

BOROUGH OF KETTERING

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Report Originator	Head of Development Services	<i>Fwd Plan Ref No:</i> N/A	
Wards Affected	ALL	28 th November 2017	
Title	PLANNING ENFORCEMENT POLICY		

1. PURPOSE OF REPORT

To present the proposed Planning Enforcement Policy, with the recommendation that this be adopted by Kettering Borough Council.

2. INFORMATION

- 2.1 A Planning Enforcement Policy for Kettering Borough Council (KBC) has been prepared which is appended to this report (**Appendix A**). Its purpose is to provide, in one place, a thorough overview of the Council's planning enforcement function, including the aims and scope of planning enforcement, as well as the range of potential planning enforcement powers. It thus provides those parties who may become engaged in the planning enforcement process with a better understanding of how those processes operate and what they can expect from the Council.
- 2.2 The policy has been drafted to reflect enforcement best practice. It follows central government advice and good practice guidance, and is consistent with the National Planning Policy Framework (NPPF).
- 2.3 It is important to note that planning enforcement is that which is actionable under planning legislation and does not extend to other courses of action that Council Officers (throughout the Authority) may take pursuant to other legislation, please see below.
- 2.4 The planning enforcement process is one which is often misunderstood. A common example is the notion that a Local Planning Authority (LPA) is not fulfilling its enforcement role if formal action and the service of notices has not happened. There are of course occasions where the swift service of a notice is appropriate and necessary, but in the vast majority of cases, this is a measure of last resort when it has not been possible to resolve matters through informal negotiation.
- 2.5 Informal negotiation is widely recognised as an important element of the planning enforcement process and in a large number of cases can lead to a successful conclusion without the need for formal action, such as the serving of an enforcement notice. Such notices can be appealed against and this inevitably lengthens the process, sometimes considerably, and incurs additional cost to the LPA. Furthermore, the appeal process removes the LPA's control

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over decision making and on occasion, this can result in an outcome with unintended consequences, such as a set of conditions that are not considered by the LPA to adequately control development. Outcomes such as this can prove difficult for the public and others to reconcile, particularly when for example a complainant seeks and has an expectation of a quick remedy to a specific breach.

3. OUTPUT AND PERFORMANCE MONITORING

- 3.1 The drafting of this policy has provided an opportunity to review current planning enforcement practice. Although this has not resulted in the introduction of fundamental changes to the Council's processes, which already follow recognised best practice, further consideration has been given to the timescales by which complaints received will be investigated.
- 3.2 The outcome of this review is a proposed change in the timescales associated with Level 2 and Level 3 cases (please see Section 6 of the proposed policy document). These types of cases make up the vast majority of those received and it is considered that the revised and improved standards that are proposed reflect the needs of customers whilst remaining achievable. When information is received which is considered to be the highest priority (Level 1) e.g. a threat to a protected tree, or unauthorised works to a listed building, these, as happens now, will initially be investigated through a site visit before the end of the next working day.
- 3.3 The policy explains what a breach of planning control is and gives generic examples. It also identifies the instances that are not investigated for planning control purposes because they are either to be responded to through other agencies, or pursuant to other means, or are in fact private matters such as a boundary dispute.
- 3.4 The policy also makes clear the importance of allowing officers of the Authority who are exercising their proper duty to be allowed to do in a safe working environment and states that (the Council) may use its legal powers to prevent physical and verbal abuse.
- 3.5 The Council's Planning Committee are presented on a quarterly basis with an Enforcement Monitoring Report from the Development Manager. This identifies the numbers of cases on hand at the time and summarises progress with cases that have resulted in formal action being taken. Therefore, the background information provided through the Enforcement Policy will assist elected members who receive monitoring reports.

4. CONSULTATION AND CUSTOMER IMPACT

- 4.1 There is a recognised need to provide an overview of the Council's planning enforcement practice, through adopting such a policy. Many LPAs have a

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similar policy and in formulating a policy for KBC, officers have researched policies elsewhere. The proposed policy which is appended to this report is therefore tailored to the needs of the Borough of Kettering and its customers, whilst remaining consistent with the approach practised widely across the Country.

- 4.2 It is not always clear upon receipt of an initial complaint whether or not a complaint will be appropriate to pursue through the planning enforcement process (e.g. allegations of consequences of someone working from home). For this reason, officers of the LPA will conduct an initial investigation and where necessary, liaise closely with other colleagues from within the Council, such as Building Control or Environmental Health and also possibly with other external bodies, such as Northamptonshire County Council or the Environment Agency. Such consultation and liaison assists in the process of establishing what action (if any) it is appropriate to pursue and who has the correct legal authorisation and specialist knowledge to progress such action.
- 4.3 Where as a result of the consultation and liaison described above, enforcement action is to be pursued through an alternative route to planning enforcement, or in parallel with planning enforcement, the LPA will notify the complainant of this change of circumstances.
- 4.4 The proposed planning enforcement policy follows feedback from close working and liaison with officers from across the Council and its adoption will offer those other service areas, as well as external bodies and members of the public with a single source of relevant information about the Council's planning enforcement process.

5. POLICY IMPLICATIONS

- 5.1 The Council's approach to Enforcement follows best practice, and is consistent with the Enforcing Planning Control: Good Practice Guide for Local Planning Authorities (1997), the national Enforcement Concordat (2003) and the NPPF (2012), which encourages LPAs to consider publishing (information about managing enforcement) in a way that is appropriate to their area.

6. FINANCIAL RESOURCE IMPLICATIONS

- 6.1 No additional costs from formally adopting this policy other than in notifications/publicity that may involve external communication.

7. HUMAN RESOURCE IMPLICATIONS

- 7.1 No additional resources in implementing the policy which draws on officers already employed to respond.

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8. LEGAL IMPLICATIONS:

8.1 The drafting of this policy raised no new legal implications.

9. RECOMMENDATION

9.1 That the content of this reported is noted by members and that the Planning Enforcement Policy appended to this report is formally adopted by the Council.

Background Papers:

Title of Document: Enforcing Planning Control:
Good Practice Guide for Local Planning Authorities
Date: 1997
Title of Document: Enforcement Concordat
Date: 2003
Title of Document: NPPF
Date: 2012
Contact Officer: Peter Chaplin, Development Manager

Previous Reports/Minutes:

Monitoring reports since 2009