The Enforcement Landscape

Key Issues in Enforcement Appeals

Pitfalls for Planning Authorities

Enforcement Recovery at PINS

Jean Russell
Enforcement Inspector & Inspector Manager
@PINSgov
Key Issues: Residential Uses

- Always been ‘bread and butter’...always been varied...
- Increase in substandard or ‘alternative’ housing cases
  - Beds in sheds
  - HMOs
  - Annexes
  - Caravans and houseboats
  - Breach of occupancy conditions
- Reflects the housing crisis...national and local priorities
- Difficult legal questions such as concealment
- Can give rise to human rights issues
- The occupiers may not be party to the appeal
Key Issues: Permitted Development

• **Part 1**
  • General – dwellinghouse & HMOs
  • Class B – L-shaped dormers
  • Class E – ‘reasonably required’
  • Class E – ‘incidental’
Key Issues: Permitted Development

- Parts 3, 4, 5, 6, 16... “Part 1” and “Part 6 type cases”
- Was the development PD?
- Has there been a breach of condition imposed on a PDR?
- The key version of the GPDO is that in force when the development was undertaken.
Key Issues: Material Change of Use

• What is the new use?
• What is the planning unit?
• Has there been a **material** change of use? **Or** is the new use incidental to the existing primary use(s)?
• Is there a mixed use? What are the components?
• How long has the whole mixed use been taking place?
• Is there any (associated) operational development?
• PD rights...apply if the use/development was not lawful?
Key Issues: the ‘Immunity’ Period

- Operational development – 4 years; s171B(1)
- Change of use to a dwellinghouse or breach of condition which prevents use as a dwellinghouse – 4 years; s171B(2)
- Other change of use or other breach of condition – 10 years; s171B(3)
- Use as a dwellinghouse with no prior use?
- Operations to facilitate MCU?
- Effect of s171B(4): 10 + 4 years?
Pitfalls for Planning Authorities

Check the Enforcement Notice

• Is the land correctly identified?
• Is the breach correctly identified?
• Do the requirements tally with the breach?
• Talk to Legal…and
• Listen to PINS
Pitfalls for Planning Authorities

Understand the grounds of appeal

Ground (b)
• Phrased in the past tense
• Often confused with (c)

Ground (c)
• Is it development?
• Is there any PP or LDC?
• What were the PD rights when the development was carried out?
• What did/does the GPDO actually say?
Understand the grounds of appeal

Ground (d)
• What is the correct immunity period?
• Is there a mixed use?
• Did the use/breach of condition take place continuously?

Ground (f)
• What are the purposes of the notice? (NB – not the reasons!)
• Is ground (a) pleaded?
• Would lesser steps remedy the breach?
• PD rights are not retrospective...
Enforcement Recovery at PINS

Overall performance issues

The problem...
Enforcement Recovery at PINS

Three key areas of investment in s78 (planning) appeals

• Recruitment of new Inspectors
• Rosewell inquiry review
• Operational Delivery Transformation

We are seeing improved s78 performance & deciding record numbers of appeals.
Enforcement Recovery at PINS

Enforcement has suffered as planning has improved

- We know you will have noticed!
- Validation backlog – was 750 (now 500)
- National list – was 1300 (now 990)
Enforcement Recovery at PINS

The current valid-to-decision enforcement timeliness

<table>
<thead>
<tr>
<th>Procedure</th>
<th>Current</th>
<th>Target</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>WR</td>
<td>43wks</td>
<td>(4+) 36wks</td>
<td>+7wks</td>
</tr>
<tr>
<td>Hearing</td>
<td>64wks</td>
<td>(4+) 37wks</td>
<td>+27wks</td>
</tr>
<tr>
<td>Inquiry</td>
<td>69wks</td>
<td>(4+) 47wks</td>
<td>+22wks</td>
</tr>
</tbody>
</table>

The Enforcement Recovery Project aims to:

1. Improve and sustain enforcement performance.
2. Implement [some] recommendations of the Rosewell Review.
3. Increase Inspectors trained and available for casework.
4. Maintain the quality/robustness of decisions.
Enforcement Recovery at PINS

- New Director of Operations, Head of Operations & Enforcement Group Operations Lead – with Enforcement & Transformation background or experience at PINS.

- Case officers – increase from 14 to 26 FTE officers, meaning increase from 3 to 4 teams, including new validation team:
  - When 10-13% of appeals filtered out

- Trained 20 Inspectors in Enforcement over summer and autumn = 30-35% uplift in Enforcement Inspectors.
Enforcement Recovery at PINS

Recovery Project

Enforcement Recovery Team – meet fortnightly

• Change our start letters – stop offering ground (a)
• LDC/s192 site visits
• When to ‘start’ appeals
• Stop ‘batching’
• Which Rosewell principles should apply to Enforcement
• How to prioritise backlog cases
Enforcement Recovery at PINS

- Our plan is to clear the backlog by Autumn 2021...
- ...at the latest
- ...for all case types/procedures
- Long-term project
- Help us to help you
- Watch this space!