

**REPORT TO PLANNING AND DEVELOPMENT
COMMITTEE****15th May 2024****TITLE OF REPORT:** Enforcement Action**REPORT OF:** Anneliese Hutchinson, Service Director – Climate
Change, Compliance, Planning and Transport

Purpose of the Report

1. To advise the Committee of the progress of enforcement action previously authorised by the Committee.

Background

2. The properties, which are the subject of enforcement action and their current status, are set out in Appendix 2.

Recommendations

3. It is recommended that the Committee note the report.

1. FINANCIAL IMPLICATIONS

Nil.

2. RISK MANAGEMENT IMPLICATIONS

Nil.

3. HUMAN RESOURCES IMPLICATIONS

Nil.

4. EQUALITY AND DIVERSITY IMPLICATIONS

Nil

5. CRIME AND DISORDER IMPLICATIONS

Nil.

6. SUSTAINABILITY IMPLICATIONS

Nil.

7. HUMAN RIGHTS IMPLICATIONS

The Human Rights Act states a person is entitled to the peaceful enjoyment of his possessions. However, this does not impair the right of the state to enforce such laws, as it deems necessary to control the use of property and land in accordance with the general interest.

8. WARD IMPLICATIONS

Birtley, Bridges, Blaydon, Pelaw & Heworth, Chowdene, Crawcrook & Greenside, Ryton, Crookhill and Stella, Chopwell and Rowlands Gill, Wardley & Leam Lane, Windy Nook And Whitehills, Winlaton and High Spenn, Whickham North, Whickham South and Sunniside, Lobley Hill and Bensham. Lamesley, Dunston Hill and Whickham East and Low Fell.

9. BACKGROUND INFORMATION

Nil.

APPENDIX 2

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
1.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions Condition 23 and Condition 24	22 nd May 2019	24 th May 2019	28 th June 2019	28 th December 2019 – Condition 23 28 October 2019 – Condition 24	<p>Blaydon Quarry is in breach of several planning conditions.</p> <p>A Notice has been served in relation to condition 23 to require installation of a drainage system. The Council has designed an acceptable scheme to be installed in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p> <p>A site visit was undertaken on the 4th June 2019, where drainage works had commenced. Officers are working closely with the Operator of the quarry to ensure compliance.</p> <p>A discharge of condition application has been submitted in relation to condition 23 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p> <p>A Notice has been served in relation to condition 24 to require installation of the previously approved drainage system on the southern boundary, in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p> <p>A discharge of condition application has been submitted in relation to condition 24 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p> <p>Wardell Armstrong on behalf of the Operator has withdrawn the Enforcement Appeal.</p> <p>February 2023 - Development management have engaged a minerals and landfill specialist consultant to consider the current planning status of this development and determine an appropriate course of action should further enforcement activity be required.</p>	<p>30.4.2024 On 19.4.2024 the agent submitted a valid Discharge of Condition application for condition 7 (wheel wash) and 14 (dust management). 12/01266/DOC9 refers.</p> <p>We are expecting a Discharge of Condition application for the noise and vibration conditions in the next 14 days. A joint visit between Council officers and the Environment Agency has been arranged to look at the surface water drainage within the site.</p>

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								<p>04.05.2023 – Site meeting took place with with owner, Environment Agency, Planning, Enforcement and consultant on 03.05.23.</p> <p>Agreed on action that is required by owner to ensure compliance and required timescales.</p> <p>26.07.2023 - Development Management have three outstanding discharge of conditions applications which they are looking to determine week commencing 31st July 2023. Once the applications have been determined we will be in a better position to review what conditions remain outstanding and consider appropriate next steps.</p> <p>18.10.2023 – The three discharge of condition applications to cover the breach of conditions have been determined in the last week, with the majority refused. The new sole director of the company has been notified and provided a copy of the decision notices. Advice is awaited as to how enforcement action will proceed.</p> <p>21.11.2023 – Prior to taking any formal enforcement action, Planning Contravention Notices have been served on several parties to establish their respective interests in the land as there have been many changes in recent years. Once responses are received this will assist in determining the enforcement approach.</p> <p>08.02.2024 - The site is filled and capped and restoration soils are being brought on as and when they are able. The current landowner has recently instructed a new planning agent who is in the process of arranging the necessary consultancy support that is required to deal with the outstanding planning conditions that need addressing. Enforcement and DM are in regular contact with the new agent regarding progress towards submission of the required information.</p>	

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								<p>05.03.2024 – A Topographic survey has been received but not yet considered in detail, however, it looks broadly on course to meet the approved restoration scheme subject to site settlement.</p> <p>02.04.2024 – On 22 March noise, vibration and dust management notes relating to the restoration activities and soil records were received from the agent. These will be reviewed by officers and if deemed adequate, the agent can progress to submitting formal discharge of conditions applications in relation to these matters. Officers are continuing to work with the agent to provide details of drainage, ecological and landscaping information. Ongoing monitoring in place to ensure the works continue and conditions are met.</p>	
2.	Kwik Save, High Street, Felling	Felling	Building and land in ruinous and dilapidated condition	27 th April 2022	27 th April 2022	18 th May 2022	5 th September 2022	<p>Complaints have been received regarding the condition of the property and the adjoining land. The site has been subject to a number of arson attacks, fly tipping and other anti-social behaviour. A Notice has been issued pursuant to section 79 (1) of the Building Act 1984 requiring the recipient to either carry out such works of restoration or carry out demolition and remove the resultant rubbish or other materials from the site as specified in the notice. This has been the subject of an appeal. Work is ongoing with Northumbria Police and Tyne and Wear Fire & Rescue service to expedite a resolution. Construction services have also been requested to provide a method statement and costings for demolition, should the local authority be required to undertake works in default. –</p> <p>Works progressing to determine costs of demolition and consideration being given to issuing community protection warning in conjunction with TWFRS and Northumbria Police</p> <p>Construction services instructed to progress to tendering stage for demolition.</p> <p>On 12.05.2023 Representatives of the Council, Northumbria Police and Tyne and Wear Fire and Rescue Service met on site</p>	<p>30.4.2024 – There has been limited progress on site during April. The owner has confirmed in writing that it remains their intention to repair the roof and bring the premises up to a standard where it can be occupied soon. A roofing contractor has been contracted to undertake works from 06 May 2024. It is anticipated that these works will take between 8 -12 weeks. The Council will continue to monitor the site closely to ensure progress and should the timetable stall or work stop then we would need to assess the situation at that time and the progress of work and gain further legal advice before we could proceed to demolition. The Council has a demolition contractor engaged and on standby. It would take them around 3 weeks to mobilise to start demolition.</p>

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								<p>to examine the condition of the building and consider further opportunities to restrict access and minimise the impact of ongoing ASB. Work is ongoing to provide a legal remedy.</p> <p>A community protection warning notice was served on the landowner requiring him to take a number of steps in the interim period to prevent or minimise the opportunities for anti-social behaviour on site. This wasn't complied with and a Community Protection Notice was served. A Direction hearing took place on 20.09.2023 at South Tyneside Magistrates Court with the matter is listed for a full day contested appeal hearing on 23.01.2024 at STMC starting at 10am. Directions have been set as follows:</p> <ul style="list-style-type: none"> • 25.10.2023 exchange documents • 01.12.2023 exchange of statements <p>OM properties Ltd have asked for a meeting to try and resolve matters. This will take place on 19.10.2023. Further ASB and fires have also occurred on site in recent weeks and the Council, with partners are pursuing all avenues to mitigate the impact of these premises, including expediting demolition.</p> <p>21.11.2023 – A meeting took place with OM Properties Ltd on 19.10.2023. The Council made clear its position that the statutory notice had not been complied with to either bring the property back into use or demolish it and that the Council were seeking to demolish the property in default due to the impact on the local community. The owner was of the view that the property was still viable subject to works to bring it back into use. The Council agreed that two weeks would be provided to the owner to demonstrate how this could be achieved and likely timescales. Information has been provided by the owner and the Council has afforded additional time up until 11.12.2023 to provide further supporting information. Meanwhile works are ongoing by the council to progress demolition at the earliest opportunity.</p>	

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								<p>10.01.2024 – Further information was provided by the owner on 11.12.2023 in respect of bringing the building back into use as a viable commercial concern. Officer's were of the opinion that the information and the level of detail was insufficient and the owner was advised in writing that it remains the Council's intention to pursue the demolition of the property. Works are ongoing and it is anticipated that all of the required arrangements for demolition to progress will have been completed by the end of January 2024 with demolition completed by the end of the 1st quarter of 2024. The appeal hearing relating to the CPN notice is scheduled to be heard on 23 January 2024 at South Tyneside magistrate's court.</p> <p>08.02.2024 – On Friday 19.1.2024 OM Properties Investment Company Limited, withdrew their application for an appeal against the Community Protection Notice that was served in August 2023. The requirements of the notice again became active. The Council are continuing with their proposal to demolish the building, however, OM Properties Investment Company Limited have instructed a surveyor to initiate works immediately to secure the site and bring the building and site back into use as a lettable commercial outlet. The owners have commenced these works. and the Council are monitoring progress closely whilst still finalising its demolition proposals. In the event that the owner makes satisfactory progress prior to demolition, then the Council's demolition proposals will be halted.</p> <p>02.4.2024 – The owner's representative is continuing to undertake works on the site and building. The site has been secured, and parts of the fabric of the building have been removed back to shell. The Council are monitoring progress closely whilst still finalising its demolition proposals. The Council have written to the owner seeking clarification on a timescale for works and insisting that progress is made quickly otherwise the Council will seek to demolish the building. In the event that the owner</p>	

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								makes satisfactory progress prior to demolition, then the Council's demolition proposals will be halted.	
3.	Jack and Jo's Nursery Garden, Middle Hedgefield Farm, Blaydon on Tyne, NE21 4NN	Ryton, Crookhill and Stella	Without planning permission, the erection of a timber building to provide café with associated raised deck, canopy and smoking shelter and the installation of access railings and steps	22 nd May 2023	24 th May 2023	28 th June 2023	28 th October 2023 - removal of all structures 28 th November 2023 - removal of all resultant debris	<p>Complaints were received regarding the erection of an unauthorised building for use as a café.</p> <p>A retrospective planning application was submitted. It was refused on 28.2.22.</p> <p>An appeal was submitted to the Planning Inspectorate in relation to the planning refusal. The appeal was dismissed.</p> <p>An amended scheme/application was submitted to the Council on 14.10.22 and refused by Committee on 17.5.23.</p> <p>As two applications have been refused and giving weight to the appeal dismissed by the Planning Inspectorate it was considered expedient to take enforcement action and an Enforcement Notice has been served.</p> <p>The notice requires the removal of the unauthorised structures (café building, raised deck, smoking shelter, canopy and steps).</p> <p>18.10.2023 – Appeal has been lodged with the planning inspectorate. Start date of the appeal process is 17.07.2023 and is to be heard by way of written representations. Closing date for representations of 28.08.2023. which has now passed. Notice is suspended until the outcome of the appeal is determined.</p>	<p>30.04.2024 – The Planning inspectorate has considered the appeal made by the appellants. The appeal was considered in 3 parts:</p> <ul style="list-style-type: none"> • The enforcement notice, APP/H4505/C/23?332482 • Refusal of proposed retention of existing timber café building APP/H4505/W/3326916 • Refusal of proposed provision of carpark to northwest of site APP/H4505/W/23/3328813 <p>The inspector's decision is:</p> <ol style="list-style-type: none"> 1. Enforcement notice to be corrected by the deletion of the word 'structure' from requirement iii, and its substitution with the word 'canopy'. 2. Appeal A is dismissed, the deemed planning application is refused, and the enforcement notice as corrected, is upheld. 3. Appeal B is dismissed, 4. Appeal C is dismissed.
4.	1-2 Durham Road Birtley DH3 1LE	Birtley	Without planning permission the installation of new shopfront including cement cladding panels to front and side elevations	13 th August 2023	13 th September 2023	13 th October 2023	13 th February 2024	<p>The enforcement team received a complaint that a new shop front including cement cladding panels to front and side had been installed on the premises. A retrospective planning application was secured, however, planning permission was refused. An Enforcement Notice has now been served requiring the removal of the unauthorised shop front and cement cladding panels.</p> <p>06.10.2023 – Appeal has been lodged with</p>	<p>30.4.2024 – No further information has yet been provided by the planning inspectorate.</p>

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								<p>the planning inspectorate. Start date of the appeal process is 27.11.2023 and is to be heard by way of written representations. Closing date for representations of 08.01.2024. which has now passed. Notice is suspended until the outcome of the appeal is determined.</p> <p>2.2.2024 – Letter received from Planning Inspectorate informing the Council that they currently have a significant backlog of Enforcement cases awaiting site visit/oral event.</p>	
5.	Caspian Kebab The Cottage 18 Talbot Terrace Chester Le Street DH3 2PQ	Birtley	Without planning permission, the erection of structure comprising of a metal framework and slate tiled monopitch canopy	25 th November 2023	14 th February 2024	20 th March 2024	20 th July 2024	<p>The Council received a report that a metal structure had been erected in front of the premises. A retrospective application was secured, however planning permission was refused. A subsequent appeal was dismissed by the Planning Inspectorate and the Enforcement Notice has now been served requiring the removal of the unauthorised structure comprising of a metal framework and slate tiled monopitch canopy.</p> <p>08.02.2024 – The planning inspectorate dismissed the appeal on the grounds that the appellant had not submitted the correct fee for the appeal. However, it has been identified that there was an error in the accompanying guidance documents to the notice regarding the fee payable and the appellant may have been prejudiced by this. The notice is to be reserved which will provide the opportunity for an appeal to be heard.</p> <p>5.3.2024 – A new enforcement notice was served on 14 February 2024. Recipients have until 20th March 2024 to lodge an appeal with the Planning Inspectorate</p> <p>02.4.2024 – Appeal has been received by the Planning Inspectorate following the service of the new notice.</p>	30.04.2024 – awaiting start letter from planning inspectorate as to appeal arrangements.

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6.	Daveys Breakfast and Sandwiches 592 - 596 Durham Road Gateshead NE9 6HX	Low Fell	Without planning permission, the material change of use of the Land from Café (Use class E) to Hot Food Takeaway (Sui Generis).	12 th February 2024	20 th February 2024	21 st March 2024	11 th July 2024	<p>The council received a complaint that the premises was operating as a hot food takeaway without planning permission. A retrospective planning application was secured, however, planning permission was refused.</p> <p>5.3.2024 - An Enforcement Notice was served on 20th February 2024 requiring the cessation of the land as a hot foot takeaway. Recipients have until 21st March 2024 to lodge an appeal with the Planning Inspectorate</p> <p>02.4.2024 – Appeal has been received by the Planning Inspectorate.</p>	30.04.2024 – awaiting start letter from planning inspectorate as to appeal arrangements.