

Document	LOCAL ENFORCEMENT PLAN (October 2019)
Case Officer	Philip Stanley
Referral to Committee	Operational document for Development Management and Planning

1. Recommendation

1.1 That the Local Enforcement Plan be taken to the Portfolio Holder for **APPROVAL**.

2. Summary

2.1 According to paragraph 58 of the National Planning Policy Framework (NPPF), Local Planning Authorities should publish a local enforcement plan (LEP) to show how the delivery of the planning enforcement function is undertaken in their area.

2.2 The current LEP was approved in June 2013. Paragraph 26.1 of this document states that, "*The Council will review this plan from time to time and at least every three years*". Therefore, in order to ensure that the Council's LEP remains relevant in light of changes to legislation, national enforcement guidance and the Council's procedures, it is necessary for a new LEP to be produced.

2.3 The LEP that is sought for approval through this report provides an up to date analysis of the planning enforcement tools at the team's disposal, its core principles when deciding to use them, and how the respective parties are engaged in the enforcement process. It also outlines the planning enforcement's priorities and its approach to proactive enforcement action. As such, it incorporates current best practice in the writing of a local enforcement plan.

2.4 The LEP subject to this report is attached as Appendix B.

3. Draft Document Consultation

3.1 The draft Local Enforcement Plan was put before Development Management Committee Members on 16 September 2019 as part of a Briefing Session (with the draft document circulated to Members beforehand). Members raised several points and comments and these are reflected in the amended version of the document.

3.2 Subsequent to the Briefing Session (on 18 September 2019), Development Management Committee Members were asked if they had any further comments / suggestions regarding the LEP. A consultation document was circulated which contained the following six discussion questions:

Q1: Do you agree with the Enforcement Core Principles as outlined in this document?

Q2: Do you agree with the approach to maintain the current first site visit target timescales?

Q3: Do you agree with the approach to maintain the current Priority of cases structure?

Q4: When, and how often, should we update interested parties?

Q5: What should be the Enforcement team's pro-active enforcement priorities?

Q6: What else do you consider the LEP should include / prioritise?

3.3 Members were provided until 27 September 2019 to end through any additional

comments. No further comments were received.

3.4 Appendix A provides a full list of the changes made to the Local Enforcement Plan in light of the comments received during this consultation period.

4. Purpose of Local Enforcement Plan

4.1 Section 2 of the Local Enforcement Plan explains the purpose of the document. It firstly outlines what the NPPF expects a LEP to contain, and then details what the specific aims are for Dacorum's LEP.

4.2 According to paragraph 58 of the NPPF, a local enforcement plan, "*should set out how [Local Planning Authorities] will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate*". It should also demonstrate how it will, "*manage enforcement proactively, in a way that is appropriate to their area*".

4.3 These broad aims are expanded within paragraph 2.2 of Dacorum's LEP. An effective planning enforcement service is vitally important in maintaining public confidence in the planning system by assisting in the delivery of the development that has been granted and in taking action against harmful development which has not been approved. Therefore, the LEP needs to show how planning enforcement investigations within Dacorum will be carried out, explain the basis on which planning enforcement decisions are made, and detail the Borough's enforcement priorities. The LEP will also need to outline what 'proactive enforcement' means in the Borough.

5. Core Planning Enforcement Principles

5.1 Section 3 of the Local Enforcement Plan explains the core planning enforcement principles of the document. Overall, the Planning Enforcement service will undertake its functions in accordance with the Values that drive Dacorum Borough Council as a whole:

- Take responsibility.
- Be positive.
- Work with others to deliver a great service.
- Be reliable.

5.2 Planning enforcement action should be remedial rather than punitive and as such this section of the LEP explains that the actions of the Planning Enforcement team must be proportionate to the harm caused by the breach. This means that in some cases it will not be appropriate to take any action, even if a breach of planning has occurred, whilst in other cases immediate formal action will be required.

5.3 In reaching this decision on what action to take the Planning Enforcement team must have an open mind, investigate the case thoroughly, and attempt to resolve a breach through negotiation and voluntary resolution before resorting to formal action. The expediency of taking formal action must be considered on a case-by-case basis.

5.4 There is some overlap between planning functions and the roles and responsibilities of other departments, bodies and organisations, such as Building Control, the Environment Agency and the Health & Safety Executives. There are also limits to where

planning enforcement can take action (such as flytipping, vehicles parked on the highway, and dangerous structures). As such, the LEP highlights the importance of continued communication with all relevant stakeholders, as well as explaining to complainants why their concern has been passed to another body. Similarly, the LEP seeks to ensure that DBC Councillors are notified of significant cases in their Ward.

5.5 The LEP also acknowledges that a planning enforcement investigation can be a stressful time for all concerned and therefore it is important that realistic and reasonable timescales are both given and kept to throughout the investigation. In terms of transparency, the team already produces a Quarterly Planning Enforcement Report, which presents to the Development Management Committee a full list of current formal enforcement actions and the situation these cases have reached. To supplement this the team will also aim to provide an online register of Planning Enforcement Notices.

6. Planning Enforcement Site Investigation Priorities

6.1 Section 7 of the Local Enforcement Plan details how a planning enforcement investigation will be carried out. It details how quickly a site will be visited after the team receive a report / complaint about unauthorised works, how the team can gather information and evidence, and how an appropriate course of action in dealing with planning breaches is decided upon.

6.2 The Council receives approximately 540 reports of alleged breaches of planning control every year. Due to the often complex nature of planning enforcement investigations, it is necessary to give priority to those cases where the greatest harm is being caused. The LEP seeks to maintain the current three-tier scale to site visit priorities and the timeframe in which to first visit sites. This means that Enforcement Officers will visit priority 1 cases within one working day, priority 2 cases within 10 working days, and priority three cases within 15 working days.

6.3 It is straightforward to compare these timescales for first site visits against other local authorities because of the differing ways that cases are categorised. Nevertheless, the table below shows how these timescales compare with neighbouring and other Hertfordshire local authorities:

Local Planning Authority	Priority One (working days)	Priority Two (working days)	Priority Three (working days)
Dacorum BC	1	10	15
Broxbourne BC	Not stated	Not stated	Not stated
East Herts DC	1	15	15
Hertsmere BC	Not stated	Not stated	Not stated
St. Albans DC	7	7	7
North Herts DC	Not stated	Not stated	Not stated
Stevenage BC	Not stated	Not stated	Not stated
Three Rivers DC	1	20	20
Watford BC	2	5	10
Welwyn & Hatfield BC	2	5	15-20
Aylesbury Vale DC	Not stated	Not stated	Not stated
Central Bedfordshire	1	5	10
Chiltern DC	2	10	20

6.4 The above table indicates that Dacorum Borough Council is in the mid-range in terms of speed of first site visit. However, in response to this three important points need to be made. Firstly, it must be emphasised that these are maximum target times and in practice sites are, and will be, visited sooner than these last dates.

6.5 Secondly, Dacorum Borough Council are at the top of the range in respect of speed of first site visit for Priority 1 cases. These are the cases, for example involving listed buildings or TPO trees, where the harm caused is more likely to be very significant and irreversible and therefore rightly has the upmost priority.

6.6 Thirdly, it is important for the planning enforcement team not to focus solely on visiting sites for the first time quickly. Rather the conclusion of cases within an appropriate timescale is also of high importance (whether this means securing a voluntary resolution, the submission of a planning application to regularise development, or the service of an Enforcement Notice). Focusing solely on first site visit speed, at the expense of further site visits or concluding a case, is considered counter-productive and ultimately would not meet the expectations of either the complainant or the alleged offender.

6.7 Therefore, it is considered that maintaining the current priority timescales provides the appropriate balance between a prompt first site visit and timely further action if and when required.

6.8 If a breach is discovered / confirmed, then planning enforcement effectively has three options:

- Do nothing.
- Take informal action.
- Take formal action.

6.9 Importantly, the LEP explains how the decision-making process must be made on a case-by-case basis according to the level of harm caused. Dacorum Borough Council should act in a proportionate way, depending on the scale of the breach and the resultant harm(s). This means that in some instances where there is a breach of planning control, but where no harm or minimal harm is caused, the appropriate action may be to close the enforcement file. At the opposite end of the scale, planning enforcement must use the formal tools at its disposal in dealing with the most serious and harmful of planning breaches, especially where these are irreversible. The importance of serving Notices and in commencing prosecution or Direct Action proceedings where effective Notices have not been complied with cannot be underestimated.

7. What to expect from the Planning Enforcement Service

7.1 Section 8 of the Local Enforcement Plan details what 'customers' can expect from the Planning Enforcement service, both in respect of the alleged offender and also the person who reported the alleged breach of planning control.

7.2 In terms of the 'alleged offender', this section explains the impartiality of the planning enforcement team. It also details the ways we will provide an opportunity for them to explain the situation, the methods in which we can seek an informal resolution (and

the time limits for submitting a retrospective planning application, if appropriate), but also the powers we have to serve formal notices or commence legal proceedings.

7.3 In terms of the 'reporter', this section explains the confidentiality of the planning enforcement investigation. It also details when they will be updated throughout the investigation. The LEP states that the reporter will receive an initial acknowledgement, as well as (generally) confirmation when a case has been closed. The Planning Enforcement team will also update reporters to let them know when a retrospective planning application or an appeal against an Enforcement Notice has been received (to ensure that they have the opportunity to comment).

7.4 Therefore, this LEP seeks to strike an appropriate balance between keeping reporters up to date and the need for the team to be taking enforcement action, as opposed to providing continual updates. It is further anticipated that reporters will soon be able to follow the stages of a planning enforcement investigation by searching the planning pages of the Council's website.

8. Planning Enforcement Priority Projects

8.1 As stated above the NPPF expects a Local Enforcement Plan to demonstrate how it will manage enforcement proactively. The majority of planning enforcement cases will be dealt with on a reactive basis, i.e. an investigation will commence after we have received a report of an alleged breach of planning control. However, this LEP acknowledges that there are some 'hot topics' or 'problem areas' where the team's resources can be focused to make the maximum impact.

8.2 As such, Section 9 of the LEP introduces 'Priorities and Projects'. This section will be reviewed on an annual basis to take into account changing priorities, as well as the overall resources of the Planning Enforcement team at that time. Therefore, there is an opportunity for Members to feed into this section of the LEP and to focus enforcement action on a planning matter that is being raised consistently by their constituents. For example, this could be a focus on listed buildings, or on the unauthorised hardpaving of front gardens, or on 'beds in sheds'.

8.3 For the first year of this document (i.e. 2020), the LEP will prioritise, firstly, Major Developments and, secondly, adverts/banners in three problem areas. The full details of these projects can be found in the LEP.

9. Conclusion

9.1 It is considered that the proposed Local Enforcement Plan meets the guidelines of the NPPF and the specific planning enforcement requirements of Dacorum. It seeks to strike an appropriate balance between closing down simpler cases quickly and taking robust formal action where significant harm is being caused. It also seeks to acknowledge the need to prioritise cases and provide a good level of customer service within the current capacity of the service.

9.2 Overall, the proposed Local Enforcement Plan will provide a strong steer in guiding the planning enforcement service to make the right decisions within the right timescales.

10. RECOMMENDATION – That the Local Enforcement Plan be taken to the Portfolio Holder for **APPROVAL**.

Appendix A:

List of changes made to the draft Local Enforcement Plan in response to Member comments and other feedback.

Paragraph	Amendment
3.8	Details of Member involvement in significant enforcement cases and notification of Members of Notices served have been added.
3.12	Clarification has been added in terms of how consistency in the planning enforcement decision-making process would be achieved.
4.2	The flowchart showing the three-stage process for determining a breach of planning control has been simplified.
4.5	Clarification has been added, explaining in more detail the situation when failing to comply with the requirements of an Enforcement Notice is a criminal offence.
7.4	'The environment' has been added to the list of example Priority 1 planning enforcement cases.
7.15	The priority given to prosecution and / or Direct Action cases has been added.
8.9	The priority given to prosecution cases, once it is decided to pursue legal action, has been added.
10.2	The reference to review the Local Enforcement Plan 'at least every four years' has been removed.
Appendix A	The Proceeds of Crime Act 2002 has been added to the list of planning enforcement tools.