

**BARNSELY METROPOLITAN BOROUGH COUNCIL**

**REPORT OF: EXECUTIVE DIRECTOR OF GROWTH & SUSTAINABILITY**

**TITLE: PLANNING ENFORCEMENT POLICY - UPDATE**

|                                 |                                 |
|---------------------------------|---------------------------------|
| <b>REPORT TO:</b>               | <b>CABINET</b>                  |
| <b>Date of Meeting</b>          | <b>31<sup>st</sup> May 2023</b> |
| <b>Cabinet Member Portfolio</b> | <b>Regeneration and Culture</b> |
| <b>Key Decision</b>             | <b>Yes</b>                      |
| <b>Public or Private</b>        | <b>Public</b>                   |

**Purpose of report**

To adopt an updated Planning Enforcement Policy.

**Council Plan priority**

Sustainable Barnsley

**Recommendations**

That Cabinet:-

**Adopts the updated Planning Enforcement Policy.**

**1. INTRODUCTION**

- 1.1 The Council adopted a Planning Compliance Policy in 2016, the purpose of which was to set out the council's approach to planning compliance and the delivery of planning enforcement functions. The policy does not form part of the development plan for the borough in the way that, for example, the Local Plan does. Instead, it is used for operational purposes to guide officers and customers by articulating the prioritisation of enforcement matters and setting out the options and likely approaches that will be used, depending on the nature of the breach of planning control.
- 1.2 At the time the policy was adopted, the Planning Enforcement function sat within a wider Community Safety and Enforcement Service with one dedicated Planning Enforcement Officer supported by a team of generic officers who would fact find and evidence gather. In 2018, the function was transferred to the Planning and Building Control service who have since appointed a second

dedicated Planning Enforcement Officer. This was due to a desire to increase levels of enforcement action and also in recognition of the likely increase in development activity as a result of the adoption of the Local Plan.

- 1.3 The Government produces quarterly and annual statistics of formal Planning Enforcement Activity across England and this shows that, in recent years, the quantum of formal notices served by the Council has increased:

Enforcement Statistics, Year on Year

| Year (Calendar) | Enforcement Notices Served | Ranking (out of 336 Authorities) |
|-----------------|----------------------------|----------------------------------|
| 2018            | 13                         | 78                               |
| 2019            | 21                         | 41                               |
| 2020            | 19                         | 22                               |
| 2021            | 59                         | 7                                |

- 1.4 The 2022 statistics have just been published and show a decline to 37 enforcement notices issued, ranking the authority 20<sup>th</sup> nationally and 12<sup>th</sup> outside of London. The decline could in part be attributed to a message getting out that Barnsley is prepared to tackle planning breaches by serving enforcement notices, meaning more cases can be resolved informally without the need for formal action. Either way, the quantum of notices served in 2022 keeps Barnsley in the top 10% nationally and demonstrates the effectiveness of the existing policy.
- 1.5 The ultimate success of the enforcement function is dictated by the level of resource allocated and the culture of the team to tackle breaches of planning control where it is in the public interest. The additional staff have therefore worked closely with colleagues in Legal Services to ensure decisive action, such as successful injunctions that have been secured and an increase in the use of temporary stop notices.

## **2. PROPOSAL**

- 2.1 Given that levels of formal enforcement activity have demonstrably increased since the policy was introduced, it is not considered that the policy requires a fundamental overhaul. Instead, it is proposed to merely update the policy to reflect minor changes nationally, such as the reference to enforcement in the National Planning Policy Framework and the introduction of national guidance which supplements it.
- 2.2 It is therefore proposed that the existing prioritisation within the Policy remains unchanged meaning highest priority is afforded to complaints regarding alleged:
- Unauthorised activity to listed buildings (demolition/alteration/disrepair)
  - Unauthorised demolition in a conservation area
  - Unauthorised development in the green belt
  - Works to trees covered by a Tree Preservation Order or in a Conservation Area
  - Development causing immediate/irreparable harm to protected ecology or causing serious danger to the public

- 2.3 Along with the minor changes and supplementary text to reflect the updated national policy and guidance, a new section is proposed to be added. This relates to circumstances where the service receives repeated complaints from the same individual(s) concerning matters which are not breaches of planning control or where the service has already communicated that it is not in the public interest to pursue formal enforcement action (and there have been no material changes since that decision was made to warrant re-opening the investigation). This is deemed necessary in order to ensure resources are used most efficiently and effectively.

### **3. IMPLICATIONS OF THE DECISION**

#### **3.1 Financial and Risk**

- 3.1.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).

- 3.1.2 There are no direct financial implications arising from this report. There are future implications arising from preparing a full Local Plan update in respect of a budget required for evidence base, consultation and examination.

#### **3.2 Legal**

- 3.2.1 Consultation has been carried out with legal regarding this approach. They advise that the approach recommended is with the legitimate legal powers of the Council and takes proper account of the material factors affecting the decision.

#### **3.3 Equality**

- 3.3.1 As the report only proposes minor changes to the existing policy, a full Equalities Impact Assessment was not deemed necessary.

#### **3.4 Sustainability**

- 3.4.1 The effective and proper enforcement of planning control is essential to protect the local environment and the interests of residents, visitors and businesses in the borough from the harmful effects of unauthorised development. The updated policy will help to ensure this remains the case.

#### **3.5 Employee**

- 3.5.1 There are no employee implications arising from this report.

#### **3.6 Communications**

- 3.6.1 If the report recommendation is accepted, the updated policy will be uploaded to the website and a press release will be issued. Planning enforcement activity will also continue to be reported to Planning and Regulatory Board on a quarterly basis, with press releases issued as and when necessary.

#### **4. CONSULTATION**

4.1 As the policy is operational in nature and does not form part of the Council's Development Plan for the borough, there are no statutory requirements to undertake public consultation.

#### **5. ALTERNATIVE OPTIONS CONSIDERED**

5.1 The two alternatives to the recommendation were to either

- To not update the policy
- To write a brand-new policy.

5.2 In relation to why each was discounted, the policy is now 6 years old and there have been changes nationally which render some of the text out of date. As the update is not particularly onerous and unlikely to be affected by uncertainty surrounding planning reform, an update is considered worthwhile. However, as the policy has been effective since being introduced and does reflect best practice, it was not deemed necessary to go as far as to produce a brand-new policy.

#### **6. REASONS FOR RECOMMENDATIONS**

6.1 The reasons for recommendation to not update the Local Plan are in part covered within the earlier text, particularly within the introduction, the section explaining the proposal, the sustainability implications of the decision and in the consideration of alternative options. These are in turn derived from the monitoring data which informed the toolkit and the advice from the critical friend. In addition to these, it is worth signposting members to other extracts from the Inspector's report that are particularly relevant to the recommendation within the report:

#### **7. LIST OF APPENDICES**

**Appendix 1 Existing Planning Compliance Policy**  
**Appendix 2 Proposed Planning Enforcement Policy**

#### **8. REPORT SIGN OFF**

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| <b>Financial consultation &amp; sign off</b> | Senior Financial Services officer consulted and date<br><i>Ashley Grey</i><br>30/01/2023 |
| <b>Legal consultation &amp; sign off</b>     | Legal Services officer consulted and date<br><i>Bob Power</i><br>30/01/2023              |

**Report Author: Joe Jenkinson**  
**Post: Head of Planning & Building Control**  
**Date: 27<sup>th</sup> January 2023**