



COUNCIL: 5 APRIL 2023

Report of: Corporate Director of Transformation, Housing and Resources

Relevant Portfolio Holder: Councillor Anne Fennell

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SUBJECT: PLANNING SERVICES ENFORCEMENT POLICY

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

- 1.1 To seek adoption of a revised and updated Planning Services Enforcement Policy.

2.0 RECOMMENDATIONS TO COUNCIL

- 2.1 That the Planning Services Enforcement Policy attached at Appendix 2 to this report be adopted by the Council and operated from 1 May 2023, noting any comments from the Planning Committee.

3.0 BACKGROUND

- 3.1 The Council has long adopted an enforcement plan for relevant development control regulatory activity. Enforcement action under planning legislation is discretionary, but it is good practice for local authorities to take proportionate action where breaches of planning control are evident. This is supported by paragraph 59 of the National Planning Policy Framework (2021), which also supports the adoption of a local enforcement plan:

Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should

act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

- 3.2 The Planning Service has been subject to significant and fundamental review, with reports being presented to Planning Committee and/or Executive Overview and Scrutiny Committee accordingly. The Planning Services Enforcement Plan (the Policy) attached at Appendix 2 to this report forms a significant part of that review and has been drafted to set out a clear statement of the Council's approach to planning enforcement.
- 3.3 The Council operates its planning enforcement regime in accordance with the Council's Constitution in respect of powers of the Planning Committee and Scheme of Delegation to Chief Officers. However, planning enforcement activity does not operate in isolation solely within the Planning Services team, it requires the support and dedication of other Council colleagues to function effectively and efficiently. To that end, and in addition to the review of the Council's planning enforcement processes, additional dedicated resources have been put into the Council's Legal and Democratic Services team. This has been necessary to ensure those cases identified by Planning Enforcement Officers for further action can be progressed formally. This dedicated resource is in place and so the updated Enforcement Plan is presented to Members accordingly.

4.0 CURRENT POSITION

- 4.1 The Council receives approximately 300 planning enforcement complaints per year. All formal complaints are investigated by Enforcement / Planning Officers resulting in one of three outcomes:
- determination that no breach of planning control exists;
 - a breach exists and formal action is to be taken; or
 - a breach exists and no formal action is to be taken, following negotiation to resolve the breach, or in circumstances where the breach would not justify enforcement action.
- 4.2 In investigating enforcement matters, a level of prioritisation is carried out in accordance with the Policy which includes the justification of the level of priority assigned. This dictates what the complainant can expect and how the matter will be addressed. The fact that all complaints are investigated, even if the alleged breach is trivial in nature, places great pressure on resources and leads to delays in investigating and resolving more serious breaches. It is therefore important to stress that the prioritisation of complaints is one of the fundamental aspects of the Policy to allow Officers to manage enforcement proactively. However, this can [in itself] lead to complaints against the service and so it is important that the Policy states the approach clearly and justifiably.

5.0 ISSUES

- 5.1 It is clearly essential that Council resources are used to maximum effect. It is equally important that the Council gives priority to those planning enforcement cases where the greatest harm is being caused and not as a response to who is complaining and/or how 'vocal' that complaint may be. The Policy builds on previous versions by placing priority categories against the seriousness of the alleged breach and indicates target response times accordingly. This triage approach allows focus on more significant matters that can be dealt with expeditiously and not be delayed by more minor matters of limited planning harm.
- 5.2 This approach is supported by a scheme of delegations to Chief Officers to determine whether a case is expedient to take further action or not. However, it is important to note an exception to this delegation exists where cases are subject to a high number of complaints, and it is proposed to take no further action. In such cases the matter is referred to the Planning Committee for consideration. Accordingly, and assuming the Policy is approved by Members, the Planning Committee will be provided with routine updates on future enforcement activity; the nature and frequency of which will be determined by the Planning Committee in due course.

6.0 SUSTAINABILITY IMPLICATIONS

- 6.1 It is important that the local environment is protected from the harmful effects of unauthorised development, as are the interests of residents, visitors and businesses. The Policy sets out the Council's aims for the enforcement of planning control in this context.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no significant financial or resource implications arising from this report. All resources required to prepare and implement the Policy are covered by the Planning Service revenue budget.

8.0 RISK ASSESSMENT

- 8.1 A failure to set out clearly the Council's plan for the enforcement of planning controls could result in the loss of public confidence in the planning system. By adopting and publishing an Enforcement Plan it ensures that the Council's resources are prioritised to maximum effect.

9.0 HEALTH AND WELLBEING IMPLICATIONS

- 9.1 There are no health and wellbeing implications arising from this report.
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Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is a direct impact on members of the public, employees, elected members and / or stakeholders, therefore an Equality Impact Assessment is required. A formal equality impact assessment is attached as an Appendix to this report, the results of which have been taken into account in the Recommendations contained within this report

Appendices

1. Equality Impact Assessment
2. Planning Services Enforcement Plan

Appendix 1

Equality Impact Assessment Form



Directorate: Planning and Regulatory Services		Service: Planning Services	
Completed by: Paul Charlson		Date: 24/02/23	
Subject Title: PLANNING SERVICES ENFORCEMENT PLAN			
1. DESCRIPTION			
Is a policy or strategy being produced or revised:		Yes	
Is a service being designed, redesigned or cutback:		No	
Is a commissioning plan or contract specification being developed:		No	
Is a budget being set or funding allocated:		No	
Is a programme or project being planned:		No	
Are recommendations being presented to senior managers and/or Councillors:		Yes	
Does the activity contribute to meeting our duties under the Equality Act 2010 and Public Sector Equality Duty (Eliminating unlawful discrimination/harassment, advancing equality of opportunity, fostering good relations):		No	
Details of the matter under consideration:			
<p><i>If you answered Yes to any of the above go straight to Section 3</i></p> <p><i>If you answered No to all the above please complete Section 2</i></p>			
2. RELEVANCE			
Does the work being carried out impact on service users, staff or Councillors (stakeholders):		No	
If Yes , provide details of how this impacts on service users, staff or Councillors (stakeholders): <i>If you answered Yes go to Section 3</i>			
If you answered No to both Sections 1 and 2 provide details of why there is no impact on these three groups: <i>You do not need to complete the rest of this form.</i>			
3. EVIDENCE COLLECTION			
Who does the work being carried out impact on, i.e. who is/are the stakeholder(s)?		All residents, businesses and visitors.	
If the work being carried out relates to a universal service, who needs or uses it most? (Is there any particular group affected more than others)?		N/A	
Which of the protected characteristics are most relevant to the work being carried out?			

Age	No
Gender	No
Disability	No
Race and Culture	No
Sexual Orientation	No
Religion or Belief	No
Gender Reassignment	No
Marriage and Civil Partnership	No
Pregnancy and Maternity	No
4. DATA ANALYSIS	
In relation to the work being carried out, and the service/function in question, who is actually or currently using the service and why?	All relevant residents, businesses and planning agents.
What will the impact of the work being carried out be on usage/the stakeholders?	Reviewed enforcement plan requirements.
What are people's views about the services? Are some customers more satisfied than others, and if so what are the reasons? Can these be affected by the proposals?	The Planning Service is subject to routine public consultation in relation to services and future development. Any comments are brought back to the Committee.
What sources of data including consultation results have you used to analyse the impact of the work being carried out on users/stakeholders with protected characteristics?	The Planning Service is subject to routine public consultation in relation to services and future development. Any comments are brought back to the Committee.
If any further data/consultation is needed and is to be gathered, please specify:	N/A
5. IMPACT OF DECISIONS	
In what way will the changes impact on people with particular protected characteristics (either positively or negatively or in terms of disproportionate impact)?	None.
6. CONSIDERING THE IMPACT	
If there is a negative impact what action can be taken to mitigate it? (If it is not possible or desirable to take actions to reduce the impact, explain why this is the case (e.g. legislative or financial drivers etc.).	N/A
What actions do you plan to take to address any other issues above?	No actions
7. MONITORING AND REVIEWING	
When will this assessment be reviewed and who will review it?	The Planning Service is subject to routine public consultation in relation to services and future development. Any comments are brought back to the Committee.

