

**NEWCASTLE-UNDER-LYME BOROUGH COUNCIL**

**CORPORATE LEADERSHIP TEAM'S  
REPORT TO**

**ECONOMY AND PLACE SCRUTINY COMMITTEE**

**9 DECEMBER 2024**

**Report Title:** Planning Enforcement and Performance

**Submitted by:** Service Director Planning

**Portfolios:** Strategic Planning

**Ward(s) affected:** All

<b><u>Purpose of the Report</u></b>	<b><u>Key Decision</u></b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
To report on the Council's planning enforcement regime and related performance in the past 12 months.			
<b><u>Recommendation</u></b>			
That the Committee notes the contents of the report.			
<b><u>Reasons</u></b>			
To note the organisational arrangements for undertaking planning enforcement at the Council and to receive information on planning enforcement-related activity that has taken place over the past 12 months.			

**1. Background**

- 1.1 Planning enforcement is a discretionary power available to local planning authorities. To inform their assessment of cases and any actions they take, 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. The Council approved an updated Enforcement Plan in November 2023.
- 1.2 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.

- 1.3 The majority of development in the Borough requires approval through the granting of planning permission, although some smaller works can be undertaken without the 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.
- 1.4 Despite the requirement for developers (including residential householders) to secure approval through the appropriate planning legislation, it is a fact that there are incidences where development occurs which does not have the required approval. This might also be the case where consent has been gained but the development is not in conformity with the approved plans. This work is unauthorised and therefore the LPA can consider whether enforcement action is necessary to remedy any breach that has occurred.
- 1.5 Whilst the Council has a range of powers to enforce against unauthorised development, National Planning Policy Framework (NPPF) and the supplementary Planning Practice Guide (PPG), state that enforcement action is as stated above discretionary and furthermore LPAs should act proportionately in responding to suspected breaches of planning control.

## 2. **Issues**

- 2.1 Planning guidance states that all enforcement activity carried out by local planning authorities should be informed by an agreed Enforcement Policy/Plan. This plan should set out clearly how an Authority will respond to claimed breaches of planning control and what factors will be taken into account in determining whether or not to take any action after investigations have been carried out.
- 2.2 The Council formally approved a new and updated Enforcement Plan on 22<sup>nd</sup> November 2023. The plan can be viewed here [Local planning enforcement plan – Newcastle-under-Lyme Borough Council](#)
- 2.3 A report setting out details of the resources employed by the Council as regards implementing the Enforcement Plan and related-performance was presented to this Committee at its December 2023 meeting. It was agreed that a further report should be brought back to the Committee in 12 months time.

### ***Resources and Performance***

- 2.4 Enforcement activity is carried out by officers in the Council's Development Management team based in the planning service. There is a dedicated Planning Enforcement Officer engaged 100% of their time supplemented by planning officers who carry an enforcement caseload alongside their normal planning applications workload.
- 2.5 Cases to be investigated are either reported to the Council by residents, businesses or representatives of local communities including elected

members or are identified by officers of the Council as part of their normal business activities. Cases are logged and then allocated to an officer. In accordance with the approved Enforcement Plan cases are assigned a level of priority based on the nature of the claimed breach and which is linked to timescales for officers looking into the matter. Performance against these timescales is recorded and reported as part of the planning services performance including in the quarterly corporate performance management reports to Cabinet.

#### Key Statistics and Information

- 2.6** At the 1<sup>st</sup> November 2024 there were 279 open enforcement cases including 218 received after 1<sup>st</sup> October 2023.
- 2.7** In the current financial year 24/25 of the cases processed by the service to date: 67 have been determined not to involve any (or a significant) breach, in 2 cases it was deemed not expedient to take any action, 17 have generated a requirement for a retrospective planning application to be submitted and 10 required steps to be taken to rectify a proven breach. A further 9 cases require further investigations by officers.
- 2.8** It will be noted that no formal enforcement notices have been issued by the Authority in the preceding 12 months. Issuing such notices is very much seen as a last resort after identifying breaches and seeking to negotiate a satisfactory solution with the offending person or persons in question. That said where it is felt that this option needs to be taken it will be and the Council has engaged expert legal support to advise on the correct drafting of legal notices.
- 2.9** The threat of taking formal action can assist in discussions with people who have breached and this is noticeable in the figures in 2.7 above where offenders have been encouraged to rectify unapproved development and/or submit retrospective applications.
- 2.10** The approved Enforcement Plan sets out performance targets and we have a Planning Enforcement Key Performance Indicator (KPI) which is reported to members on a quarterly basis as part of a corporate performance management report. The KPI relates to percentage of complainants informed within the required timescales of any action to be taken on alleged breaches of planning control. The single percentage figure is based on a cumulative record of responses to what are judged low, medium and high priority breaches and their respective timescales within which officers are required to respond to the complainant. The overall target is 75% of cases within the stated timescales. For the year 23/24 performance overall was 64%. In the first two quarters of 24/25 the respective figures have been 61.5% and 64.4%.

#### Service Improvements

- 2.11** In the report to members last year reference was made to a number of improvements being made to the service aimed at streamlining processes and enhancing the customer experience. Subsequently the recording of alleged breaches has been made easier via online forms, officers have access to mobile technology which allows them to link to our IT systems whilst out on

site and we have introduced a more detailed system for monitoring and recording individual cases which aids both officers and management.

**2.12** The overall level of enforcement cases reported to the service and on-going highlights the keen interest that residents of the borough have ensuring that development is authorised. This is a reflection both of the importance that people have for their local environments but also for the integrity of the planning system. The Council's Enforcement Plan signifies the importance that members place on this matter and this report addresses the issue of delivery against the objectives set out in the plan.

### **3. Recommendation**

**3.1** That the Committee notes the contents of the report.

### **4. Reasons**

**4.1** To allow the Committee to receive information on planning enforcement activity and review performance.

### **5. Options Considered**

**5.1** None.

### **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 Regeneration and Levelling Up Act 2023, 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 Council's approved Enforcement Policy and its subsequent implementation through the activities of the Authority are intended to address issues around unauthorised development. The approach advocated does not consider nor should it the individual perpetrators (alleged or otherwise) of such development nor seek to show bias toward or against any particular residents or local communities that are impacted.

### **8. Financial and Resource Implications**

**8.1** The costs of undertaking investigations and any related enforcement action(s) are intended to be met within existing Planning Service budgets.

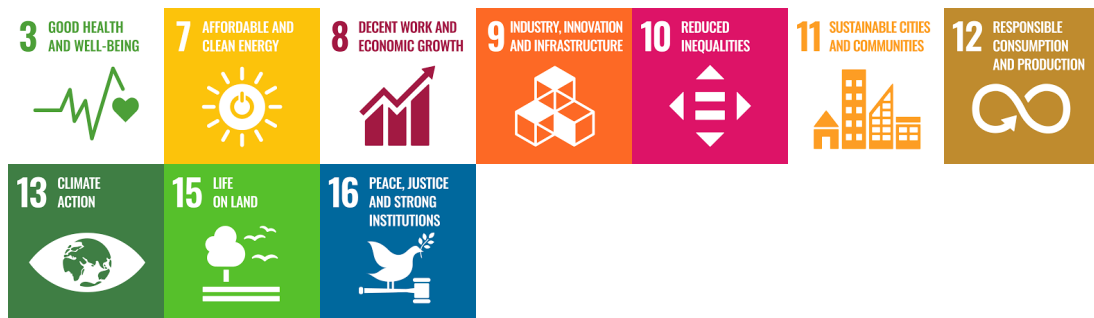
### **9. Major Risks & Mitigation**

**9.1** The risk of being challenged on the Council's approach towards planning enforcement is mitigated by having an up to date and relevant Enforcement Plan. A new plan was approved and adopted in 2023. The expectations of local residents and communities as to if, when and how enforcement activity will take place is a matter to be managed and informed by the aforementioned

plan. Being clear and consistent in assessing cases and reaching decisions will be the key here.

## 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. One Council

Please confirm that consideration has been given to the following programmes of work:

- One Commercial Council
- One Digital Council
- One Green Council

## 12. Key Decision Information

12.1 Not applicable

## 13. Earlier Cabinet/Committee Resolutions

13.1 Cabinet agreed a new Enforcement Policy at its meeting held on 19<sup>th</sup> September 2023. [Decisions 19th-Sep-2023 16.00 Cabinet.pdf \(newcastle-staffs.gov.uk\)](#)

13.2 Council endorsed the new Policy and formally adopted it at its meeting on 22<sup>nd</sup> November 2023. [Decision at Full Council Nov 23](#)

## 14. List of Appendices

14.1 None

## 15. Background Papers

15.1 None.