

Local Planning Enforcement Plan 2019

Report of the Planning Portfolio Holder

Recommended:

That consideration be given for the formal adoption of the new Local Planning Enforcement Plan 2019.

SUMMARY:

- Enforcement is defined as any action by an officer which encourages compliance with legislation enforced by the council. A range of actions are available, including informal interventions (e.g. offering advice) through to more formal measures such as prosecution in the courts.
- Test Valley Borough Council's current policy entitled "Procedural Policy On The Enforcement Of Planning Control" was published in February 2011.
- Since 2011, new relevant law, guidance and legislation has been introduced.
- The current policy therefore requires updating to reflect the current and established practice and legislation.

1 Introduction

- 1.1 The Local Planning Enforcement Plan 2019 outlines Test Valley Borough Council's approach to encouraging compliance with its regulations and policies in a way that is in line with current government legislation and guidance.
- 1.2 It explains how breaches of planning control will be investigated.
- 1.3 It provides a common reference point and guidance on a range of options available to achieve compliance.
- 1.4 It sets out the priorities we have for investigating alleged breaches of planning control.
- 1.5 It sets out the procedures, priorities and performance the public can expect to receive.
- 1.6 It is intended for all users and providers of the service, including:
 - members of the public,
 - interested parties,
 - Town and Parish Councils and Borough Councillors

2 Background

- 2.1 The National Planning Policy Framework 2018 (NPPF) states under paragraph 58 that :
- 2.2 Councils 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 Council's current Planning Enforcement Policy was published in July 2011 and as a result in changes in law, guidance and legislation it must now be updated to reflect the current and established practice and legislation.

3 Corporate Objectives and Priorities

- 3.1 The Local Planning Enforcement Plan 2019 complies with the Councils values in that it highlights that:
 - The Council are Accountable for each and every decision made. Whether it be to enforce against a potential breach of planning control or consider a matter to be non expedient. Our activities should be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedure.
 - The Council act with Integrity and treat every situation fairly and with honesty at all times. Maintaining a open and transparent approach where the situation allows.

4 Consultations/Communications

- 4.1 In drafting this document consultations have been undertaken with various Heads of Department/Service including Head of Planning and Building, Development Managers North/South, Head of Legal and Democratic Services, Solicitor and Legal Service Manager, Corporate Director and Planning & Building Portfolio Holder.
- 4.2 This document has been approved at OMT level and Portfolio Group prior to recommendation to be considered at Cabinet.

5 Options

- 5.1 Should the Council choose to not adopt a revised Local Planning Enforcement Plan there would be no up-to-date common reference point and there would be a risk that the principles would be inconsistently applied across the service.

6 Option Appraisal

- 6.1 There may increase the risk of a legal challenge and reduce the fairness and effectiveness of the Council's approach to planning enforcement.

7 Risk Management

- 7.1 To continue using the current out of date Enforcement Procedural Policy we present a **CIII** risk in that the likelihood of the Council receiving a legal challenge is Significant with a Significant impact.
- 7.2 Should the Local Planning Enforcement Plan 2019 be adopted we could reduce this to a **EIII** risk likelihood to Very Low with a potential impact remaining to be Significant.

8 Resource Implications

- 8.1 Nil

9 Legal Implications

- 9.1 The Council's current Planning Enforcement Policy was published in July 2011 and there have been significant changes in law, guidance and legislation since.
- 9.2 Should the Council choose to not adopt this Local Planning Enforcement Plan there may be a increase in the risk of a legal challenge and reduce the fairness and effectiveness of the Council's approach to planning enforcement.

10 Equality Issues

- 10.1 An Equality Impact Assessment has been carried out in relation to the Local Planning Enforcement Plan 2019 and there are no positive or negative impacts which cannot be mitigated against, have been identified at this time.
- 10.2 This conclusion has been reached as the Local Planning Enforcement Plan has been developed with the aim of providing a service to the entire community within Test Valley. This is in keeping with the Council's objectives to improve the quality of life for all residents.
- 10.3 The protected groups will continue to be considered throughout the lifetime of the Enforcement Policy and if a situation arises which causes the policy to need adjustment then protected groups will be further considered

11 Other Issues

- 11.1 Community Safety
- 11.2 Environmental Health Issues
- 11.3 Sustainability and Addressing a Changing Climate
- 11.4 Property Issues
- 11.5 Wards/Communities Affected
- This Enforcement Plan will effect all areas of Test Valley Borough Council.

12 Conclusion and reasons for recommendation

- 12.1 The current Enforcement Policy has been reviewed, updated and renamed in line with the NPPF recommendations. The appropriate use of enforcement powers is important, both to secure compliance with legislation and to ensure that those who have duties in law may be held to account for failures to safeguard health, safety and welfare or breach of legislation enforced by the council.
- 12.2 An alternative option would be to have no policies on enforcement. This would be strongly inadvisable since it would undermine the council's ability to support its policies and regulations with effective enforcement. It would also leave the council vulnerable to legal challenge.

<u>Background Papers (Local Government Act 1972 Section 100D)</u> None			
<u>Confidentiality</u> It is considered that this report does not contain exempt information within the meaning of Schedule 12A of the Local Government Act 1972, as amended, and can be made public.			
No of Annexes:	1	File Ref:	N/A
(Portfolio: Planning) Councillor Adams-King			
Officer:	Darren Hobson	Ext:	8164
Report to:	Cabinet	Date:	11 September 2019