



PLEASE NOTE THAT PRAYERS WILL BE HELD AT 6.50PM BEFORE THE COMMENCEMENT OF THE BUSINESS OF THE COUNCIL.

THE MAYOR REQUESTS THAT ANY MEMBER WISHING TO PARTICIPATE IN PRAYERS BE IN ATTENDANCE BY NO LATER THAN 6.45PM.

Dear Sir/Madam,

You are summoned to attend the meeting of the Borough Council of Newcastle-under-Lyme to be held in the **Queen Elizabeth II & Astley Rooms - Castle House, Barracks Road, Newcastle, Staffs. ST5 1BL** on **Wednesday, 22nd November, 2023** at **7.00 pm**.

B U S I N E S S

1 APOLOGIES

2 DECLARATIONS OF INTEREST

To receive declarations of interest from Members on items contained within this agenda.

3 MINUTES OF A PREVIOUS MEETING

(Pages 5 - 14)

To consider the Minutes of the previous meeting(s)

4 MAYOR'S ANNOUNCEMENTS

5 APPOINTMENT OF MONITORING OFFICER

(Pages 15 - 18)

6 APPOINTMENT TO COMMITTEES

(Pages 19 - 26)

This item includes a supplementary report

7 LOCAL PLANNING ENFORCEMENT PLAN

(Pages 27 - 58)

8 STATEMENT OF THE LEADER OF THE COUNCIL

(To Follow)

To receive a statement by the Leader of the Council on the activities and decisions of Cabinet and items included on the Forward Plan.

9 REPORTS OF THE CHAIRS OF THE SCRUTINY COMMITTEES

(To Follow)

Reports are attached for the following:

- Economy and Place Scrutiny Committee

A verbal update will be given for the Finance, Assets and Performance Scrutiny Committee

The Health, Wellbeing and Environment Scrutiny Committee has not met since the last meeting of Full Council.

10 REPORTS OF THE CHAIRS OF THE REGULATORY COMMITTEES (Pages 59 - 60)

Reports are attached for the following:

- a) Licensing and Public Protection Committee
- b) Audit and Standards Committee
- c) Planning Committee

11 QUESTIONS TO THE MAYOR, CABINET MEMBERS AND COMMITTEE CHAIRS (To Follow)

12 RECEIPT OF PETITIONS

To receive from Members any petitions which they wish to present to the Council.

13 URGENT BUSINESS

To consider any communications which pursuant to Appendix 7, Procedure Rule 8 of the constitution are, in the opinion of the Mayor, of an urgent nature and to pass thereon such resolutions as may be deemed necessary.

14 DISCLOSURE OF EXEMPT INFORMATION

To resolve that the public be excluded from the meeting during consideration of the following report(s) as it is likely that there will be disclosure of exempt information as defined in paragraphs contained within Part 1 of Schedule 12A (as amended) of the Local Government Act 1972.

Yours faithfully



Chief Executive

NOTICE FOR COUNCILLORS

1. Fire/Bomb Alerts

In the event of the fire alarm sounding, leave the building immediately, following the fire exit signs..

Fire exits are to be found at the side of the room leading into Queens Gardens.

On exiting the building Members, Officers and the Public must assemble at the statue of Queen Victoria. DO NOT re-enter the building until advised to by the Controlling Officer.

2. Mobile Phones

Please switch off all mobile phones before entering the Council Chamber.

3. Notice of Motion

A Notice of Motion other than those listed in Procedure Rule 14 must reach the Chief Executive ten clear days before the relevant Meeting of the Council. Further information on Notices of Motion can be found in Section B5, Rule 4 of the Constitution of the Council.

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

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Agenda Item 3

Council - 20/09/23

COUNCIL

Wednesday, 20th September, 2023

Time of Commencement: 7.00 pm

[View the agenda here](#)

[Watch the meeting here](#)

Present: Mayor - Councillor Simon White (Chair)

Councillors:	Adcock	Grocott	Richards
	Allport	Heesom	Stubbs
	Barker MBE	Holland	Sweeney
	Bettley-Smith	Fox-Hewitt	J Tagg
	Brockie	Hutchison	S Tagg
	Brown	Johnson	J Waring
	Bryan	D Jones	P Waring
	Burnett-Faulkner	Lawley	Whieldon
	Dymond	Northcott	Wilkes
	Edginton-Plunkett	Panter	G Williams
	Fear	Parker	J Williams
	Gorton	Reece	Wright

Apologies: Councillor(s) Beeston, Crisp, S Jones, Skelding and G White

Officers:	Geoff Durham	Civic & Member Support Officer
	Martin Hamilton	Chief Executive
	Simon McEneny	Deputy Chief Executive
	Sarah Wilkes	Service Director - Finance / S151 Officer
	Andrew Bird	Service Director - Sustainable Environment
	Barbara Beardwell	Interim Service Director - Legal & Governance /Monitoring Officer

1. **DECLARATIONS OF INTEREST**

There were no declarations of interest stated.

2. **ALDERMAN EDDIE BODEN**

Members stood in silent tribute to the memory of Alderman Eddie Boden. Tributes were paid to Alderman Boden for his roles at the Council including as Councillor, Leader, Mayor and Alderman.

[Watch the tributes here](#)

3. **MINUTES OF A PREVIOUS MEETING**

Council - 20/09/23

Resolved: That, subject to it being noted that the apologies given for Councillor Beeston at the previous meeting were for a brief leave of absence from her Council duties, the minutes of the meeting held on 26 July, 2023 be agreed as a correct record.

The apologies would cover all meetings on which Councillor Beeston serves, until further notice.

4. MAYOR'S ANNOUNCEMENTS

The Mayor made announcements on the following:

- Remembrance Sunday Parade and Church Service on 12th November starting at 9.30am
- Mock Mayor Making Ceremony on Sunday 19th November at 1pm.

5. ALLOCATION OF COMMITTEE SEATS TO POLITICAL GROUPS

The Leader introduced a report advising of changes to committee membership following changes in political group membership. The changes followed the by-elections held in Audley and Knutton wards on the 7th September.

Resolved:

- (i) That the changes to committee membership as set out in the report, be agreed;
- (ii) That the changes to Appointments to Outside Bodies as set out in the report, be agreed

[Watch the debate here](#)

6. TREASURY MANAGEMENT ANNUAL REPORT 2022/23

The Portfolio Holder for Finance, Town Centres and Growth introduced the Treasury Management Annual Report for 2022/23, which had been produced in line with legislative requirements.

Resolved:

- (i) That the Treasury Management Annual Report for 2022/23 be noted.

[Watch the debate here](#)

7. STATEMENT OF THE LEADER OF THE COUNCIL

The Leader presented the statement that had been circulated about the activities and decisions made by Cabinet to allow questions and comments.

Questions were raised and responses were provided as follows.

On paragraph 2 – Town Centre Regeneration Update

Councillor Panter asked the Portfolio Holder for Finance, Town Centres and Growth how finances would stack up with the creation of public open space, homes, offices and shops.

Councillor Sweeney stated that Cabinet had agreed to take on Capital and Centric to do the plans and business case for York Place. The Council would borrow money to develop York Place. Upon Completion, Capital and Centric would reimburse the money including any interest incurred by the Council and would run the shopping centre.

Councillor Dave Jones asked the Leader to confirm if the parking rates on the new car park would be charged in line with charges on Council car parks.

The Leader stated that the car parking charges would be standard but would not preclude any of the offers brought in on other car parks. The new car park would have to compete with other private car parks in the town.

Councillor Brockie asked why the Council could not just value engineer projects instead of sharing the risk with a joint venture delivery partner.

The Leader suggested that Councillor Brockie meet with Simon McEneny who could go through the details from the Cabinet report.

Councillor Holland asked the Leader for an update on the construction timetable for the car park.

The Leader stated that work should be starting on site within the next week or so. This would be a 44 week building project (Summer 2024) at which time the Midway would close and lead to the development of the Midway

Councillor Fox-Hewitt asked if Council could explore the viability of compulsory purchasing the Sky building and working with Capital and Centric to bring that project to fruition

The Leader stated that there were specific rules around compulsory purchase which would have to be met. Officers were continuously in touch with whoever was trying to gain control of the building.

Councillor Stubbs asked if the full market value or total cost that Capital and Centric would pay, included the value of the land.

A written answer would be provided for this.

On paragraph 3 – Medium Term Financial Strategy 2024/24 to 2028/29

Councillor Stubbs asked the Leader if he held the Efficiency Board or events at Westminster responsible for the shortfalls in the Strategy.

The Leader stated that the problems had come from inflationary issues related to the extended lockdown and the war in Ukraine. The issues had led to an increased pay award and an increased need for temporary accommodation. The Council would write to the Government and local MP's to make a case for adequate support.

Councillor Paul Waring asked the Portfolio Holder for Finance, Town Centres and Growth for an update on the current in-year revenue position of the Council.

Councillor Sweeney stated that, at the present time the Revenue budget was in a balanced position.

Councillor Brockie asked for a timeframe for the consultation process for the Asset Management Strategy with respect to the town centre car parks.

The Leader stated that Cabinet would be receiving a report on the full consultation process. The Efficiency Board was dealing with the budgetary issues.

Councillor Dave Jones felt that the budget had been mismanaged and asked what was in place to stop the gap in the budget from continually expanding.

The Leader reiterated that the Revenue budget was in a balanced position at the current time. With regard to the pay award, the Council budgeted for 4% but subsequently, inflation was higher than predicted. £10m had been saved since 2018 as well as enhancing services along the way.

Councillor Fox-Hewitt asked for assurance that the Council was on target to meet its carbon reduction commitment in 2030 and that finances were in place to resource the commitments.

The Leader stated that a report would be going to the October Cabinet setting out the Council's plan to get to net-zero. The MTFS already reflected this.

On paragraph 4 – Asset Management Strategy 2023-2028:

Councillor Allport asked the Leader for more information on the shared public services hub in Kidsgrove and what would happen to the existing one when services were transferred elsewhere.

The Leader stated that he could provide more information on how the hub would work and any ramifications for the Kidsgrove Town Council part at the Victoria Hall.

Councillor Bryan asked the Portfolio Holder if he was surprised that the Labour Group were against asset sales which would bring in much needed capital receipts, even though this administration had delivered the asset management sales previously put forward by the Labour group.

Councillor Sweeney stated that he was disappointed that the Labour group did not want to sell assets.

Councillor Grocott asked, in respect of Brick Kiln Lane, Chesterton, the exact location and what consultation had been done.

The Leader asked the Deputy Chief Executive to provide a plan for this. As these were just proposals, there had been no consultation as yet.

Councillor Dave Jones stated that the previous asset strategy was based on a list of assets that were put together by a group, created by a Motion by the Conservative Group and supported by other opposition groups and not by the previous Labour administration.

The Leader stated that the Asset Management Strategy was put together by Cabinet not Full Council. Councillor Jones had been referring to the Asset Committee that the Council used to hold. The Asset Management Strategy, inherited by the current administration had come from the previous Labour Administration.

Councillor Stubbs stated that, at the Board meetings, at no point was the hub discussed in detail. In addition, in the Strategy it stated that Kidsgrove Town Council would lease the shared services hub but there had been no consultation with Town Councillors, stakeholders or local residents. What was planned if the Town Council did not lease the building.

Councillor Paul Waring stated that, at no point had Kidsgrove Town Council agreed to lease the shared service hub. It was in the Strategy as a proposal only.

The Leader stated that there was a letter from the Town Clerk of Kidsgrove to that effect, sent in June which could be sent round to local Members.

On paragraph 6 – Delivery of a Homeless Hub:

Councillor Allport had some concerns regarding the scope of this as homelessness issues were now affecting families, not just individuals and also people with complex mental health needs. The Leader was asked if this had been taken into consideration.

The Leader stated that this was more about those individuals who present as homeless within the Borough, getting them off the streets into the accommodation. For families etc it would be more a 'temporary accommodation' matter.

Councillor Reece asked if, at the end of the 2025 funding round if further ongoing funding was unsuccessful would there be a contingency plan in place. In addition, the Council aims to end rough sleeping in the Borough by 2025. Would data be provided to show that this was on target.

The Leader stated that this was the Government's target. The initial funding had come from the Shared Prosperity Fund. It was hoped that whoever was in power following the General Election in 2024 would carry on the commitment and funding would be required to continue the establishments that would be set up.

Councillor Barker asked the Portfolio Holder for Community Safety and Wellbeing if she agreed that the facility would be operational, day and night providing access to healthcare and financial advice.

Councillor Heesom was pleased that funding had been gained for this 'Multi-Agent Assessment Centre with Accommodation'. Working with entrenched rough sleepers who were the most vulnerable people in our society today who found difficulty accessing services. The Hub would also be a one stop shop to support all those who were vulnerable.

Councillor Dave Jones had concerns that the Hub would become the equivalent of Adult Social Care for a Unitary/County Council and asked what steps were being taken against a surge in costs.

The Leader stated that every Council was asking that question. There was a lobbying tool where more funding could be requested. Local MP's would be approached to help with this. The matter had also been discussed at the Staffordshire Leader's Board which was held with other authorities across the County.

Council - 20/09/23

Councillor Barker asked how the Council would deal with rough sleepers who did not want to be helped.

The Leader stated that there were amazing staff who worked on the front line to help those individuals with difficult circumstances.

On paragraph 7 – Future Delivery of Occupational Health Services:

Councillor Bettley-Smith asked the Leader if it was reasonable to anticipate that the new Sickness Absence Update report would result in improvement in the delivery.

The Leader stated that an item going to the next Finance, Assets and Performance Scrutiny Committee would offer a drill down into the facts, figures and history of sickness absence including the national picture. The new measures being put into place would be delivered as part of the new Occupational Health Service.

On paragraph 8 – Financial and Performance Review Report – First Quarter 2023/24:

Councillor Brockie asked for assurance that the stability and continuity of the Council's workforce would remain a priority when considering cost saving measures.

The Leader stated that new indicators took a while to bed down. There was a page of indicators in Councillor Hutchison's Portfolio that had not been reported due to the swap over but would be reported in the next quarter.

Councillor Dave Jones asked the Portfolio Holder for Sustainable Environment for an update on an issue with one of his residents. The resident had presented his recycling bin for emptying and the bin had not been returned. This had been reported over two months ago and no replacement had been provided. Councillor Jones if there were any replacement bins and if so, why a replacement had not been made.

Councillor Hutchison asked to meet with Councillor Jones after the meeting to gain the full details.

The Leader confirmed that there were many spare bins.

On paragraph 9 – Forward Plan:

Councillor Fox-Hewitt asked for confirmation that the Constitution had been amended to provide that his twitter account announces decisions of the Borough Council and not Cabinet or the Sovereignty of the Council.

The Leader deferred to the Sentinel reporter in the room who announced the decisions as and when they were happening. There were press releases and timescales and publicity was not unusual pending the Cabinet Decisions.

[Watch the debate here](#)

8. REPORTS OF THE CHAIRS OF THE SCRUTINY COMMITTEES

The report for the Health, Wellbeing and Environment Scrutiny Committee had been circulated with the agenda.

The other Scrutiny Committees had not met since the last meeting of the Full Council.

Resolved: That the report be received.

[Watch the debate here](#)

9. REPORTS OF THE CHAIRS OF THE REGULATORY COMMITTEES

A reports for the Licensing and Public Protection Committee was attached to the agenda. A verbal update was given for the Planning Committee detailing the items discussed at previous meetings.

The Audit and Standards Committee had not met since the last meeting of Full Council.

Resolved: That the reports be received.

[Watch the debate here](#)

10. MOTIONS OF MEMBERS

A Motion was received concerning Low Emission Zones and Low Traffic Neighbourhoods proposed by Councillor Holland and seconded by Councillor Simon Tagg.

An amendment to the Motion was tabled but following a vote, was defeated.

Following a debate on the original motion, a vote was taken.

In Favour (Y) – 27
Against (N) – 1
Abstain – 7

The Motion was carried.

[Watch the debate here](#)

11. QUESTIONS TO THE MAYOR, CABINET MEMBERS AND COMMITTEE CHAIRS

Two questions were received:

- 1) Question from Councillor Wilkes to the Portfolio Holder for Finance, Town Centres and Growth:

“Given the safety concerns raised about Reinforced Autoclaved Aerated Concrete (RACC). Can the Portfolio Holder update the council on the status of Council owned buildings in the borough?

I was pleased see that Sir Thomas Boughy Academy in my Ward took proactive remedial action to replace RAAC panels which were present in some roof constructions at the school. This was before the recent government announcement of a list of schools across the country containing RACC and a funding package for remediation. Does the Portfolio holder agree with me that

Sir Thomas Boughey Academy should receive retrospect funding from the government to compensate them for the work already carried out?"

Councillor Sweeney stated that the buildings owned by the Council in the Borough had been reviewed and an engineer had confirmed that he had no concerns.

Councillor Sweeney stated that he absolutely did agree that the Academy should receive funding and this would be something that he and the Leader would take up with the local MP to take to Parliament.

2) Question from Councillor Brown to the Leader of the Council:

"On the 14th of September a category 2 non compliance breach was issued to WQ relating to issues with temporary capping across the site. This followed an unannounced inspection on the 19th June by the Environment Agency. The EA found that there had been a failure to install temporary clay capping to the flanks of Phases 1,2,3 & 4 and concluded that `there could be a significant impact on quality of life if not addressed promptly and adequately.` WQL issued a statement saying they did not accept these findings and will challenge them directly with the E.A.

Does the Leader of the Council share my concern that WQL may be falling back into the attitude of `denial` and the habit of disputing the findings of regulators?"

The Leader stated that Cabinet had received its monthly update yesterday and the Chief Executive had been questioned about issues relating to the Environment Agency, particularly the Category 2 breaches that had been announced. It had been queried whether they should have triggered taking legal/enforcement action by the Abatement Notice.

Securing the Abatement Notice took over a year and any prosecution would now take a higher burden of proof and would again be a lengthy process. In addition any enforcement of the Abatement Notice would need to be carried out in accordance with the Council's Enforcement Policy which focusses on an ongoing compliance. A statutory odour nuisance would have to be identified within the zones identified within the Abatement Notice and consideration would then be given as to whether the odour event was as a result of the best practical means on the site. Officers would then consider any such breach against the Council's Environment Policy which would require sequential use of power. If Officers felt that there was a strong case for enforcement they would not hesitate to approach the Secretary of State to take it forward to the courts.

Regarding the attitude of denial, the Leader felt that, dependent upon what meeting was being held with RED Industries, they went from continued denial to what was said in the Abatement Notice.

The Council could not take immediate action, a process had to be followed.

Councillor Brown asked a supplementary question stating that she was interested in the move back towards denial and uncooperative outward facing attitude of the company. A meeting was being held on 28th September. The

Leader was asked if he anticipated that this attitude would continue because the EA were due to present their findings there.

The Leader stated that within the Abatement Notice agreement, the Chief Executive had reported that the company were cooperative, giving the information required by the Council and allowing the Council to question them. Relating to the Liaison Committee to be held next week, The EA would report on the breaches and would be questioning them closely.

[Watch the debate here](#)

12. RECEIPT OF PETITIONS

No petitions were received.

13. URGENT BUSINESS

There was no urgent business.

14. DISCLOSURE OF EXEMPT INFORMATION

There were no confidential items.

**Mayor - Councillor Simon White
Chair**

Meeting concluded at 9.05 pm

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO**

COUNCIL

22 November 2023

Report Title: Appointment of Monitoring Officer

Submitted by: Chief Executive

Portfolios: All

Ward(s) affected: All

<u>Purpose of the Report</u>	<u>Key Decision</u> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
To seek formal confirmation to the appointment of the Monitoring Officer	
<u>Recommendation</u>	
That, in accordance with s5 of the Local Government & Housing Act 1989, Council confirm the appointment of Anthony Harold as the Council's Monitoring Officer.	
<u>Reasons</u>	
To comply with the requirement of the Local Government & Housing Act 1989 that all local authorities appoint a Monitoring Officer.	

1. Background

- 1.1 Under section 5 of the Local Government and Housing Act 1989; the Council has a statutory duty to appoint a Monitoring Officer.
- 1.2 The Monitoring Officer has a number of statutory duties and responsibilities relating to the Council's Constitution and the Council's arrangements for effective governance. These include:
 - a. to report on matters they believe are, or are likely to be, illegal or amount to maladministration;
 - b. to be responsible for matters relating to the conduct of Councillors and officers; and
 - c. to ensure the Council's Constitution is up to date and fit for purpose.

2. Issues

- 2.1 Interim Monitoring Officer Barbara Beardwell had been acting in role since the departure of the previous permanent role holder and has agreed to continue undertaking this duty until a permanent appointment has been made.
- 2.2 Anthony Harold has been interviewed and deemed competent and started in the role of Service Director on – Legal & Governance on 16th October, pending this formal approval as Monitoring Officer. He is currently Deputy Monitoring Officer as designated by Barbara Beardwell.

3. Recommendation

- 3.1 That in order to comply with our statutory duty, the Council approve the appointment of Anthony Harold as Monitoring Officer.

4. Reasons

- 4.1 To comply with statutory duties.

5. Options Considered

- 5.1 A number of candidates for the role were assessed and Anthony Harold was selected at a final stage cross party member panel.

6. Legal and Statutory Implications

- 6.1 Under section 5 of the Local Government and Housing Act 1989; the Council has a statutory duty to appoint a Monitoring Officer

7. Equality Impact Assessment

- 7.1 n/a

8. Financial and Resource Implications

- 8.1 Role is included in budgetary provision

9. Major Risks & Mitigation

- 6.1 The Council needs to ensure that it has its three statutory officers in place to comply with legal requirements and to demonstrate good governance.

10. UN Sustainable Development Goals (UNSDG)

10.1 There is no direct impact on UNSDGs resulting from this appointment

11. Key Decision Information

11.1 N.a

12. Earlier Cabinet/Committee Resolutions

12.1 n/a

13. List of Appendices

13.1 none

14. Background Papers

14.1 n/a

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO**

Council
22 November 2023

Report Title: Appointment to Committees
Submitted by: Chief Executive
Portfolios: One Council, People and Partnerships
Ward(s) affected: All

Purpose of the Report

To appoint Members to committees following the changes in the membership of the Cabinet

Recommendation

That:

- (a) Council makes the changes to committee membership as set out in this report;**
- (b) Council receives and approves nominations for any other changes to committee places, in line with the political proportionality of the Council.**

Reasons

In accordance with the requirements of the Constitution, and to enable council business to be conducted through committees (Sections 101 & 102 of the Local Government Act 1972; Section 6 of the Licensing Act 2003) and to comply with the requirements in respect of Scrutiny (Part 1A of the Local Government Act 2000).

1. Background

- 1.1 In October 2023 the Leader made a change to his appointments to Cabinet. Cllr Jill Waring left the Cabinet, with Cllr Craig Skelding joining Cabinet and taking on the role of Portfolio Holder for Leisure, Culture & Heritage.
- 1.2 As a consequence of this change, Cllr Skelding as vacated his seat on Economy and Place Scrutiny Committee and also vacated his place as a substitute on the Finance, Assets and Performance Scrutiny Committee. These positions now need to be filled to ensure that the committees have a full membership, and that the membership reflects the political proportionality of the Council.
- 1.3 In order to maintain political proportionality both the place on the Economy and Place Scrutiny Committee and the position of substitute on the Finance, Assets and Performance Scrutiny Committee need to be filled by a member of the Conservative Group.
- 1.4 The Conservative group have advised that the places will be filled as follows:
 - **Economy and Place Scrutiny Committee:** Cllr Jill Waring;

- **Finance, Assets and Performance Scrutiny Committee (substitute):** Cllr Jill Waring

1.5 In addition to the changed to the Conservative group membership, the Chief Executive has been advised by the Labour group of one change in Committee membership by that group:

- **Finance, Assets and Performance Scrutiny Committee:** Cllr Grocott to come off this committee and be replaced by Cllr Rebekah Lewis; Cllr Grocott to become a substitute on this committee.

2. **Issues**

2.1 Set out above.

3. **Proposal**

That:

- (a) Council makes the changes to committee membership as set out in this report;

4. **Reasons for Proposed Solution**

4.1 To comply with the legislative requirements and Council's Constitution.

5. **Options Considered**

5.1 Not applicable.

6. **Legal and Statutory Implications**

6.1 The Local Government and Housing Act 1989 ("the 1989 Act") imposes political proportionality requirements in respect of the allocation of seats on ordinary committees to the political groups.

6.2 Specifically, section 15 of the Act requires that four principles be followed in allocating committee seats:-

- a) All seats on a committee cannot be allocated to the same political group;
- b) The majority of the seats on each committee should be allocated to the political group holding the majority of seats on the council;
- c) Subject to (a) and (b) above, the number of seats on the total of all the ordinary committees of the council allocated to each political group should bear the same proportion to the proportion of their seats on the council;

- d) Subject to (a), (b) and (c) above, the number of seats on each ordinary committee of the council allocated to each political group should bear the same proportion to the proportion of their seats on the council.

7. **Equality Impact Assessment**

7.1 Not applicable.

8. **Financial and Resource Implications**

8.1 There are no significant direct financial or resource implications arising from the proposals. There is no change to the number of chairmanships or vice-chairmanships so no impact on members' allowances.

10. **UN Sustainable Development Goals (UNSDG)**

10.1 Not applicable.

11. **Key Decision Information**

11.1 This is not a Key Decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 Not Applicable.

13. **List of Appendices**

13.1 Nominations.

14. **Background Papers**

14.1 Not Applicable.

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CHIEF EXECUTIVE'S
REPORT TO**

Council
22 November 2023

Report Title: Appointment to Committees – Supplementary Report to Agenda Item 6

Submitted by: Chief Executive

Portfolios: One Council, People and Partnerships

Ward(s) affected: All

Purpose of the Report

To appoint Members to committees following the changes in the political proportionality of the Council

Recommendation

That:

- (a) Council determines whether to allocate a committee seat to the newly independent councillor to the Licensing and Public Protection Committee OR the Planning Committee;**
- (b) The Labour Group's nomination to the vacant seat on Economy and Place Scrutiny Committee be received and agreed;**
- (c) That the Labour Group advise the Monitoring Officer by close of business on Friday 24th November which member is being removed from the Committee determined by Council**

Reasons

In accordance with the requirements of the Constitution, and to enable council business to be conducted through committees (Sections 101 & 102 of the Local Government Act 1972; Section 6 of the Licensing Act 2003) and to comply with the requirements in respect of Scrutiny (Part 1A of the Local Government Act 2000).

1. Background

1.1 Agenda Item 6 for the Council meeting on 22nd November 2023 addresses changes to committee membership arising from a change in Cabinet membership. The report recommendations provide for Council to receive and approve any other changes to committee places.

1.2 Subsequent to the publication of the Council agenda, Cllr Sue Beeston announced her resignation of the Labour whip, and as such now sits as an independent member. This has the effect of changing the political proportionality of the Council and requires an amendment to the membership of certain committees to reflect this.

1.3 The seats allocated to each political group on committees are allocated such as to provide that, as far as practically possible, the number of seats allocated to each group

across all committee places reflects the proportionality of each group on the council. The allocation also seeks to provide, as far as possible, that the allocation of seats on each committee also reflects the proportionality of each group on the Council.

Committee Place Changes

1.4 The most recent change in proportionality means that the number of seats allocated to Labour reduces by 1 from 34 to 33; Conservative stays the same at 45 and the independent member is entitled to 1 committee seat. This requires the Labour group to vacate one committee place to make way for the independent member.

1.5 The committees which have the highest proportion of their allocation falling to the independent member are:

- Licensing & Public Protection - 0.34 seats
- Planning – 0.27 seats.

1.6 The Labour Group have indicated a preference to remove one Labour member from the Licensing and Public Protection Committee, to make way for the independent member.

1.7 The Conservative Group have indicated, following a conversation with the independent member, a preference for Labour to remove one member from the Planning Committee, to make way for the independent member.

1.8 Council will need to determine which of these committees sees a reduction in Labour membership in order to provide a seat to the independent member.

1.9 In addition to the reduction in Labour membership on one committee by one member, the Labour Group will be required to nominate a Labour member to sit on the Economy and Place Scrutiny Committee in place of Cllr Beeston.

2. **Issues**

2.1 Set out above.

3. **Proposal**

That:

(a) Council determines whether to allocate a committee seat to the newly independent councillor to the Licensing and Public Protection Committee OR the Planning Committee;

(b) The Labour Group's nomination to the vacant seat on Economy and Place Scrutiny Committee be received and agreed;

(c) That the Labour Group advise the Monitoring Officer by close of business on Friday 24th November which member is being removed from the Committee determined by Council

4. **Reasons for Proposed Solution**

4.1 To comply with the legislative requirements and Council's Constitution.

5. **Options Considered**

5.1 Not applicable.

6. **Legal and Statutory Implications**

6.1 Dealt with in the body of the report for Agenda item 6

7. **Equality Impact Assessment**

7.1 Not applicable.

8. **Financial and Resource Implications**

8.1 There are no financial or resource implications arising from the proposals. There is no change to the number of chairmanships or vice-chairmanships so no impact on members' allowances.

9. **UN Sustainable Development Goals (UNSDG)**

10.1 Not applicable.

10. **Key Decision Information**

11.1 This is not a Key Decision.

11. **Earlier Cabinet/Committee Resolutions**

12.1 Not Applicable.

12. **List of Appendices**

13.1 Nominations.

13. **Background Papers**

14.1 Not Applicable.

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO:**

COUNCIL

22 November 2023

Report Title: Local Planning Enforcement Plan

Submitted by: Service Director - Planning

Portfolios: Strategic Planning

Ward(s) affected: All

<u>Purpose of the Report</u>	<u>Key Decision</u> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
To seek approval and adoption of a revised and updated Planning Enforcement Plan.	
<u>Recommendation</u>	
That Council approves the adoption of the Planning Enforcement Plan appended to this report.	
<u>Reasons</u>	
<p>Planning enforcement is a discretionary power available to local planning authorities. As such national guidance advises that Councils approve and adopt a planning enforcement plan setting out their approach to enforcement matters for the benefit of residents, communities, business and the development industry.</p> <p>Under the Council constitution it is the responsibility of the Council to formally approve and adopt the Planning Enforcement Plan as part of the Authority's Enforcement regime.</p>	

1. Background

- 1.1 At the Cabinet meeting of the 19th September 2023 a report was received proposing the approval of a revised and updated Planning Enforcement Plan to be used as the basis for investigating and where appropriate enforcing against breaches of planning control.
- 1.2 Under the Council's constitution certain defined policies and strategies must be formally approved by Council prior to being implemented, this includes matters relating to enforcement. As such Council is asked to approve the Planning Enforcement Plan appended to the report at Appendix 1.

2. **Issues**

- 2.1 It is important that Enforcement Plans are reviewed and kept up to date. The Council's Local Planning Enforcement Plan has been reviewed and revised to ensure that it is in accordance with current national guidance and has been consulted on.

3. **Recommendation**

- 3.1 That Council approves and adopts the Planning Enforcement Plan attached at Appendix 1

4. **Reasons**

- 4.1 Planning enforcement is a discretionary power available to local planning authorities. National policy guidance advises that Council's approve and adopt a planning enforcement plan setting out their approach to enforcement matters for the benefit of residents, communities, business and the development industry.
- 4.2 It is important that Enforcement Plans are reviewed and kept up to date. The existing Council Local Enforcement Plan has been reviewed and revised to ensure that it is in accordance with current national guidance and has been consulted on.

5. **Options Considered**

- 5.1 The Council could decide not to approve and adopt the revised plan and rely on the current existing Planning Enforcement Plan. Not having an up-to-date Plan however would leave the Council in a weaker position with regard to any future enforcement action.

6. **Legal and Statutory Implications**

- 6.1 The principal legislation underpinning planning enforcement is enshrined in the Town and Country Planning Act 1990 and related amendments. A raft of other associated legislation does however also apply in certain areas/forms eg. The Localism Act 2011. The main policy guidance is set out in the National Planning Policy Framework (NPPF) and related National Planning Policy Guidance (NPPG).

7. **Equality Impact Assessment**

- 7.1 The Enforcement Plan and its subsequent implementation through the activities of the Council are intended to address issues around unauthorised development. The approach advocated does not consider nor should it the perpetrators (alleged or otherwise) of such development nor seek to discriminate for or against the residents or local communities that are impacted.

8. Financial and Resource Implications

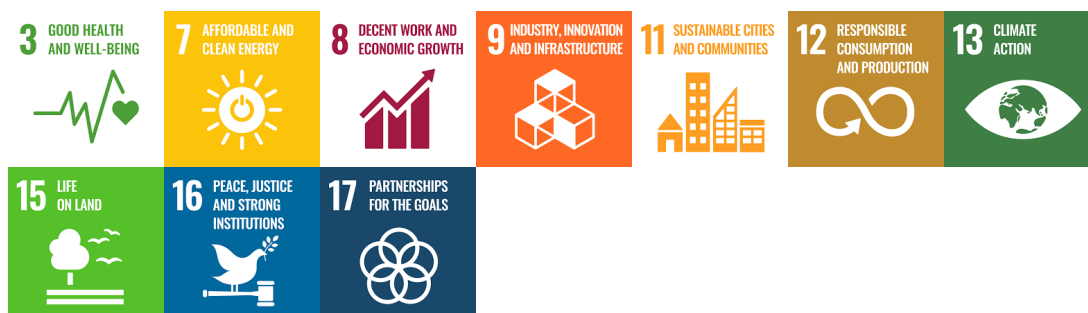
8.1 The costs of implementing a new and revised Enforcement Plan are intended to be met within existing Planning Service budgets.

9. Major Risks & Mitigation

9.1 There are no major risks in progressing with a new Enforcement Plan. It will help clarify the Council's approach to enforcement activity for all parties and explain what powers are available to the Authority. There is some risk that expectations will be raised on the part of local residents and communities and these will have to be suitably managed. A greater risk is not having an up to date plan and relying on older policy and guidance which could potentially cause issues for the Authority.

10. UN Sustainable Development Goals (UNSDG)

10.1 The planning system acts to provide for suitable and sustainable development that meets justified needs. Planning Enforcement powers allow local planning authorities to investigate breaches of planning control including developments which may not be sustainable in themselves or adversely affect the environment of a locality and living conditions.



11. Key Decision Information

11.1 Not Applicable

12. Earlier Cabinet/Committee Resolutions

12.1 [Decisions 19th-Sep-2023 16.00 Cabinet.pdf \(newcastle-staffs.gov.uk\)](#)

13. List of Appendices

13.1 Appendix 1 - Report to 19th September 2023 Cabinet and appended Planning Enforcement Plan.

14. Background Papers

14.1 [Report to Cabinet 19th September 2023](#)

14.2 [Report to Planning Committee 18th July 2023](#)

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NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

**CORPORATE LEADERSHIP TEAM'S
REPORT TO**

Cabinet
19 September 2023

Report Title: Local Planning Enforcement Plan

Submitted by: Deputy Chief Executive

Portfolios: Strategic Planning

Ward(s) affected: All

Purpose of the Report

To seek approval for and adoption of a Planning Enforcement Plan.

Recommendation

That Cabinet approves and adopts a new Planning Enforcement Plan for the Borough as attached at Appendix 1 to this report.

Reasons

Planning enforcement is a discretionary power available to local planning authorities. As such national guidance advises that Council's approve and adopt a planning enforcement plan setting out their approach to enforcement matters for the benefit of residents, communities, business and the development industry.

1. **Background**

- 1.1 The Council's Planning service regulates development within the Borough. Development can constitute physical building works ranging from the construction of small extensions and other minor works through to major schemes such as the construction of new factories and housing estates. In addition, development can comprise the change of use of land or buildings, for example the conversion of an office building to a block of flats.
- 1.2 A large proportion of development work in the Borough requires approval through the granting of planning permission, although some smaller works can be undertaken without need to apply for consent from the Local Planning Authority (LPA) if they fall within the parameters of that which is deemed 'permitted development' pursuant to the Town and Country Planning (General Permitted Development) Order 2015. The legislation on permitted development is complex, in part because it addresses nearly all forms of development from household extensions through to infrastructure projects including highway and railway works and has been amended over the years.
- 1.3 Despite these opportunities existing for developers to secure approval through the appropriate legislation, there has historically been a low level of development in the Borough that does not benefit from consent either through an application to the Council or through permitted development. This work is unauthorised and therefore the LPA can

consider whether enforcement action is necessary to remedy any breach that has occurred.

- 1.4 Whilst the Council has a range of powers to enforce against unauthorised development, the Government, in National Planning Policy Framework (NPPF) and the supplementary Planning Practice Guide, states that enforcement action is discretionary and LPAs should act proportionately in responding to suspected breaches of planning control.
- 1.5 The NPPF also recommends that Local Planning Authorities prepare and publish a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

2. **Issues**

- 2.1 It is important that Enforcement Plans are reviewed and kept up to date. The existing Council Local Enforcement Plan has been reviewed and revised to ensure that it is in accordance with current national guidance and has been consulted on.
- 2.2 The updated Enforcement Plan is clear that at the heart of the consideration of an enforcement case is the amount of harm a breach of planning control may cause and whether taking enforcement action would be expedient. This harm may manifest itself in detriment to the amenity or privacy of neighbours, environmental harm such as to protected trees, habitats or species, damage to the character and appearance of the surrounding area or conflict with established national and local planning policies.
- 2.3 In instances where it is considered the breach is minimal, the option exists for the LPA not to take action. Part of this assessment is consideration of whether planning permission would be likely to be granted should a retrospective planning application be submitted to regularise the unauthorised works.
- 2.4 In instances where it is considered the breach is more significant and creates a planning harm, the Plan sets out the steps the Local Planning Authority will take to investigate a matter and seek to resolve the planning breach. There are sometimes several actions that could be taken, and each case will look at the best method for the situation. In some cases, other statutory bodies may be able to deal with the matter where they have relevant powers.
- 2.5 The updated Plan sets out to manage the expectations of complainants with regards to the scope of the Council planning enforcement powers as well as advising perpetrators that the Council will follow through complaints and deal with any deviation from approved planning consents.
- 2.6 The proposal to adopt the Local Planning Enforcement Plan would comply with national guidance and in doing so assist in ensuring any future action taken by the Local Planning Authority would be carried out in accordance with established best practice.
- 2.7 The proposed Enforcement Plan was presented to and considered by the Council's Planning Committee at its 18th July meeting. Overall members endorsed the plan. Issues were raised about the timescales involved in responding to enforcement matters being raised with the Authority, unauthorised development activity in Conservation Areas and changes between the proposed plan and previous plan. As regards a particular section of the proposed plan, members agreed that in the Appendix 1 of the Plan where under 'Low' priority currently the wording reads as 'Unauthorised development which is not the

source of significant public complaint' the word 'significant' is removed. This suggested change is deemed acceptable by your officers and is reflected in the draft Plan now presented to you.

3. **Proposal**

- 3.1 That the Cabinet approves and adopts a revised and up to date Planning Enforcement Plan to guide its enforcement activity within the Borough and help inform residents, communities, business and the development industry as to the Council's approach.

4. **Reasons for Proposed Solution**

- 4.1 The proposed update to the Plan will help ensure that the Council has a robust set of measures in place to effectively undertake planning enforcement action across the Borough in a timely and expedient manner. Having an efficient and effective planning enforcement regime and implementing this is a Council priority.
- 4.2 Failure to undertake appropriate investigation and assessment of potential breaches of planning control can result in complaints against the Council escalating to the Local Government and Social Care Ombudsman. Notable or repeat failures to deliver an efficient enforcement service may result in criticism by the Ombudsman about the operation of the service and therefore subsequent reputational harm.
- 4.3 Whilst there are staffing costs associated with the resourcing of the enforcement service and the processing of any action taken including prosecution and if necessary direct action, the procedures set out in the Local Planning Enforcement Plan do not expose the Council to any additional costs.
- 4.4 Through setting out clear steps for undertaking enforcement action, the risks of abortive action should be minimised hence reducing the potential for unnecessary costs to be incurred by the Council.

5. **Options Considered**

- 5.1 Not having an up-to-date Plan however this would leave the Council in a weaker position with regard to any future enforcement action

6. **Legal and Statutory Implications**

- 6.1 The principal legislation underpinning planning enforcement is enshrined in the Town and Country Planning Act 1990 and related amendments. A raft of other associated legislation does however also apply in certain areas/forms eg. The Localism Act 2011. The main policy guidance is set out in the National Planning Policy Framework and related National Planning Policy Guidance.

7. **Equality Impact Assessment**

7.1 The Enforcement Plan and its subsequent implementation through the activities of the Council are intended to address issues around unauthorised development. The approach advocated does not consider nor should it the perpetrators (alleged or otherwise) of such development nor the residents or local communities that are impacted.

8. **Financial and Resource Implications**

8.1 The costs of implementing a new and revised Enforcement Plan are intended to be met within existing Planning Service budgets and reflect mainly staffing costs.

9. **Major Risks**

9.1 There are no major risks in progressing with a new Enforcement Plan. It will help clarify the Council's approach to enforcement activity for all parties and explain what powers are available to the Authority. There is some risk that expectations will be raised on the part of local residents and communities and these will have to be suitably managed. A greater risk is not having an up to date plan and relying on older policy and guidance which could potentially cause issues for the Authority.

10. **UN Sustainable Development Goals (UNSDG)**

10.1 The planning system acts to provide for suitable and sustainable development that meets justified needs. Planning Enforcement powers allow local planning authorities to investigate breaches of planning control including developments which may not be sustainable in themselves or adversely affect the environment of a locality and living conditions.



11. **Key Decision Information**

11.1 Not Applicable – this is not a key decision.

12. **Earlier Cabinet/Committee Resolutions**

12.1 Not Applicable

13. **List of Appendices**

13.1 Appendix 1 – Proposed Local Planning Enforcement Plan.

14. **Background Papers**

14.1 National Planning Policy Framework (NPPF) and Planning Practice Guidance

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LOCAL PLANNING ENFORCEMENT PLAN 2023



We will investigate impartially and assess each case on its merits, our decisions will be based upon the principles of proportionality, legality, and necessity. We will endeavour to investigate matters in a timely manner and maintain contact with interested parties throughout.

Introduction

The Council has set out a plan to deliver its strategic priorities between 2022 and 2026 which is shaped around our four key priorities:

- One Council Delivering for Local People
- A Successful and Sustainable Growing Borough
- Healthy, Active, and Safe Communities
- Town Centres for All

For the purpose of clarity, the term Local Planning Authority also refers to the council and is interchangeable throughout this document. This plan sets out how we will work to make Newcastle-under-Lyme a better place for everyone who lives here or comes here to work, to study or for leisure. Our aims can only be achieved by taking advantage of every opportunity available and developing further opportunities through innovation and collaborate working.

The Enforcement Plan fits in with these objectives and the Council will use available statutory powers and follow national guidance in a proportionate way to ensure there is effective planning enforcement on the Borough.

Development Plans include adopted local plans and the core strategy, together with Supplementary Planning Guidance and any 'made' Neighbourhood Plans set out the planning policies against which breaches of planning control will be assessed. Any emerging planning documents may also be considered in making formal decision.

A **breach of planning control** is where a person carries out development (as defined by section 55 (1) of the Town and Country Planning Act (TCPA) 1990) to land or buildings without the required planning permission, i.e., it does not have express permission, it is not permitted development, or fails to comply with a condition or limitation of a planning approval.

Planning enforcement also investigates complaints about untidy land which adversely affect amenity and where consent is required for works to listed buildings, works to protected trees and for the display of advertisements.

As the planning system is concerned with works which physically alter the land or change it promotes the best use of land and to safeguard individuals, business, and the environment from harmful development. Planning decisions are taken within a legislative and regulatory framework and in accordance with national and local planning policies. Investigation powers are entrusted to Councils by Parliament to protect the Borough from the adverse effects of undesirable developments and neglect of open land.

The Government refers to Enforcement in the National Planning Policy Framework (NPPF). It 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.’

Guidance to support this is given in the National Planning Practice Guidance (NPPG). The discretionary and proportionate nature of enforcement is referred to, and it is suggested that local planning authorities should consider publishing an Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how we will investigate alleged cases of unauthorised development and act where it is appropriate to do so and, in a proportionate manner.

Planning is about regulating the use and development of land, regarding the development plan and considering other material considerations. The Local Planning Authority has a duty to investigate allegations of breaches of planning control and it takes this responsibility seriously. In response to enquiries, our aim is for developers to carry out their development in accordance with planning permission and comply with the conditions placed upon the consent.

The Council’s powers to investigate and act to remedy breaches is set out in legislation and Regulations including the Town and Country Planning Act 1990 (as amended), the Planning (Listed Building and Conservation Areas) Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, the Localism Act 2011 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

More recently, the Localism Act 2011 inserted into the Town and Country Planning Act 1990 powers to restrict tactics that were seen as abuses of the planning system, such as twin tracking an appeal against an enforcement notice, limiting applications for retrospective approval where an Enforcement Notice has been issued, the power to apply to remove time limits for deliberately

concealed breaches as well as penalties and increased powers in relation to fly-posting and graffiti. The Council can consider the use of powers under the Proceeds of Crime Act 2002 (POCA) to appropriate all assets gained by owners and occupiers through the non-compliance of an enforcement notice should it be in the public interest to do so.

The primary role of enforcement is to investigate alleged breaches of planning control and bring about reasonable and proportionate remedial action where appropriate. Development requiring planning permission includes:

- Most types of building works
- Engineering works, and
- Material changes of use to land or buildings

In most cases, a **planning breach is not, by itself, unlawful and therefore does not constitute a criminal offence**. However, there are some cases which are unlawful such as:

- unauthorised works to a listed building including partial demolition
- non-compliance with a Stop or Temporary Stop Notice
- most unauthorised works to protected trees subject to a preservation Order or within a designated Conservation Area, and
- the display of unauthorised advertisements.
- failure to comply with a statutory notice is issued, which requires steps to be taken and the time for compliance has expired.

Planning enforcement powers cannot be used in matters where there is no breach of planning control. Examples include:

- a dispute concerning a boundary matter
- covenants, deeds, or civil matters
- development permitted by Development Orders issued by Central Government, that is development that benefits from permission by virtue of the General Permitted Development Order (GPDO) or changes of use by the Use Classes Order (UCO) provided that the limits and conditions stated in the Order are met
- the display of advertisements that comply with specific conditions and limitations within the relevant class of the Advertisement Regulations may not require advertisement consent from the Local Authority.

In certain cases, developments may become established over a period of 4 or 10 years in planning law and therefore are potentially immune from enforcement action. This is a particularly complex area of planning law and particular advice should be sought.

An investigating officer must consider the impact of the unauthorised development, the options available and the time for compliance before reaching a final judgement. When considering the proportionately of taking formal action we will target our resources at the most harmful breaches of planning control. The expediency of enforcement action will be made in the context of local and national planning policies and what formal powers and options are available to seek to remedy breaches of planning control set out in **Appendix 1**.

The Enforcement Plan sets out the areas of priority to ensure effective, consistent, and transparent decision making. The Planning Enforcement team aims to deal with complaints in a clear and consistent manner based on a set of agreed objectives. As the National Practice Guidance is clear that planning enforcement action should be proportionate, the Enforcement Plan sets out clearly and transparently what is a priority for investigation and the action taken to be proportionate. Each investigation will be considered on its individual merits, the facts, and the degree of harm. In reaching this decision sometimes account will be made of any recent and relevant case law and decisions which may have a bearing on the route taken.

Decisions made by the Council on enforcement matters are recorded and published as soon as practicable after the decision. The record must contain, the title of the decision-making officer and the date the decision was taken and why. Councils must maintain a statutory register of enforcement and stop notices retained for inspection by the public for a period of at least 6 years. The record does not authorise the publication of confidential or exempt information.

The Enforcement Plan also includes appendices providing information on trees, advertisements, untidy land (Section 215 of the Town and Country Planning Act 1990) and High Hedge complaints.

Some enquiries received by the Planning Enforcement Team are not covered by planning and/or there may be more effective measures to resolve the enquiry using other legislation. Examples include land disputes, boundaries, covenants (civil matters) dangerous structures (building control), noise, smells (environmental health) and issues on the highway (Staffordshire County Council).

The enforcement register is available on the website here: Further information about the Council's planning enforcement polices and how to report planning breaches is available [online](#)

Our Approach

The starting point to an investigation is to establish all the facts reported. It is then processed to decide if it is firstly development, then if it requires planning approval or consent. A desk top analysis is then undertaken and then a site visit (if required) then an officer's view will be made and then a decision. An investigation can be a time consuming, complex, and lengthy process. Many aspects of a case may need to be fully investigated before reaching a conclusion. The time taken to determine each case can vary depending on the site and type of breach that has been reported. The time taken may depend on many factors to which is outlined below:

- Evidence gathering
- Site visit if considered necessary
- Establishing a breach
- Awaiting the compliance of an Enforcement Notice or enforcement appeal
- Any complex legal matters or multiple enforcement considerations on the site

If you are contacted by the Council about an alleged breach of planning control you are entitled to know what the allegation is, you will also be given the opportunity to respond to the alleged breach. Your co-operation will be sought to remedy the breach of planning control and a reasonable time will be given for you to respond depending on the seriousness of the matter.

We will discuss cases with all parties with an interest in a case, although there are instances where matters of privacy prevent disclosure. Private and confidential information cannot be released to the public as it is protected under the Data Protection Act 2018. The only time an enquirers information can be made public is if that person would be willing to be witness to the offence and attends court.

Priorities

The Council receives a high number of complaints regarding allegations of breaches of planning control every year. It would be impossible to investigate and pursue all these allegations with equal priority. It is essential to use Council resources to maximum effect. Therefore, each case is prioritised

according to the seriousness of the alleged breach and the degree of harm being caused. The aim is that the Council's response is fair and proportionate having regards to both the context and the nature of the breach.

Complaints will be prioritised on receipt based on what appears to be their significance and initial background checking in accordance with the enforcement priorities set out in this Plan. (see **Appendix 1**). Priority will be reassessed and kept under review when a site has been visited and as and when further information becomes available.

All decisions and use of investigatory powers will be recorded. The Council will look for and consider any alternative solution to formal action if it achieves a satisfactory conclusion to a reported breach of planning control.

Enforcement cases may require repeat site visits, negotiation, and formal action before the breach is resolved. When these occur, Enforcement Officers will keep original complainants informed of progress and indicate arrangements for this in the initial response letter. Complainants will also be provided with the details of the officer assigned to deal with their complaint should they require further updates or have new information pertinent to the investigation. There may be occasions where we will require more information and may ask a complainant to keep a diary of activity to substantiate a complaint.

Proportionality

We will deal with each case on a priority basis following an initial investigation to establish the facts and will refer to records and relevant policies. Depending on the seriousness of the situation, we will generally seek to afford an opportunity of remedying the breach of planning control without formal action but may choose to prosecute if an offence has occurred. In considering whether formal action is expedient in planning terms, we will generally pay regard to any personal circumstances or undertakings given, the history of the site or use and whether time limits are approaching which would confer immunity on unlawful development. Planning enforcement action should be sensitive to the intent and context of the owner and the development. For example, a householder making a genuine mistake out of ignorance will be treated proportionately, compared to a clear and flagrant breach of a planning decision or a serious case of harm.

We will rigorously pursue any outstanding Section 106 planning obligation payments and if applicable other forms of developer contribution which are due and have not been paid at the appropriate trigger point.

Reporting an alleged 'breach' of planning control

To report an alleged breach of planning control, a complainant is required to complete an online form. The online form can be found [here](#)

The complaint will be recorded and acknowledged, so long as the minimum required information of address and location is provided. Complaints made based on sound planning issues will be investigated, while non-planning related matters where there is a potential breach of other legislation will need to be referred onto relevant regulatory authorities by the complainant. The complainant will be advised accordingly.

Civil matters between individuals or landowners will not be dealt with e.g., boundary disputes, competition with other businesses or breaches of covenant.

The planning history of a site will always be investigated to establish any planning permissions or whether the works are permitted development.

An assessment will be made by the council regarding the nature and degree of harm of any breach in relation to relevant planning policy, legal context, and the need for remedial action. The Council will consider how best to proceed with the investigation and what actions may be taken. Sometimes there are several options which could potentially be taken and there may be cases where other agencies will need to be involved where a breach cuts across different regulatory bodies.

Anonymous complaints about a third party will not be investigated. The identity of persons reporting suspected breaches will be treated as confidential by Councillors and officers of the Council.

Planning enforcement operates to protect the public interest. It is not the purpose of the planning system to protect the private interests of one person against the activities of another. Action must be based on sound planning grounds and be proportionate to the harm caused by the breach. Local opposition to, or support for, an unauthorised development will not be given weight unless that opposition or support is founded upon valid planning reasons.

The Council will only take formal enforcement action when expedient to do so. Formal enforcement action will not be instigated solely to regularise trivial breaches of planning control. In taking formal enforcement action, the Council will be prepared to use all the enforcement powers available, but the action taken will be commensurate with the seriousness of the breach. More information about the planning enforcement powers available to the LPA are set out in the Planning Enforcement Toolkit (see **Appendix 2**). In some cases, several of the available powers available may be used.

Seek Advice

The Council will follow through any complaint that is valid and take appropriate action where a breach or a criminal offence is found. You may wish to seek advice from a specialist in this field such as a Chartered Town Planner. The Royal Town Planning Institute web site has links to a directory of planning professionals.

If a matter does proceed to formal enforcement action the Notice(s) served will be available to the public and will also appear as a charge on the relevant property for land charges purposes. This may make it difficult to buy or sell a property affected in the future.

If you are contacted by the Council in respect of an enforcement matter, then please do not delay in responding.

Appendix 1: Prioritisation of Enforcement Cases

Priority	Description	Response time
High	<ul style="list-style-type: none"> • Unauthorised demolition, partial demolition or significant alteration of a building that is listed, buildings in a conservation area Conservation Area and any public house • Unauthorised works to a Listed Building • Potential irreversible harm to the amenity of a Conservation Area • Unauthorised works to trees covered by a Tree Preservation Order or within a Conservation Area • Non-Compliance with pre - commencement planning conditions where work has substantially commenced on site which are significant e.g., remediation of contaminated land 	Within 1-2 working days
Medium	<ul style="list-style-type: none"> • A breach which may result in serious demonstrable harm to the amenity of the neighbourhood • Unauthorised development in a designated area e.g., conservation area or green belt • Non-Compliance of planning conditions (other than pre- commencement conditions referred to above) 	Within 10 Working Days
Low	<ul style="list-style-type: none"> • Unauthorised development which is not the source of public complaint • Erection/display of Advertisements • Untidy Land or Buildings • Non-compliance with Section 106 Planning Obligations 	Within 20 working days

No Action	<ul style="list-style-type: none">• If more appropriate to be investigated by another department, agency, or organisation• Matters not subject to planning control	N/A
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Appendix 2: The Planning Enforcement Toolkit

The main options to tackle possible breaches of planning control are:

No formal action

Early engagement is important, and the property/landowner is advised to take immediate action when advised by the Council of an issue.

The Planning Policy Guidance (PPG) states that local planning authorities should usually avoid taking formal enforcement action where:

- there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area
- development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development
- in their assessment, the local planning authority considers that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed

An outstanding breach of control may affect the sale and marketing of a property. The Council will not be able to expedite any subsequent retrospective application to rectify a breach which may put the sale/purchase at risk.

Retrospective planning applications

The PPG advises that where the LPA considers that a retrospective application is the appropriate way forward to regularise the situation, the owner and occupier may be invited to apply under Section 73A of the Town and Country Planning Act 1990 without delay. **It should not be assumed that permission will be granted** – the application will be considered in the usual way after consultation, and an enforcement notice may be issued in relation to other elements of the development. The PPG advises that a person who has undertaken unauthorised development has only one opportunity to obtain planning permission after the event – either by an application under Section 73A or by means of an appeal. The LPA may decline to determine a retrospective planning application if an enforcement notice has previously been issued.

Lawful Development Certificates

There are two types of certificates.

Existing development: If it is considered that a breach has become immune from enforcement action, the owner/occupier may be able to apply for a Lawful Development Certificate. The certificate, if granted would confirm that the breach is lawful for planning purposes.

Proposed development: This is used where a formal decision is sought from the local planning authority as to whether a specified development is lawful and therefore is 'permitted development' under the current regulations and therefore does not require planning consent, such as an extension to a dwelling. This is a widely used approach as, if granted the development becomes immune from any future enforcement action. It is popular when selling/buying a property as it avoids any ambiguity and delay as to whether an extension for example, was permitted development when it was built and can therefore lead to a smooth property transaction.

Planning Contravention Notice

This can often be the first formal step in resolving a breach of planning control. It is a discretionary procedure to gather further information regarding breaches of planning control. The notice may advise of a date, time, and place at which any offer made by the recipient of the notice to apply for planning permission, refrain from carrying out operations or activities or undertake remedial works will be considered by the local authority. An opportunity to make such representations must be made. This is not available for breaches of listed building control or protected trees. It is an offence to fail to complete or return a notice within 21 days or provide false or misleading information referring to these rights.

Requirement to provide information.

There are powers under legislation (Section 330 of the Town and Country Planning Act 1990) that can also be used to obtain information but usually in cases where the Council has sufficient details about the activities being carried out but requires further information concerning ownership. It involves serving a formal notice on occupiers and/or persons with other interests in the premises or land. It is an offence to fail to comply with the requirements of the notice within the period set for its return or to make false or misleading statements in reply. Convictions currently carry a fine.

Rights of Entry

The Town and Country Planning Act specifies the purposes for which entry to land including buildings may be authorised, to ascertain or determine:

- whether there is or has been any breach of planning control
- whether any of the LPA's powers should be exercised

- how such power should be exercised
- whether there has been compliance with any requirement arising from earlier enforcement action

A record will be made of the inspection with appropriate photographs. Entry to a dwelling house cannot be demanded as a right unless 24 hours' advance notice has been given to the occupier. Where entry is refused or obstructed it is possible to apply to the Magistrates' Court for a warrant to allow entry. The PPG refers to these rights. There are complementary provisions in the Planning (Listed Buildings and Conservation Areas) Act relating to heritage assets.

Breach of Condition Notice

This notice can be used where conditions imposed on a planning permission have not been complied with. It is mainly intended as an alternative to an enforcement notice for remedying a breach of condition but may be served in addition to an enforcement notice, perhaps as an alternative to a Stop Notice. It can only be challenged by judicial review. Following the end of the period for compliance, any conditions and any specified steps will be in breach of the notice and guilty of an offence.

Enforcement Notice

The notice may be served up to four years after substantial completion of building operations or ten years after a change of use or breach of condition. These time limits do not prevent enforcement after the relevant dates in particular circumstances. An enforcement notice should enable every person who receives a copy to know exactly what (in the LPA's view), constitutes the breach of planning control and what steps the LPA requires to be taken to remedy the breach. Once an enforcement notice has been issued it will appear as 'a charge' on the land. It will be served on any person that has an interest in the land which may typically include any bank or institution where there is for example a mortgage on the property.

The Enforcement Notice will set out a timetable for compliance, the steps needed to be taken, and the date that the Notice takes effect, which is a date at least 28 days after the notice is served. Any person served with the Notice can use the period between the service of the Notice and the date it comes into effect to appeal to the Planning Inspectorate against the Notice. If an appeal is lodged, the Notice has no effect until the appeal has been determined.

There are 7 grounds on which an Enforcement Notice can be appealed:

- That Planning Permission ought to be granted for the works enforced against or if it relates to a breach of a condition that condition should be discharged.
- That the breach claimed has not occurred
- That the matters being enforced against do not constitute a breach of planning control

- That when the notice was served no enforcement action could be taken
- That the Enforcement Notice was not served on all parties with an interest in the land.
- The steps required exceed what is required to remedy the breach or to remedy any injury caused by the unauthorised development.
- The period for compliance falls short of what is reasonably required to be allowed.

An enforcement notice may under enforce, by stipulating lesser requirements than full compliance. The recipient must take the specified steps set out in the notice within a set time. Failure to comply with the notice is a criminal offence. There is a right of appeal, which suspends the notice from coming into effect. However, a Stop Notice may be issued. The LPA can prosecute for failure to comply with an enforcement notice as well as using direct action powers.

Planning Enforcement Order

Where there has been deliberate concealment of a breach of planning control, the LPA may apply to the Magistrates' Court for a Planning Enforcement Order (PEO). Where a PEO is granted, the LPA will have a year to serve an enforcement notice, beginning on the day that the order is granted, irrespective of how long ago the breach first occurred. The 4 year and 10-year periods for immunity will not apply in cases of a concealed breach. An application for a PEO must be made within 6 months of the LPA becoming sufficiently aware of the breach to justify enforcement action being taken. A Court may only make a PEO if it is satisfied that the breach has been deliberately concealed. There is no definition of what deliberate concealment means in practice. This is a recent addition to the enforcement powers that a council may have and there have been several significant and high-profile cases across the country when concealment has been uncovered.

Stop Notice

This notice can be used in conjunction with an enforcement notice where the breach of planning control is causing irreparable and immediate significant harm. A Stop Notice will only be served in exceptional circumstances when the effects of the unauthorised activity are seriously detrimental to the amenities of adjoining occupiers or the surrounding area.

Temporary Stop Notice

These take effect immediately from the moment they are issued, and last for up to 28 days. A Temporary Stop Notice would only be issued where it is expedient that the activity or development should cease immediately. The requirements should prohibit only what is essential to safeguard the amenity or public safety in the vicinity of the site, or to prevent serious or irreversible harm to the locality.

Listed Building Enforcement Notice

A Listed Building Enforcement notice can be served against unauthorised works that damage the character and/or fabric of a listed building. There is no time limit in which such an enforcement notice can be served. There are five important differences between planning enforcement and listed building and conservation area enforcement, namely:

- there are no application fees for listed building consent or relevant demolition
- there are no time-limits for issuing listed building enforcement notices or for when enforcement action may be taken in relation to a breach of planning control with respect to relevant demolition, although the length of time which has elapsed since the apparent breach may be a relevant consideration
- carrying out work without the necessary listed building consent, or failing to comply with a condition attached to that consent, whereby such works materially affect the historic or architectural significance of the building, **is an offence** whether an enforcement notice has first been issued
- carrying out work without the required planning permission for relevant demolition or failing to comply with a condition attached to that planning permission is an offence under Section 196D of the Town and Country Planning Act 1990

Listed Building Consent and planning permission for relevant demolition cannot be granted retrospectively. A person who is found to carry out unauthorised works that affect the character of the listed building or relevant demolition in a Conservation Area can be prosecuted, and imprisoned, or fined by the courts

An Injunction

Injunctions may be sought in the most serious cases, generally where irreparable harm is being done or is apprehended, or where other actions have been or would be ineffective. Section 187B of the Town and Country Planning Act applies where the LPA considers it expedient to restrain actual or apprehended breaches of planning control. Section 44A of the Planning (Listed Buildings and Conservation Areas) Act is a parallel provision in respect of Listed Buildings. A Court may grant an injunction against a person whose identity is unknown, but LPAs will need to identify, to the best of their ability, the person against whom the injunction is sought. The following may be used in support of the authority's submission to the Court:

- photographic evidence of the persons concerned
- affidavit evidence provided to or by LPA officers
- reference to registered vehicles known to belong to, or be used by, a person(s)/company

There are significant costs involved in bringing such an action and it can only be justified in extreme cases. Defendants risk imprisonment if they do not comply with a court order.

Unauthorised Advertisements

It is an offence for any person to display an advertisement in contravention of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Council will consider whether to prosecute in the interests of **amenity or public safety**.

In situations where an advertisement is displayed with deemed consent, the Council can still require its removal by issuing a Discontinuance Notice. Such a notice, against which there is a right of appeal, can only be issued to remedy a substantial injury to local amenity or if there is a danger to members of the public.

In addition, the Council can serve a Removal Notice under S225 of the Act. Once served, the Council can, at its discretion, take direct action to remove authorised advertisements and recover the costs from the landowner. There is a right of appeal to the Magistrates Court on the following grounds:

- that the display structure concerned is not used for the display of advertisements in contravention of regulations
- that there has been some (material) informality, defect, or error in, or in connection with, the notice
- that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure
- that the notice should have been served on another person.

If the notice is not complied with, the Council is empowered to enter the land, carry out the works and recover the cost from the owner in a similar manner to carrying out works under an enforcement notice. The Council may also prosecute for non-compliance.

If a person is found guilty of an offence under The Control of Advertisement Regulations, then they may have to pay a fine per advert.

Advertisements on the highway will normally be dealt with by Staffordshire County Council as the highway authority as they have powers to remove unauthorised signs such as fly posters and to prosecute.

Section 215 Notices.

Tidy land and property means an area looks well cared for and contributes to people feeling safe in that neighbourhood. If untidy sites are left, they become worse, and the area starts to

feel neglected. Untidy sites may not be dangerous to public health, but they can be an eyesore, which means it is detrimental to the local amenity.

Under Section 215 of the Town and Country Planning Act 1990, the local planning authority may serve a notice requiring the land to be tidied up.

There is a right to appeal to the Magistrates' Court on several grounds.

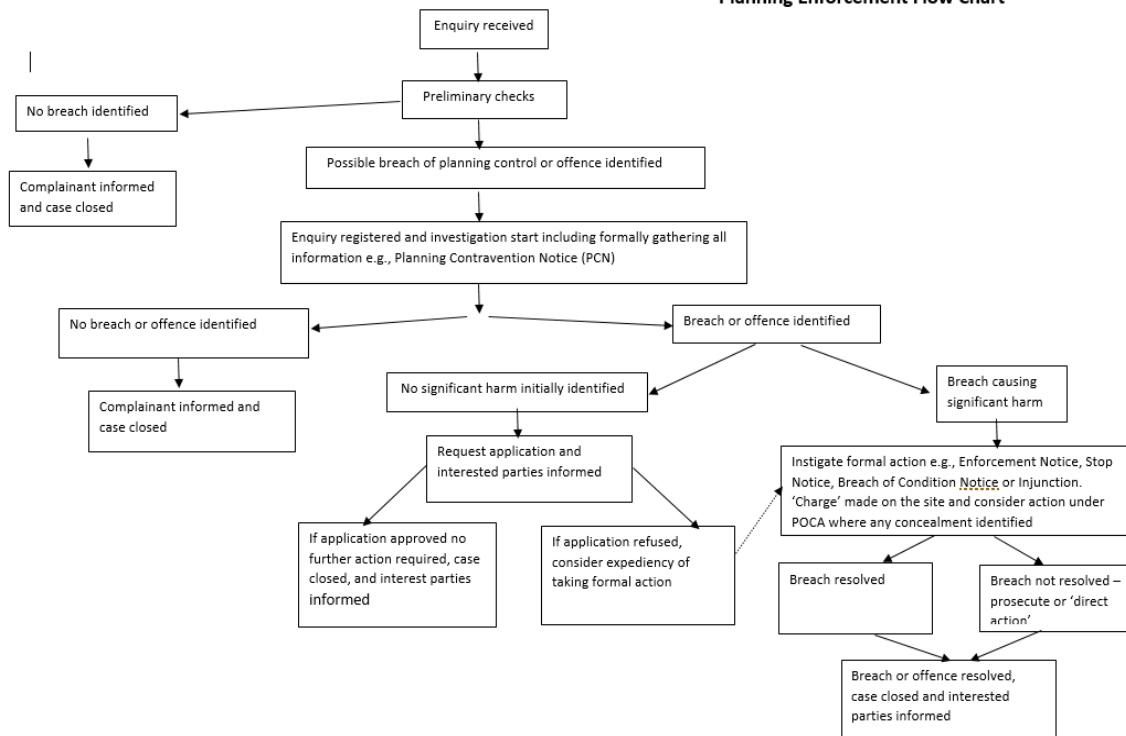
If the notice is not complied with, the LPA is empowered to enter the land, carry out the works and recover the cost from the owner in a similar manner to carrying out works under an enforcement notice. The Council may also prosecute for non-compliance.

Direct Action or Default Action

This may be used in the most serious cases where irreparable harm is being done and where other actions have failed. There are significant costs involved in bringing such an action and it can only be justified in extreme cases. Powers are available (in Planning legislation) to enter land and take steps required by enforcement or similar notices (e.g., Listed Building enforcement notices, Untidy Land/Section 215 Notices, Illegal advertisements with extended powers under the Localism Act, High Hedge enforcement and Section 106 Agreements.)

Direct action is normally a course of last resort. The Council will seek to recover all expenses reasonably incurred from the owner(s) of the land.

Planning Enforcement Flow Chart



Other Enforcement Powers

High Hedge Enforcement

If a complaint has been properly made and the Council decides that action should be taken to resolve the complaint, we may issue a formal notice to the person responsible for the hedge, setting out what must be done and by when. This action is carried out under the Anti-Social Behaviour Act 2003 and is known as a Remedial Notice. This can include long-term maintenance of the hedge at a lower height. It cannot involve reducing the height of the hedge below 2 metres, or its removal. Although the Council cannot require such action, the hedge owner is able to go further than the remedial notice requires e.g., remove the hedge completely. The remedial notice becomes ‘a charge’ on the property and legal obligations under such a notice pass to any subsequent owners.

Tree Protection

Trees may be protected by legislation enshrined in the Town and Country Planning Act 1990 and Town and Country Planning (Tree Preservation) (England) Regulations 2012, by being subject to a Tree Preservation Order (TPO) or being situated within a Conservation Area (CA). Trees may also be protected by the Forestry Act 1967, enforcement of which is vested in the Forestry Commission. In certain circumstances trees may be protected by conditions attached to a planning permission.

Compliance

Where a permission is granted for works to protected trees, it is desirable for a condition to be attached requiring notice of the intended operations to enable full or part supervision by an Arboriculture or relevant Operational Services Officer. This is to ensure understanding of, and compliance with, the terms of reference and conditions attached to any permission. Many contractors have a differing interpretation of the expected standards of work, such as British Standard (BS) 3998 'Tree Work: Recommendations', and the resulting tree works may be of inferior quality. This in turn will lead to a reduction in the value of the tree itself and of the protected tree stock within the borough. Compliance should be the starting point of any enforcement policy.

Specific Tree Protection

Where trees are protected by a TPO, the LPA's consent is normally required prior to undertaking any works to the tree, felling or removal and this will require the submission of a formal application. Any consent may be subject to conditions, and there is a right of appeal to the Secretary of State against the refusal of consent or the granting of consent subject to conditions.

Where trees are protected by inclusion in a conservation area six weeks' notice must normally be served on the LPA of any proposal to carry out works on the tree, felling or removal. During the six-week period, the Authority is required to consider the need to make a Tree Preservation Order. If the LPA takes no action within six weeks, the works may go ahead as notified.

Planning conditions may typically require that new trees be planted and maintained, or that existing trees be retained as part of development, usually for a minimum of five years. An application can however be made to the LPA to vary or remove a condition (such as to allow the removal of a tree). If planning conditions are not complied with, the LPA is empowered to serve an enforcement notice or breach of condition notice to secure compliance. There is a right of appeal to the Secretary of State against an enforcement notice.

Contraventions of the tree protection legislation often come to light because of complaints received by the Council. Cases may also come to light in other ways, such as during the monitoring of works on development sites or routine visits to adjacent properties.

When a contravention is suspected the Council will carry out an initial investigation, consisting of a check to establish whether the tree is protected and whether any consent has been granted. In most cases the Council's Landscape Officer will also make a site visit.

Person(s) responsible will be identified and contacted as soon as possible. They will be asked to give their comments on the incident and any relevant background information that they may want us to consider such as reports on the health, condition, and safety of any tree(s).

If on receipt of this information it appears that the person(s) in question may have committed an offence and the council require answers to questions that may be considered as evidence, they will normally be invited to the Council's offices to undertake a recorded interview under caution. This will be conducted under the Police and Criminal Evidence (PACE) Act 1984. In some cases, it may however be necessary to caution a suspect during a site visit.

The identity of any complainant will be kept confidential and not disclosed to the alleged perpetrator and in accordance with both the Data Protection Act 2018, implementing the GDPR and the Freedom of Information Act 2000. It will however be made clear to the complainant that if the case comes to court, it is most likely that they will be required as a witness in which case, and as such their identity will not remain confidential. Complainants will be kept informed of the course of the investigation and its outcome.

Complainants and any other witnesses will be contacted as appropriate and may be requested to provide written statements to be used as evidence in court. Witnesses will be informed that they may be required to appear in court to give evidence and be cross-examined as necessary. Alleged offenders will be given adequate and fair opportunity to give their side of events during investigations.

Possible actions by the Council

The Council has a range of possible courses of action available to deal with cases of unauthorised works on protected trees. These include:

- initiate a prosecution (which may be for destroying the tree or lesser works to it)
- administer a simple caution whereby the offender signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence
- require the planting of a replacement tree for each tree destroyed, under section 206 of the Town and Country Planning Act 1990 or serving a replanting direction under section 207 of the same Act. This is a formal procedure to secure replacement planting, which can be invoked if the landowner does not otherwise comply with a duty to carry out replacement planting

Replanting

In incidents where the tree has been destroyed, a replacement tree will need to be replanted. This replacement would normally be planted in the planting season following the incident. In

cases where this does not happen a Tree Replacement Notice (TRN) may be considered. Any replacement tree is subject to the same protection as the original tree that was lost.

Report of the Chair of the Planning Committee

The Planning Committee has met twice since last Full Council

Tues 10th of October 2023

The first item of business was an item of Major Development and this was seeking to vary the conditions to the original Ref.22/00284/FUL app regards site levels for drainage, the revised plan for the former Clayton Lodge Hotel. Ref 23/00512/FUL This was agreed by Members.

An application Minor development concerned Ref.23/00374/FUL land Off Apedale Road Chesterton members agreed the variation to condition 2 of the original 20/01079/FUL application.

Another minor app related to a Car Park on Meadows Road Kidsgrove. Ref.23/00638/DEEM This was also passed by Committee subject to conditions

The committee were asked to receive and approve the report on the latest list of Validation Requirements Consultation and approval to publish on the Council's website.

lastly an update report regarding the Land at Doddlespool, Betley where members considered the contents of report, an update on enforcement proceedings in respect of non-compliance of a condition of a previous application. Resolved to bring an update to members in 2 months' time.

The Committee met again on the 7th of November 2023.

The Agenda didn't have much business that evening

This time there was only one Substantive item regarding a Major application at Chatterley Valley Peacock Hay Road. This was for members to approve subject to planning conditions to link the outline planning permission, Approved Plans and the road and access arrangements to be completed before first occupation of the buildings on the site.

The last item of business the committee received an update on the progress of 5 Boggs Cottage Keele 14/00036/207C3. It was resolved to bring this item back to committee in 2 months' time.

There were 2 items of urgent business concerning two applications for Tree Preservation orders. - In Tower Road Ashley and Leycett Lane Leycett. The committee approved both of these.

Cllr Paul Northcott
Chair

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