

STROUD DISTRICT COUNCIL
DEVELOPMENT CONTROL COMMITTEE

15 NOVEMBER 2022

Report Title	Planning Enforcement			
Purpose of Report	To bring forward an updated local enforcement plan for approval to set out the operational objectives of the council's planning enforcement service.			
Decision(s)	The Committee RESOLVES: a) To approve the Planning Enforcement Operational Protocol, for implementation from 01 January 2023 b) To receive an annual update on the implementation of the plan c) That the plan will be reviewed in 12 months			
Consultation and Feedback	The draft local enforcement plan was reviewed by Development Management Advisory Panel, prior to and following public consultation. The draft local enforcement plan was subject to 6-week public consultation.			
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Options	The committee may choose not to approve the local enforcement plan, retain the existing plan, or to have no plan. The local enforcement plan is not part of the statutory Development Plan.			
Background Papers	Internal Audit Planning Review (Enforcement), November 2021 Planning Enforcement Policy and Procedure			
Appendices	Appendix A – Planning Enforcement Operational Protocol (proposed version) October 2022 Appendix B – Planning Enforcement Plan: Policy and Procedure (consultation version) June 2022 Appendix C – Consultation Summary Appendix D – Equality Analysis Report			
Implications (further details at the end of the report)	Financial	Legal	Equality	Environmental
	No	Yes	No	No

1. INTRODUCTION

- 1.1 There are three main strands to council's planning function: plan making, development management, and planning enforcement. Both plan making and development management are statutory functions with accompanying regulations and obligations. Planning enforcement, while equally as important to the system as a whole, does not have its own set of procedures or regulations.

1.2 Paragraph 59 of the National Planning Policy Framework states:

“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.”

1.3 This report brings forward a ‘local enforcement plan’ for approval.

2. BACKGROUND

2.1 The council already has a local enforcement plan, ‘Planning Enforcement Policy and Procedure’. However, that plan is now out of date and the status is ambiguous; it is not known when it was written and by whom, what public consultation it was subject to, whether it had the approval of members, whether it was intended to be a ‘local enforcement plan’ or a guide to planning enforcement. The plan needs to be replaced.

2.2 Officers commenced a review of the current plan in Winter 2020. The planning enforcement team had exceptionally busy years in 2020 and 2021 with significant changes in staff and progress on the review was slow. The team was subsequently audited with the final report appearing before the Audit and Standards Committee on 30 November 2021. The audit recommended that the existing Planning Enforcement Policy and Procedure was reviewed and approved by members.

2.3 The new local enforcement plan, the ‘Planning Enforcement Operational Protocol’, is part of a range of improvements to the council’s planning enforcement service, other notable elements include an IT upgrade. The new local enforcement plan is the critical piece of the service’s Business Improvement Plan and fundamental to the delivery of the service. Once the new local enforcement plan is in place, work can take place on other recommendations in the audit – such as time and task monitoring (which will be based on the Operational Protocol), and a resource review of the service.

3. SCOPE AND PURPOSE OF PLAN

3.1 Planning enforcement may not have the procedures or regulations of development management, however, like development management central government provides advice on planning enforcement matters. The Planning Practice Guidance includes a section on ‘enforcement and post-permission matters’ with separate chapters on the various planning enforcement tools available to the local planning authority. Guidance and advice are also provided by the National Association of Planning Enforcement (NAPE), a network of the Royal Town Planning Institute (RTPI).

3.2 Given that explanations of various planning enforcement tools are readily available, the scope and purpose of the revised plan is to explain to service users what the council will do during an enforcement investigation and when an update will be provided.

3.3 To achieve this, the Operational Protocol is devised around ‘frequently asked questions’. These are used to provide commentary on the proposed operational process. This approach is different from the previous plan.

4. OPERATIONAL ENFORCEMENT PROCESS

- 4.1 Utilising the IT upgrade, many more processes can now be automated, and case management tools applied throughout the life cycle of a complaint. This has enabled a redesign of the operational processes. Enforcement complaints received under the proposed plan would be subject to the following new or updated processes that did not form part of the previous plan:

Triage

- 4.2 All complaints would be booked in and acknowledged by the planning support team, then passed to the enforcement section to be triaged. The triage process is aimed at ensuring that reports received by planning enforcement can be dealt with best by planning enforcement and that enforcement officers have all the relevant information they need before visiting.
- 4.3 Following triage, a case will either be closed or allocated for investigation. Cases will be closed where: they do not relate to 'development', or there is no breach of planning control – for example the development is permitted development. When closing a case, the complainant will be notified and signposted to a more appropriate service if available; for example, an odour complaint would be referred to Environmental Health.

Initial investigations and assessment

- 4.4 Now, having triaged cases, an enforcement officer will visit sites where an alleged breach of planning control has occurred. The officer will collect evidence and assess the impact any development has on the site and its context.
- 4.5 Following the initial investigations and site visit, the enforcement officer will review the policies in the Development Plan, the NPPF, and other material planning considerations and reach a conclusion on the merits of progressing the case. Where a development would likely be granted planning permission (as it resulted in little or no harm to the site and its context), officers will advise the developer to obtain planning permission to regularise the situation, inform the complainant of the outcome and prepare a closure note which would be signed off by a senior officer, before closing the case, and taking no further action.
- 4.6 Where the development has resulted in a moderate harm to the area, enforcement officers will seek to negotiate the removal of the breach within a given timeframe. If the breach is not rectified, officers will review the case and write an expediency report. This will recommend either taking formal enforcement action or taking no further action and give the reasons and justification for doing so.
- 4.7 Where the development has resulted in significant harm to the area, officers will advise the landowner that formal enforcement action is being considered against them and request that the breach is rectified. Officers will write an expediency report setting out what formal action is recommended.
- 4.8 Where an expediency report is required, this will be circulated to all members of the Development Control Committee and the member(s) for the Ward in which the site is located. Members have a maximum of two weeks to comment on an expediency report. This process is set out in the council's constitution.

5. CONSULTATION ON PROPOSAL

- 5.1 Draft versions of the local enforcement plan were reviewed by groups of officers before being presented to the Development Management Advisory Panel in May 2022.
- 5.2 The plan was subject to public consultation for 6 weeks in June and July 2022. Details of the consultation were included within 'e-news' and the Members' weekly bulletin. Details of the consultation were also emailed directly to every town and parish council and meeting within the district. The consultation consisted of copies of the proposed document and an online survey.
- 5.3 Following consultation, the plan was amended. The final version was then presented to the Development Management Advisory Panel in October 2022.

Feedback

- 5.4 The response to the public consultation was disappointing. Of the 53 town/ parish council/ meetings in the district, 9 responded to the online survey (17%) and two sent detail comment. Of the 51 elected members of Stroud District Council, 3 responded (6%). While the primary audience of the consultation was town and parish council and elected members of Stroud District Council, the consultation was displayed on the council's website and 6 residents took the opportunity to respond.
- 5.5 Questions in the online survey sought a scoring (1 being the lowest, 5 being the highest) on various elements of the plan. 61% of respondents the language and contents of the plan was either 'clear' or 'very clear'.
- 5.6 There were also clear results for questions on how the proposed process would operate, scoring a 4 on average. However, 39% of respondents scored a 3 when asked how confident they would be in the system regardless of the outcome of the complaint. This is not to be unexpected given the circumstances the team has faced recently which culminated in the audit.

Changes to the plan

- 5.7 Several changes were made to the plan following consultation, including clarifying how an unauthorised change of use would be considered, introducing faster timeframes for developments which would have an irreversible harm. Many of the comments received do not need a response as the issue they raise will be addressed, an example being a explanation as to how a decision was reached which would be contained in the closure note or expediency report.

6. CONCLUSION

- 6.1 The planning enforcement team has been the subject of an audit report which, amongst other things, recommended a review of the Planning Enforcement Policy and Procedure. While the service recognises that, particularly in 2020 and 2021, high levels of service demand adversely affected the team's performance, there are several elements which impact on service delivery.
- 6.2 One such element is the age and status of the current local enforcement plan. The proposed Operational Protocol would comprehensively replace the current Planning Enforcement Policy and Procedure. The protocol integrates measures which can be used

for performance reporting (subject to completion of other audit recommendations, namely time and task monitoring and resource review). Planning guidance recommends approving a local enforcement plan. The protocol sets out good practice and a guide to how the planning enforcement service operates.

7. IMPLICATIONS

7.1 Financial Implications

There are no significant implications within this category.

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7.2 Legal Implications

Although a local authority has a discretion as to whether to take enforcement action or not the Government's Planning Practice Guidance provides that local authorities have a responsibility for taking whatever enforcement action may be necessary. Consequently, a local authority will need to reach a decision in each individual case.

In taking a decision in respect of planning enforcement a local authority must be satisfied that it is expedient to take planning enforcement action, that the action is in the public interest and the action is proportionate. Conversely, a local authority must also be able to justify why it did not consider enforcement action to be necessary.

The approval and adoption of the Planning Enforcement Operational Protocol will enable the Council to take decisions within a clear framework which provides greater certainty for all engaged within the planning system. This will provide for more robust and transparent decision making which is less likely to be successfully challenged.

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7.3 Equality Implications

An EIA has been carried out by Officers in relation to the decision made in this report and no equality implications arise, this can be found at appendix D.

7.4 Environmental Implications

The local enforcement plan is, overall, a plan which manages the environment. There would be no direct environmental implications. The local enforcement plan draws on the policies of the Development Plan which seek to manage the environmental implications of development.