

3 Recommendations

- 3.1 **CONSIDER** the proposed changes to the Planning Enforcement Plan and the associated activity and timescales, as laid out in section 5 of this report and **RECOMMEND** to Cabinet that these changes be agreed for implementation.
- 3.2 **CONSIDER** the pro-active approach, proposed letter templates and direct action against to s215 notices being issued and resourcing options laid out in section 6 to be read alongside the financial considerations in section 7 and the risk assessment in section 8 and **RECOMMEND** to Cabinet that these changes be agreed for implementation.

4 Introduction and Background

- 4.1 The Council's Planning Enforcement Plan (PEP) was first published in 2016 and has been appended by a number of protocols since that time. It has always been the intention that this document would be subject to regular review to ensure it remains in line with legislative requirements and is a useful tool for both officers and those who engage with the service.
- 4.2 Active/ongoing enforcement investigations are confidential and may not be publicly discussed or information thereof shared and some investigations into breaches of planning control may be conducted outside of the scope of the Planning Enforcement Plan.
- 4.3 A further administrative operational update is proposed to be implemented when UNIFORM is fully functional. This update seeks to include an update to the acknowledgement letter to include details of the investigation targets outlined in the priority ranking of the PEP and provides clear timelines for the "initial site inspection" and the "acknowledgement of the complaint"
- 4.4 An administrative review relating to the current approach on advertising/flyposting is currently underway. In addition to the proposed 7 and 14 day letters, where possible, an additional letter specifically relating to these transgression is being considered.
- 4.5 In the past three years, the enforcement team have received 511 cases between January 2022 and December 2025. As of 13 January, there are 368 live enforcement cases, which under investigation and pending consideration. The number of cases closed are 143.

5 Proposal

- 5.1 At present, the Planning Enforcement Plan does not refer to the most recent National Planning Policy Framework (NPPF) December 2024 and does not correctly reference the legislative framework for the submission of planning applications. In the amended Planning Enforcement Plan (PEP) draft appended to this report, updated policy references to the NPPF and application types are

recommended. This is to ensure that the PEP is up to date, correct and that Members and the public are clear on the changes to national policy and submission mission requirements for retrospective applications. Additional updates include an a more prescriptive list of what will be investigated and examples of exclusion of harm.

5.2 To streamline the submission of a complaint of a breach of planning control, a link is proposed to be inserted into the Planning Enforcement Plan that directs the public to the General Permitted Development Order 2015 (technical guidance). This will ensure that stakeholders more widely understand the planning process and what is considered to be a breach of planning control.

5.3 The recommended amendments to the existing Planning Enforcement Plan are minor and relate mainly to and are included in the attached draft PEP (see **Annex 1**):

- Policy referencing in terms of the recent update to the National Planning Policy Framework in December 2024.
- An update on Examples of harm resulting from a breach of planning control could concern:
 - *Untidy land (residential properties that are in disrepair, overgrown gardens and broken boundary fences).*
 - *Unauthorised works to TPO's and Listed Buildings.*
- Exclusion of harm examples:
 - an extension to a building that is slightly larger than permitted development rights allow but does not create any comparative harm -
 - private rights to a view.
 - High Hedges (Government guidance encourages these issues to be resolved privately prior to Council intervention and investigation at a cost).
- A change in the naming of prioritisation of case from 'Top' to 'Immediate'.
- An update to the "case characteristics" of the priority ranking "high" to include:
 - **Under Development causing significant harm : (examples: Loss of Privacy and Overlooking/ Daylight and Overshadowing/ Overbearing Impact -noncompliance with operating hours stipulated in conditions of approvals and deviations from approved plans/Traffic and parking – CMP's not being complied with)**

Under Development potentially causing significant harm to the landscape:
Greenbelt/ National Landscapes (formerly Areas of Outstanding Natural Beauty – AONBs- Valued Landscapes/ Ancient Woodland

Update the PEP to include: ***Distinguishment between Public and Private Harm: Public harm*** involves development that does not benefit from planning approval that endanger the life, health and property of the public, or obstruct the use of public places.

Private harm constitutes a substantial and unreasonable interference with an individual's use or enjoyment of their land or property.

- ***When might it be appropriate to serve an Enforcement Notice?***

“Enforcement Notices are our main enforcement tool. Government guidance sets out that the power to issue an enforcement notice is discretionary (Section 171B and 72 of the Town and Country Planning Act 1990)”.

- **Update to “Involvement in the process”**

Advising the council of possible breaches

“Reports of possible breaches of planning control should be made via our [online enforcement portal](#) . This enables the council to have a record of the need for initiating investigation and possible action”.

By using the link, a determination can be made on whether the development benefits from permitted development rights or requires planning permission and results in a potential breach of planning control:

https://www.google.co.uk/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj6s8yu0K2RAXUAd0EAHS65OKoQFnoECBwQAw&url=https%3A%2F%2Fassets.publishing.service.gov.uk%2Fmedia%2F5d77afc8e5274a27cdb2c9e9%2F190910_Tech_Guide_for_publishing.pdf&usq=AOvVaw2cyZByZVkpzbXFI7pnErmS&opi=89978449

6 Other Options

- 6.1 Following stakeholder feedback, the Planning Enforcement team has considered how a more proactive approach to enforcement can be taken within legislative and capacity constraints. This includes more decisive and stringent assessments of breaches planning control that result in harm and would be contrary to planning policy. The proposed approach includes the issuing of letters outlining the breach and offences requiring immediate cessation without the invitation of a retrospective planning application.

- 6.2 This pro-active approach has is supported by the recent Planning Advisory Service (PAS) review. It recognised that the direction of travel within the Enforcement team and recommendation 14 of the review sought to build on the progress made on strengthening planning enforcement performance by creating a culture of proactive enforcement and involving local members in helping to prioritise enforcement cases that have the biggest impact.
- 6.3 Linked to this approach, new letters have been drafted which are intended to make decisive decisions on unlawful development (see Annexes 2,3,4 and 5). The intention behind these letters is to ensure a very clear message is given to the contravener that whether enforcement action is initiated, a retrospective planning application is invited, or no further action is required.
- 6.4 The intention behind these letters is to ensure initial action is taken more quickly, providing a template to quickly progress cases and for those cases that cause the greatest harm and are unacceptable in policy terms, the threat of enforcement action is highlighted, should the breach not be rectified without formal action.
- 6.5 To streamline the triage process when determining what action is to be taken a revised priority list has been created. The priority list sets out those cases that cause the greatest harm and where the Council's resources should be prioritised to prevent further harm occurring.
- 6.6 The priority list is maintained by the Enforcement Manager and regularly updated and reviewed by the Development Manager. Items included on this list relate to development that has commenced without planning approval and were requested to cease and where a decision has been taken to progress with enforcement action due to the nature of the breach. In order to ensure best and most effective use of resources, only those creating the most significant harm are progressed to formal action.

Direct Action – against s215 notices

- 6.7 Linked to the aforementioned pro-active approach and an update to the report for consideration, included within the priority list, is a list of untidy sites that have been issued with S215 notices without compliance and that have been cautioned of prosecution action in compliance with item 129 of the planning act. The Enforcement Manager has worked with the Empty Homes officer on identifying any unspent pot of money (previously awarded for formal Green Belt direction action - but which can be spent on direction action outside the Green Belt) and this money will be used to remedy the untidy site by direct action.

Software upgrade - Plan X (UK Digital Planning)

- 6.8 At present, there is an influx of no-breach reports being sent into the Enforcement Team for investigation. These reports for the most part are either permitted development or non-planning issues that are addressed by other departments.

Reviewing these no-breach reports puts additional pressure on the Planning Enforcement team.

- 6.9 Therefore, it is proposed to develop a business case to implement the Plan X software. The implementation of the software is aimed at managing the enforcement cases and provide real time information to Members and at the same time provide an opportunity for residents of TMBC to identify whether issues they are experiencing are breaches of planning law that require investigation. The software has been rolled out in a number of other nearby boroughs and has proven to drastically reduce the number of enforcement cases requiring response, with information.
- 6.10 Plan X is an open-source, low-code content management system (CMS) for local planning authorities to build and manage digital planning services.

7 Financial and Value for Money Considerations

- 7.1 The Director of Planning, Housing & Regulatory Services confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.
- 7.2 The funding for the direct action on s215 has been redistributed from a previous DEFRA grant aimed at contraventions in the greenbelt. The DEFRA grant previously awarded to the Council remained unspent and currently provides a sum of £15,889 in the reserve. This was placed in the reserve for the Planning Enforcement Fund and would no longer have restrictions placed on its use. It is therefore intended to use this reserve flexibly and on direct action where the most significant harm lies.
- 7.3 The cost of defending any appeals arising from Enforcement Action is covered by the Appeals budget.

8 Risk Assessment

- 8.1 Stakeholder expectations are not met - reputational risk which undermines the confidence in the planning enforcement system.
- 8.2 Breaches rise due to Council's inability to efficiently enforce due to workload and to a lack of resourcing, decisive decisions and proactive enforcement action.

9 Legal Implications

- 9.1 Having an effective Planning Enforcement Plan in place ensures that there is a framework for prioritisation and decision making that reduces the risk of the Council's decisions being subject to successful legal challenge. It is also considered to be best practice to have such a plan in place.

9.2 Planning enforcement work is discretionary and there are no statutory provisions requiring the Council to undertake such work. However, as set out in the NPPF, effective planning enforcement is important to maintain public confidence in the planning system. Insufficient or ineffective enforcement could lead to long term harm to the amenity of the Council's area, a lack of trust in the planning system and an inability for the Council properly to administer effective planning control.

10 Consultation and Communications

10.1 None

11 Implementation

11.1 Immediately following approval by Cabinet.

12 Cross Cutting Issues

12.1 Climate Change and Biodiversity

12.1.1 None

12.2 Equalities and Diversity

12.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act.

12.2.2 There is no perceived impact on end users

12.3 Other If Relevant

- Business Continuity / Resilience

Background Papers	None
Annexes	Annex 1 – Revised and updated Enforcement Plan Annex 2 – Proposed - 7 day letter Annex 3 – Proposed - 14 day letter Annex 4 – Proposed TPO/Listed building letter Annex 5 – Proposed material change of use/operational development