

REPORT OF CHAIRMAN OF PLANNING AND LICENSING COMMITTEE

LOCAL ENFORCEMENT PLAN – THE COUNTY COUNCIL’S GUIDE TO MONITORING AND ENFORCEMENT

Purpose of the Report

1. To advise Members of the new Local Enforcement Plan as set out in the Annex to this report and seek their approval to adopt the Plan as Nottinghamshire County Council policy and a formal replacement to the Monitoring and Enforcement Policy and Protocol.

Information and Advice

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 (NPPF) 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. Members of the Planning and Licensing Committee endorsed the Local Enforcement Plan at Committee on 28th April 2015. Once formally adopted the Plan will be available on the County Council’s website to view and download.

Key changes and updates

5. The proposed publication of this Plan follows the recommendation of the NPPF 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 Department for Communities and Local Government (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.

Other Options Considered

6. The alternative to not adopting this Local Enforcement Plan is that the County Council's existing protocol would not be updated in line with the NPPF recommendation and not reflect the latest changes to the enforcement regime.

Reason for Recommendation

7. To inform Members of the need to update the Monitoring and Enforcement Policy and Protocol in the light of changes that have come into effect since it was published and to seek Members' approval of the Local Enforcement Plan to enable it to become Council policy.

Statutory and Policy Implications

8. This report has been compiled after consideration of implications in respect of crime and disorder, finance, human resources, human rights, the NHS Constitution (Public Health only), the public sector equality duty, safeguarding of children and vulnerable adults, service users, sustainability and the environment and ways of working and where such implications

are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

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.

Implications for Service Users

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

RECOMMENDATION

- 1) It is RECOMMENDED that Members approve the Local Enforcement Plan (attached as an Appendix) and adopt it as Nottinghamshire County Council policy and a formal replacement to the Monitoring and Enforcement Policy and Protocol.

John Wilkinson
Chairman of Planning and Licensing Committee

For any enquiries about this report please contact: Jane Marsden-Dale

Constitutional Comments (SLB 30/04/2015)

12. Policy Committee is the appropriate body to consider the content of this report.

Financial Comments (SES 11/05/15)

13. There are no specific financial implications arising directly from this report.

Background Papers and Published Documents

None

Electoral Division(s) and Member(s) Affected

All