

# REPORT FOR: **Planning Committee**

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<b>Date of Meeting:</b>	14 March 2012
<b>Subject:</b>	Planning Enforcement Policy
<b>Responsible Officer:</b>	Stephen Kelly, Divisional Director of Planning
<b>Exempt:</b>	No
<b>Enclosures:</b>	Appendix 1 – Planning Enforcement Policy (clean copy) Appendix 2 – Planning Enforcement Policy ('tracked changes' version) Appendix 3 – Summary of consultation responses

## **Section 1 – Summary and Recommendations**

This report seeks to inform the Planning Committee of the outcome of the public consultation carried out on the Planning Enforcement Policy and the amendments made to the policy following the consultation exercise.

### **Recommendation:**

That the Committee:

- (a) Note the amendments made to the Planning Enforcement Policy.
- (b) Agree that the Planning Enforcement Policy annexed to this report as Appendix 1 can be adopted by Cabinet for the purposes of planning enforcement in Harrow (subject to minor corrections and formatting changes)

## **Section 2 – Report**

### **Background**

Planning plays an important role in managing development to ensure a high quality environment, facilitating a better pattern of land use and securing the efficient use of resources. However, the planning regime can only achieve these goals effectively if it is backed up by an effective planning enforcement service.

The attached Planning Enforcement Policy has been formulated to help the authority to deliver consistent and effective management of the rising demand for enforcement investigations, and to help everyone understand the basis upon which decisions surrounding planning enforcement are made. The draft policy (and an associated prosecution policy now incorporated into the revised policy document) was the subject of 6 weeks consultation. The policy has been revised following the expiration of the consultation exercise and the enactment of the Localism Act 2011.

The document sets out how the service will prioritise and respond to planning breaches, and contains information for all those involved in, or affected by, the enforcement process. The policy will be referred to by those involved in the decision-making process, and will allow decisions surrounding resource allocation to be more clearly focused on Council priorities.

### **Outcome of Public Consultation**

An earlier consultation draft of the policy was received and considered by the Planning Committee on 11 October 2011, along with an associated but separate consultation draft Prosecution & Direct Action Policy.

Following consideration by Cabinet on 17 November 2011, public consultation took place for a period of six weeks until 26 January 2012. During this time:

- The policies were made publicly available via the Council's Limehouse Consultation software;
- Contacts on the Council's (LDF) consultation database were notified of the consultation;
- A press release was issued, which resulted in an article in the Harrow Observer on 5 January 2012 which mentioned the opportunity to comment on the draft policies;
- The draft policies were discussed with planning agents following a presentation to an agents' forum on 11 January 2012.

Five substantive consultation responses had been received by the end of the consultation period, one from an individual and four from residents' groups.

Each of the responses was broadly supportive of the draft policies, and some useful constructive comment on specific aspects of the policies was also received. A summary of the feedback received is attached at Appendix 3.

### **Revisions to the Enforcement and Prosecution Policy**

Following the consultation period, the two separate policies have now been combined into a single document for ease of use. Additional changes have been made to reflect the feedback received during the consultation period.

The changes made from the original policy considered by this committee can be seen in the attached 'tracked changes' version of the document at Appendix 2. (A proposed final 'clean' version is also attached at Appendix 1.) In summary, the changes seek to:

- Ensure the meaning of the document is clear where consultation responses indicate that this is necessary;
- Combine the previous draft consultation drafts of the Enforcement Policy and the Prosecution & Direct Action Policy into a single document (with consequential formatting and text amendments);
- Add an additional commitment (at 3.16), in response to consultation responses, to proactively engage owner/occupiers where a temporary planning permission has been granted and is approaching expiry;
- Correct minor typographical and formatting errors;
- Reflect ongoing legislative and policy changes such as the recent adoption of the Core Strategy, the upcoming National Planning Policy Framework, and the coming into force of provisions of the Localism Act 2011.

The policy has also been revised to reflect the Council's new enforcement powers under the Localism Act 2011. These powers include the right to decline to accept retrospective planning applications (sections 4.34 & 4.35 of the policy) and the exclusion of appeal rights (section 4.33). Although, these sections of the policy were not subject to public consultation, it is considered that no prejudice has been caused by the lack of consultation since the sections reflect statutory powers contained in the Localism Act.

Several suggested changes raised in consultation responses have not been reflected in the draft Enforcement Policy, due to financial or practical restrictions. For instance, a suggestion to remove the cost likely to be incurred by the council as a formal consideration when assessing the expediency of taking direct action has not been implemented. In some cases, taking direct action would include complex engineering works requiring a great deal of pre-planning and/or specialist expertise. The cost to the Council must therefore be included as a consideration in pursuing such cases.

It is proposed that the Planning Committee receive and note the amended policy and provide comments prior to consideration by Cabinet.

If adopted, the draft Enforcement Policy would supersede the part of the existing 'Development Management and Enforcement Policy', prepared in 2000, which briefly deals with enforcement.

### **Other options considered**

The Council could continue with the current policy. Based on a review of comments (including complaints), it is clear that the existing policy and information does not meet the varying needs of those affected by, or interested in, this complex area of planning. The absence of a full enforcement policy is inconsistent with the government's guidance, for instance in the 'Enforcing Planning Control: Good Practice Guide for Local Authorities'.

Alternatively, additional or different changes to the draft Enforcement Policy could be made. The changes as proposed have been made in light of the consultation comments, legislative and policy environment and financial constraints within which the Council operates. Any additional commitments would need to be carefully weighed with these considerations in mind.

### **Financial Implications**

The adoption of the policy has no direct financial implications. The Enforcement Policy may result in modest savings by making corporate complaints easier to deal with (by providing a clear framework against which complaints about the service provided could be assessed). Additionally, by providing clear guidelines for officers to make decisions about how enforcement investigations should be progressed, it could potentially streamline the management of enforcement cases and reduce the costs associated with providing information on the enforcement process.

The impact of any service improvements will be reviewed as part of the annual MTFS process.

### **Equalities**

The Enforcement Policy and Prosecution & Direct Action Policy are subject to Equalities Impact Assessment. An initial impact assessment has been undertaken and will be placed on the website alongside the policy following the consultation process. This initial impact assessment will be reviewed as part of the consideration of the consultation responses to the draft policy.

### **Corporate Priorities**

The Enforcement Policy and Prosecution & Direct Action Policy will contribute to meeting a number of Harrow Council's corporate objectives, including 'Keeping neighbourhoods clean, green and safe' and 'Supporting our Town Centre, our local shopping centres and businesses'. The proposed policies, when adopted, would assist the enforcement service to meet these objectives more effectively.

## **Section 3 - Statutory Officer Clearance**

Name: Jennifer Hydara



on behalf of the  
Chief Financial Officer

Date: 29 February 2012

Name: Abiodun Kolawole

on behalf of the  
Monitoring Officer

Date: 1 March 2012

## **Section 4 - Contact Details and Background Papers**

**Contact:** Stephen Kelly (Divisional Director of Planning), 020 8736 6149

### **Background Papers:**

If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	YES