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Our reference:
Your reference:
Date: Tuesday 6 October 2020

To all Members of the Growth and Development Scrutiny Group

Dear Councillor

A Meeting of the Growth and Development Scrutiny Group will be held on Wednesday, 14 October 2020 at 7.00 pm via Zoom to consider the following items of business.

The meeting will be live streamed via YouTube for the public to listen and view via the link: <https://www.youtube.com/user/RushcliffeBC> Note: Please be aware that until the meeting starts the live stream video will not be showing on the home page. For this reason, please keep refreshing the home page until you see the video appear.

Yours sincerely



Sanjit Sull
Monitoring Officer

AGENDA

1. Apologies for Absence
2. Declarations of Interest
3. Minutes of the meeting 25 August 2020 (Pages 1 - 8)
4. Abbey Road and Crematorium Update (Pages 9 - 18)
The report of the Executive Manager – Transformation is attached.
5. Planning Enforcement Policy - Part Two (Pages 19 - 52)
The report of the Executive Manager – Communities is attached.
6. Work Programme (Pages 53 - 54)
The report of the Executive Manager – Finance and Corporate Services is attached.



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Membership

Chairman: Councillor N Clarke

Vice-Chairman: Councillor D Viridi

Councillors: S Bailey, N Begum, J Cottee, L Howitt, A Phillips, J Stockwood and L Way

Meeting Room Guidance

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

Recording at Meetings

The Openness of Local Government Bodies Regulations 2014 allows filming and recording by anyone attending a meeting. This is not within the Council's control.

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**MINUTES
OF THE MEETING OF THE
GROWTH AND DEVELOPMENT SCRUTINY GROUP
TUESDAY, 25 AUGUST 2020**

Held virtually at 7.00 pm and live streamed on the
Rushcliffe Borough Council YouTube channel

PRESENT:

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

ALSO IN ATTENDANCE:

Councillor R Jones

OFFICERS IN ATTENDANCE:

G Dwyer	ICT Manager
D Mitchell	Executive Manager - Communities
A Pegram	Service Manager - Communities
H Tambini	Democratic Services Manager
S Woltman	Customer Services Manager

APOLOGIES:

Councillors N Begum and L Way

18 Declarations of Interest

There were no declarations of interest.

19 Minutes of the meeting held on 15 July 2020

The minutes of the meeting held on Wednesday, 15 July 2020 were declared a true record and signed by the Chairman.

20 Planning Enforcement Part 1

The Service Manager – Communities, Planning and Growth delivered a presentation on Planning Enforcement, which accompanied the report already circulated with the agenda.

In the presentation, the Service Manager – Communities, Planning and Growth and N Cox, Principal Planning Officer provided details on the following issues:

- the Council's Corporate Enforcement Policy, which had been adopted in March 2010 and last revised in June 2017;
- what constituted a breach of planning control and the range of ways to tackle them;
- timescales involved for taking enforcement action;
- the various enforcement tools available to the Council;
- the appeals process against the serving of an Enforcement Notice;

- the different enforcement tools available to the Council;
- categories of enforcement enquiries received by the Council from 1 April 2019 to 31 March 2020;
- the outcome of investigations in 2019/20;
- the number of notices served by regional councils since 2014;
- the team structure;
- the number of planning submissions received from 2010 to 2020; and
- various case studies.

At the invitation of the Group, Councillors had been asked to submit written submissions on their experiences of planning enforcement. The Group had received submissions from a number of Councillors and those had been considered by the Executive Manager for Communities and the Service Manager – Communities, Planning and Growth. The report and presentation had provided responses to some of the questions raised by the Councillors, and a Question and Answer document would be produced following the meeting to address any remaining issues and points raised during the meeting.

Following the last Council meeting, the Chairman of the Growth and Development Scrutiny Group had invited Councillor Jones to attend this meeting to provide his thoughts on the Council's planning enforcement process.

Councillor Jones stated that following a conversation with Planning Officers earlier this year, he had become concerned that current staffing levels were insufficient to cope with the volume of work, especially given the growth in the number of applications and the scale and complexity of large developments. He was aware of instances where specific environmental protection measures had not been undertaken by developers as specified as part of the planning permission. There needed to be more emphasis on proactively ensuring that work was being undertaken and conditions were being complied with.

The Service Manager – Communities, Planning and Growth advised that there was no definitive definition of what constituted 'harm', it was subjective and a matter of scale and degree.

Councillor Thomas reiterated the comments made by Councillor Jones and queried if developers were notifying officers when trigger points were met, which required work to be undertaken. That was particularly important when developments were passed over to management companies and residents, who might be charged if works were not completed. Although the proactive monitoring of developments over 50 dwellings was welcomed, it would be helpful if that 50 dwellings limit could be reduced.

The Service Manager – Communities, Planning and Growth confirmed that with the exception of two sites, all of the new larger developments coming forward were for over 50 dwellings. As part of a Section 106 Agreement, a developer had to notify officers that development was commencing and that acted as a trigger to monitor sights.

The Chairman referred to the case study submitted by Councillor Phillips, questioned in that instance if officers had known that there would be

substantial engineering operations involved and if officers should have anticipated the problems, and taken appropriate mitigation measures. The possibility of imposing conditions to pre-empt any problems should be considered. It should be noted that members of the public always perceived such issues to be the Council's responsibility and it would be helpful to try to ensure that such problems did not occur.

The Service Manager – Communities, Planning and Growth stated that in general, Building Control would cover substantial engineering works. Such issues would also be included in a Construction Management Plan or a Construction Methods Statement, if they had been requested as part of planning conditions. Such issues were also site dependent, with some elements not known when planning permission was sought and a Construction Methods Statement covered those points. Planning Officers worked with Environmental Health Officers to ensure that best working practices were adhered to and it was possible to control hours of work by conditions.

The Vice Chairman stated that given the recent publication of the Government White Paper, "Planning for the Future for consultation" and the likelihood that in the future developers would have increased freedom, the Council would need to become more proactive when working with developers and it was likely that more enforcement would be required. It was essential that the Council had enough resources and staff to deal with any increased workloads.

The Executive Manager – Communities advised that the current Planning Enforcement Policy was in place to strengthen planning enforcement under the current legislation. Any changes to the legislation could result in amendments being required to that Policy. The enforcement of planning control was discretionary and the Council did not have the ability to recover any costs. The service was also particularly emotive for complainants who wanted significant action, which was not always possible. As previously referred to, the number of applications received was often not an accurate reflection of workloads, given that each application was different in scale and complexity. The Council now had a dedicated CIL Officer and a consultant was currently reviewing Planning Services and looking at staffing and resource issues. The Group was asked to consider if the Planning Enforcement Policy was resilient enough and if it was being implemented correctly.

The Chairman referred to the potentially difficult situation going forward, if the Council was to lose income from the submission of planning applications, whilst having to deal with more enforcement matters.

Councillor J Stockwood referred to the steps taken to consult with the public and to the Council's policy, its Statement of Community Involvement, which considered how the Council engaged with the public before planning permission was granted. Given that the Planning Enforcement Policy related to post development issues, it would be helpful if both policies used similar terms to ensure consistency. The Statement of Community Involvement was very clear and well formatted and it would be useful to follow that template. In respect of scale of development, it should be noted that the Statement of Community Involvement defined 'Major' and 'Minor' applications based on 10 dwellings and the scale of retail development, and again it would be helpful to use the same definitions to ensure clarity across policies. It would be helpful to

divide the Policy into clear processes to cover how to make a complaint, or what happens when a complaint is made about someone, and the step-by-step process for each scenario. In relation to matters that were not breaches of planning control, it would be helpful if the Policy directed people to other Council services or agencies who could assist them, perhaps through Customer Services. It would also be appropriate to refer to the additional support offered to groups that are more vulnerable.

The Vice Chairman welcomed the Policy and reiterated the importance of having sufficient resources to deliver and enact the Policy, and it would be appropriate to make it clear that those resources were available before it was finalised and agreed.

The Chairman referred to the Government White Paper and asked officers if it would be possible to pre-empt those changes and the likelihood of increased development taking place without having to apply for planning permission. It would be appropriate to have a plan in place to increase resources, to allow a more proactive approach when working with developers, as it was always more prudent to prevent a problem, rather than solving a problem. By being proactive, the Council should be able to reduce the resources required.

The Executive Manager – Communities confirmed that a report to consider minor revisions to the Statement of Community Involvement was being submitted to Cabinet on 8 September 2020. In respect of resources, it was reiterated that a resource review of Planning Services was taking place with an external consultant and it was hoped to bring feedback back to the Group at its meeting on 14 October 2020. The previous staffing issue in Enforcement had been due to sickness, and an interim officer had been brought in on a temporary basis to cover that period. There were now two Enforcement Officers in post again. In relation to the “Planning for the Future” consultation paper, Member Briefing sessions had been arranged for September 2020.

Councillor Thomas welcomed the emphasis on being proactive and suggested that approach should be built more into the Policy. In respect of resources, it was noted that there was a large positive variance on income for planning application fees, and the possibility of using those resources for additional staff should be considered. In respect of the Policy, it was suggested that a two stage prioritisation criteria would be appropriate, to cover an initial assessment and a proactive monitoring stage.

The Service Manager – Communities, Planning and Growth confirmed that the issue of prioritisation was being reviewed and would be brought back to the Group to discuss at its meeting on 14 October 2020.

The Chairman referred to the range of breaches that occurred and questioned the scope and legal powers the Council had to set its own priorities.

The Service Manager – Communities, Planning and Growth advised that there was no national legislation in respect of setting priorities, and it was for the Council to determine its own, whilst ensuring that expectations were not set too high and could not be achieved. The Planning Enforcement Policy would also be submitted to Cabinet for consideration and go out for public consultation before being submitted to Council for adoption.

It was RESOLVED that:

- a) the presentation on Planning Enforcement be noted;
- b) the comments and amendments suggested by the Group be considered by officers and the Policy amended accordingly;
- c) the comments from the Group on resources be considered by officers and an update submitted to the Group at its meeting on 14 October 2020;
- d) a Question and Answer session document incorporating the comments made in the Councillor submissions be circulated to the Group for comment, in advance of the next meeting on 14 October 2020; and
- e) a further draft of the Policy be submitted to the Group for consideration at the next meeting on 14 October 2020.

21 **Customer Services and Digital Transformation**

The Customer Services Manager and the ICT Manager delivered a presentation on Customer Services and Digital by Design, which accompanied the report already circulated with the agenda.

In the presentation, the Customer Services Manager and the ICT Manager provided details on the following issues:

- the history of the One Stop Shop from 2005 to the present day;
- the partners who work with Customer Services;
- the average time taken to answer an enquiry over the telephone;
- the numbers of people accessing the various contact points;
- the channel shift in how people access services from 2013 to 2020, and how that has changed during the Covid-19 lockdown;
- the key achievements for Customer Services from the Digital by Default Programme from 2014 to 2017;
- the Digital by Design Programme 2018;
- the key projects already delivered by Digital by Design; and
- the projects going forward in 2020/21.

The Chairman and members of the Group welcomed the move towards hybrid meetings and the increased flexibility it would allow everyone going forward. Reference was made to the importance of still having face-to-face contact; however, it was considered appropriate to embrace new methods of working. It was noted that those new ways of working had also been embraced by the Customer Services team, whilst ensuring that face-to-face contact via virtual technology was still possible for people who preferred that method.

In answer to a question regarding security and data protection and the processes in place to ensure the integrity of those engagements, the ICT Manager assured members of the Group that this issue was at the heart of the Digital by Design Strategy, in terms of security and privacy by design. The

issue would be reviewed before any new initiative went live and that would continue going forward.

Councillor J Stockwood noted that many people had been seriously affected by Covid-19 and were unwilling or hesitant to interact with other people, and queried how Customer Services was reaching out to the vulnerable to reiterate that there were safe ways to do so.

The Customer Services Manager confirmed that throughout the Covid-19 pandemic, Customer Services had continued to operate as normal, with telephone and email access and if any member of the public had wanted to see an officer, an alternative solution would have been found.

Councillor J Stockwood referred to the use of open data sets and asked if the Council would be following the approach of other councils in sharing data in a standard way to help drive the digital economy.

The ICT Manager advised that the Digital Strategy would not replace face-to-face contact; it would improve access by increasing options. In respect of open data, that was an aspect of being digital and the Council was open to that and looking for opportunities to collaborate with other local authorities.

Councillor Thomas commented on behalf of Councillor Way, who echoed the comments made by previous Councillors regarding the benefits of on-line meetings and welcomed the start-up of the service in East Leake.

In answer to a question regarding the percentage of enquiries being handled at first point of contact, the Customer Services Manager stated that those figures were reported and would be circulated.

In answer to a question regarding tourist information services, the Customer Services Manager advised the Group that Customer Services worked in partnership with Nottinghamshire County Council, which provided that service and the Council linked into that.

Councillor Cottee referred to the continued excellent service provided by Customer Services over the years. Whilst highlighting the advances in new technology, the importance of having face to face contact should not be forgotten, especially for those who could not use online facilities or those who chose not to use them. Those people should not be forgotten or disadvantaged in any way.

In answer to a question regarding hybrid meetings and webcasting, the ICT Manager confirmed that going forward the new system would provide that type of facility.

The Chairman noted the potential health and wellbeing issues of spending significant periods of time attending online meetings and using digital technology and queried how that could be regulated.

The ICT Manager suggested that going forward; it would be prudent to take adequate breaks during meetings.

It was RESOLVED that:

- a) the presentation on Customer Services and Digital by Design be noted;
- b) the current proposed activity for Customer Services and the Digital by Design programme be endorsed; and
- c) the following additional information be provided to the Group in a Briefing Note:
 - ways to increase face to face virtual technology, including advice and guidance on how hybrid meetings operate;
 - potential data sharing opportunities; and
 - details of the percentage of enquiries being handled at first point of contact by Customer Services.

22 **Work Programme**

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

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

14 October 2020

- Abbey Road Development
- Crematorium
- Planning Enforcement – Part 2
- 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

The meeting closed at 9.25 pm.

CHAIRMAN

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Growth and Development Scrutiny Group

Wednesday, 14 October 2020

Abbey Road and Crematorium Update

Report of the Executive Manager - Transformation

1. Purpose of report

- 1.1. To provide an update to the Group in relation to two key Council projects. Firstly, in relation to the sale of Abbey Road, former depot, in West Bridgford, for housing development. The Group received a previous presentation regarding this scheme in October 2019 and it was recommended for the purchaser of the site to report back to the Group at a later date.
- 1.2. The second key project is the new crematorium; at the Cabinet meeting of 14 July 2020 it was resolved that the Corporate Overview Group allocates the appropriate scrutiny group to consider and make comment on key elements of design prior to build tenders being advertised for the construction. Growth and Development Scrutiny Group was selected to undertake this task.

2. Recommendation

It is RECOMMENDED that Growth and Development Scrutiny Group:

- a) Notes the update on the progress of Abbey Road development.
- b) Considers and makes comment on the key design elements for the Crematorium.

3. Reasons for Recommendation

- 3.1. To update the Group on the progress of the two projects following their previous scrutiny of them.
- 3.2. To support work undertaken to deliver a modern and accessible crematorium for the residents of Rushcliffe.

4. Supporting Information

Abbey Road Background

- 4.1. The Group received a previous presentation regarding this scheme in October 2019 and it was recommended for the purchaser of the site to attend a future meeting.
- 4.2. Since the previous meeting, significant works have been undertaken on site, demolishing all buildings and undertaking some remediation works. Negotiations have been ongoing with the developer and contracts are due to exchange within the next two weeks.
- 4.3. The developer has, throughout those conversations, made it clear that it will adhere to the Design Code set out to the Group at the previous meeting. Members will recall that this was an expectation of the Council. The Group also set out three further environmental improvements to be considered, as set out below, and the developer will provide further detail in its presentation:
 - Permeable paving where possible
 - Rain water harvesting
 - PV panels on all appropriate roofs
- 4.4. The developer has made small changes to the masterplan layout: the main change is to the blocks of flats, which were to be at the entrance to Abbey Road and Buckfast Way, which is proposed to be a row of terrace houses at Abbey Road and three apartment blocks at the Buckfast Way entrance. These changes further enhance the high-quality designed scheme. The revised masterplan (which is in draft form only and yet to be reviewed by planning officers) is attached at Appendix A.
- 4.5. The scheme still provides 30% affordable housing, with a mix of 16 one bedroom apartments and seven two bedroom houses for affordable rent and shared ownership. This is an improved mix compared with the original masterplan and meets the current demands for affordable and shared ownership housing in the area.
- 4.6. The developer will attend the meeting to further set out the timeline of the scheme and provide additional details to those set out above.

4.7. Crematorium Background

- 4.7.1. The Council commissioned independent experts in the bereavement sector to undertake a study into the need and feasibility of developing an additional crematorium in Rushcliffe. The study indicated that a new crematorium in Rushcliffe could expect to undertake in excess of 1000 cremations annually, without accounting for population increases. With the threshold of viability currently at 750 cremations annually, a new crematorium is considered both a necessary piece of community infrastructure and a financially viable proposition.

- 4.7.2. The site at Stragglethorpe was selected as best meeting a wide range of requirements and was purchased with full planning permission by the Council in January 2020.
- 4.7.3. Following a procurement process, Ridge and Partners were appointed on 15 September 2020 as the Council's project manager, architect and cost consultant. Over the coming months, officers will work closely with Ridge to finalise the designs and specification in order to procure a construction partner. The timeline for the opening of the new facility is spring 2022.
- 4.7.4. The current designs are based on work by a third party in order to secure planning permission for the crematorium. At the inception meeting with Ridge, they highlighted changes that could be made to improve the facility in terms of use of the internal space, position of car parking and changes resulting from a shift in trends in the market. The plan at Appendix B shows the site layout as per the planning application, which will be subject to change but will remain in line with the planning permission.
- 4.7.5. The Council has asked Ridge to focus on the corporate objective of 'The Environment' and ensure the crematorium will include carbon offsetting, and energy efficiency measures as far as is practicable within the budget envelope and scope of the planning permission, in line with the Council's commitment to be carbon neutral by 2030.
- 4.7.6. The Council not only aims to fill a need in the community for a new facility, it intends for it to be inclusive to all and provide facilities for large and small ceremonies, for all faiths and to meet the current and changing demands of the community.
- 4.7.7. Key design and operational features currently include:
- A single storey building of approximately 500sqm incorporating a single chapel with capacity for 120 mourners, with potential for overflow space.
 - Car parking for 90 vehicles.
 - Electric, rather than gas cremator, in an effort to support carbon neutral target.
 - A strong belt of woodland at the northernmost part of the site, set around a swale with wildflower meadows and memorial woodland dominating the northern half of the site.
 - Partially screening from view by strategic planting and landscaping.
 - Chapel garden to be visible from within the chapel and is proposed to include a reflective water feature.
- 4.7.8. The next steps are to work with Ridge to develop detailed designs and tender documentation to appoint a contractor to build the crematorium. It is expected construction of the facility will start on site in May 2021, with the facility opening in spring 2022.

5. Risks and Uncertainties

- 5.1. Risks have been considered at every stage of both projects and will continue to be assessed and reviewed throughout. As part of the project management of the crematorium, a risk register will be a standing item on the agenda at all meetings.

6. Implications

6.1. Financial Implications

- 6.1.1. The Council has made a capital provision of £6.5m for the purchase of land and the construction of a crematorium, including the land acquisition, and associated legal costs.

6.2. Legal Implications

- 6.2.1. Both developments will be constructed in accordance with applicable regulations.
- 6.2.2. The terms of any contracts entered into will be subject to legal review and the relevant procurement regulations.

6.3. Equalities Implications

- 6.3.1. The Abbey Road development will be built to 'Building for Life' standards that will support a mix of housing close to public transport and amenities that that will encourage a diversity of homeowners.
- 6.3.2. An Equality Impact Assessment will be undertaken as part of the next phase of the design work for the Crematorium.

7. Link to Corporate Priorities

Quality of Life	Abbey Road: Providing 76 new high-quality homes in West Bridgford including 30% affordable. Crematorium: Sensitive after-life care and bereavement services are an essential part of the quality of life for residents, their friends and family members. This scheme will provide timely services in a peaceful location with modern and flexibly sized accommodation.
Efficient Services	Abbey Road: The capital receipt will support the delivery of the Capital Programme with such resources being finite, enabling the efficient delivery of services. Crematorium: This is an opportunity for the Council to invest its capital in new services for its residents which will be run in an

	efficient manner with high levels of care and customer service for the bereaved as the priority.
Sustainable Growth	Abbey Road: Redeveloping a brownfield site in an urban area to an exemplar housing scheme. Providing up to 30% local jobs during construction. Crematorium: The level of housing growth in the Borough is 13,150 during the life of the Local Plan. This will lead to an additional population growth and the crematorium is an example of the community infrastructure that is needed to support population growth.
The Environment	Abbey Road: The housing will have eco credentials and a lower carbon output than traditional housing. Crematorium: The designs for the crematorium will include carbon offsetting and energy efficiency measures as far as is practicable in line with the Council's commitment to become carbon neutral.

8. Recommendations

It is RECOMMENDED that Growth and Development Scrutiny Group:

- a) Notes the update on the progress of Abbey Road development.
- b) Considers and makes comment on the key design elements for the Crematorium.

For more information contact:	Leanne Ashmore Executive Manager Transformation LAshmore@rushcliffe.gov.uk
Background papers available for Inspection:	Report to Cabinet 13 November 2019, 'Strategic Land Acquisition for Potential Crematorium' Report to Cabinet 9 December 2019, 'Crematorium' Report to Cabinet 14 July 2020, 'Crematorium Update' Report to Cabinet 9 October 2018, 'Proposal for the Abbey Road Site' Report to Cabinet 9 July 2019, 'Abbey Road

	<p>Progress Report' Report to Cabinet 12 November 2019, 'Abbey Road – Depot Redevelopment'</p> <p>Outline Planning Application May 2019</p> <p>Report to Growth and Development Scrutiny Group 15 October 2019, 'Abbey Road - Depot Redevelopment'</p>
<p>List of appendices:</p>	<p>Appendix A - Abbey Road revised masterplan Appendix B - Proposed Crematorium site plan</p>

KEY CONSISTENT WITH THE ILLUSTRATIVE SCHEME DOCUMENT

Legend

- Site Boundary
- **House Type A** - 3 Bed Houses (Private Ownership) 3 storey
Plots 16, 17, 19, 20, 22, 23, 25, 26, 55, 56, 58, 59, 61, 62, 64, 75
- **House Type B** - 4 Bed Houses (Private Ownership) 3 storey
Plots 18, 21, 24, 27, 54, 57, 60, 63, 65, 67, 68, 76
- **House Type C** - 4 Bed Houses (Private Ownership) 3 storey
Plots 1, 2, 3, 4, 5, 6, 7
- **House Type D** - 3 Bed Houses (Private Ownership) 2 storey
Plots 12-15, 66, 69-73
- **House Type E** - 2 Bed Houses (Affordable - Shared Ownership) 2 storey
Plots 8-11, 28-32, 49-53
- **Block Apartments** - 1 Bed Apartments (Affordable - Rented) 3-storey
Apartments 33-48

DRAFT FOR DISCUSSION PURPOSES ONLY

REV	DATE	DESCRIPTION	BY
K	22/09/20	Additional visitor parking spaces added to northern end of site	TE
J	14/09/20	2-bed flats omitted with 1-bed flats added in their place to align with Housing Association preference	TE
I	04/08/20	Housetypes amended for 74-75 on northern end of site, additional house added north of the central green, shared and affordable housing rearranged on southern end of site	TE

AJA

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CLIENT
Rushcliffe Borough Council

PROJECT
Abbey Road, West Bridgford

DRAWING
Proposed Masterplan

PROJECT NUMBER	SCALE @ A1	DATE	BY
3573	1:500	Dec-18	TE

DRAWING NUMBER	REVISION	STATUS
06	K	Preliminary

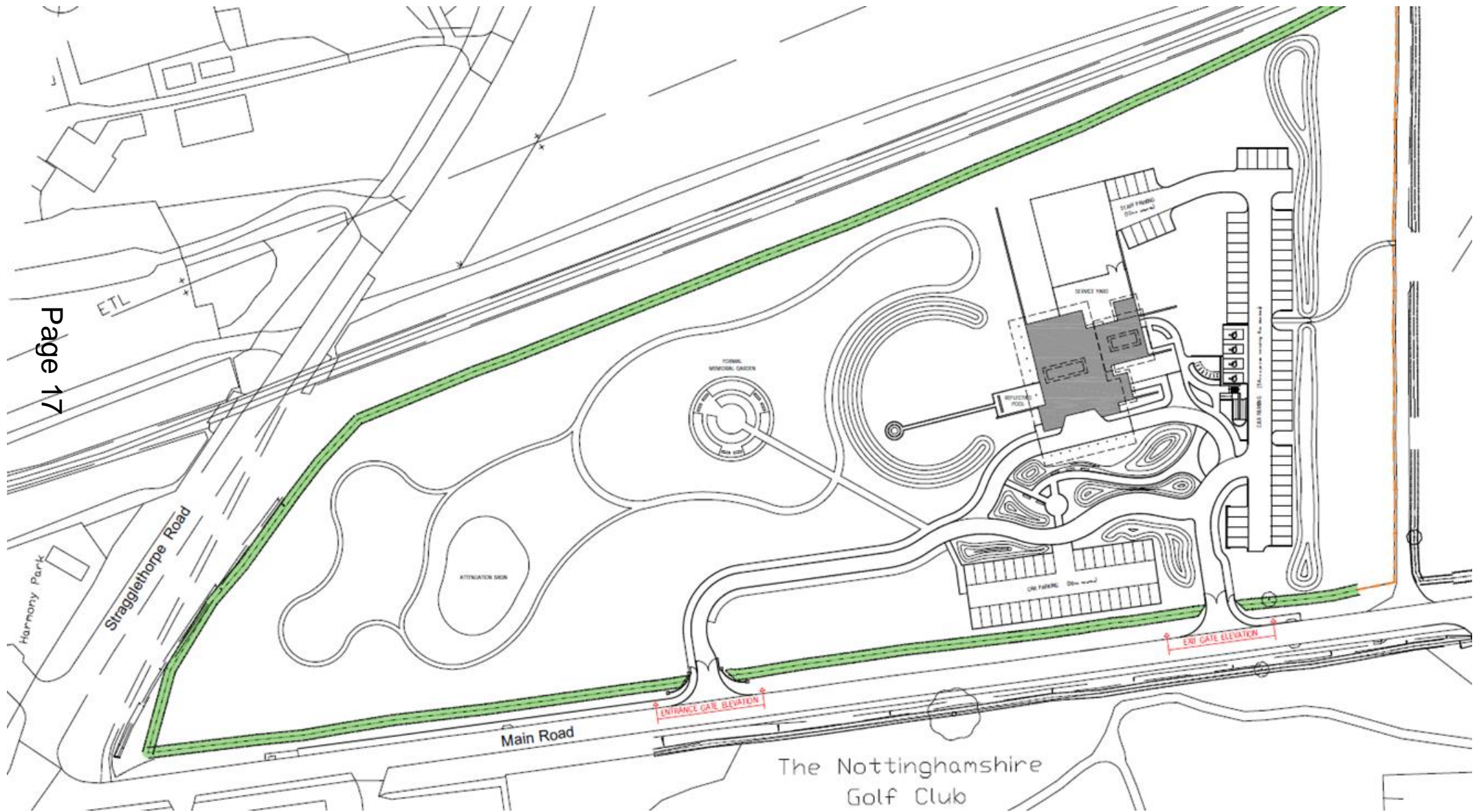
This drawing is copyright and remains the property of Allan Joyce Architects Ltd. Plot Size Check Generally do not scale drawings. All dimensions to be confirmed on site.



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Appendix B: Draft Crematorium Site Plan

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Growth and Development Scrutiny Group

Wednesday, 14 October 2020

Planning Enforcement – Part 2

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. At the meeting of the Growth and Development Scrutiny Group held on 25 August 2020, the Group received a report and presentation setting out the regulatory framework within which the enforcement function at the Borough Council operates, details of workload and resources within the team and performance statistics together with details of the emerging policy.
- 1.2. The Policy has been amended to reflect comments made at the meeting and the purpose of this report, and consideration of the matter at this second stage of the scrutiny process, is to agree the content of the draft document. Following approval, the policy will be referred to Cabinet where agreement will be sought to consult on the document prior to consideration by Council and adoption of the policy.
- 1.3. This report should be read in conjunction with the previous report which was considered at the meeting held on 25 August 2020.

2. Recommendation

It is RECOMMENDED that the Growth and Development Scrutiny Group:

- a) support the referral of the updated Planning Enforcement Policy to Cabinet; and
- b) note the initial findings of the external consultants in relation to the level of dedicated enforcement resources.

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 draft policy has been amended following consideration of the matter at the meeting held on 25 August 2020 and, in the main, in response to comments made at that meeting. The main changes to the policy are as follows:
- Amendments to the prioritisation of enquiries;
 - Minor changes to content to ensure clarity to the reader;
 - The range of enforcement powers are set out in an appendix rather than in the main body of the policy with additional detail on each power;
 - Information on Proactive Development Monitoring has been expanded; and
 - Signposting to relevant bodies for non-planning issues.
- 4.2. The changes to the section of the policy which explains how enforcement enquiries will be prioritised is one of the most significant changes. The previous draft of the policy included two levels of priority, high priority cases which would be investigated/sites visited within one working day and other priority cases which would be investigated/sites visited within five working days. The prioritisation of cases now proposed in the draft policy involves three categories, Priority 1 (High), Priority 2 (Medium) and Priority 3 (Routine). The timescales for undertaking an initial site visit would be 1 working day, 5 working days and 10 working days respectively. This prioritisation of cases has been determined following research into processes within neighbouring councils and the response times are equivalent to or better than those offered elsewhere. Furthermore, the three levels of prioritisation are reflective of previous practices at RBC and will allow officers to balance their workload.
- 4.3. On receipt of any enquiry, the case will be given a priority rating. Therefore, whilst an enquiry may, for example, at first glance be categorised as Priority 2 or 3, it may be treated as a higher priority depending on the nature of the alleged breach and the likely impact this will be having. Furthermore, the 5- and 10-day periods for category 2 and 3 respectively are considered to be realistic timescales for a site visit to be undertaken and may, in reality, be visited more quickly depending on workload. In addition, under the current system for prioritising cases, the Enforcement Officers have been visiting the same geographical area of the Borough more frequently, which is often an inefficient use of resources, and it is considered that the categorisation suggested will enable officers to better manage the cases and their time, enabling more of a focus on proactive monitoring of large-scale development sites. Proactive monitoring of the large-scale residential sites and compliance with conditions will involve more than just the Enforcement Officers, it may also involve the original case officer and the Contributions Officer who has a role in monitoring the triggers and collection of contributions within Section 106 agreements.
- 4.4. As set out in the draft policy, there will be some matters that do not fall within the control of the planning regime and at the previous meeting it was suggested that the policy could signpost people to the appropriate service area/organisation that may deal with matters outside the control of planning. This information has now been added to the policy, however, it is important to

acknowledge that it is not possible to address every potential eventuality. The examples referred to in the draft policy are some of the most common issues that arise when investigating possible breaches or are raised with the Council by residents. Planning officers remain available to residents to signpost if required.

- 4.5. At the invitation of the Chairman, prior to the previous meeting, Councillors were invited to share their experiences of the planning enforcement service or to submit any observations they wished to bring to the attention of the group. The comments received have been summarised along with comments from officers which are included in the table attached to this report.
- 4.6. The level of resource available to deliver the enforcement function has been raised by the Group as an area of concern. The Council has engaged consultants to undertake a Health Check on the planning service generally, involving an assessment of workload, resources and capacity within the team. The final report is due shortly, however in terms of the enforcement function, the initial advice from the consultants would suggest that each Enforcement Officer can potentially handle circa 225 cases per year of varying complexities, although it is acknowledged that the level of resource required will be dependent upon the approach taken, i.e. the level of negotiation undertaken to resolve cases or whether formal action is taken as a matter of course, which in itself can generate additional work, for example in defending appeals etc. The processes and systems in place can also influence the level of resource required to deliver the service. Furthermore, it is also acknowledged that the expectations of Councillors and the community may influence decisions on the level of resource required and also whether the Council wishes to promote a proactive rather than reactive service which seeks to build relationships with developers and address issues before they are identified by the community. The consultant concludes that the current resource is sufficient.
- 4.7. The previous report to the Group provided details of the number of enforcement enquiries received by the Council each financial year since 2014/15. This information indicates that there has been a general decline in the number of enquiries received, with 281 cases received in 2018/19 and 235 cases in 2019/20. In view of the current workload and the initial feedback from the consultants undertaking the review of resources and capacity within the service, it would appear that the level of dedicated enforcement resource currently available is appropriate to respond on a reactive basis to enquiries regarding development within the Borough, whilst also enabling a focus on a more reactive response to development. However, it should be acknowledged that the current resource would not enable every single planning permission granted to be actively monitored and the focus would be on the larger housing developments within the Borough.
- 4.8. Councillors will be aware that the Government is currently undertaking a consultation on the 'Planning for the Future' white paper which, in respect of enforcement invites responses on proposals to strengthen enforcement powers and sanctions. Depending on the outcome of this consultation, any potential

changes to the planning system may have implications for resources, particularly in relation to the enforcement function.

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 considered and where appropriate taken in accordance with the relevant legislation. Outcomes 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 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 National Planning Policy Framework. 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) support the referral of the updated Planning Enforcement Policy to Cabinet; and
- b) note the initial findings of the external consultants in relation to the level of dedicated enforcement resources.

For more information contact:	Andrew Pegram Service Manager - Communities 0115 914 8598 apegram@rushcliffe.gov.uk
Background papers available for Inspection:	<p><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></p> <p>https://www.rushcliffe.gov.uk/aboutus/aboutthecouncil/ (Corporate Enforcement Policy is available under the heading Documents, policies and strategies)</p> <p>and</p> <p>https://www.rushcliffe.gov.uk/planningandgrowth/enforcement/</p> <p>Report to Growth and Development Scrutiny Group considered at meeting on 25 August 2020</p>
List of appendices:	Appendix One - Draft Enforcement Policy Appendix Two - Observations from Councillors on the Enforcement Function and Officer Responses



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 its [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 entitled “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 and 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 carrying out development until the necessary planning permissions have been obtained.

The Council will not condone wilful breaches of planning control and will exercise its 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:

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

- a) the carrying out of development without the required planning permission; or
- b) 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) For the purposes of 1990 Act, 'development' also includes demolition of buildings but DOES NOT include:the carrying out for the maintenance, improvement or other alteration of any building of works which—
 - (i) affect only the interior of the building, or
 - (ii) do not materially affect the external appearance of the building,

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 breaches of conditions attached to planning permissions. Other matters that the Planning Enforcement Service might investigate include:

- The display of unauthorised advertisements;
- Works to Listed Buildings without the relevant consent;

- Unauthorised works to trees which are the subject of a tree preservation order (TPO) or are in a conservation area;
- Untidy land adversely affecting the amenity of the area;
- Failure to comply with a Section 106 agreement

Matters that are not breaches of planning control

- Internal works to a non-listed building;
- Nuisances caused by odour, noise, light or vermin;
- 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 providing their use remains 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;
- The display of advertisements that benefit from deemed consent under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (i.e. consent is granted by the regulations);
- Dangerous structures or other health and safety issues;
- High hedge disputes (dealt with by the Borough Council's Senior Design and Landscape Officer).

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.

Who to contact for non-planning issues

Many property and land issues may arise which are not the responsibility of, or within the jurisdiction of, the Borough Council. The following examples are provided as a guide and are not intended to be exhaustive or to cover every situation.

Internal works to a non-listed building are not development and not the responsibility of the Borough Council as Local Planning Authority. If the alterations are structural, these may fall under the remit of the relevant body which discharges the Building Regulations function, in the case of Rushcliffe this would be the East Midlands Building Consultancy (EMBC). EMBC would also be the responsible body for investigating dangerous structures.

Matters relating to nuisances caused by odour, noise, light or vermin would be dealt with by the Environmental Health department within the Borough Council.

Any matters relating to the highway, including obstruction of a highway or public right of way (PROW) or indiscriminate parking would be dealt with by the Nottinghamshire County Council as Highway Authority, or in some cases the police.

Other issues, such as restrictions imposed by legal covenants which may restrict the parking of caravans on domestic properties, the operation of a business from home, land ownership disputes and issues over rights of way or access to property for maintenance purposes, would be civil matters and advice may need to be sought from a solicitor.

Enforcement action is discretionary

As outlined above, paragraph 58 of the NPPF advises that whilst effective enforcement is important to maintain public confidence in the planning system, enforcement action is a discretionary function.

It is important to note that, just because there may be a breach of planning control, this in itself may not be sufficient reason to take enforcement action. The Council must first decide, having given regard to the policies contained in its Local Development Plan, the National Planning Policy Framework (NPPF) and any other material planning considerations, whether or not it is '**expedient**' to take formal action.

The test of expediency requires a careful assessment of the nature and extent of the breach or breaches of planning control and the degree of harm they might be causing to the environment and/or amenity of the area. Therefore, enforcement action is **discretionary** and each case must be assessed on its own merits.

The NPPF also advises that councils should act proportionately with regard to suspected breaches of planning control. Generally, the use of formal enforcement powers should be a last resort, unless the extent and nature of the breach is such that it is causing unacceptable and irreversible harm. Typically the Council will give those responsible for a breach of planning control the opportunity to cease the breach of planning control or seek to regularise the breach before resorting to using its formal enforcement powers. Ultimately the use of such powers must be proportionate and commensurate to 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 Council's published priority table (see below);
- Investigated, including visiting the site where necessary in line with the published timescales contained in the policy document; and
- Pursued until such a time that the matter is satisfactorily resolved by one of the following:

- The breach is ceased/removed following informal negotiations with enforcement officers;
- The breach is regularised (either by the grant of retrospective planning permission or the taking of formal action);
- found to be lawful;
- A decision is taken that it is not expedient to pursue the breach formally.

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 exact location or address where the alleged breach is taking place;
- A detailed description of the activities taking place that are cause for concern;
- Where known, the names, addresses and phone numbers of those persons believed to be responsible for the alleged breach or the land owner's details;
- The date and times of when the alleged breach first took place and whether it is ongoing;
- If the complaint relates to a material change of use of the land, a description of the previous use and condition of the land;
- Any other information or evidence that may be able to assist (eg: photographs, vehicle registration numbers);
- The complainant's 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

in person at the Rushcliffe Customer Service Centre or one of our Contact Points, 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.

The substance of enforcement complaints are not in themselves confidential. In some cases it may be necessary to rely on evidence from complainants in order to take action and the complainant would need to consider whether they are willing to assist the Council by collecting evidence and potentially acting as a witness at an appeal or

in Court. A planning enforcement officer will explain what may be required in these cases.

Once a breach of control has been established, the complainant may be asked to make a note of your observations and keep a log of any relevant activities. It is particularly useful to note times, dates, names, addresses, telephone numbers and registration details of any vehicles involved.

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 basis 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, this may be subject to change following a site inspection or when further information comes to light.

Priority Categories

Priority 1 (High)

Development causing significant and irreversible damage to the environment or amenity. Typical examples are:

- Unauthorised works to, or demolition of, a listed building or building within a Conservation Area;
- Unauthorised works to trees protected by a Tree Preservation Order or in a Conservation Area;
- Unauthorised development close to or within a Site of Special Scientific Interest (SSSI);
- Large scale engineering operations within the Green Belt;
- Breaches of statutory planning notices such as Enforcement Notices.

Priority 2 (Medium)

Development causing less significant but continued harm environment or amenity, time-sensitive breaches or development that compromises public safety. Examples include:

- Large-scale unauthorised engineering / construction works where a significant impact is felt over a wide area.
- Substantial operational development in the Green Belt.
- Unauthorised changes of use causing significant harm to the amenity of an area, for example car repairs business from a residential property
- Unauthorised vehicle accesses causing significant risk to highway safety.

Priority 3 (Routine)

Development causing a limited degree of disturbance to local residents or damage to the environment. Examples include:

- Unauthorised operational development which would be likely to receive planning permission.
- Unauthorised fences / walls / gates (unless public safety is compromised / attached to or adversely affecting the setting of a listed building).
- Unauthorised telecommunications equipment / satellite dishes / equipment on residential dwellings
- Display of advertisements not causing significant harm to amenity or public safety.

Timescales for investigations

Enforcement officers will endeavour to carry out an initial site visit for The Priority 1 cases within 1 working day. Priority 2 cases within 5 working days Priority 3 cases within 10 working days.

Each complaint will be allocated a Priority upon receipt based on the information available at that time. Complaints will be re-categorised should further information become available which suggests a quicker response time is more appropriate.

What are the possible outcomes of an investigation?

No breach established – Following an initial site visit 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.

NB: Where it appears that a person has deliberately attempted to conceal a breach of planning control in order to achieve immunity from enforcement action, the Council can apply to the Magistrates' Court for a "Planning Enforcement Order" in respect of the breach. If granted, the Order allows the Council up to a year to take formal enforcement action against the apparent breach. Such circumstances are normally very rare and the Council must be satisfied that there has been a deliberate attempt to conceal the breach of planning control.

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. More information on these powers can be found at Appendix 1:

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/guidance/ensuring-effective-enforcement#planning-enforcement--overview>)

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 initial 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 of 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.

The Council will seek to avoid long drawn out negotiations intended to hold the council back from taking formal action. In many cases, particularly where the works are likely to be acceptable, you may be invited, without prejudice, to submit a retrospective planning application. In cases where pre-commencement conditions have not been discharged, you may still be able to apply to discharge the condition providing the permission has not lapsed. Alternatively, you may need to submit a new planning application.

If you are served with a formal notice, the enforcement officer can help to explain the general meaning of the notice and assist you to understand its implications. However, the Council's enforcement officers cannot act as your advisors and cannot make decisions on your behalf. In such circumstances you are strongly advised to also seek your own independent legal advice.

The process for dealing with allegations of unauthorised development is set out in the flowchart below:

Insert flowchart here

Power of entry onto land

Section 196 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.

Proactive Development Monitoring

Paragraph 58 of the NPPF requires councils to, whilst setting out their Enforcement Plan, set out how they will monitor the implementation of planning permissions being developed out within their area.

Rushcliffe Borough Council is currently delivering a large amount of development as part of our adopted Local Plan and these developments, usually of a large scale, are mostly located close to existing settlements and therefore have potential to impact on the amenities of existing residents during the construction phase. Furthermore, developers are often required to implement various environmental safeguards and enhancements as part of their development package which must be delivered in a timely fashion, as controlled by the planning permission. For many larger scale developments, financial obligations or infrastructure are also secured and the payment of these funds or the delivery of the infrastructure is often provided for by complying with the requirements of the Section 106 Agreement.

For these reasons the Council operate a proactive development monitoring service to ensure that developments are carried out strictly in accordance with the restrictions, limitations and requirements of the planning permissions, including any conditions imposed on the consent as well as any obligations secured through a Section 106 Agreement. The Council will achieve this by:

- Actively monitoring the progress of developments, including commencement and occupation levels;
- Ensuring that, where appropriate, developers provide details and information secured by condition and through Section 106 Agreements in accordance with the required timescales of the planning permission;
- Ensuring that the development is carried out in accordance with the approved plans/details and that this is achieved within the agreed timescales; and
- Ensuring that all financial obligations are secured and collected as required by the planning permission.

The Council consider and make decisions on over 1600 planning applications and related submissions per annum and, therefore, it would not be possible to proactively monitor all developments within the Borough. Larger sites have the potential to cause the greatest level of disturbance to residents and to the wider environment if they are not developed out in accordance with their planning permissions. For this reason, the Council will normally proactively monitor residential development of 50 dwellings or

more. Other development types such as commercial/leisure development will be reviewed on a case by case basis only.

Certain elements of the development such as the adoption of roads and sewers as well as occupier contributions to fund management companies are not controlled through the planning permission and therefore sit outside of the remit of the Borough Council.

Through the proactive monitoring of development sites the Council will, when a breach is identified, investigate the breach in accordance with monitoring and timescales explained earlier in this policy. As with reactive planning enforcement and in line with national planning policy guidance, not all breaches of planning control will result in formal enforcement action. Each breach will be investigated and considered on its own merits appropriately considering the level of harm arising from the breach. Carrying out proactive compliance in this way should result in a reduction in the number of retrospective enforcement complaints received.

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 complaints procedure.

You can contact us:
by telephone on 0115 981 9911

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

by post to: Planning and Growth Manager
Rushcliffe Borough Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG

APPENDIX 1

Summary of enforcement powers

This Appendix contains a summary of the main formal enforcement powers available to the Council when investigating enforcement enquiries and dealing with breaches of planning control. In each individual case the Council must assess which action or combination of actions is best suited to dealing with the particular breach of planning control in order to achieve a satisfactory and cost-effective remedy. Most of these powers are contained within the Town and Country Planning Act 1990 (*"The 1990 Act"*). Furthermore, the Borough Council has other powers at its disposal which may be the responsibility of other areas of the Council, e.g. Environmental Health, and the most appropriate powers or combination of powers may be used to address a situation.

Requests for Information Notices

Planning Contravention Notice (PCN) (Section 171C of the 1990 Act)

This can often be the first formal step in resolving a breach of planning control. It is the main method for gathering further information regarding suspected breaches of planning control. The intention of a PCN is also to send a clear warning that further formal action is being considered once the facts of the case have been established.

Section 330 Notice (Section 330 of the 1990 Act)

This power is also used to obtain information, although usually in cases where the Council has sufficient details about the activities being carried out but requires further information concerning ownership. It involves serving a formal notice on occupiers and/or persons with other interests in the premises or land.

NB: For both of these notices it is an offence to fail to comply with the requirements of the notice within the period set for its return OR to make false or misleading statements in reply.

Formal Enforcement Notices

Enforcement Notice (EN) (Section 172 of the 1990 Act)

This is the most common form of notice used to deal with a breach of planning control. It is served when the Council is satisfied that there has been a breach of planning control and that it is expedient to take action. An EN will allege the breach or breaches of planning control that has or have taken place, the steps that must be taken to remedy that breach or breaches, and specify the time period for compliance with the requirements of the notice.

An EN does not take effect until at least 28 days after being served to allow the recipient(s) time to lodge an appeal with the Secretary of State. An appeal stops the notice taking effect until the appeal is determined. If an appeal is lodged all complainants and immediate neighbours will be advised of the appeal and how to make representations to the Planning Inspectorate.

Failure to comply with the requirements of an EN once it has taken effect is a criminal offence which, on conviction in the Magistrates' Court, can lead to a fine of up to £20,000 or an unlimited fine on conviction in the Crown Court.

Breach of Condition Notice (BCN) (Section 187A of the 1990 Act)

Can be used as an alternative to an EN but only in circumstances where there has been a failure to comply with certain conditions placed on a planning permission. (It does not apply to breaches of control relating to listed buildings, advertisements or protected trees). A BCN will specify details of the breach and the steps required to secure compliance. Unlike an EN, there is no right of appeal against a BCN and it takes effect immediately. However, a minimum period of 28 days has to be given for compliance.

Failure to comply with the requirements of a BCN is a criminal offence which, on conviction in the Magistrates' Court, can lead to a fine up to £2,500.

Stop Notice (SN) (Sections 183 & 184 of the 1990 Act)

Used alongside the serving of an EN, when the effects of continued unauthorised activity are seriously detrimental to amenity, public safety or causing irreversible harm to the environment an immediate action to stop the activity is justified. This notice can be used to ensure that the activity does not continue during the time before the EN takes effect or when an appeal is lodged against the EN.

SN's are normally only used in very exceptional circumstances as there can be significant compensation liabilities against the Council if the EN is subsequently quashed.

Failure to comply with the requirements of an SN is a criminal offence which, on conviction in the Magistrates' Court, can lead to a fine up to £20,000 or an unlimited fine on conviction in the Crown Court.

Temporary Stop Notice (TSN) (Section 171E-H of the 1990 Act)

As with SN's, TSN's are normally only used in exceptional circumstances. Unlike an SN, however, a TSN can be served without first having to serve an EN. However, TSN's can only seek cessation of activity for a period of 28 days and so will only be applied where the serious breach needs to be stopped immediately whilst the Council considers whether an EN needs to be issued.

Failure to comply with the requirements of a TSN is also a criminal offence which, on conviction in the Magistrates' Court, can lead to a fine up to £20,000 or an unlimited fine on conviction in the Crown Court.

Planning Enforcement Order (Sections 171BA to 171 BC of the 1990 Act)

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.

Untidy Land Notice (ULN) (Section 215 of the 1990 Act)

The Council has the power to issue a ULN on the owner or occupier of land if it appears that the amenity of the area is adversely affected by the condition it is being kept in. A ULN may deal with buildings as well as land and would specify the steps required to remedy the existing condition and within what time scale. The recipient of ULN can appeal against it to the Magistrates' Court.

Failure to comply with a ULN is an offence which, on conviction in the Magistrates' Court, can lead to a fine up to £1,000 on conviction. The Council may also use its direct action powers (see below) to enter the land and carry out the requirements of a ULN that has not been complied with.

Tree Replacement Notice (TRN) (Section 207 of the 1990 Act)

If a tree that is protected by a Tree Preservation Order is removed, uprooted or destroyed in contravention of the Order there is a duty on the landowner to plant a replacement tree of appropriate size and species in the same place. Where the landowner does not comply with this duty, the council has the power to serve a TRN requiring them to plant a replacement tree or trees. The TRN will specify the species and size of tree or trees to be planted and also the time period for compliance. A TRN does not take effect until at least 28 days after being served to allow the recipient(s) time to lodge an appeal to the Secretary of State. An appeal stops the notice taking effect until the appeal is determined.

Works in Default Powers (ie: Direct Action)

The Council may enter land and carry out the required works to secure compliance when an EN, ULN, LBEN (see below) or TRN has taken effect but has not been complied with. There is no requirement to give notice to either the owner or occupier of the land and anyone who wilfully obstructs the exercise of these powers is guilty of a criminal offence. The costs of the works in default can be recovered from the landowner or a legal charge placed on the land.

Other Enforcement Powers

Prosecution

Unauthorised works to a Listed Building.

Under Section 9 of the Planning (Listed Buildings and Conservation Areas) Act 1990 it is a criminal offence to demolish a listed building or to carry out works/alterations which affect its character without the Council's prior written consent. Where such works have taken place without permission the Council may prosecute anyone who is found to have executed the work or to have caused the work to be executed.

It is also an offence to demolish unlisted buildings/structures in a Conservation Area (subject to some exceptions) without planning permission.

The penalty on conviction in the Magistrates Court for this offence could be imprisonment for up to six months or a fine of up to £20,000 or both. The penalty on conviction in the Crown Court for this offence could be imprisonment for up to two years or an unlimited fine or both.

Unauthorised works to protected trees.

Under section 210 of the 1990 Act, it is a criminal offence to cut down, uproot, wilfully destroy or wilfully damage a tree protected by a Tree Preservation Order or in a Conservation Area. Consent from the Council also has to be obtained for any remedial works to a protected tree such as lopping or pruning. Where such works have taken place without consent the Council may prosecute anyone who is found to have carried out the work or anyone who has caused or permitted the work to be carried out.

The penalty on conviction in the Magistrates Court for this offence could be a fine of up to £20,000. The penalty on conviction in the Crown Court for this offence could be an unlimited fine.

Display of Unauthorised Advertisements.

Under section 224 of the 1990 Act it is a criminal offence for any person to display an advertisement in contravention of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

The penalty on conviction in the Magistrates Court for this offence could be a fine of up to £1000.

Injunctions (section 187B of the 1990 Act)

In exceptional cases where there is a necessary and serious need to restrain an actual or apprehended breach of planning control, the Council can apply to the County Court or High Court for injunctive relief. An injunction can be sought whether or not any other enforcement action(s) has been taken.

Injunctive action can be very costly and is normally only considered as a last resort where other enforcement action is unlikely to resolve a breach. If successful the Council will obtain an Order from the Court restraining the breach of planning control against the landowner and even against persons unknown.

If a person fails to comply with an injunction they can be committed to prison for contempt of court.

Listed Building Enforcement Notice (LBEN)

Under the Planning (Listed Buildings and Conservation Areas) Act 1990, the Council has the power to issue a Listed Building Enforcement Notice where unauthorised works have been or are being carried out to the listed building without Listed Building Consent. As with a standard Enforcement Notice, a Listed Building Enforcement Notice will specify the nature of the unauthorised works, the steps that must be taken to restore the building to its former state or, where this is not possible, any further remedial works that are considered necessary. The notice will also specify the time period for compliance with the requirements of the notice and may specify a different time period for each different step that is required to be undertaken. A Listed Building Enforcement Notice does not take effect until at least 28 days after being served to allow the recipient(s) time to lodge an appeal to the Secretary of State. An appeal stops the notice taking effect until the appeal is determined. If an appeal is lodged all complainants and immediate neighbours will be advised of the appeal and how to make representations to the Planning Inspectorate

Failure to comply with a Listed Building Enforcement Notice that has taken effect is a criminal offence which, on conviction in the Magistrates' Court, can

lead to a fine of up to £20,000 or an unlimited fine on conviction in the Crown Court.

Growth and Development Scrutiny Group

Councillor	Query	Response
Cllr Jones		
	Staffing levels	<p>Resources and capacity is kept under review. Additional posts have been created in recent years, including a Planning and Appeals Assistant, two Planning Technicians and a Contributions Officer. The creation of some of these posts has enabled a redistribution of work within the team, for example, the validation of planning applications now undertaken by the technicians was previously undertaken by the Principal Planning Officers. The Strategic Sites Delivery Officer post was also created with a particular focus on the allocation to the East of Gamston but has also been engaged in other major housing schemes within the Borough. In addition, agency staff and a consultant have been engaged to address resource issues within the team.</p> <p>Whilst there has been a growth in planning applications in recent years and increase in development taking place in the Borough, the number of Enforcement enquiries received each year has generally declined.</p> <p>Consultants have been engaged to undertake a health check of the Planning Service including assessment of workloads, resources and capacity. The report is due shortly, however, the initial views are that the dedicated enforcement resource is sufficient.</p>
	Capacity of Enforcement Team	<p>Cllr Jones made reference at the previous meeting to the Enforcement team operating at 50% capacity earlier in 2019. This was due to the unfortunate and unforeseen absence of one of the Enforcement Officers due to ill health. The officer did not return to work after the festive break and as with all absence due to illness, the situation will be monitored and where the absence is short term, we will endeavour to cover the work within the team. When it became apparent that the</p>

Councillor	Query	Response
		absence of the Enforcement Officer would be a longer term issue, a decision was taken to employ an agency worker to provide cover. This in itself takes time but a suitable candidate was identified and started work with the Council in mid February.
	Departures from/changes to approved plans	It is acknowledged that there are occasions where development is undertaken and what is built departs from the approved plans to a greater or lesser extent. This may be due to a number of factors, including changes needed to comply with Building Regulations. In some instances, the changes may be small scale and either deemed to be within acceptable tolerances or not expedient to take action. Such enquiries often relate to extensions to domestic properties. Of the enquiries received in 2019/20 (235 in total) only around 15% were recorded as alleged non-compliance/not in accordance with approved plans. The outcome of these cases will include where work is found to be in accordance with approved plans, where the change is of a small scale so as to amount to within acceptable tolerances or not expedient to take action. Some may have been resolved through the submission of a revised planning application to regularise the changes to the originally approved scheme.
	Ensuring conditions are met	It is important that conditions of planning permission are complied with. Where a potential breach of condition is identified, either as a result of an approach by a member of the public or a Councillor, investigations will be undertaken and appropriate action taken where necessary to ensure compliance with the condition(s).
	Sharphill Wood/Edwalton Sustainable Urban Extension	Cllr Jones has raised a number of issues with regard to the development at Edwalton. The resolution of some of these issues has unfortunately been protracted, however, some of the issues are now being remedied and officers continue to monitor the progress of these issues.

Councillor	Query	Response
		<p>Flooding arising from earthworks – Applications involving large scale residential development such as that at Edwalton will be accompanied by flood risk assessments and drainage strategies and will normally include the provision of sustainable urban drainage measures. The drainage strategy relates to the finished development and does not deal with drainage during the construction phase. It remains to be determined whether matters relating to surface water run off during the construction phase falls within the remit of the planning system or whether this amounts to a civil matter.</p> <p>Erection of Heras fencing and earthworks – the erection of the Heras fencing does not amount to a breach of planning control. The impact of this Heras fencing on the public right of way has been referred to Nottinghamshire County Council Rights of Way as this is not a planning/Borough issue. It has been established that the earthworks taking place within the land set aside for the community park involves storage of topsoil from elsewhere within the development which will then be used at a later date in gardens and landscaped areas. The storage of topsoil within the site was addressed in the submission of a Construction Management Plan, submitted to discharge a condition of the planning permission and is therefore authorised.</p>
	Increase in number of applications and volume of large sites	<p>Planning applications are categorised under three main headings, Major, Minor and Other development. Major development includes schemes where, for example, ten or more dwellings are proposed or the floor area to be created exceeds 1000sqm. Minor development involves schemes for less than ten dwellings or smaller extensions to commercial premises etc and Other development captures mostly householder extensions and smaller scale development. Minor and Other development is generally termed non-major development.</p>

Councillor	Query	Response
		<p>In terms of the proportion of Major applications received, the proportion of Major applications has hovered around 3% - 4% of total applications received in recent years. The number of major applications has increased in recent years, particular in response to the work associated with and adoption of the Local Plan Part 2. In the period between 1 April 2019 and 31 March 2020 the Borough Council received a total of around 1400 valid applications (falling in the Major, Minor and Other categories), of which 65 (4.6%) were categorised as Major applications.</p>
Cllr Combellack		
	Licensing	<p>These comments appear to relate to issues with licensing and disturbance from the operation of the pub which is not relevant to the matter being considered by the Growth and Development Scrutiny Group.</p>
	Environmental Health	<p>The comments in respect of AE Faulks appear to relate to a noise abatement issue which is not relevant to the matter being considered by Growth and Development Scrutiny Group.</p> <p>Church Farm, Hickling – this concerns a gulley and pipe shown on a plan to dispose of animal waste from a milking parlour. This was not provided and instead waste was transported from the site in a bowser. If the method of disposal of waste was a critical issue to the acceptability of the development, appropriate conditions would need to be attached to the planning permission.</p>
	Planning – timescales for action to be taken	<p>Cllr Combellack provides a number of examples where development has not been undertaken in accordance with approved plans resulting in what she describes as 'unacceptable housing and development' or where there have been delays in serving a formal notice. Where development is not undertaken in accordance with the approved plans, the property owner/developer does so at their own risk. The guidance is quite clear that any subsequent application must be considered on its</p>

Councillor	Query	Response
		<p>merits, i.e. as if the development had not taken place. If development is unacceptable, the correct response would be refusal of permission and subsequent action to remedy the issue.</p> <p>The guidance in respect of investigating breaches of planning control advocates that a remedy should be sought through discussions and negotiation and that the service of a formal notice should be the last resort. The service of a notice can be frustrated by a number of factors, including the submission of a retrospective planning application seeking to regularise the situation or investigations to determine the parties on whom any such notice should be served. However, it is accepted that this is an area for further consideration to ensure notices are served in a timely fashion.</p>
	Lack of regard for Conservation Areas	The duty to have regard to the desirability of preserving and enhancing the character and appearance of the Conservation Area is applicable when considering any harm arising from a breach of planning control. This is a matter of judgement.
	Securing action	Again, the guidance is clear that action should be proportionate to the breach and any harm that arises. Stop notices/temporary stop notices are rarely used and should only be served where such action would be justified.
	Use of technology	Use has been made of photographs and video during the lockdown, however, this may not always obviate the need for a site visit.
	Para 4.5 of report	With few exceptions, development which is undertaken without planning permission is unauthorised. This does not mean that no action will be taken. There is an expectation amongst some residents that the Borough Council should take legal action when planning regulations are breached. This is not an option for the Council, legal action can only be taken when an offence has occurred, e.g. failure to comply with the requirements of an enforcement notice.

Councillor	Query	Response
	Para 4.23 of report	This paragraph needs to be read in conjunction with the following paragraph of the report which seeks to explain that enforcing planning regulations is not just about responding to complaints from residents. Planning officers are also involved in ensuring compliance with the regulations through, for example, determination of applications, discharge of planning conditions etc. We do rely to some extent on members of the public being our eyes and ears but as the report attempts to explain, where a breach may occur, it will not always result in action, it may not be expedient to do so or in the public interest.
	Para 4.26 of report	The suggestion is that officers should visit every site at least twice, once during the build and again on completion of the development. It would not be feasible to visit every site where development is taking place.
Cllr Thomas		
	Scrutiny Process	There are a number of stages the Policy will need to go through prior to adoption by Council. Prior to the policy being referred to Council for adoption, it will be the subject of a report to Cabinet and a public consultation exercise.
	Policy	The Planning Enforcement Code of Practice is an advice note about how complaints will be investigated, it is not an adopted document. The policy will be an adopted document, which will supersede the Code of Practice. It is considered that a Policy would carry greater weight than a code of practice. The Policy would constitute a Local Enforcement Plan as required by Para 58 of the NPPF.
	Active Monitoring of Completions/Discharge of Conditions	First and foremost, it is the responsibility of the applicant/developer to ensure they comply with the conditions of a planning permission. The Borough Council does not have the resources to check all developments. Measures are in place and being developed further to proactively monitor major developments, currently the threshold is set at developments of 50 dwellings or more.

Councillor	Query	Response
		<p>Where the planning permission is the subject of a Section 106 agreement, this will normally include obligations which require the developer to notify the Borough Council when specified events are due to occur or have occurred, e.g. first occupation.</p> <p>Other agencies may be involved in the process of discharging requirements of conditions or obligations within a section 106 agreement. Inspections may be undertaken to ensure that the work is completed to an acceptable standard but future maintenance of, for example, play equipment will be the responsibility of the management company where one has been established.</p> <p>The threshold of 50 homes is considered to be an appropriate threshold to trigger proactive monitoring. It is considered that this threshold captures the majority of major housing developments within the Borough, in particular all but two of the allocations in Local Plan Part 2 is anticipated to deliver 50 or more dwellings. It would not be feasible for checks to be undertaken on all developments, including those providing fewer than 50 dwellings.</p> <p>Building Control are not responsible for checking compliance with planning permissions.</p>
	Case Studies/examples - Investigating Breaches/Monitoring	Reference will be made to the cases referred to by Cllr Thomas in the presentation to the group
	Investigating Breaches	<p>Enforcement investigations are, for the most part, undertaken in response to complaints/enquiries from local residents or other third parties.</p> <p>The source of the complaint/enquiry is not currently a performance indicator. It may be possible to produce figures for the source of the complaint/enquiry, however, this is not considered to be necessary, all</p>

Councillor	Query	Response
		<p>complaints will be investigated regardless of the source of the complaint and subject to the same timescales/prioritisation.</p> <p>It should be possible to produce figures for the length of time taken to resolve investigations. There are no published figures against which to compare the service provided by the Borough Council. Time alone taken to resolve an investigation would be meaningless as there are likely to be a number of factors that influence this and it would be necessary to examine each case in detail to reach any meaningful conclusions.</p> <p>When investigating alleged breaches of planning control we will notify the complainant/enquirer of the outcome of the investigations. Where possible, we will endeavour to keep them informed of progress during the investigation, although sometimes we may need to avoid disclosure of specific details so as not to prejudice the investigation.</p> <p>We do unfortunately deal with some repeat offenders, however, the system should not be used punitively in response to repeat offences, e.g. refusal of planning permission would not be justified where the applicant has breached planning controls, even where this may have occurred previously.</p> <p>An application for retrospective planning permission is subject to the same considerations as an application where development has not commenced. The application will be considered on its merits regardless of whether the development has commenced or been completed.</p>

Councillor	Query	Response
		<p>Through our investigations, it may become apparent where the breach has occurred out of ignorance. When we close cases they are categorised, e.g. unfounded, permitted development, development removed etc. It is difficult to determine whether a breach has been committed knowingly and in any event this is not relevant to the investigation.</p> <p>In 2019/20, approximately 10% of cases were resolved as a result of the development being removed, the site being cleared or a use ceasing. Complaints may also have been resolved by ensuring compliance with conditions or the grant of retrospective planning permission. The grant of retrospective planning permission provides an opportunity to apply conditions that mitigate potential impacts of development. These results are not generally publicised.</p>
	Staffing levels	It is considered that the staffing levels are adequate and proportionate to respond to the level of work involved and this is currently being reviewed. The figures across Nottinghamshire would suggest that the staffing levels are generally comparable with other authorities in the area.
	Comments on Draft Policy	Consideration of the policy by the Growth and Development Scrutiny group provides an opportunity for Councillors to comment further on the content of the Policy.
Cllr Phillips		
	Development north of Rushcliffe Arena (pile driving)	Reference will be made to this site during the presentation to the Growth and Scrutiny Development Group.
Cllr Way		
	Maintenance of open spaces on developments	This has previously been the subject of a report considered by the group. The process of laying out/completing and future maintenance of

Councillor	Query	Response
		an open space is usually addressed through a section 106 agreement associated with a planning permission for development. The ongoing inspection and maintenance of play equipment would normally be the responsibility of the management company, where one has been established to manage the open spaces.



Growth and Development Scrutiny Group

Tuesday, 25 August 2020

Work Programme

Report of the Executive Manager – Finance and Corporate Services

1. Summary

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

- Quality of life;
- Efficient Services;
- Sustainable Growth; and
- The Environment.

2. Recommendation

It is RECOMMENDED that the Group agrees the work programme as set out below:

20 January 2021

- Town Centres Update
- Management of open spaces in new developments – part two
- Work Programme

21 April 2021

- Cycling networks in the Borough
- Work Programme

3. Reason for Recommendation

To enable the Council's scrutiny arrangements to operate efficiently and effectively.

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.