

## **LOCAL ENFORCEMENT PLAN**

**Cabinet – 5 March 2015**

Report of: Chief Planning Officer

Status: For consideration

Also considered by: Local Planning and Environment Advisory Committee – 27 January 2015

Key Decision: No

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**Executive Summary:** This report introduces a Local Enforcement Plan (see Appendix A) which is a document setting out how the Council will respond to breaches of planning control.

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**This report supports the all the key aims of the Community Plan**

**Portfolio Holder** Cllr Piper

**Contact Officer(s)** Alan Dyer Ext. 7196

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**Recommendation to Local Planning and Environment Advisory Committee:** That Cabinet is recommended to agree the Local Enforcement Plan for adoption.

**Recommendation to Cabinet:** That the Local Enforcement Plan be adopted and published.

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**Reason for recommendation:** The Local Enforcement Plan provides information to customers on how the Council will deal with enforcement and the powers available so that complainants and those subject to complaints will know what to expect from the service.

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### **Introduction and Background**

- 1 The Improvement Plan for the Planning Service includes a proposal to review, revise and re-launch the 'Enforcement principles' document, last updated in 2003, as an Enforcement Handbook - a user friendly, informative, easy to read and understand guide which will explain our priorities, the options available to us and set out our service standards.
- 2 The National Planning Policy Framework (NPPF) recommends that local planning authorities 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 it is appropriate to do so (NPPF para 207).

- 3 The Government's recently published Planning Practice Guide also advocates the preparation of a Local Enforcement Plan.
- 4 The proposal in the Improvement Plan is very similar to what the Government envisages in a Local Enforcement Plan and the Improvement Plan proposal is therefore being taken forward as a Local Enforcement Plan.
- 5 The Council's enforcement service has a very high workload arising in large part from the number of complaints received. In 2013/4:
  - It received 1,272 complaints about breaches of planning control (equivalent to just over 100 new complaints every month)
  - It visited 93% of sites subject of complaint within three working days
  - It checked 829 commencements for potential breach of control
  - It rectified breaches of planning control in 319 cases (either by formal action, informal agreement or through the grant of permission)
  - It served 8 enforcement notices, 10 breach of condition notices and 19 planning contravention notices

### **Structure of the Plan**

- 6 The plan is structured as follows:
  1. General Introduction
  2. Key Principles of the Enforcement Service. Listing six key principles which guide our approach. These are:
    - We will investigate all complaints received about breaches of planning control and aim to visit the site concerned within three working days.
    - We will give priority to the most serious complaints based on the degree of harm caused by the development subject of the complaint.
    - We will use our statutory powers to remove harmful development.
    - We will explore solutions to remove harm caused by unauthorised development.
    - We will keep complainants and those who are the subject of complaints informed throughout our investigations.
    - We will keep the identity of complainants confidential.
  3. Investigating Complaints. Covering what complaints will be investigated, how they will be prioritised and how investigations will be carried out.
  4. Securing Compliance. Setting out the powers available to the Council and the circumstances in which they will be used.
  5. Monitoring Implementation of Planning Permissions. Covering the monitoring that is carried out when development starts.

6. Commitments to Customers. Including how we communicate with people who complain and people who are subject of complaints.

Additionally there is an appendix covering relevant legislation.

- 7 The plan places greater emphasis than previously on securing compliance while remaining within the framework of Government guidance and legislative constraints. It sets out the powers that are available to the Council, including enforcement notices and stop notices, and the circumstances in which they may be used.
- 8 The powers include the ability to serve a Section 215 Notice requiring the improvement of untidy land or buildings. The Council has used this power with success, for example in tackling a house and garden in Dunton Green that had become an eyesore, and has also achieved success where it has threatened to serve a notice. It will be looking for additional opportunities to use the power in the future and will investigate all complaints received.
- 9 The plan recognises that in some cases a breach of planning control will not have a harmful impact sufficient to justify taking enforcement action. In such cases the enforcement team will always try to get a planning application submitted so that the unauthorised development can be brought under control. Where no application has been forthcoming a decision has to be made whether to close the case with no further action taken. To ensure adequate democratic oversight of the closure decision the plan proposes that local Members will be consulted on any decision to take no action on a case where there is a breach of planning control and given the opportunity to refer the matter to Development Control Committee. This is in addition to the existing power for the Local Member or the Committee Chairman to refer any enforcement case to the Committee.
- 10 Members also now receive a monthly report of all new enforcement complaints received.
- 11 Following agreement by Cabinet it is proposed that the plan be published on the Council's web site and made available to those involved in the process including complaints and those who are subject to complaints. It will also be publicised via forthcoming Town and Parish Councils and Agents' forums. Publishing the plan should raise awareness of how enforcement operates and the powers available, together with providing accessible information on the service customers can expect.

### **Other Options Considered and/or Rejected**

There is no statutory requirement to prepare a Local Enforcement Plan and there is an option of not proceeding with the plan. However, it is considered that there are substantial benefits from adopting and publishing the plan as set out above.

## **Key Implications**

### Financial

There are no significant financial implications from publishing the plan as the limited cost of printing can be met from existing budgets. The plan does not introduce any new procedures that have additional costs. Some potential enforcement actions do have potential financial implications for the Council and these are considered before taking action.

### Legal Implications

The Legal Services Manager has been consulted on the preparation of the document and comments have been incorporated.

### Equality Impacts

Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The decisions recommended through this paper directly impact on end users. The impact has been analysed and has the potential to vary between groups of people. The results of this analysis are set out immediately below.

Enforcement does have the potential to adversely affect certain groups including those with limited understanding of Planning, those with difficulty reading documents and those without access to IT. The EQIA for Enforcement which was updated in 2013 identifies potential adverse impact and measures to overcome them, including offering home visits, translation services and maintaining paper copies of documents. The Enforcement Plan should aid understanding of the service and will be made available in different formats to help those without computer access.

## **Conclusions**

It is considered that the Local Enforcement Plan will offer benefits in aiding understanding of the service and clarity for customers in understanding what to expect from enforcement investigations. It is therefore recommended for adoption.

### **Appendices**

Appendix A – Draft Local Enforcement Plan

### **Background Papers:**

None.

**Richard Morris**  
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