

READING BOROUGH COUNCIL

REPORT BY DIRECTOR OF ENVIRONMENT AND NEIGHBOURHOOD SERVICES

TO:	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE		
DATE:	15 th JULY 2015	AGENDA ITEM:	11
TITLE:	LOCAL PLANNING ENFORCEMENT PLAN		
LEAD COUNCILLOR:	COUNCILLOR PAGE	PORTFOLIO:	STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT
SERVICE:	PLANNING	WARDS:	ALL
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1. EXECUTIVE SUMMARY

- 1.1 This report seeks approval to adopt a Reading Borough Council Planning Enforcement Plan. Under the National Planning Policy Framework, local planning authorities are advised to consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. The Reading Borough Council Planning Enforcement Plan attached at Appendix 1 provides background on the legal framework and on the operation of planning enforcement under national policy. The Plan sets out how the Planning Enforcement Team operates. In particular, it sets out the Council's new priorities and target timescales for investigation and action, bearing in mind the resources available to undertake such work.

2. RECOMMENDED ACTION

- 1.1 That the Planning Enforcement Plan, as attached at Appendix 1, be approved.

3. POLICY CONTEXT

- 3.1 Section 171A, Town and Country Planning Act 1990 Act 1990 states that:
- a) carrying out of development without the required planning permission; and

- b) failing to comply with any condition or limitation subject to which planning permission has been granted;

is a breach of planning control. The act provides powers for local authorities to issue an enforcement notice within specified time limits from the date of the breach. An enforcement notice specifies the matters that constitute the breach and the steps required to be undertaken to remedy the breach.

- 3.2 Formerly, Planning Policy Statement (PPS 18) provided clear guidance on enforcement - in particular on when it was not expedient to take action. This has now been superseded by the National Planning Policy Framework (NPPF). The NPPF deals with enforcement in a single paragraph (paragraph 207) as follows:

“Effective enforcement is important as a means of maintaining 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. 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 it is appropriate to do so.”

- 3.3 The NPPF therefore provides very limited policy on enforcement but strongly advises the preparation of a local enforcement plan. The National Planning Policy Guidance (NPPG), issued in March 2014, provides considerably more detail under the title of “Ensuring Effective Enforcement¹.” It provides guidance on when enforcement action should be taken and an outline of the various forms of Enforcement Action. It refers back to the NPPF encouragement for the preparation of a local enforcement plan. The Enforcement Plan refers to the content of the NPPG. The Local Government Ombudsman has strongly recommended that local authorities produce such plans in a recent publication, “Not in my back yard: Local people and the planning process.²”

- 3.4 The Council has an existing Enforcement Policy adopted in 2007. This document can be found at: <http://beta.reading.gov.uk/media/1191/Planning-Enforcement-Policy/pdf/Planning-Enforcement-Policy.pdf>.

4. THE PROPOSAL

- 4.1 A draft Enforcement Plan has been drafted, drawing on National Policy and Guidance, and having regard to examples from elsewhere. The Enforcement Plan will replace the Council’s existing Enforcement Policy

¹ <http://planningguidance.planningportal.gov.uk/blog/guidance/ensuring-effective-enforcement/>

² <http://www.lgo.org.uk/downloads/special%20reports/2093-Planning-Focus-report-final.pdf>

which was adopted in 2007. The draft Enforcement Plan is attached at Appendix 1.

4.2 The Local Enforcement Plan is a factual document that provides the legal and national policy context to planning enforcement and background to the Council's Enforcement Service. It sets out the Council's priorities for investigation and action, explains what will be investigated and what will not be investigated and outlines the Council's general discretionary powers with regard to planning enforcement. The document also outlines various types of enforcement procedure that can be pursued by a local authority, providing a link to National Planning Policy Guidance on "Ensuring effective enforcement," which summarises each of the procedures.

4.3 The Enforcement Plan does not differ greatly from the existing Enforcement Policy adopted in 2007. Its drafting updates the existing policy document in the light of various changes to legislation and government policy. It has also provided an opportunity to review service priorities and timescales in the light of nature of current complaints and the lower levels of enforcement and planning officer and other resources currently available. Section 4 of the draft Enforcement Plan sets out the new priorities for responses to complaints and clarifies the timescales for responses by the Planning Section. As a result, priorities are now based on a judgment of the level of harm being caused rather than on the type of breach. For example, under the current system, advertisements are a low priority for action whereas under the new system officers would be able to give advertisements causing a high level of harm much greater priority.

4.4 The draft plan takes account of recent government policy and guidance in the NPPF and the NPPG. Under a section on "Deciding Whether to Take Formal Enforcement Action," at paragraph 5.13, the document outlines the criteria set out in government guidance in the NPPG that indicates the circumstances where the local authority should usually avoid taking formal enforcement action. That clearly indicates that despite there being a breach of planning control, there are many circumstances where it is not appropriate to pursue enforcement action.

4.5 Committee is requested to approve the Enforcement Plan, acknowledging the new priorities and timescales. There is no requirement for the Council to consult on the plan although it is noted that one or two authorities have sought comment on a draft plan. Officers are not recommending any consultation on the plan but, where constructive comments are raised about the contents of the plan, will bring it back to Committee for review at an appropriate time.

5. CONTRIBUTION TO STRATEGIC AIMS

5.1 The Planning Enforcement Service assists in producing a sustainable environment and economy within the Borough. It therefore assists in

meeting the 2015 -18 Corporate Plan objective of “Keeping the town clean, safe, green and active.” Under the heading, Neighbourhoods, the Corporate plan aims to improve the physical environment - the cleanliness of our streets, places for children to play, green spaces, how we feel about our neighbourhood and whether we feel safe, have a sense of community and get on with our neighbours. This will involve designing and joining up our services around the needs of neighbourhoods, engaging and enabling local residents and targeting resources so that we can improve outcomes for the most deprived areas. The Planning Enforcement Service can play a role in meeting these aims.

- 5.2 In relation to other aims under the Corporate Plan, this report and the draft Enforcement Plan seek to balance the budget through ensuring that any environmental improvements and other actions are undertaken within the available budgetary resources.

6. COMMUNITY ENGAGEMENT AND INFORMATION

- 6.1 This report has taken account of the nature of the complaints that the Planning Enforcement Service receives. As indicated, there is no requirement for consultation on the plan and none is recommended. Nevertheless, the Plan will be reviewed over time in the light of any comments received about any of its contents.

7. EQUALITY ASSESSMENT

- 7.1 A scoping assessment and Equality Impact Assessment (EqIA) were

8. LEGAL IMPLICATIONS

- 8.1 There are no direct legal implications.

9 FINANCIAL IMPLICATIONS

- 9.1 There are no financial implications arising from the report. The draft Enforcement Plan will replace the existing policy and takes account of lower levels of resources available.

Risk Assessment

- 9.2 There are no direct financial risks associated with this report.

BACKGROUND PAPERS