

**Name of meeting** Cabinet  
**Date** 16<sup>th</sup> April 2019  
**Title of report** Development Management Compliance Strategy

**Purpose of report**

To report the creation of a Strategy for the effective and efficient use of planning enforcement priorities and actions to match the expected uplift in development activity resulting from the Local Plan.

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	Yes
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	Yes
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	Yes
<b>Date signed off by Strategic <u>Director</u> &amp; name</b>  <b>Is it also signed off by the Service Director for Finance?</b>  <b>Is it also signed off by the Service Director - Legal Governance and Commissioning?</b>	Karl Battersby - 11.02.2019  Eamonn Croston - 11.02.2019  Julie Muscroft - 8.03.2019
<b>Cabinet member Economy</b>	Cllr Peter McBride - Economy  Cllr Naheed Mather - Communities and Environment

**Electoral wards affected: All**

**Business Group Mangers for all Political Groups consulted: All**

**Public or private: Public**

**GDPR - This report contains no information that falls within the scope of the General Data Protection Regulation.**

## 1. Summary

- 1.1 The Council has recently adopted its Local Plan in February 2019. The Local Plan sets ambitious targets for housing and job growth through development in Kirklees. The housing target is the second largest in the Leeds City Region. The Planning Service has been receiving significant developer enquiries into emerging allocation of land for housing and employment developments. It is anticipated that development activity in the District will increase. Coupled with the big growth agenda and as part of the aspirations of the Local Plan, is a commitment to regenerate and improve the principal towns within Kirklees. To match these ambitious plans the Council's Development Management service is committed to achieving high quality sustainable developments and improving town centres with proactive and meaningful planning enforcement action, led through a priority based strategy which works in concert with other Council services to coordinate enforcement actions.
- 1.2 Communities who will experience an uplift in growth and construction activity will expect this to be proactively managed. The Development Management service has therefore, in consultation with other Council service areas, developed a Strategy for the management and operational action of its planning enforcement team, namely the Development Management Compliance Strategy. This Strategy aims to facilitate the most efficient and effective use of enforcement powers of the Development Management Compliance Team. It sets out the main principles and procedures the Council will adopt to regulate and monitor development; how it will communicate with residents, developers and businesses; how it prioritises cases coming into the service; and the range of options and actions available to the Local Planning Authority to remedy any given situation.
- 1.3 This will require the focus of the Development Management Compliance Team to check that developments under construction are in accordance with their planning permissions, ie compliance with conditions, adherence to legal obligations, operations within the agreed permission. This will become one of the top priorities for the Development Management Compliance Team who will be responsible for this role in the Planning Service.

The National Planning Policy Framework stipulates that "effective enforcement is important as a means of maintaining public confidence in the planning system" Enforcement action is discretionary and local planning authorities should act proportionately in responding to suspected breaches of planning control." It is important that the public have confidence in the planning system. The Development Management Compliance Team therefore will investigate possible breaches of planning control and seek to deal with them in a positive way either through negotiation or direct action in a positive way that maintains the environment and special character of the areas within Kirklees. Where clear and serious harm is occurring as identified within the Compliance Strategy quick and robust action will be taken to remedy breaches of Planning control.

In order to give the best possible service however, it is vital that we give clear guidance on what we can do and how we balance demands on our services against the resources available to us. The Compliance Strategy will be a publicly available document and will be placed on the Council's website.

- 1.4 The Council has a range of enforcement functions across different service areas, for example Environmental Health, Highways, Licensing and Planning. The Development Management Compliance Strategy sits within the Council's overarching Enforcement Strategy which is led by the Public Protection team. The Development Management Compliance Strategy relates to Planning matters which are set out in detail within this Strategy. Where complaints are received which have issues wider than Planning matters, a cross Council service coordinated response will be provided.
- 1.5 Planning laws and policies are designed to control the development and use of land and buildings in the public's interest. They do not protect the private interests of one person against the activities of another. The relevant background legislation to these powers is contained primarily within the Town and Country Planning Act 1990 (as amended) the Planning (Listed Buildings and Conservation Area) Act 1990 (as amended). This legislation is supported by Government advice, which includes the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (PPG).

## 2. Information required to take a decision

- 2.1 The Development Management Compliance Strategy will become an adopted Council policy to focus the priorities of the Compliance Team and give clarity to communities, Councillors and planning developers about what they can expect from the Council when planning complaints or request for investigations are received.
- 2.2 There will be three categories in a hierarchy of complaint, depending on the breach of planning control within the Development Management Strategy. These are:
- 2.3 

**Priority 1** where there is a likelihood of irreparable harm occurring. In this case, we will aim to visit the site within 3 working days of the complaint. This includes works to protected trees, Listed Buildings and demolitions within a Conservation Area as well as other works that are considered to be causing immediate and irreparable harm to the amenity of an area, including development commencing ahead of discharge of pre-commencement planning conditions.

**Priority 2** where there is a significant nuisance or impact on amenity. In this case, we will aim to visit within 7 working days.

**Priority 3** This relates to less urgent cases and we will aim to visit within 20 working days.
- 2.4 It is expected that now the Local Plan has been adopted then application numbers, particularly major applications, will increase which in turn should see an increase in development activity in the District. This will place considerable burdens on existing staff resources. The Development Management service will respond to the need for additional resources within the Teams to match the uplift in growth, compliance monitoring and investigations.

The table below (which is within the Compliance Strategy document) shows the types of development and areas where the Team will focus its priorities, in line with the main objectives for the Council for Planning Enforcement action and in accordance with the timescales for investigation set out in the priorities hierarchy.

## 2.5

<b>1</b>	<b>A</b>	<b>High</b>	Unauthorised works (including alteration, partial demolition or demolition) to a Listed Building or a building within a Conservation Area
<b>1</b>	<b>B</b>	<b>High</b>	Unauthorised works to trees that are protected, either by a Tree Preservation Order or by virtue of the tree being situated within a Conservation Area, or involving works to a hedgerow that is protected by law
<b>1</b>	<b>C</b>	<b>High</b>	Any other unauthorised development which in the opinion of the local planning authority causes irreversible and serious demonstrable harm or presents an immediate and serious danger to the public including serious breaches of conditions related to construction activities ( <b>expanded below table in 8.4</b> ).
<b>2</b>	<b>D</b>	<b>Medium</b>	Unauthorised development/activities within the green belt, a Site of Special Scientific Interest, within a Conservation Area, within an Area of Article 4 Direction or within any other national or locally-designated site of nature conservation
<b>2</b>	<b>E</b>	<b>Medium</b>	Any unauthorised development/activity or breach of a planning condition which in the opinion of the local planning authority causes demonstrable, continuous harm to the locality especially the town centres, or the living conditions of local residents
<b>2</b>	<b>F</b>	<b>Medium</b>	Unauthorised advertisements which have a detrimental impact upon public/highway safety or visual amenity
<b>2</b>	<b>G</b>	<b>Medium</b>	Unauthorised development where the time limit for pursuing enforcement action might expire within 6 months (excluding categories above)
<b>3</b>	<b>H</b>	<b>Low</b>	Technical breaches of planning control that marginally exceed permitted development rights
<b>3</b>	<b>I</b>	<b>Low</b>	Minor variations from approved plans that do not, in the opinion of the local planning authority, appear to cause demonstrable harm to the locality or the living conditions of local residents
<b>3</b>	<b>J</b>	<b>Low</b>	Unauthorised advertisements that in the opinion of the local planning authority, lie outside any of the categories listed above.
<b>3</b>	<b>K</b>	<b>Lowest</b>	Minor unauthorised development that would be likely, in the opinion of the local planning authority, to receive retrospective planning permission or would result in formal enforcement action not being instigated.
<b>3</b>	<b>L</b>	<b>Lowest</b>	Complaints that are made anonymously

- 2.6 Having clearly identified our enforcement priorities within the Compliance Strategy set out in the table above, experience demonstrates that those with the highest priorities are more likely to require formal action being taken after initial investigations. For example, investigations relating to planning conditions where development starts on site without key conditions being discharged, causes complaints and concerns from within local communities. In the worst cases, residents – both existing and future – are left uncertain as to whether they are properly protected. Retrospective attempts to rectify this problem usually diverts resources away from more positive aspects of the service, namely dealing with planning applications, discharging conditions and assisting with delivery of housing and employment planning permissions.

The Council wants to try to avoid this situation as it undermines confidence in the planning system and does not present a considerate and positive aspect to development. To tackle this, it is likely that action will be taken where critical conditions have not been discharged. In these cases it is likely that the Council will seek to bring about an end to activities as quickly as possible until we are satisfied that measures are in place to protect local communities. This may mean the use of Stop Notices. Critical conditions/agreements are those which may affect public safety or amenity or key infrastructure. Typically, but not exhaustively, these include conditions/agreements which cover:

- Land contamination and remediation
- Highway Improvements – in particular those required for capacity or safety reasons
- Structural matters
- Noise insulation and protection
- Odour and other pollution remediation
- Drainage and Flood Management
- Site Construction Management including tree protection
- Hours of operation including construction deliveries
- Noncompliance with conditions relating to Affordable Housing or other key infrastructure required by the Planning Permission.

### 3. **Implications for the Council**

- 3.1 The Council has a primary role ensuring confidence in the Planning system is maintained, effective, efficient and consequently clear enforcement priorities and actions are a key part of this. In addition, the Council's big growth agenda requires effective planning enforcement.

#### **Economic Resilience**

- 3.2 None specifically.

## **Improving Outcomes for Children**

3.3 None specifically.

## **Reducing demand of services**

3.4 None specifically.

## **Legal/Financial or Human Resources**

### **3.5. Legal**

Some increased demand on its Planning Law Section to support formal action when this is taken.

#### **3.5.1 Financial**

Limited risk resulting from enforcement action which is challenged through the Appeals and Cost Procedures.

#### **3.5.2 Human Resources**

Some additional recruitment maybe required to lead and support the range of priorities for the Development Management Compliance Team.

## **4. Consultees and their opinions**

4.1 Business Groups of each political party were consulted. The comments received have been considered. The Compliance Strategy will be reviewed regularly, and if priorities change or feedback from customers, residents and Councillors suggests changes, then these will be considered and reflected in an annual review process.

## **5. Next steps**

5.1 Following approval by Cabinet the Compliance Strategy will be made public on the website. Where it is considered appropriate developers and agents who submit planning applications and enquiries to the Council will be notified of its adoption in writing.

## **6. Officer recommendations and reasons**

6.1 Cabinet is requested to:

1. Approve the adoption as a Council Policy the Development Management Compliance Strategy and authorise its implementation in March 2019.

## **7. Cabinet portfolio holder's recommendations**

7.1 Portfolio Holders support the officer recommendations.

8. **Contact officer**

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9. **Background Papers and History of Decisions**

1. Kirklees Publication Local Plan and Main Modifications 2019.
2. National Planning Policy Framework (July 2018)
3. Planning Practice Guide (Minster for Housing Communities and Local Government)
4. Town and Country Planning Act 1990 (as amended) the Planning (Listed Buildings and Conservation Area) Act 1990 (as amended).

10. **Service Director responsible**

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