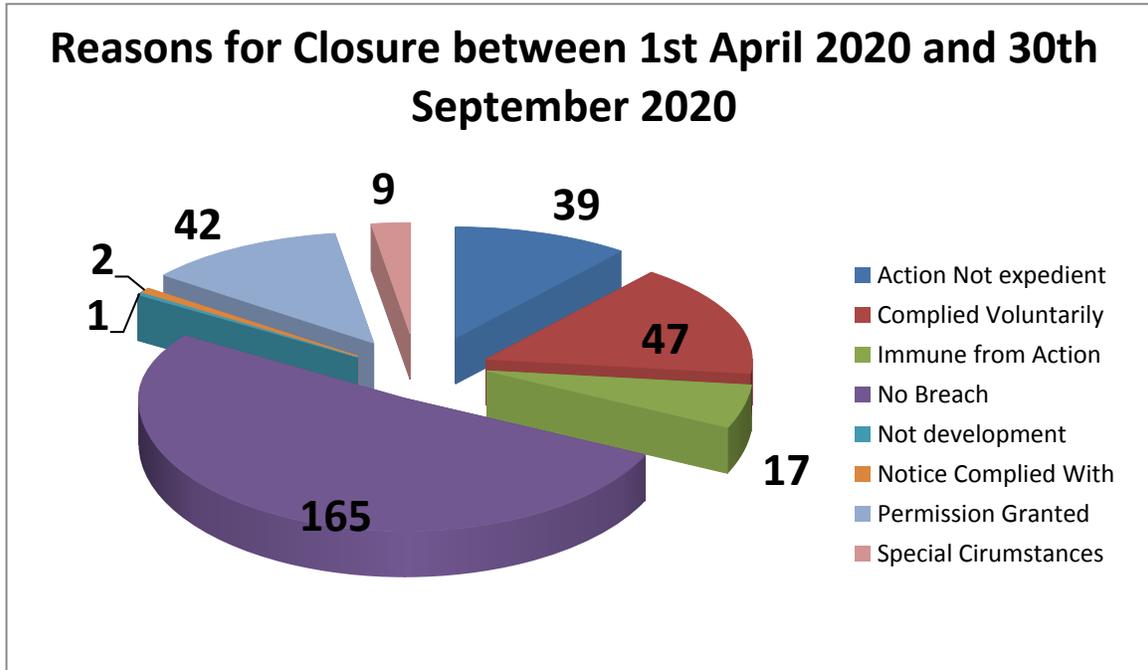
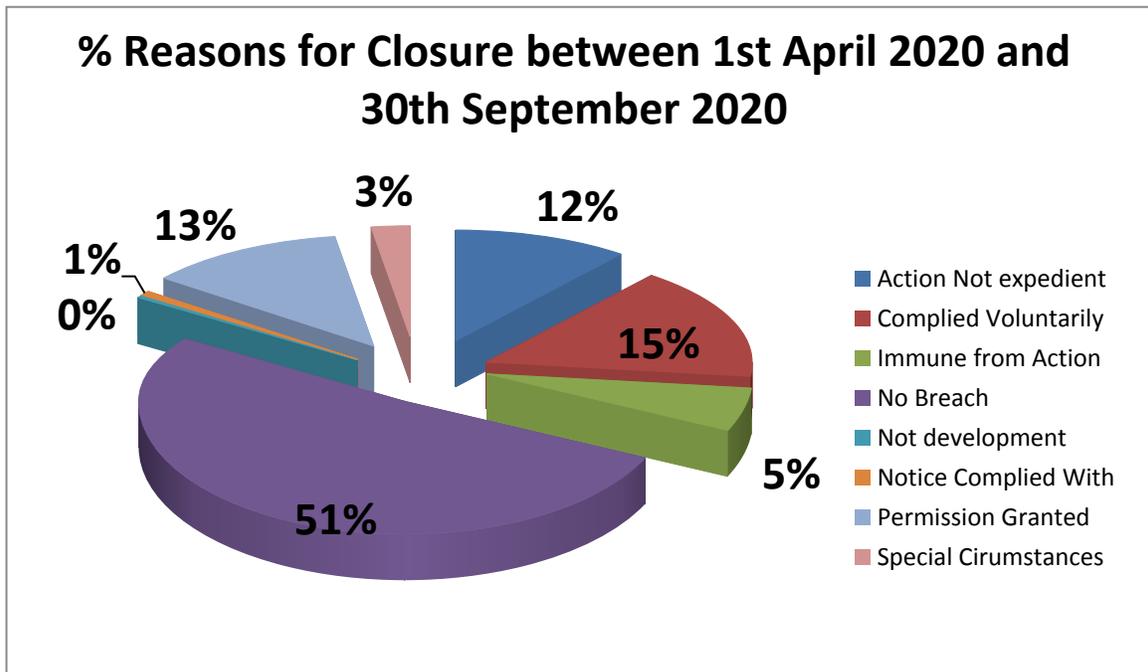


CHART 4



- 5.3 51% of overall cases closed during the reporting period did not equate to a breach of planning control. In many instances this is because the development itself is effectively granted planning permission by the Town and Country Planning (General Permitted Development) (England) Order 2015. Whilst this may be unpalatable to a complainant the Local Planning Authority has no power to take any action under these circumstances. In other circumstances it may be because there is insufficient evidence to prove that a material change of use has occurred. Any decision to take enforcement action must have an evidential base sufficient to be relied upon at any resultant appeal as well as having regard to local and national planning policy.
- 5.4 Enforcement cases are given an initial priority when they are received based on the apparent harm being or likely to be caused. The priority determines the timescale within which officers endeavour to carry out their first visit. (It is not always necessary to carry out a site visit). Chart 5 provides a breakdown of allocations.

Priority 1 – High - Site visit within one working day

A report of an alleged breach will only be allocated as a P1 where it appears to officers of the Council that irreparable harm is being, or is likely to be, caused to an historic/ecological asset or where there is the potential for irreparable harm to the environment, or members of the public. These include:

- Unauthorised works to listed buildings
- Unauthorised demolition in a Conservation Area
- Development causing immediate and irreparable harm to an area of land which has special protection.
- Development causing serious danger to the public (This does not include unsafe working practices or parking of operatives or delivery vehicles on the highway. These are matters that the Council cannot control and should be reported directly to the Health and Safety Executive or the police respectively.)
- Unauthorised works to, or affecting, trees covered by a Tree Preservation Order, or in a Conservation Area.

Priority 2 – Medium – Site visit within 5 working days

A report of an alleged breach will be allocated as a P2 only where a significant degree of harm is likely to or is occurring in the opinion of officers of the Council. These include:

- Building work that is already in progress
- Development which is potentially immune from enforcement action within 6 months (following a period of 4 years in relation to building works already undertaken and 10 years in relation to a material change of use).
- Development causing serious harm to its surroundings or the environment

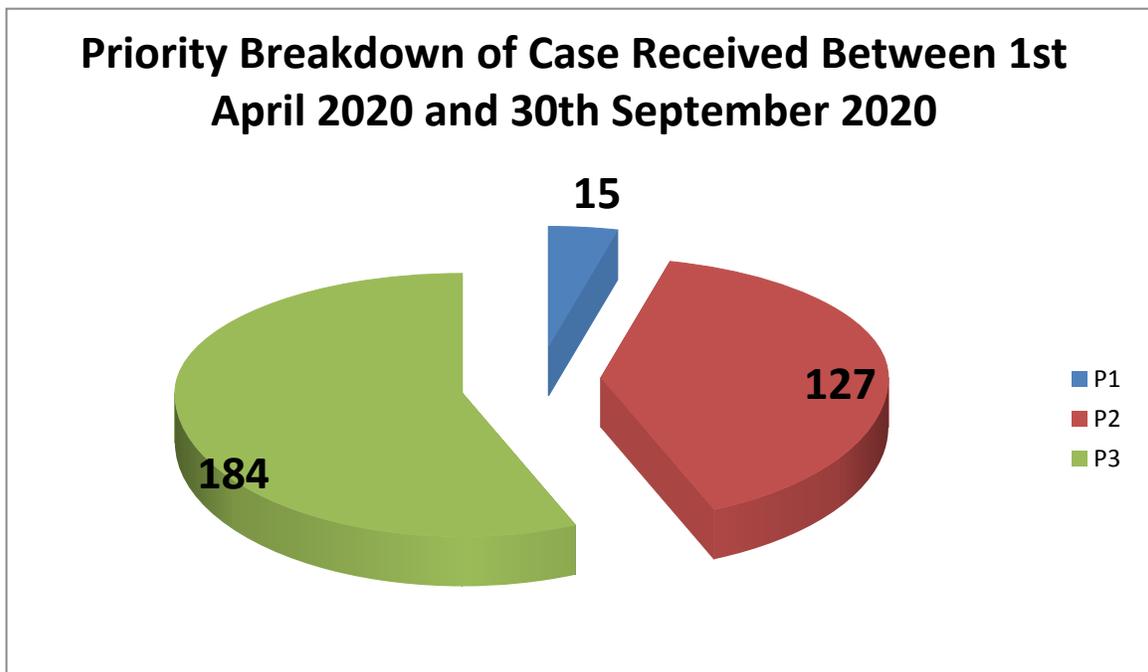
- Breaches of Condition/non compliance with approved plans which is considered by officers of the Council to be causing serious harm
- Development which represents a clear breach of planning policy and is unlikely to be granted planning permission.

Priority 3 – Low – Site visit within 15 working days

In all other instances and where no significant degree of harm is likely to result the Council will allocate a report of an alleged breach as a P3. These include:

- Other building work which is complete, e.g. an extension which already has a roof on it.
- Development not causing significant harm to its surroundings or the environment - where the breach is technical in nature or is a minor deviation from a planning permission.
- Advertisements.
- Breaches of condition/non compliance with approved plans causing no significant harm to, or no harm to, the character or appearance of an area e.g. where a window has not been glazed with obscure glass and the development is not yet occupied.
- *Development which is likely to be permitted development, - the erection of sheds, outbuildings, porches, rear single storey extensions. (See link below)
- *Minor domestic development e.g. fences, satellite dishes (see link below)
- Untidy Land, i.e. where land is having an adverse impact on the appearance of an area. (This does not extend to land which is merely overgrown).

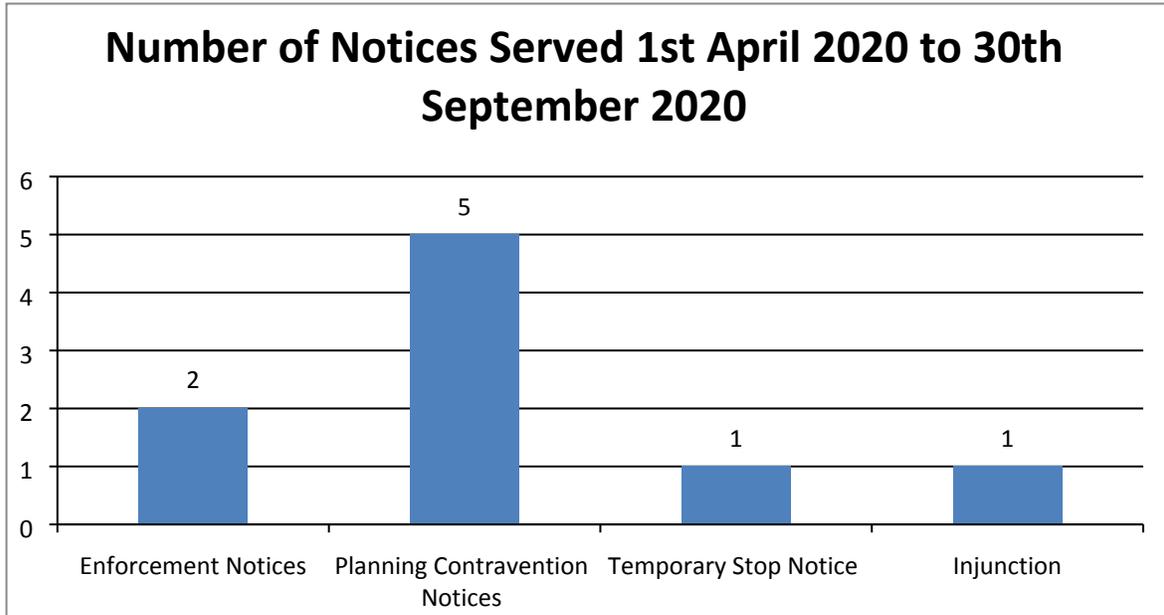
CHART 5



5.5 NOTICES SERVED

5.6 A total of 8 notices have been served during the reporting period. Chart 6 breaks those down by type. Of those enforcement notices issued one is currently under appeal. As previously referred to the Injunction is subject to committal proceedings in the high court.

CHART 6



5.7 During full lockdown courts were closed and have only more recently recommenced dealing with regulatory cases. It is only now that it is becoming realistic to progress outstanding cases where prosecution is considered to be an appropriate action. This has resulted in a delay in progressing some cases to this stage and other cases which were pending have also suffered a delay.

5.8 The ongoing pandemic will continue to have an impact on the end to end enforcement process but all reasonable steps will be taken to keep any delays to a minimum albeit there are instances where time tables are outside the control of the LPA - for example court or appeal proceedings.

5.9 Service Improvement

5.10 Work is underway to provide additional information for customers on the Planning Enforcement web pages of the Cheshire East website. This will not only inform them of the process but also signpost customers to other services/agencies which may be better placed to assist them with their enquiry where it is not a matter which falls under the jurisdiction of planning enforcement.

5.11 Work is also underway to improve the online form for reporting alleged breaches of planning control. Adapting its look and feel to ensure that relevant information is captured to assist in prioritising a case and also to filter out at an early stage those enquiries which fall outside the remit of planning enforcement.

6.0 Update on Formal Enforcement Action Already Taken

6.1 Whilst the majority of the work of the enforcement team involves investigating reports of suspected breaches of planning control, Appendix 1 attached to this report details the status of those cases (in Ward order) where it was appropriate to take enforcement action and serve a formal notice.

6.2 The Appendix contains 54 cases. A breakdown on the status of the 54 cases at 22nd October 2020 is as follows

- 3 have already been closed
- 2 are the subject of active legal proceedings
- 4 have resulted in successful convictions
- 20 were the subject of appeals which were dismissed
- 2 were the subject of appeals which were part allowed and part dismissed
- 5 are the subject of an appeal and a decision is awaited
- 2 enforcement notices have been withdrawn

7.0 Future Reports

7.1 The next report will be presented in April 2021 and will contain information for the last two quarters of 2020/2021.

8.0. Implications of Recommendation

8.1 Legal Implications

8.1.1 No direct implication

8.2 Finance Implications

8.2.1 No direct implication

8.3 Policy Implications

8.3.1 No direct implication

8.4 Equality Implications

8.4.1 No direct implication

8.5 Human Resource Implications

8.5.1 No direct implication

8.6 Risk Management Implications

8.6.1 No direct implication

8.7 Rural Communities Implications

8.7.1 No direct implication

8.8 Implication for Children & Young People/Care for Children

8.8.1 No direct implication

8.9 Climate Change -

8.91 No direct implication

8.10 Public Health Implications

8.10.1 No direct implication

8.11 Ward Members Affected

8.11.1 All wards are affected

9.0 Access to Information

9.1 The following document is appended to this report

Appendix 1 – Status report on cases where formal enforcement action has been taken.

10.0 Contact Information

10.1 Any questions relating to this report should be directed to the following officer.

Name: Deborah Ackerley

Job Title: Principal Planning Officer (Enforcement)

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