

PLYMOUTH CITY COUNCIL

Subject: Plymouth City Council – Planning Enforcement Policy

Committee: Planning Committee

Date: 12 January 2017

Report from: Paul Barnard, Assistant Director for Strategic Planning & Infrastructure Service

Reference: DM/BW/PEP

Part: 1

1. Purpose of this report:

1.1 To seek the views of Planning Committee Member's regarding the Planning Enforcement Policy and to request approval for it to be formally adopted. This report highlights some key issues identified in the policy, its reason for being created and the expected benefits it will bring.

2. Introduction:

2.1 The Planning Enforcement Policy has been produced in direct response to paragraph 207 of the National Planning Policy Framework (NPPF) which states the following –

“Effective enforcement is important as a means of maintaining 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. Local planning authorities 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 it is appropriate to do so”.

3. Plymouth City Council Planning Enforcement Policy purpose and reason for proposing its adoption

- 3.1 The Planning Enforcement Policy considers policies contained within the Plymouth City Council Development Plan Framework, including the emerging Plymouth Plan, and also takes into account the National Government's Policy in respect of Intentional Unauthorised Development. This was issued in August 2015 and requires weight to be given to the intentional nature of unauthorised development in all planning decisions taken by the Council and Planning Inspectors.
- 3.2 The Enforcement Policy makes a commitment to providing an open and helpful service and clearly sets out a number of specific procedures and timescales for which customers are to expect acknowledgements and updates on the progress of a specific enforcement case.
- 3.3 The policy details what type of enforcement action is available to the Local Planning Authority and concludes with a simplified flow chart of the enforcement investigation process.
- 3.4 Effective enforcement action is important to tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of an area, to maintain the integrity of the decision-making process and to help ensure that public acceptance of the decision-making process is maintained.

4. Recommendation:

- 4.1 That the Planning Enforcement Policy is noted by Members of the Planning Committee.

Plymouth City Council Planning Enforcement Policy

Tackling unauthorised developments & other planning law offences robustly but fairly

**A concise guide for customers explaining what
action the Council will take where planning
rules have not been complied with.**

Introduction;

- Plymouth City Council is committed to taking the strongest forms of action against unauthorised planning developments.
- Planning rules exist for the benefit of all and to ensure new developments are carried out to an acceptable standard in order to protect the environment and create a vibrant City for all to enjoy.
- Those carrying out developments without the necessary permissions, where required, can expect to face action from the Council which is appropriate and proportionate.
- This document sets out the Council's policy and procedure for tackling unauthorised developments.

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The Council's Planning Compliance Service will:

- Robustly and promptly investigate all alleged breaches of planning control that are brought to our attention in writing. Complaints received over the telephone will not be actioned without a follow up in writing. Anonymous complaints will also be registered and investigated where the reported breach is felt to be potentially serious and/or readily noticeable.
- Register and record all written complaints received, and acknowledge receipt as well as appropriately updating complainants of the progress of the investigation.
- Promptly investigate breaches of planning control that cause demonstrable harm to amenity.
- Although pursuing the strongest action wherever necessary, planning enforcement action is a discretionary activity, and may not be pursued in some instances where after very careful consideration this is not considered to be expedient or in the public interest.

We will also deliver this service by:

- Prioritising cases in accordance with the Planning Enforcement Protocol and Priority Schedule.
- Being helpful and open in the way we work; by allocating a named case officer as a contact person; by responding to all contacts as promptly as possible.

Pursuing a breach of planning control to a suitable conclusion where considered expedient to do so.

- Retaining confidentiality of complainants where possible.

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Plymouth City Council has introduced this policy to provide the basis for the provision of its Planning Enforcement Services, and as also recommended in Paragraph 207 of the National Planning Policy Framework (NPPF). It has been introduced taking into account:

- The National Planning Policy Framework
- The Government's Planning Policy in respect of Intentional Unauthorised Development, issued in August 2015, which requires weight to be given to the intentional nature of unauthorised development in all planning decisions taken by the Council and Planning Inspectors
- Policies contained within the Plymouth City Council Development Plan Framework, including the emerging Plymouth Plan
- The need to protect, maintain and enhance sites of special control for example Sites of Special Scientific Interest and Plymouth's fourteen valuable Conservation Areas
- The need to protect Plymouth's equally valuable listed buildings and other heritage assets
- The need to ensure compliance with the Council's Article 4 Direction – 'Managing Houses in Multiple Occupation'
- The need to protect the urban and semi-rural environment from unauthorised advertisements
- The need to provide a balance between protecting amenity and enabling good quality acceptable development to take place
- You can find further information on the Strategic Planning & Infrastructure Service's web page on the Plymouth City Council website at <http://www.plymouth.gov.uk> or by telephoning 01752 304366.

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Planning Services

Planning Enforcement Protocol

All written complaints we receive that allege a breach of planning control will be investigated – you will have to give us your name and address to enable us to verify the complaint and have a point of contact to update you. Where an allegation is made anonymously we reserve the right not to investigate unless the breach is extremely serious.

When we receive a complaint, we will acknowledge it within 5 working days, using the name and address you provide on your letter of complaint. The letter of acknowledgement will identify the case officer who will investigate your complaint.

Aimed response times you can expect from the Enforcement Team are as follows:

- **Within 2 working days of receipt of the complaint (LEVEL 1 – HIGH PRIORITY):**
 - Unauthorised demolition of buildings
 - Unauthorised works to Listed Buildings
 - Unauthorised works to trees subject of a Tree Preservation Order (TPO), or trees within a designated Conservation Area
 - Breaches of conditions that control the construction hours of development
 - Unauthorised works which are considered to pose imminent danger to life

- **Within 25 working days of receipt of complaint (LEVELS 2 & 3 – MEDIUM & LOW LEVEL COMPLAINTS):**
 - Development causing noise and disturbance to residential occupiers during unsociable hours
 - The display of advertisements
 - Telecommunication apparatus on residential premises
 - Non-compliance with planning conditions or advertisement consents
 - All other complaints alleging a breach of planning control (e.g. unauthorised building works or engineering operations).

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Planning Enforcement – Our commitment:

Openness:

- We will comply with the standards contained in our Enforcement Policy
- We will publish these standards and our annual performance against them
- We will provide information and advice in plain, jargon free language on the rules and regulation we will apply
- We will be open and transparent about the way in which we work
- We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

Helpfulness:

- We believe that prevention is better than cure. We will therefore work with business to advise on and assist with compliance
- We will provide a point of contact and telephone number for each complaint
- We will ensure that where practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays

Complaints about service:

Where disputes about service cannot be resolved you have the right to make a complaint using the 'Have Your Say' section of the Council's website

<http://www.plymouth.gov.uk/homepage/newsandviews/haveyoursay/complaint.htm>

Procedures:

- Our advice will be put clearly and simply, will be confirmed in writing with an explanation as to why action is necessary
- Before formal action is taken, we will usually try to provide an opportunity to discuss circumstances of the case, resolve points of difference, unless immediate action is required
- Where immediate action is necessary, we will endeavour to provide an explanation of why such action is required at the time and confirmed in writing within 5 days and in all other cases in 20 -25 days.
- Where there are rights to appeal against formal action these will be clearly set out in any correspondence.

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Keeping complainants advised:

- Where we find no breach of planning control you will be informed in writing. In certain instances, you may be referred to alternative services to address the issue.
- Where legal action becomes necessary you will be informed of this in writing and we will endeavour to keep you updated of steps being taken in the case.
- Where a decision has been taken to close an investigation without action, you will be informed in writing of this.

Keeping the contravener advised:

- When a breach of planning control is found, the person(s) concerned will be informed in writing of the action that will be taken.
- When warnings are necessary, there will be issued in writing. There may also be a verbal warning if necessary.
- If no further action is required or if the matter is for another Council department or external body/agency, the contravener will be informed in writing.
- We will maintain an ongoing register of alleged breaches of planning control and a summary of what our investigations have revealed.

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Type of enforcement action	Purpose
Planning Contravention Notice (PCN)	Requires persons to divulge information in respect of land and activities. This is often undertaken to determine if there is a breach of control and to inform the appropriate course of action
Breach of Condition Notice (BCN)	To secure compliance with conditions specified within a planning permission.
Enforcement Notice	To require steps to be taken to remedy the breach of planning control.
Stop Notice/Temporary Stop Notice	To require the unauthorised activities to cease.
Section 215 Notice	To secure the proper maintenance of land and buildings.
Injunctions	To prevent unauthorised development and only used in a very limited number of specific circumstances.
Prosecutions	It is an offence not to comply with an enforcement notice, once the period for compliance has elapsed and there is no outstanding appeal. A successful prosecution in the Magistrates Court or Crown Court can result in a fine.

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Priority Schedule

<p>Level 1: High Priority Immediate action initiated to address the breach of planning control</p>
<p>A serious and immediate danger to the public or health/safety (e.g. pollution problems/traffic hazards)</p> <p>Permanent damage being caused to the environment (e.g. loss of protected tree, unauthorised works to listed building etc.)</p> <p>Complaints received from elected Councillors</p>
<p>Level 2: Medium Priority Action required promptly, but no immediate harm being caused</p>
<p>Unauthorised development causing significant disturbance to residents or damage to the environment</p> <p>Significant non-compliance with conditions or approved plans taking place</p> <p>Ongoing development unlikely to be granted planning permission without substantial modification</p> <p>Unauthorised uses causing severe nuisance through noise, smells etc.</p>
<p>Level 3: Low Priority Breaches of planning that cause limited or no harm to the environment or residential amenity</p>
<p>Technical PD breaches</p> <p>Neighbour based disputes</p> <p>Minor variations from approved plans</p> <p>Unauthorised advertisements</p> <p>All other minor cases</p>

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Site visits:

Level 1: High Priority Immediate action initiated to address the breach of planning control
Visit within 2 working days
Level 2: Medium Priority Action required promptly, but no immediate harm being caused
Visit within 25 working days
Level 3: Low Priority Breaches of planning that cause limited or no harm to the environment or residential amenity
Visit within 25 working days

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Simplified Flow Chart of Enforcement Investigation Process

