

# DEVELOPMENT CONTROL AND LICENSING COMMITTEE

19<sup>th</sup> August 2014

## Planning Enforcement Prioritisation Scheme Review

Report of the Director for Places (Environment, Planning & Transport)

### 1. PURPOSE OF THE REPORT

- 1.1 Members agreed the introduction of the Planning Enforcement Prioritisation Scheme from 1<sup>st</sup> August 2013. In order to consider the efficiency of the scheme and the threshold set for pursuing further action it was decided that a review would be carried out after one year of operation.

### 2. RECOMMENDATIONS

- 2.1 **That the scheme continues with no change to the threshold for Enforcement Prioritisation.**

### 3. BACKGROUND TO DECISION LAST YEAR

- 3.1 The aim of the scheme is to allow Officers, within strict guidelines, to make decisions on whether further time and resources should be used to chase outstanding applications for minor breaches where the outcome of any such application would result in an unconditional permission being granted. A copy of the original report to this committee is attached as **Appendix 2**.
- 3.2 The reduction in manpower for dealing with alleged breaches of development control and an increase in the recording of minor breaches put a strain on what was already a limited resource and it was therefore necessary to look at how best to utilise the time and effort spent on resolving reported breaches. Having looked at practices in other Enforcement teams it was agreed that the most efficient use of our resource would be to concentrate on the breaches which would unacceptably affect the public amenity. All reported breaches are and continue to be investigated. The approved scheme introduced a facility for very minor enforcement cases to be closed without the need to chase an application which would be approved or to prepare a report for this committee with a recommendation of no further action. This is a more efficient and effective procedure and gives more time to deal with unacceptable breaches.
- 3.3 Table 1 below is a summary of the alleged breaches reported since the scheme came into use.

**Table 1 Summary of Breaches**

Cases	Confirmed Breaches	Resolved	Unresolved	Closed by Scheme
169	93	26	65	2

- 3.4** Table 2 is a brief summary of the 2 cases closed under the scheme and is attached as **Appendix 1**.
- 3.5** The relatively low figure of cases closed under the scheme reflects the low threshold score of 3 or less and demonstrates that only very minor breaches can be closed under the scheme. Other Councils do set a higher threshold. However the number is lower than predicted and it may well be that the last year has been atypical. Officers will therefore continue to review the operation of the scheme.

**Background Papers**

None

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**Table 2 Cases Closed Using Prioritisation Scheme.**

<b>Ref No</b>	<b>Description of Breach</b>	<b>Investigation</b>	<b>Comment</b>
<p><b>2014/0017</b></p> <p>Score (3)</p>	<p>The owner of the property, which is listed, brought to our attention internal alterations to a fireplace which had been widened without listed building consent.</p>	<p>The unauthorised works were to a fireplace which had been widened to allow the fitment of a range cooker. The new owner wishes to bring the fireplace back into use and after removing the plaster board uncovered the altered stonework. The Conservation officer visited the site and advised that such works would normally have required listed building consent.</p>	<p>The fireplace was within a 19<sup>th</sup> century extension to the original cottage. The Conservation Officer's opinion was that the works had not affected the character of the building as one of special architectural or historic interest. Legal advice was that under the circumstances it was unlikely that a prosecution would succeed. The owner was reinstating the fireplace to its original condition. It would not therefore be in the public interest to pursue a prosecution of the previous owner.</p> <p>The owner did phone to complain about the decision to take no action. However, it appeared that it was more of a dispute with the previous owner.</p>
<p><b>2014/0018</b></p> <p>Score (3)</p>	<p>Non matching materials have been used on a side extension to the dwelling contrary to a planning condition.</p>	<p>The materials used matched those of an existing extension. However the condition required materials to match those of the original dwelling.</p>	<p>Planning officers were of the opinion that an application to vary the condition to allow the use of the materials used would succeed. The owner was advised that the materials were in breach of the condition and that an application was invited.</p>

# DEVELOPMENT CONTROL AND LICENSING COMMITTEE

25<sup>th</sup> June 2013

## PLANNING ENFORCEMENT PRIORITISATION SCHEME

### Report of the Operational Director for Places

#### 1. PURPOSE OF THE REPORT

- 1.1 This report introduces an approach to dealing with minor enforcement cases to make more efficient use of time, to focus resources on more serious enforcement cases.

#### 2. RECOMMENDATIONS

- 2.1 **That Members resolve to introduce the Planning Enforcement Prioritisation Scheme with effect from 1<sup>st</sup> August 2013**
- 2.2 **That after one year of operation the scheme is reviewed by this Committee**
- 2.3 **That a review of the Enforcement Policy is taken to Council**

#### 3. BACKGROUND

- 3.1 Enforcement cases include some that are very minor with minimal public impact. Some of these cases stem from neighbour disputes where the planning system is used to further a dispute, rather than for genuine planning reasons. These can be time consuming for officers to action for little tangible public benefit. An additional effect is that officers are spending time on these cases when they could be otherwise progressing serious cases that are of wide public concern.
- 3.2 In the current Constitution the authority to consider enforcement action lies with this Committee. There is no delegation to officers even on the most minor of cases. If officers cannot resolve the matter and no enforcement action is justified, then the matter has to be resolved by this Committee.
- 3.3 In addition from 8<sup>th</sup> April 2013 the resource available to deal with enforcement has reduced from 1.2 FTE to 1.0 FTE. This saving has already been taken in the Medium Term Financial Plan. This reinforces the need to be more time efficient on the enforcement case load.
- 3.4 Officers have visited Melton Borough Council to discuss their alternative approach. They have tried to get Parish Councils to do some of the simple cases. Out of 26 parishes, they only have 3 actively doing it. To date it has not resulted in any staff saving and has required more resources to set up and train Parish Councillors. Melton's situation is also very different as 60%

of complaints are from parishes, whereas in Rutland it is a minimal number. This is not seen as a viable option and a prioritisation scheme would still be needed for those parishes who do not take part. Furthermore, it will not address the reduction in resources for enforcement.

- 3.5 In general, the Planning Team usually has circa 50 live enforcement cases at any time. Of the 51 current cases (at the time of writing) there are 15 that would fall within the scope of the proposed scheme. Currently there are 8, which will otherwise all have to come to this committee with a recommendation for no action.

#### **4. PLANNING ENFORCEMENT PRIORITISATION SCHEME**

- 4.1 Many other local planning authorities have faced these issues. A common approach is to put in place some form of prioritisation scheme. The proposed scheme, as set out in Appendix A, is therefore largely drawn from others that are already in use.
- 4.2 The proposed scheme provides scores to various aspects of enforcement breaches, with a higher score being a more serious breach. The proposed scoring is set out in Appendix B.
- 4.3 It is important that the scheme and rating process is visible and accessible to the public. Appendix A therefore explains the scheme and how it would be operated. The website will be updated to include the scheme information so that this is open and transparent and the public can see how the scoring is done.
- 4.4 A key decision is agreeing what score is the threshold for action being pursued. In the scheme elsewhere that this is based on, the threshold is 5. It is proposed that initially in Rutland this is set lower at 4 and then evaluated in the light of experience to see whether it should be raised.
- 4.5 It is possible that even if a scheme is minor it could still be unacceptable. Appendix C therefore contains a flow chart to be followed. If a scheme scoring less than 4 is nevertheless seen as unlikely to get permission, then it is taken out of the prioritisation scheme.
- 4.6 If the proposed scheme is supported, this will then require a review of the Council's Planning Enforcement Policy, which dates back to 2009, to be supplemented with the scheme.

#### **5. CONCLUSIONS**

- 5.1 To more efficiently and effectively target the Council's limited enforcement resources, it is recommended that a prioritisation scheme is introduced.

#### **Background Papers**

Tendring District Council Harm Assessment scheme

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**Rutland County Council District Council**  
**Planning Enforcement Prioritisation Scheme**

**Purpose**

This document sets out the Council's Planning Enforcement Prioritisation Scheme in relation to the handling of allegations concerning a breach of planning control. It assesses the planning harm that a contravention is perceived to cause and provides a process for the 'closure' of some minor breaches of planning control.

**Background**

In the past when the Council considered an alleged breach of planning control, the case was not closed until the breach of planning control was rectified. This resulted in the Enforcement Officer continuing to use resources to pursue some minor breaches of planning control that were not causing harm to public amenity and/or interest. A more efficient and effective approach is required.

**The Scheme**

The Prioritisation Scheme is applied to cases which are found to be a breach of planning control following an initial site inspection. The scheme grades the 'harm' of that breach against a series of scored criteria. The agreed level of material harm is a score of 4 and above based on comparative scheme elsewhere. Where the cumulative score is 3 and under it is not considered to be expedient to pursue the breach as the impact on public amenity and/or interest will be small or negligible. In these instances the case will be closed and advisory letters will be sent to both the offender and the complainant. The property owner will also be advised of the need to rectify the situation, most usually through the submission of a retrospective planning application, as the breach that has occurred could affect any future sale. Once all parties have been notified the Council will take no further action. This will not apply to those cases with a score of 3 or less where it is assessed by the Enforcement Officer that the breach is unlikely to receive an unconditional grant of planning permission. In these circumstances the breach will be pursued to a successful conclusion in the normal way.

Breaches of planning control that attract a score of 4 or more will be pursued by officers until matters are resolved either through negotiation or by taking formal action.

The Prioritisation scheme will be applied to all cases involving development. Advertisement Control, Amenity Notices and Tree/Hedgerow matters have different legislative requirements and will be dealt with separately.

Sixteen planning 'harm' factors are set out in the Prioritisation Form dealing with factors such as, the nature of the breach, safety issues, policy matters, degree of harm etc.

### **Operational Aspects**

The 'Prioritisation Form' will be completed by the Enforcement Officer within 20 working days of receipt of an enquiry. Where the alleged breach relates to a change of use of land the site should be visited a minimum of three times in that twenty day period (if necessary) to establish if a breach of control is occurring (if the initial or second visit are inconclusive).

### **Conclusion**

The Prioritisation Scheme provides:

- A quantitative and qualitative assessment of the harm to public amenity/interest
- An open and transparent procedure
- A quick and effective processing of cases
- A flexible system to make efficient use of resources
- Equality of treatment of dealing with cases.



**PRIORITISATION FORM**

TO BE COMPLETED BY AN OFFICER WHO HAS INSPECTED THE DEVELOPMENT

**All retrospective refusals of planning permission will automatically receive a full investigation – do not complete form.**

Each new complaint will be allocated scores as set out below to assess its harm. The total will provide its harm score on which its priority will be based.

Where there is no breach of planning control found, the file will be closed accordingly.

Points Allocation			Score
1	Is the breach	Worsening/ongoing (1) Stable (0)	
2	Highway safety issue	Yes (2) No (0)	
3	Other safety issues	Yes (2) No (0)	
4	Causing a statutory or serious environmental nuisance	Yes (1) No (0)	
5	Complainant	Immediate neighbour (2) Other/Parish Council (1) Anonymous/malicious (0)	
6	Age of breach	Within 6 months of	

		immunity (2) Less than 3 months old (1) More than 3 months old (0)	
7	Major Planning Policy Breach	Yes (1) No (0)	
8	Is there harm to a material planning consideration	Widespread (2) Local (1) None (0)	
9	Irreversible harm to a material planning consideration	Yes (2) No (0)	
10	Flood Risk	Zone 3 (2) Zone 1-2 (1) NFR (0)	
11	Breach of a planning condition or Article 4 Direction	Yes (1) No (0)	
12	Conservation Area (or adjacent to)	Yes (1) No (0)	
13	Listed building (or affecting the character or setting of)	Yes (1) No (0)	
15	Particularly sensitive site e.g. SSSI, Scheduled monument, Listed Garden, Archaeological importance	Yes (1) No (0)	
16	Undesirable precedent (please provide details)	Yes (1) No (0)	

TOTAL POINTS (SCORE)	
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NB. Please see the attached Prioritisation Flow Chart for those cases where the Score is 3 or below but the Enforcement Officer, in consultation with the Planning Officer, considers that the breach would not receive an unconditional planning permission.



