

Select Committee Agenda



Governance Select Committee Tuesday, 27th November, 2018

You are invited to attend the next meeting of **Governance Select Committee**, which will be held at:

**Committee Room 1, Civic Offices, High Street, Epping
on Tuesday, 27th November, 2018
at 7.15 pm**

**Derek Macnab
Acting Chief Executive**

**Democratic Services
Officer**

J Leither
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Members:

Councillors G Chambers (Chairman), D Dorrell (Vice-Chairman), R Brookes, L Burrows, R Gadsby, L Hughes, S Jones, H Kauffman, M McEwen, M Sartin, J Share-Bernia, H Whitbread, J M Whitehouse and D Wixley

SUBSTITUTE NOMINATION DEADLINE:

6.15 pm

1. APOLOGIES FOR ABSENCE

2. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

To report the appointment of any substitute members for the meeting.

3. NOTES OF PREVIOUS MEETING (Pages 3 - 10)

To agree the notes of the meeting of the Select Committee held on 23 October 2018.

4. DECLARATIONS OF INTEREST

To declare interests in any items on the agenda.

In considering whether to declare a pecuniary or a non-pecuniary interest under the Code of Conduct, members are asked pay particular attention to paragraph 9 of the Code in addition to the more familiar requirements.

This requires the declaration of a non-pecuniary interest in any matter before an Overview and Scrutiny Committee which relates to a decision of or action by another Committee or Sub-Committee of the Council, a Joint Committee or Joint Sub-Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 9 does not refer to Cabinet decisions or attendance at an Overview and Scrutiny Meeting purely for the purpose of answering questions or providing information on such a matter.

5. TERMS OF REFERENCE & WORK PROGRAMME (Pages 11 - 16)

(Chairman) The Overview and Scrutiny Committee has agreed the terms of reference of the Select Committee for the current municipal year. These are attached as an appendix to this agenda, along with the ongoing work programme for the Committee and Members are requested to review the terms of reference and progress towards the achievement of the work programme.

6. CORPORATE PLAN 2018-2023 - PERFORMANCE REPORT Q1 & Q2 2018/19 (Pages 17 - 30)

To consider the attached report.

7. REVIEW OF THE LOCAL ENFORCEMENT PLAN (Pages 31 - 58)

To consider the attached report.

8. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW & SCRUTINY COMMITTEE

To consider which reports are ready to be submitted to the Overview and Scrutiny Committee at its next meeting.

9. FUTURE MEETINGS

To note the dates of future meetings of the Governance Select Committee:

- 05 February 2019
- 26 March 2019

**EPHING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF GOVERNANCE SELECT COMMITTEE
HELD ON TUESDAY, 23 OCTOBER 2018
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 7.15 - 8.05 PM**

| | |
|-------------------------------|---|
| Members Present: | Councillors G Chambers (Chairman), D Dorrell (Vice-Chairman), R Brookes, L Burrows, L Hughes, S Jones, H Kauffman, M Sartin, J Share-Bernia, H Whitbread, J M Whitehouse, D Wixley |
| Other members present: | Councillor J Philip |
| Apologies for Absence: | Councillors R Gadsby, M McEwen |
| Officers Present | S Hill (Service Director (Governance & Member Services)), N Richardson (Service Director (Planning Services)), M Chwiedz (Senior Project Manager), W MacLeod (Senior Electoral Services Officer), S Tautz (Democratic Services Manager) |

12. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

It was reported that no substitute members had been appointed for the meeting.

13. NOTES OF PREVIOUS MEETING

The notes of the meeting of the Committee held on 3 July 2018 were agreed as a correct record.

14. DECLARATIONS OF INTEREST

No interests were declared by members of the Committee in any item on the agenda for the meeting, pursuant to the Council's Code of Conduct

15. TERMS OF REFERENCE & WORK PROGRAMME

The Committee reviewed its terms of reference for the current municipal year and current progress towards the achievement of its work programme for the year.

16. REVIEW OF LOCAL ELECTIONS 2018 & ASSOCIATED MATTERS

The Committee considered a comprehensive report of the Returning Officer, reviewing the planning and delivery of the local elections held in May 2018 and addressing other matters related to the responsibilities of the Returning Officer and the Electoral Registration Officer. The Committee was advised that candidates and agents for the elections had been offered an opportunity to provide feedback on the management of the local elections.

The Returning Officer reported that a team of appropriate officers had met regularly from late 2017 to plan for the elections and to ensure that processes were undertaken at the appropriate times. A project plan and risk register for the elections had been prepared, which was reviewed and updated on a regular basis throughout

the election period. The Committee was advised that the Returning Officer had retained the services of specialist Counsel to advise on issues arising during the election period and that some difficulties had been encountered with the Council's bank, which had taken a number of weeks to make necessary changes to the Returning Officer's Account, following the resignation of the former Chief Executive (and Returning Officer) in December 2017.

The Committee was advised that the Public Relations Section had undertaken a sustained publicity campaign in the run-up to the election days to encourage registration and voting and that the BBC had complimented the Council's provision of a media pack for the press as exemplary. The Returning Officer reported that a successful and well-attended candidates briefing had been held to brief candidates on the arrangements for the election, to which local media representatives had also been invited.

The Returning Officer reported that assistance had been received from Essex Police around the local elections and that the visible presence by the police and the additional security measures put in place to maintain the security of the election process and the count following the General Election in 2015, had continued to operate effectively. Members were advised that appropriate levels of staffing had been available for polling stations, the verification and the count and that service directors had been helpful in releasing officers from normal duties to undertake election processes.

The Committee noted that postal voting had continued to be very popular and that a return rate of 69% of postal votes issued had been achieved for the election. The Returning Officer reported that there had been a low number of postal ballots rejected at the verification stage and that no evidence of fraudulent activity had been identified. Members were advised that electors whose postal ballot was rejected at the verification stage were contacted by the Returning Officer after the election and, where required, specimen signatures were refreshed. The Committee noted that the rejection of postal ballots was always adjudicated upon by a Deputy Returning Officer.

The Returning Officer reported that there had been some changes to polling stations for the elections, particularly in Chigwell where a polling station had been moved to the Domus Mariae Centre (part of Chigwell Convent). Members noted that feedback had indicated that access to the Domus Mariae Centre had not been acceptable for less able voters and that this issue would therefore be addressed as part of the review of polling stations to be undertaken later in the year. It was reported that a replacement polling station at Nazeing Congregational Church had been acceptable, although it did not have adequate parking facilities and that a review of the access for disabled persons to the polling station at Hillhouse in Waltham Abbey would be undertaken for the local elections in May 2019. The Returning Officer confirmed that changes to polling station locations were always highlighted in the official poll card issued for the election and that investigation would be made of the return to polling station use of Whitebridge School in Loughton, notwithstanding that there were not to be any local elections in Loughton in May 2019.

The Committee was advised that the verification and counting of ballot papers at Debden Park High School had concluded by 1.05am, using a 'mini count' system. The Returning Officer had been disappointed to note that a number of count attendees (not staff employed by the Returning Officer) appeared to have obviously consumed alcohol before coming to the count. Members noted that one candidate had been asked to leave the count due to this issue and that the Returning Officer

intended to amend the terms of attendance at the count for the local elections in May 2019, to make it clear that any attendee showing signs of the effects of alcohol would not be admitted to the count and that no drinking of alcohol would be permitted anywhere on the site of the count centre.

The Committee noted a number of comments relating to the management of the elections, that had been submitted by Councillor S. Murray. In response to Councillor Murray's concern with regard to public admittance to the count centre, the Returning Officer advised members that, although Debden Park High School had the largest hall in the Epping Forest Constituency, the need to accommodate a significant number of count staff and persons attending the count by right, meant that there was no opportunity to provide general public access to the count.

The Returning Officer reported that the Electoral Registration and Administration Act 2013 had introduced changes to the timing of compulsory reviews of parliamentary polling districts and polling places and that the next review was required to be completed between 1 October 2018 and 31 January 2020. The Committee was advised that it was for local authorities to decide when to carry out reviews within the determined period, but that it was considered that the review for the Epping Forest Constituency area should commence in January 2019. The Returning Officer advised that this approach would enable the completion of the annual canvass for the Register of Electors for 2018 and allow the completion of the review prior to the commencement of the canvass for 2019. Members were advised that the response to the review (and any changes) was a matter for full Council to approve and that the Committee would normally recommend the review to the Overview and Scrutiny Committee and then to full Council. However, given the desirability of completing the review by July 2019, the Committee considered whether a direct report to Council should be made to enable the review timescale to be achieved.

The Returning Officer reminded members that, as part of the transformational work agreed by the Cabinet in December 2017, the Council had worked with consultants to improve the response to the annual canvass for the Register of Electors, using behavioural insight techniques. The Committee noted that, whilst the Council continued to have one of the highest registration rates in the country and improvements had been made to the registration process over time, the two-part individual registration process was not well understood and officers had therefore reviewed the suite of registration forms to incorporate persuasive messages encouraging the early and accurate return of canvass forms. The Returning Officer indicated that the initial findings from the canvass were positive and that officers would review canvass response levels more fully at the end of the canvass period.

The Committee was advised that the Boundary Commission for England had submitted its final recommendations on revised parliamentary constituencies to the Government in September 2018. The Returning Officer reported that no changes were proposed to be made to the boundaries of the Epping Forest Constituency, but that the changes reflected in a second consultation on the boundaries of the Harlow and Brentwood and Ongar Constituencies had been formally proposed to the Government.

RESOLVED:

- (1) That the review of the management and delivery of the local elections held on 3 May 2018, be noted;

- (2) That the proposals of the Returning Officer for the management of local elections to be held on 2 May 2019, be noted;
- (3) That the appreciation of the Committee for the efforts of the Returning Officer and his team in ensuring the successful management and delivery of the local elections held on 3 May 2018, be recorded;
- (4) That no recommendations be made to the Returning Officer for changes to procedures for the management of future local elections;
- (5) That the proposed timeline and scrutiny arrangements for the statutory review of polling districts, polling places and polling stations to be undertaken during 2019, be agreed;
- (6) That the Overview and Scrutiny Committee be requested to agree that the Select Committee report directly to Council at its meeting in July 2019, on the any proposals arising from the review of polling districts, polling places and polling stations;
- (7) That the success of the behavioural insights work undertaken to improve response to the annual canvass for the Register of Electors for 2018, be noted; and
- (8) That the outcome of the Boundary Commission for England's review of parliamentary constituencies, insofar as they affect the Epping Forest District, be noted.

17. PETITION SCHEME - REVIEW

The Committee considered further information with regard to its review of the operation of the Council's current Petition Scheme, comprising comparative information obtained in respect of the signature thresholds for petitions managed by a number of neighbouring authorities. The Democratic Services Manager reported that the comparative information obtained from other authorities with regard to the handling of petitions, suggested that low numbers of petitions were received across the board and that the Council's existing thresholds did not therefore appear to be presenting a barrier to the submission of petitions.

The Democratic Services Manager reported that, in accordance with the wishes of the Committee at its meeting February 2018, a review of the existing guidance for the Petition Scheme had been undertaken to ensure that this was clear and consistent. Members were advised that the revised scheme incorporated previous separate guidance in regard to the creation of e-petitions and also set out the main functions of the Council to ensure that, as far as possible, petitions were always directed to the most appropriate organisation.

The Committee was advised that, once agreed, the revised Petition Scheme would be publicised appropriately on the Council's website and in the Council Bulletin, to increase member and officer awareness of the scheme and the Council's procedures, as it was often the case that were petitions are submitted directly to ward councillors. The Democratic Services Manager reported that the location of the Petition Scheme pages on the Council's website was also to be reviewed, as part of the development of the new website structure.

The Democratic Services Manager reminded members that the Petition Scheme formed part of the Council's Constitution and that revisions would therefore be required to be agreed by the Council.

RESOLVED:

- (1) That, subject to the inclusion of Allotments, Cemeteries and Open Spaces as responsibilities of local councils in the schedule of local government functions, the revised version of the Council's Petition Scheme be agreed; and
- (2) That, subject to the views of the Constitution Working Group, the Council be requested to agree the revised Petition Scheme for inclusion within the Constitution.

18. EQUALITY OBJECTIVES 2018-2022 - QUARTERLY MONITORING

The Committee was reminded that the Equality Act 2010 placed a number of responsibilities on the Council, including a Public Sector Equality Duty to have due regard to equality in the exercise of its functions, to eliminate discrimination, to advance equality of opportunity and to foster good relations between persons who share a relevant characteristic and those who do not.

The Senior Project Manager reported that, to advance its compliance with the Public Sector Equality Duty, the Council was also required to adopt appropriate equality objectives to improve equality for service users and employees.

The Committee noted that, in April 2018, the Cabinet had agreed four equality objectives for the period from 2018 to 2022 that had been designed to help the Council meet the aims of the Public Sector Equality Duty. Members reviewed quarterly progress against the achievement of the objectives and other work to ensure compliance with the Council's equality duties.

RESOLVED:

That current progress in relation to the achievement of the Council's Equality Objectives for 2018-2022 and other work to ensure the compliance with Public Sector Equality Duty, be noted.

19. EQUALITY INFORMATION REPORT 2018

The Committee was reminded that the Equality Act 2010 required authorities subject to the Public Sector Equality Duty, to publish annual equality information to demonstrate compliance with the Duty.

The Senior Project Manager reported that the Council had published its previous equality information report in September 2017. The Committee therefore considered the progress made over the last year to improve the Council's services and employment practices for people with protected characteristics, and its draft Equality Information Report for 2018.

RESOLVED:

That the Council's Equality Information Report for 2018 be agreed.

20. DEVELOPMENT MANAGEMENT

The Committee considered the notes of the meeting of the Chairmen and Vice-Chairmen of the Area Plans Sub-Committees and the District Development Management Committee, that had been held on 17 September 2018.

Members raised concerns with regard to the consideration of planning applications by the Area Plans Sub-Committees, in circumstances where such applications were referred to a Sub-Committee for determination solely as a result of the receipt of an objection to the development proposal by the relevant local council and where no other valid objection had been received, in accordance with recent revisions to the Scheme of Delegation.

The Service Director (Governance and Member Services) reported that, in several recent instances, the respective local council had not attended a meeting of a Sub-Committee to present its objections to a development proposal, as required by the Scheme of Delegation. The Committee considered that, in such circumstances, applications should be referred (without consideration) to the Service Director (Planning Services) for determination by resolution of the Sub-Committee, as without the receipt of an objection by the local council the application would have automatically been determined by the Service Director (Planning Services) in accordance with the current Scheme of Delegation.

RESOLVED:

- (1) That the notes of the meeting of the Chairmen and Vice-Chairmen of the Area Plans Sub-Committees and the District Development Management Committee held on 17 September 2018, be noted;
- (2) That the appreciation of the Committee be extended to the Planning and Governance Portfolio Holder, for the provision of roving security patrols at meetings of the Area Plans Sub-Committees;
- (3) That the views of the Committee with regard to the consideration of applications by the Area Plans Sub-Committees where a local council is the sole objector to a development proposal but does not attend the meeting of the Sub-Committee to present such objection, be communicated to the Chairmen and Vice Chairmen of the Sub-Committees;
- (4) That the operation of the revised Scheme of Delegation requirements for local councils to present objections to development proposals at meetings of the Area Plans Sub-Committees continue to be monitored by the Democratic Services Manager; and
- (5) That the operation of the revised Scheme of Delegation requirements for local councils to present objections to development proposals at meetings of the Area Plans Sub-Committees, be reviewed by the Constitution Working Group as soon as possible.

21. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW & SCRUTINY COMMITTEE

The Service Director (Governance and Member Services) reminded the Committee that the review of parliamentary polling districts and polling places to be undertaken

during 2019 was a matter for full Council to approve and that the Committee would normally recommend the review to the Overview and Scrutiny Committee and then to full Council. Members noted that, given the desirability of completing the review by July 2019, the Committee had agreed earlier in the meeting that a report should be made directly to the Council to enable the review timescale to be achieved.

The Service Director (Governance and Member Services) indicated that a report would be made to the Overview and Scrutiny Committee at its meeting on 18 December 2018, to give effect to this decision.

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GOVERNANCE SELECT COMMITTEE

TERMS OF REFERENCE 2018/19

Title: Governance Select Committee

Status: Select Committee

1. To undertake overview and scrutiny, utilising appropriate methods and techniques, of the services and functions of the Governance Directorate;
2. To develop a programme of work each year, informed by relevant service aims and member priorities, to ensure that the services and functions of the Governance Directorate are appropriate and responsive to the needs of residents, service users and others;
3. To consider any matter referred to the Select Committee by the Overview and Scrutiny Committee, the Cabinet or a relevant Portfolio Holder, and to report and make recommendations directly to the Committee, the Cabinet or such Portfolio Holder as appropriate;
4. To consider the effect of Government actions or initiatives on the services and functions of the Governance Directorate and any implications for the Council's residents, service users and others, and to respond to consultation activities as appropriate;
5. To establish working groups as necessary to undertake any activity within these terms of reference;
6. To undertake pre-scrutiny through the review of specific proposals of the Council and its partner organisations or other local service providers, insofar as they relate to the services and functions of the Governance Directorate, to help develop appropriate policy;
7. To undertake performance monitoring in relation to the services and functions of the Governance Directorate, against adopted key performance indicators and identified areas of concern;
8. To identify any matters within the services and functions of the Governance Directorate that require in-depth scrutiny, for referral to the Overview and Scrutiny Committee;
9. To recommend the establishment of task and finish panels to the Overview and Scrutiny Committee as necessary, in order to undertake any activity within these terms of reference; and
10. To review relevant projects and associated closure and benefits reports arising from initiatives undertaken as part of the Council's Transformation Programme.

Chairman: Councillor G Chambers

| Governance Select Committee (Chairman – Councillor G Chambers) Work Programme 2018/19 | | | |
|--|--|--|---|
| Item | Report Deadline/Priority | Progress/Comments | Programme of Meetings |
| (1) Key Performance Indicators (KPIs) 2017/18 – Outturn | 03 July 2018 | Governance indicators only | 03 July 2018; 23 October; 27 November; 05 February 2019; and 26 March 2019 |
| (2) Key Performance Indicators (KPIs) 2017/18 – Quarterly Performance Monitoring | Q1 – 23 October 2018 Q2 – 27 November 2018 Q3 – 05 February 2018 | Now incorporated into item (6) Corporate Plan Key Action Plan | |
| (3) Development Management Chairmen and Vice-Chairmen's Meetings | 23 October 2018 | Feedback from meeting of the Chairmen and Vice-Chairmen of the Area Plans Sub-Committees and the District Development Management Committee | |
| (4) Equality Objectives 2016-2020 / (2018-2023) - 6 monthly reporting | Q1 – 23 October 2018 Q3 - 26 March 2019 | 6 monthly reporting 6 monthly reporting | |
| (5) Corporate Plan Key Action Plan 2016/17 – Outturn | 03 July 2018 | Governance actions only | |
| (6) Corporate Plan Key Action Plan 2018-2023 Performance Report - Quarterly reporting 2018/19 | Q1 – 23 October 2018 Q2 – 27 November 2018 Q3 – 05 February 2019 | Governance actions only | |

Governance Select Committee (Chairman – Councillor G Chambers)

Work Programme 2018/19

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| (7) Directorate Business Plan 2019/20 | 26 March 2019 | All relevant Portfolio Holders to present highlights of the priorities and service challenges from the business plan for their portfolio for the next year, to the final meeting of the select committee in each municipal year. |
| (8) Transformation Projects relevant to this Committee | 26 March 2019 | Details of relevant new transformation projects to be submitted to the relevant SC for scrutiny |
| (9) Transformation Projects closure and benefits reports | 26 March 2019 | That any Directorate appropriate project closure and benefits realisation reports to be submitted to the Governance SC for information |
| (10) Review of Local Enforcement Plan | 27 November 2018 | J Godden / N Richardson to provide a report |
| (11) Review of Local Elections in May 2018 | 23 October 2018 | Review of the processes for the District Council and Parish Council Elections. (S Hill) |
| (12) Transformation Programme – Project Dossier – Governance | 03 July 2018 | Updated Project Dossier for the Transformation Programme |

Governance Select Committee (Chairman – Councillor G Chambers)

Work Programme 2018/19

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| (13) Review of the Petitions Scheme | 23 October 2018 | Further to the report that came to the Committee in February 2018 – final updates | |
| (14) Equality Information Report 2018 | 23 October 2018 | Annual Report | |

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SCRUTINY



Report to Governance Select Committee

Date of meeting: 27 November 2018

Portfolio: Planning and Governance (Cllr J Philip)

Subject: Corporate Plan 2018-2023 –
Performance Report Q1 & Q2 2018/19

Officer contact for further information: M Chwiedz (01992 562076)

Democratic Services Officer: J Leither (01992 564756)

Recommendations/Decisions Required:

- (1) That the Committee review the outturn position for Quarter 1 and Quarter 2 2018/19, in relation to the achievement of the Corporate Plan for 2018-2023 within its areas of responsibility;
- (2) That the Committee identifies any actions and/or projects, performance indicators and/or benefits, which require in-depth scrutiny or further report on performance.

Executive Summary:

The Corporate Plan 2018-2023 is the authority's key strategic planning document. The Plan lays out the journey the Council will take to transform the organisation to be 'Ready for the Future'. The plan links the key external drivers influencing Council services, with a set of corporate aims and objectives, grouped under three corporate ambitions.

A Corporate Specification for each year (previously called the Key Action Plan) details how the Corporate Plan is being delivered through operational objectives, with these in turn linked to annual Service business plans.

The success of the Corporate Plan is assessed through the achievement of a set of benefits, each measured through one or more performance indicators, focussed on what the Council achieves for customers. Strategic Board, Cabinet and the Scrutiny Committees have overview and scrutiny roles to drive improvement in performance and ensure corrective action is taken where necessary.

Reasons for Proposed Decisions:

This combined report brings together the performance of the Council against the Corporate Plan and gives 'clear line of sight' for performance across the Council via the new benefits maps and performance indicator set. The benefits maps provide an opportunity for the Council to focus attention on how specific areas for improvement will be addressed, and how opportunities will be exploited and better outcomes delivered. It is important that relevant performance management processes are in place to review and monitor performance against performance indicators to ensure their continued achievability and relevance, and to identify proposals for appropriate corrective action in areas of slippage or under performance.

Other Options for Action:

No other options are appropriate in this respect. Failure to monitor and review performance and to consider corrective action where necessary could have negative implications for judgements made about the Council's progress and might mean that opportunities for improvement are lost.

Report:

The Corporate Plan – Context, Aims and Objectives

1. The Corporate Plan is the Council's highest level strategic document. It sets the strategic direction and priorities for the organisation for the lifetime of the plan and provides a framework to demonstrate how the work of the Council fits together at a strategic level.
2. The new Corporate Plan runs from financial year 2018/19 to 2022/23 and was adopted by full Council on 21 December 2017. This plan links the key external drivers influencing Council services, with a set of corporate aims and objectives, grouped under three corporate ambitions. The Corporate Plan is the cornerstone of the Council's performance management framework, called its Benefits Management Strategy. The Corporate Plan also provides the policy foundation for the Council's Medium Term Financial Strategy (MTFS) and is essential for the prioritisation of resources to provide public services and value for money.
3. The Council's external drivers have been identified by Cabinet Members and the Council's Management Board and Leadership Team, for the next five years. They have been further refined through consultation and linked with a set of three interdependent corporate ambitions:
 - Stronger Communities;
 - Stronger Place; and
 - Stronger Council.
4. Each ambition has a set of corporate aims, which are in turn detailed by one or more corporate objective.
5. An annual Corporate Specification details how the Corporate Plan will be delivered through a set of operational objectives for that year. In turn, these operational objectives are responded to through annual Service business plans.
6. The previous regular performance reports covering the annual Corporate Plan Key Action Plan, Key Performance Indicators and Transformation Highlight Report have now been superseded by this single integrated performance report.

Benefits Realisation

7. The Corporate Plan can be viewed as a set of benefits maps – one map for each of the ten corporate aims. The content of these maps is by necessity more technical than is presented in the public document.
8. An explanation of these benefits maps is provided in this section of the report.
9. All benefits from individual corporate objectives, connect back to four key benefits, which are as follows:
 - K1 Improved customer value – recognising what customers' value about our services and placing them as the heart of everything we do;

- K2 Increased efficiency – focussing on our speed of delivery and getting things right first time;
- K3 Increased agility – reducing red tape, simplifying how we work through joined up services; and
- K4 Increased savings and income – delivery of resource savings and income generation, to keep Council Tax low.

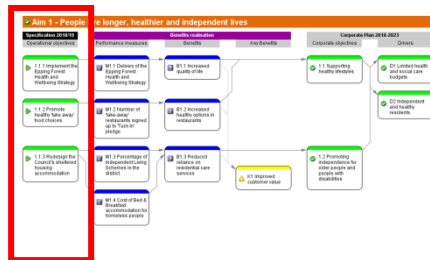
10. In this context, a benefit is defined as: the measurable improvement resulting from an outcome perceived as an advantage by a stakeholder, which contributes towards one or more organisational objectives.

11. Please note that when the benefits maps are created, best practice is to start from the right-hand side and work towards the left, i.e. start with the needs of our customers or the end in mind, and work back to the solutions on the left-hand side. When the organisation delivers services, it starts on the left-hand side and works over to the right, i.e. the delivery goes from left to right.

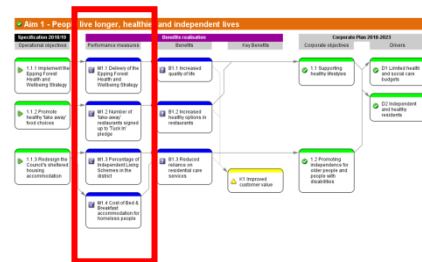
How to Read the Performance Report

12. The Report works through each Corporate Aim in turn, starting with the headline benefits map, followed by detailed lists of the elements from the map, working from left to right: (a) operational objectives, (b) projects and programmes, and (c) performance indicators.

Working from the left hand side of the benefits maps (see example), the first column contains the annual Specification – formally the Key Action Plan – as a set of operational objectives covering both Businesses As Usual (BAU) and business transformation (projects and programmes).



13. The next column of the benefits maps covers the measurement of performance through a set of Performance Indicators (PIs).



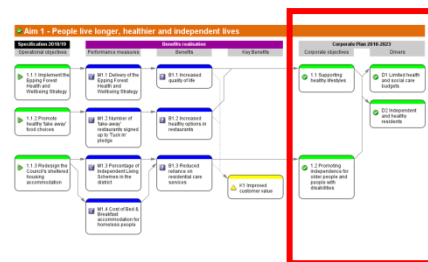
14. The benefits for stakeholders sit at the centre of the benefits maps. One or more performance measures makes up each (intermediate) benefit. Individual performance measures may contribute to one or more benefit. Where this is the case, weightings that show how the performance of these indicators 'roll-up' is given. Similarly, an individual indicator may contribute to the realisation of one or more benefits.



In turn, each (intermediate) benefit contributes to one or more of the four key benefits.

15. The right hand side of the benefits maps shows the corporate aims and objectives and the environmental factors which drive them. The progress of Actions and Benefits Drivers are combined to indicate the 'rolled-up' status of the Corporate Objectives and their respective Drivers.

16. In addition, each performance indicator has been identified as either 'Corporate (C)' or 'Partnership (P)', to show whether there are factors outside of the Council's control which impact on the indicator.



Red-Amber-Green Status, Targets and Thresholds

17. Individual elements are colour coded using the Red, Amber, Green status indicators – often abbreviated to RAG – to highlight exceptions that may require attention. This enables Members and officers to efficiently focus on areas where performance may be below target, and where remedial actions or further scrutiny may be required. By following the links left-to-right on the benefits maps – between projects / actions, indicators, benefits and objectives – the maps also show the likely cause (to the left) or impact (to the right) of any underperformance.

18. Where appropriate, each individual performance indicator has a target for the Corporate Plan period. This will be profiled across the five years of the plan, and could be a flat line, cumulative, ramp-up or tail-off in shape. In addition, where appropriate each individual performance indicator has an amber threshold tolerance. Between the target and the amber tolerance, performance would be reported as Amber, beyond this threshold, performance would be reported as Red.

19. The key to the icons used on the benefits maps is as follows:

| | | |
|--|-------|---|
| | Green | Indicates an element that is on target or has been completed |
| | Green | Indicates an action that is in progress or is assigned |
| | Amber | Indicates: <ul style="list-style-type: none"> Performance Indicator (or Risk) that is neither red nor green; or An Action that is unassigned, i.e. it doesn't have an owner |
| | Red | Indicates: <ul style="list-style-type: none"> A Performance Indicator below target, or An overdue Action based on the deadline date, or A Risk with a high rating |
| | Blue | Indicates that there is data missing and Pentana Performance is unable to make a calculation for that Performance Indicator, therefore it will not show one of the other traffic light icons |

20. The scrutiny committee that owns each element for scrutiny purposes is indicated by the following acronyms:

| | |
|----------------|---------------------------------|
| O&S | Overview and Scrutiny Committee |
| CSC | Communities Select Committee |
| GSC | Governance Select Committee |
| NSC | Neighbourhoods Select Committee |
| RSC | Resources Select Committee |

21. The progress of performance is reviewed by Strategic Board, the Finance and Performance Management Cabinet Committee and Cabinet at the conclusion of each quarter. Service Directors review performance with the relevant portfolio holder(s) on an ongoing basis throughout the year. Select Committees are each responsible for the scrutiny of quarterly performance within their areas of responsibility.

Performance Report

22. The Committee is requested to review the performance outturn position against the benefits maps, in relation to the achievement of the Corporate Plan for 2018-2023.

23. The Committee is requested to identify any actions and/or projects, performance indicators and/or benefits, which require in-depth scrutiny or further report on performance.

Resource Implications:

None for this report.

Legal and Governance Implications:

There are no legal or governance implications arising from the recommendations of this report.

Safer, Cleaner and Greener Implications:

None for this report.

Consultation Undertaken:

The Finance and Performance Management Cabinet Committee – 13 September 2018
Overview and Scrutiny Committee – 29 October 2018

Background Papers:

Various reports, culminating in:

- Corporate Plan 2018-2023 Report to Cabinet (C-032-2017/18) on 7 December 2017.
- Corporate Plan 2018-2023 Report to Council (Item 12) on 21 December 2017.
- Corporate Plan 2018-2023 – Progress Reporting and Performance Indicator Set:
 - Neighbourhoods Select Committee on 20 March 2018
 - Resources Select Committee on 14 March 2018
 - Governance Select Committee on 27 March 2018
 - Communities Select Committee on 18 March 2018
 - Overview and Scrutiny Committee on 17 April 2018.
- Corporate Plan 2018-2023 – Benefits Maps, Performance Indicator Set, Targets and Progress Reporting (FPM-002-2018/19) report to Finance and Performance Management Cabinet Committee on 21 June 2018.

Risk Management:

There are no risk management issues arising from the recommendations of this report. Relevant issues arising from actions to achieve specific objectives or benefits will be identified by the responsible service director during business planning and communicated to the Corporate Risk Management Group.

Equality Analysis

This is a quarter 1 and a quarter 2 position for 2018-19, in relation to the achievement of the objectives and measures contained within the Corporate Plan. There are no equality implications arising from the specific recommendations of this report. Relevant implications arising from individual actions will be identified and considered by the responsible service director.

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Our Corporate Plan 2018-2023

"Ready for the future"

Stronger communities

1. People live longer, healthier and independent lives

2. Adults and children are supported in times of need

3. People and communities achieve their full potential

1.1 Supporting healthy lifestyles

1.2 Promoting independence for older people and people with disabilities

2.1 Safeguarding and supporting people in vulnerable situations

3.1 Enabling communities to support themselves

3.2 Provide culture and leisure

3.3 Keeping the district safe

Stronger places

4. Delivering effective core services that people want

5. A district with planned development

6. An environment where new and existing businesses thrive

4.1 Keeping the district clean and green

4.2 Improving the district housing offer

5.1 Planning development priorities

5.2 Ensuring infrastructure supports growth

6.1 Supporting business enterprise and attracting investment

6.2 People develop skills to maximise their employment potential

6.3 Promoting retail, tourism and the visitor economy

Stronger council

7. Customer satisfaction

8. Democratic engagement

9. A culture of innovation

10. Financial independence with low Council Tax

7.1 Engaging with the changing needs of our customers

8.1 Robust local democracy and governance

9.1 Enhancing skills and flexibility of our workforce

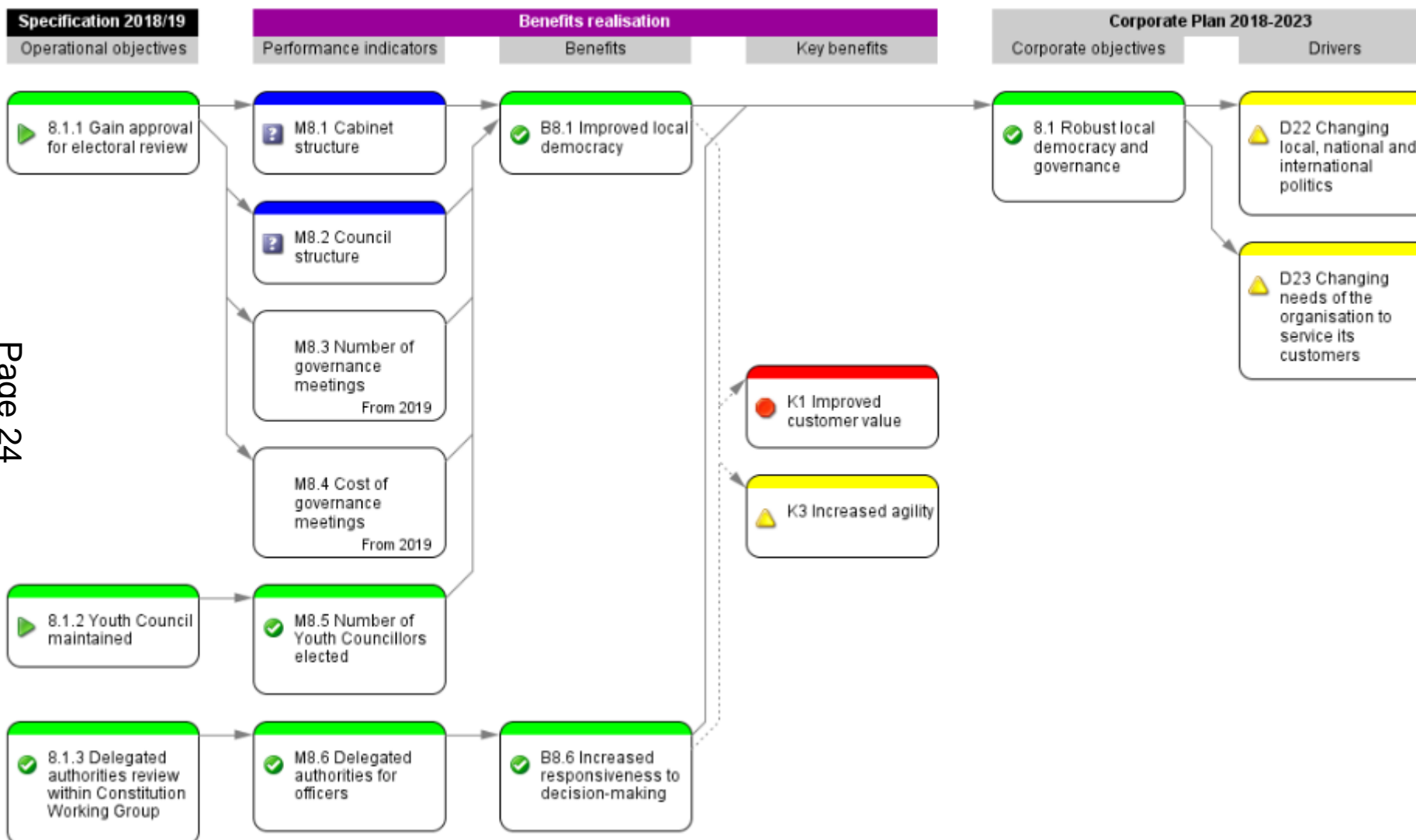
9.2 Improving performance through innovation and new technology

10.1 Efficient use of our financial resources, buildings and assets

10.2 Working with commercial partners to add value for our customers

▲ Aim 8 - Democratic engagement

Stronger council



**Aim 8 Democratic engagement**

Stronger council

To ensure our decision making processes are ready for the forthcoming changes at local, national and international level, and promote voter registration to give local residents a voice.

Corporate objective 8.1 Robust local democracy and governance




The political landscape is going through changes at a Local, National and International level. Our decision making must be ready for these future developments.

Operational objective 8.1.1 Gain approval for electoral review




| RAG | Description | Progress | Due date | Expected outcome | Scrutiny | Manager |
|---------|---|----------|-------------|------------------|----------|---|
| | Gain approval for electoral review | 50% | 31-Mar-2019 | Action Pending | GSC | Assistant Director - Governance (GPM01) |
| Page 25 | Q2 - This item will fall due by 31 March 2019. It has been agreed that a report will be brought to members by 31 December 2018. | | | | | |
| | Q1 - Action not due yet | | | | | |

Operational objective 8.1.3 Delegated authorities review within Constitution Working Group




| RAG | Description | Progress | Due date | Expected outcome | Scrutiny | Manager |
|-----|--|----------|-------------|------------------|----------|---|
| | Delegated authorities review within Constitution Working Group | 100% | 31-Mar-2019 | Action Achieved | GSC | Assistant Director - Governance (GPM01) |
| | Q2 - This action is complete for 2018/19 – Further work will be undertaken in 2019/20 | | | | | |
| | Q1 - The Constitution Working Group are reporting to full Council in July on proposals to amend officer delegation in respect of planning matters. This is anticipated to increase delegation in the range of 5-10%. If the Council approve the changes a full review of the implementation will be held in the 2019-20 municipal year. Further work on officer delegations is likely during Q2 and Q3 | | | | | |

|  Performance indicator M8.1 Cabinet structure | | | |
|---|--|------------------------------------|--|
| As a part of the proposed Electoral Review, a decision is required to instigate a review of the Cabinet structure. | Is year-end target likely to be achieved? | | Live from |
| |  Not applicable | | 2018 |
| Manager | Good performance | Corporate or Partnership indicator | |
| Assistant Director - Governance (GPM01) | Aim to Maximise | Corporate |  Annual trend |
| Trend chart | Comments | | |
| This is a Yes / No indicator, i.e. it shows whether an event has taken place - Yes or No. | Please note this is an event driven indicator due in 2019 | | |
| | Corrective action | | |
| | N/A | | |




| 2018/19 | | |
|---------|-------|--------|
| Target | Value | Status |
| Yes | | |

| <div> Performance indicator</div> <div>M8.2 Council structure</div> | | | | |
|--|---|------------------------------------|-----------|--|
| As a part of the proposed Electoral Review, a decision is required to instigate a review of the Council structure/the Council structure is to be reviewed. | Is year-end target likely to be achieved? | | Live from | Scrutiny |
| | <div> Not applicable</div> | | 2018 | GSC |
| Manager | Good performance | Corporate or Partnership indicator | | Annual trend |
| Assistant Director - Governance (GPM01) | Aim to Maximise | Corporate | | <div></div> |
| Trend chart | Comments | | | |
| This is a Yes / No indicator, i.e. it shows whether an event has taken place - Yes or No. | No comments | | | |
| | Corrective action | | | |
| | None currently - this is an event driven indicator due in 2019 | | | |

| 2018/19 | | |
|---------|-------|--------|
| Target | Value | Status |
| Yes | | |

|  Performance indicator M8.3 Number of governance meetings | | | |
|---|--|------------------------------------|---|
| As a part of the proposed Electoral Review, a decision is required to instigate a review of the Council and Cabinet structures/the Council and Cabinet structures are to be reviewed. | Is year-end target likely to be achieved? | | Live from |
| |  Not applicable | | 2019 |
| Manager | Good performance | Corporate or Partnership indicator | Annual trend |
| Assistant Director - Governance (GPM01) | Aim to Minimise | Corporate |  |
| Trend chart | Comments | | |
| This indicator will 'go live' in 2019-20. Therefore, data for this indicator is being collected as a baseline for 2018-19 for performance reporting from 2019-20. | No comments | | |
| | Corrective action | | |
| | N/A | | |

| 2018/19 | | |
|---------|-------|--------|
| Target | Value | Status |
| 61 | | |

|  Performance indicator M8.4 Cost of governance meetings | | | |
|---|--|------------------------------------|---|
| As a part of the proposed Electoral Review, a decision is required to instigate a review of the Council and Cabinet structures/the Council and Cabinet structures are to be reviewed. | Is year-end target likely to be achieved? | | Live from |
| |  Not applicable | | 2019 |
| Manager | Good performance | Corporate or Partnership indicator | Annual trend |
| Assistant Director - Governance (GPM01) | Aim to Minimise | Corporate |  |
| Trend chart | Comments | | |
| This indicator will 'go live' in 2019-20. Therefore, data for this indicator is being collected as a baseline for 2018-19 for performance reporting from 2019-20. | No comments | | |
| | Corrective action | | |
| | N/A | | |

| 2018/19 | | |
|---------|-------|--------|
| Target | Value | Status |
| TBC | | |



Performance indicator

M8.6 Delegated authorities for officers

Delegated authorities are required to be reviewed by the Constitution Working Group. Planning delegations will be reviewed for 2018/19.

Is year-end target likely to be achieved?



Not applicable

Live from

2018

Scrutiny

GSC

Manager

Assistant Director - Governance (GPM01)

Good performance

Corporate or Partnership indicator

Annual trend

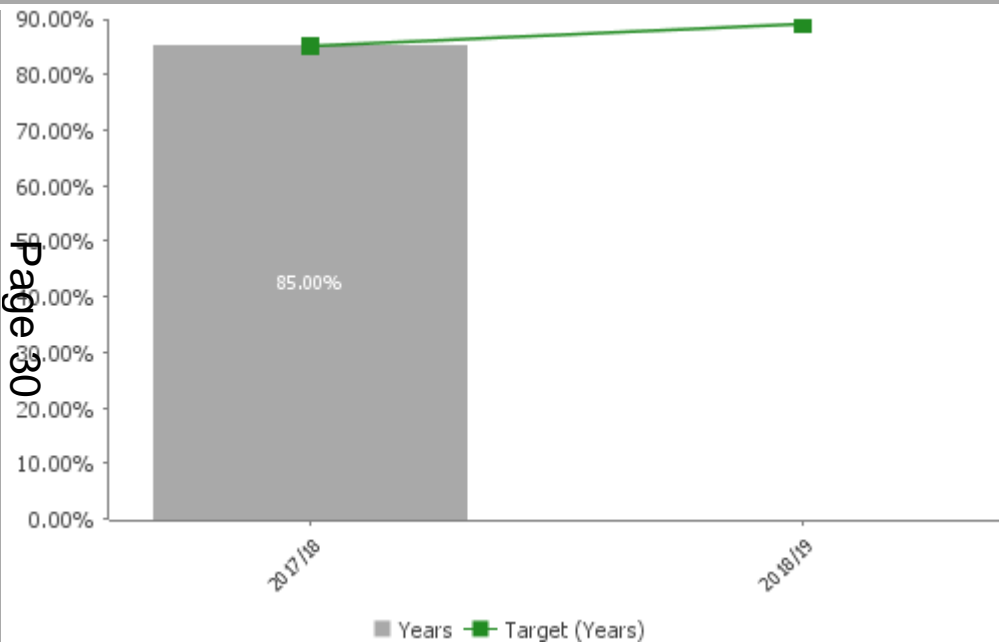
Aim to Maximise

Corporate



Trend chart

Comments



Q2 – Revision to the scheme of Delegation of planning application decision making was approved at Council in July 2018. A full review will be held after a year in 2019/20.

Q1 – The Constitution Working Group are reporting to full Council in July on proposals to amend officer delegation in respect of planning matters. This is anticipated to increase delegation. If the Council approve the changes a full review of the implementation will be held in the 2019-20 municipal year. Further work on officer delegations is likely during Q2 and Q3

Corrective action

N/A

2018/19

Target

Value

Status

89.25%



Report to Governance Select Committee

Date of meeting: 27 November 2018

Portfolio: Planning and Governance

Subject: Review of Local Enforcement Plan

Officer contact for

further information: Jerry Godden (Ext. 4498)

Committee Secretary: Jackie Leither (Ext. 4756)

SCRUTINY



Epping Forest District Council

Recommendations/Decisions Required:

To adopt the Local Enforcement Plan as revised.

Report:

1. The Council formally adopted the Local Enforcement Plan (LEP) on 16 October 2013 with an addendum on 11 December 2013. This was in accordance with the suggestion under Section 207 of the National Planning Policy Framework (NPPF) that such a plan should be adopted by Councils.

2. The LEP states the authority's policy for taking effective action when justified on the evidence gathered by Officers. The Plan sets out the principles of good enforcement and investigation, and explains what will and will not be investigated. The Plan sets out the priorities for responses to complaints and clarified the timescales for response by officers. The Planning Enforcement Team receives a high number of allegations of breaches of planning control, and it is impossible to investigate all of these allegations with equal priority. Resources are limited, therefore the LEP makes clear what breaches are and the prioritisation involved.

3. A review of the LEP was scheduled for 2018, five years after its adoption. Whilst there has been no significant changes to planning legislation (in respect of enforcement) in this time the NPPF has been updated and the suggestion for authorities to adopt an LEP is contained in Section 58.

4. The LEP has stood the test of time and has not been challenged in any forum by those subject of enforcement investigations or those who have made complaints about breaches of planning. Various minor changes have been made but there is no significant revision required to the process that the Council has adopted.

5. All District Councillors, Town and Parish Councils were consulted as part of the review process and we have received comments from Theydon Bois and Nazeing Parish Councils. Their comments are summarised below.

Theydon Bois:

Section 2.8 – would it be reasonable for a visit to occur in 7 days rather than 14 as building works can advance significantly in 2 weeks

Section 3.13 – are requests consistently made for formal applications for Certificates for Lawful Development? A number of examples of building works have not had a CLD made. How then is an assessment made, and by whom, as to whether the development is lawful.

Should the review period for the LEP be 3 years?

Nazeing:

Paras 2.8 and 3.7 set out timescales for site visits. Para 3.8 provides that if these timescales cannot be met the officer will notify the complainant. This is completely open ended and is not satisfactory. Provision should be made to extend the timescale by e.g. 7 days.

Under para 3.1 provides that enforcement action will be taken if an acceptable solution is not negotiated within a reasonable time. The question will arise as to what is reasonable and accordingly a maximum time should be specified.

6. With regard to the above comments:

i) – Time limits for visits. Officers currently visit 99% of all sites well within the time limits laid out in the LEP Those sites where there are ongoing building works are already prioritised by officers for visits for the reasons laid out by Theydon Bois PC. Regarding the Nazeing PC point some sites may take longer to gain access and to set a maximum time for a site visit would not be practical in such cases, and could constrain the ability of officers to engage with site owners and occupiers efficiently.

ii) – Requirement for CLDs to be made. In cases where a CLD is required the Enforcement Section request such an application by email or letter. However, if no such application is forthcoming (and there is no mechanism in the Planning legislation to force a person to make such an application), the Officers examine the available evidence (which may include speaking to the Parish Council) and if that proves on the balance of probabilities that the use/building is lawful then no further action would be taken. If the evidence does not exist then the relevant enforcement action will be commenced.

iii) – Maximum time limit to take enforcement action. This is not practical. Each case is unique and some are closed within days and others can continue for years. We have to act in a proportionate and expedient manner in investigating breaches of planning and to work to an inflexible laid down time table would leave us vulnerable to challenges at both Court and in appeals with a significant risk of awards of costs against us.

iv) – Review Period. Due to the relative stability of the enforcement regime and legislation it is considered that a five-year period is realistic and proportionate. Should major changes to the legislation occur then a review could be brought forward as required.

7. It is considered that the comments of the two Parish Councils should be noted but do not need to be incorporated into the revised LEP for the reasons set out above.

Reason for decision:

Adopting the revised LEP gives the Enforcement Section, Councillors, Local Councils, member of the Public (including complainers and complained about) and Planning professionals a simple yet comprehensive document which lays out what they can expect from the Planning Enforcement Section and for them to be able to hold the section to account if the service received does not accord to that laid down in the LEP.

Options considered and rejected:

1. To not update the LEP and let it lapse – this would leave the Council vulnerable to challenges in enforcement action and cause confusion to all parties. This is not a viable option

Consultation undertaken:

All District Councillors, Town and Parish Councillors

Resource implications:

Budget provision: Nil

Personnel: Nil

Land: Nil

Community Plan/BVPP reference:

Relevant statutory powers: Town and Country Planning Act 1990 as amended) and the National Planning Policy Framework 2018

Background papers: Local Enforcement Plan, Nazeing Parish Council and Theydon Bois Parish Council comments

Environmental/Human Rights Act/Crime and Disorder Act Implications: Nil

Key Decision reference: (if required)

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Epping Forest District Council

Planning & Economic Development

Local Enforcement Plan

December 2018

DRAFT REVISIONS

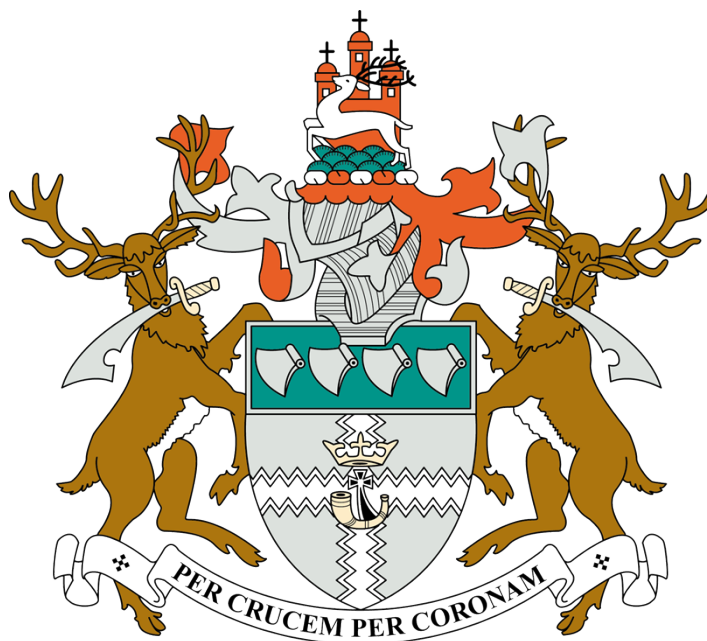


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1. Introduction

Our vision for planning enforcement

- 1.1 The planning system operates to regulate development and the use of land in the community's interest having regard to the development plan and other material planning considerations. The effective and proper enforcement of planning control is essential to community confidence in the planning system. It is important that the local environment is protected, as are the interests of residents, visitors and businesses of the District from the harmful effects of unauthorised development.
- 1.2 The Council has a duty to investigate alleged breaches of planning control and has powers to remedy proven breaches. We view breaches of planning control very seriously. It is our policy to exercise powers appropriately, proportionately and rigorously so that development takes place in accordance with the appropriate legislation or the planning conditions and limitations imposed on any planning permission through the development control process.
- 1.3 However, the planning enforcement system does not exist purely as a punishment for those responsible for a breach of planning control. It is an important principle of the planning system that the use of formal planning enforcement action is a **discretionary** power of the Council.
- 1.4 The integrity of the development control process depends on the Council's readiness to take effective enforcement action when it is justifiable. The community's confidence of the planning process is quickly undermined if unauthorised development is allowed to proceed without any apparent attempt by the Council to resolve the issue.
- 1.5 The purpose of this document is to set out the Council's specific plan for the enforcement of planning control. This policy will ensure that Councillors and Officers, external agencies and the community are aware of our general approach to planning enforcement.

Principles of Good Enforcement

- 1.6 Proportionality – Officers will consider the full range of powers when conducting investigations (this includes appropriate negotiations and retrospective planning applications) and where appropriate take immediate action.
- 1.7 We will minimise the costs of compliance by ensuring that any action we require is proportionate to the breach. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering the expediency of the various actions open to us.
- 1.8 Where practicable we will take care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense.

- 1.9 Normally we will prosecute individuals or organisations who do not comply with any formal notice served on them, and when appropriate will take direct action, having regard to degree of harm and public safety.
- 1.10 Consistency – We will carry out our duties in a fair, equitable and consistent manner. While staff are expected to exercise judgement in individual cases, we have arrangements in place to promote consistency including effective arrangements for liaison with other authorities and enforcement bodies.
- 1.11 We will consider each individual matter on its merits. There will be a consistent approach to enforcement action against breaches of similar nature and circumstance.
- 1.12 Standards – We will draw up clear standards, setting out the level of service and performance that customers can expect to receive in this plan. We will review performance regularly.
- 1.13 The enforcement plan will be subject to review at least every five years, but the plan may be reviewed on a more regular basis if circumstances dictate. The plan will be available on our web site.
- 1.14 Openness – Information and advice will be provided in plain language on the rules that we apply and we will publish this as widely as possible.
- 1.15 We will discuss general issues, specific compliance failures or other problems with anyone with an interest with our service, subject to it not being covered by privacy and data protection policies.
- 1.16 Helpfulness – We believe that prevention is better than cure and that we should work with customers to advise and assist with compliance.
- 1.17 Officers will provide a courteous, prompt and efficient service and emails/letters will provide a contact point and telephone number for customers to contact when seeking advice and information.
- 1.18 We will ensure that services are effectively coordinated to minimise unnecessary overlaps and time delays.
- 1.19 Officers will not tolerate abusive language or behaviour either in person or in correspondence from 3rd parties.
- 1.20 Complaints about the service – We will adhere to the Councils corporate complaints service.

2 Breaches of planning control

Legislative background

- 2.1 The primary legislation for planning enforcement is set out in Part VII of the Town and Country Planning Act 1990, which includes amendments set out in the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004. Hereafter these are collectively referred to as the Town and Country Planning Act (as amended).
- 2.2 The Town and Country Planning Act (as amended) sets out that planning permission is required for development. Section 55 defines development as:
- “the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”
- 2.3 A breach of planning control is defined at Section 171A as “the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted”.

What is a breach of planning control?

- 2.4 Most of planning enforcement investigations therefore involve one of the following alleged breaches:
- development (either operational or a material change in use of land) has taken place without planning permission
 - development has not been carried out in accordance with an approved planning permission
 - failure to comply with a condition or legal agreement attached to a planning permission.
- 2.5 Other matters which also fall under the scope of planning control are:
- demolition taking place in conservation areas, without conservation consent, when it is required
 - works carried out to a listed building which affect the historic character or setting, without listed building consent being granted
 - removal of, or works carried out, to protected trees and hedgerows without consent being granted or proper notification given
 - advertisements, which require consent under the advertisement regulations, which are displayed without express consent
 - failure to comply with the requirements of a planning notice, e.g. enforcement, discontinuance, stop notice, breach of condition notice, or other statutory notice
- 2.6 The basic principle of planning law is that it is **not an offence to carry out works without planning permission** (with certain exceptions for Listed Buildings and Trees). Whilst such development is unauthorised, councils must consider the expediency of taking formal action. This is important to remember as members of the public often refer to illegal development or works. This is

incorrect as development may well be unauthorised. It will not be illegal unless a statutory notice has first been issued and the owner or occupier has failed to comply.

What is not a breach of planning control?

2.7 We often receive complaints regarding matters that are not breaches of planning control. Often this is where other legislation covers and controls the matter. The following are examples of what we cannot become involved in through our planning enforcement service:

- neighbour nuisance/boundary and land ownership disputes – these are civil matters that the Council can not get involved in. Further advice on these matters should be obtained from a solicitor or the Citizens Advice Bureau
- use of/or development on the highway, footway or verge that is covered by highway legislation – please contact Essex County Council on 0845 6037631
- dangerous structures – please contact our Building Control section on 01992 564141
- any matter covered by other substantive legislation such as fly tipping, noise and smell – Please contact our Environmental Health Section on 01992 564497

Priorities

2.8 To make the most effective use of resources, all reports of suspected breaches of planning control will be investigated and progressed in accordance with the priority rating below. This is not an exhaustive list.

Category A - implies a severe and/or urgent case requiring immediate attention. This would include harmful works to a listed building or new physical development which would present a danger to members of the public; a Gypsy, Roma or Traveler incursion onto land they own; works to a tree subject to legal protection; and works to a protected hedgerow. A site visit should be carried out within 7 working hours.

Category B - covers all other cases that are a less severe and/or less urgent case requiring prompt attention, and a site visit should be carried out within 14 working days.

2.9 Individual cases may be re-prioritised as the investigation progresses and as new evidence comes to light.

3 Investigation of suspected breaches of planning control

Receipt of complaint

- 3.1 To start a planning enforcement investigation, complaints from the community should normally be made in the following ways:
- by email at contactdcenf@eppingforestdc.gov.uk
 - filling out the standard form on our web site
 - over the phone on 01992 564527
 - by letter to the Planning Enforcement Section, Epping Forest District Council, High Street, Epping, Essex CM16 4BZ
 - or in person at the planning reception area at the Council Offices, opening hours are 0900 – 1300 Monday to Friday
- 3.2 When a complaint is received it is recorded on our database so it is important that we have the following information:
- name and contact details of complainant, including email address
 - full address of the alleged breach of planning control
 - nature of the breach and the harm it may be causing
- 3.3 All enforcement complaints are logged onto our computer system with a unique reference number so that each complaint can be monitored and the complainant updated on progress.
- 3.4 **To avoid the unnecessary use of resources, hampering of investigations and dealing with malicious complaints, anonymous reports of suspected breaches of planning control will not be registered.**
- 3.5 Confidentiality is vital; a complaint's identity will not be revealed to any third party.

Time frame for site visit

- 3.6 A site visit will be required in most cases to establish if a breach of planning control has occurred. Most initial site visits will be unannounced so as not to alert persons on site that a complaint has been made, which would give them an opportunity to hide or cease breaches of planning control.
- 3.7 Although there will need to be some research around the case prior to a site visit the initial site visit (where necessary) will be conducted within the following timescales.
- Category A – within 7 working hours
 - Category B – within 14 days
- We will aim to meet these timescales in all cases investigated to ensure cases progress without undue delay from the outset.
- 3.8 These targets allow officers to carry out the required level of research before visiting a site. If carrying out the initial site visit within these time frames is problematic on a specific case the officer will notify the complainant.

- 3.9 On completion of the initial site visit, the findings will be assessed and a view taken as to how the investigation will proceed. This may include taking legal advice about the case.

If no breach of planning control is established

- 3.10 A significant number of investigations are closed as there is no breach of planning control established. This can occur for many reasons, for example:
- there is no evidence of the allegation
 - development has taken place but planning permission is not required, usually as it benefits from planning permission granted under the Town and Country Planning (General Permitted Development) Order 1995 (as amended)
 - the development already benefits from planning permission granted by the Council
- 3.11 It may also be the case that whilst a technical breach of planning control has been found the breach is so minor that it has no or very little impact on amenity, for example a domestic television aerial. Such a breach would be considered de-minimis in planning terms and no formal action could be taken in this respect.
- 3.12 Where this is the case the person reporting the suspected breach of control will be notified either verbally or in writing within 10 working days of the initial site visit that no further action will be taken. The complainant will be provided with an explanation of our reason(s).
- 3.13 When we receive a complaint, the case officer will check to see if the issue constitutes a breach of planning control and that legislation allows us to act. Each case is judged on its individual merits. There are some cases where it would not be expedient for the Council to take enforcement action for example:
- the complainant believes there is breach of planning, but in fact is covered under permitted development legislation, therefore no action is required
 - there may be cases where development has taken place but it is clear following an assessment, that retrospective planning permission or a certificate of lawfulness is likely to be granted. Should applications be made and approved, enforcement action will not be taken?
 - where a fence is, for example, 2.1 metres high, not adjacent to the highway and the visual amenity and the character of the area is unaffected – the Council would need to decide if this could be de minimis and not be expedient to pursue enforcement action. In these cases, we will advise the owner/occupier of the land/building of this saying that a note will be placed on the land charge record
 - when there has been a change of use for a building or a breach of condition has taken place over 10 years ago the Council is unable to act as there are time limits set out in planning legislation (either four or 10 years)
- 3.14 Criteria that would be used to determine a course of action include:

- whether planning permission required?
- what impact would the breach have on the visual amenity and character of the area affected, for example would it be minimal or significant?
- are the works permitted by planning legislation for example permitted development?
- is the breach contrary to any established planning policies?
- has there been a material change of use?

Where further investigation is required

- 3.15 There are cases where the initial site visit does not provide sufficient evidence to prove whether a breach of planning control has taken place. Examples of these can include:
- business operated from home and whether this constitutes a material change of use. This will often depend on the level of intensity and this may not be immediately apparent from the initial site visit
 - alleged breaches of working hours conditions. If the operator denies the activity further investigations will be required
 - building works are taking place but the owner claims it is to repair a previously existing structure. The officer will need to establish what, if anything, previously existed
- 3.16 Further investigation may involve additional site visits, documentary research, seeking advice from other services or agencies, seeking information from the person reporting the suspected breach of control, or the owner or other persons responsible for the land or building.
- 3.17 In some cases, we may ask the person reporting the suspected breach for further details. If the person reporting the suspected breach of planning control is unwilling to assist, this may result in the Council not being able to pursue the investigation due to insufficient evidence.
- 3.18 We will also consider serving a Planning Contravention Notice to obtain information relating to the suspected breach. Drafting such a notice correctly can take time. Equally a person on whom it is served has 21 days to respond. Therefore, it may be several weeks until the appropriate evidence can be collected.

Where there is a breach of planning control

- 3.19 Where a breach of planning control is established, the first step is to consider whether it would be expedient to take formal enforcement action. Expediency is a test of whether the unauthorised activities are causing serious harm having regard to the Development Plan policies and other material planning considerations. The planning enforcement officer investigating the case will consider this in conjunction with the principal planning enforcement officer. The outcome of this consideration will generally inform the course of the investigation. Taking formal enforcement action is only one option with other courses open to the Council. Most planning enforcement investigations will involve one of the following courses of action.

Retrospective planning applications

- 3.20 Where officers consider that planning permission is likely to be granted for an unauthorised development, or that the imposition of conditions could reduce the harm to amenity, a retrospective planning application will be requested for the development. Section 73A of the Town and Country Planning Act (as amended) sets out the provisions for dealing with retrospective applications.
- 3.21 In determining retrospective planning applications, the Council cannot refuse an application simply because the development has already been carried out. Many breaches of planning control occur because the applicant simply did not realise permission was required. A retrospective planning application enables the Council to regularise acceptable development without arbitrarily penalising the applicant. We receive between 130 and 160 retrospective applications per year out of approximately 2500 applications. This demonstrates the important role retrospective applications play in resolving breaches.
- 3.22 Generally, we will not seek a retrospective planning application if we feel the development is unacceptable. However, there are cases where it is initially unclear as to whether a development is acceptable in planning terms. An example is where a development is in the early stages of construction. In these cases, an application may be necessary to obtain full details of the intended development. Once this information is received it would allow for a full assessment of the planning merits. We cannot refuse to deal with a retrospective planning application, even if it is felt that there is no merit in such an application, unless it falls within the conditions laid out in para 3.23 below.
- 3.23 The Localism Act 2011 has introduced an additional power to the Council in respect of retrospective planning applications **where an enforcement notice has already been issued** after 06 April 2012. Section 70C to the Town and Country Planning Act (as amended) now specifies:
- ‘a local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.’
- 3.24 We will use these powers where appropriate to prevent delays in cases where enforcement action is being taken. However, we will also have regard to each specific case and consider whether granting permission for part of the development would result in an acceptable resolution.

Not expedient to pursue formal action

- 3.25 While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice should not be issued solely to regularise development which is acceptable on its planning merits, but for which permission has not been sought. In such circumstances the Council will seek to persuade an owner or occupier to seek permission. This could include using a planning contravention notice. However, it is generally regarded by the Courts as unreasonable for a council to issue an enforcement notice solely to remedy the absence of a valid planning permission if there is no significant planning objection to the breach of planning control. See paragraphs 3.13 and 3.14 above

and paragraphs 3.27 below for further information.

- 3.26 Where this is the case the officer will produce an expediency report to clearly setting out that no planning harm is caused by the development. As part of this process a planning contravention notice may be served to ensure we have all relevant information. Where officers conclude that it is not expedient to act the case will be closed in accordance with the scheme of delegated powers as set out in the Council's Constitution.
- 3.27 Another criterion of expediency is to ensure that any action is proportionate to the breach. We investigate many technical breaches of planning control. Common examples of these include the construction of a fence or the construction of an out building in a residential curtilage slightly higher than allowed under permitted development regulations. In these cases, it would clearly not be proportionate to require the removal of an entire building or fence where a slightly lower structure could be constructed without permission. As such the expediency test for acting would not be met. We will work with owners to regularise or remedy the works but ultimately it is highly unlikely that formal action could be warranted in the case of a technical breach of planning control.

Negotiation

- 3.28 Where it is considered that the breach of planning control is unacceptable, officers will initially attempt to negotiate a solution without recourse to formal enforcement action, unless the breach is causing irreparable harm to amenity. Negotiations may involve the reduction or cessation of an unauthorised use or activity, or the modification or removal of unauthorised operational development.
- 3.29 In carrying out negotiations officers will have regard to the specific circumstances of the individual case. For example, where there is an unauthorised business activity officers will consider whether relocation is possible and if so will seek to put a reasonable timescale in place.
- 3.30 Where initial attempts at negotiation fail, formal action will be considered to prevent a protracted process. We will also consider using temporary stop notices to prevent the breach becoming more severe.
- 3.31 Where we are unable to negotiate an acceptable solution within a reasonable timescale, or it is clear at the outset that the breach is not capable of being remedied through negotiation, we will proceed with formal enforcement action where it is expedient to do so.

4. Taking formal enforcement action

- 4.1 Once the decision to take formal action has been made we will tell the complainant either verbally or in writing/email within 10 working days from the date on which the decision to act was made. We will consider the full range of powers available to ensure the most proportionate and expedient resolution. We will also consider whether any other public authority is better able to take remedial action. For example, Essex County Council or the Environment Agency.
- 4.2 A full planning enforcement toolkit is available to officers when taking formal action, the use of these can vary depending on the nature of the breach and the level of harm caused.

Powers available

Enforcement notice

- 4.3 Section 172 of The Town and Country Planning Act (as amended) allows the service of an enforcement notice where unauthorised operational development or a change of use has taken place and it is considered expedient to do so. We are required to serve enforcement notices on the owner, occupier and any other person with an interest in the land which is materially affected by the notice.
- 4.4 An enforcement notice shall specify the steps which we require to be taken, or the activities which we require to cease, to achieve, wholly or partly, any of the following purposes:
- remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
 - remedying any injury to amenity which has been caused by the breach.
- 4.5 The notice will specify time periods for compliance for each of the steps from the date on which the notice comes into effect. A notice comes into effect after a minimum period of 28 days following service. There is a statutory right of appeal against the notice during this period to the Planning Inspectorate. Once the Planning Inspectorate has received a valid appeal, the enforcement notice has no effect until the appeal has been determined.
- 4.6 There are seven grounds of appeal against an enforcement notice. Any appeal may include one or these grounds:
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or the condition or limitation concerned ought to be discharged
 - (b) that those matters have not occurred
 - (c) that those matters (if they occurred) do not constitute a breach of planning control
 - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters
 - (e) that copies of the enforcement notice were not served as required by section 172

- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or to remedy any injury to amenity which has been caused by any such breach
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

- 4.7 Given these rights of appeal it is important that all relevant matters are considered before serving an enforcement notice. This includes being clear in respect of; the specific breach of planning control; the steps required to remedy the breach; and the time required for compliance. An enforcement report will be produced by officers specifically to consider these issues. As with an appeal against a planning application costs can be applied for in cases where the other party has acted unreasonably.
- 4.8 If the breach of planning control relates to a listed building, or unauthorised demolition within a conservation area, we will consider the expediency of serving a listed building enforcement notice or a conservation area enforcement notice and where appropriate, commence a prosecution in the Courts. The enforcement notice will specify the reason(s) for its service, the steps required to remedy the breach, the date that it takes effect and the time for compliance.
- 4.9 All enforcement notices are placed on the Council's enforcement register which is available to view on the Council's website at <http://planpub.eppingforestdc.gov.uk/Anitelm.websearch/Home.aspx>

Planning Contravention Notice (PCN)

- 4.10 Section 171C of the Town and Country Planning Act (as amended) provides the power to issue a PCN. This can be served on the owner or occupier of the land in question or a person who is carrying out operations in, on, over or under the land or is using it for any purpose and where a suspected breach of planning is believed to exist. The PCN will require the recipient to provide the information requested within 21 days relating to the breach of planning control alleged. Failure to comply with any aspect of the PCN is an offence for which the recipient can be prosecuted with the maximum fine of £1,000. To knowingly provide false information on a PCN can result in a fine of up to £5,000.
- 4.11 A PCN will be served in most cases as a precursor to an enforcement notice to ensure all relevant information has been obtained.

Other requisition for information notices

- 4.12 Under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 the Council can require the recipient of a requisition for information notice to supply in writing details of their interest in a property and provide details of anyone else having an interest in the property. A reply must be supplied within 14 days. A person who fails to comply with the requirements of a notice or makes a false statement in a reply is guilty of an offence punishable by a fine of up to £5,000.
- 4.13 Under section 330 of the Town and Country Planning Act 1990 the Council can require the recipient to state in writing the nature of their interest in a property and to state in writing the name and address of any other person known to them as having an interest in the property, as a freeholder, mortgagee, lessee or otherwise. Failure

to return the form or to provide a miss statement is an offence punishable by a fine up to £1,000.

Breach of Condition Notice (BCN)

- 4.14 Section 187A of the Town and Country Planning Act (as amended) provides the power to serve a Breach of Condition Notice (BCN) where a planning condition has not been complied with. Consideration should be given to the type of condition and the steps required to secure compliance with the condition. Once issued the notice does not take effect for 28 days. There is no appeal against a BCN and therefore can offer a more expedient course of action than issuing an enforcement notice. The failure to comply with the notice is dealt with by a prosecution in the Magistrates Court. The maximum fine has recently been increased to a level 4 fine (£2,500). The BCN is ideal for matters where the steps to be taken are relatively simple and can be readily achieved.
- 4.15 Where the breach of planning control relates to non-compliance with a condition on a planning permission or a limitation on a deemed planning permission has been exceeded, we will consider the expediency of serving a BCN. The breach of condition notice will specify the steps required to comply with the condition(s) or limitation(s), the date that it takes effect and the time for compliance.

Stop Notice

- 4.16 Section 183 of the Town and Country Planning Act (as amended) provides for the service of a stop notice. A stop notice must be served at the same time or after the service of an enforcement notice. We will consider serving a stop notice where urgent action is necessary to bring about a cessation of a relevant activity before the expiry of the period of compliance of the related enforcement notice.
- 4.17 The stop notice must refer to the enforcement notice, specify the activity or activities that are required to cease and the date that it takes effect. Failure to comply with the notice is an offence. The maximum fine on summary conviction is £20,000.
- 4.18 The Council must consider the use of stop notices carefully as they carry with them significant statutory compensation provisions.

Temporary Stop Notice (TSN)

- 4.19 Section 171E of the Town and Country Planning Act (as amended) provides councils with the power to serve a TSN. A TSN which can be issued without the need to issue an enforcement notice and is designed to halt breaches of planning control for a period of up to 28 days.
- 4.20 Whilst TSNs also carry some compensation provisions these are significantly lower than with a stop notice and therefore the risk to the Council is reduced.
- 4.21 All stop notices are placed on the Council's enforcement register.

Time limits for taking formal action

- 4.22 Section 171B of the Town and Country Planning Act (as amended) sets out time limits for taking enforcement action. The Council cannot serve a notice after four years where the breach of planning control involves building operations, for example

extensions to dwellings, new buildings and laying hard standings; or the change of use of any building to a single dwelling house, from the commencement of the breach. Other unauthorised changes of use and breaches of conditions are subject to a 10-year time limit.

- 4.23 After these periods the Council cannot act and the use becomes lawful. The landowner can apply for a Certificate of Lawful Existing Use or Development (CLEUD) after this period and if the evidence is clear regularise the situation.
- 4.24 Serving an enforcement notice in respect of a development stops the clock in relation to these time limits. Therefore, where the Council feel a breach may be close to the relevant time limit it may seek to take urgent enforcement action to prevent a lawful development situation.
- 4.25 The Localism Act has introduced a new enforcement power in relation to time limits. This allows councils the possibility to act against concealed breaches of planning control even after the usual time limit for enforcement has expired (see below).
- 4.26 The Council can, within six months of a breach coming to their attention, apply to the magistrate's court for a planning enforcement order. A planning enforcement order would give us one year to then take enforcement action. In agreeing to a planning enforcement order, the court need only be satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons. In other words:
- concealment of only part of the breach is sufficient to render it all open to enforcement
 - the deliberate concealment could be to an almost negligible extent
 - the concealment may be by anyone – it could have been by a past owner, it could even have been by a third party.

Failure to comply with formal notices

- 4.27 Where a notice has been served and has not been complied with there are three main options available to the Council to pursue to attempt to resolve the breach.

Prosecution

- 4.28 We will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the following notices where the date for compliance has passed and the requirements have not been complied with:
- enforcement notice
 - listed building enforcement notice, conservation area enforcement notice
 - planning contravention notice
 - breach of condition notice
 - section 215 notice
 - stop notice
- 4.29 Cases involving unauthorised works carried out to a Listed Building and unauthorised

demolition in a Conservation Area also constitutes an offence in their own rights. We will consider whether it would be expedient to prosecute for these works rather than issuing a notice on a case by case basis.

- 4.30 Before commencing any legal proceedings, we need to be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. We will take advice from the Councils Legal Section and from Independent Counsel where required to ensure that we act correctly.

Direct Action

- 4.31 Where any steps required by an enforcement notice or section 215 notice have not been taken within the compliance period (other than the discontinuance of the use of land), we will consider whether it is expedient to exercise our powers under section 178 of the Town and Country Planning Act (as amended) to:

- enter the land and take the steps to remedy the harm; and
- recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

- 4.32 In most cases the Council will seek to prosecute the failure to comply with a notice before seeking to initiate direct action.

Injunction

- 4.33 Where an enforcement notice has not been complied with and, because of the special circumstances of the case, either direct action or prosecution would not be an effective remedy, we will consider applying to the Court for an Injunction under section 187B of the Town and Country Planning Act (as amended).
- 4.34 An injunction can also be applied for where there is clear evidence that a breach of planning control is anticipated but has not actually occurred. Such action will only be considered if the breach, actual or anticipated, is particularly serious and is causing or likely to cause exceptional harm.

5. Special Controls

Advertisements

- 5.1 Unlike most spheres of planning control, the display of advertisements without consent is a criminal offence. Therefore, we have the power to initiate prosecutions without the need to issue a notice. Where it has been considered that an advertisement should be removed an offender will normally be given one written opportunity to remove the advertisement voluntarily. Failure to do so will normally result in further action being taken without further correspondence.
- 5.2 Section 225 of the Town and Country Planning Act (as amended) provides powers to remove or obliterate posters and placards. We will consider using these powers as appropriate as an alternative or in conjunction with prosecution action.
- 5.3 The recent Localism Act has introduced several new provisions in respect of dealing with advertisements. These are Removal Notices, Action Notices and the powers to remedy the defacement of property. Each provision includes rights of appeal to the Magistrates Court.

Removal notices

- 5.4 This provides the power to seek removal of any structure used to display and advertisement. Where the notice is not complied with we may undertake the works in default and recover the expenses for doing so.

Action notices

- 5.5 Where there is a persistent problem with unauthorised advertisements an action notice can be issued specifying measures to prevent or reduce the frequency of the display of advertisements on the surface. Again, where the notice is not complied with we may undertake the works in default and recover the expenses for doing so.

Power to remedy defacement of premises

- 5.6 Where a sign has been placed on a surface that is readily visible from somewhere the public have access, and is considered by us to be detrimental to the amenity of the area or offensive, a notice may be issued requiring the removal or obliteration of the sign. As with the above provisions failure to comply with the notice will allow us to undertake the works in default and recover costs (costs can not be recovered where the sign is on a flat or house or within the cartilage of a house)

Trees and Hedgerows

- 5.7 The lead section for all Tree and Hedgerow investigations is the Landscape Section who can be contacted on 01992 564452. Enforcement provides investigative support to their investigations where appropriate.
- 5.8 Legislation protects trees which are the subject of Tree Preservation Orders (TPOs) or are within a Conservation Area from felling or other works unless appropriate consent is first obtained. As with advertisements such works are an offence and therefore prosecution can be sought without the requirement to issue a notice. However, such action would not remedy the harm caused.

- 5.9 Section 207 of the Town and Country Planning Act (as amended) provides for a replacement notice to be issued. This will require an appropriate replacement tree to be planted where a tree covered by a TPO has been removed.

Section 215 Notice

- 5.10 In cases where the amenity of an area is adversely affected by the condition of land or buildings, we will consider serving a notice under Section 215 of the Town and Country Planning Act (as amended). The notice will specify the steps required to be taken to remedy the condition of the land or buildings, the time within which the steps must be taken and the date that it takes effect.
- 5.11 A section 215 notice takes effect after 28 days service during which time an appeal can be made in the Magistrates Court.

6. Other powers

Entry onto land

- 6.1 Under the provisions of Section 196A, B and C of the Town and Country Planning Act (as amended) officers have the right of entry onto land and buildings land when pursuing effective planning control for the following purposes:

- (a) to ascertain whether there is or has been any breach of planning control on the land or any other land;
- (b) to determine whether any of the powers conferred on a local planning authority should be exercised in relation to the land or any other land;
- (c) to determine how any such power should be exercised in relation to the land or any other land;
- (d) to ascertain whether there has been compliance with any requirement imposed because of any such power having been exercised in relation to the land or any other land;

and to determine whether an enforcement notice should be served on that or any other land.

- 6.2 Twenty-four hours notice in writing must be given for the need to access to a residential building if entry is refused. If access is still denied, or the matter is urgent, a warrant can be applied for from the Magistrates Court. Officers will exercise these powers where appropriate particularly where their use is essential to the collection of evidence relating to an alleged breach of planning control. An obstruction of these powers is an offence which is subject to prosecution.

- 6.3 Section 324 of the of the Town and Country Planning Act (as amended) gives officers general powers of entry to sites to:

To undertake surveys about;

- a) Statutory plans;
- b) Applications for planning permission;
- c) Applications for consents under Tree Preservation Orders; and
- d) Applications under Advertisement Regulations.

- 6.4 Similar Powers of entry exist for Listed Buildings, hedgerows, trees and advertisements.
- 6.5 The use of the Councils Remotely Piloted Air Systems (aka Drones) is laid down in a separate policy available on the Councils website.

7. Legislation/guidance

- Town and Country Planning Act 1990 – This form the current primary legislation
- The Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 – these two Acts are secondary legislations which amend and add to the provisions of the Town and Country Planning Act 1990. Where specific sections from these Acts are referenced in the enforcement plan they are collectively referred to as the Town and Country Planning Act (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- National Planning Policy Framework (NPPF) 2018
- Planning Policy Guidance - Ensuring Effective Enforcement
- Planning Policy Guidance – Advertisements
- Planning Policy Guidance – Conserving and enhancing the historic environment
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Use Classes) Order 1995 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Regulation of Investigatory Powers Act 2000
- Police and Criminal Evidence Act 1984



Theydon Bois Parish Council

To: **Jerry Godden, Principal Planning Officer (Heritage, Enforcement & Landscaping)**

From: The Planning Committee, Theydon Bois Parish Council

Subject: **Consultation on the proposed revisions to the Local Enforcement Plan (2018)**

Date: 22nd October 2018

Dear Mr Godden

Thank you for your email of 20th September 2018, inviting our Parish Council to respond to the consultation on the proposed 'Local Enforcement Plan, 2018', which has been revised from that adopted by Epping Forest District Council in 2013.

Generally, the members of our Planning Committee found this to be an informative document, particularly since we receive a number of enquiries each year from residents relating to new developments which they perceive may constitute breaches of planning control. Generally, we refer those who make enquiries directly to yourselves, but on some occasions our Councillors have also raised concerns, particularly where no planning permission has been applied for prior to commencement of the building work or activity.

Mostly, however, our comments relate to Sections 2 and 3 of the proposed Policy document:

Under Section 2.8: Category B: Would it be reasonable to anticipate a site visit by a member of the Enforcement Team within 7 days, rather than 14, since some types of building work can advance significantly within a two-week period ?

Under Section 3.13: Bullet point two – Are requests consistently made for formal applications to be made for Certificates of Lawful Development, so that it can be determined that a development, which has already taken place, is lawful ?

We have seen a number of examples of building work undertaken where, after an enquiry has been made, no certification has been applied for, in spite of the concerns reported by residents or ourselves. How then, is assessment made, and by whom, as to whether the development is lawful, if no certification is issued ? How is this aspect scrutinised by the Local Authority ?

Bullet point four – Reference to the so-called 'four, or ten, year rule'. Taking into consideration the concerns raised during the recent 'Planning Process Review', our Planning Committee would again mention that, previously, 'Certificates of Lawful Development for Existing Use', if objected to by a Parish/Town Council, could be put before an Area Planning Sub-Committee for consideration and determination or, alternatively, could be 'called-in' by an Elected Member.

Both we, and two other Parish Councils, raised concerns over the changes made under 'CLD2, Section B' of the 'Planning Process Review', as the unlawful use of buildings, or land, either in breach of a planning condition or without the required permission, clearly raises significant concern among both Councillors and residents.

On the understanding that, if such uses are time-immune from enforcement, it would seem reasonable to require that any evidence of such continuous use, or breach, is subject to a higher level of scrutiny.

Therefore, it would be helpful to know what procedures can be followed to ascertain whether conflicting evidence of such use exists and whether residents local to a site, and their Parish/Town Councils, will be consulted to ensure that the Local Authority has carried out a thorough analysis, before deciding what action to take.

Where a Parish/Town Council believes it can raise an objection material to qualification under the 'four, or ten, year rule', we previously stated that we would wish to see applications for 'Certificates of Lawful Development for Existing Use' determined by the relevant Area Planning Sub-Committee.

Finally, in the light of recent changes to the National Planning Policy Framework, 2018 and the emergence of a new Local Plan for the District, which may be adopted (after the Examination in Public) in 2019, we would query whether the 'review period' for the Local Enforcement Plan should, preferably, be less than five years, so giving a further opportunity for consideration within that time-frame.

We hope you will take our comments on the proposed changes into account before the Policy Document is adopted, and thank you for your time and consideration in this matter.

Please acknowledge receipt of this response.

Caroline Carroll

Clerk to the Council, Theydon Bois Parish Council



NAZEING PARISH COUNCIL

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21 October 2018

Mr Jerry Godden
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CC: Cllrs Carter, Clarke, Joslin and Frydrych

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Dear Jerry,

Re: Proposed Revisions to Local Enforcement Plan

Further to your email of 20/09/18, Nazeing Parish Council has considered the draft revisions to the Local Enforcement Plan and make the following comments:

1. Paragraphs 2.8 and 3.7 set out the timescales within which a site visit will be conducted namely Category A - 7 working hours and Category B - 14 days which are acceptable.

However Paragraph 3.8 provides that if complying with these time frames is problematic the officer will notify the complainant. This is completely open ended and is not satisfactory. If the circumstances are difficult for some reason, provision should be made to extend the initial date of expiration of the timescales by e.g. 7 days.



NAZEING PARISH COUNCIL

2. Under the heading **Negotiation** Paragraph 3.31 provides that enforcement action will be taken if an acceptable solution is not negotiated within a *reasonable* time. The question will arise as to what is reasonable and accordingly a maximum time should be specified.

Yours sincerely,

Lorraine Ellis

Mrs Lorraine Ellis
Clerk to Nazeing Parish Council