

## PLANNING COMMITTEE

8<sup>th</sup> July 2025

### REPORT OF THE CORPORATE DIRECTOR – PLANNING AND COMMUNITY

#### **A.4 REVISED PLANNING SERVICE ENFORCEMENT POLICY AND THE ASSOCIATED HARM ASSESSMENT**

##### **PART 1 – KEY INFORMATION**

###### **PURPOSE OF THE REPORT**

To seek the Planning Committee's approval to adopt the revised Planning Service Enforcement Policy and the associated Harm Assessment.

###### **EXECUTIVE SUMMARY**

The National Planning Policy Framework (NPPF) requires local planning authorities to consider publishing a local planning enforcement policy or plan which describes how the Council will manage planning enforcement in a way which is appropriate to their specific area. The NPPF also makes clear that planning enforcement is discretionary and local authorities should act proportionately in responding to breaches of planning control.

The purpose of the policy is to provide elected Members and the wider public with a clear understanding of how planning enforcement will be delivered and the criteria used in making assessment of potential breaches of planning law.

The attached Planning Service Enforcement Policy document has been updated from the version last adopted with the approval of the Planning Committee in September 2022 to address areas requiring updating and taking the opportunity to make improvements.

Some notable areas of the new Enforcement Policy where changes from the 2022 version are proposed include:

###### **1. Integration with Building Control Enforcement**

The current 2022 policy only covered planning enforcement and did not include any reference to how the Council might deal with breaches of building control regulations, which can have significant safety and compliance implications.

The revised document takes the opportunity to incorporate Building Control Enforcement, ensuring that non-compliance with building regulations (which can be a criminal offence) is addressed alongside planning breaches. Building Control is now required to have an Enforcement Policy under Building Safety Regulator requirements introduced recently, and if not included in this document, must form a separate policy for the Council or represents a risk to the council and potential penalties. This update to the Planning Enforcement Policy will address that requirement for Tendring District Council.

###### **2. Prioritisation and Response Times**

The 2022 policy referred to four priority levels (Priority 1 to 4) for the consideration of enforcement complaints, which in practice have proven to be unnecessary and, for some cases, ineffective. The current policy required urgent breaches to be investigated within 2 working days, while the least urgent could take up to 15 days. However, in practice Officers have been able to carry out most visits quicker than 15 days.

The revised policy simplifies priorities into a single standard response time (5 working days) but allows for immediate action in urgent cases (e.g., demolitions, protected trees). A traffic light system approach (Red, Amber, Green) is now proposed to help determine urgency.

### **3. Improved Transparency & Public Accountability**

The Council has, in recent years, improved public accessibility to information on enforcement cases and their progress. In the past, information was not always readily available online, and complainants had to wait for 21-day updates with limited details.

The new policy reflects current practice which ensures that all live enforcement cases (except confidential ones) are published online. Updates are more structured, with specific reporting stages as detailed in the policy.

### **4. Clearer Enforcement Decision-Making Framework**

The current 2022 version of the Planning Enforcement Policy, whilst setting out the Council's approach to enforcement matters, was not presented as a set of clear policies on different subjects relating to enforcement. To improve the clarity and usability of the document, including a clearer definition of what constitutes "harm" the structure of the new revised policy sets out specifically defined policies that will help ensure that enforcement decisions are consistent, justified, and based on clear public interest and proportionate action. In addition, the policy background has been updated and added to reflect all current considerations and changes in legislation, policy and approach.

### **5. Clearer commentary around Legal Position & Unclear Consequences**

The proposed revised policy seeks to improve the commentary around the distinction between unlawful and criminal offences as well as specifying clear consequences for breaches. The current 2022 version of the policy covers these matters in general terms, but the update has offered the opportunity to strengthen and offer more clarity.

The revised policy therefore explicitly states which breaches are criminal (e.g., demolishing a listed building), the legal consequences for non-compliance with notices (e.g., fines, prosecutions, injunctions) and specific procedures for withdrawing enforcement notices.

### **6. Improvements to Compliance Monitoring & Follow-Up**

To strengthen arrangements around monitoring compliance with planning obligations and planning conditions, the revised policy includes a structured case review process, including six-monthly updates on all cases and regular updates to Planning Committee.

### **7. Biodiversity & Environmental Protections**

The revised policy has been updated and strengthened to refer to environmental legislation including the introduction of new requirements (e.g., biodiversity protection). The Natural Environment and Rural Communities Act 2006 (as amended 2021), Environment Act and Levelling-up & Regeneration Act 2023, for example, are now have to be factored into enforcement decisions. The Council must ensure that enforcement actions conserve and enhance biodiversity.

## **8. Withdrawing Enforcement Notices**

The revised policy has been improved to include explanation of when and why an enforcement notice might be withdrawn. It sets out the need for formal justification for withdrawing notices..

## **9. Case Investigation & Evidence Collection**

The revisions to the policy seek to strengthen consistency in the approach taken to site investigations. It sets out clear guidance on when and when not Officers could record evidence such as photographs, drone footage and body cam footage. The ability to use such evidence, when appropriate, will help to improve the effectiveness of enforcement investigations.

### **RECOMMENDATION(S)**

**It is recommended that the Planning Committee agrees to the adoption of the revised version of the Planning Service Enforcement Policy 2025 attached at Appendix A along with the associated Harm Assessment 2025 at Appendix B along with the LABC Enforcement policy at Appendix C.**

### **REASON(S) FOR THE RECOMMENDATION(S)**

To ensure the Council's policy on planning enforcement is kept up to date, reflects the new requirements around Building Control enforcement and is as effective as possible having regard to legislation, guidance and the practical operation of the Council's enforcement function.

### **ALTERNATIVE OPTIONS CONSIDERED**

Alternatives include no action to update the current policy that represents a risk as outlined above – including not meeting the regulator's expectations around Building Control; There may be alternative wording or approaches to be considered within the document, but the current proposal is the result of expert opinion, consultation across Council services and legal advice. The proposal is the best approach currently for consideration and adoption representing a positive and necessary evolution of the Council's current policy.

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **USE OF RESOURCES AND VALUE FOR MONEY**

No likely change to resources within the service as a result of this revision. The revised policies in many respects reflect existing practice.

#### **MILESTONES AND DELIVERY**

The policy would replace the existing 2022 version immediately.

#### **ASSOCIATED RISKS AND MITIGATION**

The risks of not updating the Planning Service Enforcement policy, as proposed, are that the Council proceeds with a policy that is out of date, not as clear and effective as it would be with the amendments and that does not reflect latest legislator requirements and expectations, particularly in respect of Building Control. On review the proposed policy sets out best practice and considerations in part currently engaged without any known risk in themselves. The changes are not considered to require more resource than available.

#### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

The Portfolio Holder responsible for Planning and Housing was consulted during the review process. The council officer enforcement group had no comment to make on the document. The Council's legal team reviewed and provided advice that has been incorporated into the policy as appropriate. .

#### **EQUALITIES**

There are no equalities implications. All alleged breaches of planning enforcement will be investigated with complete impartiality and investigated in accordance with the standards and timescales set down with the adopted policy document. Part of the document review was needed to include awareness of equalities as a policy consideration of enforcement decision.

#### **IMPLICATIONS RELATED TO DEVOLUTION AND/OR LOCAL GOVERNMENT REORGANISATION**

The document is designed for Tendring at this current time. Colchester City Council has an enforcement document (adopted 2022), this sets standards that are longer in response times than Tendring. Braintree also as an Enforcement document (adopted 2020) that also set standards that are longer in response times than Tendring. All authorities (including any other authority that may form part of any future arrangement) would need to review to align documents in the future.

#### **IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2050**

No part of this policy would create a barrier or delay any work of the Council to reach Net Zero.

#### **OTHER RELEVANT IMPLICATIONS**

**Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.**

<b>Crime and Disorder</b>	In some cases, breaches of planning legislation can significantly impact on the local population and where appropriate such cases will be referred to court seeking full mitigation of the impacts of unauthorised development. Having an up-to-date enforcement policy document in place assists in supporting legal action.
<b>Health Inequalities</b>	Ensuring that breaches of planning control which adversely affect the local population are fully mitigated or removed clearly contributes to addressing issues of health inequality not least in improving the quality of the local environment.
<b>Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance)</b>	N/a
<b>Area or Ward affected</b>	All.
<b>ANY OTHER RELEVANT INFORMATION</b>	
N/a	

### **PART 3 – SUPPORTING INFORMATION**

<b>BACKGROUND</b>
<p>The purpose of the Planning Enforcement Policy document is the establishment of a set of standards and procedures on how the Council will respond to suspected breaches of planning control, deciding on what action should be taken as well as monitoring the implementation of new development through conditions monitoring.</p> <p>It perhaps should be noted that it is not a criminal offence to undertake unauthorised works but it remains open to the Council to take legal action against such works and refer matters to the Courts if necessary. As noted within the NPPF such action is discretionary and should be proportionate taking into account the impacts of the particular unauthorised development. Where at all possible negotiation should be used to remedy a particular case with formal enforcement action or legal action being a last resort. The majority of cases are resolved through negotiation.</p> <p>It may be the case therefore that in minor cases where the impacts of development are negligible or have little adverse impact on the wider public realm that any further action following investigation is unnecessary. Often the Council will seek a retrospective planning application where the development is generally in compliance with planning policy but can then be subject to control by planning condition. On occasion however breaches of planning can be considered as having such a serious impact on amenity and the environment and cessation or removal of such development is the only option. Such cases may require determination by the courts.</p> <p>It is important that cases are prioritised and that serious breaches of planning law or policy are dealt with quickly (i.e. unauthorised demolition of a listed building). How we prioritise such</p>

investigation is set down within the proposed policy along with a Harm Assessment which establishes a set of criteria for how officers prioritise case work.

The Planning Enforcement Policy document is an important guide to how the Council undertake enforcement action and how we prioritise such action. It provides transparency to the public as to how decisions on enforcement are reached and provides clarity to those involved in the enforcement process.

The notable amendments and improvements to the revised version of the policy are highlighted in the executive summary above, including the need to cover Building Control enforcement within an adopted enforcement policy.

#### **PREVIOUS RELEVANT DECISIONS TAKEN BY COUNCIL/CABINET/COMMITTEE ETC.**

Adoption of the current Planning Enforcement Policy was agreed by the Planning Committee at its meeting on 1 September 2022.

#### **BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

None.

#### **APPENDICES**

Appendix A – Planning Service Enforcement Policy  
Appendix B – Harm Assessment  
Appendix C – LABC Enforcement Policy

#### **REPORT CONTACT OFFICER(S)**

<b>Name</b>	<b>John Pateman-Gee</b>
<b>Job Title</b>	<b>Head of Planning and Building Control</b>