

## **Local Enforcement Plan – Consultation Exercise**

The responses received as part of the consultation exercise are as follows:

### **Online comments**

Total of 25 comments received although some were multiple entries as limited text box

Parish/Town Councils – comments from 8

Councillors – comments from 4

Residents Associations – comments from 1

Public – comments from 9

### **Comments received by other means (email/paper copy)**

Parish/Town Councils – comments from 6

Residents Association – comments from 1

Liberal Democrat Group – 1 submission

All of the comments received have been summarised and considered as detailed below:

### **Theme 1 - Resourcing/prioritisation**

- Without effective enforcement, confidence in the Council's ability to protect public amenity and the built and natural environment is quickly undermined
- LEP does not provide the enforcement service that residents and council tax payers believe they are entitled to and represents an unwanted reduction in the service
- The Local Enforcement Plan is a backward step in ensuring speculative and unlawful development is prevented from blighting our communities
- If the planning enforcement department does not have sufficient resources to provide an effective service then this should be highlighted rather than attempting to re-write policy in order to fit with resources available
- Disappointing that with the pressure to build more houses that enforcement is in a constant process of dilution and reduction
- Gives impression of a deliberate weakening of enforcement action and is likely to result in more planning breaches
- The timbre of the document appears to be negative in the extreme and this is reinforced by the lowest priority category containing the largest list
- Creation of critical, significant and desirable categories creates a laissez-faire environment and leaves the system open to abuse.
- Downgrading of many significant breaches to Desirable allows delays into investigations resulting in breaches continuing for longer making enforcement harder
- Making most of breaches 'desirable' will give green light for developers to violate planning rules and further decrease ability to pursue resolutions
- Without planning enforcement there is no point in having planning regulations.
- Concerned that breaches of conditions are to be treated as a low priority – this invites planning applicants to ignore meeting planning conditions and undermines public confidence in the planning system
- Emphasis on negotiation and conciliation to resolve issues is welcome but to achieve a satisfactory resolution should not result in enforcement action being dropped

- Proposals that householder permissions will fall outside enforcement action will have a significant and detrimental impact on neighbours which is unacceptable
- Determination of planning applications follows a vigorous process. Once approved those involved in the consultation process expect developments to accord with the permission and conditions.
- Document will lead to the abandonment of an effective and workable enforcement policy except in the most extreme cases

#### Officer comments

The Council agreed to budgetary changes that resulted in a reduction in the size of the enforcement team – which was not questioned by any ward member before or during Full Council. Given the reduced size of the team it is therefore essential and the most effective use of time for officers to focus on the more serious breaches and not spend time on minor or vexatious breaches.

The prioritisation into the 3 categories is considered to be the clearest way of identifying the type of cases which will be investigated.

Where matters are covered by other legislation and enforced by other agencies/departments they will not be included within the 3 categories of prioritisation.

#### Theme 2 - Positive/constructive comments about changes to LEP where changes needed or review

- Enforcement should follow the regulations NPPF and government guidance – effective enforcement
- The Council should be mandated to follow a process and timeline that is fully transparent and publicly available - the timeline is missing completely
- A proper system should be created to allow tracking of a complaint and statutory consultees should always be kept up to date on the investigation process
- Document fails to show the changes that have been made or why changes have been made
- Fails to give sufficient weight to local policy and to Core Strategy
- Top priority should be given to “where development would not be granted if it were sought or would not have been given planning permission”
- More detail is needed on low and high priority complaints. The table is not specific enough
- Previous version referred to resources in detail and that the council took enforcement seriously but no mention of resources
- Avoids use of the term planning harm – this should be added back
- A triage approach should be applied to check if spurious neighbour dispute or serious issue which can have significant impact
- Heritage issues should be considered
- Breaches relating to live sites – Construction Management Plans should be spelt out in full not CMP and include traffic management plans
- No mention of breaches of NDP’s
- The document should be more positive in its approach to enforcement violations and emphasis the penalties resulting

- The Plan should include an explanation of the processes after enforcement action has been taken – how it is monitored and any right of appeal
- Residents need to know they can complain to Ombudsman if no satisfactory outcome is found

#### Officer comments

This is a new Local Enforcement Plan and as such it was not considered necessary to identify how it differed from the previous version.

Changes have been made to the wording of the document to reflect the comments made and to make the decision making process clearer. The table setting out the priorities gives flexibility and discretion in which types of reported matters will be investigated, which is consistent with national guidance that confirms enforcement is a discretionary function. A flow chart has also been included to show the key stages involved in an investigation. It is not possible to give a timeline for enforcement cases as they will all vary depending on the nature and complexity of the matter being investigated.

A section can be added to the Local Enforcement Plan setting out the monitoring of compliance with Notices and how cases will remain open whilst an appeal is being considered.

A section can be added to the Local Enforcement Plan setting out the Council's complaints process and the right to complain to the Ombudsman if they are not satisfied with how a case has been investigated.

#### Theme 3 - Other comments

- Local Enforcement Plan is only 2 years old – is it in need of a full review
- The Policy should reassure the public that enforcement duties will be carried out openly, fairly, helpfully, proportionately and consistently and the results communicated well
- The Plan should address concerns about the closure of enforcement cases via a scheme of delegation
- Parish councils are the local grass roots but this is not reflected in the document
- Parish Councils should be given opportunity comment on priorities
- Parishes should be brought into consultation on cases as they are most effected by a breach
- Where the Council is minded to decline to act the Parish should be consulted before a decision is made
- Parish Councils should also be invited to attend site visits as a matter of course
- Ward members views will be ignored and they will lose their right to challenge decisions
- Decision whether to investigate is open to misuse of the entire enforcement procedure. The Council should make every effort to acquire the information required to make its decision when a complaint is received
- The public who are making the complaints are not in a position to judge whether a serious or minor breach
- Unacceptable/inadequate consultation for LEP
- The comments made on the consultation should be reviewed by not only officers but by councillors who will be adopting the policy

- Officers are writing planning policy not by their acts but more importantly their omissions. Query whether the Enforcement Team have the authority to re-write planning policy without proper consultation
- Building control should be used to check if development is as per plans and report breaches
- Enforcement is not currently working well. Residents have growing anger and frustration of development not as per plans.
- Whilst there is a need for clarity in the use of its discretionary powers there must be an element of deterrence to prevent more breaches and dissatisfaction
- The decision whether expedient or acceptable by officers puts them at risk of favouritism and misconduct
- Assessment of whether expedient or acceptable depend on subjectivity – there needs to be a routine procedure for decisions and some kind of democratic accountability
- Proposing that the identify of persons responsible for breach should have no bearing on council's approach gives an open door for repeat offenders
- The Plan is unclear on how ward members should deal with enforcement matters in the public forum
- Ward Members should be given copies of reports on whether it is expedient to take action

#### Officer comments

The decision making process for enforcement cases remains unchanged by the revised Local Enforcement Plan. The decision whether to take action or to close a case where a breach of planning has been identified will continue to be made in consultation with the Ward Member. If there is no agreement the matter will continue to be reported to the Regulatory Committee. Parish and Town Councils have never been involved in this decision making stage, so there is no change from the current position.

The Council does take reports of planning breaches seriously however the enforcement service of a Local Planning Authority is discretionary. In view of the reduced size of the team it is not possible to continue to investigate all reports of alleged breaches of planning. The scheme of prioritisation allows the team to focus on the more serious breaches that have the potential to cause significant planning harm if left uncontrolled.

Guidance can be given to Councillors on how to deal with enforcement cases at any public meetings. Ward Members can be given copies of reports relating to decisions to take action or decisions to close cases.