

Information/Discussion Paper

Overview & Scrutiny Committee - 9th September 2024

Local Enforcement Plan

This note contains the information to keep Members informed of matters relating to the work of the Committee, but where no decisions from Members are needed.

1. Why has this come to scrutiny?

- 1.1 To inform the committee of the draft local enforcement plan and to provide members with the opportunity to scrutinise and comment on its content in advance of it coming to Cabinet on 24 September 2024.

2. Summary of the Issue

- 2.1 The council's Planning Enforcement function is tasked with ensuring that alleged breaches of planning control are investigated and, where appropriate, action is taken to remedy that breach. Enforcement action is discretionary, as is the local enforcement plan, and action is only taken when it is deemed expedient to do so (i.e. in the public interest) having regard to the development plan and any other material considerations; a local enforcement plan is one such material consideration.

- 2.2 Paragraph 59 National Planning Policy Framework states 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”.

- 2.3 The National Planning Practice Guidance sets out at Para 006 (Reference ID: 17b-006-20140306) why the government considers local enforcement plans to be important:

“The preparation and adoption of a local enforcement plan is important because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
- provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;
- provides greater certainty for all parties engaged in the development process.

2.4 The council's most recent local enforcement plan (the 'Built Environment Local Enforcement Plan') was published in January 2014. This version provides a useful overview and summary of the planning enforcement process, which includes the setting out of priorities, but it is out of date in a number of legislative areas and does not reflect current approaches; there is a clear need for it to be fundamentally reviewed.

2.5 There has been a longstanding ambition to replace this plan, however as many councils across England, the planning and enforcement service has been significantly challenged by resourcing issues. This has been the case for Cheltenham's planning team and as such we have had to prioritise the statutory duties that we are required to perform.

2.6 The new (draft) local enforcement plan it is not an update to the 2014 version, it is an entirely new document setting out the approach and priorities for Cheltenham Borough Council's planning enforcement team in 2024. It's structure and content are summarised below.

3. Summary of evidence/information

3.1 The draft local enforcement plan begins by explaining the scope and remit of the planning enforcement function. It is important to set expectations at the outset as to what matters may or not be investigated and/or acted upon. The enforcement team currently receive a high number of reports relating to matters which fall entirely outside of planning control. The draft plan sets out what is meant by a 'breach of planning control' and lists the categories that a legitimate breach may fall into. The draft plan goes on to list the most common complaints received by the enforcement team which fall outside of planning control and thus will not be investigated. Useful signposting to third party advice (or bodies) is provided in respect of those non-planning matters.

3.2 The draft plan goes on to explain how investigations into breaches of planning control are to be prioritised; this is largely unchanged from the 2014 iteration with works considered to be the most harmful and/or irreversible given a high priority and minor works causing a lower level of harm (or no harm at all) given a lower priority; with matters of medium harm sitting in between.

3.3 The priority (and therefore urgency) of a case is reflected in the time scale within which an investigation will be opened; it is proposed that investigations are opened

within:

- 3 days for high priority cases,
- 10 days for medium priority cases and
- 20 days for low priority cases.

It should be noted however that these timescales are **only** achievable when the enforcement team is fully staffed which at present, it is not.

3.4 The draft plan explains how we will approach an enforcement investigation once its priority has been set and initial investigation undertaken. We will follow one (or more) of four options;

1. do nothing (typically when there is no breach of planning control, or the infringement is of a very minor or trivial nature);
2. negotiate a solution, this is our preferred 'go-to' course of action employed when the cessation of an unacceptable activity or amended building works can be informally agreed;
3. invite a retrospective application to regularise the breach (if considered acceptable) or to render it acceptable through the imposition of planning conditions or;
4. formal action, our policy is that this is the last resort when the aforementioned options have been exhausted and have ultimately failed to satisfactorily rectify the breach. The draft report details the main forms of formal action available to the council.

3.5 Additional sections have been added to the draft plan setting out the council's position in respect of listed building enforcement, tree enforcement, high hedges, the Proceeds of Crime Act and proactive compliance.

4. Next Steps

4.1 A task and finish member meeting has been scheduled made up of member representatives from across all political parties of the council, including membership from Planning Committee. In addition, members of the Audit Committee have been made aware of this Overview and Scrutiny item and may attend to discuss the detail if they so wish.

4.2 A copy of the draft Local Enforcement Plan is appended to this report, through the Overview and Scrutiny meeting, feedback and reflections are welcomed and these will be reported to Cabinet.

Background Papers

Draft Local Enforcement Plan (September 2024)

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