



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Enforcement Landscape

NAPE Conference 2019



The Enforcement Landscape

Key Issues in Enforcement Appeals

Pitfalls for Planning Authorities

Enforcement Recovery at PINS



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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?



Pitfalls for Planning Authorities

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)

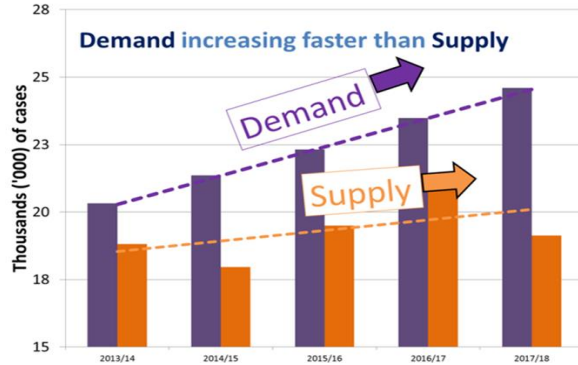
- What are the purposes of the notice? (NB – not the reasons!)
- Is ground (a) pleaded?
- Would lesser steps remedy the breach?
- PD rights are not retrospective...



Enforcement Recovery at PINS

Overall performance issues

The problem...



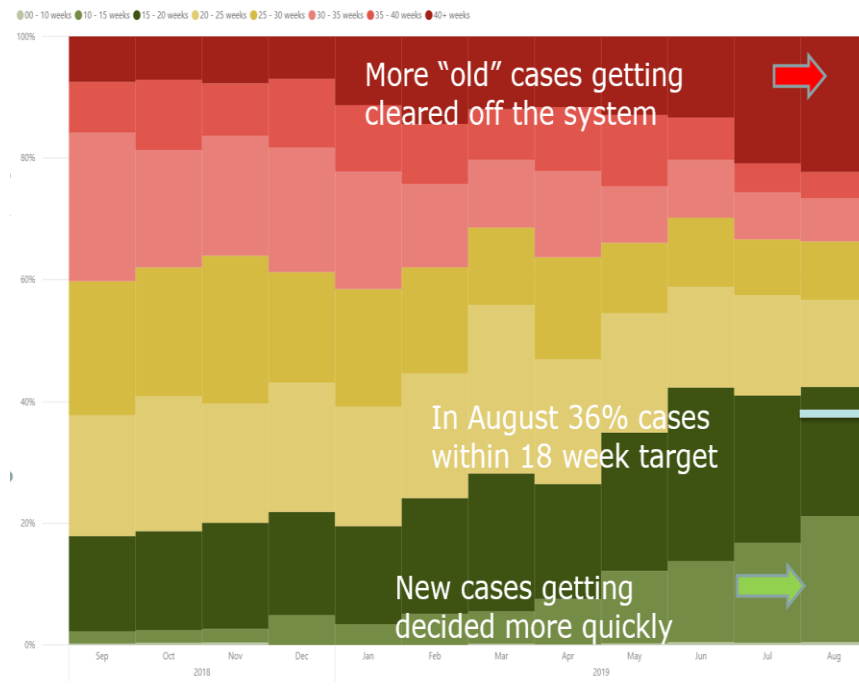


Enforcement Recovery at PINS

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)*

i Historic Casework

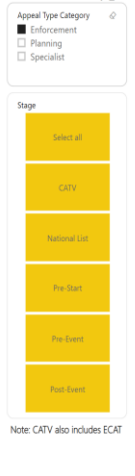


MiPINS i Historic Casework



Note: CATV also includes ECAT

MiPINS



Note: CATV also includes ECAT



Enforcement Recovery at PINS

The current valid-to-decision enforcement timeliness

<i>Procedure</i>	<i>Current</i>	<i>Target</i>	<i>Difference</i>
<i>WR</i>	<i>43wks</i>	<i>(4+) 36wks</i>	<i>+7wks</i>
<i>Hearing</i>	<i>64wks</i>	<i>(4+) 37wks</i>	<i>+27wks</i>
<i>Inquiry</i>	<i>69wks</i>	<i>(4+) 47wks</i>	<i>+22wks</i>

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!

