

Quarterly Planning Enforcement Report

2017 Quarter 1

1 April 2017 – 30 June 2017

Introduction

This report is prepared to summarise the level of enforcement activity for planning enforcement within Cornwall Council for the quarter 1 April 2017 – 30 June 2017. The team:

- Responds to reports concerning alleged breaches of planning control
- Represents the Council at any subsequent enforcement appeals and prosecutions
- Deals with all applications for Certificates of Lawfulness for an Existing Use/Development
- Pro-actively monitor the waste and mineral sites in Cornwall
- Pro-actively monitor Section 106 planning obligations
- Provides discretionary advice to those that have identified a problem, usually at the conveyancing stage

Responding to Alleged Breaches

Validation/Registration

Reports are made either online, via the customer contact centre, or via email to the planning enforcement mailbox. When a new report is received, the technical officers determine whether there is sufficient information to enable an officer to investigate the matter, in which case the report is validated and registered for investigation. If there is insufficient information, or the matter reported is not a breach of planning control, it will not be registered for investigation. We receive approximately 200 enquiries to enforcement every month.

We aim to provide an initial response as to whether the matter is a breach or whether it will be logged for investigation within 14 working days.

New Enforcement Cases

Once the matter has been validated because it requires further investigation, it is logged as an enforcement case and registered to an enforcement case officer to progress.

We aim to determine our course of action within 13 weeks from the date the case was registered. (Or 8 weeks for high priority cases which are immediate works to trees or immediate works to listed buildings) This does not necessarily mean that the case will be closed within that time; for example, it could be that the agreed course of action is to seek the cessation of the breach, but having made that decision there are many legal stages that we need to go through

which can take some time. However, the initial decision as to what we intend to do on the case is likely to be made within the 13 weeks. As at the end of June, 99% of the cases had an agreed course of action within the timescales.

NB. If a number of individuals report the same issue, it is still counted as a single case.

Cases received and allocated to a case officer for investigation	697
Cases closed by officers	499
Ongoing cases with officers	944

Enforcement Cases Closed

We have closed 499 cases during this quarter. This can be broken down as follows:

No breach found	203
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Officer has found that the reported matter was not a breach of planning control

Permitted development	31
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Officer has found that the matter reported constituted 'permitted development', and therefore is not a breach of planning control

Breach resolved or ceased by negotiation	50
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Officer has negotiated a solution with the landowner/occupier to voluntarily cease the development or reduce/alter it to make it acceptable

Not expedient	111
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The matter is a breach of planning control, but there is no harm caused and therefore no further action can be taken

Application received / planning permission granted	78
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Planning permission is in place for the development, or the officer has managed to get the landowner/occupier to submit an application to retain the development

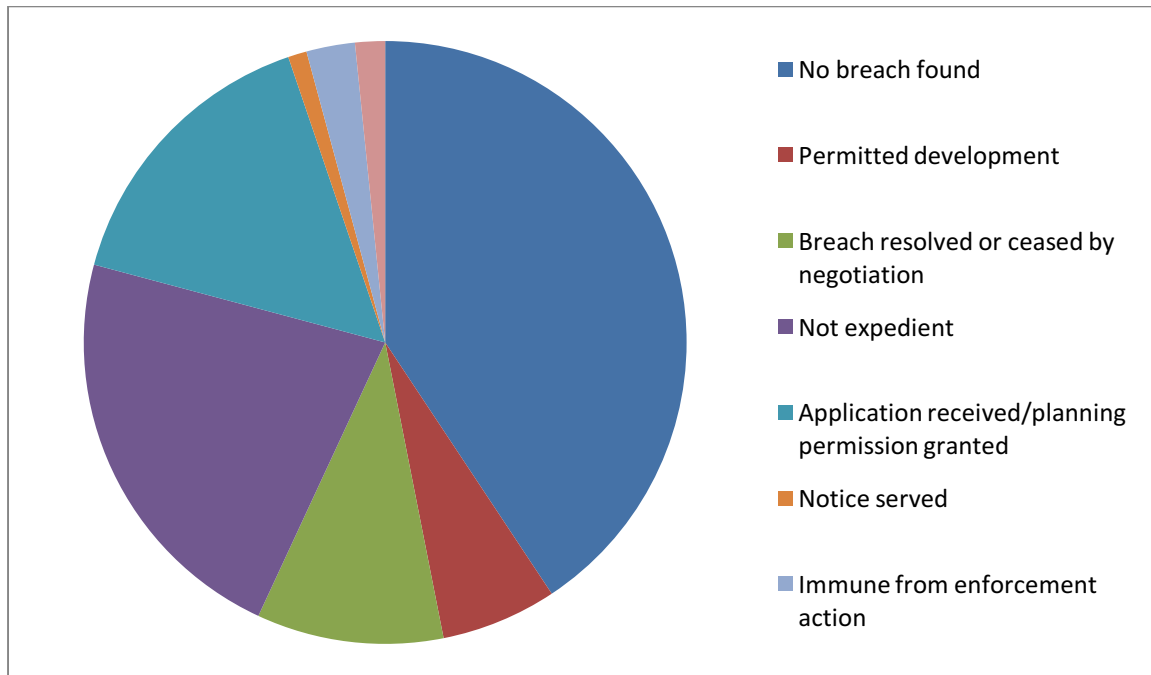
Notice served	5
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Formal enforcement action has been taken and a Notice has been served requiring remedial action

Immune from enforcement action	13
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The development has existing for such a period of time that it is now lawful, and therefore enforcement action cannot be taken (Section 171B of the Town and Country Planning Act 1990, as amended)

The officer has agreed to allow a longer period of time for voluntary compliance, for example, taking account of personal circumstances of the occupiers or their need to explore other options to enable compliance, or to seek legal advice. Case is closed whilst such actions are undertaken, and the case officer will review it at the given date.



Note: There was no breach in planning regulations in 41% of the cases that were fully investigated.

Enforcement Notices

This quarter we have served the following formal notices:

Planning Contravention Notices 106

This is a formal questionnaire to obtain factual information

Enforcement Notices 4

This requires the unauthorised development to cease, in whole or in part, to overcome the harm caused by the development

Section 215 Untidy site notices 0

This requires works to be undertaken to untidy land or buildings to make them secure and visually acceptable

Breach of Condition Notice 7

This requires action to be taken to comply with a condition on a planning permission

Tree Replacement Notice 0

This requires action to be taken to replace protected trees that have been felled

Enforcement Appeals and Prosecutions

Enforcement Appeals Lodged

EN16/01002 – Portholland Chapel, West Portholland, Portloe – Erection of a wooden shed, platform and creation of an access track

Enforcement Appeals Decided

Enforcement appeals allowed 0

Enforcement appeals dismissed – notice upheld 1

EN14/01718 – Land known as Terras Crossing, Sandplace, Looe – Erection of a dwelling, garage and associated access – appeal dismissed and partial costs awarded to the Council. Compliance with the Notice is due in February 2018.

Prosecutions/Injunctions

Prosecutions

1

The Council prosecuted Mr Tillett of 24 Riverside Avenue, Newquay for the failure to comply with a Breach of Condition Notice. The Notice required Mr Tillett to erect privacy screens on two balconies that had been granted planning permission at the property. On 26th April 2017 Truro Magistrates Court found Mr Tillett guilty of the offence as he did not comply with the Council's Notice and imposed a fine of £660, plus a £66 victim surcharge and an order to pay the Council's costs of £1,677.

The Council prosecuted Mr & Mrs Green of Innomore, formally The Plume of Feathers Public House, Penhallow, for their failure to comply with the requirements of an Enforcement Notice. The Notice required Mr & Mrs Green to reduce the height of a boundary fence to no more than 1m in height in order to address highway safety concerns. On the 6th April 2017 Bodmin Magistrates Court found Mr & Mrs Green guilty of the offence as they had not complied with the Council's Notice and imposed a fine of £5,000 and an order to pay the Council's costs of £10,800.

Injunctions

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Certificate of Lawfulness Applications

Total number of applications 36

Approved 13

Refused	1
Awaiting determination	19
Withdrawn	3

Monitor of waste and mineral sites

The enforcement team pro-actively monitors mining and landfill sites in the County to ensure planning conditions on permissions are being adhered to. For this quarter 18 sites were visited, and following these visits a report on the findings was issued within the 18 working days target on 17 cases.

Monitor of Section 106 planning obligations

S106 agreements established for monitoring	35
Alleged breaches of s106 agreements noted for investigation	8
Cases sent to legal for litigation	3

Discretionary Services

Resolving conveyancing issues	10
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This relates to the enforcement department's expedited services, where a fee has been paid for a quick response usually to resolve a conveyancing issue.