

Item 7b	LOCAL ENFORCEMENT PLAN (2023 Projects and Priorities)
Case Officer	Kyle Dalton
Referral to Committee	Operational document for Development Management and Planning

1. Recommendation

- 1.1 That the proposed projects / priorities for 2023 within the Local Enforcement Plan –
- A) Berkhamsted High Street advertisement A-board review
 - B) Cases prior to 2016 be reduced by half
 - C) 2020 numbers reduced by half
- be taken to the Portfolio holder for **APPROVAL**.

2. Summary

2.1 According to paragraph 59 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 May 2022 and is publicly available on the Council's website, following this link: https://www.dacorum.gov.uk/docs/default-source/planning-development/local-enforcement-plan.pdf?sfvrsn=7f37eb9f_8.

2.3 The contents of DBC's LEP incorporates an annual 'pull out' section, Section 9, entitled "Priorities and Projects".

2.4 This report recommends that the priorities for 2023 be:

- A) A review of the A board advertisements on display along the Berkhamsted High street.
- B) Cases opened before 2016 to be reviewed with an aim to be reduced by half.
- C) A focus on reducing planning enforcement cases that were received in the year 2020 i.e. before it becomes too late to take formal Enforcement action due to the passage of time.

2.5 An associated Action Plan details how this focus is intended to operate throughout 2023.

3. Purpose of Local Enforcement Plan

3.1 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.

3.2 According to paragraph 59 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*".

3.3 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.

4. Planning Enforcement Priority Projects

4.1 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, DBC's LEP acknowledges that there are some 'hot topics' or 'problem areas' where the team's resources can be focused to make the maximum impact.

4.2 As such, Section 9 of the LEP introduced 'Priorities and Projects'. This section is 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. For example, this could be a focus on listed buildings, or on the unauthorised hardpaving of front gardens, or on 'beds in sheds'.

4.3 The priorities and projects for the first two years of DBC's current LEP have been as follows:

YEAR	PROJECT NAME	PROJECT OBJECTIVE
2020	Project A 'Major Developments'	To monitor pro-actively all planning permission for significant major developments.
	Project B 'Adverts / Banners'	To keeps the local environment thriving and attractive by taking robust and prompt action along Maylands Avenue, the Two Waters Road / London Road junction and The Plough roundabout.
2021	Project A 'Major Developments'	To monitor pro-actively all planning permission for significant major developments.
	Project B 'Education'	To try to prevent breaches of planning control occurring in the first place.
2022	Project A 'Priority Project for 2022'	A focus on reducing open cases for 2012, 2013, 2018 and 2019.

4.5 The "Priority Project for 2022" was a focused review that was undertaken of the older open cases (focusing on those approaching the 4 year and 10 year passage of time dispensation), to ensure that appropriate action is taken and assurance is provided that cases will not lapse due to the time limits.

YEAR	CASES RECEIVED	CASES OPEN 2022	REMAINING 2023
2012	485	4	0
2013	473	3	0
2018	581	32	13
2019	531	72	22

4.6 The results of this are seen in the above table from the cases open in 2022 to remaining cases in 2023 both 2012 and 2013 cases are all now closed. The cases open from 2018 dropped by 2 thirds from 32 to 13 at the start of 2023. 2019's total cases dropped 50 from 72 to 22 at the start of 2023. The Priority Project for 2022 successfully met its targets drafted back in the first quarter of 2022.

5. 2023 'Priority Project'

5.1 As stated above any annual priority or project must take into account the most important needs of the Borough, its residents and businesses, but must also consider the overall resources of the Planning Enforcement team. At present Planning Enforcement will be without a third Enforcement Officer after the retirement of Cora Watson the beginning of February 2023. Whilst, it is anticipated that the post will be filled, it is expected to be vacant until at least the start of April. As such, any 2023 priority or project must reflect the current demands of the Enforcement team and not add further work to a department that is already stretched.

5.2 After members were consulted in October 2022 for recommendations for the year 2023 priority project a Berkhamsted Cllr raised a persistent issue with A-board advertisements along Berkhamsted High Street. We have opted to take the Cllr up on the recommendation as it is in the heart of the Berkhamsted Conservation area and in great detriment to the public taking up more space than they should on the pavement causing issue for those with disabilities requiring wider access.

5.3 To accomplish this our approach will need to be in line with the Hertfordshire County Council A board advertisement Guidance. A list of the High street premises with A boards will be created, this list will then have a process of checking what consent the premises may hold whether deemed consent meeting the conditions under Class 13 (whereby the advertisement has been displayed for more than ten year continuously) of the advertisement regulations or express consent which has been approved by the LPA. If there is evidence that no consent is in place we will pursue either an application be submitted (so long as compliant with A board guidance otherwise) or the A board advertisement be removed. Failure in removal of the advertisement an expediency assessment is to take place whether to pursue prosecution.

5.4 As mentioned in the 2022 priority recommendation it is very important that historical cases are given just as much focus as new cases because, in most cases, development becomes immune from enforcement if no action is taken:

- within 4 years of substantial completion for a breach of planning control consisting of operational development;
- within 4 years for an unauthorised change of use to a single dwellinghouse;

- within 10 years for any other breach of planning control (essentially other changes of use).

5.5 These time limits are set out in section 171B of the Town and Country Planning Act 1990.

5.6 Thanks to the ‘Priority Project for 2022’ the cases at risk of immunity from 10 years has been dramatically reduced. However our cases that may have immunity within 4 years are still at a high risk.

5.7 Therefore, in recognising the above issues we propose undertaking the following two priorities:

(1) a review of all cases prior to 2016 and (2) a further focused review of cases opened in 2020 (focusing on those approaching the 4 year passage of time dispensation), to ensure that appropriate action is taken and assurance is provided that cases will not lapse due to the time limits”.

5.8 The following table details the number of Enforcement cases open prior to 2016 and the number of cases open for 2020.

Open Cases received prior to 2016	Open cases received in 2020
22	73

5.9 Overall, it is very important that the cases highlighted in the table above are reviewed and the appropriate action taken to ensure that either potentially harmful development is not allowed to remain due to the passage of time making such development unenforceable or older enforcement cases are left unresolved.

6. 2023 ‘Priority Project’ Action Plan

6.1 In order to ensure that the objectives raised are reviewed and actioned in a logical and organised manner it is necessary for an Action Plan to be created, detailing how and by when each action should be undertaken.

6.2 The proposed Action Plan is as follows:

A-boards along Berkhamsted High Street:

ACTION	BY WHEN?
(1) A) Create a list (on a spreadsheet) of premises on Berkhamsted High street with A board advertisements	End of February 2022
(2) A) Review each of the premises Advertisements establishing if they comply with any deemed consent or have acquired any express consent. Open new cases as required and update the spreadsheet list with the outcome for the others.	End of April 2022

(3) Request those without consent yet compliant with the other conditions of the Herts CC Guidance to apply for express consent with the LPA Others advertisements non-compliant with the other conditions of the Herts CC Guidance should be request to be removed	End of May 2022
(4) Expediency assessments made for cases that have not applied for consent and final warning given to others advertisements that do not comply with the other conditions of the Herts CC Guidance	End of June 2022
(5) Advertisements remaining assess expediency to prosecute	End of July 2022

Cases Pre 2016:

ACTION	BY WHEN?
(1) Create a list of all open cases pre-2016	End of February 2022
(2) Review each case pre 2016 and which appropriate action should be taken, i.e. closure for compliance of an EN or prosecution for non-compliance or otherwise.	End of April 2022
(3) Complete any further investigations required for cases (site visits, PCNs, etc.)	End of July 2022
(4) Take formal enforcement action as appropriate for cases.	End of Sept 2022

Cases in 2020:

ACTION	BY WHEN?
(1) Create a list of all cases in 2020	End of February 2022
(2) Review and Analyse which cases are (1) already out of time, (2) already subject to formal enforcement action, and (3) being led by an Enforcement Officer still with the Council.	End of April 2022
(3) Review cases, establishing the stage these cases have reached, and establishing 4 year deadline dates for cases involving serious breaches.	End of April 2022
(4) Write up all cases that can be closed (breach resolved, no breach, not expedient, etc.)	End of June 2022
(5) Complete any further investigations required for cases (site visits, PCNs, etc.)	End of July 2022
(6) Take formal enforcement action as appropriate for cases.	End of Sept 2022

7. Conclusion

7.1 It is considered that the proposed 'Priority Projects for 2023', i.e. a focus on reducing open cases pre-2016 and open cases in 2020, along with the Berkhamsted High Street project, strikes an appropriate balance between dealing with enforcement matters that

have the potential to cause significant and permanent harm and recognising the current capacity of the Planning Enforcement team.

8. RECOMMENDATION – That the proposed project / priority for 2023 within the Local Enforcement Plan – A review of the Berkhamsted High Street A board Advertisements, a review of all cases prior to 2016 and a further focused review of cases opened in 2020 (focusing on those approaching the 4 year passage of time dispensation) - be taken to the Portfolio Holder for **APPROVAL**.