



Quarterly Planning Enforcement Report

2020 Quarter 1

1 January 2020 – 31 March 2020

Introduction

This report is prepared to summarise the level of activity for planning enforcement within Cornwall Council for the quarter 1 January 2020 – 31 March 2020. 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, an officer will review the information provided to see whether a full investigation is required and if it is, the report is validated and registered for investigation. If there is insufficient information or the matter reported is not a breach of planning control we will respond to the enquiry quickly and it will not be registered as a case 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 take 8 weeks to undertake initial investigations to establish whether there is a breach of planning control and to determine the appropriate course of action. 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.

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 **390**

Cases closed by officers **424**

Ongoing cases with officers **986**

Enforcement Cases Closed

We have closed **423** cases during this quarter. This can be broken down as follows:

No breach found **123**

Officer has found that the reported matter was not a breach of planning control

Permitted development **25**

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 **40**

Officer has negotiated a solution with the landowner/occupier to voluntarily cease the development or reduce/alter it to make it acceptable

Not expedient **107**

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 **72**

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 **3**

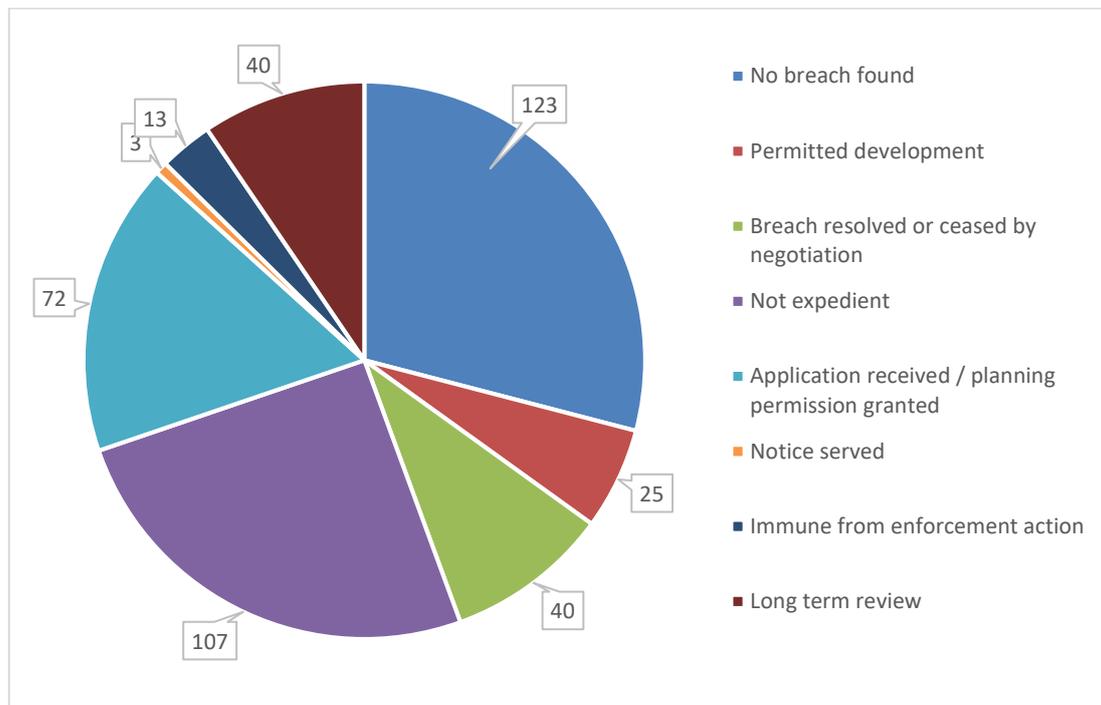
Formal enforcement action has been taken and a Notice has been served requiring remedial action

Immune from enforcement action **13**

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)

Long term review **40**

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 35% of the cases that were fully investigated.

Enforcement Notices

This quarter we have served the following formal notices:

Planning Contravention Notices **62**

This is a formal questionnaire to obtain factual information

Enforcement Notices **3**

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 Notices **2**

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

CIL Stop Notices **0**

This is a new area of work for the Enforcement Team) where a developer is served a CIL Stop Notice to cease work on site when they have not paid monies overdue under the Community Infrastructure Levy.

Enforcement Appeals and Prosecutions

Enforcement Appeals Lodged: **5**

Enforcement Appeals Decided: **2**

EN17/00666 - The breach of planning control as alleged in the enforcement notice was without planning permission, the material change of use of land for the stationing of a caravan and associated residential paraphernalia at Garden Field, Boat Cove Lane, Perranuthnoe, Penzance, Cornwall, TR20 9NW. The Appeal decision resulted in the Enforcement Notice being quashed on 21/2/20 on the grounds that the notice allege the stationing of a caravan and associated residential paraphernalia. The stationing of a caravan does not amount to a use of land constituting 'development'. The notice should have described the purpose to which the caravan, and thus the land upon which it is stationed, is being put. No costs were claimed. However, the Council can re-serve an amended notice if it considers it expedient to.

EN15/002208 - The breach of planning control as alleged in the notice was without planning permission the material change of use of the land for the stationing of a caravan for residential occupation and the erection of a dwellinghouse and associated groundworks at Land north west of St. Eval Kart Circuit, St. Eval, Wadebridge. The Appeal decision on the 19/3/20 dismissed the Appeal and upheld the Enforcement Notice. The Notice should be complied with within 9 months of the date of the Appeal decision.

Prosecutions, Injunctions and direct action

Justine Peroni and Ryan Wiszk were prosecuted for failing to comply with a Planning Enforcement Notice on land east of Lower Deviock Farm, Deviock. The Enforcement Notice issued by the Council in 2017 required the parties above to cease the unauthorised residential use of the land including the removal of a caravan and associated structures from the site. The case was heard at Bodmin Magistrates Court on Friday 3rd January 2020 where Ms Peroni and Mr Wiszk were both found guilty of not complying with the Enforcement Notice. The Magistrates imposed a 2 year conditional discharge on each party and each defendant was also ordered to pay £1000 towards the Councils costs.

Sean William Marshall was prosecuted for failing to comply with a Planning Enforcement Notice. The Council issued a notice in November 2016 requiring Mr Marshall to stop the unauthorised residential use of land, including the removal of one residential caravan and one caravan for storage purposes along with

associated items on land at Havrak, Bodmin Road, Goonhavern, Truro. The case was heard at Truro Magistrates Court on the 22nd January 2020. Mr Marshall pleaded guilty for the continuing offence of not fully complying with the enforcement notice. Although the defendant had made a start in complying with the notice he had not completed all of the required works. In view of this the Magistrates deferred sentencing until the 22nd April 2020 so they can take into account as mitigation if he does all the outstanding work by the 22nd April 2020.

Certificate of Lawfulness Applications

Total number of applications **44**

Approved **13**

Refused **1**

Awaiting determination **29**

Withdrawn **1**

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 26 sites were visited and, following these visits, a report on the findings was issued within the 18 working days target for 22 sites with 4 reports to still complete and send however, the 18 days deadline for this one has not yet been reached.

Monitor of Section 106 planning obligations

S106 agreements established for monitoring **19**

Alleged breaches of s106 agreements noted for investigation **4**

Cases sent to legal for litigation **0**

Discretionary Services

Resolving conveyancing issues **3**

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.