

Agenda Item 33.

TITLE	Local Planning Enforcement Plan
FOR CONSIDERATION BY	The Executive on 30 July 2015
WARD	None Specific
DIRECTOR	Heather Thwaites, Director of Environment
LEAD MEMBER	John Kaiser Executive Member for Planning and Highways

OUTCOME / BENEFITS TO THE COMMUNITY

The Local Planning Enforcement Plan (LPEP) sets the Council's policy and procedures in respect of planning enforcement in order to preserve and enhance the built and natural environment and protect public amenities.

RECOMMENDATION

The Executive is asked to approve the Local Planning Enforcement Plan (LPEP) for adoption.

SUMMARY OF REPORT

The LPEP has been written to comply with the recommendations of the Silvester Report into the Council's Planning Enforcement service. The Council's draft LPEP was considered by the Council's Executive and released for consultation in January 2015. Consultation took place in February/March 2015. This report summarises the responses and recommended changes to the document in response to the consultation exercise.

Generally the LPEP was welcomed by those who responded in respect of the draft document. Some of the comments that have resulted in amendments and additions to the LPEP but the changes are not substantive or fundamental to the approach set out in consultation draft.

Background

The report that was considered by the Council's Executive in January 2015 sets out the background to the LPEP, its purpose and content. Consultation was undertaken by the Council and ran from 9 February to the 22 March 2015.

Consultation

The following methods of consultation were undertaken by the Council during February /March 2015.

- LPEP was made available on the council's website and hard copies available to view in the Council's Civic Offices and in all of the Borough's libraries
- Emails (where email addresses were provided) sent to all of the people on the LDF database
- The consultation advertised in several different places on the Council's website
- An email advertising the consultation and explaining what the Draft LPEP is about was sent to all of the schools across the Borough. The Council asked the schools to forward the email on to all those parents on their parent mail list
- The Draft LPEP was publicised via social media on both the Council's Facebook and Twitter pages
- Adverts were placed in the Wokingham Times, Henley Standard, Maidenhead Advertiser, Reading Chronicle, Bracknell News and Wokingham News
- A press release advertising the event was sent twice over the consultation period to the newspapers listed above. The press release should be advertised on the Council's website and passed to local radio stations
- Copy of the document provided to the Overview and Scrutiny Committee for formal comment

The Council received 14 responses in total as a result of the consultation exercise. In addition, there were comments made by the Overview and Scrutiny Committee. These comments are contained in the summary document in Appendix 1.

Summary of Consultation comments

Generally the draft LPEP was well received by those who responded to the consultation exercise. It was felt that the document will help to standardise the enforcement service and to explain what the service can provide and how it will allocate its resources. The Council's responses to the comments and the recommended changes to the document are contained in the table in Appendix 1. These have been incorporated within the final draft of the LPEP contained in Appendix 2. While some of the points made were specific, there were also number of broader themes that which shall be addressed below.

Planning Harm

A clearer explanation of planning harm has been requested. In addition, a request for more specific explanation of terms such as significant harm, expediency and acting proportionately.

These terms are used by in legislation, policy and guidance and it can be difficult to be very specific. This is because each piece of land and development is different as is the relationship and impact on its neighbouring uses. Furthermore, the definition of harm is subject to redefinition and refinement which is informed by appeal decisions and case law which is constantly changing. This results in any definition becoming out of date virtually as soon as it is identified.

Despite the above, the LPEP has been updated from the consultation draft to provide more clarity about what planning issues can be taken into account to identify if harm has occurred as a result of a breach. Further, in order to clarify the expediency of taking action, a checklist has been included in an appendix to the document. This is a useful tool to be used to identify if the harm resulting from a breach is such that the Council should take action against this. It will also provide useful in enabling the Council to identify which cases to prioritise.

Compliance and monitoring development

Reference has been made in the consultation responses to the opportunity to use Building Control Officers to check for compliance with planning permissions and for there to be a more pro-active approach towards compliance.

Historically, the Council has not had the resource to undertake proactive compliance checking but this has now been introduced. This is reflected in the LPEP (Section 20). The Council has adopted a procedure for monitoring major developments and compliance with conditions. Unfortunately, the Council does not have the resource to undertake the comprehensive checking for compliance for all permissions and does rely on local residents, town and parish councils and the general public to notify the team about potential breaches.

Involvement of Ward Members

There have been comments from 8 of the total 15 respondents (5 from Wargrave) about the involvement of ward members in enforcement cases. In particular, the current practice of 48 hrs given to ward members to notify them of the closure of an enforcement case which has been reflected in the LPEP.

Ward members receive notification of a Request For Service when an enforcement case is raised with the Council and as a result, they are able to seek more information and clarification from the enforcement team while the case is being investigated. On the intended closure of the case, they are also informed with 48 hours' notice to challenge this, to seek further clarification or to request further work. If there are unresolved issues raised by the ward member, the case is not closed until these have been addressed and the ward member is satisfied with this.

Despite comments made that the time period of 48 hours is too short, only one ward member has ever commented about this time period. As ward members are informed when a complaint is received and are therefore already be aware of the case, the 48 hours closure notice is considered reasonable, However, amendments to the wording of the document have been made to clarify the position and that that if the member is not happy with the closure of the case, then this is not closed until all issues are resolved.

Role of the Town and Parish Councils

Some of the town and parish councils have commented that they do not have the knowledge and resources to undertake enforcement work on behalf of the Council. The LPEP is not advocating that the town and parish councils undertake the local planning authority's enforcement work. It provides the framework for town and parish councils to take a more active in planning enforcement if they wish to do so. The approach advocated is to keep the town and parishes involved in cases given their in-depth knowledge of their areas to use them as the 'eyes and ears' of the Council on the ground. They are a highly valued source of information and if willing, they can often help bring things to a more successful conclusion informally and more quickly than the formal process is able to do.

Role of residents

One comment has been made that it is difficult to believe that the Council is 'strongly encouraging that residents communicate with each other to try and resolve breaches'. The Council is not suggesting that it will not investigate an alleged breach unless the complainant has contacted the alleged offender. However communication between residents is often the most effective way to resolve issue and often prevents neighbour disputes escalating. This approach is encouraged within policy and examples of good practice.

Performance Monitoring

The Overview and Scrutiny Committee recommended that monitoring information could be simplified to look at trends in breaches, and that the amount of information monitored and reported is reduced. The monitoring suggested in the LPEP has therefore been simplified (Appendix 2 of the LPEP). Another request was for regular updates on long term cases and this has also been reflected in the monitoring section of the document.

Conclusion and recommendation

It is good planning practice for local authorities to have a Local Planning Enforcement Plan. The LPEP has been written to comply with the recommendations of the Silvester Report into the Council's Planning Enforcement and to balance the demands on the service's resources. It is recommended that this LPEP is adopted by the Council in the amended form to reflect the outcomes of the consultation exercise.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	£0	Yes	Revenue

Next Financial Year (Year 2)	£0	Yes	Revenue
Following Financial Year (Year 3)	£0	Yes	Revenue

Other financial information relevant to the Recommendation/Decision
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See above section - Resource and finance Implications

Cross-Council Implications

Improved working with other regulatory services

List of Background Papers

Silvester Report National Planning Practice Guidance (NPPG) (updated in March 2014)
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