

**MUNICIPAL YEAR 2021/2022**

**MEETING TITLE AND DATE:**

**PLANNING COMMITTEE**

23<sup>rd</sup> November 2021

**REPORT OF:**

Head of Planning:

Vincent Lacovara

**Agenda – Part: 1**

**Subject:**

**Report on draft Planning Enforcement Plan – for comment**

**Wards: All Wards**

Contact officer:

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**1. EXECUTIVE SUMMARY**

- 1.1 This report seeks the approval of the Planning Enforcement Plan for the investigation and enforcement of breaches of planning control
- 1.2 The Planning Enforcement Plan details the proposed approach to dealing with breaches of planning regulations. It provided information and guidance to residents, developers and those with other interests, about how the Council could deal with any development that does not accord with national and local policies or where there is non-compliance with enforcement action already taken.
- 1.3 In exercising the Council’s statutory obligations under the Town and Country Planning Act 1990 (as amended), the Town and Country Planning General Permitted Development Order 2015 and other associated planning legislation, the Planning Enforcement Plan is intended to provide guidance on the principles and processes that will be expected to be applied by officers to secure effective compliance and improve the built environment as well as promoting consistency and transparency in the use of the Council’s enforcement powers.
- 1.4 The final Plan is to be approved by Cabinet and is reported to Planning Committee for noting and any final comment.

**2. RECOMMENDATION**

- 2.1 That Planning Committee notes the draft Planning Enforcement Plan.

### **3. BACKGROUND**

- 3.1 Effective enforcement is important to maintain public confidence in the planning system.
- 3.2 The National Planning Policy Framework states that Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. It also advises 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 appropriate.
- 3.3 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.
- 3.4. In accordance with the National Planning Policy Framework therefore, the Planning Enforcement Plan sets out our proposed approach to dealing with breaches of planning regulations. It provided information and guidance to residents, developers and those with other interests, about how the Council could deal with any development that does not accord with national and local policies or where there is non-compliance with enforcement action already taken.
- 3.5 Between 21<sup>st</sup> July 2021 and 17<sup>th</sup> September 2021, the draft Enforcement Plan was subject to public consultation. Details were placed on the Council's website and digital communications. In addition, direct consultation was undertaken with key stakeholders including Councillors, and local amenity groups.
- 3.6 A total of 7 responses were received and a summary of the consultation response which includes detail on how we intend to respond, is attached as Appendix B.
- 3.7 In summary, the key comments focus on:
- stronger response to retrospective planning applications;
  - improved case management
  - the need for improved and more robust enforcement;

- timescales for conducting enforcement investigations
- timescales for planning appeals
- stronger line on resisting repetitive planning applications
- availability of resources
- the need to publicise successful enforcement outcomes.

3.8 Members are invited to note the draft Enforcement Plan and provide any further comments in light of the consultation undertaken.

#### **4. ALTERNATIVE OPTIONS CONSIDERED**

4.1 There are no viable alternative options. To not have a specific Planning Enforcement Plan in place could potentially lead to an inconsistent approach in the exercising of the Council's enforcement duties and approach to enforcement decisions which could leave the Council open to legal challenge.

#### **5. REASONS FOR RECOMMENDATIONS**

5.1 Although planning enforcement is discretionary, there is a potential risk in not taking enforcement action. The Planning Enforcement Plan will set out those circumstances and our approach to the completion of an investigation and whether it will lead to a notice being served. This will improve both transparency and consistency thereby minimising this risk.

5.2 Where it is considered necessary to deviate from the approach in the Plan, this will only be done where it is justifiable, proportionate and the reasons are outside the scope of the Plan. In addition, officers will receive necessary training and will be guided by procedures that will be regularly reviewed and updated. This risk is further mitigated by taking expert legal advice upon any decisions to be taken.

#### **6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS**

##### **6.1 Financial Implications**

6.1.1 None other than failure to have in place a Planning Enforcement Plan may be grounds for challenge giving rise to potential costs award depending on the outcome of the enforcement action.

6.1.2 The Planning Enforcement Plan sets out what services provided by the team will be subject to a charge. These include:

- Providing a copy of an enforcement notice
- Removing an enforcement notice from the enforcement register
- Request for compliance check (compliance with planning permission or conditions)
- Enforcement notice compliance certificate

## **6.2 Legal Implications**

- 6.2.1 Local planning authorities have responsibility for taking whatever enforcement action may be necessary, in the public interest, in their administrative areas. Powers are derived from the Town and Country Planning Act 1990.
- 6.2.2 Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

## **6.3 Property Implications**

- 6.3.1 There are no Property implications

## **7. KEY RISKS**

- 7.1 There are no risks in approving this enforcement Plan. It is good practice to have an enforcement plan providing the framework in which to make enforcement decisions.
- 7.2 If the Planning Enforcement Plan is not approved there is a risk that / any legal or prosecution proceedings might be challenged on the basis that good practice guidance about having a plan in place is not being followed and might lead to unnecessary legal challenge
- 7.2 There is also a risk of not taking enforcement action in accordance with the Planning Enforcement Plan. Where it is considered necessary to deviate from the approach in the Plan, it will only be done where it is justifiable, proportionate and the reasons are outside of the scope of the Plan. In addition, officers will receive necessary training and will be guided by procedures that will be regularly reviewed and updated. This risk is further mitigated by taking expert legal advice upon any decisions to be taken.

## **8. IMPACT ON COUNCIL PLAN**

- 8.1 The Planning Enforcement Plan contributes to the Council Plan as follows
- 8.2
- Good homes in well-connected neighbourhoods:
- 8.2.1 One of the Council's key objectives in the Council plan is about strengthening the connection between people and the places they live in. The Enforcement Plan will help the Council deliver its vision of good homes in well-connected neighbourhoods by making sure any breach of planning rules is dealt with appropriately to improve the Borough and local neighbourhoods. This supports a robust planning function safeguarding resident amenity and environmental quality to ensure Enfield remains an attractive place to live and work. Planning enforcement also tackle unlawful residential conversion to maintain the availability of quality residential accommodation.
- 8.3
- Safe, healthy and confident communities:

8.3.1 Unlawful residential conversions can often result in poor quality and badly maintained properties. Such properties can also detract from the look and feel of neighbourhoods while also creating an adverse impression of the neighbourhoods leading to anti-social behaviour.

8.3.2 A robust Planning Enforcement Plan supports the health and wellbeing of residents by addressing tackling and addressing breaches of planning control swiftly and effectively consistent with the Council Plan's aim to "Build measures into all our strategies and projects that will help improve public health and people's wellbeing."

8.4 • An economy that works for everyone:

8.4.1 The Planning Enforcement Plan will support the work of enforcement officers to tackle poor standards of housing or cases where a breach of planning control is harming the quality of residential and commercial environment.

8.4.2 An improvement in property and environment conditions also has an inevitable positive effect on the resident's enjoyment of their environment and street scene facilitating initiatives to ensure "our high streets and town centres thrive and attract people to live, work and visit."

## **9. EQUALITIES IMPACT OF THE PROPOSAL**

9.1 The Planning Enforcement Plan aims to ensure consistent and appropriate enforcement action is taken, where breaches of planning control are identified.

9.2. The Plan provides a clear and transparent framework for tackling breaches of planning control ensuring decisions and actions are consistent and fair to all.

## **10. CONCLUSION**

10.1 The Planning Enforcement Plan details the proposed approach to dealing with breaches of planning regulations. It provides information and guidance to residents, developers and those with other interests, about how the Council could deal with any development that does not accord with national and local policies or where there is non-compliance with enforcement action already taken.