

24th November 2020

Agenda Item: 6

REPORT OF CORPORATE DIRECTOR - PLACE

LOCAL ENFORCEMENT PLAN UPDATE

Purpose of the Report

1. To advise Members of the proposed updated Local Enforcement Plan and seek their endorsement of the Plan and to recommend to Policy Committee that it be adopted as County Council policy as a formal replacement to the existing Local Enforcement Plan.

Information and Advice

2. The Council's Local Enforcement Plan was adopted in May 2015 and therefore its review and update are considered timely. The version appended to this report (Appendix 1) represents the proposed update and, if approved by Members of this and Policy Committee, will be adopted as Council policy and will replace the existing document. The Local Enforcement Plan sets out what site monitoring and enforcement service businesses and the public can expect from Nottinghamshire County Council as a Local Planning Authority. The Plan also sets out the Council's approach to dealing with alleged breaches of planning control and its proactive role in periodic inspection of minerals and waste sites within the County. The Local Enforcement Plan is published on the Council's website and so the new version will replace the existing one if approved by Members.
3. The Plan has been published in response to the National Planning Policy Framework (NPPF) which states that "*Effective enforcement is important to maintain 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. They 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.*"
4. Additionally, the national Planning Practice Guidance states that "*the preparation and adoption of a local enforcement plan is important because it:*
 - *allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;*

- *sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;*
- *provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;*
- *provides greater certainty for all parties engaged in the development process.”*

Key changes and updates

5. The main changes to be incorporated within the updated Local Enforcement Plan are as follows:

- Revised text from the National Planning Policy Framework (latest version 2019) and the Planning Practice Guidance have been incorporated into the proposed Plan.
- Wording amended to clarify maximum fines payable in relation to Enforcement Notices, Stop Notices and Temporary Stop Notices. This now states, “*A person found guilty on summary conviction or conviction on indictment shall be liable to a fine, the amount of which is determined by the Court and shall have, among other matters, regard to any financial benefits which have accrued or are likely to have accrued as a consequence of the offence*”. The revised Plan also confirms the provisions under the Proceeds of Crime Act which may be used in planning enforcement cases to deal with those who flout valid enforcement notices for financial gain.
- The revised Plan introduces the possibility of the County Council using drones in connection with its monitoring and enforcement functions. This may include inspecting and monitoring sites to ensure compliance with planning permissions, including conditions, and to gather evidence in relation to possible breaches of planning control. The Plan confirms that the County Council will ensure that it fully complies with relevant regulations, including registration with the Civil Aviation Authority, notifying landowners and properties it is intending to fly over and compliance with the Data Protection Act and any other statutory requirements.
- The revised Plan provides further information about how to report a potential breach of planning control, what information will need to be provided by the complainant and confirmation that personal information will not be shared and will be treated in accordance with the Council’s Development Management Privacy Notice.
- The revised Plan makes reference to the resourcing of monitoring and enforcement work and confirms that officers undertake a wide variety of work from site inspections, complaint investigation and formal enforcement action. The Plan confirms that the staff and financial resources allocated to the monitoring and enforcement work is constantly under review to ensure that the resources are commensurate with the duties undertaken. A number of officers in the Development Management Team split their workloads between monitoring and enforcement and planning application work based on the needs of the team at any particular time.
- In terms of monitoring minerals and waste sites the Plan contains details of the current level of monitoring fees which are £397 for active/partially active sites and £132 for dormant sites. These fees are nationally set and have increased from £331 and £110 respectively.

- The schedule of the monitoring and enforcement legislative and policy framework in the Plan has been updated.
- The revised Plan confirms that a report will be brought to Planning and Licensing Committee every twelve months which will provide Members with the detail of all monitoring and enforcement work undertaken in the preceding 12 months.

Other Options Considered

7. 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

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

Statutory and Policy Implications

9. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required. There are no crime and disorder, financial, human resources, public sector, safeguarding of children and adults at risk, smarter working implications or implications for sustainability and the environment.

Data Protection Implications

10. The County Council has comprehensive procedures in place, including redacting personal data or sensitive information which accompanies any enforcement complaints, such as details of complainants, to ensure that information is kept securely and confidentially.

Financial Implications

11. 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 requires the retention Monitoring and Enforcement officers in the Development Management Team and the provision of appropriate training and development.

Human Rights Implications

12. 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

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

RECOMMENDATION

It is RECOMMENDED that Committee endorses the changes to the Local Enforcement Plan as set out in Appendix 1 of this report and recommends the new Plan to Policy Committee for adoption as County Council policy.

ADRIAN SMITH

Corporate Director - Place

Constitutional Comments [SG 22/10/2020]

I confirm that the recommendation falls within the remit of the Planning and Licensing Committee by virtue of its terms of reference. Responsibility for the regulatory functions of the Council in relation to planning, monitoring.

Financial Comments [RWK 21/10/2020]

There are no specific financial implications arising directly from the report.

Background Papers and Published Documents

None

Electoral Division(s) and Member(s) Affected

All

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For any enquiries about this report, please contact the author