

**Public
Key Decision - No**

HUNTINGDONSHIRE DISTRICT COUNCIL

Title/Subject Matter: Planning Enforcement

Meeting/Date: Overview & Scrutiny (Performance and Growth)
– 3rd April 2025

Executive Portfolio: Executive Councillor for Planning (TS)

Report by: Head of Planning, Infrastructure and Public Protection (CK)

Ward(s) affected: All Ward(s)

Executive Summary:

Planning Enforcement is a function of the Local Planning Authority (LPA). Local planning authorities have responsibility for taking enforcement action that may be necessary and in the public interest in their areas. The response to an alleged breach of planning control is a matter for the discretion of the (LPA) when it is considered expedient to do so, having regard to the Development Plan and any material planning consideration, and the Town and County Planning (General Permitted Development) Order 1995, as amended. Not every breach of planning control justified the taking of enforcement action.

Officers recognise that breaches of planning control can be a cause for concern for our residents, Parish Councils and Councillors and this report and presentation will set out the regulatory framework surrounding planning enforcement. It is also recognised that the LPA is not the responsible enforcement authority for the following matters unless controlled via a planning condition, namely, highways, noise, odour, archaeology, flood/drainage. The government is clear that planning enforcement should not seek to control matters that come under other legislation.

In the past five years the planning enforcement team have made great strides to improve the service that is delivered to its customers across the district, alongside the wider programme of planning improvements. Whilst eradicating the backlog the team have also provided training to Members, Parishes and Officers. This report seeks to demonstrate some key pieces of work that have been undertaken and the improvements that this has made to service delivery.

Recommendation(s):

The Panel is recommended to note the content of the report.

PURPOSE OF THE REPORT

- 1.1 The purpose of the report is to accompany a presentation that set out the following:
 - Overview- what is planning enforcement
 - Service Performance

WHY IS THIS REPORT NECESSARY/BACKGROUND

- 2.1 Planning enforcement is crucial for maintaining public confidence in the planning system and ensuring development adheres to regulations, protecting the environment and local amenities. It involves investigating potential breaches of planning control and taking appropriate, proportionate action, such as issuing enforcement notices or pursuing legal action. Effective enforcement ensures that the planning system is seen as fair and just, which is essential for public trust.
- 2.2 Enforcement action can address breaches that negatively impact the environment, local character, or the quality of life for residents. It ensures that development projects adhere to planning regulations, policies, and conditions, preventing unauthorised or harmful developments. By ensuring that development is undertaken responsibly, enforcement contributes to the long-term sustainability of the area and ensures, in line with our corporate priorities that we create a better Huntingdonshire for future generations.
- 2.3 This report will demonstrate the work undertaken by the team and how it assists the wider planning team in delivering good quality, high value-for-money service with good control and compliance with statutory obligations. (Doing our core well.)

REMIT OF THE TEAM

- 3.1 There have been some substantial changes over recent years since the new team took over from previous officers. The team is managed by Alison Twyford, has one senior planning enforcement officer and two planning enforcement officers with a currently vacant apprentice post.
- 3.2 The team cover the entire District of Huntingdonshire and will consider cases in line with the Council's Corporate Enforcement Policy and paragraph 60 of the NPPF which states: *"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."*
- 3.3 Planning enforcement is a discretionary service and formal enforcement action should only be taken when the council considers that there is demonstrable detrimental planning harm. Government guidance also says councils should act proportionally. In most cases it is not a criminal offence to undertake development without first obtaining planning permission or other formal consent. Unauthorised works to Listed Buildings, unauthorised works to protected trees, unauthorised adverts and non-compliance with an enforcement notice are offences in planning law, but guidance states that action should be in the public interest and action should also be proportionate in these cases.

- 3.4 The Government has made it clear through legislation and guidance that the response to an alleged breach of planning control is a matter for the discretion of the local planning authority. Not every breach of planning control justifies the taking of enforcement action. The Council must make a judgement having regard to National Planning Policy (including the National Planning Policy Framework), Local Planning Policy, case law and any other relevant planning considerations.
- 3.5 Guidance from Central Government is that enforcement action should be a last resort and that councils are expected to give those responsible for a breach of planning control the opportunity to put matters right or to seek to regularise the breach before resorting to formal action such as an Enforcement Notice. Any such service of a formal notice must be proportionate and commensurate with the alleged breach of planning control.
- 3.6 It must be noted that part of the process will often involve the invitation, receipt and consideration of planning applications which can take some time to be decided and, if refused, can then be appealed to the Planning Inspectorate. This process alone can take months or years in the cases of applications that have appeals. In addition, if formal action is taken by the local planning authority, this too can be appealed, and we have experienced that recent decisions have taken in excess of a year to be considered by the Planning Inspectorate.
- 3.7 In exercising planning functions, the Council is required to consider whether enforcement action is in the public interest. At the same time, it is also under an obligation to act consistently with the European Convention on Human Rights (in particular, Article 8 - the Right to Respect for Home, Privacy and Family Life, Article 14 - Prohibition of Discrimination, and Article 1 of the First Protocol - Right to the Enjoyment of Property). Regard must also be had to the Equality Act 2010.
- 3.8 Any one or a combination of these factors may mean that the Council will decide not to take formal action in any particular case where there has been a breach of planning control. It will however take action where a breach causes significant harm. The prioritisation of enforcement cases will be based on degree of harm and public interest.

PERFORMANCE OF THE TEAM

- 4.1 A significant change in staff for the team took place in September 2019 when a new team leader was appointed and there were two relatively new recruits. Since this time the team has seen 3 staff that have left the team, one of which has gone on to train as a qualified town planner. In addition, over the past five years 6 team members have been fully trained internally by the Team Leader. The Senior Enforcement Officer has recently commenced a certificated training course in planning enforcement with Ivy Legal- a specialist planning law firm.
- 4.2 In September 2019 reports demonstrated that the team held 1467 cases open and “on hand”. Some of these cases (767) were assigned to Officers who were no longer in the employ of the Council, and these were informally referred to as “the backlog”. Some of these cases were very historic and included cases that were raised and logged from 2002.
- 4.3 Since September 2019 to the date of writing this report the team have received 1911 new reports. During the same period, they have also closed 2168 cases and served 58 formal enforcement notices and undertaken 1 prosecution. (11 Enforcement Notices, 1

Temporary Stop Notice, 7 Breach of Condition Notices, 37 Planning Contravention Notices and 2 Requisition for Information Notices).

4.4 The team currently holds active cases which are all actively being progressed by Officers within the team. Of these there are only 65 which have been active for more than 4 years.

CHALLENGES TO DELIVERY OF SERVICE

5.1 Given that planning enforcement is a discretionary service it is important that there is a clear understanding of what the service does and does not cover. Officers often have to respond to perceptions of the levels of controls that can be achieved through the planning system as opposed to what the legislation states can be managed and controlled. As part of the programme of planning improvements, the team led in a review of all standard worded planning conditions to ensure that they were as robust and enforceable as possible.

5.2 To try and assist understanding further we regularly review our web pages to ensure that they are as up to date as possible and user friendly. This has resulted in some recent changes made by the team that include a list of matters that we can/cannot assist with and improvements to our reporting form that now allows for documents to be added to reports. (<https://www.huntingdonshire.gov.uk/planning/breaches-of-planning-control-enforcement/>)

5.3 In a vast majority of cases the presence of an enforcement officer can give cause for concern and can lead to difficult site inspections. Officers will sometimes face unwelcoming responses, and it is therefore essential that site safety and Officer safety is fully considered prior to entering any site. This can sometimes require Officers to visit in pairs or to be accompanied by the Police. This can impact upon the resources within the team and lead to some visits taking longer than others.

5.4 When addressing any breach Officers will liaise with interested parties of the sites that they are considering. Interactions with the team can vary from people who are very keen to resolve matters as soon as possible, to people who are less willing to engage positively. Managing the variety of customers, we work with whilst trying to ensure cases progress at a reasonable speed can require a variety of approaches. In addition, cases can escalate quite quickly upon inspection when the original matter reported turns out to be a greater issue in planning terms. Many cases can involve a multi agency approach, and speed of resolution is dependent on all parties which may lead to delays.

OTHER HIGHLIGHTS

5.1 Whilst undertaking day to day activities and reducing the on-hand figures significantly by bringing older cases to a conclusion the team has also achieved a number of additional achievements which have included several Parish and Member training sessions, delivery of training to the National Trust, collaborative work with Public Protection on the Corporate Enforcement Policy and membership to the East Anglian Planning Enforcement Officers Forum. The team proactively provide training to planning officers enhancing collaborative engagement across the service.

BACKGROUND PAPERS/LEGISLATION

National Planning Policy Framework

Town and Country Planning Act 1990 (as amended)

The Town and Country Planning (General Permitted Development) (England) Order 2015

Planning (Listed Buildings and Conservation Areas) Act 1990

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Equalities Act 2010

Human Rights Act 1998

Huntingdonshire Corporate Enforcement Policy-

<https://www.huntingdonshire.gov.uk/environmental-issues/corporate-enforcement-policy/>

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