

Title of Report: Item 13 - Enforcement Review 2018/2019	Officer Presenting: Senior Planning Officer: Enforcement Section Author: Ciaran Rodgers
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1 Purpose of Report/Recommendations

- 1.1 This report has been compiled to update Council Members on the progress made by the Planning Enforcement section for the business year 2018 -2019.

2 Background

- 2.1 Derry City and Strabane District Council has the power to carry out Planning Enforcement powers which are set out in Part 5 of The Planning Act (Northern Ireland) 2011. This gives the Council discretionary power to take Enforcement action against breaches of planning control.
- 2.2 This review shows the performance of Council's Planning Enforcement section for the business year 2018-2019. A breakdown of cases opened and cases closed for each business quarter has been provided and details of the number and type of Enforcement Notices served for 2018-2019 business year has been provided. For this business year Council has one target in relation to Enforcement which seeks 70% of Enforcement cases to be brought to a conclusion within 39 working weeks.

3 Live Case Loads

- 3.1 The Enforcement section started the business year with a caseload of 264 at the start of April 2018 which increased to 303 by the end of June 2018. Within the second and third quarter of the year, case numbers dropped marginally to 288 at the end of September and 298 at the end of December 2018. In the final quarter of the business year, numbers dropped significantly to 237 by the end of March 2019 as shown in Table 1.

Table 1: Live Caseload at the end of each Quarter 2018/2019:

1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter
April-June	July-September	October - December	January-March
303	288	298	237

The sections caseload to date totals 251 cases.

3.2 New Cases

3.3 From 1st April 2018 to 31st March 2019 the Enforcement section received a total of 164 new cases as shown in Table 2 which is a reduction on the 2017-2018 business year when the section received a total of 181 new cases. For the business year to date the section has opened 27 new cases.

Table 2: New Cases opened 2018/2019

	1 st Quarter April-June	2 nd Quarter July-Sep	3 rd Quarter Oct -Dec	4 th Quarter Jan -Mar	End of year Total
2018 -2019	44	37	42	41	164

3.4 Case Closures

- 3.5 For the year to date, a total of 196 cases have been closed as shown in Table 3 which is an increase in closures from the previous year when the section closed 180 cases. In the first quarter of the business year the Enforcement section closed 33 cases from April to June with the closure rate dropping to 28 in the second quarter of the business year between July and September. Closure rates then increased to 44 for the third quarter of the business year and 91 for the final quarter.
- 3.6 A total of 87 cases closed this year have had the breach of planning control remedied through negotiation between the Enforcement Officers and the land owner/operator or the breach has been regularised through the grant of planning permission and compliance with conditions attached. This equates to 44% of the cases closed for the business year being done so through negotiation and regularisation.
- 3.7 A further 62 cases which equates to 32% closed this year were found to have no breach of Planning control onsite when investigated by Enforcement Officers with 30 cases which equates to 15% investigated deemed not expedient to pursue as the breach was minor in nature when investigated.
- 3.8 For this business year, a total of 17 cases which equates to 9% have been closed as the breach of planning control was found to be immune from Enforcement action. In these cases evidence was submitted by the land owner/operator showing the breach was in existence for over 5 years; therefore no enforcement action could be taken and the use or development in question was therefore lawful.
- 3.9 Statistics provided by DFI showed that Council's Enforcement section closed 53% of cases within 39 weeks for the business year 2018-2019 which fails to meet the Enforcement target of closing 70% of cases within 39 weeks.
- 3.10 Failure to meet the business target for this year was due to enforcement action carried out by officers on a number of complex quarry cases, work carried out by officers in preparation for planning appeals and the resolution of a number of older enforcement cases in the final quarter of the business year, which were outside the 39 week target. The large number of closures in this period allowed officers to lower the caseload for the section significantly.

Table 3: Cases Closed 2018 - 2019.

2018-19	1 st Quarter April - June	2 nd Quarter July Sep	3 rd Quarter Oct -Dec	4 th Quarter Jan- Mar	Total
Not Expedient	8	1	5	16	30
No Breach	8	10	17	27	62
Permission Granted	5	10	12	11	38
Remedied/ Resolved	10	6	7	26	49
Immune	2	1	3	11	17
Total	33	28	44	91	196

3.11 Notices Served:

3.12 For the 2018-2019 business year the Enforcement section served a total of 15 notices 13 of which were enforcement notices. This is less overall than the 2017-2018 business year when 26 notices were served. Of the 26 served in 2017-2018 11 were enforcement notices.

Table 4: Notices Served

Notice Type	1 st Quarter 1st April – 30th June (2018)	2 nd Quarter 1 st July – 31 st Sep (2018)	3 rd Quarter 1 st Oct – 31 st Dec(2018)	4 th Quarter 1 st Jan – 31 st March (2019)	Total
Change of Use/Operational Development	1	5	4	3	13
Breach of Condition	0	0	0	0	0
Submission Notices	0	0	0	1	1
Planning Contravention Notice	0	0	0	0	0
Tree Preservation Order	0	0	0	0	0
Stop Notices	0	0	0	0	0
Temporary Stop Notice	0	1	0	0	1
Total	1	6	4	4	15

3.13 Appeals

- 3.14 For the year 2018/2019, seven enforcement appeals have been heard. Of the seven appeals heard to date: two were granted planning permission with conditions attached by the PAC, two appeals were upheld by Council with amendments to the enforcement notices, two decisions are still outstanding. One appeal in the section related to Certificate of Lawful Use and Development, which was granted partial approval by the PAC. This allowed the appellant to keep the building on site as it was found to be lawful, however the use within the building was not lawful and therefore had to be removed.
- 3.15 The section has been notified of a further 6 appeals with submission dates for statements of case to be set and hearings to follow.

3.16 Court Actions

- 3.17 For the 2018/2019 business year, one case has been cleared for summons to court with a date for hearing outstanding.

Background Papers

None