

**28<sup>th</sup> April 2015****Agenda Item:9****REPORT OF CORPORATE DIRECTOR POLICY, PLANNING AND  
CORPORATE SERVICES****LOCAL ENFORCEMENT PLAN – THE COUNTY COUNCIL’S GUIDE TO MONITORING AND  
ENFORCEMENT****Purpose of Report**

1. To seek Members’ endorsement of the Local Enforcement Plan as set out in Annex A to this report.

**Background**

2. In February 2009 the Council’s Monitoring and Enforcement Policy and Protocol was published. The proposed Local Enforcement Plan represents an update to this document and once adopted will replace it as Council policy. The Local Enforcement Plan sets out what site monitoring and enforcement service that businesses and the public can expect from Nottinghamshire County Council as a Local Planning Authority. The Plan sets out the Council’s approach to dealing with alleged breaches of planning control and secondly, its proactive role in periodic inspection of minerals and waste sites within the County.
3. The Plan has been published in response to the National Planning Policy Framework which states that *“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”*.
4. Once adopted the Plan will be available on the County Council’s website.

**Key changes and updates**

5. The proposed publication of this Plan follows the recommendation of the National Planning Policy Framework which states that Local Planning Authorities should consider publishing a Local Enforcement Plan. The main changes and updates from the Monitoring and Enforcement Policy and Protocol contained within the Local Enforcement Plan are follows:
  - The Planning Policy Guidance on ensuring effective enforcement published by DCLG in March 2014 provided further detail and clarity on

enforcement breaches and the enforcement powers available. These have been incorporated into the proposed Plan.

- Some changes to the enforcement regime have been brought in by the Localism Act 2011 and these came into force in April 2012. This involved a reduction in the options available to challenge enforcement action relating to unauthorised development. Under the new restrictions the Council now have the power to decline retrospective planning applications if an enforcement notice has been issued. The Localism Act also introduced new powers (Planning Enforcement Orders) to tackle breaches of planning control, both unauthorised uses and developments that are deliberately concealed.
- The implications of the Human Rights Act are incorporated into the Plan. In some instances there is clear public interest in taking rapid enforcement action to address serious breaches of planning control; however it is essential that the Council acts proportionately in responding to suspected breaches of planning control.
- In terms of monitoring minerals and waste sites the Local Enforcement Plan contains details of the current level of monitoring fees which are £331 for active sites and £110 for dormant sites. These fees are nationally set and have increased from £288 and £96 respectively. Since 2009 the number of mineral sites within Nottinghamshire which fall within this charging regime have increased from 60 to 82 and the number of waste sites has decreased from 15 to 8.
- The schedule of the monitoring and enforcement legislative and policy framework in the Plan has been updated.

## **Format**

6. Once adopted the Local Enforcement Plan will be retained as a document on the County Council's website available to view and download.

## **Statutory and Policy Implications**

7. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### Implications for Service Users

8. It is considered that the proposed updated document will assist users by containing more current and accurate information.

### Financial Implications

9. There are no direct financial implications arising from the publication of the Local Enforcement Plan. However, to properly carry out the monitoring and enforcement service set out in the Plan this requires the retention of a Monitoring and Enforcement team.

### Human Rights Implications

10. The provisions of the European Convention on Human Rights such as Article 1 of the First Protocol (Protection of property), Article 6 (Right to a fair trial), Article 8 (Right to a private and family life) and Article 14 (Prohibition of discrimination) are relevant when considering enforcement action. Planning Practice Guidance advises that there is clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether to take enforcement action Nottinghamshire County Council will, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

### RECOMMENDATIONS

11. It is RECOMMENDED that Members endorse the appended Local Enforcement Plan and recommend to Policy Committee that it be adopted as County Council policy and as a formal replacement of the Monitoring and Enforcement Policy and Protocol.

**JAYNE FRANCIS-WARD**

**Corporate Director Policy, Planning and Corporate Services**

### **Constitutional Comments**

Planning & Licensing Committee is the appropriate body to consider the content of this report. [DWK 15/04/2015]

### **Comments of the Service Director - Finance**

There are no specific financial implications arising directly from this report. [SES 24.04.15].

## **Background Papers Available for Inspection**

The working file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

## **Electoral Division(s) and Member(s) Affected**

All

Jane Marsden- Dale

0115 993 2576

For any enquiries about this report, please contact the report author.

