

3 October 2022

<b>Report of</b>	<b>Assistant Director of Place and Client Services</b>	<b>Author</b>	<b>Karen Syrett</b> ☎ 282477
<b>Title</b>	<b>Review of Enforcement Policy</b>		
<b>Wards affected</b>	All wards		

## 1. Executive Summary

- 1.1 This report seeks approval of the Committee to adopt a new Planning Enforcement Policy for Colchester.
- 1.2 The Policy sets out what constitutes a breach of planning, when enforcement action should be taken, the types of action available and the limitations.

## 2. Recommended Decision

- 2.1 To adopt the revised Policy.

## 3. Reason for Recommended Decision

- 3.1 To ensure the Council has up to date guidance on which to base decisions.

## 4. Alternative Options

- 4.1 The Committee could decide not to change the existing Policy or to make further changes to the proposed Policy.

## 5. Background Information

- 5.1 An effective planning enforcement function is essential to the credibility of any planning service and to any Council. Fair and effective planning enforcement is vital in protecting the quality of life for the people who live, work and visit Colchester; and the quality of the Borough's built and natural environment.
- 5.2 The National Planning Policy Framework (NPPF) recognises the importance of Planning Enforcement at Paragraph 59;

*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.*

- 5.3 In response to this national requirement, the Council published an Enforcement Policy in 2014 and this is now in need of review. Although much of the document remains fit for purpose there are some changes which are summarised below;
- An increased emphasis on the fact that the Council will not condone breaches of planning control but that it should only take action where it is expedient to do so
  - More detail about what constitutes a breach of planning control
  - Reference to updated guidance contained in Planning Practice Guidance (PPG)
  - A new requirement to submit an observation log
  - A revised commitment to how we will keep people informed
  - A new section aimed at people who are the subject of a complaint
  - More detail about what constitutes harm.
- 5.4 The Policy also makes clear that Planning Enforcement can be a complex and difficult process. Enforcement Officers often come under unfair pressure and scrutiny, but it is important that everyone recognises the legislative constraints they are working under. In Colchester, the team is small and has a large workload and therefore prioritisation does have to take place. There will also be many instances where it is not appropriate to take enforcement action, and this can be difficult for people to understand. The revised Policy is intended to set out when it will be appropriate to take action and where it will not whilst at the same time making clear that the Council will not condone wilful breaches of planning control.
- 5.5 Following the Queen's Speech, the Government published the Levelling Up and Regeneration Bill on 11 May 2022. This is available online via <https://publications.parliament.uk/pa/bills/cbill/58-03/0006/220006.pdf>
- 5.6 A Policy Paper has also been published which summarises the steps being taken by Government through the Levelling Up and Regeneration Bill and other legislation and policy. This is also available online - <https://www.gov.uk/government/publications/levelling-up-and-regeneration-further-information/levelling-up-and-regeneration-further-information>
- 5.7 The Levelling Up and Regeneration Bill (The Bill), is a key component of the wider programme to level up the country, as set out in the [Levelling Up White Paper](#) published

in February 2022. The Bill also incorporates some of the proposals for planning reform outlined in the [Planning for the Future White Paper](#) published in August 2020, which support the approach to Levelling Up.

5.8 The Bill contains 3 parts, with Chapters 2 and 7 being those most closely related to Planning and one of the areas covered is Enforcement. There are a number of ways in which the Bill and Policy Paper would change planning enforcement if they are enacted:

1. Introduction of commencement notices which would be required when a scheme with planning permission starts on site and the Bill will make it easier for LPAs to issue completion notices to developers to require them to complete their projects.
2. Amendments and strengthening of powers and sanctions available to LPAs to deal with individuals who fail to abide by rules and processes associated with the planning system (Enforcement). This includes:
  - Closing of existing 'loopholes' in enforcement which can prolong unauthorised development such as tightening the scope of appeals against enforcement notices so there is only one opportunity to obtain planning permission retrospectively;
  - Extending time period for all breach investigations to 10 years (currently 4 years);
  - Introduction of enforcement warning notices to allow LPAs to formally warn landowners that a breach has occurred providing an opportunity to remedy through a retrospective planning application;
  - Doubling fees for retrospective planning applications;
  - Increasing fines associated with certain planning breaches. Fines for a number of breaches including breach of condition will rise from a maximum of £2,500 to be unlimited;
  - Extending temporary stop notices to be in place for up to 56 days (currently 28 days); and
  - The Planning Inspectorate will be able to dismiss enforcement appeals where the appellant is causing unnecessary delays.

5.9 Changes to the planning procedures will begin to take place from 2024, once the Bill has received Royal Assent and a series of associated regulations and changes to national policy are in place. Many of the proposals in the Bill will be subject to further consultation so the Policy may need further review once the outcomes are known.

## **6. Equality, Diversity and Human Rights implications**

6.1 An Equality Impact Assessment has been prepared for the Local Plan and is available to view on our website.

<https://cbccrmdata.blob.core.windows.net/noteattachment/Equality%20Impact%20Assessment%20June%20202017.pdf>

## **7. Strategic Plan References**

7.1 The Strategic Plan is relevant, in particular in contributing towards priorities under the themes:

- Delivering homes for people who need them;
- Growing a fair economy so everyone benefits; and

- Celebrating our heritage and culture.

## **8. Consultation**

8.1 N/A

## **9. Publicity Considerations**

9.1 The report is intended to provide helpful guidance and is unlikely to generate publicity.

## **10. Financial implications**

10.1 N/A

## **11. Health, Wellbeing and Community Safety Implications**

11.1 Having an effective Enforcement Policy can contribute to ensuring health, wellbeing and community safety.

## **12. Health and Safety Implications**

12.1 Having an effective Enforcement Policy can contribute to ensuring health and safety are adhered to.

## **13. Risk Management Implications**

13.1 Having an effective Enforcement Policy can minimise risk associated with unauthorised development.

## **14. Environmental and Sustainability Implications**

14.1 The Council has declared a Climate Emergency and has committed to being carbon neutral by 2030. The purpose of the planning system is to contribute to the achievement of sustainable development as defined in the National Planning Policy Framework. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways. These are economic, social and environmental objectives.

## **Appendix 1 – Colchester Enforcement Policy 2022**