

PLANNING AND HIGHWAYS REGULATORY

COMMITTEE

New Planning Enforcement Charter 12 December 2011

Report of Head of Regeneration and Policy

PURPOSE OF REPORT

The report advises Members of the Development Management Team's Draft Planning Enforcement Charter, and seeks formal adoption of this.

This report is public.

RECOMMENDATIONS OF THE HEAD OF REGENERATION AND POLICY

- (1) That agreement be given to the immediate formal adoption of the Planning Enforcement Charter.
- (2) That following adoption, the Charter shall be cross-referenced in the emerging Development Management Development Plan Document (DPD).

1.0 Introduction

- 1.1 The National Planning System includes legislation identifying the type of development, land use or other activity that requires the benefit of planning permission. There is also national legislation in the form of Planning Policy Guidance Note 18 ('Enforcing Planning Control') and a Government Circular (10/97) which offers generic guidance to local planning authorities, developers, householders and complainants.
- 1.2 Some local planning authorities have developed specific guidance or established a formal Charter in respect of their planning enforcement activities.
- 1.3 At the present time Lancaster City Council does not have a formal, adopted Enforcement Charter.

2.0 Proposal Details

- 2.1 It is proposed that a new Planning Enforcement Charter be adopted. A copy of the draft document is appended to this report.
- 2.2 In summary, the document provides the following guidance:

- An overview of the role of enforcement within the planning system;
- Advice regarding types of development and unauthorised development;
- An 'Order of Priority' for all planning enforcement complaints;
- Revised formal timescales for acknowledgement of planning enforcement complaints and timescales for visiting sites that are the subject of enforcement investigations;
- Advice regarding the issues of 'expediency' and 'harm';
- Details of planning enforcement methods, remedies and penalties for non-compliance; and,
- A Code of Conduct for the Planning Enforcement Officers.

3.0 The Order of Priority

3.1 Whilst there is no adopted Enforcement Charter at the present, the Planning and Highways Regulatory Committee previously considered the issue of prioritising enforcement investigations in August 2005, when a report entitled "Establishing a Policy for the Enforcement of Planning Control" was presented to Members. However whilst the report was noted, and the timescales for case investigation implemented, the policy was never formally enshrined in a Charter.

3.2 The 2005 report identified that breaches of planning control could be split into three priority areas; namely:

- Those that required 'prompt action with immediate effect';
- Those that would be considered in date order; and,
- Those that were considered to be 'low priority' because the development caused no demonstrable harm.

3.3 The proposed 2011 Order of Priority develops the system further, categorising types of unauthorised development based upon the severity of the alleged breach of planning control. The following categories are proposed:

- High Priority – which would include works that constituted a criminal offence, such as unauthorised works to listed buildings or preserved trees;
- Medium Priority – which would include unauthorised works or development within areas of protected landscape, or where development causes demonstrable harm;

- Low Priority – which would include minor breaches of planning control that appear to cause little or no demonstrable harm; and,
- Lowest Priority – minor development that would have benefitted from planning permission (had a retrospective application been submitted); or complaints submitted anonymously.

3.4 It is considered that this approach accurately reflects enforcement priorities in both the national and local context.

4.0 Details of Consultation

4.1 This is a procedural Charter aimed at explaining the planning enforcement process and devising an Order of Priority that is reasonable and can reflect staffing levels within the Service. There has been no external consultation.

5.0 Options and Options Analysis (including risk assessment)

	Option 1: To adopt a formal Planning Enforcement Charter	Option 2: To not adopt a formal Planning Enforcement Charter
Advantages	The Charter aims to introduce relevant standards for planning enforcement investigations and would represent a more informative and robust basis for investigating breaches of planning control.	None.
Disadvantages	None.	The Service would be reliant on the 2005 committee report standards which are considered to be out-of-date, and in any case were not formally enshrined within an Enforcement Charter.
Risks	There is a risk that during periods of heavy workload the timescales (for acknowledgement of complaints and investigation 'on-site') may exceptionally not be adhered to. However the responsibility to keep all parties informed of progress of the investigation would continue to fall to the Planning Enforcement Officers.	The Service does not have detailed enforcement advice available and the failure to adopt the Charter – and the standards that it seeks to introduce as part of the continuing modernisation of the Development Management Service - would be counter-productive.

6.0 Conclusion

6.1 The Planning Enforcement Charter is an important element of the continuing modernisation of the Development Management Service. The advice it provides, alongside the formal introduction of target timescales, will mean that the enforcement function can rise to the continual challenges posed by

unauthorised development in the district.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

None arising from this report.

LEGAL IMPLICATIONS

The Charter provides more detailed advice than currently exists regarding the planning enforcement process. Whilst the Charter introduces an Order of Priority for Planning Enforcement Officers, it does not require any alteration to the current procedures in place relating to cases that are referred to the Legal Service for formal action.

FINANCIAL IMPLICATIONS

There may be extreme occasions where workload arising from the adoption of the Charter may exceed current staffing capacity. However this is likely to be exceptional rather than a regular occurrence, and it is anticipated that there will be no detrimental impact upon staff resources.

OTHER RESOURCE IMPLICATIONS

Human Resources:

None.

Information Services:

None.

Property:

None.

Open Spaces:

None.

SECTION 151 OFFICER'S COMMENTS

The Section 151 Officer has been consulted and has no further comments.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

[1. Planning and Highways Regulatory Committee Minutes \(Item 103\), 22 August 2005.](#)

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