

STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Report to Planning Applications Committee

22 October 2020

TITLE:	PERFORMANCE ON PLANNING ENFORCEMENT
CONTACT:	DEVELOPMENT SERVICE TEAM
WARDS INVOLVED:	ALL

The following item is exempt by virtue of Paragraphs 2 and 5 of Part 1 of Schedule 12A of the Local Government Act 1972

Appendices Attached – Appendix 1

1. **Reason for the Report:** To consider the adoption of the Council's Enforcement Plan
2. **Recommendation**
 - 2.1 That the enforcement plan be adopted.
3. **Enforcement Plan**
 - 3.1 Members may recall in April 2017, the Enforcement Plan was presented to the Committee, whereby it was resolved to adopt the Plan for a trial period of 12 months. Appendix 1 contains a copy of the Enforcement Plan. Since this time, investigations have been carried out in accordance with the Plan timescales and priorities.
 - 3.2 The National Planning Policy Framework sets out at paragraph 58 that:

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.

- 3.3 The National Planning Practice Guidance, which provides more detailed Government planning advice identifies that the preparation and adoption of a Local Enforcement Plan is important because it sets out the priorities for enforcement action. Taking enforcement action is a discretionary power for Local Planning Authorities and therefore the Enforcement Plan will provide greater certainty for all parties engaged in the development process. It will also provide greater transparency and accountability about how decisions are made and whether it is expedient to take enforcement action.
- 3.4 It is important to note that just because there may be a breach of planning control this in itself, is not sufficient reason to take enforcement action. The Council must firstly decide, having given regard to the policies contained within the Staffordshire Moorlands Local Plan 2020 and guidance contained within the National planning Policy Framework (NPPF) and all other material planning considerations whether or not it is expedient to take formal action.
- 3.5 Expediency is a test of whether the unauthorised activities are causing harm to the environment or amenity of the area. Therefore enforcement is discretionary and each case must be assessed on its own merits. Guidance from Central Government is that enforcement action should be a last resort and Councils are expected to give those responsible for a breach of planning control the opportunity to put matters right or seek to regularise the breach before resorting to formal action.
- 3.6 The enforcement plan sets out how complaints will be investigated and identifies a schedule of priorities which set out a timetable for how the most serious breaches will be investigated. In accordance with the plan, the following priorities are identified:

Priorities	Examples (but not exhaustive)
One – Serious or permanent threat to public health, safety and the environment	<p>Development which gives rise to a serious risk to public safety (e.g. non compliance with contaminated land/pollution conditions)</p> <p>Unauthorised demolition of a listed building, buildings in a conservation</p> <p>Unauthorised development in a SSSI and other nationally recognised nature conservation sites</p> <p>Development sites containing tree preservation orders</p>
Two – Less immediate, but harmful with potential	Building works that have commenced, including where works have commencement with non compliance with planning conditions imposed to protect public safety/amenity

to escalate and cause harm to the living conditions of adjoining residents or the environment	(e.g. safe storage of building materials, site operative vehicles, pedestrian routes, working times)
Three – Other breaches likely to remain stable	Development completed including non compliance with other planning conditions e.g. hard and soft landscaping conditions
Four – Other minor breaches	E.g. Satellite dishes, adverts, new fences and walls, extensions to properties

3.7 The time taken to investigate each breach will vary depending upon the site and the nature of the breach itself. However the Plan identifies the following targets which the Enforcement Service will work towards:

Priority One – A site visit will be undertaken, wherever possible on the same day or the following working day.

Priority Two – A site visit will be undertaken within 5 working days.

Priority Three – A site visit will be undertaken within 20 working days

Priority Four – A site visit will only take place if deemed necessary following a desk top appraisal of the issues.

3.8 As detailed above, Planning Enforcement is discretionary, and formal action will only be pursued where it is expedient to do so having regard to the potential cost and resource implications to the authority, versus the harm arising from the alleged breach and the benefits to the public interest of taking action.

3.9 Since April 2017 Enforcement Officers have investigated complaints in accordance with the above timescales and where enforcement action is not pursued, have been required to justify a decision, with a written report, with the agreement of the Head of Development Services and the Chairman of the Planning Applications Committee. This has provided certainty for all interests parties, justifying and evidencing Council decisions as to whether to take action, or not. This system is beneficial in that decisions are taken in a transparent manner, providing justification to complainants and transgressors as well as the Planning Inspectorate or Court in the event of formal enforcement action being challenged. It has also been tested via a complaint to the Local Government Ombudsman where the Council's process was found to be robust and the complaint was dismissed.

3.10 The Plan also sets out that officers will aim to resolve most cases within 13 weeks of receipt. The annual Corporate Performance target for resolving cases is currently 80%. The resolutions involve a range of outcomes and

include, for example, the submission of a planning application, the breach being voluntarily resolved by the transgressor, the case not being expedient to pursue and referral to other agencies/bodies e.g. Environmental Health, the Police.

4. How the Enforcement Plan links to Corporate Priorities

4.1 Although Local Planning Authorities have discretionary powers to take enforcement action, it is important that planning enforcement upholds planning decisions taken in accordance with the newly adopted Local Plan and the need to support economic development and regeneration.

4.2 The Staffordshire Moorlands District Council Corporate Plan seeks to deliver high quality services that meet the needs and aspirations of our communities and identifies four key themes:

- Helping to create a safer and healthier environment for our communities to live and work in
- Effective use of resources and providing value for money
- Helping to create a strong economy by supporting further regeneration of towns and villages
- Protecting and improving the environment including responding to the climate emergency

4.3 The Corporate Enforcement Protocol sets out the enforcement policy of the Council and identifies the need for openness, transparency and proportionality in its decision making. The Policy sets out the specific areas of legislation where enforcement action originates from, and the type of formal action which may be taken. The Enforcement Plan will sit within the scope of this Policy.

4.4 An effective enforcement plan will help to contribute towards the aims of the Corporate Plan and the Enforcement Protocol.

5. Conclusions

5.1 The adoption of the Enforcement Plan will enable the Council to deliver an effective and efficient service, setting out clear priorities for the investigation of alleged cases of unauthorised development. The benefits of having an adopted plan are three fold:

- It will contribute towards the aims of the Corporate Plan and Enforcement Protocol.
- It will provide greater transparency and accountability about how decisions are made.
- It will set out the Councils justification to the Planning Inspectorate or Court in the event of formal enforcement action being challenged.

5.2 It is considered to be the best means by which to comply with Government Policy and to achieve the aims of the Corporate Plan in respect of planning enforcement. Moreover, once adopted, the Council will have a clear statement of intent for the investigation of potential breaches of planning control and the pursuit of enforcement action.

6. Recommendation

6.1 That the Enforcement Plan be adopted.