

ENFORCEMENT PLAN

Report by: Andrew Biltcliffe

FOR DECISION

Portfolio: Councillor Guest

Key Decision: No

1.0 Purpose of Report

- 1.1 The need for an Enforcement Plan has been identified by The Executive Manager Planning Services, Development Manager and Planning Enforcement Officers; to enable a clear framework and a consistent approach to dealing with all planning enforcement cases across the borough.
- 1.2 A draft Enforcement Plan that had been considered by the Joint Executive Board and Cabinet Briefing was subject to public consultation for a five week period from 10 July until 14 August 2015. No representations were made on the draft Enforcement Plan. The opportunity has been taken to tighten up the timescales in the Enforcement Plan and clarify some points. The final Enforcement Plan is now proposed for the formal adoption process to become Council policy.

2.0 Recommendation

- 2.1 That the Enforcement Plan is considered by Cabinet and recommended to Council for formal adoption.

3.0 Summary

- 3.1 The integrity of the planning process as a whole depends on the Council's readiness to take effective enforcement action when it is appropriate. Fair and effective planning enforcement is therefore important to protect the quality of life for the people who live and work in Havant and the quality of the Borough's built and natural environment.

3.2 Havant's Planning Service receives around 300-350 planning enforcement allegations a year. Whilst the type of alleged breaches of planning control and their frequency can vary the vast majority of alleged breaches of planning control concern the erection of buildings or structures, change of use of buildings and land, running businesses from home and breaches of conditions imposed on planning permissions. The legislation around when planning permission is required can be complex and anyone contemplating building works or using existing buildings or land for new uses (including running a business from home) should seek guidance from the Planning Department. The Council offer a chargeable pre-application advice service. Those individuals who undertake works without planning permission run the risk of incurring delays or costly changes to their project (whilst the matter is investigated and assessed) or at worst demolition of a building or structure or cessation of a use. Havant Borough Council wants its residents and businesses to prosper so avoiding costly mistakes by starting the dialogue with the Council as early as possible is important.

3.3 In order to provide an appropriate service to the public, it is important for the Council to give its customers guidance on how the enforcement system operates in practice. The benefit of this will be to:

- Explain the overall standard of service users of the function can expect
- Outline how to make planning enforcement allegations
- Explain how investigations are undertaken
- Define priorities so that the resources can be put to best use
- Set timescales so that service delivery can be measured and reviewed
- Provide an indication of possible enforcement remedies
- Ensure compliance with Government legislation and guidance
- Maintain a consistent, fair and transparent approach to planning enforcement in Havant
- Provide reporting mechanisms to managers and Councillors in relation to planning enforcement allegations received and enforcement action take

4.0 Subject of Report

4.1 A clear adopted Enforcement Plan will provide prioritisation via a three stage/ priority approach as set out below:

Priority 1 – Activity giving rise to irreversible and/or actual or likely serious harm to designated assets of the Borough in terms of heritage, ecology, archaeology and natural environment

- *Unauthorised works / demolition in progress to a listed building;*
- *Unauthorised demolition in progress to a building in a Conservation Area;*
- *Unauthorised works in progress to a tree(s) protected by a Tree Preservation Order or trees within a Conservation Area;*
- *Unauthorised development within land subject to nature conservation designations – SPA; SAC; Ramsar site; SSSI; NNR; SIN; LNR*
- *Unauthorised development affecting known archaeological sites and/or scheduled ancient monuments*

Priority 2 – Building works and/or uses which are likely to require planning permission

- *Unauthorised building works or uses affecting land or buildings which are not residential dwellinghouses, and which as a result have the potential for more than simply local impacts*

Priority 3 – Building works and/or uses, and other minor breaches of planning control

- *Unauthorised building works or uses affecting dwellinghouses or their associated garden land (e.g. extensions, outbuildings)*
- *Unauthorised walls, fences or other means of enclosure*
- *Unauthorised advertisements*

Breach of planning conditions – where there is an alleged breach of condition it could be the case that it falls within either one of the 3 priorities set out above, therefore each will be categorised on its merits.

This priority system will ensure that individual cases receive the required level of triage allocation, thus impacting positively on the effectiveness and value of the enforcement function at Council.

4.1 A clear adopted Enforcement Plan will also provide local performance indicators for dealing with enforcement cases, as set out below:

- Acknowledgement of all planning enforcement allegations within **7 days** of receipt, providing details of the investigating officer assigned to the case
- Carrying out site visits (when required), any planning history checks and make initial determination of whether a breach has occurred on all Priority 1 cases within **24 hours of receipt**
- Carrying out site visits (when required) any planning history checks and make initial determination of whether a breach has occurred on all Priority 2 cases within **14 days of receipt**
- Carrying out site visits (when required) and any planning history checks any planning history checks and make initial determination of whether a breach has occurred on Priority 3 cases within **21 days of receipt**
- ‘Actioning’ 80% of cases within **6 weeks of making initial determination as to whether a breach has occurred**
- Contacting those involved in the planning enforcement allegation within **7 days** of action being determined

4.2 Formally seek an agreement to go to adopt the Enforcement Plan in accordance with the timetable as set out below:

- JEB 29 September
- Cabinet 7 October
- Full Council on 14 October

5.0 Implications

5.1 **Resources:** The costs of producing the Plan and the resourcing of the implementation of the Plan are covered within existing budgets.

- 5.2 **Legal:** Once adopted the Enforcement Plan will be the adopted process of prioritising and managing enforcement cases.
- 5.3 **Strategy:** The policies and procedures (within the Plan) follow the principles of the [Enforcement Concordat for England and Wales](#). The document will provide a clear set of guidelines for prioritisation and process of enforcement practice within the borough. The Enforcement Plan supports the priorities of Economic Growth and Environmental Sustainability.
- 5.4 **Risks:** Central Government produced a Concordat setting out the Principles of Good Enforcement Practice, which Havant Borough Council has signed up to. Without a clear plan there is a risk that the Council may not meet the principles of the adopted Concordat.
- 5.5 **Communications:** The Plan has been subject to public consultation following the advice of the Communications Team.
- 5.6 **For the Community:** In order to provide an appropriate service to the public, it is important for the Council to give its customers guidance on how the enforcement system operates in practice. The benefit of this will be to:
- Explain the overall standard of service users of the function can expect.
 - Outline how to make planning enforcement allegations
 - Explain how investigations are undertaken.
 - Define priorities so that the resources can be put to best use.
 - Set time-scales so that service delivery can be measured and reviewed.
 - Provide an indication of possible enforcement remedies.
 - Ensure compliance with Government legislation and guidance.
 - Maintain a consistent, fair and transparent approach to planning enforcement in Havant.
 - Provide reporting mechanisms to managers and Members in relation to alleged breaches of planning control received and enforcement action taken.
- 5.7 **The Integrated Impact Assessment (IIA) has been completed and concluded the following:** No negative impacts have been identified

6.0 Consultation

- 6.1 The draft Enforcement Plan was subject to a six week consultation. No responses were received to the consultation.

Appendices:

Appendix A Havant Borough Council Planning Enforcement Plan.

Background Papers:

The Council's Planning Enforcement function is undertaken in accordance with current and emerging Government guidance, policy and legislation which includes;

- Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004)
- Town and Country Planning (Control of Advertisements) (England) Regulations 2011
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Town and Country Planning (Environmental Impact Assessment) Regulations 2011(as amended)
- Freedom of Information Act 2000
- Data Protection Act 1998
- Localism Act 2011
- National Planning Policy Framework and Planning Policy Guidance
- Police and Criminal Evidence Act 1984
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000;
- Equality Act 2010

Agreed and signed off by:

Legal Services: 18 September 2015

Finance: 21 September 2015

Relevant Executive Head: 18 September 2015

Portfolio Holder Consulted

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