



PLANNING ENFORCEMENT

OVERVIEW AND SCRUTINY REVIEW 2024

ENFORCEMENT PLAN

THE PURPOSE OF THIS DOCUMENT

The purpose of this document is to set out Havant Borough Council's approach to planning enforcement in the borough.

Policy context

The Town and Country Planning Act 1990 provides the main legislative provisions regarding breaches of planning control, with policy guidance provided in the National Planning Practice Guidance (NPPG) “Enforcement and post-permission matters: Responding to suspected breaches of planning control” (March 2014 last updated July 2019).

Paragraph 58 of the National Planning Policy Framework (NPPF) document: February 2019 states:

- Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

The NPPG (at para 006) explains that it is important to prepare and adopt a local enforcement plan because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
- provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers; provides greater certainty for all parties engaged in the development process.

What is planning enforcement

A breach of planning is defined within the legislation as being either:

- The carrying out of development without the required planning permission; or
- Failing to comply with any condition or limitation subject to which planning permission has been granted.

Planning enforcement is dealt with under Part VII of the Town and County Planning Act 1990 and is a vital part of the overall planning function. The Council is required to act proportionately in responding to suspected breaches of control. The Council will use the enforcement powers provided by the planning legislation where there has been a breach of planning that is causing unacceptable harm. The use of these powers will have regard to:

- Whether it is a practical and good use of public resources to take planning enforcement action;
- Planning policy
- The Human Rights Act 1998 and the Equality Act 2010
- Where it is expedient to take planning enforcement action within an acceptable timescale to prevent serious harm to public amenity, where negotiations fail to achieve compliance, or where offences have occurred that would mean negotiation would be inappropriate
- Government advice is that formal planning enforcement action should be taken as a last resort. In the majority of cases the Council aims to resolve identified breaches of planning control by negotiation. If negotiation proves unsuccessful within identified timescales, the Council will consider whether formal action should be taken.

Matters the local authority can investigate

What constitutes Development

Not all building works or changes of use require formal planning permission or consent from the Council. Local Planning Authorities are only concerned with

- “Development”, which is defined by section 55 of the Town and Country Planning Act 1990 as:
- Operational Development – for example building, mining, or engineering works
- Material Change of Use of buildings or land – changing from one use class to another

Development is not:

- Works which affect only the interior of the building;
- Works which do not materially affect the external appearance of the building

If there is no Development as defined by the Town & Country Planning Act 1990, there is no breach of planning and no planning enforcement action is available to the Council under its planning powers.

Matters the local planning authority cannot investigate

The Local Planning Authority cannot investigate the following issues:

- Internal works to a non-listed building, which are not part of a change of use
- Boundary wall disputes or other land ownership disputes, including breach of covenant
- Highway obstructions including parking and traffic (unless there is breach of planning conditions on a relevant planning permission)
- Clearing of unprotected trees or landscaping and gardening works (unless there is breach of planning conditions on a relevant planning permission)
- Out of hours construction and related disturbances (unless there is a breach of planning conditions on a relevant planning permission)
- Graffiti, unless it is classed as an advertisement or failure to properly maintain land, or where the graffiti causes harm to the amenity of the area, in which case a Section 215 notice can be considered.
- Dangerous structures or damage to property, unless it is a listed building or is related to action being considered under s215 of the Town and Country Planning Act 1990. (Dangerous structures can be investigated by the Council under its building control function but not under its planning function except in the circumstances set out above).
- Site safety and security
- Sewers, soakaways or other drainage matters (unless there is breach of planning conditions on a relevant planning permission, or it relates to the formation of hard surfaces such as driveways)
- Business competition

Breaches of planning control

A breach of planning control may result from:

- Carrying out work either without planning permission, or in a way that is different to that which has been granted planning permission;
- Carrying out work without compliance with planning conditions attached to a planning permission;
- Changing the use of land or buildings without planning permission

- It is not a criminal offence to carry out works without planning permission or related consents. These works are termed as being unauthorised and only become illegal if they are retained in contravention of formal planning enforcement action that has come into effect.

Time restrictions

- A breach of planning control may become immune from planning enforcement action if no enforcement action has been taken within the time limits set out in the Town and Country Planning Act 1990, unless the works comprise a criminal offence or the immunity was obtained through deception.
- The Council cannot take planning enforcement action relating to building works or a change of use to an independent residential dwelling if the breach of planning control is more than 4 years old. Other changes of use or breach of condition become immune if the breach of planning control is over 10 years old.

Performance monitoring and review

- The Council will seek to continuously improve its planning enforcement service by regularly monitoring, reviewing and updating its policies and procedures as a matter of good practice. In doing so, it will consult with stakeholders to make improvements in the delivery of the service.
- The Council has a Planning Enforcement Register available to the public which contains details of Enforcement Notices, Stop Notices, Breach of Condition Notices and Planning Enforcement Orders that have been issued. The Council also publishes an up-to-date list of Notices issued under Section 215 of the Act against untidy sites. The Planning Enforcement Register and list of Section 215 Notices can be viewed at the Town Hall

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- Business project analyst

June 2023

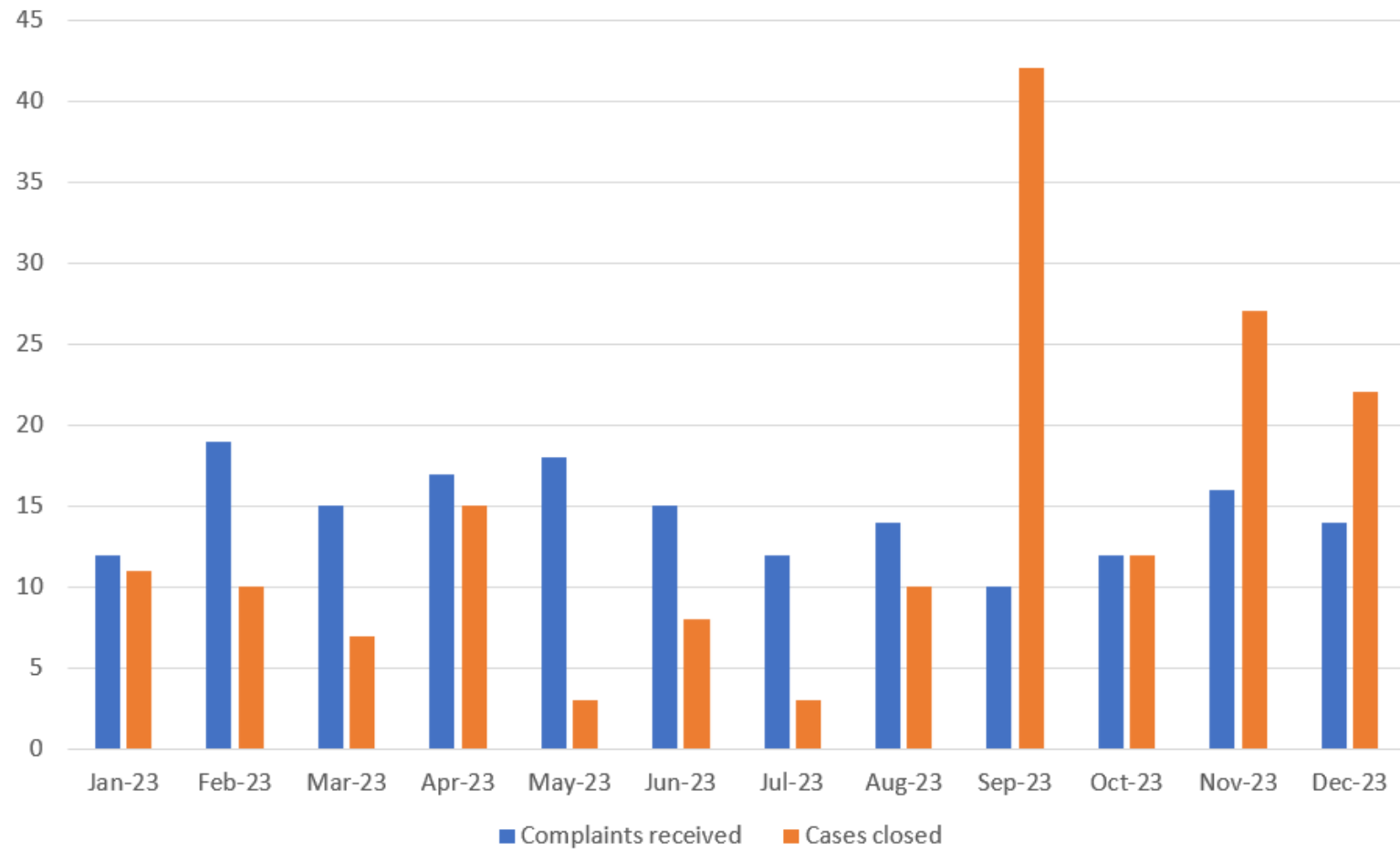
#	Issue	Action Plan	Priority	Status	Date started	Date completed
1	Lack of Oversight, Management and support	SPO to use <u>Accolaid</u> report to look at oldest cases with team and offer advice and support, how to take cases forward - may need to take ownership of some of these cases	High	Commenced	September 2023	
		SPO to take on allocation of cases based on workload	High	Commenced		
		Introduce interim measures to show workload and assist case management	High	Case management system introduced		
2	Lack of Autonomous working	<u>SPO</u> to support team to feel confident lone working and to implement a rota / turn basis for the inbox	High	Supported	site visits undertaken	
3	Delays before visits	Change process for contact - get team access to undertake Land reg search as soon as case is registered so letters are sent addressed to the owner and not owner <u>o.c.c.</u>	High	Land registry searched	done in house	
		Support and train team to feel confident undertaking unannounced visits as required	High	Onsite training commenced		
4	No direct customer contact	Introduce and train team on customer service, responding to emails on time and direct contact <u>i.e.</u> telephone calls	High	Training undertaken and direct customer contact improved		
5	No formal Training	Enforcement training is booked, Training in interviews under caution to be arranged	High	Training commenced with Ivy Legal		
6	<u>Accolaid</u> not fit for purpose	New system to be procured at the end of current contract				

Action plan

- Senior Planning Enforcement Officer appointed
- Case management
- Development of team
- Training

Planning Enforcement

Complaints received and cases closed in 2023



Source – [Acolaid](#)

Interim results

September 2023 open enforcement cases	154
New cases (Sept – Jan)	42
Total cases Jan 2024	196
Closed cases (Sept – Jan)	148
Current cases live investigations	48 (N.6)

- Action plan implemented resulting in the significant reduction of cases but is still a work in progress