



**Rochford District
Council**

REPORT TITLE:	Planning Enforcement
REPORT OF:	Leigh Nicholson, Interim Director of Place

REPORT SUMMARY

In November 2022, this Committee received a report on a review of the Council's Planning Enforcement activity.

This report is supplementary to the earlier item concerning improvements to the Development Management and Enforcement service and summarises the enforcement activity undertaken in the Rochford district for the period between 01 April 2023 and 31 December 2023.

RECOMMENDATIONS

R1. That the Committee notes the report.

1.0 MAIN REPORT

1.1 The following table (Table 1) provides an overview of the number of enforcement cases opened during the three quarters (Q1 to Q3) in 2023 and the number which have been closed. The team is consistently successful in its negotiations with residents to achieve compliance with the regulatory requirements of planning, and this is reflected in the percentage of enforcement cases resolved without the need for formal action by the Council.

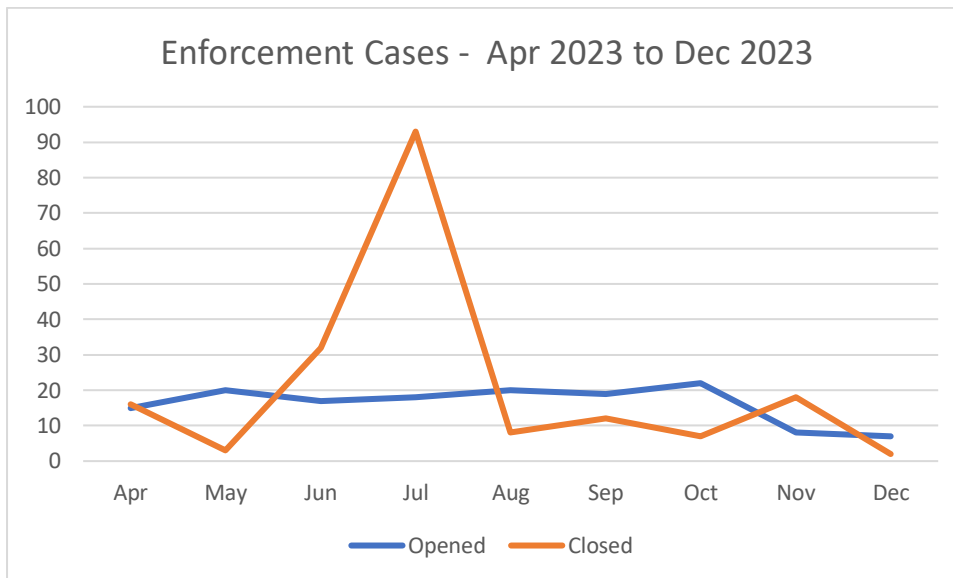
Table 1: Number of cases opened, and number closed in the year to date.

Quarter	Cases Opened	Cases Closed	% cases resolved through negotiation	% cases where no breach identified
Q1 (Apr 23- Jun 23)	52	51	39%	43%
Q2 (Jul 23 - Sep 23)	57	113	21%	45%
Q3 (Oct 23 - Dec 23)	37	27	37%	14%
Total	146	191	28%	40%

- 1.2 Table 1 shows of the number of new cases received during this period, 40% were found not to be planning breaches requiring any further action. These reports are typically, but not exclusively, development to dwelling houses, (extension and outbuildings) where the development is permitted under the Town and Country Planning (General Permitted Development Order) England 2015 (as amended). The reporter is often unaware of those development rights (essentially planning consent from central government), or the technical definitions within the Order and how these are interpreted and applied. For example, a common misconception being measuring the height of domestic outbuildings where there are differing land levels between properties. The Council's webpage for Planning Enforcement provides a link to the national planning portal's Interactive Guide for Permitted Development rights for dwelling houses. However, there are often nuances between sites which have to be explained as part of the service undertaken by the enforcement team.
- 1.3 It is however important to note that these initial investigations still take up significant officer time, with site visits conducted on reported breaches where development is being carried out. In addition, the team receive a number of enquiries relating to matters which are outside the planning legislation. In this circumstance the reporter is advised of the correct responsible authority and where relevant, colleagues within the Council made aware. Further details regarding how investigations are undertaken, the practice and procedures for the team in carrying out their duties, are contained in the Rochford District Council Enforcement Plan (2019) available on the Councils website.
- 1.4 Over the same period the team resolved 28% of reported cases through negotiation. This was either by requiring alterations to the development or its removal or inviting the submission of a retrospective planning application. In

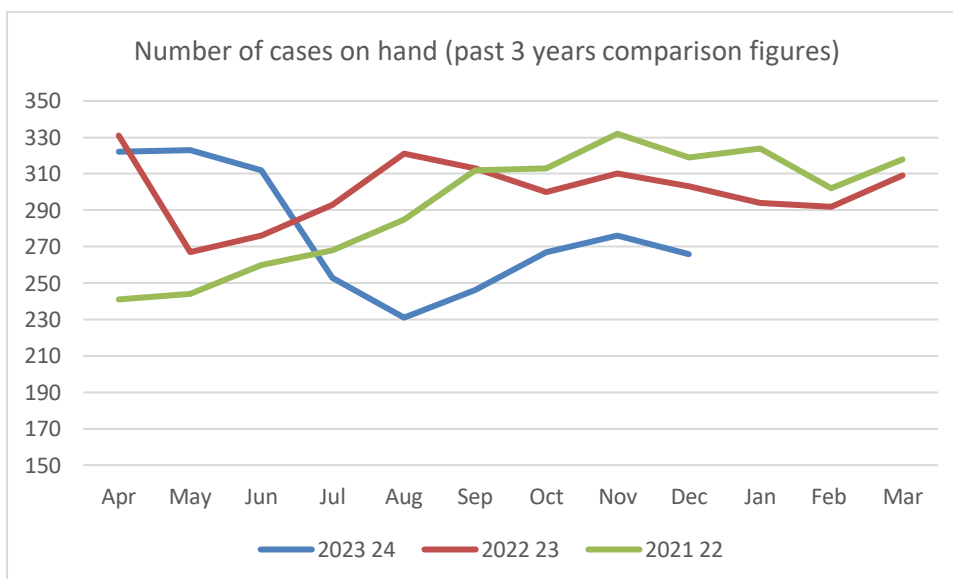
total for the period 68% of reported breaches required no further progression to formal action.

Figure 1: Number of cases opened and number closed in the year to date



1.5 Figure 1 shows the number of new cases received and closed during this period. The spike in the number of cases closed for July 2023 reflects the annual review of cases on hand. For example, where cases have been resolved but remained open on the system, the annual review provides a cleansing of the records.

Figure 2: Number of cases on hand (past 3 years comparison figures)



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- 1.6 Figure 2 shows a comparison of cases under investigation or negotiation for compliance for a 3 year period. The data for 2023/24 (blue line) demonstrates how additional resource (2 FTE officers) within the team positively contributed to the reduction in cases. Previously there had only been 1 FTE Officer in the team since January 2020. The senior team member is currently on maternity leave (August 2023). Officers within the wider Development Management team have been assisting but it can be seen the number of cases has steadily been increasing over the months of September to December 2023. Additional temporary resource to cover the maternity period has recently been approved to assist the team. It is anticipated an experienced contractor will be available during this period and will be able to address some of the more complex cases.
- 1.7 During the course of investigations into alleged breaches the team can issue a Planning Contravention Notice (PCN), requesting information from the landowner and/or occupier about the activity on the site. These are legal documents where the failure to complete and return or providing false information can be a criminal offence. The team issued 26 PCNs during this period.
- 1.8 On occasion reported cases may have cross departmental matters requiring liaison with other Council departments, such as the Environmental Health team, the Council's Arboriculturalist, Private Sector Housing and the Revenues and Benefit team. The team also work closely with Place Services Heritage Consultants who assist the team when assessing harm to the historic environment, along with the gathering evidence for possible formal action through the courts.
- 1.9 The investigation and conclusion on enforcement matters can be a protracted process. Often when a case has resulted in formal action by the Council in issuing an Enforcement Notice, appeals are likely, and most Enforcement Notices are appealed. (See Appendix 3 Formal Notices issued this period). Appeals are heard by the Planning Inspectorate, appointed by the Secretary of State. Enforcement appeals tend to cover the more complex planning matters, requiring the most experienced Inspectors. For this reason, appeals can take a year for a decision to be issued by the Inspectorate. It is not uncommon for a case to be open for 3 years from the date it was first reported to resolution of the planning breach. This can often result in a perception by the public of no action by the Council. The team currently have 36 cases where there is an appeal outstanding or compliance with formal action is still to be achieved. These cases have a suffix of NCOMP. A list of these cases can be found at Appendix 1. Ensuring compliance is essential once formal action has been agreed and any appeal has been dismissed. It is envisaged the additional contractor resource referred to above will be available to pick up this work as part of their duties. Every effort is made to provide updates upon requests to the complainant(s), Councillor(s) or Parish/Town Councils. Members are notified of any new appeals lodged and decisions are circulated via the

member's bulletin. A list of cases where appeals have been lodged with the Inspectorate awaiting a decision can be found at Appendix 2.

Legal Action

- 1.10 The Council recently achieved successful prosecution for development which involved unauthorised works to a Listed Building at The Old House, Ballards Gore. Listed Building Consent had been obtained by the owner but when works commenced, extensive additional works were undertaken. It is an offence to carry out unauthorised works to Listed Buildings. The planning enforcement team worked with the Historic Building Officers at Place Services, and officers within the Development Management team provided advice to the owner and his agent on revised applications. Guilty Pleas were entered at Court and the sentences were as follows:

Owner - £1336 fine, £534 VS, £1500 Prosecution costs

Contractor - £1779 fine £712 VS, £1500 Prosecution costs.

- 1.11 The Council's legal representative, Birketts advised this was a reasonable sentence. Several other cases are under review for submission to the Council's legal representative to consider prosecution in the courts for non-compliance with Enforcement Notices.

Conclusion

- 1.12 This report provides an overview of the work that has been undertaken by the team over the previous three quarters. An effective enforcement team sets out to reduce the number of complaints/breaches of planning control that occur throughout the district. The performance data indicates that the current enforcement team is achieving this aim, but sufficient resource is essential in maintaining those standards and upholding public confidence in the planning system.

2.0 FINANCIAL IMPLICATIONS

- 2.1 This report is for noting and as such there are not direct financial implications. Any additional financial costs as a result of enforcement action has to be met from within existing resources.

3.0 LEGAL/GOVERNANCE IMPLICATIONS

- 3.1 There are no direct legal or governance implications associated with this update report. The power to issue an Enforcement Notice is discretionary. It should only be used where the Local Planning Authority is satisfied that there has been a breach of planning control and it is expedient to issue a notice, having regard to the provisions of the development plan and to any other material considerations.

4.0 EQUALITY & HEALTH IMPLICATIONS

4.1 There are no direct equality or health implications associated with this report.

5.0 ENVIRONMENT & CLIMATE IMPLICATIONS

5.1 There are no direct environment or climate implications associated with this report.

6.0 ECONOMIC IMPLICATIONS

6.1 There are no economic implications arising from this report.

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APPENDICES

Appendix 1 Cases awaiting appeal decision or compliance with notice.

Appendix 2 Ongoing appeals as of January 2024

Appendix 3 Cases during the period where formal action taken.

BACKGROUND PAPERS

None

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

CALUML	22/00148/NCOMP	PCO	23-Aug-22	Land Adjacent 130 130 Shoebury Road Great Wakering Essex	Erection of Galvanised Hut and Extension of Garden. Parking of Vehicles not Associated with Dwelling.	23-Aug-22
CALUML	20/00088/NCOMP	PCO	16-Jun-20	Land Adjacent 246 Little Wakering Road Little Wakering Essex	Without planning permission: 1. The use of land adjacent 246 Little Wakering Road as an extension to the domestic garden (boundary fence on approved residential premises remains in place, however the land is being used incidental to the residential premises) 2. The erection of two buildings on land outside domestic garden where there are no permitted development rights to erect buildings without seeking	16-Jun-20

					planning permission.	
CALUML	23/00134/NCOMP	PCO	28-Jul-23	40 Mercer Avenue Great Wakering Essex SS3 0ER	Untidy site	28-Jul-23
CALUML	22/00149/NCOMP	PCO	23-Aug-22	77 Barrymore Walk Rayleigh Essex SS6 8YJ	Untidy site	23-Aug-22

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

CALUML	23/00136/NCOMP	PCO	28-Jul-23	Unit 10A Rear Of Clovelly Chelmsford Road Rawreth Essex SS11	Engineering operation involving the laying of a hardcore to form a hard standing	28-Jul-23
CALUML	23/00135/NCOMP	PCO	28-Jul-23	301 Ferry Road Hullbridge Essex SS5 6NA	1. Vehicles Parking To The Rear Of Site In Breach Of Appeal Decision dated 27th April 1992 2. People sleeping at the restaurant	28-Jul-23
TALENT	21/00064/NCOMP	PCO	09-Jun-21	Site Of And Land West Of 7 Hillside Road Eastwood Leigh-on-S	Breach of condition 9 of 15/00046/FUL	09-Jun-21
TALENT	21/00065/NCOMP	PCO	09-Jun-21	31 Barling Road Great Wakering Essex SS3 0QD	Without planning permission, the demolition of a dwelling house (application 18/00745/FUL and 19/00747/FUL seeking demolition and rebuild of the dwelling refused. Application 18/01195/LDC for extensions approved)	09-Jun-21

TALENT	21/00030/NCOMP	PCO	12-Apr-21	Land Rear Of 128 Rawreth Lane Rayleigh Essex	<p>1. The material change of use of land from storage of 1 caravan, 1 shipping container, 1 car (blue jaguar) to a mixed use of open storage of 1 caravan, 1 shipping container, 1 car (blue jaguar) and use as a yard comprising the associated open storage of plastic road barriers; road safety signage; traffic cones; waste skip; additional shipping container; importation, deposit and open storage of waste (land shown edged bold the attached plan)</p> <p>2. The erection of poles and installation of lighting shown in the approximate positions marked</p>	12-Apr-21
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					A, B, C, D and E on the attached plan	
TALENT	21/00164/NCOMP	PCO	26-Oct-21	Rosebud The Chase		26-Oct-21

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

				Ashingdon Essex SS4 3JE		
TALENT	20/00143/NCOMP	PCO	09-Sep-20	Concord Lodge The Chase Ashingdon Essex SS4 3JE	1. Demolition of an old garage and erection of a new building on a larger footprint intended for use as an annex 2. Extension to the dwelling not as per the provided details under 18/00791/DPDP1 3. Change of use of land to domestic garden 4. Erection of a building intended for dog grooming business	09-Sep-20
TALENT	22/00082/NCOMP	PCO	27-May-22	Land Opposite Flickan Lodge Ulverston Road Rochford Essex	Material change of use of land to the stationing of mobile home; laying of hardstanding and accumulation of rubbish on the site (possible commercial use)	27-May-22

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

TALENT	20/00014/NCOMP	PCO	31-Jan-20	Mobile Home North Of Horseshoe Stables Blountswood Road Hull	Change of use of land for the siting of a caravan for residential accommodation.	31-Jan-20
TALENT	23/00105/NCOMP	PCO	15-Jun-23	Land Adjacent 256 Daws Heath Road Rayleigh Essex	Unauthorised extension to the dog boarding premises - land adjacent the site purchased October 2018 and has been cleared, fenced off, paved and a large building erected on the land, building size approximately 30ft by 40ft.	15-Jun-23
TALENT	22/00081/NCOMP	PCO	27-May-22	Land Rear Of Greenaways Lyndhurst Road Rochford Essex	Stationing of a mobile home for human habitation, laying of had standing - service connected are water and electric	27-May-22
TALENT	22/00024/NCOMP	PCO	21-Feb-22	The Grange 5 Murrels Lane Hullbridge Essex	1. Erection of large building 2. Breach of condition 5 of 00/00770/FUL	21-Feb-22

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

					(requiring demolition of original dwelling)	
TALENT	21/00162/NCOMP	PCO	21-Oct-21	Land South Of Balnabreich Lincoln Road Rochford Essex	The Piggeries: 1. Erection of buildings for residential purposes 2. Erection of building for car storage / private rentals	21-Oct-21
TALENT	21/00075/NCOMP	PCO	23-Jul-21	Land Adjacent 60 High Street Great Wakering Essex	Untidy site	23-Jul-21

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

TALENT	22/00006/NCOMP	PCO	17-Jan-22	Old Pumping Station Fambridge Road South Fambridge Rochford	Without planning permission; 1. The erection of a building (also referred to as a butler bin) used for domestic purposes comprising of storage, utility room, toilet and shower, lounging and hobby use incidental to the dwelling formed from the conversion of the old pumping station building [building is shown labelled BB on the attached plan]. 2. The material change of use of a rural building, old pumping station building, to a dwelling forming a new dwelling in the green belt [old pumping station building is shown labelled PS on the attached plan].	17-Jan-22
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ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

TALENT	20/00087/NCOMP	PCO	16-Jun-20	Land North Of A129 East Of A130 Old London Road Rawreth Esse	erection of a wooden compound around storage area and raised deck.	16-Jun-20
TALENT	18/00007/NCOMP	PCO	17-Jan-18	Land East Of 4 Hooley Drive Rayleigh Essex	1.Change of use of stables to residential use 2.Erection of gazebos 3.Siting of portaloo 4.Use of ménage for the parking of vehicles	17-Jan-18
TALENT	18/00005/NCOMP	PCO	16-Jan-18	Land Adjacent Oakfield Road Cavendish Road Hockley Essex	Erection of Buildings	16-Jan-18
TALENT	19/00128/NCOMP	PCO	04-Sep-19	Land Opposite The Cottage Arterial Road Rayleigh Essex	Siting of mobile home	04-Sep-19
TALENT	19/00016/NCOMP	PCO	04-Feb-19	Land Adjacent Oakfield Road Cavendish Road Hockley Essex	Erection of buildings to house goats to front of site and in close proximity to protected properties (residential).	04-Feb-19

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

TALENT	17/00114/NCOMP	PCO	31-Jul-17	Fairways Garden Centre Hullbridge Road Rayleigh Essex SS6 9Q	Siting approximately five residential caravans possibly more	31-Jul-17
TALENT	16/00103/NCOMP	PCO	03-May-16	Land Opposite Anne Boleyn Southend Road Rochford Essex	Incorporation Of Field Into The Driveway Area Of 94 Southend Road	03-May-16
TALENT	20/00016/NCOMP	PCO	31-Jan-20	Land South West Of The Mousery Beeches Road Rawreth Essex	Engineering Operations to create large earth bunds to perimeter of field	31-Jan-20

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

TALENT	23/00100/NCOMP	PCO	13-Jun-23	Brooklands Farm Apton Hall Road Stambridge Essex	Without planning permission; 1. Departure from the Class B8 storage use agreed on application 22/00630/DPDP4D and use of the site for the assembling of bus shelters (B2 use class). 2. The demolition of a building and construction of a new commercial building. 3. The carrying out of engineering operations involving the removal of topsoil and laying of an extensive area of hardstanding (reinforced concrete base) to facilitate open storage and vehicle parking associated with the commercial use of the site. 4. Stock piling soil	13-Jun-23
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					creating an earth bund.	
TALENT	20/00019/NCOMP	PCO	05-Feb-20	Downswood Hooley Drive	Erection of large outbuilding	05-Feb-20

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

				Rayleigh Essex SS6 9RA		
TALENT	22/00062/NCOMP	PCO	27-Apr-22	Land South Of St Johns Cottage St Johns Drive Rayleigh Essex	Change of use of land to use for the running of a horse box hire premises and storage of the horse boxes and erection of an office building [NOTE - ceased June 2021 - new owner yet to remove hardstanding and possibility of land being turned into a GT pitch]	27-Apr-22
TALENT	22/00080/NCOMP	PCO	27-May-22	Land East Of Royston At Track Between Lyndhurst Road And Can	Without planning permission, the erection of a new dwelling in the green belt without planning permission	27-May-22

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

TALENT	21/00143/NCOMP	PCO	11-Oct-21	Land North End Of Vanderbilt Avenue Trenders Avenue Rayleigh	Use of site for stationing a mobile home housing a family (woman and 2 children) - has been stationed on site for about 3 mont	11-Oct-21
YD	16/00137/NCOMP	PCO	06-Jun-16	Fairways Garden Centre Hullbridge Road Rayleigh Essex SS6 9Q		06-Jun-16
YD	16/00092/NCOMP	PCO	03-May-16	Cherry Hill Farm - Land Opposite Witherdens Farm Chelmsford	Setting up of gypsy encampment and engineering works	03-May-16
YD	16/00102/NCOMP	PCO	03-May-16	The Brambles Clements Hall Lane Hawkwell Essex SS5 4DT	Outbuilding Constructed and Business being run from Residential Property in the MGB	03-May-16

ENFORCEMENT CASES AWAITING APPEAL OUTCOMES OR COMPLIANCE AS OF JAN 2023

APPENDIX 1

YD	19/00126/NCOMP	PCO	04-Sep-19	The Yard Murrels Lane Hullbridge Essex SS5 6AB	<p>1. Material change of land and buildings from General industrial (Class B2) use to a mixed use of general industrial (Class B2) use and the siting of a mobile home and its use for human habitation</p> <p>2. The erection of a steel palisade fence and double gates with a barbed wire and razor wire top trim.</p>	04-Sep-19
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PLANNING ENFORCEMENT APPEALS IN PROGRESS

APPENDIX 2

APP/B1550/C/22/3301569	<p>Procedure</p> <p>Written Reps</p>	<p>Land Opposite Flickan Lodge Ulverston Road Rochford</p>	<p>Appeal against Enforcement Notice - the material change of use of land from a nil use to use for the stationing and storage of caravans (1 static and 2 touring caravans); 5 private vehicles; children's play equipment; 2 lorry backs and the open storage of rubble and timber and other material - caravans, children's play equipment and the engineering operation involving the laying of an area of hardstanding</p>	<p>Appeal started 05.07.2022</p>	<p>Statements submitted 17 Aug 2022.</p> <p>Awaiting Planning Inspectorate</p>
APP/B1550/C/22/3302086	<p>Public Inquiry</p>	<p>Land West Of Track Between Lyndhurst Road And Canewdon Road Ashingdon</p>	<p>Appeal against Enforcement Notice: Without planning permission, the erection of a detached new dwelling house in the green belt and the material change of use of land around the building to associated residential garden and storage of a touring caravan</p>	<p>Appeal started 05.07.2022</p>	<p>Statement of case submitted.</p> <p>Awaiting Planning Inspectorate for Inquiry date</p>

PLANNING ENFORCEMENT APPEALS IN PROGRESS

APPENDIX 2

<p>APP/B1550/C/23/3326098 APP/B1550/C/23/3326097</p>	<p>Written Reps</p>	<p>Land Adjacent 256 Daws Heath Road Rayleigh</p>	<p>Appeal against Enforcement Notice: Without planning permission, the material change of use of land from a nil use to a mixed use as cattery, dog grooming, office/reception and dog exercise facility comprising the construction of 2 buildings, laying of an area of hardstanding and the erection of a fence and gates forming new access off Daws Heath Road.</p>	<p>Appeal started 12.09.2023</p>	<p>Statements submitted. Awaiting Planning Inspectorate</p>
<p>APP/B1150/C/23/3326164</p>	<p>Hearing</p>	<p>Brooklands Farm Apton Hall Road Stambridge</p>	<p>Appeal against Enforcement Notice: (a) the erection of building and (b) the carrying out of engineering operations involving the removal of topsoil and laying a reinforced extensive area of a hardstanding and (c) the material change of use of the Land and buildings from agricultural uses</p>	<p>Appeal started 04.08.2023</p>	<p>Statements submitted. Awaiting Planning Inspectorate for hearing date.</p>

			<p>to a mixed use of the Land for agriculture and for a Class B2 use comprising:</p> <ul style="list-style-type: none"> (i) the assembling of bus shelters and other street furniture not connected to an agricultural use, (ii) storage in connection with the Class B2 use occurring in buildings not connected to an agricultural use (iii) the use as office space in connection with the Class B2 use of the building not in connection with agriculture (iv) open storage and vehicle parking and turning on the area associated with a Class B2 use 		
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FORMAL NOTICES ISSUED

APPENDIX 3

CASE REFERENCE	SITE	TYPE OF NOTICE	BREACH
19/00113/COU_B	Land Adjacent 256 Daws Heath Road Rayleigh	EN	Without planning permission, the material change of use of land from a nil use to a mixed use as cattery, dog grooming, office/reception and dog exercise facility comprising the construction of 2 buildings (marked A and B on the attached plan), laying of an area of hardstanding (shown cross hatched) and the erection of a fence and gates (marked by XXXs and labelled C to D on the attached plan) forming new access off Daws Heath Road.
22/00157/APPT_B	Brooklands Farm Apton Hall Road Stambridge	EN	Without planning permission, the following: <ul style="list-style-type: none"> a. the erection of building as marked with an 'A' on the plan of the Land, and b. the carrying out of engineering operations involving the removal of topsoil and laying a reinforced extensive area of a

			<p>hardstanding in the area marked with a 'H' on the plan of the Land, and</p> <p>c. the material change of use of the Land and buildings from agricultural uses to a mixed use of the Land for agriculture and for a Class B2 use comprising:</p> <ul style="list-style-type: none"> i. the assembling of bus shelters and other street furniture within the building marked with an 'A' on the plan of the Land not connected to an agricultural use, ii. storage in connection with the Class B2 use occurring in buildings marked 'A', 'B' and 'C' on the plan of the Land not
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FORMAL NOTICES ISSUED

APPENDIX 3

			<p>connected to an agricultural use</p> <p>iii.the use as office space in connection with the Class B2 use of the building marked with a 'D' on the plan of the Land not in connection with agriculture</p> <p>iv.open storage and vehicle parking and turning on the area marked with an 'H' on the plan of the Land associated with a Class B2 use</p>
20/00094/COND_C	301 Ferry Road Hullbridge	S.215	amenity of the area was being adversely affected by the condition the site
22/00144/UTDY_C	18 Link Road Rayleigh	S.215	amenity of the area was being adversely affected by the condition the site
19/00178/COU_C	Land East Of Glen Ross Goldsmith Drive Rayleigh	EN	Without planning permission, the material change of use of the building on the Site marked with an 'X' from a horticultural use to a residential use

FORMAL NOTICES ISSUED

APPENDIX 3

			including unauthorised operational development consisting of extensions to the building to facilitate the unlawful residential use.
21/00165/COND_C	Unit 14 Rawreth Industrial Estare, Rayleigh	BCN	Without planning permission, the removal of vegetation serving as acoustic barrier between Rawreth Industrial Estate and residential estate in breach of a planning condition 4 imposed on application reference 98/00166/FUL dated 27 th of May 1999.