

## Select Committee Agenda



### **Stronger Place Select Committee Monday, 29th March, 2021**

You are invited to attend the next meeting of **Stronger Place Select Committee**, which will be held at:

**Virtual Meeting on Zoom**  
on **Monday, 29th March, 2021**  
at **7.00 pm**

**G Blakemore**  
Chief Executive

**Democratic Services  
Officer**

Laura Kirman  
Email: [democraticservices@eppingforestdc.gov.uk](mailto:democraticservices@eppingforestdc.gov.uk)

#### **Members:**

Councillors S Heather (Chairman), R Morgan (Vice-Chairman), R Bassett, L Burrows, I Hadley, S Heap, J Jennings, S Jones, H Kauffman, C McCredie and J McIvor

**SUBSTITUTE NOMINATION DEADLINE:**

**6:00 pm**

#### **1. WEBCASTING INTRODUCTION**

This meeting is to be webcast. Members are reminded of the need to activate their microphones before speaking. The Chairman will read the following announcement:

“The Chairman would like to remind everyone present that this meeting will be broadcast live to the internet (or filmed) and will be capable of repeated viewing (or another use by such third parties).

If you are seated in the lower public seating area it is likely that the recording cameras will capture your image and this will result in the possibility that your image will become part of the broadcast.

This may infringe your human and data protection rights and if you wish to avoid this you should move to the upper public gallery.”

#### **2. APOLOGIES FOR ABSENCE**

#### **3. SUBSTITUTE MEMBERS**

To report the appointment of any substitute members for the meeting.

**4. DECLARATIONS OF INTEREST**

To declare interests in any item on the agenda.

**5. NOTES OF PREVIOUS MEETING (Pages 3 - 8)**

To agree the notes of the meeting of the Select Committee held on 12 January 2021.

**6. TERMS OF REFERENCE & WORK PROGRAMME (Pages 9 - 10)**

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference and work programme for this select committee. Members are invited at each meeting to review both documents.

**7. SHELTERED HOUSING (Pages 11 - 22)**

To consider the attached report.

**8. LOCAL ENFORCEMENT PLAN (Pages 23 - 46)**

To consider the attached report

**9. THE GREEN INFRASTRUCTURE STRATEGY (Pages 47 - 56)**

To consider the attached draft Cabinet report. Appendices to the draft report form a supplementary agenda.

**10. DATES OF FUTURE MEETINGS**

To note that future meetings of the Select Committee will be held at 7.00pm on 22 June 2021

**EPPING FOREST DISTRICT COUNCIL  
NOTES OF A MEETING OF STRONGER PLACE SELECT COMMITTEE  
HELD ON TUESDAY, 12 JANUARY 2021  
IN VIRTUAL MEETING ON ZOOM  
AT 7.00 - 7.55 PM**

**Members Present:** S Heather (Chairman), R Morgan (Vice-Chairman), R Bassett (Member), L Burrows, I Hadley, S Heap, J Jennings, S Jones, J H Whitehouse and J McIvor

**Other members present:** J Philip, N Bedford, H Whitbread, S Rackham, A Patel and R Brookes

**Apologies for Absence:** C McCredie

**Officers Present** N Dawe (Chief Operating Officer), A Blom-Cooper (Interim Assistant Director (Planning Policy)), N Richardson (Service Director (Planning Services)), Q Durrani (Service Director (Contracts & Technical Services / Commercial & Regulatory)), L Kirman (Democratic Services Officer), R Perrin (Democratic and Electoral Services Officer) and A Buckley (Communications Officer)

## **27. WEBCASTING INTRODUCTION**

The Chairman made a short address to remind all present that the virtual meeting would be broadcast on the Internet, and that the Council had adopted a protocol for the webcasting of its meetings.

## **28. SUBSTITUTE MEMBERS**

The following substitution was reported:

That Councillor Janet Whitehouse was substituting for Councillor C McCredie.

## **29. DECLARATIONS OF INTEREST**

- (a) Pursuant to the Council's Members' Code of Conduct, Councillor R Basset declared a non-pecuniary interest in agenda item 10, Demand Responsive Transport, by virtue of being the Chairman of Trustees for Epping Community Transport.

## **30. NOTES OF PREVIOUS MEETING**

**Resolved:**

- (1) That the minutes of the last meeting held on 29 September 2020 be taken as read and signed by the Chairman as a correct record.

## **31. TERMS OF REFERENCE & WORK PROGRAMME**

Cllr Janet Whitehouse suggested that the large number of items on the work programme was unmanageable and that there was an imbalance in the works

streams between the select committees. The Chairman advised that the Agenda Planning Group would address any disparity in the work programmes.

The Select Committee noted its Terms of Reference and work programme.

### **32. LOCAL PLAN UPDATE**

Cllr Bedford provide an update on the Local Plan and the Interim Air Quality Mitigation Strategy (AQMS), which had been reviewed by the Overview and Scrutiny Committee on 7 January 2021. He clarified that several mitigation measures including the potential for a Clean Air Zone (CAZ) from 2025 had been included as part of the AQMS. No charges or decisions on the form of Clean Air Zone had been agreed. He outlined that the adoption of the AQMS was a way to enable the Council to determine planning applications that had been held in abeyance since June 2018.

The Interim Assistant Director, Planning Policy and Implementation, A Blom-Cooper advised members of the MCHLG consultation on further permitted development rights was open for comment until 28 January 2021. These proposals would give a new national permitted development right for a change of use from commercial, business and service use class to residential use. It would go significantly beyond existing rights, allowing for restaurants, indoor sports, and creches to benefit from the change use to residential under permitted development rights for the first time and would have implications for High Streets including those in conservation areas. Other proposals include; a streamlined planning application process for public service infrastructure projects; and a simplification and consolidation of existing permitted development rights.

Cllr Rackham asked if there would be some communication on the CAZ as she had received a range of queries from residents. Cllr Bedford advised that there would be a press release to set out the facts and address the misinformation that had been circulated. The proposed mitigation measures were similar to those developed by LB Redbridge with Natural England and a recent High Court judgement had shown these to be, wholly appropriate for the protection of the Forest. He suggested that the Green Party wanted the additional mitigation measures in the Interim AQMS.

Cllr Heap agreed that there was no mention of any sums of money in relation to the CAZ. He advised the Green Party approved of anything that helped the Forest, but that scientific aspects did not cover all the chemicals that could cause harm. He submitted that the CAZ would split the district and acknowledged that whilst the tube was an option for some residents, there were limited transport links especially in Waltham Abbey. He suggested the CAZ could not be delivered and should not be compared to LB Redbridge as a unitary authority. He stated that some residents felt this was a tick box exercise to give planning permission and referenced Dowding Way and requested greater transparency in relation to Trinity Hall. He summarised that the Green Party would support anything that protected the Forest and people, but not in this way, and advocated that more buses were required.

Cllr Bedford advised that this had been debated at Overview and Scrutiny on 7 January 2021 and reiterated that a series of mitigation measures, agreed by Natural England, had been put forward similar to those approved by Judicial review in Redbridge. The scientific experts had provided a full and robust explanation of the impact of the relevant chemicals. He suggested that over the next few years, with a change in attitude to public transport and a shift from fossil fuel vehicles, air quality targets could be met without the need for a CAZ. He advised that Air Quality

measures needed to be in place to progress developments in the district and to build homes that people wanted and could afford. The Local Plan needed to be approved, to avoid potential Government intervention and the imposition of higher housing targets. He agreed that more buses were required, and that pressure would be put on Essex County Council to meet stringent air quality standards. Cllr Bedford stated that the Chairman of Quails, retired as the Bursar of Trinity Hall a year ago.

Cllr Philip reminded the Committee that the Interim AQMS was to address the air quality impact on Epping Forest Special Area of Conservation (SAC) and not just linked to the new Local Plan. Natural England, the Government's appointed body for conservation matters, had advised the Council in June 2018 that all planning applications for residential or employment purposes need to have a project level Habitats Regulations Assessment to assess whether the proposal would result in an increase in traffic on roads in close proximity to the Epping Forest SAC. Without appropriate mitigation measures to address the impact on air quality the Council had been unable to grant planning permission for any increase in the number of residencies and it was imperative to work with them. The Interim AQMS would allow the Council to grant planning permissions for those applications, granted approval at Committee. The Interim AQMS would form part of the package of information to support the main modifications (MMs) consultation which would be undertaken shortly to complete the examination of the Local Plan.

Cllr Philip advised that the AQMS was not an overarching strategy and agreed that emissions were important and would be considered in the forthcoming sustainable transport and climate strategies.

Cllr Basset requested an outline of the timetable in relation to the main modifications (MMs) consultation of the Local Plan and details of the scrutiny process for the final Green Infrastructure Strategy.

The Interim Assistant Director advised the Council was still waiting for the Inspector's response on the proposed MMs which had been submitted to her in September and reminded the Committee that the consultation would be the Inspector's consultation. The process would be supported by Council officers and provide an opportunity for comments on the MMs. The key elements for the Local Plan timetable were the agreement of MMs; followed by consultation for a six-week period. The Inspector would prepare her final report after consideration of representations and any additional information or hearings if required. If her report concludes that the plan was sound the Local Plan would then come back to the Council for adoption. The timescales were dependent on the outcomes of the different stages and Members would be advised when this was available.

Scrutiny of the Draft Green Infrastructure Strategy had occurred in 2020 and there had been full public consultation for six weeks when 175 responses and 900 comments were received. The analysis and how the comments had been addressed would form an appendix to the Cabinet report in March. Details of the Suitable Alternative Natural Greenspace (SANG) approach would be discussed and finalised with Natural England and the Conservators of Epping Forest before inclusion in the final report. This this would feed into the MMs the Inspector had requested in relation to the provision of SANG across the District in the first 5 years of the Local Plan.

**Resolved:**

- (1) That the Committee noted the progress report on the emerging Local Plan.

**33. LEISURE MANAGEMENT CONTRACT**

The Service Director, Contracts and Technical Services. Q Durrani, updated the members on the challenges associated with the Leisure Contract through the COVID restrictions and leisure centre closures. He advised on the revenue pressure associated with the loss of income and payments to the contractor to ensure the viability of the leisure centres and support the Council's commitment to health and well-being.

Cllr Brookes asked about financial support and grants to alleviate the cost burden of leisure facilities through the lockdown. Q. Durrani advised that there were a variety of options and that all avenues of support were being explored, and a new submission would be made to Sport England. Cllr Philip confirmed that the assumptions on the grants received from the Government in relation to leisure had been included in the figures reported to Cabinet on 22 December 2020.

**RESOLVED:**

- (1) That the operational update on the Leisure Management Contract be noted.

**34. WASTE MANAGEMENT CONTRACT**

The Service Director, Contracts and Technical Services. Q Durrani, informed the Committee that Biffa, the waste contractor, had managed the operations effectively through the COVID pandemic and had addressed operational issues, maintained safe working practices for their staff and used their commercial wing to support the waste collection service. Waste and recycling had increased, and the increased volumes of cardboard had increased the number of trips. Mr Durrani advised that additional costs linked to the pandemic had been claimed. He also reminded the Committee that the contract was a 10 year contract with the potential to extend for a further 10 years and there would be changes to the contract in due course.

The Committee congratulated Biffa on delivering an effective waste and recycling collection service through the pandemic and acknowledged issues relating to increased cardboard and packaging.

Cllr Brooks asked if the contractor had requested additional funding. Mr Durrani explained that through effective client, contractor relationship had ensured that additional costs had been contained to those that could be reclaimed by the Council and Cllr McIvor asked how the additional costs of Biffa were calculated. Mr Durrani advised the Committee that the current contract had a mechanism to ensure any additional income from recycling materials was shared between the Contractor and the Council, any increased waste was included in the contract. Biffa had justified all additional costs this included additional mileage, fuel and disinfection costs .

Cllr Philip commented that the Waste Management Partnership Board received details of the operational challenges, mitigation and costs pressures from the contractor.

Cllr Patel asked if the committee could be advised on the Council's performance in relation to recycling, the potential for glass and new material recycling and if waste collection vehicles and staff could be used for road condition surveys and to support Council initiatives. Mr Durrani advised that glass was collected and that new

materials for recycling were included in communications. He highlighted that due to increased awareness associated with climate change the waste hierarchy was focused on reducing waste. Mr Durrani acknowledged that other authorities did use vehicles and staff for wider purposes and suggested that these and other social value elements would be considered when the contract was reviewed

Cllr Heap suggested a way forward was to reduce use packaging in the first instance.

**RESOLVED:**

- (1) That the operational update on the Waste Management be noted;
- (2) To commend Biffa for their commitment and performance through COVID pandemic; and
- (3) To note that the Waste Management Partnership Board review the performance of the waste and recycling contract

**35. DEMAND RESPONSIVE TRANSPORT (DRT)**

The Service Director, Contracts and Technical Services, Q. Durrani advised the Committee that Cabinet had approved funding for a three month trial for Demand Responsive Transport (DRT) in December 2020. The DRT was launched on 2 January 2021 in partnership with Epping Forest Community Transport and ran along the old Bus route 87. This service had passengers, primarily from the NHS on every journey. People were able to register an expression of interest in the service through an on-line form and there had been interest from residents in the rural areas along the route. COVID restrictions had limited the number of passengers on the vehicle and this could present a viability challenge for the service. Usage data would be collected and a report on the outcome of the trial would be reported to Cabinet.

Cllr Bassett advised that DRT was the way forward and when people were familiar with the booking system the service would be provided to match demand.

Cllr Jennings, welcomed the DRT service and commented that the three months would not be typical, due to lockdown travel restrictions. She questioned if the off-peak service was responsive and why customers needed to complete such a complex and lengthy form to register. Mr Durrani advised the peak service was bookable and responsive and the off-peak service was scheduled on 1 hour timetable, like the previous number 87 bus as Cabinet had felt it was important to maintain this service. Mr Durrani stated that he would review the form and explore options for non-digital completion and explained that the membership form was a requirement of the way the service was operated.

Cllr Basset advised that community transport could be contact directly by phone and would address any issues.

Cllr Heap suggested this model could be presented to Essex County Council. Cllr Philip detailed that this was a trial and DRT could be a future option for transport. He acknowledged that the lockdown could impact on the DRT trial but suggested it was better to run the service through the pandemic rather than delay the start.

**RESOLVED:**

- (1) To note the commencement of the trial of Demand Responsive Transport (DRT).

**36. DATES OF FUTURE MEETINGS**

It was noted that the next meeting of the Select Committee would be held on 29 March 2021 at 7.00pm.

**Stronger Place Select Committee  
Work Programme 2020/21  
Chairman: Cllr S Heather**

**Stronger Place Corporate Programme Alignment focuses on corporate objectives and our response to Covid-19 recovery.**

<b>No.</b>	<b>Item</b>	<b>Deadline</b>	<b>Progress and Comments</b>	<b>Owner (Officer)</b>	<b>Programme of Meetings</b>
1.	Covid-19 – Place	July 2020	COMPLETED - To include reference to: (a) Business support – grant (b) Safer spaces (c) General economic measures and support (d) Local economic business recovery		9 July 2020 29 Sept 2020 12 Jan 2021 29 March 2021
		September 2020	COMPLETED (a) Covid-19 recovery update (b) Safer place (c) Current statistics		
		January 2021	(a) Covid-19 recovery update		
2.	Economic Development: Growth/skills/employment programme	September 2020	DEFERRED to January 2021 (a) Local economic business recovery and resources		
		January 2021	(a) Local economic business recovery and resources (b) Economic improvements (c) Town centre regeneration (d) Digital enablement and gateway		
3.	North Weald Airfield Masterplan Local Plan – update (previously)	July 2020	COMPLETED - To include: (a) Progress / update		
		July 2020	(a) Local Plan progress report including Garden Town and Latton Priory (b) Green Infrastructure consultation update		
	Planning Development and Improvement programme	September 2020	COMPLETED (a) Local Plan Progress report		
		January	COMPLETED (a) Local Plan progress report (b) Green Infrastructure Strategy (c) North Weald Airfield Masterplan progress report		

4.	Climate Change (previously)	July 2020	COMPLETED (a) Climate Change and Sustainable Travel update including recruitment (b) Update on tree planting initiatives		
	District Sustainability programme	September 2020	COMPLETED (a) Draft Sustainability Guidance for the District and Harlow Garden Gilston Town		
5.	Epping Town sites (previously)	July 2020	COMPLETED - Progress / update		
	Town Centre Development	September 2020	(a) Progress Report (re. Council as the landowner)		
		January 2021	COMPLETED (a) Leisure Management Contract - performance and progress update (b) Waste Management Contract - performance and progress update		
6.	Sheltered Housing Review (previously)	July 2020	COMPLETED - Report and update		
	Community Health and Wellbeing Programme	September 2020	COMPLETED - (a) Service charges review		
		March 2021	(b) Sheltered Housing	Deb Fenton	
7.	Council Housebuilding programme	July 2020	COMPLETED - Provide plan for 2020/21		
		September 2020	COMPLETED - (a) Council housebuilding progress report (and link to creating Great Places programme)		
		January 2021	Draft Housing Revenue Account (HRA) Capital Programme 2021/22 to 2025/26		



## SCRUTINY



## **Report to Stronger Place Committee**

**Date of meeting: 30<sup>th</sup> March 2021**

**Portfolio: Housing and Community Services  
Councillor H Whitbread**

**Subject: Furniture Leasing Scheme (Older Persons Sheltered Housing Schemes)**

**Officer contact for further information: Deborah Fenton – Director HRA Functions**

**Democratic Services Officer: L Kirman (01992 564273)**

Appendix 1 - Examples of newly furnished older persons housing schemes

Appendix 2 – Work programme

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### **Recommendations/Decisions Required:**

- 1) To note the progress with regards to the Older Persons Housing work programme.
- 2) To recommend that the proposed furniture leasing scheme with Buckingham Interiors for approval.

### **Report:**

#### **1. Background**

Epping Forest District Council invited ARK to undertake a review of its sheltered housing. The principal focus of this assignment was to review the performance and sustainability of the Councils sheltered housing schemes. This resulted in a work programme which is presented to this committee. This report provides an update on the key points in the work plan and any proposals which would require an approval by Cabinet

#### **Leasing Scheme**

2. Although not expressly covered in the report, our sheltered housing schemes are extremely dated and do not currently present as an attractive option for older people. As such, officers have researched the options to refurbish the communal areas of our sheltered housing stock to include the upgrade of fixtures, fittings, and redecoration. Officers have started work with an organisation called Buckingham Interiors, who are a bespoke company who provide leased furniture specifically for older people. The organisation is owned by FRC Group, which is a collection of leading social businesses, all commercially successful, all not-for-profit, which gives people in poverty and unemployment an opportunity to change their lives. They have won several awards and are continually looking for new ways to create practical solutions to get furniture to those in need and create sustainable livelihoods and futures for people. If approved, Buckingham Interiors, would provide an interior design service which would consist of mood boards. The mood boards contain samples of fabric, curtaining, carpet etc. and this would be used to form the basis of extensive consultation with residents. EFDC will be funding the decoration of each scheme based on the specification of colours provided by the design team. EFDC would lease the furniture from Buckingham Interiors over a period of 5 years. After which we can take ownership of the furniture or opt to refurbish the scheme again. Examples of the work

undertaken by Buckingham interiors and the look we will achieve for our sheltered schemes can be found in **appendix 1**.

3. This leasing scheme has been undertaken by other local councils and housing providers and it will allow EFDC to provide an interior design within its sheltered housing schemes, which is to a high standard without a capital outlay.
4. The financial arrangements consist of payments for the lease of the furniture made over a five-year period. This will be raised from a new component added to the service charge to cover the leasing charge, administration and 10% for replacement furniture (damage or breakages). There will be no financial detriment to current tenants as a result of the scheme. This is because the leasing of furniture is subject to housing benefit subsidy therefore, those tenants on full housing benefit would have the cost covered by their benefit entitlement. Those tenants who are on partial benefit or are full rent payers will have the charge debited and then credited to their rent account. The cost of the leasing scheme for tenants not on benefit, will be covered by the surplus gained from the replacement fund. This has worked extremely well in other organisations.

### **Warden Call System**

5. Due to the national infrastructure changing from analogue to digital, all the warden call systems will need to be upgraded. Officers have recently soft tested the market and have invited three providers to give a demonstration of their equipment. Two different systems are available to provide the service required. Following the demonstrations officers will decide which type of service is required and a tender process will begin. A report will then be presented to this Committee.

### **Impact of reducing age to 55+**

6. Officers have reviewed the impact of reducing the minimum age to 55+. The impact of the work programme and the upgrades to the schemes need to be embedded prior to any decision on the age criteria.

### **Redevelopment of communal lounges**

7. A scope of works has been produced for the redevelopment of smaller second lounges at Buckhurst Court, Jessop Court and Leonard Davis, into accessible accommodation. In order to progress this work officers will need to review the access arrangements at the schemes. At present automatic doors are not fitted at the main entrances, as such the accessible units would not be able to be used for the intended purpose. The review of the entry doors will be added to the work plan.

### **Reason for decision:**

Members are asked to recommend that the leasing scheme is progressed to Cabinet for approval. This would enable the Council's sheltered housing schemes to be given a much-needed upgrade. Furthermore, at a nil capital cost for the fixtures and fittings to EFDC and no cost to current tenants.

In addition, committee are asked to note the progress to the work plan.

### **Options considered and rejected:**

Officers considered whether to put in a business case for purchasing the furniture, this was rejected due to the huge capital outlay and the opportunity that leasing would bring in terms of a relatively quick refurbishment of schemes.

**Consultation undertaken:**

Buckingham Interiors will support officers in the consultation with the residents on colours and styles. Residents may be able to try out the chairs and furniture being considered for their scheme may, subject to covid restrictions.

**Resource implications:**

It is proposed that 2 sheltered housing schemes are renovated each year. The cost to the Council would be the internal decorations of the sheltered schemes for which there is existing budget provision.

**Legal and Governance Implications:**

Buckingham Interiors are on a number of frameworks and officers will consult with the procurement team to ensure the policy requirements are met.

**Safer, Cleaner, Greener Implications:**

The furniture provided by Buckingham Interiors is manufactured in the UK. In addition, support would be given to re-use our old furniture, either through the local re-use scheme of the FRC Groups recycling scheme.

**Background Papers:**

NA

**Impact Assessments:**

Attached

***Risk Management:***

Should the project not go ahead there is a risk that the schemes will become more difficult to let resulting in rent loss.

## Appendix 1: Examples of schemes refurbished by Buckingham interiors – Appendix 1

### Overview

In the initial meeting between Buckingham Interiors and Plus Dane, 4 mood boards were selected alongside a Plus Dane Furniture range that was chosen by the Buckingham Interiors and Plus Dane's senior staff. These were later presented to residents at each scheme by our in house experts.

Our resident consultations involved taking samples of the furniture and the mood boards to each scheme. We then ran through the various options with the residents. This allowed the residents to be fully involved in the whole process of refurbishing their schemes. There was a complete buy in from the residents throughout the three schemes, who interestingly voted unanimously in favour of one mood board at each scheme. For example, all residents at Vienna Court chose the New England mood board to base the interior design off.





## Brief

B3 Living have nine dedicated schemes for older people in Hertfordshire. The schemes are not difficult to let but B3 Living wanted to refurbish the properties to provide better homes for their residents. B3 Living had a full budget available to modernise and upgrade the structure of the properties and they were looking for innovative ways to fund new fixtures and fittings, and to provide better homes. The client needed a full interior design service and new fixtures and fittings with new furniture for the communal living and dining areas, and the reception.



## Overview

We delivered a full resident and staff consultation with a detailed interior design service. We designed a complete scheme, including wall and floor coverings, and suggested structural changes to divide communal rooms to meet the residents' needs. We liaised with contractors and gave them the paint and flooring schedules. We provided furniture for the communal lounge, dining area, games area and bistro / computer area and all corridors. This included tub chairs, bistro and dining tables, easy chairs and sofas, plus sideboards and artwork.



## Feedback

Deborah Fenton, B3's Head of Support and Rehousing said:  
**"We were delighted to find out that Buckingham Interiors design service was not only cost effective, but also created a beautiful scheme. By leasing the furniture, we are now looking at the option of developing further schemes with Buckingham."**

Maureen Preedy Independent Living Team Leader at B3 said:  
**"Buckingham Interiors completed the brief on time and on budget, and we're really pleased with it."**

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## Appendix 2: Sheltered Housing Review - Action Plan

No.	Action	Action description / objective	Target / success measure	Deadline	Officer responsible
<b>Recommendation 1: Take forward proposals for remodelling and redevelopment</b>					
1.1 Mid term	Install wifi in sheltered housing schemes	Explore cost to install wifi in communal areas vs throughout whole schemes – liaise with IT for installation & incl appropriate cost in service charge (being reviewed by DF)	Available wifi in all communal areas at least, ideally throughout whole schemes	Q3 -Q4 2020/21	L1 Team Manager – Older Peoples Services (OPS)
1.2 Long term	Upgrade warden call equipment	Upgrade warden call equipment at all schemes	Equipment upgraded	2022/24	L1 Team Manager – Older Peoples Services Q2 21/22
1.2a Mid term sub action	Presentation from 3 main telecare suppliers plus one other (wildcard)	Presentation on adaptable and sustainable assistive technology for sheltered housing schemes to enable move from analogue to digital	Presentation taken place	Q3 2020/21	L1 Team Manager – Older Peoples Services
1.2b sub action	Procure warden call alarm Supplier	Tender for the work to upgrade the warden call system	Award contract	2021/22	L2 Service Manager and L1 Team Manager
1.3 Long term	Redevelopment of schemes as per Ark recommendations	Redevelopment of sites categorised as red and amber	Sites redeveloped	2021/22	L1 Team Manager – Assets

No.	Action	Action description / objective	Target / success measure	Deadline	Officer responsible
<b>Recommendation 2: Work with residents to develop forward-looking and sustainable standards that improve the quality, suitability and desirability of schemes</b>					
2.1 Short term	Consultation	Consult with residents to gain tenants' views on future use of facilities, delivery of support service and accessibility/security of schemes.	Completed consultation(s) with results analysed.	Q4 2021/22	L1 Team Managers Older Peoples Services and Hsg Strategy
2.2 Mid term	Modernise communal facilities	With resident involvement create a more modern look for communal facilities & pilot in one scheme with view to roll out over others	Modernised communal facilities that encourage greater use and maximise desirability of schemes.	2021/22	L1 Team Manager – Older Peoples Services
2.3 Mid term	Include dementia friendly décor	Dementia friend décor in one scheme as a pilot	One scheme dementia friendly to enable independent living for longer (view to roll out over schemes where appropriate)	2021/22	L1 Team Manager – Older Peoples Services
2.3a Short term sub action	Research dementia friendly décor	Look at dementia friendly décor (in response to ageing well agenda) – district has an ageing population.	Savings made to residential care as we support people to live independently for longer.	Q3-4 2020/21	L1 Team Manager – Older Peoples Services

No.	Action	Action description / objective	Target / success measure	Deadline	Officer responsible
<b>Recommendation 3: Improve the approach to asset management</b>					
3.1 Mid term	Introduce a planned maintenance programme	Programme to include sufficient investment to ensure schemes' future sustainability compliance with the Decent Homes Standard	A planned maintenance programme put in place	2021/22 Timescale from KL	L1 Team Manager – Assets
3.2 Mid term	Identify trends in repairs	Ensure there is robust repairs data to identify trends that inform future investment plans	Repairs data feeds into future investment plans	2021/22	Repairs Manager – Qualis Management

No.	Action	Action description / objective	Target / success measure	Deadline	Officer responsible
<b>Recommendation 4: Improve demand for sheltered housing</b>					
4.1 Short term	Consider impact of reducing offer to 55+	Carry out research to establish impact if we were to amend our offer to over 55s.	Outcome of research and recommendation taken to Cabinet	Q3-4	L1 Team Manager - Rehousing L1 Team Manager OPS
4.1a sub action	Identify any difficult to let properties within schemes	Identify the sheltered schemes and stock that is harder to let using lettings information	List of harder to let properties	Q3 21/22	L1 Team Manager - Rehousing
4.1b sub action	Review of allocation criteria	Review allocation criteria to enable access to the supplementary waiting list to over 55s (with some form of local eligibility criteria)	Review and consultation on proposed changes	2021-22	L2 Service Manager – Needs & OPS
4.2 Short term	Capture information on refusals	Gather reason tenancies have ended and general satisfaction levels with accommodation	Spreadsheet detailing reasons for refusals	Immediate and ongoing	L1 Team Manager - Rehousing
4.2a sub action	Analyse refusal data	Analyse data – to find areas of improvement for void times, quality, desirability and tenancy sustainment	Reasons for refusals listed and analysed to inform allocations scheme review 21/22	Q4	L1 Team Manager - Rehousing
4.3 Short term	Improve marketing and promotion of schemes	Add photos of schemes and more details to Locata	Increased interest in schemes and reduce void time	Q2-3 2020/21	L1 Team Manager Rehousing L1 OPS
4.3a sub action Mid term	Marketing campaign	Establish a marketing campaign for sheltered schemes to encourage downsizers	Campaign launched. Increase in downsizers freeing up family sized stock	2021/22 Q3	L1 Team Manager – Older Peoples Services

No.	Action	Action description / objective	Target / success measure	Deadline	Officer responsible
<b>Recommendation 5: Improve the financial performance of schemes</b>					
5.1 Short term	Review use of guest rooms	Ensure approach to letting guest rooms balances their objective – include in consultation (no.2)	Analysis results of consultation	Q4 2021/22	L1 Team Manager – Older Peoples Services
5.2 Mid term	Review service charges	Service charge needs to be comprehensive and transparent to tenants	Benchmark exercise taken place and service charges adjusted accordingly. Charges presented clearly to tenants	2021/22 Timescales from DF	L2 Service Manager
5.3 Mid term	Undertake feasibility study into redeveloping communal lounges	Study includes second communal lounges at Buckhurst Court, Jessop Court and Leonard Davis House into accessible flats	Results stating whether redevelopment is feasible	2021/22	L1 Team Manager – Assets
5.3a sub action	Redevelopment of communal lounges	Redevelop second lounges at identified schemes into Fully accessible flats	Properties available for letting	2022/23	L2 Service Manager - Assets

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## SCRUTINY



### **Report to Stronger Place Select Committee**

**Date of meeting: 29 March 2021**

**Portfolio: Planning and Sustainability (Cllr Bedford)**

**Subject: Review of Local Enforcement Plan**

**Officer contact for further information:** Jerry Godden 01992 564498

**Democratic Services Officer:** Laura Kirman (01992 564342)

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#### **Recommendations/Decisions Required:**

- 1 To consider the Local Enforcement Plan and endorse stakeholder consultation**
- 2 To recommend the adoption of the Local Enforcement Plan to the Portfolio Holder for Planning and Sustainability.**

#### **Report:**

1. The Council formally adopted the Local Enforcement Plan (LEP) on 16 October 2013 with an addendum on 11 December 2013. This was in accordance with the suggestion under Section 207 of the National Planning Policy Framework (NPPF) that such a plan should be adopted by Councils as part of the overall policies that are relevant for Planning and Development Management.

2. The LEP states the authority's policy for taking effective enforcement action when justified on the evidence gathered by Officers. The Plan sets out the principles of good enforcement and investigation and explains what will and will not be investigated. The Plan sets out the priorities for responses to complaints and clarified the timescales for response by officers. The Planning Enforcement Team receives a high number of allegations of breaches of planning control, and it is impossible to investigate all of these allegations with equal priority. Resources are limited, therefore the LEP makes clear what breaches are and the prioritisation involved.

3. A review of the LEP was carried out in 2018, five years after its adoption. Whilst there were no significant changes to planning legislation (in respect of enforcement) in this time the NPPF had been updated and the suggestion for authorities to adopt an LEP was now contained in Section 58 of the NPPF. Various minor changes were incorporated as a result of the review and this new version was adopted in February 2019.

4. This current review has come about due to the ongoing transformation of Council services and changes within Planning Services over the last 18 months and is an opportunity to incorporate technological changes, performance management systems and revised timescales for investigations into the document bringing it up to date.

5. All District Councillors, Town and Parish Councils will be consulted as part of the review process. If there are no significant changes recommended by stakeholders that need to be considered as a result of the consultation it is recommended that the updated LEP can be signed off for adoption by the Portfolio Holder.

#### **Reason for decision:**

Adopting the revised LEP gives the Enforcement Section, Councillors, Local Councils, member of the Public (including complainers and complained about) and Planning

professionals a simple yet comprehensive document which lays out what they can expect from the Planning Enforcement Section and for them to be able to hold the section to account if the service received does not accord to that laid down in the LEP.

**Options considered and rejected:**

1. To not update the LEP – this would leave the Council vulnerable to challenges in enforcement action and cause confusion to all parties. This is not a viable option

**Consultation to be undertaken:**

All District Councillors, Town and Parish Councillors

**Resource implications:**

Budget provision: Nil

Personnel: Nil

Land: Nil

**Legal and Governance Implications:**

This would allow a up to date document to be adopted in conformity with the NPPF

**Safer, Cleaner, Greener Implications:**

The Plan contributes to the overall Council objections in making the District a better place to live and do business.

**Background Papers:**

Draft LEP (attached).

Relevant statutory powers: Town and Country Planning Act 1990 (as amended) and the National Planning Policy Framework 2018.

**Impact Assessments:**

There is no adverse impact as a result of this revision and updating process.

**Risk Management**

Not applicable.

**Equality:**

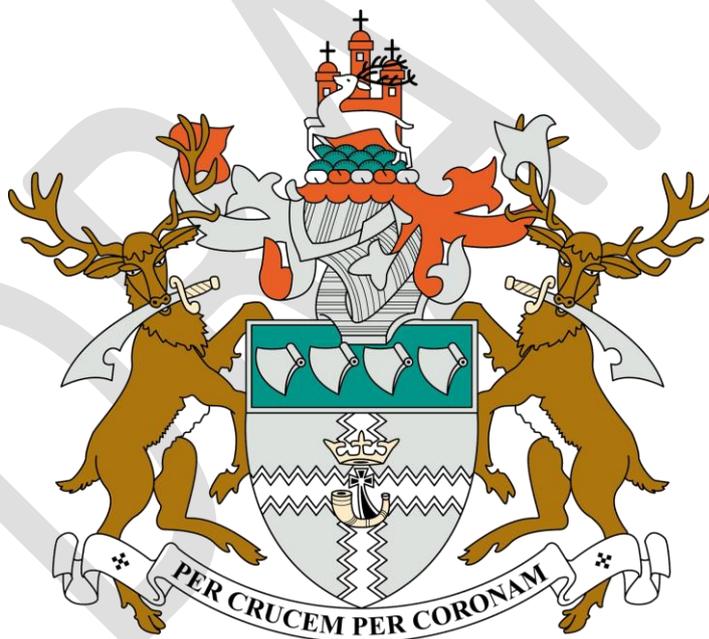
The plan takes into account current Equality Legislation.

# Epping Forest District Council

## Planning Services

### Local Enforcement Plan

**February 2021**  
**Final Draft**



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1. Introduction
2. Breaches of Planning Control
3. Investigation of suspected breaches
4. Taking formal enforcement action
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# 1. Introduction

## Our vision for Planning Enforcement

- 1.1 The planning system operates to regulate development and the use of land in the community's interest having regard to the development plan and other material planning considerations. The effective and proper enforcement of planning controls is essential to community confidence in the planning system. It is important that the local environment is protected, as are the interests of residents, visitors and businesses of the District from the harmful effects of unauthorised and unacceptable development.
- 1.2 The Council has a duty to investigate alleged breaches of planning control and has discretionary powers to remedy breaches. We view breaches of planning control very seriously. It is our policy to exercise powers appropriately, proportionately and rigorously so that development takes place in accordance with the appropriate legislation or the planning conditions and limitations imposed on any planning permission through the development management process.
- 1.3 The planning enforcement system does not exist purely as a punishment for those responsible for a breach of planning controls. It is an important principle of the planning system that the use of formal planning enforcement action is a **discretionary** power of the Council.
- 1.4 The integrity of the development management process depends on the Council's readiness to take effective enforcement action when it is justifiable. The community's confidence in the planning process is quickly undermined if unauthorised development is allowed to proceed without any apparent attempt by the Council to resolve the issue.
- 1.5 The purpose of this document is to set out the Council's strategy for investigating alleged breaches of planning controls and taking appropriate action where expedient. This policy will ensure that interested parties such as Councillors Officers, citizens and their advisers, external agencies and complainants are aware of our general approach to enforcing planning controls.

## Principles of Good Enforcement

- 1.6 **Proportionality** – Officers will consider the full range of investigative and enforcement tools when conducting investigations (including appropriate negotiations and retrospective planning applications) and where appropriate take decisive action in accordance with good practice guidance from central government and the Royal Town Planning Institute (RTPI).
- 1.7 We will endeavor to minimise the cost of compliance by ensuring that any action we require is proportionate to the breach. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering the expediency of the various actions open to us.

- 1.8 Where practicable we will take care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense.
- 1.9 Normally we will prosecute individuals or organisations who do not comply with any formal notice served on them, and when appropriate will take direct action, having regard to degree of harm and public safety.
- 1.10 **Consistency** – We will carry out our duties in a fair, equitable and consistent manner. While staff are expected to exercise judgement in individual cases, we have arrangements in place to promote consistency including effective arrangements for liaison with other authorities and enforcement bodies.
- 1.11 We will consider each individual matter on its merits. There will be a consistent approach to enforcement action against breaches of similar nature and circumstance.
- 1.12 **Standards** – We will draw up clear standards, setting out the level of service and performance that customers can expect to receive in this plan. We will review performance regularly. The Team Manager will regularly monitor Team and individual performance against the Departmental performance indicators.
- 1.13 The enforcement plan will be subject to review at least every five years, but the plan may be reviewed on a more regular basis if circumstances dictate. The plan will be available on our web site.
- 1.14 **Openness** – Information and advice will be provided in plain language on the rules that we apply, and we will publish this as widely as possible.
- 1.15 We will discuss general issues, specific compliance failures or other problems with anyone with an interest in our service, **subject** to it not being covered by GDPR, privacy and data protection policies.
- 1.16 **Helpfulness** – We believe that prevention is better than cure and that we should work with customers to advise and assist with compliance.
- 1.17 Officers will provide a courteous, prompt and efficient service and emails/letters will provide a contact point and telephone number for customers to contact when seeking advice and information.
- 1.18 We will ensure that services are effectively coordinated to minimize unnecessary overlaps and time delays.
- 1.19 Officers will not tolerate abusive language or behaviour either in person or in correspondence from 3<sup>rd</sup> parties.
- 1.20 **Complaints about the service** – we will adhere to the Councils corporate complaints service.

## 2 Breaches of planning control

### Legislative background

2.1 The primary legislation for planning enforcement is set out in Part VII of the **Town and Country Planning Act 1990 (As Amended)**, which includes amendments set out in the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004. Hereafter these are collectively referred to as the Town and Country Planning Act 1990 (As Amended).

2.2 The Town and Country Planning Act 1990 (As Amended) sets out that planning permission is required for development. Section 55 defines 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.”

2.3 A breach of planning control is defined at Section 171A as “carrying out development without the required planning permission; or failing to comply with any condition or limitation subject to which planning permission has been granted”.

### What is a breach of planning control?

2.4 Most planning enforcement investigations therefore involve one of the following alleged breaches:

- Development (either operational or a material change in use of land) has taken place without planning permission;
- Development has not been carried out in accordance with an approved planning permission;
- Failure to comply with a condition or legal agreement attached to a planning permission.

2.5 Other matters which also fall under the scope of planning controls are:

- Demolition taking place in Conservation Areas, without planning permission, when it is required;
- Works carried out to a Listed Building which affects the special architectural and historic character or setting, without listed building consent being granted;
- Removal of, or works carried out to, protected trees and hedgerows without consent being granted or proper notification given;
- Advertisements which require express consent under the Advertisement Regulations, displayed without express consent;
- Failure to comply with the requirements of a planning notice, e.g. enforcement, discontinuance, stop notice, breach of condition notice, or other statutory notice.

2.6 The basic principle of planning law is that it is **not an offence to carry out works without planning permission** (with certain exceptions for Listed Buildings, Trees and display of advertisements). Whilst such development is unauthorised, councils

must consider the expediency of taking formal action. This is important to remember as members of the public often refer to illegal development or works. This is incorrect as development may well be unauthorised, but it will not be illegal unless a statutory notice has first been issued and the owner or occupier has failed to comply.

### **What is not a breach of planning control?**

2.7 We often receive complaints regarding matters that are not breaches of planning control. Often this is where other legislation covers and controls the matter. The following are examples of what we cannot become involved in through our planning enforcement service:

- Neighbour nuisance/boundary and land ownership disputes – these are civil matters in which the Council may not intervene. Further advice on these matters should be obtained from a solicitor or the Citizens Advice Bureau;
- Use of/or development on the highway, footway or verge that is covered by highway legislation – please contact Essex County Council on 0845 6037631; <https://www.essexhighways.org/tell-us/report-all-issues>
- Dangerous structures – please contact our Building Control section on 01992 564141;
- Any matter covered by other substantive legislation such as fly tipping, noise and smell – Please contact our Environmental Health Section on 01992 564497; <https://www.eppingforestdc.gov.uk/report/>

### **Priorities**

2.8 To make the most effective use of resources, all reports of suspected breaches of planning control will be investigated and progressed in accordance with the priority rating below. **This is not an exhaustive list.**

**Category 1** – an allegation of a case that requires **immediate** attention. This would include ongoing harmful works to a Listed Building; a Gypsy, Roma or Traveler incursion onto land; new physical development which would present a danger to members of the public; ongoing works to a tree subject to legal protection; and ongoing works to a protected hedgerow. We will endeavor to carry out a site inspection within 7 working hours or at the earliest possible opportunity taking resource requirements into consideration.

**Category 1A** -allegations of ongoing works or uses which are causing significant harm to residential amenity by way of noise and disturbance. We will endeavor to undertake a site inspection within 3 working days.

**Category 2** – allegations of ongoing significant works to buildings that are not yet complete, new uses of land which harm amenity, breaches of conditions affecting an individual's amenity. We will endeavor to undertake a site inspection within 10 working days.

**Category 3** – allegations covering all other cases that do not cause significant harm to amenity. This would include unauthorised advertisements, changes of use of shops, minor departures from approved plans, works which may fall under permitted development allowances and neighbour disputes. A site visit should normally be carried out within 15 working days.

- 2.9 Individual cases may be re-prioritised as the investigation progresses and as new evidence comes to light.

### **3 Investigation of suspected breaches of planning control**

#### **Receipt of complaint**

- 3.1 To start a planning enforcement investigation, complaints should be made in the following way:

completing an Allegation of a Breach of Planning Form on our website at:

<https://www.eppingforestdc.gov.uk/planning-and-building/report-a-planning-breach/>

A complaint will be assessed to determine whether it is a valid planning matter within **5 working days** of receipt and the case will be assigned to an Enforcement Officer. The complainant will then receive an email providing the officer details on the **next working day**. Full details are provided in our **Service Charter** available on the website as above. <https://www.eppingforestdc.gov.uk/planning-and-building/planning-enforcement-service-charter/>

Should we find that the complaint is not a valid planning enforcement matter, a response explaining the reasons will be sent to the complainant within **1 working day of our assessment of the complaint**.

- 3.2 When a complaint is received it is recorded on our database, so we require the following information:

- Name and contact details of complainant, including email address;
- Full address of the alleged breach of planning control;
- Nature of the breach and the harm it may be causing;
- Any photographic evidence where possible.

- 3.3 All enforcement complaints are logged onto our computer system with a unique reference number so that each complaint can be monitored, and the complainant kept informed of key actions and outcome of the investigation. We aim to completely digitalize our service by the next review of the plan.

- 3.4 To avoid the unnecessary use of resources, hampering of investigations and dealing with malicious complaints, anonymous reports of suspect breaches of planning control will not be registers. Provision of a name and email address (without a physical address) will not be sufficient to allow for registration of a new investigation.

- 3.5 Confidentiality is vital; a complaint's identity will not be revealed to any third party without the complainant's written consent.

## **Time frame for site visit and initial investigation**

- 3.6 A site visit will be required in most cases to establish if a breach of planning control has occurred. Most initial site visits will be unannounced so as not to alert persons on site that a complaint has been made, which may give them an opportunity to hide or cease breaches of planning control.
- 3.7 Although there will need to be some research around the case prior to a site visit the initial site visit (where necessary) will be conducted as per para 2.8 above.
- 3.8 We will aim to meet these timescales in all cases investigated to ensure cases progress without undue delay from the outset. These targets allow officers to carry out the required level of research before visiting a site. If carrying out the initial site visit within these time frames is unachievable on a specific case the officer will notify the complainant.
- 3.9 On completion of the initial site visit, the findings will be assessed, and a view taken as to how the investigation will proceed. This may include taking legal advice about the case.
- 3.10 We will aim to complete initial phase of an investigation (site inspection, site planning history research, initial information gathering, preliminary conclusion on whether a breach has taken place) within 1 calendar month of registering the complaint. However, in some instances initial stages may take longer, but we will keep complainants updated on any key decisions and actions.

### **If no breach of planning control is established**

- 3.11 A significant number of investigations are closed as there is no breach of planning control established. This can occur for many reasons, for example:
- there is no evidence to corroborate the allegation
  - development has taken place but planning permission is not required, usually as it benefits from planning permission granted under the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or because it does not require permission pursuant to the Town and Country Planning (Use Classes) Order 1987 (As Amended)
  - the development already benefits from planning permission granted by the Council.
- 3.12 It may also be the case that whilst a technical breach of planning control has been found the breach is so minor that it has no or very little impact on amenity, for example a unauthorised satellite dish, or instances where a fence or wall may be slightly over the permitted development heights. Such a breach would be considered de-minimis in planning terms and no formal action could be taken in this respect.
- 3.13 Where this is the case the person reporting the suspected breach of control will be notified that no further action will be taken. The complainant will be provided with an explanation of our reason(s).
- 3.14 When we receive a complaint, the case officer will check to see if the issue

constitutes a breach of planning control and that legislation allows us to act. Each case is judged on its individual merits. There are some cases where it would not be expedient for the Council to take enforcement action (the below is not exhaustive but indicative):

- the complainant believes there is breach of planning controls, but in fact is covered under permitted development legislation, therefore no action is required
- there may be cases where development has taken place, but it is clear following an assessment, that retrospective planning application or a certificate of lawfulness may be successful. A retrospective planning application will be invited to regularise the breach. Should such applications subsequently be made and approved, enforcement action cannot be taken. If an application is not made the breach will be assessed to see what action would be justified.
- where a fence is, for example, 2.1 meters high, not adjacent to the highway and the visual amenity and the character of the area is unaffected – the Council would need to decide if this could be de minimis and not be expedient to pursue enforcement action. In these cases, we will advise the owner/occupier of the land/building of this, informing them of the breach.
- when there has been a change of use for a building or a breach of condition has taken place over 10 years ago (and there has been a continuous breach) the Council may be unable to act as there are time limits set out in planning legislation (either four or 10 years).
- Should the property subject of the complaint be owned by Epping Forest DC or Essex County Council, we will conduct an investigation in the usual manner, and if a breach of planning controls is found we will send out appropriate warning letters explaining the situation and expected course of action. Should the breach in planning controls not be rectified we will refer the matter to the relevant Council department to deal with to secure compliance with planning controls under landlord's powers. Once we have referred the matter our file will be closed.

3.15 Criteria that would be used to determine a course of action may include:

- whether planning permission is required
- impact of the breach on the visual amenity and character of the area affected, for example would it be minimal or significant?
- Impact on amenity due to noise, smells, smoke, fumes, vehicle movements or any other disturbance impacting on amenity
- are the works permitted by planning legislation for example permitted development?
- is the breach contrary to any established planning policies?
- has there been a material change of use?
- Whether a planning condition is enforceable

### **Where further investigation is required**

- 3.16 There are cases where the initial site visit and associated investigations do not provide sufficient evidence to conclude whether a breach of planning control has taken place. Examples of these can include:
- business operated from home and whether this constitutes a material change of use. This will often depend on the level of intensity and this may not be immediately apparent from the initial site visit
  - alleged breaches of working hours conditions. If the operator denies the activity further investigations will be required
  - building works are taking place but the owner claims it is to repair a previously existing structure. The officer will need to establish what, if anything, previously existed
  - Works are on-going and it is not possible to fully assess the position at the time of the visit or initial investigation
- 3.17 Further investigation may involve additional site visits, documentary research, seeking advice from other services or agencies, seeking information from the person reporting the suspected breach of control by way of a diary sheet, or the owner or other persons responsible for the land or building.
- 3.18 In some cases, we may ask the person reporting the suspected breach for further details. If the person reporting the suspected breach of planning control is unwilling to assist, this may result in the Council not being able to pursue the investigation due to insufficient evidence.
- 3.19 We will also consider serving a Planning Contravention Notice, S330 Notice or any other notice we consider necessary to progress the investigation and to obtain information relating to the suspected breach. Drafting such a notice correctly can take time. Equally a person on whom it is served has 21 days to respond. Therefore, it may be several weeks until the appropriate evidence can be collected.

### **Where there is a breach of planning control**

- 3.20 Where a breach of planning control is established, the first step is to consider whether it would be expedient to take formal enforcement action. Expediency is a test of whether the breach is harmful and having regard to the Development Plan policies and other material planning considerations. The planning enforcement officer investigating the case will consider this in conjunction with the Team Manager. The outcome of this consideration will generally inform the course of the investigation. Taking formal enforcement action is only one option with other courses open to the Council. Most planning enforcement investigations will involve one of the following courses of action:

### **Retrospective planning applications**

- 3.21 Where officers consider that planning permission is likely to be granted for an unauthorised development (or an amended version of the development), or that the imposition of conditions could reduce the harm to amenity, a retrospective planning application will be requested for the development. Section 73A of the Town and Country Planning Act 1990 (As Amended) sets out the provisions for dealing with

retrospective applications.

- 3.22 In determining retrospective planning applications, the Council cannot refuse an application simply because the development has already been carried out. Similarly, the fact that development has already taken place cannot be considered as a reason for granting planning permission. Some breaches of planning control occur because the applicant may not have realised permission was required. A retrospective planning application enables the Council to regularise acceptable development without arbitrarily penalising the applicant. We receive between 130 and 160 retrospective applications per year out of approximately 3000 applications. This demonstrates the important role retrospective applications play in resolving breaches.
- 3.23 Should a retrospective application be made and refused at the relevant Area Plans Sub Committee it is expected that enforcement action will then be taken. If it is considered by the professional officers that this is not expedient to do for planning reasons, then a report will be submitted to the relevant planning committee as to why it is not expedient. If committee do not agree then enforcement action will be undertaken. In instances where retrospective applications are to be refused under delegated authority the relevant report shall usually authorise enforcement action.
- 3.24 Generally, we will not invite a retrospective planning application if we consider the development is unacceptable. However, there are cases where it is initially unclear as to whether a development is acceptable in planning terms. An example is where a development is in the early stages of construction. In such cases we are likely to request provision of details of intended development to us, and in some instances an application may be submitted with full details of the intended development. We may allow a short period of time for preparation of drawings and/or submission of an application, but we are unlikely to suspend the enforcement process to allow time for submission of an application where a breach has been identified and the planning merits are considered unacceptable. Once this information is received it would allow for a full assessment of the planning merits. We cannot refuse to deal with a retrospective planning application, even if it is considered that there is no merit in such an application, unless it falls within the conditions laid out in para 3.25 below.
- 3.25 The Localism Act 2011 has introduced an additional power to the Council in respect of retrospective planning applications **where an enforcement notice has already been issued** after 06 April 2012. Section 70C to the Town and Country Planning Act (as amended) now specifies:
- ‘a local planning authority in England may decline to determine an application for planning permission for the development of any land if granting planning permission for the development would involve granting, whether in relation to the whole or any part of the land to which a pre-existing enforcement notice relates, planning permission in respect of the whole or any part of the matters specified in the enforcement notice as constituting a breach of planning control.’
- 3.26 We will use these powers where appropriate to prevent delays in cases where enforcement action is being taken. However, we will also have regard to each specific case and consider whether granting permission for part of the development would result in an acceptable resolution.

### **Not expedient to pursue formal action**

- 3.27 While it is clearly unsatisfactory for anyone to carry out development without first obtaining the required planning permission, an enforcement notice cannot be issued solely to regularise development which is acceptable on its planning merits, but for which permission has not been sought. In such circumstances the Council will seek to persuade an owner or occupier to seek permission. This could include using a planning contravention notice. However, it is generally regarded by the Courts as unreasonable for a council to issue an enforcement notice solely to remedy the absence of a valid planning permission if there is no significant planning objection to the breach of planning control. See paragraphs 3.14 and 3.15 above and paragraphs 3.28 below for further information.
- 3.28 Where this is the case the officer will produce an expediency report clearly setting out that no planning harm is caused by the development. As part of this process a planning contravention notice may be served to ensure we have all relevant information. Where officers conclude that it is not expedient to act the case will be closed in accordance with the scheme of delegated powers as set out in the Council's Constitution.
- 3.29 Another criterion of expediency is to ensure that any action is proportionate to the breach. We investigate many technical breaches of planning control. Common examples of these include the construction of a fence or the construction of an outbuilding in a residential curtilage slightly higher than allowed under permitted development regulations. In these cases, it may not be proportionate to require the removal of an entire building or fence where a slightly lower structure could be constructed without permission. As such the expediency test for acting would not be met. We will work with owners to regularise or remedy the works, but it may be that formal action could not be warranted in the case of some technical breaches of planning control.

### **Negotiation**

- 3.30 Where it is considered that the breach of planning control is unacceptable, officers will initially explain the situation clearly to the transgressor, attempting to secure voluntary compliance with planning controls without recourse to formal enforcement action, usually allowing a reasonable period of time for compliance. Should a breach be causing immediate harm to amenity (noise nuisance for instance), we are likely to require quick remedial action in the short term to prevent further harm, whilst alternative solutions may be investigated by the transgressor.
- 3.31 In carrying out enforcement and investigation activities officers will have regard to the specific circumstances of the individual case. For example, where there is an unauthorised business activity officers will consider whether relocation is possible and if so will seek to put a reasonable timescale in place.
- 3.32 Where initial attempts at securing voluntary compliance or negotiating an acceptable outcome fail, formal action will usually be considered without undue delay to prevent a protracted process. We will also consider using temporary stop notices to prevent the breach becoming more severe or to curb harm to amenity or serious breaches that warrant immediate action.

## 4. Taking formal enforcement action

- 4.1 We will consider the full range of powers available to ensure the most proportionate and expedient resolution. We will also consider whether any other public authority is better able to take remedial action, for example Essex County Council or the Environment Agency. Where appropriate we will take enforcement action in association with other regulatory regimes (such as environmental health controls on noise and nuisance).
- 4.2 A full planning enforcement toolkit is available to officers when taking formal action, the use of these can vary depending on the nature of the breach and the level of harm caused.

### **Powers available**

#### Enforcement Notice

- 4.3 Section 172 of The Town and Country Planning Act (as amended) allows the service of an enforcement notice where unauthorised operational development or a change of use has taken place and it is considered expedient to do so. We are required to serve enforcement notices on the owner, occupier and any other person with an interest in the land which is materially affected by the notice.
- 4.4 An enforcement notice shall specify the steps which we require to be taken, or the activities which we require to cease, to achieve, wholly or partly, any of the following purposes:
- remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or
  - remedying any injury to amenity which has been caused by the breach.
- 4.5 The notice will specify time periods for compliance for each of the steps from the date on which the notice comes into effect. A notice comes into effect after a minimum period of 28 days following service. There is a statutory right of appeal against the notice during this period to the Planning Inspectorate. Once the Planning Inspectorate has received a valid appeal, the enforcement notice has no effect until the appeal has been determined.
- 4.6 There are seven grounds of appeal against an enforcement notice. Any appeal may include one or more of these grounds:
- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or the condition or limitation concerned ought to be discharged
  - (b) that those matters have not occurred
  - (c) that those matters (if they occurred) do not constitute a breach of planning control
  - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters

- (e) that copies of the enforcement notice were not served as required by section 172
- (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or to remedy any injury to amenity which has been caused by any such breach
- (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

- 4.7 Given these rights of appeal it is important that all relevant matters are considered before serving an enforcement notice. This includes being clear in respect of the specific breach of planning control; the steps required to remedy the breach; and the time required for compliance. A delegated enforcement action report will be produced by officers specifically to consider these issues.
- 4.8 If the breach of planning control relates to a listed building, or unauthorised demolition within a conservation area, we will consider the expediency of serving a listed building enforcement notice or an appropriate enforcement notice and where appropriate, commence a prosecution in the Courts. The enforcement notice will specify the reason(s) for its service, the steps required to remedy the breach, the date that it takes effect and the time for compliance.
- 4.9 All enforcement notices are placed on the Council's enforcement register which is available on request at [contactdcenf@eppingforestdc.gov.uk](mailto:contactdcenf@eppingforestdc.gov.uk). This will eventually be available on the EFDC website.

#### Planning Contravention Notice (PCN)

- 4.10 Section 171C of the Town and Country Planning Act (as amended) provides the power to issue a PCN. This can be served on the owner or occupier of the land in question or a person who is carrying out operations in, on, over or under the land or is using it for any purpose and where a suspected breach of planning is believed to exist. The PCN will require the recipient to provide the information requested within 21 days relating to the breach of planning control alleged. Failure to comply with any aspect of the PCN is an offence for which the recipient can be prosecuted with the maximum fine of £1,000. To knowingly provide false information on a PCN can result in a fine of up to £5,000.
- 4.11 A PCN may be served in some instances as a precursor to an enforcement notice if the investigation is not progressing due to lack of information of co-operation or any other issue that may require more relevant information has been obtained.

#### Other requisition for information notices

- 4.12 Under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 the Council can require the recipient of a requisition for information notice to supply in writing details of their interest in a property and provide details of anyone else having an interest in the property. A reply must be supplied within 14 days. A person who fails to comply with the requirements of a notice or makes a false statement in a reply is guilty of an offence punishable by a fine of up to Level 5 (unlimited).
- 4.13 Under Section 330 of the Town and Country Planning Act 1990 the Council can require the recipient to state in writing the nature of their interest in a property and to

state in writing the name and address of any other person known to them as having an interest in the property, as a freeholder, mortgagee, lessee or otherwise. Failure to return the form or to provide a false statement is an offence punishable by a fine up to Level 3 (£1,000).

#### Breach of Condition Notice (BCN)

- 4.14 Section 187A of the Town and Country Planning Act (as amended) provides the power to serve a Breach of Condition Notice (BCN) where a planning condition has not been complied with. Consideration should be given to the type of condition and the steps required to secure compliance with the condition. Once issued the notice does not take effect for 28 days. There is no appeal against a BCN and therefore can offer a more expedient course of action than issuing an enforcement notice. The failure to comply with the notice is dealt with by a prosecution in the Magistrates Court. The maximum fine has been increased to a Level 4 fine (£2,500). The BCN is ideal for matters where the steps to be taken are relatively simple and can be readily achieved.
- 4.15 Where the breach of planning control relates to non-compliance with a condition on a planning permission or a limitation on a deemed planning permission has been exceeded, we will consider the expediency of serving a BCN. The breach of condition notice will specify the steps required to comply with the condition(s) or limitation(s), the date that it takes effect and the time for compliance.

#### Stop Notice

- 4.16 Section 183 of the Town and Country Planning Act (as amended) provides for the service of a stop notice. A stop notice must be served at the same time or after the service of an enforcement notice. We will consider serving a stop notice where urgent action is necessary to bring about a cessation of a relevant activity before the expiry of the period of compliance of the related enforcement notice.
- 4.17 The stop notice must refer to the enforcement notice, specify the activity or activities that are required to cease and the date that it takes effect. Failure to comply with the notice is an offence which carried an unlimited fine.
- 4.18 The Council must consider the use of stop notices carefully as they carry with them significant statutory compensation provisions.

#### Temporary Stop Notice (TSN)

- 4.19 Section 171E of the Town and Country Planning Act (as amended) provides councils with the power to serve a TSN. A TSN which can be issued without the need to issue an enforcement notice and is designed to halt breaches of planning control for a period of up to 28 days.
- 4.20 Whilst TSNs also carry some compensation provisions these are significantly lower than with a stop notice and therefore the risk to the Council is reduced.
- 4.21 All stop notices are placed on the Council's enforcement register.

## **Time limits for taking formal action**

- 4.22 Section 171B of the Town and Country Planning Act (as amended) sets out time limits for taking enforcement action. The Council cannot serve a notice after four years where the breach of planning control involves building operations, for example extensions to dwellings, new buildings and laying hard standings; or the change of use of any building to a single dwelling house, from the commencement of the breach. Other unauthorised changes of use and breaches of conditions are subject to a 10-year time limit.
- 4.23 After these periods the Council cannot act, and the use becomes lawful. The landowner can apply for a Certificate of Lawful Development after this period and if the evidence is clear to regularise the situation.
- 4.24 Serving an enforcement notice in respect of a development stops the clock in relation to these time limits. Therefore, where the Council feel a breach may be close to the relevant time limit it may seek to take urgent enforcement action to prevent a lawful development situation.
- 4.25 The Localism Act has introduced a new enforcement power in relation to time limits. This allows councils the possibility to act against concealed breaches of planning control even after the usual time limit for enforcement has expired (see below).
- 4.26 The Council can, within six months of a breach coming to their attention, apply to the magistrate's court for a planning enforcement order. A planning enforcement order would give us one year to then take enforcement action. In agreeing to a planning enforcement order, the court need only be satisfied, on the balance of probabilities, that the apparent breach, or any of the matters constituting the apparent breach, has (to any extent) been deliberately concealed by any person or persons. In other words:
- concealment of only part of the breach is sufficient to render it all open to enforcement
  - the deliberate concealment could be to an almost negligible extent
  - the concealment may be by anyone – it could have been by a past owner, it could even have been by a third party.

## **Failure to comply with formal notices**

- 4.27 Where a notice has been served and has not been complied with there are three main options available to the Council to pursue to attempt to resolve the breach.

### Prosecution

- 4.28 We will consider commencing a prosecution in the Courts against any person who has failed to comply with the requirement(s) of any of the following notices where the date for compliance has passed and the requirements have not been complied with:
- enforcement notice
  - listed building enforcement notice, conservation area enforcement notice
  - planning contravention notice

- breach of condition notice
- section 215 notice
- stop notice

4.29 Cases involving unauthorised works carried out to a Listed Building and unauthorised demolition in a Conservation Area also constitutes an offence in their own rights. We will consider whether it would be expedient to prosecute for these works rather than issuing a notice on a case by case basis.

4.30 Before commencing any legal proceedings, we need to be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. We will take advice from the Councils Legal Section and from Independent Counsel where required to ensure that we act correctly.

#### Direct Action

4.31 Where any steps required by an enforcement notice or section 215 notice have not been taken within the compliance period (other than the discontinuance of the use of land), we will consider whether it is expedient to exercise our powers under section 178 of the Town and Country Planning Act (as amended) to:

- enter the land and take the steps to remedy the harm; and
- recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so.

4.32 In most cases the Council will seek to prosecute the failure to comply with a notice before seeking to initiate direct action.

#### Injunction

4.33 Where an enforcement notice has not been complied with and, because of the special circumstances of the case, either direct action or prosecution would not be an effective remedy, we will consider applying to the Court for an Injunction under section 187B of the Town and Country Planning Act (as amended). An injunction can also be applied for if the breach of planning is so serious as to cause immediate harm to the amenities of the area or neighbours beyond which it would be reasonable to use the enforcement notice procedure to deal with.

4.34 An injunction can also be applied for where there is clear evidence that a breach of planning control is anticipated but has not actually occurred. Such action will only be considered if the breach, actual or anticipated, is particularly serious and is causing or likely to cause exceptional harm.

#### Proceeds of Crime Act 2002

4.35 The Council will consider the use of the powers available in the POCA 2002 when prosecuting transgressors.

## 5. Special Controls

### Advertisements

- 5.1 Unlike most breaches of planning control, the display of advertisements without consent is a criminal offence. Therefore, we have the power to initiate prosecutions without the need to issue a notice. Where it has been considered that an advertisement should be removed an offender will normally be given one written opportunity to remove the advertisement voluntarily. Failure to do so will normally result in further action being taken without further correspondence.
- 5.2 Section 225 of the Town and Country Planning Act (as amended) provides powers to remove or obliterate posters and placards. We will consider using these powers as appropriate as an alternative or in conjunction with prosecution action.
- 5.3 The recent Localism Act has introduced several new provisions in respect of dealing with advertisements. These are Removal Notices, Action Notices and the powers to remedy the defacement of property. Each provision includes rights of appeal to the Magistrates Court.

#### Removal notices

- 5.4 This provides the power to seek removal of any structure used to display and advertisement. Where the notice is not complied with, we may undertake the works in default by direct action and recover the expenses for doing so.

#### Action notices

- 5.5 Where there is a persistent problem with unauthorised advertisements an action notice can be issued specifying measures to prevent or reduce the frequency of the display of advertisements on the surface. Again, where the notice is not complied with, we may undertake the works in default and recover the expenses for doing so.

#### Power to remedy defacement of premises

- 5.6 Where a sign has been placed on a surface that is readily visible from somewhere the public have access and is considered by us to be detrimental to the amenity of the area or offensive, a notice may be issued requiring the removal or obliteration of the sign. As with the above provisions failure to comply with the notice will allow us to undertake the works in default and recover costs (costs cannot be recovered where the sign is on a flat or house or within the curtilage of a house)

### Trees and Hedgerows

- 5.7 The lead section for all private (i.e. not Council owned land) Tree and Hedgerow investigations is the Landscape Section who can be contacted on [Contacttrees@eppingforestdc.gov.uk](mailto:Contacttrees@eppingforestdc.gov.uk). The Enforcement Team provides investigative support to their investigations where appropriate.
- 5.8 Legislation protects trees which are the subject of Tree Preservation Orders (TPOs) or are within a Conservation Area from felling or other works unless appropriate consent is first obtained. As with advertisements such works are an offence and therefore prosecution can be sought without the requirement to issue a notice.

- 5.9 Section 207 of the Town and Country Planning Act (as amended) provides for a replacement notice to be issued. This will require an appropriate replacement tree to be planted where a tree covered by a TPO has been removed.

### **Section 215 Notice**

- 5.10 In cases where the amenity of an area is adversely affected by the condition of land or buildings, we will consider serving a notice under Section 215 of the Town and Country Planning Act (as amended). The notice will specify the steps required to be taken to remedy the condition of the land or buildings, the time within which the steps must be taken and the date that it takes effect. We endeavor to follow the Good Practice Guidance on S215 published by government [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/11491/319798.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/11491/319798.pdf)
- 5.11 A section 215 notice takes effect after 28 days service during which time an appeal can be made in the Magistrates Court.

### **Regeneration Projects**

- 5.12 The Enforcement Team will undertake directed project work to assist with regeneration or town and landscape enhancement schemes where resources and funding allow.

## **6. Other powers**

### **Entry onto land**

- 6.1 Under the provisions of Section 196A, B and C of the Town and Country Planning Act (as amended) officers have the right of entry onto land and buildings land when pursuing effective planning control for the following purposes:
- (a) to ascertain whether there is or has been any breach of planning control on the land or any other land;
  - (b) to determine whether any of the powers conferred on a local planning authority should be exercised in relation to the land or any other land;
  - (c) to determine how any such power should be exercised in relation to the land or any other land;
  - (d) to ascertain whether there has been compliance with any requirement imposed because of any such power having been exercised in relation to the land or any other land;

and to determine whether an enforcement notice should be served on that or any other land.

- 6.2 Twenty-four hours' notice in writing must be given for the need to access to a residential building if entry is refused. If access is still denied, or the matter is urgent, a warrant can be applied for from the Magistrates Court. Officers will

exercise these powers where appropriate particularly where their use is essential to the collection of evidence relating to an alleged breach of planning control. An obstruction of these powers is an offence which is subject to prosecution. A warrant can be gained in a few hours for serious cases, but it is more normal to do so over a week. This is a rarely used power due to its seriousness and the need for Police attendance to prevent a breach of the peace.

6.3 Section 324 of the of the Town and Country Planning Act (as amended) gives officers general powers of entry to sites to:

To undertake surveys about;

- a) Statutory plans;
- b) Applications for planning permission;
- c) Applications for consents under Tree Preservation Orders; and
- d) Applications under Advertisement Regulations.

6.4 Similar Powers of entry exist for Listed Buildings, hedgerows, trees and advertisements.

6.5 The Council will use Remotely Piloted Air Systems (aka Drones) for aerial survey work where required. Persons whose site are to be overflown will be notified in advance of this activity.

## 7. Legislation/guidance

- Town and Country Planning Act 1990 – This form the current primary legislation
- The Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004 – these two Acts are secondary legislation which amend and add to the provisions of the Town and Country Planning Act 1990. Where specific sections from these Acts are referenced in the enforcement plan, they are collectively referred to as the Town and Country Planning Act (as amended)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- National Planning Policy Framework (NPPF) 2018
- Planning Policy Guidance - Ensuring Effective Enforcement
- Planning Policy Guidance – Advertisements
- Planning Policy Guidance – Conserving and enhancing the historic environment
- The Town and Country Planning (General Permitted Development) Order 1995 (as amended)
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- The Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Regulation of Investigatory Powers Act 2000
- Police and Criminal Evidence Act 1984
- Proceeds of Crime Act 2002

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## **Report to the Cabinet**

**Report reference:** C -xxx-2020/21

**Date of meeting:** xx xxx xxx



**Epping Forest  
District Council**

**Portfolio:** Planning and Sustainability – Cllr N Bedford

**Subject:** Green Infrastructure Strategy

**Responsible Officer:** Alison Blom-Cooper (01992 564066)

**Democratic Services:** Adrian Hendry (01992 564246)

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### **Recommendations/Decisions Required:**

- (1) To agree the Green Infrastructure Strategy (attached at Appendix 1) as a material planning consideration for the preparation of Strategic Masterplans, Concept Frameworks, pre-application advice, assessing planning applications and any other development management and implementation related purposes within the District; for submission to the Local Plan Inspector; and used to inform the Council's update to the Habitats Regulations Assessment to support the emerging Local Plan.**
- (2) To agree that contributions will be sought from residential developments in the parishes of Loughton, Buckhurst Hill and Theydon Bois towards site specific projects to mitigate the impact of recreational pressure on Epping Forest Special Area of Conservation in the sum of £716 per dwelling (see paragraph 24)**
- (3) To agree the Green Infrastructure Strategy as a framework for guiding partnership working and investment in green and blue infrastructure as part of the Council's response to the Climate Emergency.**
- (4) To agree that the Planning Services Director, in consultation with the Planning Portfolio Holder be authorised to make minor amendments to the Green Infrastructure Strategy, including any mapping and links and the addition of a glossary, prior to publication.**

### **Executive Summary:**

The Council's emerging Local Plan sets out policies in relation to the provision and enhancement of Green and Blue Infrastructure, the protection of the District's ecological assets and achieving high quality design. To support these policies and address the requirement to provide suitable avoidance or mitigation measures to manage any potential impacts of growth on protected sites, including the Epping Forest Special Area of Conservation (SAC), the Council has developed a Green Infrastructure Strategy ('the Strategy'). The Strategy will ensure that high quality Green and Blue Infrastructure, including the provision of Suitable Alternative Natural Green Space (SANG) and Infrastructure Enhancement Projects, is delivered alongside the growth proposed in the District as part of the emerging Local Plan.

This report sets out the changes proposed to be made to the draft Green Infrastructure Strategy that was agreed by Cabinet for the purposes of consultation on 15 April 2020. The consultation was undertaken in June and July 2020. The Strategy proposed for adoption is attached at Appendix 1 to this report.

### **Reasons for Proposed Decision:**

- To give the Strategy planning weight by endorsing it as a material consideration in the planning process This will ensure that development proposals will achieve the Council's ambitions for the provision of Green and Blue Infrastructure, and that clear parameters are established for the development of masterplans and concept frameworks, the provision of pre-application advice, the assessment of planning applications and any other development management and implementation related purposes within the District.
- To comply with the Council's general obligations as a competent authority under the Habitats Directive [article 6(3)] and the Species and Habitats Regulations 2018 [Regulation 9(1)].
- To respond to the Local Plan Inspector's Advice dated 2 August 2019 (ED98) following the hearing sessions of the Local Plan examination in relation to mitigating the effects of recreational pressure upon the Epping Forest SAC.

### **Other Options for Action:**

Not to agree the Strategy and endorse it as a material consideration in the planning process would mean that there would be no mechanism to support the delivery of development proposals and achieve the vision and objectives set out in the Council's emerging Local Plan, or the application of the policies within it. In addition, there would be no overarching framework in place to achieve the implementation of important initiatives intended to support the Council's response to the Climate Crisis.

### **Background Report:**

1. The Council's emerging Local Plan promotes a joined up, collaborative and proactive approach to the planning and implementation of development across Epping Forest District. In particular the approach to masterplanning and bringing forward strategic site allocations will ensure that development proposals are brought forward in a coordinated and coherent way in accordance with high quality place making principles (see Cabinet report of 15 June 2017 which agreed the approach to the production of Strategic Masterplans and Concept Frameworks EB107).
2. As indicated in the Cabinet Report on Delivering Infrastructure in the District: Developer Contributions Strategy (11 July 2019 EB145 and EB145A) the delivery and/or enhancement of Green and blue Infrastructure will be expected as part of development proposals in accordance with the guidance contained in the Infrastructure Delivery Plan (IDP) (EB1101A & EB1119) and Open Space Strategy (EB703).
3. In parallel to these requirements to support the policies in the emerging Local Plan, the Council has legal obligations under the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") as a 'competent authority' under Regulation 63. This requires the Council to ensure that plans and projects do not have an adverse effect on the integrity of internationally important ecological sites, including the Epping Forest SAC.
4. The responsibility for the development of an approach to avoid or mitigate any harm to

the Epping Forest SAC arising from recreational pressure lies with the Council as the competent authority. On 18 October 2018 the Cabinet agreed an interim approach to managing recreational pressure on the Epping Forest SAC to mitigate any adverse effects on its integrity as a result of recreational pressures arising from new residential development. The interim approach incorporated Strategic Access Management and Monitoring (SAMM) measures. Other measures are also required to ensure that a comprehensive approach is taken by the Council in order to demonstrate that planned growth within the District will not have an adverse effect on the integrity of the Epping Forest SAC. This includes the provision of Suitable Alternative Natural Green Space (SANG) as part of a number of proposed strategic sites, together with the identification of Infrastructure Enhancement Projects, focused in the Debden, Loughton, Buckhurst Hill and Theydon Bois areas of the District in order to encourage residents to use alternative places for recreation. The Strategy has responded to this requirement by taking an integrated approach to the design and delivery of green and blue infrastructure provision in the District. The Strategy will therefore form the Council's response to Action 6 of the Local Plan Inspector's advice note of 2 August 2019 which asks the Council to provide clear evidence that the necessary SANG can be delivered over the Plan period, including proposals for SANG required in the first five years of the Plan itself and to prepare any Main Modifications needed to ensure that all site specific SAMM or SANG requirements are reflected in the Plan.

5. The production of the Strategy is supported by:

- National Planning Policy and Guidance which encourages local planning authorities to take a strategic approach to the provision and enhancement of green and blue infrastructure within local plans and implementing planning decisions through an evidenced based approach;
- The provision of Biodiversity Net Gain (reflecting the emerging mandate in the government's Environment Bill);
- Ensures the future provision of green and blue infrastructure assets to support the needs of new and existing communities, and that the District's existing natural assets are managed in a coherent and sensitive way;
- Responds to the climate change emergency, as agreed by the Council in September 2019, and supports healthy lifestyles through active travel and enhanced recreational opportunities;
- Provides a framework for the long-term sustainable management and maintenance of green and blue infrastructure by identifying potential stewardship models;
- Provides information on the costs for securing delivery and management through the planning process and supports applications for external funding; and
- Provides a delivery timeline and targets for the provision of green infrastructure over the course of the Local Plan period (up to 2033).

## **Vision**

6. The Council's overarching vision for the Green Infrastructure Strategy is:

'By 2033 a well-connected network of Green and Blue Infrastructure will have been created and secured for the future to ensure that both existing and new communities are supported by high-quality, well-maintained multi-functional spaces which are safe and

sociable, support peoples' health and wellbeing and are accessible by all.

The District's important ecological, natural heritage and landscape assets will have been protected and enhanced and links to the wider area will have been strengthened. Net gains in carbon capture and biodiversity will have been achieved and a design-led approach to the provision and integration of Green and Blue Infrastructure will have been at the heart of creating the District's new places.'

7. The Strategy incorporates 'Green Infrastructure' i.e. a network of high quality green spaces and other environmental features such as parks, public open spaces, playing fields, woodlands, and allotments, and 'Blue Infrastructure', which includes natural features such as rivers, streams and ponds, semi-natural features such as sustainable drainage systems, bio swales and canals, and other engineering features such as dams, weirs and culverts.
8. There is a focus on the role of strategic developments to deliver new, and enhance existing, green and blue infrastructure assets, bring new and existing communities together, and connect to the countryside. However, the Strategy also identifies the contribution that smaller developments can make, links with other Council and partners projects, and provides a framework against which to seek funding opportunities as and when they arise.
9. The Strategy seeks to:
  - Raise awareness of and support for the delivery of high quality and well-managed green and blue infrastructure in the District;
  - Set the Council's expectations for landscape-led masterplanning;
  - Support the development of a local network of spaces and routes to link existing communities with proposed site allocations;
  - Set out the proposed provision of measures to avoid or mitigate the potential impacts of growth on protected sites, including the Epping Forest SAC, and;
  - Sets out requirements for high quality landscape-led design.

### **The Purpose of the Strategy**

10. The principle purpose of the strategy is to act as a practical guide in the design, development management and implementation processes to ensure the creation of a sustainable network of high-quality, multifunctional spaces that provide greater connections between existing and new communities, other amenity spaces and the local countryside.
11. There is a focus on design, in particular landscape-led design in masterplanning, to achieve high quality provision to maximise social, environmental and economic value, while also establishing a framework for community engagement and setting out tangible steps to successful delivery.
12. The Strategy reflects and recognises the wealth of the District's existing green and blue infrastructure assets. It seeks to make the most of these existing assets to maximise their functionality and create a connected network of spaces which frame sustainable,

sociable and healthy communities.

13. The Council will work with a range of partners including with local communities, farmers, large landowners, the Conservators of Epping Forest, Natural England, Essex County Council and through cross boundary initiatives such as the Harlow and Gilston Garden Town and the Green Arc (One Partnership) to improve green and blue infrastructure in the District.
14. The design of new development must be, wherever appropriate, landscape led and cross disciplinary and should inform a proposal from its initial scoping through to detailed design and subsequent submission of a planning application. It is important that this design process is iterative involving Council officers, stakeholders; and that, where appropriate, it is informed by use of the Council's Quality Review Panel.

### **Proposed Approach**

15. The proposed approach to the Strategy (attached at Appendix 1) responds to the need to design and deliver different types and scales of green and blue infrastructure in the District, and different intended audiences or delivery partners for these green and blue spaces. The Strategy has a focus on integrated green and blue infrastructure in the context of District-wide and community projects, and within new developments and strategic sites.
16. The Strategy sets out clear requirements for the design of development to be landscape led and to be brought forward across all green and blue infrastructure typologies, as well as identifying local projects. Identified projects for the provision of green and blue infrastructure will require long term management and maintenance arrangements to be put in place as appropriate, with the intention for these to be included in the Council's Infrastructure Delivery Plan (IDP), which is a 'live' document that will be monitored and updated regularly. An extract from the current IDP showing related projects is attached at Appendix 3.

### **Consultation**

17. The Council undertook initial informal engagement prior to the development of the draft Strategy which was published for formal consultation for a six-week period from 4 June 2020 - 16 July 2020. The consultation was undertaken in accordance with the Council's adopted Statement of Community Involvement and included the following approaches:
  - The creation of a webpage with an accessible format draft document, a short survey, FAQs page, email address and postal address for comments, and link to book phone call with officers;
  - A telephone surgery was available for the general public to discuss the strategy with officers;
  - An online Q&A session with the Epping Forest SAC Oversight Group, which includes neighbouring authorities;
  - Internal workshops and briefings across EFDC Service Departments via the Local Plan Implementation Forum and Stronger Place Leadership Group.
  - An online EFDC Developer Forum workshop/Q&A session with 35 developers and agents in attendance;

- An online workshop/Q&A session with District, Town and Parish Councillors
  - An online EFDC Youth Council workshop/Q&A session with 23 young people aged between 12-17 years.
18. The consultation took place during the COVID-19 pandemic, consequently communications and advertising of online events and workshops and telephone surgeries was undertaken through both digital and non-digital means, such as internal and external magazine and newsletters, posters, and social media.
19. The Council received comments from 175 respondents, through the survey and emailed/posted comments, and engaged with over 90 people in online events workshops and telephone surgeries. A schedule of the representations received (over 900) together with the officers proposed response is attached at Appendix 2. As there were a large number of comments which related specifically to Epping Forest SAC matters, and which had similar themes, a separate overarching response has been provided at Appendix 6.
20. The draft Strategy was also reviewed twice by independent experts with planning and strategic landscaping knowledge through the Council's Quality Review Panel (QRP), in March 2020 and September 2020 (see QRP reports attached at Appendix 4 and 5).
21. The comments received in response to the consultation (see Appendix 2 and 6) can be broadly categorised into the following themes:
- Issues around legibility and accessibility of Strategy, including clarity needed on the Vision and Objectives of the Strategy, with more specific local emphasis, who the Strategy is intended to be used by and how/when objectives will be actioned.
  - More evidenced approach to demonstrating that planned development would not have an adverse effect on the integrity of the Epping Forest SAC, requests for more site specific SANG guidance, including specific quantum requirements, and mechanisms for implementation and funding. SAMMS process to be recognised and included in Strategy and the need to include site specific projects to avoid or mitigate an adverse effect as a result of recreational pressure on the Epping Forest SAC
  - Additional information on environmental net gain, climate crisis and blue infrastructure would be beneficial, and how the Strategy ties into other strategies, neighbouring areas and partnerships on these and other aspects.
  - Clearer role for monitoring and management of Green and Blue Infrastructure outcomes and spaces.
  - Comments relating to specific projects and locations (District-wide, community, local and strategic sites).
  - Of the 121 surveys completed:
    - 91.7% of respondents would like to be kept informed about the work on green and blue infrastructure (5.8% would not, 2.5% did not answer this question).
    - 31.4% agreed that the consultation draft of the strategy included all of the GI assets within the District and assessed them correctly in Section 2 (31.4% disagreed, and 37.2% did not answer this question)
    - 33.9% of respondents agreed with the Vision and Objectives, (24% disagreed,

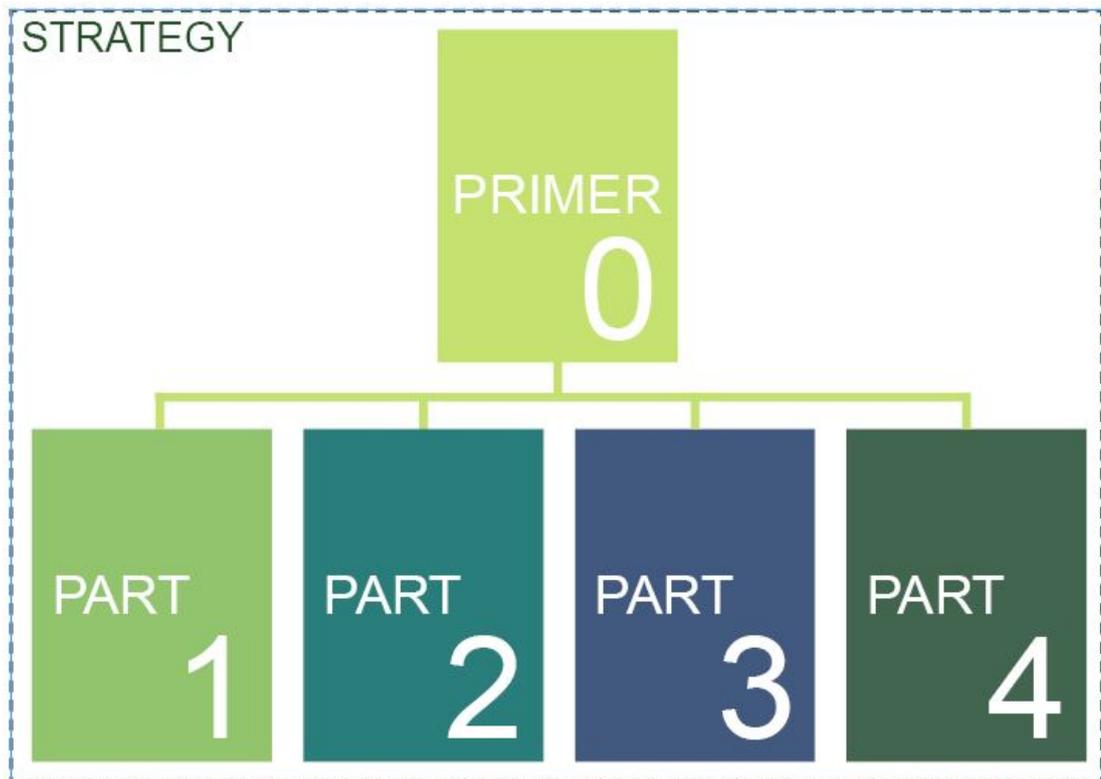
42.1% did not answer this question).

- 39.7% of respondents agreed with the multi-functional approach to green infrastructure (23.1% disagreed, 37.2% did not answer the question) and 33% of respondents agreed that the right themes had been identified in the Strategy (20.7% disagreed, 46.3% did not answer this question).

## **Revisions for Final Green Infrastructure Strategy**

22. Key updates and changes to the strategy, to respond to the consultation comments, include:

- Restructuring of the Strategy. This was undertaken in order to respond to comments raised through the consultation and from the Quality Review Panel. This has resulted in some restructuring of the draft Strategy that was published for consultation. Consequently, whilst certain elements have been moved, the key components of the draft Strategy have not changed. The Strategy now consists of five parts as summarised below:
  - Primer: Introducing Green and Blue Infrastructure
  - Part 1: Implementation – Enhancing Our Existing Network (*focus for community, Town and Parish Councils, authority officers*)
  - Part 2: Implementation – Landscape Led Design (*focus for planning applicants, designers and authority officers*)
  - Part 3: Implementation – Strategic Allocations and Suitable Alternative Natural Greenspace (SANG) (*focus for strategic site developers, designers, authority officers and policy makers*)
  - Part 4: Implementation – Infrastructure Enhancement Projects (*focus on projects in Debden, Loughton, Theydon Bois and Buckhurst Hill to mitigate the effects of development on the Epping Forest SAC*).



- The Primer is to be read first, to familiarise the reader with the purpose, District context and vision and objectives of the Strategy. The different parts of the strategy (1, 2, 3 and 4) then each have a particular focus, which may be more relevant to different audiences, depending on where their interest lies.
- Providing District-focused key messages upfront in the Primer document.
- Language and appearance of Strategy made clearer throughout, focussed on the intended audiences for each Part and use of plain English to enable accessibility.
- Further information provided on stewardship and funding mechanisms for green and blue infrastructure projects in Parts 1 and 2, including for community-focused projects
- Provision of a delivery programme aligned with the Local Plan housing trajectory and potential smaller community projects to show when and how the green infrastructure in the District will be delivered up to 2033.
- Clear reference to, and monitoring/ assessing of, key objectives of the Strategy (landscape-led design, biodiversity, provision of multifunctional and high-quality spaces), through the draft EFDC and HGGT Sustainability Guidance and Checklists documents within their green and blue infrastructure pages and other sections.
- Key changes in relation to Epping Forest SAC matters in Part 3 following ongoing discussion with Natural England and the Conservators of Epping Forest and a new Part 4 providing guidance on specific infrastructure projects required to be delivered in order to mitigate the impacts on recreational pressure on Epping Forest SAC

23. The final Strategy has sought to address the issues raised in the consultation including by key partners and stakeholders, to ensure that a robust, measurable and clear Strategy has been produced, with a number of action points to carry forward to continue

this important work of designing and delivering green and blue infrastructure in the District.

24. Part 4 has introduced site specific infrastructure projects that are required to be delivered in order to avoid or mitigate an adverse effect on the integrity of the Epping Forest SAC as a result of recreational pressure. This includes two infrastructure projects that are intended to address the recreational impact of growth anticipated in Loughton/Debden, Theydon Bois and Buckhurst Hill – namely improvements to Roding Valley Recreation Ground and improved links to the Theydon Bois Wood. The update to the Council's Infrastructure Delivery Plan in September 2020 (EB1118) sets out the need to upgrade the Roding Valley Recreational Ground, to improve signage to the Roding Valley area and Woodland Trust site in Theydon Bois and improve the play areas (see references LOU 28, 29 and 31). The costs of these two projects were not previously identified but implementation and maintenance of them is now included at an overall cost of £428.915. Based on the 599 dwellings proposed for allocation in the emerging Local Plan within the parishes of Loughton, Buckhurst Hill and Theydon Bois (having taken account of the Inspector's advice note of 2 August 2019 ED98) the cost per dwelling is calculated at £716 per dwelling.
25. Next steps include: ongoing work with strategic site developers and planning applicants to ensure that landscape-led design, as set out, is being achieved; consideration of green and blue infrastructure aspects of design coding for strategic masterplan and concept framework sites; taking forward the design and delivery of the Infrastructure Enhancement Projects; potential for engaging communities on local green and blue infrastructure projects through the setting up of cross-service digital platforms; and ensuring that the Strategy is understood and disseminated to key Service areas and officers within the Council.

**Resource Implications:**

The work to support the Strategy as a supporting document to the emerging Local Plan is covered by existing budgets.

**Legal and Governance Implications:**

The Council has legal obligations under the Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") as a 'competent authority' under Regulation 63. This requires the Council to assess the implications of plans and projects on internationally important ecological sites, including the Epping Forest SAC, and develop any approaches necessary to avoid or mitigate any adverse effect on the integrity of such sites.

The Strategy has been developed in the context of Government Planning Policy and Guidance.

**Safer, Cleaner and Greener Implications:**

The delivery of the Strategy will contribute to the Council's safer, cleaner, greener objectives by planning for sustainable development.

### **Consultation Undertaken:**

Informal engagement with statutory consultees including Natural England and Conservators of Epping Forest, Cooperation for Sustainable Development Officer and Member Boards, Leadership Team and Local Plan Officer Working Group was undertaken.

A six-week formal period of public consultation was undertaken in June-July 2020, as set out above in paragraphs 18-24.

### **Background Papers:**

Cabinet Report C-035-2019/20 Draft Green Infrastructure Strategy 15 April 2020 (EB149)

Inspector's advice note dated 2 August 2019 (EB98)

Cabinet report C-001-2017/18 Local Plan Implementation 15 June 2017 (EB107)

Cabinet report C-001-2018/19 Interim Approach to Managing Recreational Pressures on the Epping Forest Special Area of Conservation 18 October 2018 (EB143)

Cabinet report C-007-2018/19 Delivering Infrastructure in the District: Developer Contributions Strategy 11 July 2019 (EB145)

Open Space Strategy 2017 (EB703)

Landscape Character Assessment 2010 (EB709)

Epping Forest Visitor Surveys 2017 (EB715) and 2019 (EB716)

Infrastructure Delivery Plan (EB1101A 2017 & EB1118 2020)

### **Risk Management:**

If the Council does not demonstrate that it is taking a pro-active approach to developing and implementing an approach to managing the effects of recreational pressure and air quality arising from development on the Epping Forest SAC there is a risk that the emerging Local Plan will be found 'unsound' which would have adverse social, environmental and economic consequences for the District.