



Hendon Green Planning Committee

17th October 2017

Title	Planning Enforcement Quarterly Update July 2017 to September 2017
Report of	Head of Development Management
Wards	All
Status	Public
Urgent	No
Key	No
Enclosures	None
Officer Contact Details	Fabien Gaudin, fabien.gaudin@barnet.gov.uk , 020 8359 4258

Summary

The report provides an overview of the planning enforcement function in the period between July 2017 and September 2017.

Recommendation

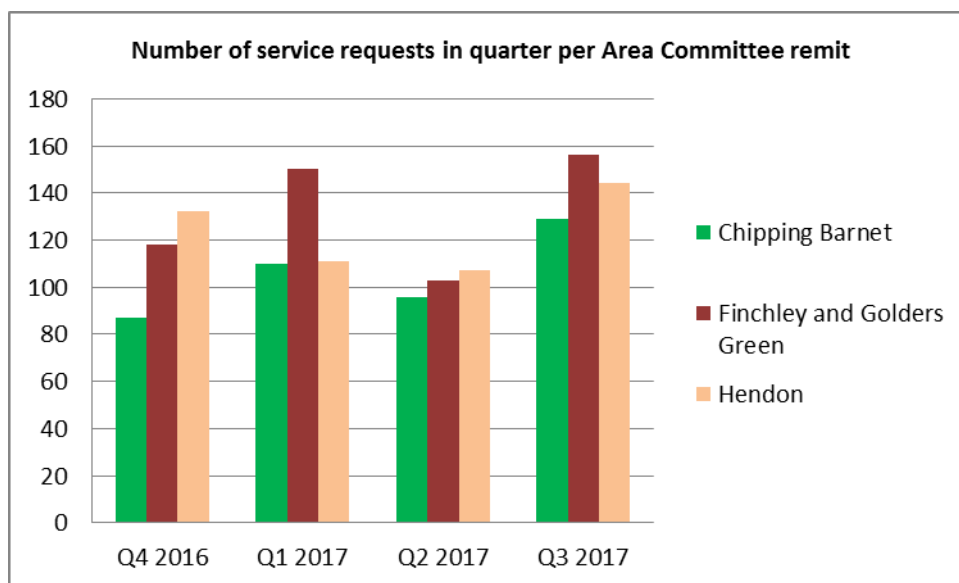
1. That the Committee note the Planning Enforcement Quarterly Update for the period of July 2017 to September 2017.

1. WHY THIS REPORT IS NEEDED

- 1.1 Members' involvement is crucial in maintaining an effective enforcement service because Members often have to be the public face of the Council when faced with issues which might require the taking of formal (or informal) enforcement action. This report has been prepared to provide an overview of the enforcement function over the period of April to June 2017.
- 1.2 Further updates will be reported quarterly and will include comparisons with previous quarters.

1.3 Number of service requests

In the period between July and September 2017, the Council received 429 requests to investigate an alleged breach of planning control which is the highest number of requests in the past year. As with previous quarters, the number of requests varied significantly between different wards and Parliamentary constituencies as shown below:



Chipping Barnet				
Ward	Q3 2017	Q2 2017	Q1 2017	Q4 2016
Brunswick Park	21	14	8	17
Coppetts	19	9	20	12
East Barnet	15	16	20	8
High Barnet	28	13	24	14
Oakleigh	16	13	11	15
Totteridge	20	18	17	13
Underhill	25	13	10	8

Finchley and Golders Green				
Ward	Q3 2017	Q2 2017	Q1 2017	Q4 2016
Childs Hill	56	30	47	36
East Finchley	16	10	7	9
Finchley Church End	12	12	20	10
Golders Green	28	17	19	20
Garden Suburb	21	8	18	11
West Finchley	12	12	12	13
Woodhouse	11	14	27	19

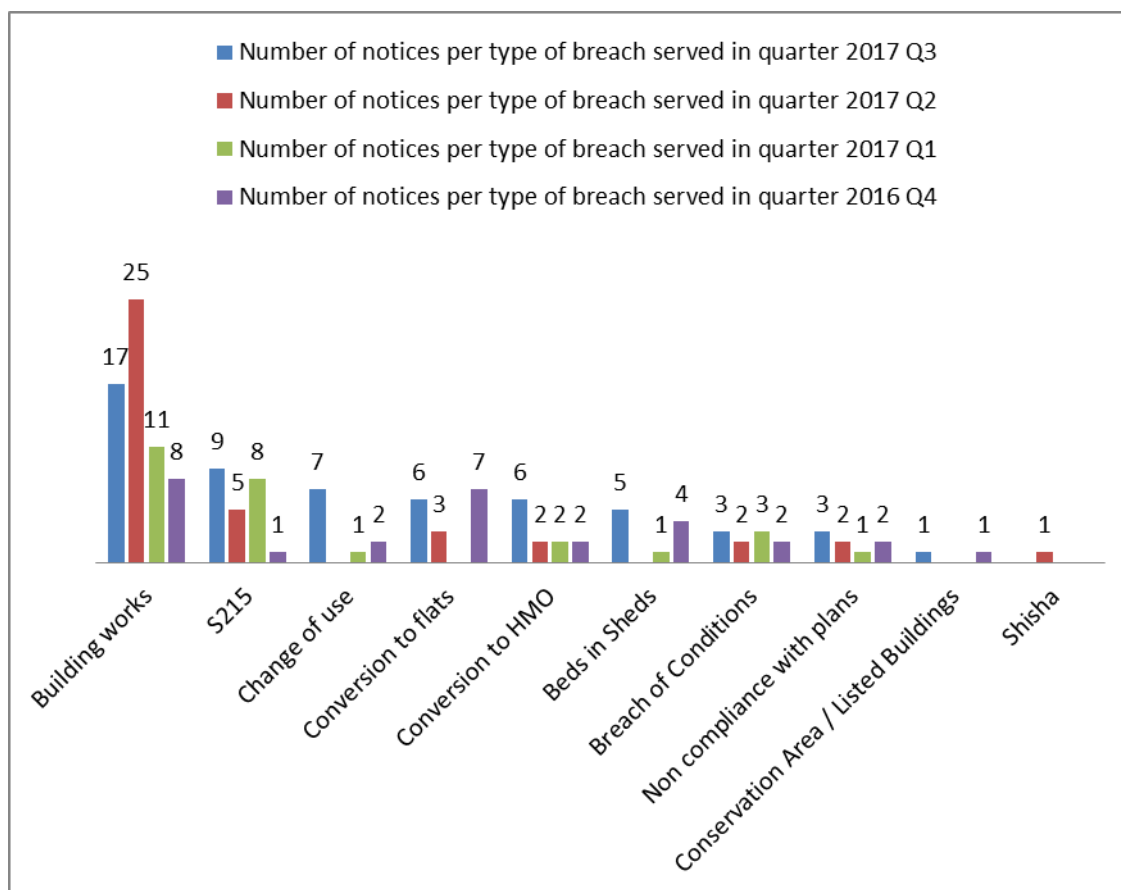
Hendon				
Ward	Q3 2017	Q2 2017	Q1 2017	Q4 2016
Burnt Oak	21	13	12	12
Colindale	11	6	4	8
Edgware	22	13	17	18
Hale	19	16	18	15
Hendon	26	12	26	27
Mill Hill	13	22	21	25
West Hendon	17	16	13	27

Future quarterly updates will show the evolution of number of requests quarter on quarter.

1.4 Formal Enforcement Action

Enforcement Action should always be commensurate with the breach. When considering enforcement action the alleged breach of planning control and associated development must be assessed against relevant planning policies and other material planning considerations. A notice, if it is considered appropriate to serve one, must state the reason why the development is unacceptable (the same principles as a planning application). The role of planning enforcement is not to automatically rectify works without consent. Also, when considering enforcement action the Planning Authority should not normally take action in order to remedy only a slight variation in excess of what would be permitted development. The serving of a formal notice would in most cases follow negotiations with land owners to voluntarily resolve the breach and a number of cases are resolved in this way (see next section). Furthermore, the majority of cases are resolved without the need to take formal enforcement action and the table in section 1.5 shows details of such cases resolved in the last quarter.

In the last quarter, 57 Enforcement Notices (of all types but excluding Planning Contravention Notices) were served which is an increase from the 40 in Q2 and 30 notices served in Q1. Whilst notices relating to building works continue to constitute the most common type of notices served across the Borough, the last quarter showed a marked increase in the number of more complex notices served against unlawful residential uses: 6 notices were served against unlawful flat conversions, 6 against unlawful Houses in Multiple Occupancy and 5 against Beds in Sheds.



1.5 Cases Closed and Investigation Conclusion

Cases resolved without the need to take formal enforcement action between July and September 2017

	Q3 2017	Q2 2017	Q1 2017	Q4 2016
Full compliance following serving of enforcement notice	42	18	11	19
Informal compliance Works carried out and/or use ceased with breach resolved informally	117	82	42	76
Lawful development No breach of planning control was identified following investigation	282	254	167	130
Breach detected but harm insufficient to justify enforcement action	101	61	22	51
Total	542	415	242	276

The number of completed investigations has significantly increased quarter on quarter and this is reflective of the additional capacity in the Planning Enforcement Team as officers are able to review older, less urgent cases and continue to close more cases than are received.

1.6 Direct Action

Between 24 June and 1 July the Council undertook three direct actions. In each occasion land was cleared of waste and overgrowth by Greenspaces contractors appointed by planning officers. It is hoped that these actions will mark the start of an enduring and successful relationship between the two services.

The three initial sites were 6 Gaydon Lane, NW9; 44 Alverstone Avenue, EN4; and land adjacent 2 Birley Road, N20. Although the actions did not go entirely without incident officers are happy with the results of the work.

A second phase of direct actions begins on 6 October. This time seven sites have been earmarked for action. The scope of works will also increase over the summer actions with contractors having been appointed to plant trees at a site in New Barnet to replace several protected trees unlawfully removed by the land owners. The owner was convicted of the offence of felling the trees.

Where direct action is taken the costs in so-doing can be claimed against the owner of the land. How the debt if enforced is discretionary and can be recouped in a number of ways, the choice of method depending on relevant circumstances.

1.7 Notable cases updates

Finchley and Golders Green

A District judge has determined that the owner of 42 Clifton Gardens, NW11 deceived the council in relation to the use of this property. This is the first type of this case that the Council has pursued and one of the first in the country. The LPA is now able to serve a notice outside of the normal immunity period for a breach of planning control on the grounds of the deception.

The Council has agreed that the landlord of 11 Quantock Gardens, NW2 should be able to sell a property that had previously been the subject of a restraint order in order to fund the £555,954 owed under the Proceeds of Crime Act (POCA). The landlord had previously paid the first instalment of £212,000. The total bill to the landlord once POCA, costs and fine and calculated was approximately £¾ million

The unlawful sub-division/change of use cases of 24 Llanvanor Road, 90 The Drive and 279 Golders Green Road are continuing through the Court systems. The Council is pursuing Proceeds of Crime in relation to each. Convictions

have been obtained in respect of the first two cases with a trial for the third scheduled for 19 December.

The Council is pursuing POCA in relation to a property on Hendon Way where the owner failed to attend Court to answer charges put to him. The Act allows public authorities to pursue defendants who are believed to have absconded from justice.

The Prayle Grove court appeal hearing began 18 April. The council has been challenged over its decision to serve a notice under s.215 of the Town and Country Planning Act demanding that the empty property be made more presentable. The Council was successful at the appeal and the notice was upheld. The appellant was ordered to pay the Council's costs.

The High Court injunction case concerning Pentland Close continues. In a civil trial at the High Court held in August, the owner of the site was committed to prison for two months for failing to comply with an injunction issued many years previously. The prison term was suspended for two years on condition that the owner clears the land within 10 days and ensures that it is kept clear. The owners was ordered to pay the Council's costs in bringing the action. Officers are considering whether or not the steps the owner took in response to the Order were adequate.

Hendon

Officers obtained a warrant to force entry into an outbuilding in NW4 that they suspected to be in dwelling use. On previous, announced, visits officers formed the impression that it was likely that cooking facilities had been temporarily stripped out to disguise the everyday use of the building as a dwelling. A locksmith secured access to the building without the need to damage the doors. A prosecution case against the owners of the outbuilding is now making its way through the Court system.

A planning enforcement notice was served against a structure in Burnt Oak noted as 'being of concern' by the Metropolitan Police Service. The owners of the land are seeking to appeal against the Council's notice

Chipping Barnet

The abandoned factory / warehouse at Allum Way, N20 has been demolished. This derelict building had first come to the attention of the LPA following concerns raised by the Metropolitan Police and London Fire Brigade who feared for the safety of site visitors and trespassers and of emergency services personnel who were often called to attend emergencies at the property.

An enforcement notice served in respect of the use of a shop in Lytton Road, EN5 as a gym has been upheld on appeal. The notice had alleged that the

noise of the activity and the long hours of operation caused undue noise and disturbance to nearby residents.

Unfortunately appeals were lost by the Council in respect of 'Boyden's Café', Potters Road, EN5 and 'Fairlawn', 11 Capel Road, EN4. In both cases the Council was defending committee decisions that had resulted in enforcement notices being served.

Planning enforcement in Barnet became national headline news with the front page of 'The Sun' of 30 September leading on a case of 'Beds-in Sheds' in Hendon Wood Lane. The story was later picked up by the 'The Times' and the 'Daily Mail' as well as BBC London News. A planning enforcement notice requiring the demolition of several cabins and buildings used as dwellings was upheld after a public inquiry earlier this year. Work on demolition has commenced.

2. REASONS FOR RECOMMENDATIONS

2.1 Not Applicable

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 Not Applicable

4. POST DECISION IMPLEMENTATION

4.1 Not Applicable

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 Not applicable

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 Not applicable

5.3 Social Value

5.3.1 Not applicable

5.4 Legal and Constitutional References

5.4.1 Not applicable

5.5 Risk Management

5.5.1 Not applicable

5.6 Equalities and Diversity

5.6.1 Not applicable

5.7 Consultation and Engagement

5.7.1 Not applicable

5.8 **Insight**

5.8.1 Not applicable

6. **BACKGROUND PAPERS**

6.1 None

REPORT CLEARANCE CHECKLIST

(Removed prior to publication and retained by Governance Service)

Report authors should engage with their Governance Champion early in the report writing process and record the date below. If the decision/report has been reviewed at an internal board please record the date and name of the meeting (e.g. SCB). Otherwise enter N/A. All reports must be cleared by the appropriate Director/AD, Legal, Finance and Governance as a minimum. **Legal, Finance and Governance require a minimum of 5 working days to provide report clearance. Clearance cannot be guaranteed for reports submitted outside of this time.**

AUTHOR TO COMPLETE TABLE BELOW:

Who	Clearance Date	Name
Committee Chairman		
Governance Champion		
Director / AD / Lead Commissioner		
Enabling Board / Delivery Board		
Commissioning and Policy		
Equalities & Diversity		
HR Business Partner		
Strategic Procurement		
HB Public Law		
Finance		
Governance		