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Date: 17 August 2020

To all Members of the Growth and Development Scrutiny Group

Dear Councillor

A Virtual Meeting of the Growth and Development Scrutiny Group will be held via Zoom on Tuesday, 25 August 2020 at 7.00 pm to consider the following items of business.

Yours sincerely



Sanjit Sull
Monitoring Officer

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes of the meeting held on 15 July 2020 (Pages 1 - 8)
4. Planning Enforcement Part 1 (Pages 9 - 30)

The report of the Executive Manager – Communities is attached.

5. Customer Services and Digital Transformation (Pages 31 - 40)

The report of the Executive Manager – Transformation is attached.

6. Work Programme (Pages 41 - 42)

The report of the Executive Manager – Finance and Corporate Services is attached.



Rushcliffe Borough
Council Customer
Service Centre

Fountain Court
Gordon Road
West Bridgford
Nottingham
NG2 5LN

Email:
customerservices
@rushcliffe.gov.uk

Telephone:
0115 981 9911

www.rushcliffe.gov.uk

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Postal address
Rushcliffe Borough
Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG



Membership

Chairman: Councillor N Clarke

Vice-Chairman: Councillor A Brennan

Councillors: N Begum, J Cottee, L Howitt, A Phillips, J Stockwood, D Viridi and L Way

Meeting Guidance

Mobile Phones: For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.



**MINUTES
OF THE MEETING OF THE
GROWTH AND DEVELOPMENT SCRUTINY GROUP
WEDNESDAY, 15 JULY 2020**

Held at 7.00 pm in the Council Chamber, Rushcliffe Arena, Rugby Road, West
Bridgford

PRESENT:

Councillors N Clarke (Chairman), A Brennan (Vice-Chairman), L Howitt,
A Phillips, J Stockwood, D Viridi and L Way

ALSO IN ATTENDANCE:

Councillors

OFFICERS IN ATTENDANCE:

D Mitchell
C Evans
C Saxton
T Coop

Executive Manager - Communities
Service Manager - Transformation
Economic Growth Officer
Democratic Services Officer

APOLOGIES:

Councillors N Begum and J Cottee

12 Apologies for Absence

13 Declarations of Interest

There were no declarations of interest reported.

14 Minutes of the meeting held on 7 January 2020

The minutes of the meeting held on 7 January 2020 were approved as a true record.

15 Open Spaces

The Executive Manager – Communities delivered a presentation on the Future Maintenance of Public Open Space on Housing Developments, which accompanied the report already circulated with the agenda.

The Executive Manager – Communities provided a brief history to explain how housing and housing estates have developed over the years using West Bridgford as an example. Starting in the 1900's, where plots were large with generous rear gardens and the street layout was linear, and there was more often than not a large municipal park in close proximity to serve the leisure needs of its residents. Moving to the 1930's -1940's and still building on earlier principles, with front and rear gardens and largely linear in layout. From the

1950's - 60's plot sizes start to reduce as density rises and the developments move out from the centralised park. There was no local parks or open space provision in this era, although some larger areas feature a local parade of shops and small play parks. In the 1960's -70's, plot sizes continue to reduce, more cul-de-sac roads start to emerge with the loss of the linear layout, developments were either on the edge of town or on smaller infill plots. During the 1980's – 2000's, developments moved further out of towns, plots were much smaller as densities increase again. The developments during this time tended to be close to larger roads, on river floodplains and previously industrial land. The requirement for small shopping areas, community centres, parks and play areas became an integral part of the design.

The Executive Manager - Communities informed the Group that pre 2000 Rushcliffe adopted all open spaces with no funding. The period of 2000 -2010 commuted sums were introduced to address the pressure on Council budgets in order to manage and maintain open spaces on new developments. However, in some instances developers never provided the commuted sum or transferred the land to the Council resulting in issues of open spaces not being managed or maintained.

The Executive Manager – Communities explained that since 2011 the Borough has sought to address these issues and no longer adopts, maintains or inspects any open space provided as part of a new housing development. The current position is that the housing developer(s) are responsible for payments towards the maintenance of open space on Strategic Sites, Local Plan Part 2 Sites and major windfall sites. Adding, that the developers then pass the cost and responsibility onto residents of the development through a management company as a monthly/annual charge. This charge, which can typically be around £200 per annum, is then payable for the entire time that each property on the development is occupied. Based on the Borough's Local Plan and approximately 13,000 new homes being built, this could equate to £2.6m per annum paid in management fees.

The Executive Manager – Communities explained that on the Boroughs Strategic Allocations, most include large scale community areas to mitigate the harm of the development examples of these can be seen at Bingham, Cotgrave, Gamston and Newton, all having large park areas available for use by all despite being funded by residents of the new development. The Executive Manager – Communities continued to advise the Group that there could be potential issues with this approach in the long term as the developments age. Examples of concern are:

- The lack of an overall cap on management fees (not regulated)
- 'Hidden' fees for residents who come to sell their property or re-mortgage
- The lack of ability for residents to redress any dissatisfactions or shortcomings with Management Companies
- Residents don't understand the full extent of the costs they are agreeing to pay when they purchase the property
- Resident's misconception that the areas they are paying for are for their sole use creating friction with other local residents lawfully using the areas.

The Executive Manager – Communities asked the Group to consider a way

forward and offered four potential options:

1. Do nothing, i.e. the status quo remains
2. the Council takes on the responsibility for some or all open spaces,
3. Parish Council's take on the responsibility for open spaces in their ward,
4. Other bodies, such as Nottinghamshire Wildlife Trust take on the responsibility of the larger open spaces.

The Chairman highlighted that the Council adopted the Management Company option post 2011 for very good reasons. The spiralling costs to manage and maintain open spaces were becoming a burden to the Council at this time.

Some Members of the Group advised that they had been contacted by residents living on these developments where a Management Company operated and provided examples of some of the unfair fees residents were expected to pay. These included, unjustified increases in the annual maintenance fee, extra charges when selling their properties, extending or adding a conservatory.

Members were alarmed by some of the issues residents had reported and were at a loss as to why this industry is not regulated. Members questioned whether there was an accreditation scheme for the Management Companies and if the Council had any influence on who the developers transfer the management and maintenance of the housing development to. In addition, Members suggested lobbying Government to look into these issues and provide some Government regulations or legislation.

The Executive Manager – Communities explained that further work is required by officers, which will be a challenge, as contracts with the Management Companies will be confidential and therefore difficult to get hold of. He suggested that Councillors in those wards where these developments exist could gather evidence from residents willing to provide it, explaining that householders would have anonymity for reporting purposes. The Executive Manager – Communities offered to pull together a summary table of items included in these agreements and provide members with a list of developments where there is a known Management Company operating for them to seek to acquire copies of any agreement in place with residents.

It was **RESOLVED** that:

- a) Council officers research in more depth the operational functions of Management Companies employed the manage and maintain open spaces on large housing developments
- b) Councillors be asked to identify examples of open space agreements in place with their wards
- c) Report back the research information to a later date of the Growth and Development Scrutiny Group.

16 **The Council's Wider Approach to Assisting Economic Recovery in Rushcliffe**

The Service Manager – Transformation, delivered a presentation to support the report of the Council's Wider Approach to Assisting Economic Recovery from the Covid-19 pandemic, and the Council's and Partner's plans to mitigate its impact on the local economy.

The Service Manager – Transformation, informed the Group that the D2N2 Growth Hub had carried out a survey in April 2020, asking businesses how they had been effected by Covid-19. To date they have received 780 responses and from these, 98% of businesses said Covid-19 was affecting their business, this included a decrease in sales/bookings, cash flow and staff in isolation or furloughed. Those businesses reporting the worst impact tended to be new and smaller businesses who operate in a business to consumer environment, and those that operate at a local level. The sectors experiencing the greatest impact are hospitality, arts and entertainment, recreation, wholesale and retail.

The D2N2 Survey asked businesses, what would be of most help to their business; the top answers were financial support and business planning. The respondents were also concerned about furloughed staff where in some cases this was over 50% of their employees.

The Service Manager – Transformation, provided statistics from the Midlands Engine report on the retail sector, stating that footfall had fallen to 20% of its 2019 levels and remains below 40%. A research by AL Marketing found that people were nervous about shopping again and were less willing to go to a city and therefore local town centres may benefit from the change in shopping habits.

The Economic Growth Officer continued with the presentation and provided the Group with an update of the support the Council and its Partners had provided to businesses so far.

The Economic Growth Officer informed the Group that a dedicated web page had been set up providing support and advice to local businesses, the page has seen over 12,178 visits since it was set up at the end of March. In addition, a separate page on the Rushcliffe Business Partnership (RBP) website has been created, which has seen over 3084 visits since early April. The Communications Team and Economic Growth Intern, using Social Media platforms have played an active role in promoting what information is available to help support businesses quickly. This included:

- Small business, retail and hospitality grants
- Discretionary Grant Scheme
- Virtual networking sessions with Rushcliffe Business Partnership and local trading groups
- Ask the Expert webinars
- D2N2 Growth Hub webinars

The Economic Growth Officer continued to explain what support the Council

has provided as the release of lockdown and Government guidelines have progressed. These include, the grant finding portal which has enabled businesses to search for funding and support available to them. Support for reopening of our local markets at Bingham and West Bridgford, which have opened successfully and are doing well. The Council has also provided resources on the website including signage and Covid-19 secure guidance.

The Economic Growth Team have also emailed many businesses in the Borough, asking whether they require any additional support with opening and these have been followed up with calls and visits from the Economic Growth Team and Environmental Health Officers.

The Borough has been allocated £106,208 from the Reopening High Streets Safely funding. Eligible activities for this funding includes support to develop an action plan for how to safely reopen local economies, communications and public information activity, business facing awareness raising activity and temporary public realm changes to ensure that reopening of high street retail can be managed successfully and safely. The Transformation Service Manager talked through some of the options currently being explored.

The Economic Growth Officer advised, that going forward the Economic Growth Team would continue to review data and listen to businesses and respond as required. The Council is also keen to develop a green economic recovery, and will be working with colleagues across the county on this.

The Chairman highlighted the area for concern in respect of potential youth unemployment, and those currently or soon to be entering the labour market who will be facing high levels of competition from people with more experience and the limited number of jobs that will be available. He also noted that young people are also over represented in the sectors of work that have been forced to close down during the Covid-19 pandemic and the impact of reduction in or closure of the furlough scheme. The Service Manager – Transformation advised that as part of the Nottinghamshire Local Resilience Forum structure, an economy cell has been set up with representatives from Nottinghamshire County Council, District Council's, DWP and the D2N2 LEP to support the initial priorities of which youth unemployment is one. In addition the Service Manager – Transformation informed the Group that the Borough Council had restarted the Employment and Skills Group and Positive Futures/YouNG had introduced its summer programme aimed at young people.

The Group asked if more could be achieved using the European Funding for Reopening the High Street Safely, and whether businesses could be supported more directly. The Service Manager – Transformation explained there were some challenges as the fund criteria is restrictive and not aimed at specific businesses.

The Group raised their concerns regarding the local Lockdown in Leicester and what the Council's plans are if we were to get a second wave. The Executive Manager – Communities advised that plans were being discussed across the County for dealing with local lockdown and public protection and would provide members of the Group with the link to the County Council webpage.

The Group expressed their appreciation on how the Council had quickly

adapted and redeployed staff to keep the Council's essential services and operations going during the pandemic, and thanked officers for their hard work throughout this unprecedented time in keeping businesses informed and supporting them opening as the lockdown is slowly released.

It was **RESOLVED** that

- a) the group note the report and the work completed by officers
- b) the Group would consider additional idea and guidance on the planned work to support the economic recovery of Rushcliffe

17 **Work Programme**

The Group considered its work programme and suggested potential items for future scrutiny. These included:

- Planning Enforcement, in two stages.
- Customer Services and Digital Transformation
- Cashless consultation with parishes
- Open Spaces – to bring this item back to a future meeting with an update and progress report

The Executive Manager – Communities suggested that Councillors complete a Scrutiny Matrix for items they wish to consider at future meetings, explaining that items they wish to consider would need to be approved by the Corporate Overview Group of which the Chairman and Vice Chairman attend.

It was **RESOLVED** that the Work Programme as detailed below be approved.

25 August 2020

- Abbey Road Developer Presentation
- Planning Enforcement – Part 1
- Work Programme

14 October 2020

- Planning Enforcement – Part 2
- Customer Services and Digital Transformation
- Work Programme

20 January 2021

- Management of Open Spaces on New Developments – Part 2
- Town Centres Update - Cashless Society
- Work Programme

21 April 2021

- Work Programme

Actions

Minute No.	Action	Officer Responsible
15	Officers to pull together a risk of actions and provide members with information on what developments in the Borough have Management Companies operating	Executive Manager - Communities
16	Members requested details of the Nottinghamshire and Districts plan for dealing with a local lockdown – Link to Nottinghamshire County Council Webpage	Executive Manager - Communities

The meeting closed at 8.59 pm.

CHAIRMAN

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Growth and Development Scrutiny Group

Tuesday, 25 August 2020

Planning Enforcement – Part One

Report of the Executive Manager – Communities

1. Purpose of report

- 1.1. The Borough Council is in the process of preparing a Planning Enforcement Policy. In addition, the Planning Enforcement Code of Practice is due for review and renewal in March 2021. This report, and the presentation by officers, will provide an understanding of how the enforcement regime is governed by regulations and how this part of the Planning Service is delivered by the Borough Council.
- 1.2. Scrutinising the emerging policy, and its effectiveness, as well as changes in legislation and operational practice will provide Councillors with an understanding of the process and provides an opportunity for them to influence changes to the Policy prior to adoption by Council by March 2021.
- 1.3. The delivery of the Planning Enforcement function was previously the subject of a report to the Performance Management Board in September 2018. The Board noted the report. The main actions arising were:
 - the provision of additional information regarding the legal implications of making planning enforcement enquiries public information
 - the Planning Enforcement workshop and information regarding the revised NPPF to be delivered to current councillors and also be included in the induction programme following the local election in 2019.

2. Recommendation

It is RECOMMENDED that the Growth and Development Scrutiny Group:

- a) identifies potential amendments to the policy and areas for further investigation by officers
- b) asks for a further draft of the policy to be brought back for consideration by the Group on 14 October 2020.

3. Reasons for Recommendation

- 3.1. The Council's Corporate Strategy 2019-2023 was adopted in September 2019. The Strategy includes a new corporate priority of 'The Environment'. The enforcement of planning controls is an important aspect of protecting the natural, built and historic environment. Furthermore, there is a need for the

policy to set out clearly for all residents and businesses, including those who may be undertaking development, to understand clearly the approach the Council will take when investigating alleged breaches of planning control.

4. Supporting Information

4.1. The current Corporate Enforcement Policy was adopted in March 2010 and was last revised in October 2019. The policy is an umbrella policy which applies to legislation enforced or administered by the Council in the following service areas and to officers engaged in enforcement activity in those areas:

- street cleansing
- 'enviro' crime – fly tipping, graffiti, litter, abandoned vehicles
- environmental health – food safety, health and safety, private sector housing, environmental protection, statutory nuisance, dogs
- licensing
- building control
- planning and development control (now referred to as Planning and Growth)
- benefit fraud.

4.2. The purpose of the umbrella policy is to provide guidance to, amongst others, the officers within the Council responsible for enforcement of regulations. Within the specific areas detailed above, other policies may apply. In the case of planning enforcement, an enforcement code of practice exists and the intention is to now adopt a policy document.

4.3. The primary purpose of enforcement is to protect the public and individuals. This includes protecting health and safety, the environment, business and legitimate economic interests. The policy sets out how the Borough Council will generally carry out its enforcement functions and each service will then operate in accordance with its own practices and legislative requirements. This report deals solely with the Planning Enforcement function.

4.4. Unlike the determination of planning applications, which is a statutory function, the enforcement of planning control is discretionary. However, it is acknowledged that the effectiveness of the enforcement function can impact on the reputation of, and public confidence in the planning service and this is highlighted in paragraph 58 of the National Planning Policy Framework which states; *“Effective enforcement is important to maintain public confidence in the planning system.”* This paragraph also highlights that *“Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”*

4.5. A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 (the 1990 Act) as: the carrying out of development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted. Important factors to consider include the extent of the powers of the planning service which is only concerned with 'development'. Section 55 of the 1990 Act

provides the meaning of development as “...*the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.*” Therefore, in investigating any alleged breach of planning control, officers must first consider if the matter amounts to development.

- 4.6. It is also important to acknowledge that, with a few exceptions, development carried out without planning permission or in breach of a condition is unauthorised and not illegal. The exceptions include demolition of a listed building, work to/felling of a tree the subject of a Tree Preservation Order and the display of an advertisement without consent. In the case of all other development/activities, an offence is only committed on failure to comply with a notice, e.g. enforcement notice.
- 4.7. The Council is required to act in a timely manner when dealing with planning enforcement. In the majority of cases, planning authorities will be unable to commence enforcement if no action is taken within:
- 4 years of substantial completion (for a breach of planning control consisting of operational development)
 - 4 years for an unauthorised change of use to a single dwellinghouse
 - 10 years for any other breach of planning control.
- 4.8. Exceptions to these time limits apply where there has been deliberate concealment of a planning breach, although cases such as this are relatively rare.

Approach to investigations and available tools

- 4.9. There are a range of ways to tackle alleged breaches of planning control. The National Planning Practice Guidance advocates that action should be proportionate to the alleged breach. Furthermore, the NPPG advocates that breaches of planning control can often be resolved more quickly through discussion and negotiation without formal action. In particular, this can be the case where a breach of control may be the result of a genuine mistake and once the breach is identified, the owner or occupier takes immediate action to remedy it. Enforcement action should, however, be proportionate to the breach of planning control to which it relates and taken when it is expedient to do so.
- 4.10. Action may not be appropriate in some circumstances, for example where there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area; where development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development; or if it is considered that an application is the appropriate way forward to regularise the situation and conditions may be applied to impose restrictions on the development to avoid adverse impacts.
- 4.11. Breaches of planning control are not condoned by the Council however, enforcement powers should not be used punitively or applications for

retrospective development, perhaps as a result of enforcement investigations, refused because the development has already been commenced/completed. In these circumstances, the application should be considered on its merits and the fact that the development has already taken place should not be a consideration. In such circumstances, the applicant has clearly taken a risk in carrying out development without the required permission. If development is unacceptable and the adverse impacts cannot be mitigated, for instance through the use of conditions, it may be appropriate to refuse permission and take enforcement action to remedy the breach, e.g. remove the offending development or cease an activity.

- 4.12. In determining whether it is expedient to take formal action, it will be necessary to apply a public interest test, including identifying and assessing the harm arising from the development, and to have regard to the development plan and any other material considerations.
- 4.13. Before deciding whether to take formal action, or what action to take, the Council may serve a Planning Contravention Notice (PCN) to collect information, for example about the development which has been undertaken or the activities that are taking place and the ownership of the land/buildings. It is in itself an offence to fail to respond to a PCN or to provide false or misleading information. Where it is considered expedient to take formal action, there are a number of tools available to Borough Council, as detailed in the following paragraphs.
- 4.14. Enforcement Notice - An enforcement notice should only be issued where the local planning authority is satisfied that it appears to them that there has been a breach of planning control and it is expedient to issue a notice. A notice can be served on the occupier **and** owner of the land and, where appropriate, anybody else who has an interest in the land. A notice must identify the breach that has occurred, the harm arising from the breach, the steps that are required to remedy the breach and the time for compliance with the steps. The notice must specify the date on which it takes effect and this should be a period of not less than 28 days from the date of service. The person(s) receiving the notice have a right of appeal against the notice, which must be lodged with the Planning Inspectorate before the date on which the notice takes effect. Where no appeal is lodged and the notice takes effect, a failure to comply with the requirements of the notice shall constitute an offence in respect of which the Council may consider prosecution.
- 4.15. Breach of Condition Notice – where it appears that a breach of condition may have occurred, the Council may serve a Breach of Condition Notice (BCN). A BCN requires the recipient to secure compliance with the terms of a planning condition or conditions, specified by the local planning authority in the notice. The period for compliance with a BCN may be not less than 28 days. A person failing to comply with the requirements of a BCN shall be guilty of an offence.
- 4.16. Temporary Stop Notice – temporary stop notices are a powerful enforcement tool that allows local planning authorities to act quickly to address some breaches of planning control, such as unauthorised activities, where it is

expedient to do so. Temporary stop notice may prohibit a range of activities, including those that take place on the land intermittently or seasonally. Because a temporary stop notice is prohibitory, it is not appropriate for use in any circumstances which require positive action to be taken in response to it, e.g. to remove a structure.

- 4.17. This tool should not be used lightly, the effect of issuing a temporary stop notice will be to halt the breach of planning control, or the specified activity immediately. This can have immediate serious consequences on a business. Before issuing a temporary stop notice, the local planning authority must be satisfied that there has been a breach of planning control and that “it is expedient that the activity which amounts to the breach is stopped immediately” and a cost benefit analysis must first be undertaken. Furthermore, it would be good practice to discuss, whenever practicable, with the person carrying on the activity whether there is any alternative means of production or operation which would overcome the objections to it in an environmentally and legally acceptable way.
- 4.18. A temporary stop notice may take effect immediately on service/display of the notice and must specify the activities that are required to cease. The notice is only effective for a maximum period of 28 days and it is not possible to serve a further temporary stop notice unless some form of enforcement action has been taken. In certain circumstances compensation may be payable.
- 4.19. Stop Notice – a stop notice can prohibit any or all of the activities which comprise the alleged breach(es) of planning control specified in a related enforcement notice, ahead of the deadline for compliance in that enforcement notice. Therefore, unlike a temporary stop notice, a stop notice may not be served without an enforcement notice first being served or served consecutively with the stop notice. The stop notice must specify the date on which it takes effect, which may not be less than 3 days, or more than 28 days from the date of service. Where the associated enforcement notice is quashed, varied or withdrawn or the stop notice is withdrawn, compensation may be payable in certain circumstances. A person who contravenes a stop notice after a site notice has been displayed, or the stop notice has been served on them, is guilty of an offence.
- 4.20. Planning Enforcement Order – this is a relatively new tool and may be used where the normal time periods for immunity, a period after which enforcement action cannot be taken, has passed. Where a person deliberately conceals unauthorised development, the deception may not come to light until after the time limits for taking enforcement action have expired. A planning enforcement order enables an authority to take action in relation to an apparent breach of planning control, notwithstanding that the time limits may have expired.
- 4.21. Injunction - where it is considered expedient for any actual or apprehended breach of planning control to be restrained, an application can be made to the High Court or County Court for an injunction to restrain a breach of planning control.

4.22. Section 215 Notice (power to require proper maintenance of land) – Where it appears to the local planning authority that the amenity of a part of their area, or of an adjoining area, is adversely affected by the condition of land in their area, they may serve on the owner and occupier of the land a notice requiring such steps for remedying the condition of the land as may be specified in the notice to be taken within such period as may be so specified. The period for compliance with the notice may not be less than 28 days. If the person receiving the notice fails to comply with the steps specified in the notice within the specified period, they shall be guilty of an offence and may be subject to legal proceedings. The right of appeal against a S215 notice is through the magistrates’ court and such appeal must be lodged prior to the notice taking effect.

Resources

4.23. It is important to recognise that enforcing planning controls is more than responding to, for example, complaints from residents about development taking place potentially without planning permission or failure to comply with conditions/build in accordance with approved plans. The core element of enforcement investigations is undertaken by 2 dedicated members of staff who are line managed by a Principal Planning Officer as part of their team, which also includes the Conservation Officer, Contributions Officer and two planning technicians. The Principal Planning Officer also carries a caseload of planning applications and oversees the determination of applications in the West Bridgford area.

4.24. In addition to responding to complaints from residents, the enforcement of planning controls is supported by the planning officers within the team who are available to provide guidance to the enforcement officers. In addition, the planning officers deal with applications to discharge conditions of planning permission, which is also considered to be part of the process of enforcing the requirements of planning permission.

4.25. A comparison with other authorities in Nottinghamshire is provided in the table below:

Authority	Number of complaints received 2019/20	Number of dedicated enforcement staff (fte)
Ashfield District Council	149	2
Bassetlaw District Council	180	1
Broxtowe Borough Council	395	2
Gedling Borough Council	228	1
Mansfield District Council	252	1
Newark and Sherwood DC	470	2
Nottingham City Council	166	1
Rushcliffe Borough Council	235	2

NB - Figures may not provide direct comparison of cases and staffing resource as the recording of cases, and responsibilities and duties may vary.

Performance

- 4.26. The enforcement function has been largely reactive, i.e. the officers respond to complaints from residents, elected councillors etc, and investigate any alleged breaches of planning control. However, in view of the significant development within the Borough, a system has recently been established and is in the process of being rolled out to proactively monitor the larger developments in order to ensure compliance with conditions etc. The table below sets out the number of investigation complaints received in each financial year from 2013/14 to 2019/20.

	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Number of enquiries received	368	333	381	307	281	235

- 4.27. Quite often, when an investigation is undertaken and a site is visited, it may transpire that the complaint is unfounded i.e. there is no breach of planning. This may be, for example, that what is being undertaken does not amount to development, the development is permitted development (by virtue of the provisions of the Town and Country Planning (General Permitted Development) Order 2015), work was being carried out in accordance with planning permission granted, or in the case of the use of buildings/land, the activity did not amount to a 'material change of use'. In 2017/18, 152 of the complaints closed during the period (nearly 50%) were found to be unfounded, the situation was similar in 2019/20. However, where a breach has occurred, and this cannot be resolved by negotiation, it may be necessary to take formal action. The table below provides details of the number of notices served by financial year:

Notice Served	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
Enforcement Notice	13	15	8	6	1	7
Breach of Condition Notice	1	1	0	0	0	0
Planning Contravention Notice	14	21	12	9	8	12
Section 215 notice (untidy land)	0	0	0	1	0	0
Temporary Stop Notice	0	0	0	3	0	1
Stop Notice	0	0	0	2	1	0
Total	28	37	20	21	10	20

- 4.28. The Planning Enforcement Code of Practice sets out the procedures that will be followed in investigating complaints about alleged breaches, including setting timescales when an officer will visit the site. These timescales vary depending on whether the complaint will be treated as the 'Highest Priority', 'Medium Priority' or 'Lowest Priority', as set out in the Code of Practice which is available as a background paper. For complaints falling in to the Highest

Priority, the aim is to visit the site the next working day after receipt of the complaint, in the case of all other complaints, the aim is to visit the site within 5 working days. Examples of complaints falling into the highest category include the demolition of a building which it is essential to retain, work to or felling of a protected tree and unauthorised work which causes immediate harm to the locality, e.g. Site of Special Scientific Interest (SSSI), Conservation Area or likely to result in significant harm to amenity. In such circumstances, the site needs to be visited promptly to avoid irreparable harm. Enforcement complaints are categorised depending on the nature of the alleged breach, e.g. advertisements, building operations, work to trees etc. In general, the majority of sites are visited within target time and the performance indicator for this activity (80% of visits within target time) is normally exceeded. For the period 1 April 2019 to 31 March 2020, on average, in 75.85% of cases an initial site visit was undertaken within the target time. The timescales for undertaking site visits during this period was impacted by the long term absence of one of the Enforcement Officers and the Covid Pandemic. Where appropriate sites may be revisited, depending on the nature of the alleged breach, for example, to undertake further monitoring.

- 4.29. Whilst it is accepted that there is an expectation that action will be taken in respect of alleged breaches of planning control to cease the activity or development being undertaken immediately and/or that the perpetrator has broken the law and the development is illegal; development undertaken without the relevant consent is unauthorised, not illegal. Only where the development is having a significant and serious impact on residents or the environment or the activity would cause irreparable damage would it be considered expedient to serve a notice to bring about an immediate cessation of the work/use.
- 4.30. It is important to emphasise that the Borough Council does not condone the actions of individuals or developers who breach planning controls. Where, during an investigation, it is established that a breach of control has occurred, the owner of the property/developer will be advised to cease work whilst the investigation continues and the appropriate course of action is determined. If they choose to continue with the development, they do so at their own risk and may incur unnecessary and potentially significant costs if permission is subsequently refused.
- 4.31. When investigating an alleged breach of planning control, it is important to follow the procedures carefully, particularly to ensure that any subsequent action succeeds. This may also involve monitoring the situation over a period of time to determine if a breach has occurred and to collect evidence to support any action. Where it has been determined that a breach has occurred and it is expedient to take formal action, it will be necessary to serve a Planning Contravention Notice to collect information to clearly inform the contents and requirements of any formal notice, for example, the nature of the breach and the person(s) who own or have an interest in the land. Land registry information is also used to confirm ownership of land.
- 4.32. When a notice has been issued, the recipient(s) of the notice may, where the right exists, choose to submit an appeal before the notice takes effect. This may

result in further delays in resolving the breach of planning control while appeal is processed, this delay can potentially be significant depending on which process the appeal is to be determined under, i.e. Written Representations, Hearing or Inquiry. If the Council is ultimately successful in defending such an appeal and the notice is upheld, it would only then become effective and the time for compliance commences on the date of the appeal decision. It is also important to recognise that, where an offence occurs for failure to comply with a notice, the Borough Council must then determine if it would be in the public interest to pursue legal action against the person(s) failing to comply with the notice. Any subsequent legal action may potentially result in a fine, or even a custodial sentence, but this will not necessarily result in the breach of planning being resolved. This illustrates how the process and rights of the perpetrator can be exploited, resulting in delays, sometimes significant, in resolving a breach.

The Draft Enforcement Policy

- 4.33. The National Planning Practice Guidance advises that; *“The preparation and adoption of a local enforcement plan is important because it:*
- *allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;*
 - *sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;*
 - *provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers;*
 - *provides greater certainty for all parties engaged in the development process.”*
- 4.34. The draft Enforcement Policy has been prepared (see Appendix One) having regard to the national guidance and is also reflective of the current practices and procedures engaged in the investigation of allegations of a breach in planning control. The Enforcement function remains largely reactive and this is reflective of the number of planning applications dealt with each year, the amount of development taking place within the Borough and the resources available for this (non-statutory) element of the planning service. However, procedures are in place to undertake reactive involvement in larger developments (50 dwellings plus) to ensure that conditions are complied with and obligations within Section 106 agreements discharged. The monitoring of Section 106 agreements and Community Infrastructure Payments now sits with a dedicated officer, in addition to the Enforcement Officers. In exceptional circumstances surveillance may be considered to investigate an alleged breach, in these circumstances the RIPA policy will apply [<https://www.rushcliffe.gov.uk/aboutus/aboutthecouncil/documentsstrategiesandpolicies/>].
- 4.35. It is acknowledged development which is carried out without the relevant permission can cause frustration and become very emotive. There may be a lack of understanding of the planning process amongst residents and the instant

belief that the actions of somebody building something without the relevant consent or failing to comply with a condition is illegal. In the majority of cases such actions will be unauthorised and an offence is only committed when there is a failure to comply with a formal notice, such as an enforcement notice or breach of condition notice. Exceptions to this general rule include causing damage to/demolishing a listed building, displaying an advertisement without consent or causing wilful damage/cutting down a tree the subject of a tree preservation order.

- 4.36. There is often an expectation/perception that if unauthorised works are taking place, the Council can immediately stop work on a site. As set out above, this may only be possible in limited circumstances. Temporary stop notice/stop notices are unlikely to be considered a proportionate response to the breach and are a tool used in exceptional cases. Those carrying out unauthorised development are advised to stop work but ultimately, any work they have carried out or continue to carry out without the relevant permission is at their own risk. In some cases, particularly where there is a need to monitor an activity, e.g. an alleged business activity operating from a residential property, there may be a need for ongoing monitoring and collection of evidence, and the conclusion of any investigation can potentially be protracted.
- 4.37. The policy should set expectations that have regard to the constraints of the legislative framework and available resources. The draft policy explains the process that will be followed in any investigation and confirms that every effort will be made to resolve the alleged breach through negotiation, only resorting to formal action where this is necessary, and in accordance with national guidance. It should also be recognised that this policy will be available to and read by everybody, including those who may wish to report an alleged breach and those who may be responsible for a breach. The policy therefore needs to strike the right balance to demonstrate the Council's approach to enforcement of planning control whilst managing the expectations of the general public and those who may have complained about an alleged breach of control.

5. Risks and Uncertainties

- 5.1. Failure to deliver an effective planning enforcement service and to respond promptly to complaints regarding alleged breaches of planning control can impact on public confidence in the planning service and the reputation of the service and the council as a whole.
- 5.2. It is also important to ensure that the Policy is measured according to the constraints and requirements of the legislative framework and resources available to the Council. Setting false/undeliverable expectations could create negative reputational issues and lack of confidence in the planning process generally.

6. Implications

6.1. Financial Implications

6.1.1. The cost of the dedicated officers responsible for undertaking enforcement work and any additional costs such as court costs are contained within current budgets.

6.1.2. Where enforcement action is taken without justification or such action cannot be robustly defended, there may be a risk of an award of costs in the event of an appeal or claims for compensation, principally in connection with the service of a Stop Notice. It is not possible to provide an estimate of such costs as these will vary from case to case and will depend on the factors impacted by any action, e.g. cost of plant and machinery, lost earnings, cost of expert witnesses to defend appeals etc.

6.2. Legal Implications

6.2.1. Enforcement action must be taken in accordance with the relevant legislation. Action must be proportionate and in the public interest. To ensure a proportionate approach is taken, particularly before serving a temporary stop notice or a stop notice, the local planning authority must be satisfied that there has been a breach of planning control and that the activity which amounts to the breach must be remedied or, in the case of a stop notice, stopped immediately and before the end of the period allowed for compliance with the related enforcement notice.

6.3. Equalities Implications

6.3.1. The Council is committed to delivering all enforcement activities in accordance with its Equality and Diversity Policy and will embed the principles of that policy in its approach to its enforcement and regulatory functions. Therefore, the Council will treat all people equally and fairly.

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

6.4.1. Whilst there may be community safety implications associated with the delivery of the enforcement function, there are not considered to be any such implications associated with the recommendation and consideration of this report.

7. Link to Corporate Priorities

Quality of Life	Unauthorised development may give rise to impacts which may adversely affect the amenities and quality of life of residents which can be resolved by taking appropriate enforcement action where this is justified or in seeking to regularise unauthorised development through a retrospective
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	planning application and the imposition of conditions which can mitigate the impact of development.
Efficient Services	The delivery of an efficient and effective planning enforcement service is consistent with the Council's corporate priority to transform the Council to enable the delivery of efficient high quality services.
Sustainable Growth	Sustainable development can be delivered through the preparation of development plan documents and the application of policies within the NPPF. The operation of an effective enforcement service can ensure that development is compliant with national and local planning policies and is therefore sustainable.
The Environment	Unauthorised development may give rise to impacts which may adversely affect the natural and built environment, impacts which can be resolved by taking appropriate enforcement action where this is justified or in seeking to regularise unauthorised development through a retrospective planning application and the imposition of conditions which can mitigate the impact of development.

8. Recommendations

It is RECOMMENDED that the Growth and Development Scrutiny Group:

- a) identifies potential amendments to the policy and areas for further investigation by officers
- b) asks for a further draft of the policy to be brought back for consideration by the Group on 14 October 2020.

For more information contact:	Andrew Pegram Service Manager - Communities 0115 914 8598 apegram@rushcliffe.gov.uk
Background papers available for Inspection:	<i>The Corporate Enforcement Policy and the Rushcliffe Borough Council's Planning Enforcement Code of Practice. These documents are available on the Council's website at:</i> https://www.rushcliffe.gov.uk/aboutus/aboutthecouncil/ <i>(Corporate Enforcement Policy is available under the heading Documents, policies and strategies)</i> <i>and</i> https://www.rushcliffe.gov.uk/planningandgrowth/enforcement/
List of appendices:	Appendix 1 - Draft Enforcement Policy



Planning Enforcement Policy

This policy statement relates to Rushcliffe Borough Council's (the Council's) Planning Enforcement service and will describe the purpose of the enforcement service and how the council will deliver the service to the community.

The policy aims to provide an efficient planning enforcement service in support of the council's statutory planning service in a clear, consistent, proportionate and open manner, in accordance with the Council's Corporate Enforcement Policy. It is recognised that establishing effective controls over unauthorised development assists in conserving the natural and built environment whilst helping to protect the quality of people's lives and maintaining the council's integrity.

Government advice and legislation

The revised National Planning Policy Framework (NPPF) was introduced in February 2019. Paragraph 58 of the Framework states that:

“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 it is appropriate.”

In addition to the statement made in the NPPF the Town and Country Planning Act 1990 provides the main legislative background regarding breaches of planning control along with the Planning Practice Guidance document titled “Ensuring effective enforcement” which was published on 6 March 2014.

The purpose of planning enforcement

The integrity of the planning service depends on the council's readiness to take enforcement action when appropriate. The council is committed to providing an effective planning enforcement service.

The planning system is designed to achieve a balance between the rights of landowners to enjoy their property, protecting the amenity of neighbours and the general public. The enforcement of planning control focuses on proportionate resolution rather than punishing those who have acted in breach, sometimes unknowingly. It is expected that land owners and developers will observe the spirit of planning legislation and refrain from development until the necessary planning permissions have been obtained.

The council will not condone wilful breaches of planning control and will exercise discretion to take enforcement action if it is considered expedient to do so. The council will investigate alleged breaches of planning control, to determine whether a breach has, as a matter of fact occurred, and if it has, determine the most appropriate course of action.

The key objectives of the enforcement policy:

- provide an accessible service that maintains public confidence in the planning system;
- provide a service that is both reactive and proactive in its commitment to remedy undesirable effects of unauthorised development;
- provide a service response that is prioritised according to the harm or the potential harm caused by the breach;
- provide a development monitoring service that is prioritised according to the scale and complexity of the development permitted; and
- seek resolution of planning breaches through informal and formal action including prosecution of offenders to uphold the integrity of the planning system.

What is a breach of planning control?

A breach of planning control is defined in section 171A of the Town and Country Planning Act 1990 (the 1990 Act) as: the carrying out of development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted. Important factors to consider include the extent of the powers of the planning service which is only concerned with 'development'. Section 55 of the 1990 Act provides the meaning of development as "...the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land."

A breach of planning control could involve such matters as the unauthorised erection of a building or extension to a building, a material change of use of land, or the display of unauthorised advertisements. Other breaches of planning control may consist of the following:

Works to Listed Buildings without the relevant consent;
Breaches of conditions attached to planning permissions;
Unauthorised works to trees subject of a tree preservation order (TPO) or in a conservation area;
Unauthorised demolition within conservation areas;
Not building in accordance with the approved plans following the grant of planning permissions;
Untidy land where it affects the amenity of the area;
Unauthorised engineering operations, such as raising of ground levels or earth bunds;
Failure to comply with a Section 106 agreement

Matters that are not breaches of planning control

Internal works to a non-listed building;
Obstruction of a highway or public right of way (PROW)
Parking of vehicles on the highway or on grass verges;
Parking caravans on residential driveways or within the curtilage of domestic properties as long as they are incidental to the enjoyment of the property;
Running a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity;
Land ownership disputes or trespass issues;
Covenants imposed on property Deeds
Rights of access or access for maintenance to a property
Any works that are deemed to be 'permitted development' under the Town and Country Planning (General Permitted Development) Order 2015 as amended and or substituted;
Advertisements that are either excepted from deemed and express consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007
Dangerous structures or other health and safety issues;
High hedge disputes

It is not the function of the planning authority to become involved in private neighbour disputes where no planning issue is evident. Additionally, it is not the Council's role to mediate in private legal disputes such as boundary disputes or damage to private property. Such cases will not be investigated as they are civil matters and the customers will be advised accordingly.

Enforcement action is discretionary

It is important to note that just because there may be a breach of planning control, this in itself is not sufficient reason to take enforcement action. The council must firstly decide, having given regard to guidance contained in the National Planning Policy Framework (NPPF) and all other material planning considerations whether or not it is '**expedient**' to take formal action. Expediency is a test of whether the unauthorised activities are causing harm to the environment or amenity of the area. Therefore, enforcement action is **discretionary** and each case must be assessed on its own merits.

Guidance from Central Government is that enforcement action should be a last resort and that councils are expected to give those responsible for a breach of planning control the opportunity to put matters right or to seek to regularise the breach before resorting to serving a formal notice. Any such service of a formal notice must be proportionate and commensurate with the breach of planning control.

This means that the council may not take formal enforcement action in all cases where there has been a breach of planning control identified.

All complaints will be:

Given a priority based on the councils published priority table (see below)
Investigated, including visiting the site where necessary in line with the published timescales, where possible, contained in the policy document; and

Pursued until such a time that the matter is satisfactorily resolved by either reparation or the breach is regularised or found to be lawful or the decision is taken that it is not expedient to pursue any further.

In the event that a formal notice is served and there is a failure to comply with the requirements of the notice, it is an option for cases to be pursued through the Magistrates' Courts or higher court where necessary.

How to report an alleged breach of planning control

The council considers a large number of complaints each year concerning alleged breaches of planning control. In order that a complaint can be dealt with as soon as possible it is important to provide the Council with as much information as possible. Below is a list of the type of information that would assist the Council in dealing with a complaint:

An accurate description of the location or address for the particular site;
A detailed description of the activities taking place that are cause for concern;
Names, addresses and phone numbers of those persons responsible for the alleged breach or the land owners;
The date and times of when the alleged breach took place;
Any other information or evidence that may be able to assist;
The complainants name, telephone number and address or e-mail address;

Complaints about alleged breaches of planning control will be accepted by either:
e-mail;
via the Council's website;
letter;
telephone or
Personal caller to the Rushcliffe Community Contact centre provided the complainant provides their name, address and telephone number.

It is important for the Council to hold the details of the complainant so that the outcome of the investigation can be communicated to them or if additional information is required during the course of the investigation. The details of the complainant are normally treated as confidential; however, in some circumstances this may not be possible particularly when matters progress to court and the complainant may be required to give evidence and/or details of the complaint must be disclosed.

Anonymous complaints will not normally be investigated. Complainants who do not wish to give their personal details will be advised to contact either their Ward Councillor or their parish council who may then raise their concerns on their behalf.

Vexatious, malicious or repeated complaints that do not have any substantive planning reasons for the complaint will not normally be investigated.

Abusive or unreasonable complainants The Council will not tolerate any insulting, threatening words or behaviour towards its staff at any time, either in person or via any other means. Any abusive telephone calls will be terminated.

How will we prioritise complaints?

In order to make the best use of resources available it is important to prioritise the complaints received in accordance with the seriousness of the alleged breach. This will initially be decided by the council following receipt of the complaint however may be subject to change following a site inspection or when further information comes to light.

Priority Categories

Highest Priority

Unauthorised demolition or partial demolition of a building which it is essential to retain.

Where building(s) are under construction and

- no planning permission exists (might be permitted development).
- planning permission has been granted but development may not be in accordance with the plans

Any unauthorised development which causes immediate and irremediable harm in the locality e.g. in an SSSI or Conservation Area or likely to result in significant harm to amenity.

Felling or works to protected trees.

Other Priorities

Breaches of conditions.

Unauthorised development where the time limit for enforcement action will expire within the next 6 months.

Unauthorised uses of land.

Illegal display of advertisements.

Untidy land.

Unauthorised development where there is no significant conflict with planning policies or objectives or harm to amenity.

Unauthorised development where a favourable recommendation would be made if an application to authorise the development were made

The development is likely to be of a temporary nature.

Timescales for investigations

The Highest priority cases will have appropriate action within 1 working day. Other priority cases will have action taken within 5 working days.

What are the possible outcomes of an investigation?

No breach established – Following a site inspection it may be found that there is no breach of planning control because, for example, the activity or operations do not

amount to development, the unauthorised use has ceased or the development already has planning permission or is permitted development.

There is a breach of planning control but not considered expedient to pursue – Just because a breach may exist does not automatically mean that formal action will be taken. Enforcement powers are discretionary and minor technical breaches or circumstances where the development is considered acceptable (i.e. planning permission might be granted) may not be considered expedient to pursue as it may be considered to be ‘de minimis’ or not in the public interest to warrant pursuing.

The development is lawful and immune from enforcement action - This is when the unauthorised development or unauthorised change of use has occurred over a long period of time without being brought to the attention of the council. There are certain time limits involved in relation to operational development and changes of use. Enforcement action cannot be taken against developments which are immune under planning legislation due to specific time limits which are:

- 4 years for unauthorised operational development or change of use of a building to use as a single dwelling house;
- 10 years for a material change of use of land and buildings or a breach of a condition imposed on a planning permission.

Negotiations take place to find a solution – In accordance with Government guidance the first priority is to try and resolve any breaches of planning control through negotiation. Only when such negotiations fail to secure a solution should formal action be considered. The council will not however allow negotiations to become protracted where there is a need to make the development acceptable or where there is a requirement for a particular use to cease.

Lack of Evidence - In some cases it may not be possible for the Council to confirm that the alleged breach is taking place. In such cases, complainants will be asked to assist in providing evidence that could be used at both the appeal stage and at any subsequent legal proceedings. A lack of sufficient evidence may result in no action being taken.

Invite a retrospective application

In accordance with Government advice the council will firstly seek to negotiate an amicable solution to any confirmed breach of planning control. By entering into negotiations with the parties involved, a solution may be found which could involve the cessation of any unauthorised change of use or building operations, the removal of any unauthorised building works or items constituting a material change of use of land, the remedy of any breach by the submission of a retrospective planning application.

A retrospective application will be invited where it is considered that there is a reasonable likelihood that planning permission may be granted in line with local and national planning policies or where unacceptable impacts of development could be mitigated or a development may be made acceptable by way of the imposition of conditions.

Minor or technical breaches of planning control may not be pursued in the event that a retrospective application has been requested and not submitted or where it is not considered expedient or in the public interest to do so.

Formal Action

The council has a range of formal powers under the Town and Country Planning Act that it can use to remedy breaches of planning control. The more common forms of enforcement action are listed below:

- The service of a Planning Contravention Notice (PCN) – Section 171(c) enables the service of a notice requiring persons to provide information in relation to land or activities on land where a breach of planning control is suspected
- The service of a Request for Information (RFI) – Section 16(1) enables a notice to be served requesting details to be provided of any owners, occupiers or any other persons with an interest in the land
- The service of an Enforcement Notice – Section 172 enables the service of a notice which requires specific steps to be undertaken within a specified time frame to remedy the breach of planning control
- The service of a Breach of Condition Notice (BCN) – Section 187(a) enables the service of a notice to secure compliance with conditions imposed on a planning permission
- The service of a Stop Notice or a Temporary Stop Notice - Section 183 and Section 171(e) enables the service of a notice requiring the cessation of unauthorised activities. A Stop Notice may only be served in conjunction with an Enforcement Notice referred to above
- The service of a Section 215 Notice – this enables the service of a notice requiring the proper maintenance of land and buildings.
- Section 171BB enables an application to be made to the courts for a Planning Enforcement Order – where deliberate concealment of a breach has occurred, the deception may not come to light until after the time limits for taking enforcement action have expired. A planning enforcement order enables an authority to take action in relation to an apparent breach of planning control, notwithstanding that the time limits may have expired.
- Seek an Injunction - where it is considered expedient for any actual or apprehended breach of planning control to be restrained, an application can be made to the High Court or County Court for an injunction to restrain a breach of planning control.

In addition to the powers detailed above, the Local Planning Authority also has powers under the Planning (Listed Buildings and Conservation Areas) Act 1990 to serve a repairs notice or require urgent works to be undertaken in the interests of preserving a listed building/structure.

Further information is available in The National Planning Practice Guidance (NPPG) <https://www.gov.uk/government/collections/planning-practice-guidance>

In addition to the above further action is available including taking direct action to remedy a breach or to instigate prosecution proceedings in The Magistrates' Courts for non-compliance with a formal notice where it is deemed necessary to do so.

The council will comply with the provisions of the Police and Criminal Evidence Act 1984 when interviewing persons suspected of a criminal offence. In exceptional circumstances surveillance may be considered to investigate an alleged breach, in these circumstances the Regulation of Investigatory Powers Act 2000 (RIPA) and the Council's policy will apply

What happens if an allegation is made against you?

If a complaint is received that affects you, the first thing that will happen is either you will be contacted (where your details are known to the council) or the site in question will be visited by an enforcement officer. The purpose of this visit is to establish the facts of the case and whether there is any basis to the allegations made. The officer will, where necessary, take measurements and photographs of the development or activity taking place. This site inspection may be undertaken without any prior notification.

If it is established that a breach of planning control has occurred you will be advised of the details of the breach and what steps that need to be taken to either rectify the breach or regularise the situation.

You will be given a reasonable period of time (subject to the nature of the breach) to resolve any breach of planning control. If compliance is not secured through amicable negotiations or the submission of a retrospective planning application formal action may be instigated.

Proactive Compliance

In addition to the service's role in reacting to complaints regarding alleged unauthorised developments or breaches of condition, the council provides a proactive approach to ensure compliance with planning permissions and other consents. This only normally applies to developments of 50 dwellings or more. It should be noted that it is the responsibility of individual developers to comply with the conditions imposed on any planning permission or consent or with any terms identified in legal agreements, such as Section 106 agreements. However, failure to comply can affect not only the quality of the environment in the district or the amenity of neighbouring properties but also undermine the reasons and justification for granting planning permission or other consents in the first instance.

Proactive action will encourage and enable compliance with conditions to safeguard that development remains acceptable in planning policy terms whilst maintaining an attractive, high quality environment. Carrying out proactive compliance in this way should result in a reduction in the number of retrospective enforcement complaints received.

Power of entry onto land

Section 196(a) of the Town and Country Planning Act (as amended) and the Planning (Listed Buildings and Conservation Area) Act 1990 gives officers of the Council the power to enter land and/or premises at all reasonable hours in order to undertake

his/her official duties. Wilful obstruction of a person exercising a right of entry is an offence.

The above does not allow the admission to any building used as a dwelling house to be demanded as a right by virtue of the aforementioned legislation, unless twenty four hours prior notice of the intended entry has been given to the occupier of the building.

Human Rights Act

When making decisions relating to enforcement activity officers will have regard to the Human Rights Act 1998.

How you can help us

If you are unsure as to whether planning permission is required, please contact Planning and Growth for advice **before** starting work.

If you already have planning permission, check to see if any conditions must be satisfied **before** starting work and ensure you build in accordance with the approved plans. If you want to make any changes please contact Planning and Growth **before** carrying out work which deviates from or is not shown on your approved plans

Complaints about the service

If you are unhappy about the level of service you have received from the Planning Service or how the process has been managed, then you may firstly discuss your concerns with the Principal Planning Officer (Monitoring and Implementation) or take it further through the council's Corporate Complaints Procedure by writing to the Service Manager (Communities) at the address below. Following the initial investigation of your complaint, you may ask for the matter to be escalated to the second stage of the Council's complaints procedure. If after the matter has been through the council's complaints procedure you remain unhappy, you may then write to the Local Government Ombudsman who may investigate your concerns however, please note that the Local Government Ombudsman will only become involved if the matter has been considered under the Council's complaint.

You can contact us:
by telephone on 0115 981 9911

by e-mail at planningandgrowth@rushcliffe.gov.uk

by post to: Service Manager, Communities
Rushcliffe Borough Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7HY

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Growth and Development Scrutiny Group

Tuesday, 25 August 2020

Customer Services and Digital Transformation

Report of the Executive Manager – Transformation

1. Purpose of report

- 1.1. This report, and appendices, provides an overview of the Council's current customer service offer in Rushcliffe. It includes information on the channels available for residents to contact the Council and partnerships that support the offer. It also includes information illustrating the impact of the Covid19 pandemic on the ways customers have accessed Council services during lockdown.
- 1.2. In addition, the report includes an update on the Council's approach to digital transformation including some of the work undertaken so far and the additional projects identified for delivery in the next year. The focus in this report is on customer facing activities, although internal processes also form part of the Digital by Design Programme.
- 1.3. This is intended to be an initial report that sets out the current position for the Group to consider and to identify any future items for further scrutiny.

2. Recommendation

It is RECOMMENDED that the Growth and Development Scrutiny Group:

- a) Review current proposed activity for the Digital by Design programme and propose additional opportunities for Officers to explore.
- b) Identify additional areas within digital transformation and customer services for future scrutiny.

3. Reasons for Recommendation

- 3.1. The report covers support provided directly by the Council's Customer Service Team and that which is delivered in partnership with other agencies. It is important for the Group to understand the current arrangements and resources when considering service delivery. The report provides an update on the development of the Customer Service Centre and offer since 2010 when it was last scrutinised.

- 3.2. The report also sets out the progress made so far on digital transformation and the future plans for this for the Group’s consideration. This is an opportune time to review this due to the Covid19 pandemic which has forced customers to interact with us in different ways. We need to consider options for future service delivery and the opportunity to drive change.

4. Supporting Information

- 4.1. The essential principles of customer service remain unchanged but with the development of new technologies expectations have been raised. Rushcliffe has to ensure it is keeping up with these changing expectations and delivering an effective, efficient and high-quality service to all.
- 4.2. Since 2010, there have been several key factors that have changed the way residents are able to contact the Council:
- Increased digital methods (web/email/My Account/social media)
 - Working with partner agencies
 - Increased access to services at Contact Points around Rushcliffe (Bingham, Cotgrave and East Leake).

This report provides an update on the current arrangements for the above as well as considering the immediate impact of Covid19.

Digital Transformation

- 4.3. The introduction of more electronic methods of accessing Council services has provided residents with more choice. The table below shows the change in the way that customers are choosing to contact the Council comparing data from 2013/14 with 2018/19 and 2019/20:

Access channels	2013/14	2018/19	2019/20
Telephones	117,531	98,647	109,139
Face to Face (inc Contact Points)	27,469	18,413	21,341
Emails to Customer Services	3,842	10,457	16,226
Web reports	3,101	5,126	5,726

- 4.4. The table shows a drop in contact via the more traditional methods (telephone and face to face) however these remain the most popular ways to contact the Council. The increase in telephone enquiries in 2019/20 compared to 2018/19 is due to the snap election and flooding in the Borough. Contact via email has seen the largest increase of 12,384. Web reports has seen a smaller increase of 2,625 (84%) but with the introduction of MyAccount it is anticipated that this will increase further over the coming years. The MyAccount portal enables customers to access all council services from one place, for example they can:
- Flag up fly tipping, missed bins, litter, dog fouling and view a history and real-time progress on each request made

- Manage their Garden Waste subscription from February 1, 2020
- View the dates of their next bin collections.

4.5. This data does not take account of enquiries received from customers through engagement on social media, this is dealt with by the Communications Team who refer enquiries on to the relevant teams for a response.

4.6. Over the last few years the Council has been on a journey of digitising various services and looking for efficiencies both in the way it does business and in the way that residents can access services. Some of the achievements and changes in customer behaviour that resulted from the Digital by Default programme, which ran from 2014 to 2017, for Customer Services included:

- Increase in enquiries to the Council received via the website – in 2013 there were 2,916 with 4,282 in 2017
- Increase in emails to Customer Services – there were 3,482 in 2013 and 8,616 in 2017
- Self-serve kiosks area available at the Contact Centre with support from staff if required. These are used less now as most people are happy to contact us online at home or using their mobile device however this was an initial step to get customers used to engaging with the Council this way
- A number of new on-line forms improved access to services
- Direct scanning and indexing of customers documents to their accounts is now done by a Customer Services Advisors at first point of contact rather than being passed to the back office to scan.

4.7. In 2018, the Digital by Default programme was replaced with the Digital by Design Programme. MyAccount was implemented as a part of this programme and future initiatives for customer services currently planned in the programme include:

Project	Detail	Benefits
Review methods of communication available for customers and opportunities for increasing digital e.g. investigate chatbots	This is an ongoing piece of work that involves the continuous investigation of new technology available. ChatBot technology can either be an instant messaging or voice recording system designed to automatically answer queries made by residents using Artificial Intelligence.	Continuous adaptation of the way the customer service is delivered to meet the changing demands of residents.
SCANSTATION (awaiting implementation)	There are a number of instances when customers could benefit from self - scanning solutions located at the Customer Service Centre and contact points. Providing a scanning solution to scan documents that will automatically feed into the Council's systems. The scanning solution keeps documents	Efficient, simple and secure method for customers to self-serve. Frees up advisor time for dealing with other customers

	secure and negates the need for customers to photocopy documents.	
Focus Groups	Setup focus groups with residents and contact via telephone for feedback on Council services.	Identify what services customers want to access digitally and identify ways to improve our digital footprint.
Phase 2 of Meritec and My Account portal	Look for opportunities to implement Intelligent Automation (IA), integration between back office systems, and enhance the use of the Council Myaccount Portal.	Provide a more efficient and effective service to customers allowing them to do more online more easily.

4.8. The development of further electronic methods is continuous to ensure that Rushcliffe keeps pace with changing customer demands, however there will always be a requirement for mediated support for residents unable or unwilling to use or access these channels.

4.9. As well as this work to support the Customers Services function, there is a new Digital by Design Board who will review the programme of work across all Council services. The Covid19 pandemic has provided an opportunity to review again the way we deliver services as we have had to implement change quickly, but these new ways of working could have benefits in the longer term for the Council and our residents.

4.10. The Board will work with all service areas to identify digital transformation opportunities through automation of processes, electronic systems, and better integration with back office systems. The strategic themes of the project board are:

- Enabling a digital culture
- Efficiencies and reducing overall costs
- Customer satisfaction
- Security and privacy by design

4.11. In addition to the above, customer service focused initiatives of the Digital by Design programme for 2020/21 include:

- Implement energy management software to enable better control and monitoring of power, water and gas consumption across operational buildings.
- Introduce new online bookings and payment options for Council community facilities to enhance the customer journey and deliver efficiency savings
- Investigate and, if possible deliver, a solution to enable hybrid virtual meetings
- Due to the Covid19 pandemic, video conferencing has become essential for the Council to continue functioning, whether this is meeting colleagues or holding Council meetings with members of the public present. The next step is to expand on these facilities to allow people to attend the meeting onsite, as well as remotely (hybrid).

- Promote the growth of Gov.Delivery including the expansion of content and campaigns to encourage sign up by residents
- Undertake a review of the home alarm service to identify new technology and joint working options.

4.12. Once the refresh has been completed, an update on the programme and its activities could be presented to a future Growth and Development Scrutiny Committee.

Customer Service Partners

4.13. **Nottinghamshire Police:** In 2011, the Council's Customer Service Centre relocated from the Civic Centre to West Bridgford Police Station. Rushcliffe and Police staff became multi skilled to enable them to deliver the services of both organisations. Over time, the number of face to face enquiries for the Police service declined, as more people now use mobile phones to call the control room directly, and in the last year an upgrade to Police technology reduced access to their systems to Police employees only. This significantly reduced the number of enquiries the RBC team could resolve. In 2020, the Police will be launching a new on line service for all enquiries and, therefore, when the sale of the Police station was announced it was also made clear a face to face service would not be required moving forwards. However, the Council's new Customer Service Centre, at Fountain Court in the centre of West Bridgford, continues to provide access to Police services via 101, 999 and the Police website.

4.14. **Libraries (Inspire):** The Cotgrave Hub opened in 2018 as a contact point providing Council Customer Services from within the library area of the building. This partnership provides more local access for residents to Council services and also extends the opening hours of the library, as Rushcliffe staff provide that service when the library staff are not there. This delivery model has been replicated in East Leake Library, from February 2020, with an increased presence from 4 hours to 37 hours per week.

4.15. **Metropolitan Housing Trust (MHT):** In 2009, the Council and MHT entered an arrangement whereby RBC advisors could access MHT IT systems and support customers with low level enquiries regarding their MHT tenancy. However, access to their IT systems is no longer available and while MHT continue to provide funds, work is ongoing to see how further support can be provided in particular with access to interview rooms at Fountain Court.

Contact Points

4.16. RBC contact points are located within Bingham Health Centre, Cotgrave Library and East Leake Library offering residents local access to Council services. Since it opened in 2009, the Bingham contact point has provided a service five days a week. In Cotgrave, it was previously half a day per week (based in the Police Station) but this increased to five days a week when the Multi Service

Centre opened, which is where the members of staff are based. The same is true of East Leake where it was previously half a day per week in the Parish Council Offices but from February 2020 this increased to five days per week.

4.17. The table below shows the increase in customers accessing the full time contact points comparing 2013/14 with 2018/19 and 2019/20.

Year	Bingham	Cotgrave
2013/14	806	0
2018/19	1962	1176
2019/20	1989	2637

4.18. As it shows, there has been an increase of 1,183 enquiries at Bingham and 2,637 at Cotgrave. Figures for East Leake have not been provided as the contact point only opened in the library for five days a week in February 2020 and had to close due to Covid19 lockdown a few weeks later.

4.19. At contact points, residents can complete forms, hand in supporting documents, find information and make payments (not cash). The advisors work at the centre and contact points on a rota basis and, therefore, the service delivered is consistent irrespective of where the resident chooses to access the service.

4.20. This increase is very positive and highlights the need for delivering the service in this way, however it puts pressure on the service as well. Allocating two members of staff to each of these contact points takes advisors off the phones, although they do still answer telephone enquiries when they do not have face to face customers, but this has an impact on the speed at which calls are answered during busy periods.

Performance

4.21. Customer satisfaction remains consistently high at 98%. Where customers are dissatisfied it is generally where they are unhappy with the answer provided rather than the service they received.

4.22. There is the ambition, wherever possible, to resolve all calls at the first point of contact and so the team are highly trained to deal with the many different enquiries that come through. This improves the service customers receive but means that calls can take longer to resolve, impacting on overall call answering times.

	Average enq Duration Sept 2017	Number Of Enq	Average enq Duration Sept 2019	Number Of Enq.
Home Alarms	1 min 17 sec	80	12 mins 58 sec	108
Strategic Housing	6 mins 45 sec	470	11 mins 36 sec	356
Pest Control	2 mins 26 sec	370	11 mins 2 sec	218
Licensing	4 mins 40 sec	404	10 mins 29 sec	296

- 4.23. There are periods of high demand for the team, some of which can be planned for as it is anticipated e.g. green waste scheme renewals, council tax billing period and elections. However, there can be an increase in demand that is unexpected e.g. extreme weather conditions, or the snap election as happened in 2019 and explains increase in demand 2019/20. The team's ability to answer calls within target times can prove challenging during these peaks periods. However, this has not yet impacted on customer satisfaction levels and very few complaints are received. Last year, further technology was introduced to the telephony system whereby at busy times callers are now advised of their position in the queue.
- 4.24. To provide resilience, some of the Council's Business Support Unit team are trained to handle non-complex telephone enquiries and, as such, are an additional resource at peak times.

The impact of Covid19

- 4.25. The Covid19 pandemic has had a significant impact on the way we deliver Council services. For Customers Services, the main impact has been the closure of all contact points when the country went into lockdown.
- 4.26. There was no change in the ability to respond to telephone calls, web reports and emails from residents when lockdown was announced as the Customer Service Team, like other council services, are all able to work remotely. The Customer Services Centre in West Bridgford and the other contact points closed and, therefore, residents were unable to access any service from the Customer Service Team in person.
- 4.27. Face to face service resumed at the Customer Services Centre at Fountain Court on 1 June, however, the premises is small and to ensure social distancing is maintained and controlled, an appointment only service was introduced. Appointments are available on two half-days per week but, as the table below shows, demand remains extremely low.

Customers requesting appts	Number of appts	Type of enquiry
June 2020	11	Proof of life (3) Assistance with benefit claim form (3) Taxi driver test (3) Submit documents (2)
July 2020	17	Proof of life (5) Submit documents (11) Use of Homeseach (1)

- 4.28. It is anticipated that face to face appointments will be available at Cotgrave and East Leake library by mid-September. Libraries are now open, albeit with very restricted opening hours. There is no date agreed yet to reopen the Council's

contact point within Bingham Health Centre, but we are working closely with partners.

- 4.29. The table below shows how residents contacted the Council during the lockdown period of 2020 compared with the same period in 2018. As the table shows there has been an increase in enquiries via email and on the web, clearly the pandemic will have had an impact on this, but it is important to note that this reflects an existing trend.

	Feb	Mar	Apr	May	Jun	July
Phone Calls						
2018	11,820	13,547	13,255	12,327	9,087	9,563
2020	8,964	12,841	7,993	7,643	8,223	8,094
Face to Face in WB						
2018	1,661	1,387	1,765	1,726	1,641	1,525
2020	1,101	801	0	0	11	17
Contact Points						
2018	208	258	219	222	237	203
2020	461	260	0	0	0	0
Email						
2018	802	1,102	1,151	884	548	899
2020	1,610	2,017	1,779	1,491	1,716	1,462
Web enquiries to CSC						
2018	376	476	366	509	504	368
2020	453	466	413	743	720	650
Visits to RBC website						
2018	51,100	52,030	44,909	47,863	45,161	45,767
2020	56,258	61,893	49,806	58,055	56,618	40,093

- 4.30. How customers are interacting with the Council is changing and there is an opportunity to review how Customer Services is provided in the future. This will be addressed in part by the Digital by Design programme, but also how we adapt to the reduction in face to face demand and redesign the service.

5. Risks and Uncertainties

- 5.1. This is an initial report intended to inform the Group and, therefore, there are no risks and uncertainties associated with this report.

6. Implications

6.1. Financial Implications

The report includes details of existing provision which is provided directly by the Council or in partnership. All activity is currently fully funded. The Police currently contribute £19k per annum. In 2021/22 this will reduce to £10k and from 2022/23 reduce to £5k. This is reflected in the MTFS going forward.

6.2. Legal Implications

There are no legal implications associated with this report.

6.3. Equalities Implications

There are numerous ways customers can contact the Council and all channels are available to all residents in Rushcliffe and, therefore, there are no equalities implications of this report. Hearing loops are available at all sites, translation services are provided by way of a tablet, and documents can be requested in braille and larger print.

6.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no crime and disorder implication associated with this report.

7. Link to Corporate Priorities

Quality of Life	Maintaining and enhancing our residents' quality of life by providing the best and easiest access to services for the resident.
Efficient Services	Ensuring that residents have access to Council services at times and places convenient to them, with speedy resolution to enquiries at first point of contact.
Sustainable Growth	The Digital by Design programme will support delivery of the Council's corporate objectives and priorities.
The Environment	The Digital by Design programme will be aligned to support delivery of the Council's Carbon Management Plan.

8. Recommendations

It is RECOMMENDED that the Growth and Development Scrutiny Group:

- a) Review current proposed activity for the Digital by Design programme and propose additional opportunities for Officers to explore.
- b) Identify additional areas within digital transformation and customer services for future scrutiny.

For more information contact:	Leanne Ashmore Executive Manager - Transformation lashmore@rushcliffe.gov.uk
Background papers available for Inspection:	None.
List of appendices:	



Growth and Development Scrutiny

Tuesday, 25 August 2020

Work Programme

Report of the Executive Manager – Finance and Corporate Services

1. Summary

In response to a question raised by Councillor Way regarding the limited access to cash machines in some village centres the Executive Manager – Communities advised that this was addressed at a recent Town and Parish Forum. However, In light of the current Covid-19 pandemic and the increased use of card payments to help prevent the spread of the virus, future discussions on a cashless society will be deferred to the meeting on 21 January 2021

Members are asked to propose future topics to be considered by the Group, in line with the Council's priorities which are:

- Delivering economic growth to ensure a sustainable, prosperous and thriving local economy
- Maintaining and enhancing our residents' quality of life
- Transforming the Council to enable the delivery of efficient high quality services.

2. Recommendation

It is RECOMMENDED that the Group agrees the work programme as set out in the table below.

3. Reasons for Recommendation

14 October 2020

- Abbey Road Developer Presentation
- Planning Enforcement Part 2
- Work Programme

20 January 2021

- Town Centres Update
- Work Programme

21 April 2021

- Work Programme

For more information contact:	Pete Linfield Executive Manager – Finance and Corporate Services 0115 914 8349 plinfield@rushcliffe.gov.uk
Background papers Available for Inspection:	None.
List of appendices (if any):	None.