

Subject:	Planning Enforcement Policy		
Date of Meeting:	27 September 2018		
Report of:	Executive Director of Economy, Environment and Culture		
Contact Officer:	Name:	Nicola Hurley	Tel: 01273 29114
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 The current Planning Enforcement Policy Document was published in 2011 and was used to advise service users and guide the operations of the Enforcement Team. An updated policy document has been prepared. This report seeks agreement of this document, which will provide advice and guidance to service users and set out the role, priorities and customer service standards of the Enforcement Team.

2. RECOMMENDATIONS:

2.1 That Members agree the Enforcement Policy Document in Appendix 1 for implementation from the 1 January 2019 subject to minor alterations to correct grammatical errors with the agreement of the Head of Planning.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 The existing Planning Enforcement Document was introduced in 2011. The document includes the aims and objectives of the service, the approach taken and the options available to the service.

3.2 The Planning & Building Control service has since January 2017 been working on an overarching Modernisation Programme, which includes seven main projects, each include a number of sub-projects to help facilitate and contribute to the modernisation of the service. The seven projects are include:

- Streamlining the service
- Develop a Positive Planning service
- Develop a Sustainable Building Control service
- Change Management
- Improving quantitative and qualitative performance
- Income generation
- Develop streamlined and up to date policy framework.

- 3.3 There are a number of elements within the project ‘Develop a Positive Planning Service’ and publishing an updated enforcement policy document is part of this wider work strand.
- 3.4 The term “Local Enforcement Plan” was introduced in 2012 by the National Planning Policy Framework (NPPF) and updated in the revised National Planning Policy Framework published July 2018. This states (paragraph 58):
- “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.”
- 3.4 The Enforcement Policy Document is designed to set out how the Council will deal with planning breaches. It provides information and guidance to residents, property owners and occupiers, developers and those with other interests on how the Council will deal with unauthorised development. The draft document is in appendix 1.
- 3.5 The document sets out priorities for responding to complaints, providing feedback and a timeline of how an enforcement case may typically progress.
- 3.6 It is intended to provide greater assurance to those involved in any investigation, greater certainty and clarity of how a case will be managed and what the team will provide in terms of updates compared to the previous 2011 document
- 3.7 The proposed document provides timescales for updates, which the 2011 document did not set out and therefore this will provide members of the public greater clarity on timescales.
- 3.8 In addition the document introduces priorities to assist to manage the number of investigations coming into the service as well as ensuring queries are dealt with in the most effective way.
- 3.9 In summary the enforcement policy document aims to:
- provide an updated position in respect of enforcement work in the Planning Service;
 - provide a more realistic and clearer position of how an enforcement complaint may progress; and
 - better manage expectations for the complainant as well as the owner/occupiers of the property in question.
- 3.10 This report does not seek additional resources to be allocated to the Enforcement Team, but the Enforcement Policy Document will better enable the team to channel its resources and make some of the difficult decisions the team has to make on where action can be pursued.

4. CONSULTATION

- 4.1 Early stage engagement with the Enforcement Team helped to establish what was working in the existing policy document and how the document could be

improved. This also included a review of similar documents from other Authorities.

- 4.2 The main aims and some of the principles of the emerging draft document were presented to the Planning Committee Member Working Group on the 20 February 2018 for comment and discussion.
- 4.3 Appendix 2 outlines some of the emerging comments/themes arising from Members on the draft. The detail also includes comments on how the document has considered and evolved with the early engagement at the Member Working Group.
- 4.4 On the 22 March 2018, the service held a Member Workshop. All Councillors were invited to the workshop. Those in attendance are set out in Appendix 3. During the workshop, Members were asked to discuss and feed back on the top 3 issues in respect of enforcement. In addition, a second discussion focused on the suggested priorities and timescales that are recommended to be included in the document. The detailed feedback and commentary is included in Appendix 3.
- 4.5 The overarching themes emerging from the workshop was a need for more communication and action. The feedback from Members also helped shape the priorities and what was an appropriate timescale.
- 4.6 In line with other improvements the service is introducing customer care standards and the policy does include reassurances that feedback will be given at key points proactively. In terms of powers, the service is required to work within the statutory framework and needs to be mindful of all concerned and to be fair, consistent and proportionate. The document does include guidance on what could occur following the receipt of a complaint.
- 4.7 In addition, individual meetings were held with councillors who could not attend the workshop on the 22nd March. The feedback from the additional meetings concurred with previous comments made at the Member Working Group and the Member Workshop.
- 4.8 Feedback has also been sought and considered from a number of internal departments where the work of the enforcement team may overlap with elements of their working practices.

5. CONCLUSION

- 5.1 Members are requested to approve the Enforcement Policy document for the purposes of Planning Enforcement activity in the city to be implemented from the 1 January 2019. This will help to improve the Planning Service and deliver modernisation priorities.

6. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 6.1 There are no direct financial implications as a result of this report with the service expecting to manage the Planning Enforcement Policy from within existing

budgets. The Council's Modernisation Programme has provided resources to support to enable the delivery of the modernisation of the Planning and Building Control service. This is detailed in paragraph 3.2 above.

Finance Officer Consulted: Rob Allen

Date: 08/05/18

Legal Implications:

6.2 Although in all cases of unauthorised development a local planning authority has a duty to consider whether to take enforcement action the actual taking of enforcement action is discretionary. Section 172 (1) of the Town and Country Planning Act 1990 provides that an enforcement notice may be issued where it appears to the local planning authority ("LPA") "(a) that there has been a breach of planning control; and (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations." Similarly, a breach of condition notice "may" be served (s187A of the 1990 Act).

6.3 The national Planning Practice Guidance advises that LPAs should have regard to paragraph 207 of the NPPF (set out in paragraph 3.4 of this report) when considering whether to take enforcement action and further advises : The provisions of the [European Convention on Human Rights such as Article 1 of the First Protocol, Article 8 and Article 14](#) are relevant when considering enforcement action. There is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control." [Paragraph: 003 Reference ID: 17b-003-20140306]

Although there is no statutory requirement for LPAs to produce local enforcement plans the production of the same is clearly a matter of best practice for the reasons set out in the national Policy and Guidance referred to in this report.

Lawyer Consulted:

Name Hilary Woodward

Date: 8/5/18

Equalities Implications:

6.4 The Council's Equalities policies are considered and implemented in the day to day work of the department.

Sustainability Implications:

6.5 None associated with this report

Any Other Significant Implications:

6.6 None associated with this report

SUPPORTING DOCUMENTATION

Appendices:

1. Draft Planning Enforcement Policy
2. Comments arising from the Member Working Group
3. Comments arising from Member Workshop

Documents in Members' Rooms

1. None

Background Documents

1. None

