

ABERDEEN CITY COUNCIL

COMMITTEE	Planning Development Management Committee
DATE	26 May 2022
EXEMPT	No
CONFIDENTIAL	No
REPORT TITLE	Planning Enforcement Activity Report – April 2021 to March 2022
REPORT NUMBER	PLA/22/072
DIRECTOR	Gale Beattie
CHIEF OFFICER	David Dunne
REPORT AUTHOR	Gavin Clark
TERMS OF REFERENCE	8.5 – monitor performance relevant to its purpose and remit

1. PURPOSE OF REPORT

- 1.1 To inform Members of the planning enforcement work that has been undertaken by the Planning Service from 1st April 2021 to 31st March 2022.

2. RECOMMENDATION(S)

- 2.1 That members note the contents of this report.

3. CURRENT SITUATION

- 3.1 This report provides an annual update for the Planning Development Management Committee of the Planning Enforcement work that has been pursued by the Development Management Section of Strategic Place Planning.
- 3.2 Appendix 1 to this report identifies all cases which have been investigated during the above period with a view to determining whether a breach of planning control has taken place and whether it is expedient to take enforcement action. It details those cases that have been resolved; updates cases that were under investigation prior to April 2021; and notes those that have required formal enforcement action. The Appendix provides a summary of the complaint/ alleged breach and an update of the current status and any related action.
- 3.3 The information indicates that a number of cases have been resolved through negotiation and discussion, without recourse to the use of formal enforcement action. In most circumstances, particularly where householders (domestic properties) are concerned, the breaches are relatively minor and may have taken place because the parties were unaware of the requirement of the need for first obtaining planning permission. In many cases, the submission of a planning application and eventual grant of planning permission has resolved the situation.

- 3.4 A total of 261 new cases have been investigated since 1st April 2021. This is an increase from 193 in the previous reporting period. The majority of these (146 or 56%) have been resolved without recourse for formal action. These cases fell into one of the following categories: -
- By the approval of a retrospective planning application,
 - By informal negotiation resulting in the breach being rectified by the offending party,
 - Being a minor breach where it would not be reasonable or economic to progress,
 - The case was dealt with by colleagues in Spaces for People, or
 - No breach of planning control.
- 3.5 The remaining 68 cases are still under investigation and may require formal enforcement action if negotiation proves unsuccessful and if there is found to be a breach of planning control which has resulted in a significant adverse impact on amenity or a threat to public safety. Ten enforcement related formal Notices have been served during the current reporting period compared to seven in the previous year. Of the historic enforcement cases previously investigated (prior to 1st April 2021), fifteen are still unresolved and may require formal action to ensure a satisfactory outcome.
- 3.6 It is a continuing trend that a significant proportion of complaints received are of a relatively minor nature and these are mostly householder cases. As these cases often do not relate to the priorities identified for action in the Council's Enforcement Charter (properties in conservation areas, involving protected trees or raising issues of public amenity or public safety), they are likely to be of lower priority in terms of consideration of enforcement action, notwithstanding the statutory duty to investigate enforcement complaints. However, these cases can give rise to very strong feelings amongst those affected, often taking up a significant proportion of officers' time in investigating/resolving a dispute.
- 3.7 One of the main issues raised within the reporting period relates to COVID-19 and the Spaces for People initiative. Under the above, a number of businesses erected outdoor seating areas, enclosed structures and areas of decking to provide additional customer capacity. Following the easing of lockdown restrictions, some of these required to be removed. Whilst a proportion of these have been removed, a number remain in situ, and some of those are subject to applications for planning permission. The Council may need to take further action in the future if such structures remain without the required planning approval in place.
- 3.8 A further issue relates to staffing. The Council's previous Planning Inspector retired in December 2021 and a replacement could not be appointed until April 2022. This meant that cases needed to be dealt with by both the Senior Planner and passed on to Planners to investigate. Other tasks, such as the posting of site notices also had to be shared out and dealt with by colleagues. All of the above resulted in slight delays to investigating complaints and queries. This situation has now however improved following the appointment of a new Planning Inspector.

- 3.9 The following table provides a summary of the enforcement caseload since 1st April 2021 and divides the cases into new cases and those dating from the previous reporting period.

New Cases – 1st April 2021 to 31st March 2022	Cases resolved & no further action required.	261
New Cases - 1st April 2021 to 31st March 2022	Under investigation, being negotiated, or application decisions pending.	68
Enforcement Related Notices served		10
Enforcement Notices in process of being prepared		3

- 3.11 An Enforcement Charter, which is a statutory requirement arising from implementation of the 2006 Planning (Scotland) Act, was first adopted by the Council in June 2009. There is a statutory requirement to review this document every two years and it requires to be updated this year. There have been updates on several occasions since 2009, with the most recent update taking place in March 2020. A copy of this document is appended at Appendix 2 for information. The Charter helps to explain the role of the planning enforcement team to the public, as well as setting priorities in terms of delivery of the planning enforcement service. Due to the aforementioned staffing issues, the Charter has not been updated at the time of writing, however this will be done within the next three months, and no significant changes to the Charter content are anticipated.

4. FINANCIAL IMPLICATIONS

- 4.1 There are no specific implications for revenue or capital budgets, property-based budgeting, or state aid arising from consideration of this report. Some costs may be incurred in direct action to secure compliance when an enforcement notice is necessary, along with title searches relating to the serving of Enforcement Notices. This can generally be accommodated within existing budgets, actions out with budget parameters will trigger a specific report being submitted to Committee to seek authorisation or other instructions.

5. LEGAL IMPLICATIONS

- 5.1 There are no legal implications arising from this report.

6. ENVIRONMENTAL IMPLICATIONS

- 6.1 There are no environmental implications arising from this report.

7. RISK

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)	*Does Target Risk Level Match Appetite Set?
Strategic Risk	N/A			N/A
Compliance	N/A			N/A
Operational	N/A			N/A
Financial	Financial costs may be incurred should Enforcement Notices not be complied with	The risk can be mitigated by ensuring there is funding available from the appropriate budget for direct action to be taken. In the event that direct action is required we will seek to recover all the costs of the required action from the landowner in accordance with the relevant legislation	L	Yes
Reputational	There may be a negative impact if the Council do not decide to proceed with enforcement action.	Proceed with the enforcement action where required.	L	Yes
Environment / Climate	Not undertaking enforcement action could result in adverse impacts on the built and natural environment	Proceed with the enforcement action where required.	L	Yes

8. OUTCOMES

<u>COUNCIL DELIVERY PLAN</u>	
<u>Aberdeen City Local Outcome Improvement Plan</u>	
Prosperous Economy Stretch Outcomes	The Council aims to support improvement in the local economy to ensure a high quality of life for all people in Aberdeen. This report monitors indicators which reflect current economic activity within the city and actions taken by the Council to support such activity.

Prosperous People Stretch Outcomes	The Council is committed to improving the key life outcomes of all people in Aberdeen. This report monitors key indicators impacting on the lives of all citizens of Aberdeen. Thus, the Planning Service will need to measure the effectiveness of measures already implemented, as well as allowing an evaluation of future actions which may be required to ensure an improvement in such outcomes.
Prosperous Place Stretch Outcomes	The Council is committed to ensuring that Aberdeen is a welcoming place to invest, live and visit, operating to the highest environmental standards. This report provides essential information in relation to enforcement related issues to measure the impact of any current action.

9. IMPACT ASSESSMENTS

Assessment	Outcome
Integrated Impact Assessment	Full impact assessment not required.
Data Protection Impact Assessment	Not required.

10. BACKGROUND PAPERS

10.1 None

11. APPENDICES

11.1 Appendix 1 – Enforcement Cases – April 2021 to March 2022

11.2 Appendix 2 – Enforcement Charter – March 2020

12. REPORT AUTHOR CONTACT DETAILS

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