



<b>Committee</b>	Strategic Planning Committee
<b>Date</b>	08/07/2024
<b>Subject</b>	Enforcement Performance Report – January to March 2024
<b>Cabinet Member</b>	Councillor Kay Yule Cabinet Member with responsibility for Planning and Coastal Management
<b>Report Author(s)</b>	Cate Buck Senior Planning & Enforcement Officer <a href="mailto:cate.buck@eastsoffolk.gov.uk">cate.buck@eastsoffolk.gov.uk</a>
<b>Head of Service</b>	Ben Woolnough Head of Planning, Building Control and Coastal Management <a href="mailto:ben.woolnough@eastsoffolk.gov.uk">ben.woolnough@eastsoffolk.gov.uk</a>
<b>Director</b>	Nick Khan Strategic Director - Strategic Management <a href="mailto:Nick.khan@eastsoffolk.gov.uk">Nick.khan@eastsoffolk.gov.uk</a>

Key Decision?	No
Is the report Open or Exempt?	OPEN

Category of Exempt Information and reason why it is <b>NOT</b> in the public interest to disclose the exempt information.	Not Applicable
---	----------------

## Purpose/Summary

To provide information on the performance of the enforcement section of the Development Management Team.

## Recommendation(s)

That Strategic Planning Committee note the content of the report.

## Strategic plan

### How does this proposal support Our Direction 2028?

<b>Environmental Impact</b>	The statistics presented in this report are not directly applicable to this. However, it is recognised that resolving breaches of planning control can assist in reducing potentially harmful impacts upon the environment.
<b>Sustainable Housing</b>	The statistics presented in this report are not directly applicable to this. However, it is recognised that planning enforcement can be required to ensure that requirements of planning consents are complied with, including those relating to housing size and tenure mix, provision of community facilities areas such as public open space and connecting pathways etc, and the provision of appropriate provisions of renewable energy technology.
<b>Tackling Inequalities</b>	The Planning Service and the determination of planning and planning related applications is a statutory function of the Council. It also provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors, no matter their personal circumstances.
<b>Thriving Economy</b>	The Planning Service and the determination of planning and planning related applications is a statutory function of the Council. It also provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors, including the provision of buildings for employment uses, and supporting uses that add to vitality within district and town centres.
<b>Our Foundations / governance of the organisation</b>	The Planning Service and the determination of planning and planning related applications is a statutory function of the Council, which provides a vital mechanism through which improvements to the district can be secured for the benefit of residents, businesses and visitors.

Although Planning Enforcement is technically a discretionary function, it is required to ensure that the necessary planning consents are obtained and conditions/requirements of such consents are adhered to.

Without an effective planning enforcement service there would be pressure for those within the district to comply with planning regulations, and the benefits to the environment, the economy and communities that arise from the application and consenting process would not necessarily be obtained.

## Justification for recommendations

### 1. Background

- 1.1 Following the adoption of the new Local Enforcement Plan in March 2019 and the formation of the new East Suffolk Council section it was decided that a report be presented on a quarterly basis from August 2019, to present key statistics relating to the activities of the Planning Enforcement Team.

### 2. Introduction

- 2.1 This report provides details of key statistics relating to the activities of the Planning Enforcement Team between 1 January 2024 and 31 March 2024.
- 2.2 East Suffolk Council as Local Planning Authority is the authority responsible for the investigation of potential breaches of planning control and taking action (and determination when such action is appropriate).
- 2.3 The Planning Enforcement Team follows the adopted [East-Suffolk-Planning-Enforcement-Policy.pdf \(eastsoffolk.gov.uk\)](#), in terms of the way it priorities cases and the investigation processes it follows.
- 2.4 In determining whether or not there is a breach of planning control and if formal enforcement action should be undertaken, national legislation and regulations are followed.
- 2.5 A breach of planning control occurs when physical works or a change of use constitute 'development' and they are either not Permitted Development, not granted by a planning permission (and in some cases a Listed Building Consent or advertisement consent) and/or are in breach of the requirements of a condition on a planning permission or planning related consent.

### 3. Proposal

- 3.1 During this quarter (January to March 2024) there were the following number of Planning Enforcements cases received/logged and closed:

<u>Month</u>	<u>Cases received/logged*</u>	<u>Cases closed</u>
January	28	54
February	36	29
March	38	54
<b>Total</b>	<b>102</b>	<b>137</b>

\*Please note all new complaints are logged, site visited and then triaged in accord with the appropriate risk assessment.

- 3.2 As shown by the above table, a different number of cases were received/logged and closed during this period. It should be recognised that these are unlikely to be the same cases opened and closed during the same quarter due to the length of time that is

required for investigations and processes to resolve and/or close planning enforcement cases. However, the fact that the numbers in and out are broadly level is good, as it indicates that there is an equilibrium, indicating that the total number of cases on the books is not increasing significantly. Although the team is aware that there are a significant number of open older cases which they are continuing to work through to clear.

3.3 During the same quarter, the numbers of cases closed for each reason were:

<b><u>Reason</u></b>	<b><u>January</u></b>	<b><u>February</u></b>	<b><u>March</u></b>
<b>No Breach</b>	26	17	16
<b>Compliance/use ceased</b>	8	2	9
<b>Planning Permission Granted</b>	13	5	11
<b>Permitted Development</b>	1	0	1
<b>Other Department</b>	1	1	1
<b>Withdrawn</b>	0	0	0
<b>De Minimus</b>	5	1	4
<b>Duplicate</b>	0	3	1
<b>Historic</b>	0	0	11

3.4 It is interesting to note from the table above that during all three months the category with the highest number of closures was 'no breach'. This shows that a significant number of the reports made to the Planning Enforcement Team are not actually breaches of planning control. However, it should be noted that the team still has to investigate these cases, which requires significant time from the Enforcement Team, not only in terms of logging and acknowledging the complaint, but also in terms of direct investigation processes including site history checks, visiting the sites and various letters, emails and phone calls with site owners/operators and complainants. Often in such cases it also appears complainants are unwilling to accept that they are not breaches of planning control and/or that the Local Planning Authority therefore cannot take any action, so there is often further calls and emails after the cases are closed, creating significant additional work for officers.

3.5 A significant proportion of the cases were also closed during this quarter once planning permission was granted, which means there was a breach of planning control, but it was resolved by the granting of planning permission.

3.6 During the same quarter, the numbers of cases closed within different timescales were:

<u>Time taken to close cases</u>	<u>Cases Closed in January</u>	<u>Cases Closed in February</u>	<u>Cases Closed in March</u>
<b>1-20 days</b>	7	9	11
<b>21-40 days</b>	8	1	3
<b>41-60 days</b>	1	1	0
<b>61-80 days</b>	4	2	3
<b>81 - 100 Days</b>	3	1	1
<b>101 – 120 Day</b>	1	2	3
<b>121 + Days</b>	30	13	33
<b>Total</b>	<b>54</b>	<b>29</b>	<b>54</b>

3.7 The above figures show that enforcement cases take a variety of time periods to investigate and close, which is to be expected, because every case is different in terms of the issues and complexity.

3.8 During this quarter the following notices were served by the Planning Enforcement Team:

<u>Type of Notice</u>	<u>Address</u>	<u>Breach</u>	<u>Compliance period</u>
Enforcement Notice	2 Harbour Road, Lowestoft	Unauthorised first floor rear extension	4 months
Enforcement Notice	88 Bridge Road, Lowestoft	Change of use of the Residential Dwelling from a single residential unit to two residential units used for holiday letting purposes	4 months
Enforcement Notice	12 Holland Road, Felixstowe	Without planning permission the erection of a ground floor rear extension and air conditioning unit.	4 months

3.9 An appeal has been made to the Planning Inspectorate in relation to the enforcement notice at 88 Bridge Road, Lowestoft. However, we are yet to receive details of a start date or timetable for that appeal.

3.10 The enforcement notice at 12 Holland Road, Felixstowe, has also been appealed, and we are also yet to receive details of a start date or timetable for that appeal. However, a separate appeal decision was recently received in relation to the refusal of the planning application for the same development. That appeal was dismissed and is summarised in the Appendix to the Appeal Performance Report also on this meetings agenda. However, the Local Planning Authority is still unable to pursue compliance until the Planning Inspectorate issue their decision in relation to the Enforcement Notice.

#### **4. Financial Implications**

- 4.1 Planning Enforcement Notices can be appealed, and through that process the appellant can apply for costs. If the Local Planning Authority incorrectly serves notices, then costs can be awarded against the authority in favour of the appellant.
- 4.2 Therefore, careful consideration is given as to whether it is expedient to take formal planning enforcement action through the serving of notices, and those notices are carefully worded to ensure that they are accurate in their content and reasonable in terms of the requirements they place upon those they are served on.
- 4.3 If Planning Enforcement Notices are not complied with, the Local Planning Authority has to consider legal action to prosecute through the courts. Taking such action obviously has financial implications for the Local Authority. However, these are required in order to have an effective planning enforcement regime.

#### **5. Legal Implications**

- 5.1. There are no specific legal implications arising from the statistics presented in this report. However, it should be recognised that planning enforcement sits with the wider planning regulatory framework and those requirements must be accorded with.
- 5.2. Breaches of planning control can result in legal implications for the land/building owner and other parties with an interest in the land.
- 5.3. The Local Planning Authority has to follow certain legal processes in the way it investigates, considered and undertakes action against breaches, including not only the process by which it serves notices, but also ensuring that appropriate and sufficient evidence of the breach has been gathered, and that those in breach have been given sufficient opportunity to resolve the breach prior to formal action being taken.

#### **6. Risk Implications**

- 6.1. If the Local Planning Authority fails to investigate and take formal action if/when required, unauthorised development can become immune from enforcement action. However, the time periods for immunity in terms of breaches requiring planning permission are currently 4 years or 10 years (depending upon the breach), and therefore this time reduces the risk of such breaches becoming immune.
- 6.2. The team continues to seek to investigate and resolve or take action (if appropriate) on breaches of planning control as swiftly as possible whilst meeting the requirements of national legislation and according with the [East-Suffolk-Planning-Enforcement-Policy.pdf](https://www.eastsuffolk.gov.uk/east-suffolk-planning-enforcement-policy) ([eastsuffolk.gov.uk](https://www.eastsuffolk.gov.uk)).

## **7. Options**

- 7.1. There aren't any options other than to continue to monitor the quarterly figures, and seek to address any potential issues if or as and when they arise.

## **8. Recommendations**

- 8.1. That the report concerning Enforcement Team statistics is noted.

## **9. Reasons for Recommendations**

- 9.1. That the report concerning Enforcement Team statistics be received

## **10. Conclusions/Next Steps**

- 10.1. Strategic Planning Committee should continue to receive these quarterly monitoring reports.



## Areas of consideration comments

### Section 151 Officer comments:

The Section 151 Officer has received a copy of the report and has no further comments'

### Monitoring Officer comments:

The Monitoring Officer has been consulted on this report and has no additional comments.

### Equality, Diversity and Inclusion/EQIA:

There are no specific implications arising in terms of this matter from the statistics included within this report.

### Safeguarding:

There are no specific implications arising in terms of this matter from the statistics included within this report.

### Crime and Disorder:

The majority of breaches of planning control are not criminal offences. However, some breaches such as unauthorised works to Listed Buildings and displaying an advertisement in contravention of the Advertisement Regulations are both a criminal offence. However, it still has to be expedient and in the public interest in order for such matters to be pursued by the Local Planning Authority.

### Corporate Services implications:

*(i.e., Legal, Finance, Procurement, Human Resources, Digital, Customer Services, Asset Management)*

Legal Services support the Planning Enforcement Team and are required in order to assist with and/or undertake elements of formal Planning Enforcement processes including reviewing enforcement notices and the process of prosecution through the courts.

### Residents and Businesses consultation/consideration:

Not Applicable to the statistics presented in this report.

## Appendices:

None

## Background reference papers:

Date	Type	Available From
March 2019	East Suffolk Council Local Planning Enforcement Plan	<a href="#">East-Suffolk-Planning-Enforcement-Policy.pdf</a> ( <a href="http://eastsuffolk.gov.uk">eastsuffolk.gov.uk</a> )