

Planning Enforcement Policy

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Portfolio Holder Responsible	Councillor Margaret Glancy - Portfolio Holder for Governance, Environment and Regulatory Services (Deputy Leader)

Corporate Priority:	3: Delivering sustainable and inclusive growth in Melton
Relevant Ward Member(s):	All
Date of consultation with Ward Member(s):	N/A
Exempt Information:	Yes
Key Decision:	No
Subject to call-in:	Yes

1 Summary

- 1.1 Melton Borough Council (“the Council”) are a Local Planning Authority (“LPA”). LPAs are responsible for the planning function in England including planning enforcement.
- 1.2 The Council has discretionary powers in respect to Planning enforcement. This means that the Council has the discretion whether to take action and the decision will be based upon a number of factors that will be explained in the Policy. Planning enforcement powers are mainly set out in the Town and Country Planning Act.

- 1.3 The purpose of this report is to seek approval for the adoption of a Planning Enforcement Policy that will help the Council in managing the planning enforcement function in a consistent, effective, and compliant way.

2 Recommendation(s)

That Cabinet:

- 2.1 **Approves the Planning Enforcement Policy (Appendix 1) for adoption and publication on the Council's website.**
- 2.2 **Delegates Authority to the Director for Growth and Regeneration (in consultation with the relevant Portfolio Holder) to make any further changes to the Policy arising from the Levelling Up and Regeneration Act.**

3 Reason for Recommendations

- 3.1 'Delivering sustainable and inclusive growth in Melton' and 'Protecting our built and natural environment' are key corporate priorities for the Council. Planning enforcement is an important tool available to the Council in achieving these priorities.
- 3.2 Melton Borough Council, as a local planning authority, is a responsible body for planning enforcement within the Borough.
- 3.3 The purpose of the Planning Enforcement Policy is to ensure effective and proper enforcement of planning controls is in place to protect the local environment and interests of the residents, visitors, and businesses from the harmful effects of unauthorised development and breaches of planning control. It is important and necessary to ensure ongoing public trust in the planning system.

4 Background

- 4.1 The National Planning Policy Framework (NPPF, 2021) advises at paragraph 59:
"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."
- 4.2 Central government advice on planning enforcement is set out primarily in the Planning Practice Guidance (PPG) 'Ensuring Effective Enforcement', which was most recently updated in July 2019. It emphasises the importance for local authorities to prepare and adopt local enforcement policies and plans.
- 4.3 Council approved a new post of Planning Enforcement Officer at its meeting in April 2022, and the post was created and subsequently recruited to in October 2022. The Officer set about writing the Council's new Planning Enforcement Policy (also responding to an audit

requirement), alongside managing the substantial backlog of caseload relating to planning enforcement as there had been no dedicated resource since a council decision to remove it in 2015.

- 4.4 An audit of planning enforcement functions was undertaken last year by the internal audit team which highlighted the need for a Planning Enforcement Policy. This document represents a culmination of that work.
- 4.5 The purpose of this policy is to explain the Council's approach to its planning enforcement responsibilities. This policy relates only to Planning Enforcement. The Council has separate Policies in relation to enforcement of other areas (e.g. Licensing).

5 Main Considerations

- 5.1 The planning system as a whole operates to regulate development and the use of land in accordance with the public interest. Enforcement is an integral part of the planning system and the Council's enforcement functions are carried out under the Scheme of Delegation to Officers in accordance with the Council's Constitution.
- 5.2 This Policy sets out the framework by which Council Officers will make decisions in respect of planning enforcement. It summarises how we prioritise complaints, the enforcement tools available, and how complaints are investigated.
- 5.3 The approach to prioritisation of planning enforcement complaints, as identified in the policy, will inform future planning of the workload within the planning enforcement function of the Council, and assist in preparing the Planning Enforcement Plan which will be reviewed on an annual basis.
- 5.4 The Policy is expected to provide clarity to:
- All stakeholders regarding the Council's approach and process in dealing with alleged planning breaches.
 - Complainants regarding how to complain and who to approach regarding identified or suspected breaches.
 - Owners/occupiers/applicants regarding what actions Council would take.
 - All stakeholders regarding options available to the Council and types of actions that could be taken in specific circumstances.
 - All stakeholders regarding what can be dealt with by this policy and what is excluded.
 - Council officers regarding process to follow and how to prioritise workload.
 - Councillors regarding performance of the enforcement function.
- 5.5 The key objective of this policy is to enable the Council in dealing with the breaches of planning control in a fair and robust way.
- 5.6 The Council will use key performance indicators to monitor the performance and effectiveness of this policy. There are two levels of indicators:
- a) PS1/2 returns (reported to Government on quarterly basis and planning committee on annual basis)
 - b) Corporate level indicators: (reported to Cabinet on quarterly basis, and planning committee on annual basis)

6 Options Considered

- 6.1 Not create / approve a Planning Enforcement Policy – this is not considered a viable option as it is an audit recommendation to have one in place.
- 6.2 Approve the Planning Enforcement Policy – recommended option as it is an audit requirement, and furthermore it assists the local community in understanding how the Council undertakes its enforcement duties, and the service that can be expected.

7 Consultation

- 7.1 This policy has been prepared in consultation with planning and legal officers in the Council.

8 Next Steps – Implementation and Communication

- 8.1 Following approval, the Policy will be uploaded to the website, and customers will be referred to it so that they can understand the processes and procedures we have in place to deal with enforcement complaints related to planning.

9 Financial Implications

- 9.1 There are no financial implications associated with this decision.

Financial Implications reviewed by: David Scott, Assistant Director for Resources

10 Legal and Governance Implications

- 10.1 Planning enforcement is a discretionary function of the planning system and the Council but is important and necessary to ensure ongoing public trust in the planning system. Melton Borough Council as a local planning authority have powers available to take action where necessary.
- 10.2 Planning enforcement powers are mainly set out in legislation (primarily through the Town and Country Planning Act 1990) and the Policy reflects these legislative provisions. There are also considerations within national guidance (such as the National Planning Policy Framework and Planning Practice Guidance) that are reflected within the Policy.
- 10.3 Other statutory provisions may be engaged depending on the particular case (e.g. the Human Rights Act 1998 and the Equalities Act 2010) and reference is made within the Policy.
- 10.4 It is good practice to have a planning enforcement policy in place to govern and explain and how decisions will be made.

Legal Implications reviewed by: Senior Solicitor

11 Equality and Safeguarding Implications

- 11.1 An Equalities Impact Assessment has been undertaken during the development of the policy.
- 11.2 There are no equality and safeguarding implications of the proposed policy.

12 Data Protection Implications

- 12.1 A Data Protection Impact Assessment (DPIA) has not been completed for the following reasons:
- There are no data protection implications of the Policy.
 - Planning enforcement complaints are confidential – The Council will only share personal information where we have consent or are required by law to do so.

13 Community Safety Implications

- 13.1 None

14 Environmental and Climate Change Implications

- 14.1 Planning enforcement can often be associated with remedying harm caused when planning control is breached. This can include heritage, archaeology etc.
- 14.2 The Policy is considered a positive impact on the environment for these reasons.

15 Other Implications (where significant)

- 15.1 None

16 Risk & Mitigation

Risk No	Risk Description	Likelihood	Impact	Risk
1	The Policy is not approved and therefore the Council continues to have no formal Planning Enforcement Policy.	Very Low	Critical	Low Risk
2	The policy is not followed	Low	Critical	Medium Risk
3	Matters arise that are not included within the policy	Low	Marginal	Low Risk

		Impact / Consequences			
		Negligible	Marginal	Critical	Catastrophic
Likelihood	Score/ definition	1	2	3	4
	6 Very High				
	5 High				
	4 Significant				
	3 Low		3	2	
	2 Very Low			1	
	1 Almost impossible				

Risk No	Mitigation
1	Adopt the proposed Planning Enforcement Policy
2	There are performance indicators and quality assurance measures in place to monitor effective implementation of the policy
3	The policy will be reviewed on periodic basis and will be updated in view of matters arising

17 Background Papers.

17.1 None

17.2 Equality Impact Assessment

18 Appendices

18.1 Appendix 1: Planning Enforcement Policy