

Bath & North East Somerset Council		
MEETING/ DECISION MAKER:	Cllr Tim Ball, Cabinet Member for Planning and Licensing	
MEETING/ DECISION DATE:	Not Before 17 December 2022	<small>EXECUTIVE FORWARD PLAN REFERENCE:</small>
		E 3431
TITLE:	Update to Local Enforcement Plan	
WARD:	All	
List of attachments to this report: Appendix 1 - Local Enforcement Plan		

1 THE ISSUE

- 1.0 Paragraph 59 of the National Planning Policy Framework (NPPF) outlines that Local Planning Authorities should consider publishing a local enforcement plan (LEP) to ensure that enforcement can be managed appropriately and proactively. The plan should set out how the implementation of planning permissions will be monitored, how alleged cases of unauthorised development will be investigated, and what actions will be taken and when.
- 1.1 Bath and North East Somerset Council most recently adopted a LEP in 2013. Whilst the principles of the 2013 plan remain relevant, an update is required to reflect the way the service currently delivers its enforcement function.
- 1.2 The update will provide confidence to residents that the Council can deal with issues when they arise. It will also ensure that all customers are fully aware of our approach, how we operate, the time frames within which customers can expect an outcome and what we can (and cannot) do. Updating the plan will therefore ensure a greater level of transparency.

2 RECOMMENDATION

- 2.0 The Cabinet Member is asked to;
- 2.1 Agree the adoption of the updated Local Enforcement Plan.

3 THE REPORT

3.0 Paragraph 59 of the NPPF suggests that a Local Enforcement Plan (LEP) can be a beneficial tool for the proactive and appropriate management of enforcement matters. Paragraph 59 of the NPPF states:

“Effective enforcement is important to maintain 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. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate”.

3.1 However, having been adopted in April 2013, the LEP for Bath and North East Somerset Council is at risk of becoming outdated. This is especially relevant in regards to case prioritisation and the timeframes we commit to.

3.2 The 2013 plan outlines three levels of case prioritisation (high, medium and low). It is detailed that high category cases will undergo an initial investigation within 2 working days, whilst medium and low priority cases will undergo the initial investigation within 10 working days. It is also stated that all complainants and interested parties will be updated at least every 4 – 6 weeks. No long-term date for case review is provided in the plan.

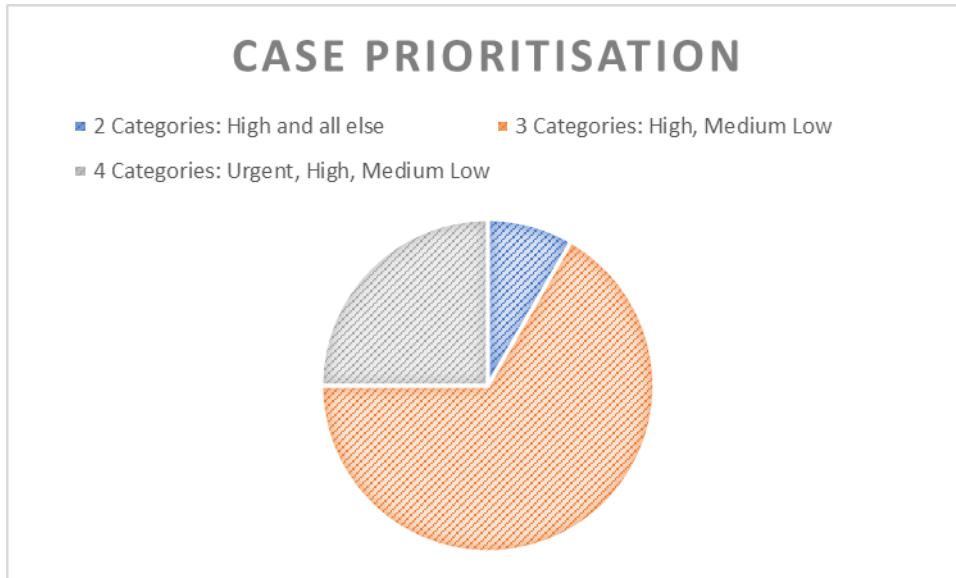
3.3 The prioritisations outlined in the 2013 plan remain pertinent, as although only high priority cases are formally identified as such, Officers informally differentiate between medium and low priority cases post-allocation. However, the timeframes which we commit to in the 2013 LEP are no longer realistic.

3.4 In discussions with Officers, it was noted that that reports of technical or trivial breaches (low priority) may go more than 10 working days before they can be investigated. This is due to the volume of cases and time spent prioritising reports of unauthorised works to Listed Buildings or trees (high priority).

3.5 To ensure we are being consistent in our approach, plans adopted by a sample of other Local Authorities were critically reviewed.

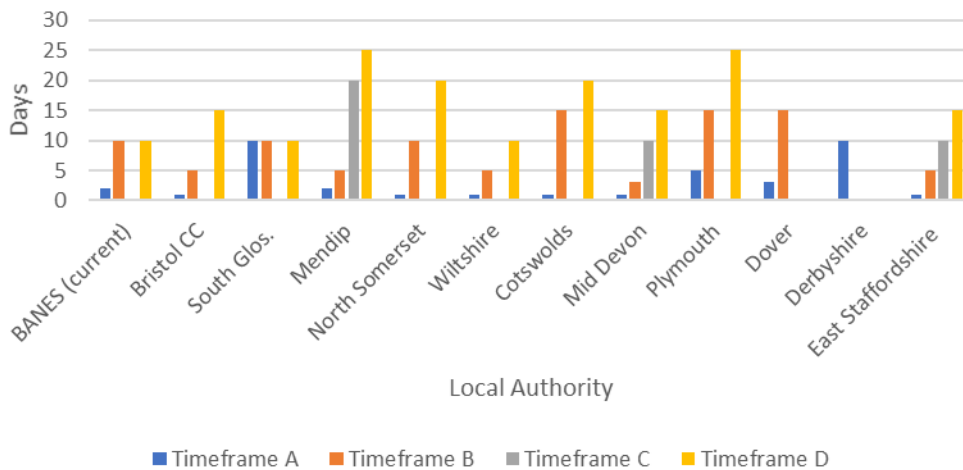
3.6 The study of our neighbour’s plans sought to reveal the most popular or successful approaches to planning enforcement. Several charts were produced to show the most common approaches to enforcement case prioritisation and timescales.

3.7 The following chart shows the proportion of Local Planning Authorities using each method of case prioritisation.



3.8 It was found that, in a sample of 12 Local Enforcement Plans (including neighbouring Bristol and South Gloucestershire), the use of three categories for case prioritisation is most popular. The highest priority cases include ongoing works to Listed Buildings and protected trees, whilst the lowest priority are issues which may be a technical or trivial breach. The most common approach employed by the sample aligns with the current way of working at BANES.

3.9 The next chart shows the common timeframes given for the initial site assessment for the highest priority cases (A) to the lowest (D).



3.10 The actions included in an initial site inspection varies between authorities, but can include requests for additional information from complainant, a check of planning history for a site, GIS checks and a site visit if required. In the sample of 12 Local Enforcement Plans, it was found that, on average, an initial site inspection is expected to be carried out within 1-2 working days for the highest priority cases. Initial site inspections for the lower priority cases can be up to 25 days after the complaint is acknowledged.

- 3.11 The majority of enforcement plans in use by neighbouring authorities give no timeframe for providing further updates to interested parties following the initial site assessment.
- 3.12 This review has shown that whilst there are similarities in the way of working with other authorities, our timeframes are stricter than some of our neighbours. Additionally, following changes to the team over the last 9 years, these timeframes no longer reflect the current way of working.
- 3.13 It is proposed that an additional case category, with a 20-day timeframe is formally introduced to the enforcement plan for Bath and North East Somerset. This aligns with the common approaches at neighbouring authorities and provides a greater degree of certainty and transparency for complainants and interested parties as well as a better management and allocation of resources for officers.
- 3.13 It is also suggested that the 4-6 week timeframe for updates is omitted. Instead, we will commit to providing updates at significant milestones, with a review of all cases every 6 months. This increases efficiency provides a greater level of flexibility for officers.

4 STATUTORY CONSIDERATIONS

- 4.0 Whilst there is no statutory obligation to provide an updated enforcement plan, paragraph 59 of the NPPF advocates for its benefit.
- 4.1 As the current Enforcement Plan for Bath and North East Somerset has become outdated, it no longer accurately reflects how the Council will “*monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate*” in accordance with Paragraph 59 of the NPPF.
- 4.2 An updated plan would therefore provide greater clarity for complainants and interested parties.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.0 As the proposal seeks to replace an outdated plan to accurately reflect the current way of working, it is not considered that there will be any significant impact on staffing, finance or property. However, operating within more manageable timescales will assist in the workload management and resource pressures faced by the team.

6 RISK MANAGEMENT

- 6.0 There are no identified risks associated with the proposed update.

7 EQUALITIES

7.0 There are no identified equalities impacts with this proposal. It is not considered necessary to carry out an Equalities Impact Assessment in support of this proposal.

8 CLIMATE CHANGE

8.0 In approving a planning application, the Local Planning Authority will have had regard to the measures intended to address climate change and reduce carbon in line with its adopted planning policies.

8.1 The proposed enforcement plan does not specifically address climate change. However, it details the actions which will be taken by the enforcement team to uphold planning decisions and ensure compliance with conditions and agreements secured to address climate change and reduce carbon.

9 OTHER OPTIONS CONSIDERED

9.0 The option of leaving the 2013 enforcement plan in use without an update has been considered. However, given the age of the 2013 document the aims and expectations contained within it are no longer realistic for the team or representative of common approaches at neighbouring councils. Retaining the 2013 plan may therefore lead to poor delivery of the stated objectives and lead to increased levels of customer dissatisfaction.

9.1 Alternative categories for timeframes and case prioritisation have been considered. These are shown in the charts included within section 3 of this report.

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Background papers	Local Enforcement Plan 2022
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