

Report to Cabinet

24th March 2016

By the Cabinet Member for Planning and Development



**Horsham
District
Council**

DECISION REQUIRED

Not Exempt

Local Enforcement Plan

Executive Summary

The Planning Compliance Team undertake investigations into alleged breaches of planning legislation, and it holds discretionary powers to take action where appropriate and in the public interest.

The Local Enforcement Plan sets out how these decisions are made and provides a number of standards within which the service will operate.

To seek approval from the Council's Cabinet for the implementation and adoption of the Local Enforcement Plan

Recommendations

The Cabinet is recommended to:

- i) Agree to the content of this report and approve the adoption of the Local Enforcement Plan as Council Policy.

Reasons for Recommendations

- i) Paragraph 207 of the National Planning Policy Framework (March 2012) states 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.

- ii) An adopted Local Enforcement Plan would assist the Council to effectively mitigate any legal challenges made against the decision as to whether or not to take formal enforcement action on individual cases and provide clarity to all those involved within the Compliance process what to expect from the service

Background Papers

National Planning Policy Framework (March 2012)

Planning Practice Guidance 'Ensuring Effective Enforcement' (1st September 2015)

Local Enforcement Plan (March 2016)

Wards affected: All.

Contact: Madeleine Hartley, Planning Compliance Team Leader, Extn 5168.

Background Information

1 Introduction and Background

- 1.1 The Local Enforcement Plan seeks to provide guidance to Councillors, businesses and members of the public with regards issues of non-compliance with planning control, by setting out the principles and the standards the service will work to in enforcing breaches of planning control. The Plan explains how complaints are investigated, how they are prioritised, and what enforcement tools are available, should enforcement action be deemed necessary.
- 1.2 Planning Practice Guidance gives guidance on how Councils should respond to suspected breaches of planning control and recognises enforcement action as important to:
 - tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
 - maintain the integrity of the decision-making process;
 - help ensure that public acceptance of the decision-making process is maintained.

2 Relevant Council policy

- 2.1 Whilst the Council has agreed Performance Indicators, which are used to monitor the performance of the Planning Compliance Team which are reported monthly to the Senior Leadership Team, and quarterly to the Finance and Performance Working Group using Covalent, there is no adopted Local Enforcement Plan to provide any further detail or background to these.
- 2.3 A priority of the Environment section of the District Plan 2011-15 seeks to retain the special character of our District through effective planning policies, by ensuring that the impact of development proposal is minimised through reviews of the implementation of planning policy. Clear and effective planning compliance is key to achieving this aim also.

3 Details

- 3.1 The Local Enforcement Plan will set out the Council's policy for the enforcement of planning control within the District. Its purpose is to identify local priorities for enforcement action, so that the Council's resources are put to best use in dealing with breaches of planning control that threaten the quality of the local environment or the amenities of all the residents of the District.
- 3.2 The full detail of how workload will be prioritised is found within the Plan itself, which is appended to this report. However, it provides commitments to how quickly the Compliance Team will visit the site within, as well as details to ensure those involved with investigations are appropriately updated throughout the course of the investigation.

4 Next Steps

- 4.1 Subject to the approval by the Cabinet of the Local Enforcement Plan, it will be brought to full Council with a recommendation to formally adopt the Plan.

5 Outcome of Consultations

- 5.1 Consultations have been undertaken with the Council's Head of Legal & Democratic Services to ensure legal and financial probity and with the Cabinet Member for Planning and Development.

6 Other Courses of Action Considered but Rejected

- 6.1 Not to progress with a Local Enforcement Plan. This however will not assist with a greater understanding of the work of the Compliance Team, nor will it enable legibility of the process and could lead to inconsistencies within the service.

7 Financial Consequences

- 7.1 There are no financial consequences associated with this report. However, there are temporary financial benefits as there is a time limited fund from Central Government to assist with covering the legal costs associated with prosecuting those who have not complied with Enforcement Notices.

8 Legal Consequences

- 8.1 The Local Enforcement Plan reflects best practice and will minimise the risk of legal challenge to enforcement action taken and decisions made on dealing with issues of non-compliance.

9 Staffing Consequences

- 9.1 There are no staffing consequences associated with this report.

10 Risk Assessment

- 10.1 There are no risks associated with the proposal.

Appendix 1

Consequences of the Proposed Action

<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>Section 17 of the Crime and Disorder Act 1998 requires the Council to do all that it reasonably can to reduce crime and disorder. There are no crime and disorder implications as a result of this report.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>Article 6 (Right to a fair trial) and Article 1 of The First Protocol (Protection of property) of the Human Rights Act 1998 are relevant to the consideration of the draft Local Enforcement Plan.</p> <p>Article 6 – In respect of Article 6, in individual case when considering whether an enforcement notice should be issued, the applicant will have a right of appeal and therefore the opportunity to exercise his/her right to a fair and public hearing and to have the matter considered by the Planning Inspectorate, which is independent and impartial.</p> <p>Article 1 – It is accepted that the taking of enforcement action will affect the landowners' property rights however, taking into consideration the local plan policies, and the requirements of the Town and Country Planning Act 1990, the breach of planning control must be remedied. It is considered that the alternative of taking no further action would not be expedient and would set an undesirable precedent for the wider area.</p> <p>Accordingly, it is considered that the proposed course of action is acceptable with regard to Article 6 and Article 1 of the First Protocol of the Human Rights Act 1998.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>The main laws around equality and diversity are the Equality Act 2010, and the Human Rights Act 1998 to protect people from discrimination, harassment and victimisation on the grounds of:</p> <ul style="list-style-type: none">• Race (caste may be a protected aspect of race from 2015 onwards)• Age• Sex• Disability• Sexual orientation• Religion or belief• Gender reassignment• Pregnancy and maternity status• Being married or in a civil partnership <p>The Equality Act 2010 brings about an obligation upon the Council as a public authority to have due regard to the need to:</p> <p>a) Eliminate unlawful discrimination, harassment and</p>

	<p>victimisation;</p> <p>b) Advance equality of opportunity between different groups; and</p> <p>c) Foster good relations between different groups.</p> <p>In this case there is not considered to be an impact on Equality and Diversity.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>The taking of enforcement action will seek to regularise development which is not considered to be sustainable.</p>

