

TELFORD & WREKIN COUNCIL

PLANNING COMMITTEE – 16 DECEMBER 2015

ADOPTION OF A TELFORD & WREKIN PLANNING ENFORCEMENT POLICY

REPORT OF ASSISTANT DIRECTOR DEVELOPMENT, BUSINESS & EMPLOYMENT

LEAD CABINET MEMBER – CLLR RICHARD OVERTON

PART A) – SUMMARY REPORT

1. SUMMARY OF MAIN PROPOSALS

The Report proposes the adoption and publication of a Local Planning Enforcement Policy (Appendix 1) which will provide transparency and certainty to all members of the public concerning the council's handling of potential planning breaches. The standard of service and timescales will be monitored through our month end business review.

The adoption and publication of the policy will enable the council to access the new Planning Enforcement Fund which has been implemented to support councils with legal proceedings against unlawful breaches of planning control. The fund will run until 31st March 2016 and will give access to grants of up to £10,000 or 50% towards the costs of a legal injunction (whichever is the lesser).

2. RECOMMENDATIONS

Following the adoption of the Local Planning Enforcement Policy at Cabinet 15th October 2015 (set out in Appendix 1), the Committee are being asked to endorse it.

3. SUMMARY IMPACT ASSESSMENT

COMMUNITY IMPACT	Do these proposals contribute to specific Co-Operative Council priority objective(s)?	
	Yes	Co-Operative Council Values: <ul style="list-style-type: none">• Openness & Honesty through transparency.• Fairness & Respect - By putting power back in the hands of local communities and empowering councils to take action against those who do not play by the rules. Co-Operative Priorities: We will ensure that our neighbourhoods are safe, clean and well maintained through policing unauthorised development.
	Will the proposals impact on specific groups of people?	
	No	Borough-wide impact.
TARGET COMPLETION/DELIVERY DATE	To publish the policy immediately following approval by Cabinet.	

FINANCIAL/VALUE FOR MONEY IMPACT	Yes	The work associated with the implementation of the Local Planning Enforcement Policy, if adopted, will be carried out within existing staff resources. The Planning Enforcement Fund is only available until the 31 st March 2016 and as we have no pending cases it is unlikely that we will have a valid claim against this Fund. Therefore, 100% of the costs of securing any future court injunctions as a result of implementing the Local Planning Enforcement Policy (if any) will have to be met by the Authority. As set out in the Policy court action will always be a last resort and no cases are currently pending. JAC 16/09/15
LEGAL ISSUES	Yes	The National Planning Policy Framework (NPPF) at paragraph 207 states” local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area.” Adopting a local enforcement policy therefore complies with a specific NPPF objective .It also fulfils a fundamental qualifying criterion in the event of the Council wishing to apply for funds under the Planning Enforcement Fund in order to deal with individual enforcement cases where an injunction is considered to be an appropriate course of action
OTHER IMPACTS, RISKS & OPPORTUNITIES	Yes	There is opportunity to apply for funding to support the council with potential legal proceedings against unlawful breaches of planning control
IMPACT ON SPECIFIC WARDS	No	Borough-wide impact

PART B) – ADDITIONAL INFORMATION

4. INFORMATION

The purpose of the Planning Enforcement policy is to set out the Council's approach to dealing with suspected breaches of planning control providing both clarification and assurance to our customers.

Enforcement action is at the discretion of the LPA and not all breaches of planning control will result in formal enforcement action being taken, as outlined in the National Planning Policy Framework (NPPF).

The integrity of the planning system and the public's confidence in it relies on effective enforcement action being taken by Local Planning Authorities (LPA) where necessary. This policy explains the Council's approach when dealing with planning enforcement matters providing clarification and managing the expectations of our customers.

It seeks to clarify the following areas:

- What is classified as a breach; what we will and will not be investigated.
- What types of enforcement options are available to the authority to remedy the breach.
- How reports of suspected breaches are prioritised and how long investigations will take.
- Confidentiality for complainants and,
- The investigation process.

The pledges included in the policy will be monitored and reported upon monthly to ensure service standards are maintained.

In addition, the Government has launched a £1 million Planning Enforcement Fund which gives councils funding towards the legal costs in seeking a court injunction against those who flout planning laws and cause misery to local residents. This funding can only be accessed by councils who have adopted and published a local enforcement policy which sets 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.

We undertook an external consultation on this document over a six week period which closed Friday 3rd July 2015 and received a number of comments. These were received from Horsehay & Lightmoor Ward, Wrockwardine Wood & Trench Parish Council and one member of the public.

All comments were carefully considered and the Policy has been amended to reflect those comments where appropriate as detailed in (Appendix 2).

5. IMPACT ASSESSMENT – ADDITIONAL INFORMATION

6. BACKGROUND PAPERS

**Report prepared by Tina Kelly, Customer Services Business Manager,
Development Management. Telephone: 01952 389041
Appendix 1 – attached**

APPENDIX 2 - ADOPTION OF A TELFORD & WREKIN PLANNING ENFORCEMENT POLICY - SUMMARY OF RESPONSE TO CONSULTATION

Consultee	Comment	Response/Action
Wrockwardine Wood & Trench Parish Council	The Parish Council are of the opinion that the proposed enforcement policy is not strong enough and think that works being investigated under Category B – within 10 working days and Category C – within 15 working days is not a quick enough response.	The policy is designed to provide basic guidance and to set a standard that we feel we can achieve with the limited resource that we have to deal with complaints. Within each category each complaint is prioritised appropriately depending upon its severity and potential impact, therefore whilst we may have 10-15 working days to respond a site visit may be undertaken much sooner.
	The Council feel that complaints should be followed up and the law enforced in a much shorter time to ensure it does not drag on. Councillors are concerned that some development would not be investigated for up to three weeks giving builders time to carry out further unauthorised works.	With regard to the speed of our follow up and law enforcement action, unfortunately this is a lengthy statutory process which we are unable to change.
Cllr Jayne Greenaway, Ward Member for Horsehay & Lightmoor	<p>With regards to the following section of this proposal:</p> <p>CATEGORY B – We aim to carry out our initial site visit within 10 working days</p> <p><input type="checkbox"/> Any other operational development or unauthorised change of use potentially causing harm to residents and/or the amenity of the surrounding</p>	<p>In response to your feedback, we propose to change the paragraph on page 9 which will hopefully address your concerns as follows:</p> <p>From: <u>CATEGORY A – We aim to carry out our initial site visit within 1 working day</u></p> <ul style="list-style-type: none"> Any development taking place that is causing or

	<p>area</p> <p><input type="checkbox"/> Non-compliance with approved plans or conditions attached to a planning permission</p> <p><i>I believe that this section would not work, in the 10 working days category particularly when dealing with conditions attached to an application in relation to issues such as, working hours as this needs to be immediate, 1 working day. To ensure breaches do not disturb residents unduly, or allowed to continue for 10 days before its dealt with.</i></p> <p>Alleged non-compliance with an existing enforcement notice</p> <p><input type="checkbox"/> Development where the time limit during which formal enforcement action can be taken expires imminently</p> <p><input type="checkbox"/> High hedge complaint <i>I think this type of complaint could be dealt with adequately in 15 working days.</i></p>	<p>likely to cause serious harm to the amenity of the Ironbridge Gorge World Heritage site, or any other Conservation Area.</p> <p>To: <u>CATEGORY A – We aim to carry out our initial site visit within 1 working day</u></p> <ul style="list-style-type: none"> Any development or breach of condition taking place that is causing or likely to cause serious and potentially irreversible harm to the surrounding environment. <p>We also agree to remove complaints about High Hedges from Category B to C – 15 days as you suggest.</p>
Mr Doyle (resident)	<p>Mr Doyle commented at length suggesting that more reference and detail was required in line with the relevant legislation.</p> <p>For example :</p> <p><i>2.2 A more detailed description of a breach planning Control would be helpful perhaps as follows :-</i></p> <p><input checked="" type="checkbox"/> <i>Carrying out work either without planning</i></p>	<p>We thanked Mr Doyle for his comprehensive comments and responded to each.</p> <p>We clarified that the consultation was an exercise in seeking information and advised that the approval process would provide enough time, if necessary, to review and re-issue the policy prior to adoption.</p> <p>We have made reference to the legislation pertaining to</p>

	<p><i>permission, or in a way that is different to that which has been granted planning permission</i></p> <p><i>☐ Carrying out work without compliance with planning conditions attached to a planning permission or not in accordance with the limitations and conditions set out in the Town and Country Planning (General Permitted Development Order) 1995 (as amended)</i></p> <p><i>☐ Changing the use of land or property without planning permission or without compliance with the limitations and conditions set out in the Town and Country Planning (General Permitted Development Order) 1995 (as amended) or Use Classes Order 2005</i></p>	<p>'what is not development' as he suggested.</p> <p>It is clear that Mr Doyle's comments would serve to enrich the document however to ensure the accessibility and application of the document we have sought to keep it brief.</p>
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