

REPORT FOR: **CABINET**

Date of Meeting:	4 April 2012
Subject:	Planning Enforcement Policy
Key Decision:	Yes
Responsible Officer:	Stephen Kelly, Divisional Director Planning Services
Portfolio Holder:	Councillor Keith Ferry, Portfolio Holder for Planning, Development and Enterprise
Exempt:	No
Decision subject to Call-in:	Yes
Enclosures:	Appendix A - Draft Planning Enforcement Policy Appendix B - Consultation Responses Appendix C - Equalities Impact Assessment Appendix D - Ref from Planning Committee

Section 1 – Summary and Recommendations

This report seeks to inform Cabinet of the outcome of the public consultation exercise carried out on the Draft Planning Enforcement Policy.

Recommendations:

- (1) That the Planning Enforcement Policy is adopted
- (2) That the Divisional Director of Planning Services, in consultation with the Portfolio Holder for Planning, Development and Enterprise, be authorised to agree any minor amendments to the policy to enable its preparation and publication.

Reason: (For recommendation)

To enable the implementation of the Planning Enforcement policy for the purposes of Planning Enforcement in line with the Corporate Priorities of supporting our town centres , and businesses and keeping our neighbourhoods clean, green and safe.

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 at 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 Cabinet are incorporated within an updated final version of the policy which is attached as 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.

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.

Performance Implications

There are no specific, national, regional or local benchmarks for the operation of the planning enforcement team at the current time. The policies seek to set out service standards in order to enable future performance monitoring of the service.

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 Hydari	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 23 March 2012		
Name: Jessica Farmer	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 23 March 2012		

Section 4 – Performance Officer Clearance

Name: Martin Randall	<input checked="" type="checkbox"/>	on behalf of the Divisional Director Partnership, Development and Performance
Date: 26 March 2012		

Section 5 – Environmental Impact Officer Clearance

Name: Andrew Baker	<input checked="" type="checkbox"/>	on behalf of the Divisional Director (Environmental Services)
Date: 23 March 2012		

Section 6 - Contact Details and Background Papers

Contact: Beverley Kuchar. Head of Development Management and Building Control 6167

Background Papers: Draft Planning Enforcement Policy, Summary of consultation responses

**Call-In Waived by the
Chairman of Overview
and Scrutiny
Committee**

NOT APPLICABLE

[Call-in applies]