



<b>Meeting</b>	Health and Environment Policy Committee
<b>Date and Time</b>	Wednesday, 9th October, 2019 at 6.30 pm.
<b>Venue</b>	Walton Suite, Guildhall, Winchester

## **AGENDA**

### **PROCEDURAL ITEMS**

- 1. Apologies and Deputy Members**  
To note the names of apologies given and Deputy Members who are attending the meeting in place of appointed Members.
- 2. Declarations of Interests**  
To receive any disclosure of interests from Members and Officers in matters to be discussed.

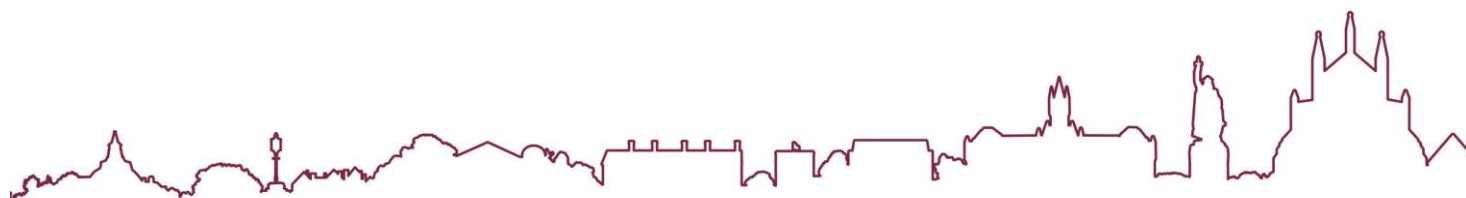
*Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, and non disclosable interests in accordance with legislation and the Council's Code of Conduct.*

If you require advice, please contact the appropriate Democratic Services Officer, prior to the meeting.

- 3. Chairpersons's Announcements**
- 4. Minutes** (Pages 5 - 10)  
Minutes of the meeting held on 9 July 2019

### **BUSINESS ITEMS**

- 5. Public Participation**  
To receive and note questions asked and statements made from members of the public on matters which fall within the remit of the Committee.
- 6. To note the Work Programme for 2019/20** (Pages 11 - 12)



7. **Climate Emergency Action Plan - Presentation (to follow)**
8. **Southern Parishes Sports Facilities (HEP005)** (Pages 13 - 20)
9. **Local Enforcement Plan (HEP008)** (Pages 21 - 42)

**Lisa Kirkman**  
**Strategic Director: Resources and Monitoring Officer**

Members of the public are able to easily access all of the papers for this meeting by opening the QR Code reader on your phone or tablet. Hold your device over the QR Code below so that it's clearly visible within your screen and you will be redirected to the agenda pack.



1 October 2019

Agenda Contact: Claire Buchanan, Senior Democratic Services Officer  
Tel: 01962 848 438 Email: [cbuchanan@winchester.gov.uk](mailto:cbuchanan@winchester.gov.uk)

*\*With the exception of exempt items, Agenda, reports and previous minutes are available on the Council's Website [www.winchester.gov.uk](http://www.winchester.gov.uk)*

## **MEMBERSHIP**

**Chairperson:** Clear (Liberal Democrats)

**Vice-Chairperson:** Laming (Liberal Democrats)

### **Conservatives**

Brook  
Griffiths  
Pearson

### **Liberal Democrats**

Becker  
Ferguson

## **Deputy Members**

Horrill and Weston

Hutchison and Williams

Quorum = 3 members

**Relevant Portfolio Holders:**

## **PUBLIC PARTICIPATION**

A public question and comment session is available at 6.30pm for a 15 minute period. There are few limitations on the questions you can ask. These relate to current applications, personal cases and confidential matters. Please contact

Democratic Services on 01962 848 264 in advance of the meeting for further details. If there are no members of the public present at 6.30pm who wish to ask questions or make statements, then the meeting will commence.

### **FILMING AND BROADCAST NOTIFICATION**

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### **DISABLED ACCESS**

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## **HEALTH AND ENVIRONMENT POLICY COMMITTEE**

**Tuesday, 9 July 2019**

Attendance:

Councillors  
Clear (Chair)

Becker  
Brook  
Ferguson

Griffiths  
Laming  
Pearson

Others in attendance who addressed the meeting:

Councillors Murphy (Cabinet Member for Environment) and Porter (Cabinet Member for Built Environment and Wellbeing)  
Councillors Achwal and Power

Others in attendance who did not address the meeting:

Councillors Cutler, Hutchison, Thompson and Weir

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1. **CHAIRPERSON'S ANNOUNCEMENTS**

The Chair welcomed all those present to the first meeting of the new Health and Environment Policy Committee.

2. **APPOINTMENT OF VICE-CHAIRPERSON FOR MUNICIPAL YEAR 2019/20**

RESOLVED:

That Councillor Laming be appointed Vice Chairperson of the Committee for the 2019/20 Municipal Year.

3. **TO NOTE THE DATE AND TIME OF FUTURE MEETINGS OF THE COMMITTEE**

RESOLVED:

That the timetable of meetings for 2019/20 be agreed, as set out on the agenda.

4. **PUBLIC PARTICIPATION**

Councillor Power made the following comments regarding reports on the agenda for consideration:

- The Parking Strategy (Report HEP2 refers) should increase its emphasis on areas outside of Winchester city centre, particularly the market towns. In particular, a strategy was required for New Alresford;
- She supported the recommendation in CAB3173, but emphasised that improved enforcement of on-street parking was essential in market towns. She queried whether it was possible to retain free on-street parking and cover the costs of enforcement?

The Chair thanked Councillor Power for these comments which would be considered further under the appropriate agenda items.

Ian Tait raised a number of comments as summarised below:

- Questions regarding the Councillor Prince's recent statement regarding the review of the new Leisure Centre;
- With regard to the Car Parking Strategy, concern that the outer close of the Cathedral was being widely used for car parking. Whilst this was appropriate for visitors and Cathedral workers with disabilities, the perception was that this facility was being used by many more people, impacting on the historic setting;
- Welcome proposed improvements to the pre-application advice service as he considered the existing offer to be inadequate. In addition, concerns regarding lack of representation of the Highways Team at Planning Committee.

The Chair noted that the first point was not within the remit of this Committee but she would forward to the appropriate Cabinet Member. Other comments would be considered further under the relevant agenda items.

## 5. **ENVIRONMENTAL SERVICES CONTRACT - PROCUREMENT PROCESS UPDATE - PRESENTATION**

The Strategic Director and the Cabinet Member for Environment gave a presentation updating Members on progress towards the new environmental services contract. The presentation was available on the [Council's website](#).

The Cabinet Member for Environment requested the Committee's views on the following:

- The proposal to consider the collection of food waste;
- The option to charge for garden waste collection (and whether such a charge could be utilised to offset the cost of collecting food waste).

The Strategic Director and Cabinet Member responded to Members' questions and comments regarding the following:

- The practicality of the glass collection containers (in particular, manoeuvrability when full). Take up or kerbside glass collection was not compulsory and assisted collections could be provided to those in need;
- If charges were introduced for garden waste, a 240 litre wheelie bin could be provided for collection purposes to replace the smaller capacity garden waste bags currently provided. However, bins could not be provided if no charge was introduced;

- Some concern that introducing charges for garden waste could lead to an increase in fly-tipping. The Committee requested further information from other local authorities that had introduced charges;
- Some concern regarding the practicalities of accommodating the number of different waste collection bins within the boundaries of a property with limited outside space. It was noted that the Government might require further separation of recyclable goods in the future which would have a further impact;
- A comment that anaerobic digesters produce additional methane but this could be utilised by a CHP system. The location of digesters had proved controversial in the past.
- Once further information on the cost of food waste collection was available, public consultation on its introduction could be considered.
- Further discussions would take place with the County Council regarding options for the disposal of food waste;
- Some concern regarding the proposal to cease distribution of printed calendars.
- The contract was for an initial 8 year period with an option for an 8 year extension. It was anticipated electric vehicle technology could be more readily available within 8 years and the contract would not preclude their introduction earlier.
- The new contract would include robust performance measures. The importance of working with the contractor was also emphasised and the client team returning to the Council would assist with this.

In general, Members considered that more information was required on the potential cost of food waste collection before the Committee could indicate whether to support it or not. With regard to charging for garden waste, it was recognised that the majority of other local authorities did charge, but further information was requested on the possible impact on fly-tipping before a decision was made.

#### RESOLVED:

That the presentation be noted and the Cabinet Member for Environment have regard to the comments outlined above.

### 6. **CAR PARKING STRATEGY (HEP002) AND PRESENTATION**

The meeting received a presentation from the Head of Programme and Cabinet Member for Environment on the developing Car Parking Strategy. The presentation was available on the [Council's website](#).

At the invitation of the Chair, Councillor Achwal addressed the Committee and in summary welcomed the report and the proposals to consider the whole district. She highlighted the particular difficulties experienced in Whiteley by the large numbers of vehicle movements each day (estimated to be approximately 48,000) and suggested that a new park and ride facility be provided at Junction 9 of the M27.

The Head of Programme, Strategic Director: Services and Cabinet Member for Environment responded to Members questions and comments regarding the following:

- Possible increase in central car park pricing structure and possible introduction of Sunday and/or evening car parking charges to further encourage use of park and ride and to provide funds to invest in improvements
- ;
- Regard would be had to the impact of such a proposal on all stakeholders, including businesses;
- Requirement to have regard to the impact of city centre residents who use car parks as limited on-street residents' parking available;
- The requirement for movement strategies for market towns such as New Alresford, Bishops Waltham, Whiteley and Wickham. This should include consideration of improved parking enforcement and management;
- The importance of public transport, in particular bus travel. It was noted that the County Council had also declared a climate emergency and Officers hoped to work further with them regarding bus services.
- A travel plan for the new Leisure Centre would be developed;
- It was suggested that the Strategy should be widened to include more far-reaching proposals. Examples given included congestion charges, workplace parking levy and improving air quality, particularly around schools.
- An update report on an electric vehicle strategy would be provided later in the year which would include consideration of charging point installations.
- "Park and Walk" or "Park and Cycle" routes would be encouraged and the best method of publicising was being considered.

RESOLVED:

That the content of the report and presentation be noted and the Cabinet Member for Environment have regard to the comments outlined above.

7. **THE FUTURE OF THE TRAFFIC MANAGEMENT AND CIVIL PARKING ENFORCEMENT AGENCY AGREEMENTS (CAB3173)**

The Strategic Director: Services (Interim), Corporate Head of Regulatory and Cabinet Member for Environment provided responses to questions raised by Members in respect of:

- The estimated deficit for the on-street parking account summarised in the report was based on high level assessment. Further detailed analysis of the figures (costs and income), including apportionment between on-street and off-street parking activities, would be undertaken to inform the report to be provided to the County Council in order to ensure the figures are accurate;
- The desire to improvement the enforcement of parking (in both market towns and some residents' parking areas) was understood, noting that parking enforcement should be cost neutral;



- The intention of the County Council to introduce more uniformity of charges across the County including residents 'permits and on-street charges;
- The County Council will require the service to recover all its costs (cost neutral). These are costs incurred by both the City Council and County Council. Any shortfall would be met by the City Council and surplus shared equally between the two authorities.
- Further analysis would be undertaken into whether the proposed rise of the cost of the first residents' parking permit to £50 would offset the current deficit.
- The choice available to the Council was, in essence, whether to enter into a new agency agreement with the County Council or to hand back control of this service to them. Changes planned by the County Council would take place if the service was delivered by them. Hampshire required a decision by the end of July 2019.

During debate, some Members expressed concern about the lack of clarity regarding the financial information available. However, there was general support for the Council entering into new agency agreements with the County Council in order to retain a greater level of control over the service.

**RESOLVED:**

That the following recommendations to Cabinet be supported:

1. That the City Council enters into new agency agreements with Hampshire County Council in relation to the delivery of traffic management and on-street civil parking enforcement with effect from April 2020.
2. That the Strategic Director: Services be delegated authority to finalise and enter into the agency agreement with Hampshire County Council in relation to the delivery of traffic management and on-street civil parking enforcement with effect from April 2020.

**8. PLANNING PRE-APPLICATION ADVICE (HEP003)**

The Service Lead: Built Environment and Cabinet Member for Built Environment and Wellbeing provided responses to questions raised by Members in respect of:

- Noting that it was critical to change the current perception of pre-application advice;
- The new Strategy had been formulated following engagement with customers and agents;
- It would be publicised on the Council's website and through other means, as appropriate, including an Agents' Forum;
- Further consideration would be given to the possibility of involving ward councillors in pre-application discussions, having regard to the issues of commercial confidentiality sometimes involved.

In general, Members welcomed the proposals and thanked the Officers involved in its formulation.

RESOLVED:

That the Strategy set out in the report be endorsed, to adopt a new customer focussed pre-application charging service based on the purpose, principle and charging structure set out within the report

9. **HEALTH & ENVIRONMENT POLICY COMMITTEE WORK PROGRAMME FOR 2019/20 (HEP001)**

The Cabinet Member for Built Environment and Wellbeing noted the following additional items for a future Committee:

- Enforcement Policy;
- Future arrangements for Planning Committee (following evening meeting experiment).

RESOLVED:

That subject to the inclusion of the above, the Work Programme for 2019/20 be approved.

The meeting commenced at 6.30 pm and concluded at 9.30 pm

Chairman

## HEALTH AND ENVIRONMENT POLICY COMMITTEE – SCHEDULED ITEMS OF BUSINESS ETC

9 OCTOBER 2019					
	BUSINESS	LEAD OFFICER	COMMITTEE DATE		STATUS/ COMMENT
			Original	Revised	
	Climate Emergency Action Plan	Susan Robbins	9 October 2019		Presentation
	Southern Parishes Sports Facilities	Amanda Ford	9 October 2019		HEP005/ Cabinet – 11/12/19
	Local Enforcement Plan	Julie Pinnock/David Townsend	9 October 2019		HEP008
10 DECEMBER 2019					
	BUSINESS	LEAD OFFICER	COMMITTEE DATE		STATUS/COMMENT
	Grounds Maintenance and Street Cleaning Specification	Steve Tilbury	9 October 2019	10 December 2019	
	Options appraisal for the delivery and operation of an electric vehicle charging network (HEP006)	David Ingram	9 October 2019	10 December 2019	HEP006
	AQMA Annual Update (HEP007)	David Ingram	9 October 2019	10 December 2019	HEP007/ Cabinet – 11/12/19
	Update on Movement Strategy	Andy Hickman	10 December 2019		Standing Committee item

4 MARCH 2020 – Reports below to be allocated in due course					
	BUSINESS	LEAD OFFICER	COMMITTEE DATE		STATUS/COMMENT
	Climate Emergency Action Plan update	Susan Robbins			Standing Committee item
	Local Plan Update	Steve Tilbury			Standing Committee item

Other reports are provisionally listed to come forward to the Health & Environment Policy Committee during 2019/20 are as follows: (Meeting date to be confirmed)

Tree Policy	Date TBC
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REPORT TITLE: SOUTHERN PARISHES SPORTS FACILITIES

9 OCTOBER 2019

REPORT OF CABINET MEMBER: Councillor Malcolm Prince - Sport, Leisure and Communities

Contact Officer: Andy Hickman Tel No: 01962 848105 Email  
ahickman@winchester.gov.uk

WARD(S): SOUTHERN PARISHES

PURPOSE

This briefing considers the provision of an additional 4 court sports hall in the Southern Parishes as well as options for the future of Meadowside Leisure Centre in Whiteley. Whilst these are separate pieces of work they have been integrated into one report as they are interlinked. A detailed report on these issues will be considered at Cabinet on 11 December 2019.

SUMMARY

The report outlines options for a 4 court sports hall in the southern parishes and suggests that based on the evidence and the significant financial costs involved the Council should not proceed with any of these options and that it may be more practical for the Council to consider supporting the community sports facilities at the new North Whiteley secondary school which will include a 4 court sports hall and 2 artificial turf pitches.

Four options for the future development/ management of Meadowside Leisure Centre are put forward for the Committee's views prior to seeking a Cabinet decision in December. These options include tendering the management of the centre until the new secondary school is opened in North Whiteley along with selling the leisure centre site and using the capital receipt to invest in other community facilities; and transferring it to Whiteley Town Council. .

It should be noted that Whiteley Town Council is currently located in Meadowside Leisure Centre and has expressed an interest in taking over the building and/ or its management subject to terms and associated costs.

RECOMMENDATION:

1. The Policy Committee is invited to comment upon the options and issues highlighted.

## 1 RESOURCE IMPLICATIONS

- 1.1 Further detail on the financial implications of providing a 4 court sports hall are provided in section 2; all four options indicate a significant annual cost to the Council given the large capital investment required.
- 1.2 Potential options for the future of Meadowside Leisure Centre are detailed below. Further feasibility work will be undertaken and the outcome of this will include the financial implications of each option to be presented to Cabinet in December. The cost of this feasibility work can be delivered using the remaining one-off budget approved in CAB3015.

## 2 SUPPORTING INFORMATION:

### **Community Leisure Facility – (4 court sports hall) Feasibility**

#### Current Situation

- 2.1 Report CAB 3015 in January 2018 approved the assessment work for consideration of the feasibility of building a leisure facility (4 court sports hall) in the South of the District. The report noted that the conclusions would be reported back to Cabinet.
- 2.2 Options explored included combining or adding to an existing facility or providing a new stand alone facility.
- 2.3 This work, undertaken considered the best location and appropriate type of facility. It included a needs analysis and consideration of three sites with capital costs, revenue projections, affordability and management options.

#### Summary of Options

- 2.4 The following four potential options for a new leisure facility with a 4 court hall are:
  - A. Extension to Meadowside Leisure Centre at a cost of £2.8 million. This involves an extension to the existing centre to provide a new 4 court sports hall in addition to the existing 3 court hall. This option does not address the condition and operational issues with the existing building.
  - B. New build leisure facility on the site of Meadowside Leisure Centre at a cost of £11.8 million. This would deliver a new dry side facility to replace Meadowside Leisure Centre on the current site. This includes the replacement of all the existing provision other than substituting the 3 court hall with a, Sport England compliant, four court hall.
  - C. Extension to existing community leisure facilities at Swanmore College of Technology at a cost of £3.8 million. This would be a stand alone facility. It is the most remote site with some access issues.

D. New facility at Mill Lane, Wickham, as part of the development of other sports facilities at a cost of £4.7 million. This would be a stand alone site in a rural location with some access issues.

- 2.5 The revenue projections for each of these options have been calculated with only options A and D likely to deliver a small, positive management payment to the Council before the cost of borrowing to finance capital spend.
- 2.6 Based on this evidence and in affordability terms, none of the options deliver a positive outcome for the Council, largely due to the absence of any funding to offset the capital costs. None of the options will deliver a strong enough management fee return to the Council to meet the level of borrowing required for any of the builds; the annual average net cost to the Council ranges from £120,000 per annum to over £400,000 per annum.
- 2.7 The major development in North Whiteley will include a new secondary school currently planned to open in 2024 (depending on build rates) which will have leisure facilities, including a 4 court sports hall and 2 full size artificial turf pitches. These new facilities will be available for community use.

### **Options for the future of Meadowside Leisure Centre, Whiteley**

#### **Current Situation**

- 2.8 Winchester City Council owns Meadowside Leisure Centre which opened in 2000 and has a 3 court hall, 37 station gym, studio, 2 small sided artificial turf pitches and changing facilities for the grass pitches. It has 3 meeting rooms and accommodates offices and a meeting room for Whiteley Town Council. The centre has 45 parking spaces.
- 2.9 The centre is somewhat dated and has issues with disabled access and the structural suitability of the first floor meeting rooms for fitness activities.
- 2.10 Meadowside Leisure Centre is reasonably well used and is located next to Whiteley shopping centre. In recent years it has been operating at a loss due to competing fitness facilities opening in the area.
- 2.11 The operator contract to manage this facility will cease in January 2021.
- 2.12 The Council adopted a Sports Facilities Needs Assessment in 2018 which highlights the facility needs in the South of the District. In particular the study identified shortfalls in provision for artificial grass pitches and for gymnastic facilities in the District. This study is to be referenced in the cabinet report and the assessment information used to underpin each of the options.



- 2.13 The leisure centre would require investment and a change of facility mix to operate commercially and compete with budget gyms and newer leisure facilities in the Whiteley area.
- 2.14 British Land is proposing to build a new fitness gym, large enough to house 60 stations near to this centre. The planning application is yet to be determined which is for a mixed use development at Solent Business Park. The application is likely to be determined by the Planning Committee during the autumn.
- 2.15 There are also 11 fitness gyms within 15 minutes travelling time of Whiteley Town Centre as follows:
- Holly Hill Leisure Centre - 3.5miles
  - Fareham Leisure Centre - 5.6miles
  - Anytime fitness - 3.1miles
  - Sports Direct Gym - 6.7miles
  - Pure Gym - 3.7miles
  - Skylark - 2.1miles
  - Abshot - 4 miles
  - Atlas - 1.6 miles
  - Solent Hotel Gym -0.9 miles
  - Fusion Fitness - 6.5miles
  - Inspiring Fitness - 7.2miles
  - Gym 141 - 4.6miles
  - 24/7 Fitness - 7.1miles
- 2.16 Whiteley Town Council is currently located in Meadowside Leisure Centre and has expressed an interest in taking over the building and/or its management subject to terms and associated costs. Whiteley Town Council has a tenancy at will arrangement with Winchester City Council for the occupancy of their rooms.
- 2.17 There are currently 19 employees at the centre which equates to 6.3 full time staff managed by Places Leisure. This contract will be terminated in December 2020 inline with the contract to manage River Park Leisure Centre.
- 2.18 Whiteley is growing due to the major housing development to the north of the town. This includes a secondary school to be opened in 2024 (depending on build rates) which will have leisure facilities, including a 4 court sports hall and 2 full size artificial turf pitches, which should be available for community use.
- 2.19 One of the options to consider is the possibility of some investment from the council towards improving sports pitch provision in line with the Sports Pitches Strategy approved last year.

## Summary of Options

### **Option A**

- 2.20 Tender the management of this facility for a 5 year period then consider the disposal of the site and reinvestment in community facilities.

#### Pros

- It will be available until the new secondary school is opened in 2024
- No capital investment required
- Existing facilities remain for the Town Council and grass pitches
- WCC can consider disposal once the new school is open
- Future capital receipt to the Council
- No revenue outlay for WCC after 2025

#### Cons

- WCC is likely to incur a management fee for the 5 year contract increasing pressure on the Council's budget
- There may be limited interest from operators
- Would still include the existing building with its access and structural issues.
- The centre would continue to incur costs in the intervening period
- Possible future loss of accommodation for Whiteley Town Council who would require another facility in the Town Centre and the changing rooms for their grass pitches

### **Option B**

- 2.21 Tender the management of this facility for a 10 or 15 year period and include the option for the new operator to provide capital investment to enhance the centre as part of an overall business case.

#### Pros

- Council does not bear the cost of capital investment.
- continue to meet the needs of the local community.
- The Council may secure a management payment.

#### Cons

- Council may have to pay a management fee to an operator thus increasing pressure on the Council's budget.
- Would still include the existing building with its access and structural issues.
- May require Planning Permission.
- Possible full or part facility closure during the contract – resulting in loss of potential income to the operator.
- Negotiation will be required to obtain additional land (if required) from Whiteley Town Council and/or British Land.

- More parking spaces may be required if the facility size is increased

### **Option C**

- 2.22 Whiteley Town Council take over the running and management of the centre and ongoing associated costs and staff

#### Pros

- Continues to provide a community facility
- Might better meet the needs of the local community
- no ongoing costs to the Council depending upon agreeing acceptable terms

#### Cons

- no capital receipt from a potential sale of the centre.
- Would still include the existing building with some access and structural issues.

### **Option D**

- 2.23 Close the site altogether and sell it.

#### Pros

- no ongoing running costs for the Council.
- capital receipt from the sale.

#### Cons

- loss of accommodation for Whiteley Town Council who would require another facility in the Town Centre and the loss of changing rooms for their grass pitches.
- loss of community facility.

### **3. Legal Comments:**

- 3.1 A number of options are considered for the future of this site. Legal advice moving forward is required and any sale alternative disposal of the site such as lease or lease will require compliance with the appropriate legislation. Disposals must be undertaken with transparency, fairness and probity required to fulfil the expectations and standards of the Council as a public body. Additionally it is important to ensure that the Council receives the best consideration for disposal of assets thereby satisfying its obligation under Section 123 of the Local Government Act 1972.

### **4 OTHER OPTIONS CONSIDERED AND REJECTED**

- 4.1 None.

### **BACKGROUND DOCUMENTS:-**

Community Leisure Centre (4 Court hall) Feasibility Study – June 2019

Previous Committee Reports:-

[Cab 3015](#) - 16 January 2018 - WINCHESTER SPORT AND LEISURE PARK PROJECT  
UPDATE

Other Background Documents:-

None

APPENDICES:

None

REPORT TITLE: LOCAL ENFORCEMENT PLAN

9 OCTOBER 2019

REPORT OF CABINET MEMBER: Cllr Jackie Porter Built Environment and Wellbeing

Contact Officer: Julie Pinnock Tel No: 01962 848439 Email  
[jpinnock@winchester.gov.uk](mailto:jpinnock@winchester.gov.uk)

WARD(S): ALL (EXCLUDING THOSE IN THE SOUTH DOWNS NATIONAL PARK AUTHORITY AREA)

PURPOSE

The Council has undertaken a review of its existing Local Enforcement Plan. This report sets out the work undertaken to date to prepare a new Local Enforcement Plan. This includes Parish Council and Member engagement to ensure Enforcement Priorities are understood and resourced to provide confidence in the Enforcement Service.

RECOMMENDATIONS:

1. That the Policy Committee are asked to endorse the Draft Local Enforcement Plan and comment on the priorities and engagement methods proposed.

## 1 RESOURCE IMPLICATIONS

- 1.1 The Local Enforcement Plan will deliver the services of the Enforcement Team within existing resources. The changes proposed reflect the Councils commitment to look innovatively at how we tackle alleged breaches of planning control to best direct resources.

## 2 SUPPORTING INFORMATION:

- 2.1 The existing Local Enforcement Plan was last updated on 9<sup>th</sup> March 2017. Parish Councils and Members have been critical of the approach taken to enforcement particularly regarding the length of time taken to deal with enforcement investigations and the style of communication.
- 2.2 Officers have listened to that feedback and at the last Parish Forum on 5<sup>th</sup> March 2019 it was agreed that we would fully review the existing Local Enforcement Plan.
- 2.3 The Service Lead Built Environment also reported proposals for change to the Town Forum on 21 March 2019.
- 2.4 A focus group was then established, which was made up of a group of Parish Council volunteers to help the Council work through and shape a new Local Enforcement Plan. This group was made up of 5 Parish Councils, the Cabinet Member for Built Environment and Wellbeing, the Service Lead Built Environment and the Enforcement Manager.
- 2.5 This method of engagement enabled a greater understanding of the legislative framework within which Enforcement operates and the also an understanding of how Parish Councils operate.
- 2.6 The draft Local Enforcement Plan has been revised to take into account those comments, and now includes greater use of plain English (less planning jargon), and also has a flow chart setting out the main possible options in an enforcement investigation.
- 2.7 The Parish Councils involved in the workgroup have been very supportive of the work to date, and will act as advocates to the wider group.
- 2.8 A full Parish Forum is scheduled for the 19<sup>th</sup> November 2019 where the updated Local Enforcement Plan will be tabled for discussion.
- 2.9 It is also proposed that Members of the Town Forum (which is not represented by a Parish Council) are given an opportunity to comment on the document.
- 2.10 It is proposed that the final document will be approved by Cabinet.

- 2.11 The process is designed to ensure that Parish Councils and Members are fully engaged to ensure Enforcement Priorities are understood and resourced to provide confidence in the Enforcement Service.

### 3 OTHER OPTIONS CONSIDERED AND REJECTED

- 3.1 A Local Enforcement Plan is recommended by national planning guidance. Engagement with Parish Councils and Members will have helped to ensure that the new Local Enforcement Plan is fit for purpose, is clear on how alleged breaches of planning control will be dealt with and how we communicate that with Parish Councils, Ward Members and complainants.

#### BACKGROUND DOCUMENTS:-

##### Previous Committee Reports:-

None

##### Other Background Documents:-

Existing Local Enforcement Plan <https://www.winchester.gov.uk/planning/planning-enforcement/local-enforcement-plan>

Town and Country Planning Act 1990

National Planning Policy Framework

National Planning Practice Guidance

#### APPENDICES:

Draft Local Enforcement Plan

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# LOCAL ENFORCEMENT PLAN

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# CONTENTS

## Introduction

1. Introduction
  - 1.1 National Policy and Guidance
  - 1.2 Winchester City Council
  - 1.3 Breaches of Planning Control
2. The South Downs National Park
3. Our Principles
  - 3.1 Operate within the law
  - 3.2 Discretion
  - 3.3 Proportionality
  - 3.4 Consistency and Fairness
  - 3.5 Transparency
4. How to report a suspected breach of planning control
5. What you can expect if you report a suspected breach of planning control
6. Our Priorities
7. The contravener – what to expect
8. The decision/action
9. The appeals process
10. Where an offence is committed
  - 10.1 Prosecution
  - 10.2 Direct Action
  - 10.3 Injunction
11. Proactive enforcement and compliance
12. Communication
13. Complaints about the Council's Planning Enforcement Service
14. Monitoring and Review

## Contact Details and Other Useful Links

## APPENDIX 1

What is a breach of planning control?  
Matters that are not breaches of planning control

## Introduction

### 1.1 National Policy and Guidance

1.1.1 The Town and Country Planning Act 1990 provides the main legislative provisions regarding breaches of planning control, with policy guidance provided in the National Planning Practice Guidance (NPPG) "Enforcement and post-permission matters: Responding to suspected breaches of planning control" (March 2014 last updated July 2019).

1.1.2 Paragraph 58 of the National Planning Policy Framework (NPPF) document: February 2019 states:

*Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.*

1.1.3 The NPPG (at para 006) explains that it is important to prepare and adopt a local enforcement plan because it:

- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
- provides greater transparency and accountability about how the local planning authority will decide if it is expedient to exercise its discretionary powers; provides greater certainty for all parties engaged in the development process.

### 1.2 Winchester City Council

1.2.1 Winchester City Council places great importance on protecting its communities, its heritage and the natural environment from unauthorised development that causes harm. An effective planning enforcement service is an important means of achieving this goal, and maintaining the integrity of the planning system.

1.2.2 As part of its commitment to the delivery of an efficient and effective planning enforcement regime, Winchester City Council has prepared this revised version of its Local Enforcement Plan (LEP) in accordance with the NPPF.

1.2.3 The plan sets out the Council's approach to planning enforcement; it explains how alleged cases of unauthorised development and/or breach of planning control will likely be investigated; the basis on which decisions may be made; and the Council's approach to pro-active monitoring.

## 1.3 Breaches of Planning Control

1.3.1 The majority of building works and/or changes of use need planning permission if considered to be development. The display of advertisements or works to protected (TPO) trees can also require consent. Undertaking development without first obtaining planning permission or consent, or carrying out the building work or change of use without complying with the conditions of a permission, is described as a breach of planning control.

1.3.2 Guidance as to what is, and is not, a breach of planning control is provided in Appendix 1 at the end of this document.

## 2. The South Downs National Park

2.1 Winchester City Council also undertakes planning enforcement (not for minerals and waste development) in the part of the District which lies within the South Downs National Park on behalf of the South Downs National Park Authority (SDNPA). For details of the approach to planning enforcement in the national park please refer to the SDNPA's Enforcement Guide: [www.southdowns.gov.uk/planning/enforcement/planning-enforcement/what-is-planning-enforcement/](http://www.southdowns.gov.uk/planning/enforcement/planning-enforcement/what-is-planning-enforcement/)

2.2 You can check whether a site is located within the national park by using the address search page on the SDNPA's website: [www.southdowns.gov.uk/discover/communities/do-i-live-in-the-national-park/](http://www.southdowns.gov.uk/discover/communities/do-i-live-in-the-national-park/)

2.3 A Map is included at the end of this document to show which parts of the district are within the national park.

## 3. Our Principles

3.1 Operate within the law

3.1.1 Winchester City Council recognises that carrying out unauthorised development, without first obtaining the necessary planning permission or consent, can have a harmful impact upon the district's natural environment, residents, businesses and visitors. Effective planning enforcement is important, both to retain public confidence in the planning process, and to maintain the perception of fairness for the benefit of those who follow the rules as well as those experiencing the impacts of construction and development. However, the Council must also operate within the law and remember that the legal framework is initially about assessing, and then (as appropriate) removing any harm caused by those breaching the rules.

### 3.2 Discretion

3.2.1 Winchester City Council will seek where appropriate to remedy all breaches of planning control that it considers are harmful using all the enforcement tools at its disposal; and where there is serious harm the Council will act swiftly and robustly in order to resolve the matter. Please note that in most cases it is **not a criminal offence** to carry out development without having first obtained planning permission (exceptions include unauthorised works to listed buildings and protected trees). However, failure to comply with an enforcement notice or similar breach notice within the time-scales specified in the notice may result in criminal prosecution being sought by the Council to ensure compliance with outstanding requirements.

3.2.2 Guidance from Central Government is that enforcement action should normally be a last resort, and that Councils are expected to give those who are responsible for apparent breaches of planning control a reasonable opportunity to put matters right or to regularise the breach, before resorting to enforcement and/or formal legal action.

3.2.3 However, the law says that Councils may issue an enforcement notice if it is considered expedient to do so, having regard to the policies in the Council's Local Plan and any other material considerations. In deciding, therefore, whether or not it is expedient to serve an enforcement notice, planning enforcement officers must consider whether the breach of planning control is actually harmful or likely to give rise to harm. It follows, therefore, that if the breach of planning control is not harmful or is unlikely to be harmful in the future, formal action is unlikely to be pursued.

3.2.4 It should be noted that planning laws and policies are designed to manage the development and use of land and buildings in the public interest. They are not intended to protect the private interests of one person against the activities of another. The Council will not become involved in neighbour disputes or other private property related issues.

### **3.3 Proportionality**

3.3.1 Any action the Council takes must be proportionate to the degree of harm caused by the unauthorised development or use. Planning enforcement officers will not hesitate to take swift and effective enforcement action where there is serious harm. In cases where the harm is not so serious officers will first try to resolve the matter through appropriate negotiation. If this is required, the Council will seek to ensure that it is undertaken in both a cost effective and timely manner before any decision to issue an enforcement notice is taken.

### **3.4 Consistency and Fairness**

3.4.1 The Council is committed to ensuring that all enforcement related allegations are dealt with in a consistent and fair manner. Planning enforcement officers may take into account other similar cases so far as relevant and will endeavour to adopt a consistent approach. Officers are required to give careful consideration to Human Rights and to the Council's equality duty, as well as data protection legislation (GDPR) and will do so to the extent necessary.

### **3.5 Transparency**

3.5.1 The Enforcement Team contact telephone number is: 01962 848480.

3.5.2 Planning enforcement officers will identify themselves by name and provide their contact details in all correspondence and when meeting people on site. They will explain what is decided clearly, in plain English and try to avoid jargon where at all possible.

3.5.3 Planning enforcement officers will maintain the Council's enforcement notices register. Anyone wishing to view the register may do so by visiting the reception on the ground floor of the City Offices and by asking to speak to the Planning Technician (Enforcement). The office hours are 8.30am to 5.00pm (Monday to Thursday) and 8.30am to 4.30pm (Fridays).

3.5.4 The Team Leader – Enforcement will monitor the Planning Enforcement Team's performance and the results will be published annually in the Council's Monitoring Report.

#### 4. **How to report a suspected breach of planning control**

4.1 The best way to report a suspected breach is by using the “Report a suspected breach of planning control” button on the Planning Enforcement page of the council’s website: [www.winchester.gov.uk/planning-enforcement/report-a-suspected-breach-of-planning-control](http://www.winchester.gov.uk/planning-enforcement/report-a-suspected-breach-of-planning-control).

4.2 Anyone who reports a suspected breach of planning control will need to give their name, address and contact details and a description of the breach, including the address. It would also be helpful if we are provided with the following information:

- state when it began
- state who is thought to be responsible, including their name and contact details
- provide clear photos of the alleged breach
- describe the harm which is caused
- indicate how you are affected.

It may take longer to investigate if this information is not provided.

4.3 Alternatively a suspected breach of planning control can be reported:

- in writing to: Planning Enforcement Team, Winchester City Council, City Offices, Colebrook Street, Winchester, SO23 9LJ;
- by telephone: 01962 848480;
- by email to: [enf@winchester.gov.uk](mailto:enf@winchester.gov.uk) ; or
- by visiting the City Offices and speaking to one of the Planning Enforcement Team’s officers.

4.4 The Planning Enforcement Team will not be able to accept anonymous allegations or reports, as the planning enforcement officers need the complainant’s contact details to provide updates on the investigation and/or actions that have been taken, or to request further information. The planning enforcement officers will ensure that the complainant’s identity is safeguarded within and outside the Council, though in some circumstances it may be necessary for the complainant to give evidence at an appeal or at legal proceedings. If someone does not wish to provide these details, a Ward Councillor or a Parish Councillor may assist with lodging the complaint.

The contact details for Ward Councillors can be found on the Council’s website: [democracy.winchester.gov.uk/mgMemberIndex.aspx?bcr=1](http://democracy.winchester.gov.uk/mgMemberIndex.aspx?bcr=1)

The contact details for Parish clerks can also be found on the Council’s website: [democracy.winchester.gov.uk/mgParishCouncilDetails.aspx?ID=178&LS=3](http://democracy.winchester.gov.uk/mgParishCouncilDetails.aspx?ID=178&LS=3)

#### 5. **What you can expect if you report a suspected breach of planning control**

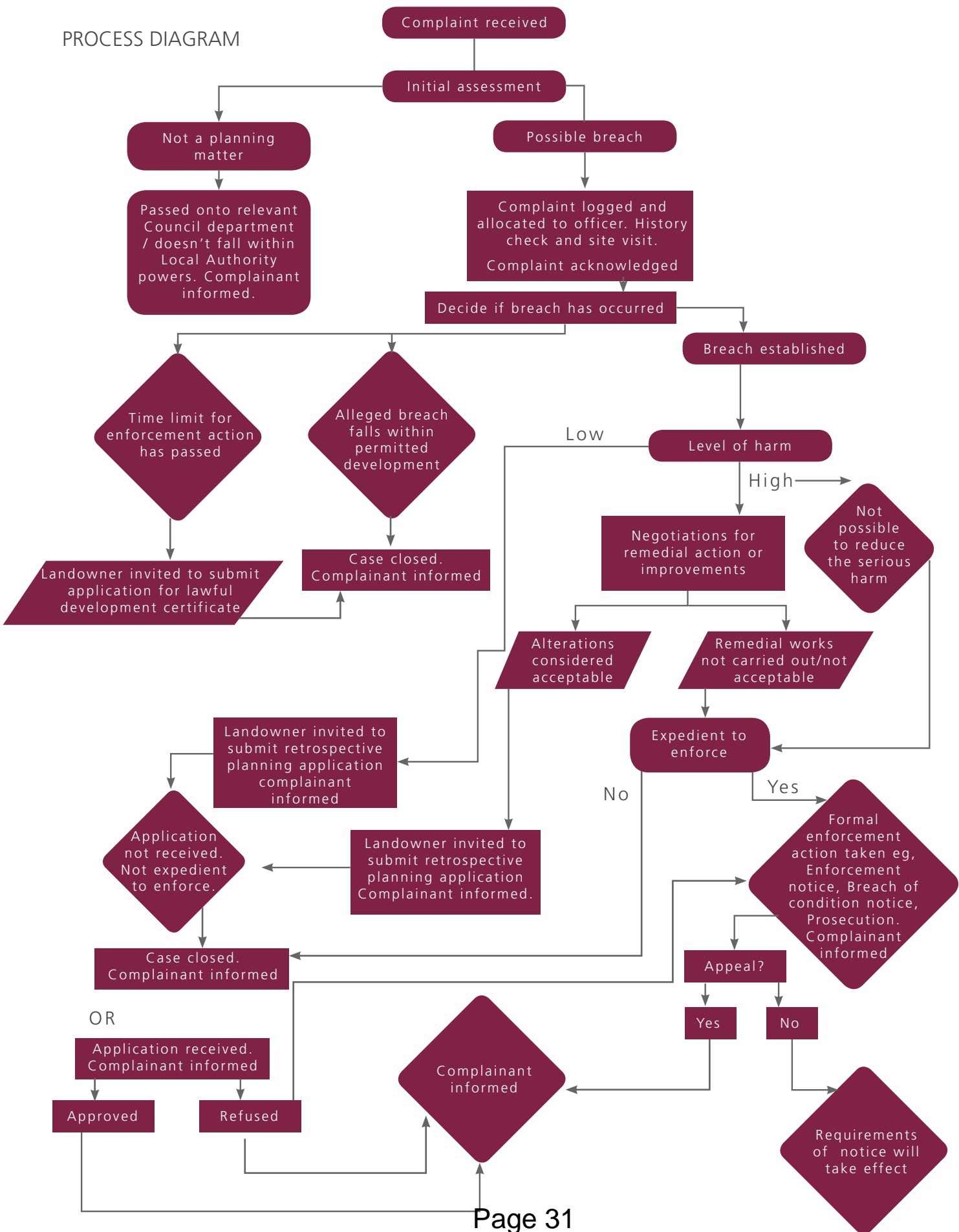
5.1 The process for how the Planning Enforcement Team will respond to an alleged breach of planning control is shown in the flow chart on the next page and as follows:.

5.2 After a valid planning enforcement query has been received it will be logged and allocated with a case reference number. The case will be allocated to a planning enforcement officer to investigate. You will be sent an acknowledgement within 5 working days providing details of the reference number and the name of the case officer.

5.3 In most cases a planning enforcement officer will visit the site to identify whether planning permission or consent is required for the alleged breach. The officer will then consider whether it is likely that permission or consent will be granted.

5.4 Planning enforcement officers value greatly the assistance they receive from the Town and Parish Councils in reporting and monitoring enforcement matters. Officers undertake to keep Ward Councillors and Parish Councils regularly advised of the progress and outcome of cases within their areas.

PROCESS DIAGRAM



5.5 The time within which planning enforcement cases are resolved depends upon a number of factors, such as:

- the level of detail included in the initial complaint
- the type of breach
- the level of harm that the breach is causing
- the evidence required to prove that there is a breach
- the willingness of the developer to aid in our investigations
- the submission of a (retrospective) planning application
- whether an appeal is submitted against an enforcement notice.

5.6 The case officers will update complainants of the progress of all enforcement investigations within 5 weeks, and at key stages of the process, such as the service of an enforcement notice or the receipt of an appeal. For the priority 1 cases (see section 6), the complainant will receive an update within 4 working days.

5.7 The Council aims to resolve most cases within 12 weeks of the date of receipt depending on the factors above. In some cases this will be longer, when the case officer is for example negotiating with a developer about the most effective way to resolve the breach or if an appeal is made. In any event, the case officer will advise on when each enforcement investigation is closed which will include an explanation of the reasons. In some cases it may have been decided to take no further action.

## **6. Our priorities**

6.1.1 Outside of the South Downs National Park, the Council typically receives complaints in excess of 300 alleged breaches of planning control each year. Some of these relate to developments which would not require planning permission. The complainant will be advised quickly if that is the position, and will be given an explanation why it is not possible to pursue any further action. Otherwise, with the aim of providing an efficient service, the Council has adopted a priority system for alleged breaches on the basis of the likely degree of harm.

### **Priority 1**

6.2.1 Reported breaches of planning control that may result in immediate, substantial or irreversible harm will be given the highest priority and a planning enforcement officer will carry out a site visit within one working day of receipt of the report. For example:

- Unauthorised works to listed buildings or ancient monuments
- (substantial) demolition works in a conservation area
- Works to protected trees
- Substantive breaches of a Construction Management Plan.

### **Priority 2**

6.3.1 The Council unfortunately does not have sufficient resources to be able to investigate all alleged breaches immediately. Potentially serious breaches, therefore, will be investigated as soon as possible but normally within 10 working days. Examples of these include:

- Unauthorised residential or commercial development
- Stationing a new residential caravan in the countryside (including gypsy sites and travelling showpeople sites)
- Works not in accordance with a planning permission
- Commencement of development (following the grant of planning permission) without discharging 'pre-commencement' conditions
- Building / engineering works that are causing harm or are likely to cause harm to the landscape, a conservation area, a scheduled ancient monument or a Site of Special Scientific Interest
- Development which is likely to give rise to a serious risk of harm to public safety or compromise highway safety.



## Priority 3

6.4.1 For other, less serious alleged breaches, a planning enforcement officer will normally investigate within 15 working days:

- All other breaches of conditions
- Changes of use not covered by Priority 1 or 2
- Earthworks and changes to land levels
- Display of advertisements
- Agricultural developments
- Equestrian related developments
- Gates, walls, fences
- Satellite dishes
- Untidy land

6.5.1 The planning enforcement officers will, when necessary, collaborate with other departments and public bodies, including the Police, Environment Agency, Hampshire County Council, and our Town and Parish Councils, in order to secure resolutions effectively and efficiently.

## 7. The contravener – what to expect

7.1 The contravener will be told what needs to be done, and by when, to resolve the problem. If the problem persists and is harmful the Council may decide to take enforcement action. If the problem can be resolved with conditions attached to a planning permission, then the contravener will be advised to submit a retrospective planning application. However, it must not be assumed that planning permission will be granted retrospectively.

7.2 If the contravener does not provide the necessary information required to establish whether a breach of planning control has occurred, or the extent of the development, then a Planning Contravention Notice may be served which requires the provision of specific information.

7.3 If enforcement action is taken, information relating to any right of appeal will be provided with the notice served.

## 8. The decision/action

8.1 The Council has a wide variety of enforcement “tools” that can be used if the decision is made to take enforcement action. These can be viewed at [www.gov.uk/guidance/ensuring-effective-enforcement](http://www.gov.uk/guidance/ensuring-effective-enforcement).

8.2 When an enforcement notice is issued it will include the reasons for taking enforcement action, state clearly what must be done to remedy the breach of planning control, and specify the time in which those works must be completed.

8.3 Many cases do not result in enforcement action being taken. Enforcement investigations can be closed for several reasons, such as:

- there is no breach of planning control
- the breach is rectified
- planning permission has been granted retrospectively
- planning permission is not required
- the development has become lawful (due to time elapsed)
- it is “permitted development” authorised by law (e.g. General Permitted Development Order)
- it is not expedient to pursue enforcement action

8.4 Even if a breach of planning control is found to have occurred it is not always expedient to take enforcement action because, for example, the works may be so minor that they do not cause harm. This is a matter of judgement for the Council, and is often referred to as a technical breach of planning control. The Council decides the degree of harm and whether the breach is minor or serious in each case.

8.5 If it is found that the alleged breach is not a planning matter but is nevertheless serious, the Planning Enforcement Team will endeavour to forward it as soon as possible to the relevant team or organisation, and information on who is dealing with it will be provided.

## **9. The appeals process**

9.1 There is a right of appeal to the Secretary of State against an enforcement notice, a listed building enforcement notice and an advertisement discontinuance notice within a specified time frame.

9.2 If an appeal is lodged with the Secretary of State, further enforcement action by the Council regarding this notice is suspended until the appeal decision is issued.

9.3 For information on how to make an appeal against a planning enforcement notice or how to submit comments on an appeal of an enforcement notice please visit: [www.gov.uk/appeal-enforcement-notice](http://www.gov.uk/appeal-enforcement-notice).

9.4 There is a right of appeal to the Magistrate's Court for Section 215 (untidy land) notices. Further enforcement action will be suspended if an appeal is lodged to the Magistrate's Court, pending a decision.

9.5 There is no right of appeal for a temporary stop notice, a stop notice, Section 224 advertisement notice or a breach of condition notice.

9.6 With every notice served, details of any right of appeal will be provided.

## **10. Where an offence is committed**

### **10.1 Prosecution**

10.1.1 It is a criminal offence to carry out works that require listed building consent without getting consent first, or to carry out works to protected trees without prior notification and/or consent. It is also an offence to display some advertisements, or undertake substantial demolition within a conservation area without prior permission. In most other cases a criminal offence only arises when an enforcement notice has been issued, has taken effect and its requirements have not been complied with by the specified date. The planning enforcement officers will apply the two key tests set down in the Code for Crown Prosecutors in deciding whether prosecution is justified: [www.cps.gov.uk/publication/code-crown-prosecutors](http://www.cps.gov.uk/publication/code-crown-prosecutors).

These tests are:

- is there sufficient evidence against the defendant
- is it in the public interest to bring the case to court?

10.1.2 The Council will always try to use its officers as witnesses in Court. However, there will be some cases where it will be necessary to rely on evidence provided by witnesses from outside the

Council. In such cases the case officer will advise the witness of the possible need to attend court and to provide a written witness statement.

10.1.3 The Council will always look to recover costs from the offender where evidence suggests offenders have profited from the illegal works, as a deterrent and to remedy the breach. A charge may be placed on the land to aid future recovery or steps may be taken to seek confiscation under the Proceeds of Crime Act 2002.

## 10.2 Direct Action

10.2.1 The Council will also consider taking direct action to get the breach resolved. This means that the Council will carry out the works and recover the costs from the offender. The Council might need to apply for a Court injunction, for instance to prevent access when works are in progress or unauthorised development or use is anticipated.

## 10.3 Injunction

10.3.1 The Council will also consider injunctive action where a breach of planning control is severe, or there is a threat of it becoming severe, and which can be halted by the successful application to the High Court (or County Court) for an Injunction.

10.3.2 The Council may also consider injunctive action for longstanding cases where the offender has failed to comply with an enforcement notice and the harm is ongoing and now needs to be brought to an end.

10.3.3 The Council may apply for a prohibitive injunction to prevent some action or the continuation of some action or it can also apply for a mandatory injunction to require positive action to be taken.

## 11. Proactive enforcement and compliance

11.1 It is the responsibility of individual developers to comply with the conditions imposed on a planning permission. Failure to comply can affect not only the quality of the environment in the district or the amenity of neighbouring properties but also undermine the reasons and justification for granting planning permission in the first instance.

11.2 The Council has chosen to carry out proactive compliance monitoring to encourage developers to implement developments in accordance with the approved plans and to comply with conditions, so that development remains acceptable in planning policy terms whilst maintaining an attractive, high quality environment. By carrying out proactive compliance monitoring the Council aims to reduce the number of retrospective enforcement complaints received.

11.3 In order to be proactive, but recognising that resources are limited, the Council will operate a risk-based approach in deciding which cases are to be investigated or monitored. This allows the available resources to be deployed in a targeted and focused way. Priority may therefore be given to monitoring the following developments:

- All developments involving 10 or more dwellings or residential development greater than 1 hectare in area
- All commercial developments over 1000sq metres floor area or 0.5 hectares in area.
- All developments subject to a planning agreement (Section 106)
- Particular problematic sites such as those involving significant level changes or contamination.

Any other developments may be inspected on a random basis at any time in order to ensure

compliance.

11.4 Planning enforcement officers also proactively enforce planning decisions in a variety of ways including:

- investigating licensing applications and providing comments
- providing comments on applications for licences for caravan sites, HGV operations, etc.

## **12. Communication**

12.1 In Section 5 it is explained how reports of potential breaches of planning control will be acknowledged, and how the complainant will be advised of progress and of the eventual closure of the case.

12.2 Lists of new enforcement complaints received will be sent on a regular basis to Ward Councillors and Parish Councils, whose assistance in reporting and monitoring enforcement matters is invaluable. Also, Ward Councillors and Parish Councils will be advised regularly of the progress and outcome of cases within their areas.

## **13. Complaints about the Council's Planning Enforcement Service**

13.1 For those who are unhappy about the level of service received from the Planning Enforcement Team or how the process has been managed, then in the first instance the concerns should be discussed with the Team Leader – Enforcement. If this does not resolve the matter, the concerns can be taken further through the Council's Corporate Complaints [www.winchester.gov.uk/about/contact-us/complaints](http://www.winchester.gov.uk/about/contact-us/complaints).

13.2 If still dissatisfied by the Council's response, then the Local Government Ombudsman can be contacted in writing who will determine if the concerns will be investigated. Please note that the Local Government Ombudsman will only investigate if the Council's complaints process has been completed, and will only be concerned that the correct procedures have been followed. The Ombudsman has no power to reverse the Council's decision.

## **14. Monitoring and Review**

14.1 The Team Leader – Enforcement will continually monitor the Enforcement Team's performance in dealing with enforcement matters and will report on a quarterly basis:

- the number of new cases received
- the number of cases closed
- current workload (a running total of live cases)
- the percentage of complaints acknowledged within the time limit
- the percentage of cases closed within the suggested time limit (depending on the priority ascribed to the case)
- a detailed progress report on the longest running cases.

14.2 The Winchester Local Enforcement Plan will be reviewed every two years or more frequently if there is new legislation or Government advice relating to planning enforcement.

## Contact Details

Planning Enforcement Team,  
Winchester City Council,  
City Offices,  
Colebrook Street,  
Winchester,  
Hampshire,  
SO23 9LJ  
Phone: 01962 848480  
Email: enf@winchester.gov.uk

## Other Useful Links

[www.winchester.gov.uk/planning/](http://www.winchester.gov.uk/planning/)

[www.southdowns.gov.uk/planning/enforcement/planning-enforcement/](http://www.southdowns.gov.uk/planning/enforcement/planning-enforcement/)

[www.gov.uk/planning-permission-england-wales/when-you-dont-need-it](http://www.gov.uk/planning-permission-england-wales/when-you-dont-need-it)

[www.gov.uk/guidance/ensuring-effective-enforcement](http://www.gov.uk/guidance/ensuring-effective-enforcement)

[www.winchester.gov.uk/planning/planning-enforcement/hedges/](http://www.winchester.gov.uk/planning/planning-enforcement/hedges/)

[www.winchester.gov.uk/planning/landscape---countryside/hedgerows/](http://www.winchester.gov.uk/planning/landscape---countryside/hedgerows/)

[www3.hants.gov.uk/archives/hals-collections/hedgerows.htm](http://www3.hants.gov.uk/archives/hals-collections/hedgerows.htm)

[www3.hants.gov.uk/roads/apply-droppedkerb.htm](http://www3.hants.gov.uk/roads/apply-droppedkerb.htm)

[www.hants.gov.uk/landplanningandenvironment/strategic-planning/planning-breach](http://www.hants.gov.uk/landplanningandenvironment/strategic-planning/planning-breach)

[www.gov.uk/government/organisations/environment-agency](http://www.gov.uk/government/organisations/environment-agency)

[www.gov.uk/government/organisations/land-registry](http://www.gov.uk/government/organisations/land-registry)

[www.legislation.gov.uk/ukpga/1990/8/contents](http://www.legislation.gov.uk/ukpga/1990/8/contents)

[www.gov.uk/government/publications/national-planning-policy-framework--2](http://www.gov.uk/government/publications/national-planning-policy-framework--2)

[www.gov.uk/government/collections/planning-practice-guidance](http://www.gov.uk/government/collections/planning-practice-guidance)

# Appendix 1

## What is a breach of planning control?

A breach of planning control occurs when operational development (building or other works) or a material change of use of land or a building takes place without planning permission. Examples of breaches of planning control are:

- Not building in accordance with approved plans (following the grant of planning permission);
- Failing to comply with conditions attached to a planning permission;
- Carrying out development which is not permitted because an Article 4 Direction has been made;
- Unauthorised works to listed buildings;
- Unauthorised demolition within a conservation area;
- Unauthorised works to trees subject of a Tree Preservation Order or in a conservation area;
- Engineering operations, such as the raising or lowering of ground levels and the formation of earth bunds, carried out without the benefit of any necessary planning permission;
- Display of an advertisement without the benefit of any necessary advertisement consent;
- Failure to properly maintain land so that it affects the amenity of the area;
- Failure to comply with a S106 legal agreement/undertaking;
- Unauthorised building works or changes of use of buildings or land;
- The formation of a new access or the alteration of an existing access on to a trunk road or a classified road (an A, B or C class road).

## **Matters that are not breaches of planning control**

Examples include:

- Internal works to a non-listed building;
- Obstruction of a highway or public right of way;
- Parking commercial vehicles on the highway or on grass verges;
- Parking caravans on residential driveways or within the curtilage of domestic properties as long as they are incidental to the enjoyment of the property;
- Operating a business from home, where the residential use remains the primary use of the property and there is no significant impact on residential amenity or the character of the area;
- Boundary or land ownership disputes – these are a civil matter and cannot be controlled by planning legislation;
- Covenants imposed on property Deeds;
- Any development that is deemed to be 'permitted development' under the Town and Country Planning legislation
- The formation, laying out and construction of a means of access to a highway which is not a trunk road or a classified road;
- Clearing land of overgrowth, bushes or trees (provided the trees are not subject to a Tree Preservation Order or within a conservation area);
- Advertisements that are either excepted from deemed or express consent under the Town and Country Planning (Control of Advertisements)(England) Regulations 2007 (as amended)
- Dangerous structures – these are dealt with by the Council's Building Control Division
- High hedge disputes - these are dealt with by the Planning Enforcement Team under Part 8 of the Anti-Social Behaviour Act 2003;
- The removal of countryside hedgerows – these are dealt with by the Council's Landscape and Open Space Team under The Hedgerows Regulations 1997





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Winchester  
City Council

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