

Planning Committee

23 March 2021

EASTBOURNE
Borough Council



Working in partnership with **Eastbourne Homes**

Time: 6.00 pm

PLEASE NOTE: This will be a 'virtual meeting' held remotely in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations.

Members of the press and public can view or listen to proceedings by clicking on the link provided on the agenda page on the Council's website.

Instructions for members of the Committee and Officers to join the meeting have been circulated separately.

Membership:

Councillor Jim Murray (Chair); Councillors Peter Diplock (Deputy-Chair) Jane Lamb, Robin Maxted, Md. Harun Miah, Colin Murdoch, Barry Taylor and Candy Vaughan

Quorum: 2

Published: Monday, 15 March 2021

Agenda

- 1 Welcome and Introductions**
- 2 Apologies for absence and notification of substitute members**
- 3 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**
- 4 Minutes of the meeting held on 23 February 2021 (Pages 3 - 6)**
- 5 Urgent items of business.**
The Chairman to notify the Committee of any items of urgent business to be added to the agenda.
- 6 Ocklyne Chalk Pit. ID: 200855 (Pages 7 - 22)**
- 7 Planning Enforcement Policy (Pages 23 - 52)**

Information for the public

Accessibility: This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

Public Participation: Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to submit a speech on a matter which is listed on the agenda if applicable. Where speeches are normally allowed at a Committee, live public speaking has temporarily been suspended for remote meetings. However, it remains possible to submit speeches which will be read out to the Committee by an Officer.

Information for Councillors

Disclosure of interests: Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

Other participation: Please contact Democratic Services for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

Email: committees@lewes-eastbourne.gov.uk

Telephone: 01323 410000

Council website: <https://www.lewes-eastbourne.gov.uk/>

Modern.gov app available: View upcoming public committee documents on your device. Free modern.gov [iPad app](#) or [Android app](#) or [Microsoft app](#).



Working in partnership with **Eastbourne Homes**

Planning Committee

Minutes of meeting held remotely on 23 February 2021 at 6.00 pm.

Present:

Councillor Jim Murray (Chair).

Councillors Peter Diplock (Deputy-Chair), Robin Maxted, Md. Harun Miah, Colin Murdoch, Barry Taylor and Candy Vaughan.

Officers in attendance:

Leigh Palmer (Head of Planning First), Neil Collins (Senior Specialist Advisor for Planning), Helen Monaghan (Lawyer for Planning), Emily Horne (Committee Officer) and Jennifer Norman (Committee Officer).

Also in attendance:

Councillor Alan Shuttleworth, Ward Member for Langney.

53 Welcome and Introductions

The Chair introduced members of the Committee via roll call, and officers those present during the remote meeting.

54 Apologies for absence and notification of substitute members

Apologies for absence had been received from Councillor Jane Lamb. Councillor Paul Metcalfe confirmed he was acting as substitute for Councillor Jane Lamb.

55 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.

Councillor Peter Diplock declared a personal interest in item 8 on the agenda - Land at Friday Street Farm, Stone Cross, as he had a relative who lived on Friday Street.

56 Minutes of the meeting held on 26 January 2021

The minutes of the meeting held on 26 January 2021 were submitted and approved as a correct record, and the Chair was authorised to sign them.

57 Urgent items of business.

There were none.

58 1 Ridgeland Close. ID: 200986

Planning application for the erection of 1.8m high close board fence – **UPPERTON.**

The Committee was advised that there had been an error in the description of the application, this was corrected to read 'erection of 1.8m high close boarded fence'.

A written representation against the proposal was read aloud by the by the Head of Planning First on behalf of Mr Enefer, objector. The speech raised a number of concerns regarding the height, scale, style, stability, intrusion of the fence and the loss of trees and shrubs.

A written representation in support of the proposal was read aloud by the Head of Planning First on behalf of Mr and Mrs Mitchell, applicants. The speech was in support of their application for a consistent level of fencing around the property and the proposed conditions for a planting scheme.

Members discussed alternative methods in which the fence could sit more sympathetically in its surroundings and agreed that officers speak with the parties involved to negotiate an agreeable solution.

Councillor Maxted proposed a motion to approve the application in line with the officers' recommendation. This was seconded by Councillor Diplock and was carried.

RESOLVED: (Unanimous) that Planning permission be granted, subject to the conditions set out in the report.

59 Ocklynge Chalk Pit. ID: 200855

Outline application with all matters reserved for siting of 18 residential units – **RATTON.**

The Committee was advised by way of an addendum report that the consultation response from the County Ecologist would be reported at the meeting and of an amendment to Condition 10.9 - Arboriculture.

The Senior Specialist Advisor – Planning, informed the Committee that the comments of the County Ecologist had been received prior to the meeting, which raised no objection subject to an ecological impact assessment and reserved matters. Consequently, the application was recommended for approval rather than for delegated authority for officers to determine the application following receipt of the recommendations of the County Ecologist.

A written representation against the proposal was read aloud by the by the Head of Planning First on behalf of Mrs S and Miss M Verrall, objectors. The speech highlighted concerns about the destruction of biodiversity, health and safety risks, and the dangers of the concealed entrance to the site.

In discussing the application, Members raised concerns regarding the loss of trees, ground stability, flooding, sunlight, wildlife, site entrance and requested sight of the County Ecologist's report.

The Senior Specialist Advisor – Planning, explained that this was an outline application with all matters reserved. The principal considerations were ecology and trees. Details of the dwellings, flood measures and other impacts would be determined at the reserved matters stage. Structural stability details would be determined by Building Control.

Councillor Murdoch recommended a site visit take place for members to view the site to decide if in principle it could accommodate 18 houses.

Councillor Taylor proposed a motion to refuse the application for the following reason: "The Council are not satisfied that the proposal can be accommodated at the site without causing material harm to the interest of ecological and arboricultural importance and in addition given the existing topography it is likely to result in an inhospitable living environment for the occupiers of any residential unit". This was seconded by Councillor Metcalfe. Councillor Taylor requested that there be a named vote and this was approved. The motion was lost by **3 votes for** (Councillors Metcalfe, Murdoch and Taylor) **and 5 votes against refusal** (Councillors Diplock, Maxted, Miah, Vaughan and Murray).

Councillor Diplock proposed a motion to defer the application for the committee members to undertake a site visit in accordance with Covid-19 rules. This was seconded by Councillor Miah and was carried. Councillor Taylor requested that his vote against the motion to be recorded.

RESOLVED: (by 7 votes for and 1 vote against (Councillor Taylor)) that Outline planning permission be deferred, for members to undertake a site visit, in accordance with Covid-19 rules.

60 Land at Friday Street Farm, Stone Cross. ID: 190706

Outline planning application (Matter for approval: Access) for proposed new access from Pennine Way to serve development of Land at Friday Street Farm, for up to 250 residential dwellings (35% affordable), with associated car parking, together with the introduction of new access point from Pennine Way, and creation of a network of roads, footways, and cycleways throughout the site, and the provision of 1.6ha of public open space, further children's play areas, allotments, sustainable urban drainage systems, and landscape buffers on the site. Full proposal is being considered by Wealden District Council (Ref: WD/2020/1391/MAO) – **LANGNEY**.

The Committee was advised by way of an Addendum of supplementary comments from East Sussex County Council - Highways.

The Head of Planning First explained that the application was deferred at the Planning Committee meeting held on 26 January 2021 at the request of the

members to explore the full funding arrangements for the strategic highways works which were required by East Sussex County Council (ESCC) Highways prior to commencement of the wider works at the site. He confirmed, as detailed in his report, that assurances had been received on the funding arrangements and any approval would be subject to a S106 Legal Agreement and the conditions listed in the report.

Councillor Shuttleworth, Langney ward Member, addressed the Committee. He asked the Committee to refuse planning permission on the grounds that the additional traffic would cause an unacceptable severe congestion impact without the necessary mitigation measures, which were not guaranteed.

Members were of a mixed opinion, raising concerns regarding access, traffic congestion, speed of traffic on Friday Street and the imposition of the application. Members noted that their request had been met for the mitigation measures to Pennine Way be resolved pre-commencement of the works.

Councillor Murray proposed a motion to approve the application in line with the officers' recommendation. This was seconded by Councillor Diplock and was carried.

RESOLVED: (by 5 votes to 2 against and 1 abstention) that Planning permission be granted, subject to the conditions set out in the report.

61 Date of Next Meeting

Resolved:

That the next meeting of the Planning Committee which is scheduled to commence at 6:00pm on Tuesday, 23 March 2021 in a virtual capacity, via Microsoft Teams, and in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations, be noted.

The meeting ended at 7.54 pm

Councillor Jim Murray (Chair)

Report to: Planning Committee
Date: 23rd March 2021
Application No: 200855
Location: Ocklynge Chalk Pit, Eastbourne, East Sussex
Proposal: Outline application with all matters reserved for siting of 18 residential units

Applicant : East Sussex College Group
Ward: Ratton
Deadlines: **Decision Due Date:** 6 January 2021
Neighbour Con. Expiry: 16 January 2020

Recommendation: Approve with conditions, subject to S106 Agreement to cover local labour, affordable housing and public transport accessibility improvements

Contact Officer: **Name:** Neil Collins
Post title: Senior Specialist Advisor - Planning
E-mail: neil.collins@eastbourne.gov.uk
Telephone number: 01323 410000

Map Location:



1. Executive Summary

- 1.1 Members will recall that this item was deferred from February's Planning Committee in order to allow for a site visit to be carried out for consideration of the issues discussed at the meeting. This took place on Saturday 6th March 2021 in accordance with CV19 restrictions and this application is subsequently brought back to Planning Committee for conclusion.
- 1.2 The application site is owned by East Sussex College Group and its development is part of wider ambitions to improve the delivery of educational facilities within the borough.
- 1.3 The application seeks Outline planning permission with all matters reserved and would result in the creation of 18 dwellings on the site, adding to two existing derelict houses, which would be refurbished and brought back into use, but which do not form part of this proposal.
- 1.4 Details have been submitted in relation to the principle considerations for this application: The impact upon protected trees; and the impact upon the ecology of the site.
- 1.5 Indicative drawings suggesting a possible layout and dwelling design have also been submitted, but all matters (including those covered by submitted details) would be reserved for later approval, including but not limited to: layout; design, landscaping; drainage; flood risk; tree removal/works; sustainability; ecology assessment/mitigation and affordable housing.
- 1.6 Members will now have seen the consultation response from the County Ecologist, which concludes that there is no principle objection on grounds of the ecological impact and that reserved matters would need to include more extensive assessment of the presence of species on the site and any mitigation measures required.
- 1.7 Members are also advised of consultation response from ESCC Highways, as detailed at paragraph 6.2 of this report. Highways recommend that improvements to public transport accessibility are secured alongside any permission and this would form an additional head of terms for S106 legal agreement.
- 1.8 Members are advised that, given the principle nature of the outline proposal and the dependency of any resulting scheme upon the detailed Reserved Matters, that these would be brought back to the Committee as and when they are submitted.
- 1.9 The application is recommended for approval subject to the reserved matters outlined in paragraph 10.4 of this report, together with a Section 106 legal agreement to secure 40% affordable housing provision and a Local Labour Agreement in line with adopted policy requirements, together with a contribution to public transport accessibility improvement works.

2. Relevant Planning Policies

- 2.1 National Planning Policy Framework 2019
 2. Achieving sustainable development

- 3. Plan-making
- 4. Decision-making
- 5. Delivering a sufficient supply of homes
- 8. Promoting healthy and safe communities
- 9. Promoting sustainable transport
- 11. Making effective use of land
- 12. Achieving well-designed places
- 15. Conserving and enhancing the natural environment

2.2 Eastbourne Core Strategy Local Plan 2006-2027

- B1: Spatial Development Strategy and Distribution
- B2: Creating Sustainable Neighbourhoods
- C1: Town Centre Neighbourhood Policy
- D1: Sustainable Development
- D5: Housing
- D7: Community Sport and Health
- D8: Sustainable Travel
- D9: Natural Environment
- D10: Historic Environment
- D10A: Design

2.3 Eastbourne Core Strategy Local Plan 2001-2011

- UHT1: Design of New Development
- UHT4: Visual Amenity
- UHT6: Tree Planting
- UHT7: Landscaping
- HO1: Residential Development Within the Existing Built-up Area
- HO6: Infill Development
- H07: Redevelopment
- H09: Conversions and Change of Use
- HO20: Residential Amenity
- TR1: Locations for Major Development Proposals
- TR2: Travel Demands
- TR5: Contributions to the Cycle Network
- TR8: Contributions to the Pedestrian Network
- TR11: Car Parking
- BI1: Retention of Class B1, B2 and B8 Sites and Premises

BI4: Retention of Employment Commitments

NE4: Sustainable Drainage Systems

NE23: Nature Conservation of Other Sites

LCF4: Outdoor Playing Space Contributions

NE14: Source Protection Zone

2.4 Supplementary Planning Documents and other relevant documents

Affordable Housing SPD

Sustainable Building Design SPD

Trees and Development SPG

Eastbourne Townscape Guide SPG

3. **Site Description**

3.1 The application site comprises a former chalk pit, which was originally excavated for chalk and has since been used occasionally by the current owners, East Sussex College.

3.2 The site is accessed at its north western end via a private road linking the site to Willingdon Road, the nearest public highway. As would be expected for a former quarry, the site is concave as a result of the excavation. The site topography slopes gently from the access point into a largely flat base, but is steeply sloped on the southern, eastern and northern sides.

3.3 The site is located within the Ratton Ward and the Ocklynge and Rodmill Neighbourhood, as defined by the Core Strategy 2013. It is not located within any designated conservation area, nor does it include any listed buildings or ancient monuments. However, the site is located within a Archaeological Notification Area.

3.4 The site falls within the Environment Agency's Flood Risk Area 1 (Low Risk).

4. **Relevant Planning History**

4.1 EB/2008/0543

4.2 Development of former chalk pit to provide residential institution with ancillary training buildings (Class C2 Use) for people with learning disabilities, to include a bakery and tea room, and a foyer extension to the former Lime Kiln Cottages and conversion to provide ancillary administrative offices associated with the proposed development. Approved, 9th March 2009.

5. **Proposed Development**

5.1 The application seeks outline planning permission for the construction of 18 residential dwellings on the site. All other matters are to be reserved for later approval.

5.2 The applicant has submitted details of tree removal, shade analysis based on the degree of tree removal and a Preliminary Ecological Assessment,

together with plans showing an indicative layout, dwelling design and access/parking/landscaping.

6. Consultations

6.1 External

6.2 ESCC Highways

6.2.1 ESCC Highways have highlighted the importance of visibility splays to be provided at the access to the private road, Coppice Court, from Willingdon Road and that these should be as big as the existing topography will allow.

6.2.2 Highways have also recommended that a contribution should be sought to improve public services to the site in the form of improvements to bus services on the west side of Selmeston Road, to include the following:-

- New raised bus boarding kerb, minimum 125mm, in place of a section of grass verge;
- Bus stop clearway markings;
- New bus shelter in consultation with Eastbourne Borough Council;
- New bus stop pole and socket base (sourced from Stagecoach or Externiture);
- Real time passenger display.

6.2.3 The above improvements would be secured via a S106 agreement and the detailed design would be agreed through a S278 Agreement with ESCC Highways.

6.3 Southern Water

6.3.1 Southern Water has confirmed that further information would be required to demonstrate that drainage could be achieved on site and that any SUDs scheme could be maintained over the lifetime of the development.

6.4 ESCC SUDs

6.4.1 SUDs have confirmed that further information is required to determine that surface water runoff from the proposed development can be sufficiently managed.

6.4.2 There are no surface water sewers or watercourses located within the vicinity of the site. If infiltration to the ground is proposed, SUDs will require that soakaway testing is carried out to BRE365 standard to demonstrate that infiltration will be feasible at the site. Infiltration testing should be carried out at the depth and location of the proposed infiltration features.

6.4.3 It is SUDs preference that existing surface water flow paths are maintained at the site.

6.5 Southern Water

- 6.5.1 No objection subject to a SUDs scheme to demonstrate effective foul and surface water management and maintenance over the lifetime of the development.

6.6 Internal

6.7 County Ecologist

- 6.7.1 No objections to be raised at this Outline Application stage but offer the following comments that must be addressed at the Reserved Matter stage.
- 6.7.2 There are a number of limitations with the Preliminary Ecological Appraisal report, e.g. it does not include a data search from the Sussex Biodiversity Record Centre, and it identifies the need for a suite of phase 2 surveys.
- 6.7.3 The site supports a breeding population of slow worms. A robust mitigation strategy will be required which may result in translocation.
- 6.7.4 There is at least one (likely) disused badger sett on site. Surveys are required to confirm the status of the sett.
- 6.7.5 Bat surveys will be required to inform appropriate mitigation, compensation and enhancement.
- 6.7.6 Significant wildlife friendly planting, including tree planting, will be required to mitigate for the loss of habitat, and bird, bat and hedgehog boxes should be provided to offset loss of habitat on site.
- 6.7.7 In addition to the above, bird, bat and insect boxes should be provided to provide an enhancement for biodiversity.
- 6.7.8 Precautions will need to be taken for hedgehogs, foxes and other mammals.
- 6.7.9 Precautions should be taken to prevent harm/disturbance to nesting birds.
- 6.7.10 Measures should be taken to remove non-native invasive species from site and/or to control them to ensure they do not spread.
- 6.7.11 In light of the above any reserved matter application must be informed by an Ecological Impact Assessment.

6.8 Specialist Advisor – Planning Policy

- 6.8.1 No principle objections on policy grounds.

6.9 Specialist Advisor – Environmental Health

- 6.9.1 Conditions are advised requiring submission of details of hours of working, prevention of pollution and prevention of burning material on site during the construction period.

6.8 Specialist Advisor - Regeneration

- 6.9.2 The planning application qualifies for a local labour agreement as it meets the thresholds for a residential development as detailed on

page 11 of the Employment and Training Supplementary Planning Document adopted November 2016.

- 6.9.3 The proposed development will provide an opportunity for construction students to visit to learn about techniques associated with new builds and refurbishment and gain an understanding of building considerations relating to the topography of the site. Additionally, the main contractor will be able to participate in extra-curricular and careers initiatives at local primary and secondary educational establishments.
- 6.9.4 Regeneration requests that should outline planning permission be granted for the site, it be subject to a local labour agreement.
- 6.10 Specialist Advisor – Arboriculture
- 6.10.1 The Specialist Advisor for Arboriculture has raised concerns that the proposed development would lead to additional tree loss in order to provide sufficient daylight within the dwellings and that this would impact upon the integrity of the woodland Tree Protection Order. Conditions have been recommended in the event of approval of the application to ensure that tree/loss and protection can be fully assessed as part of a detailed reserved matters scheme.

7. Neighbour Representations

- 7.1 9 representations have been received regarding the application, which raise the following concerns:-
- Neighbour privacy/security
 - Impact upon wildlife
 - Access and parking
 - Construction related traffic
 - Building heights
 - Loss of privacy
 - Loss of trees / habitats

8. Appraisal

8.1 Principle of Development

- 8.1.1 Para. 73 of the Revised National Planning Policy Framework (NPPF) instructs that 'Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. As the Eastbourne Core Strategy is now more than 5 years old, local housing need is used to calculate the supply required.
- 8.1.2 The most recently published Authority Monitoring Report shows that Eastbourne can only demonstrate a 1.43 year supply of housing land. The application site is not identified in the Council's Strategic

Housing and Employment Land Availability Assessment (SHELAA) or on a brownfield register. It therefore represents a windfall site that would boost housing land supply.

- 8.1.3 Para. 11 (d) of the NPPF states that, where a Local Planning Authority is unable to identify a 5 year supply of housing land, permission for development should be granted unless there is a clear reason for refusal due to negative impact upon protected areas or assets identified within the NPPF or if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.1.4 This site would be considered a windfall site, as it has not previously been identified in the Council's Strategic Housing Land Availability Assessment (SHLAA). The application will result in a net gain of 18 residential units.
- 8.1.5 Taking account of the above policy position, the proposed residential use of the site is considered to accord with the objectives of the Development Plan and is considered to be acceptable in principle

8.2 Ecology

- 8.2.1 The applicant has submitted a Preliminary Ecological Assessment which confirms that a Stage 1 Habitat Survey has been carried out for the site. The Assessment broadly concludes that further investigation will be required in order to fully assess the ecological impacts of the development, together with initial recommendations for mitigation measures based upon the indicative proposal.
- 8.2.2 The County Ecologist has been consulted regarding the application and their response is summarised in the consultation section above.
- 8.2.3 It should be noted that this application seeks outline permission with all matters reserved. This would provide a significant degree of flexibility in the approach to any detailed scheme and potential ecological impacts. A detailed scheme would be the subject of further scrutiny and could respond to the recommendations/advice of the County Ecologist and any further studies that are required to understand the full ecological value of the site and, in turn, the required mitigation measures.

8.3 Loss of protected trees and landscaping

8.3.1 Trees

- 8.3.2 The proposal will have an impact upon existing trees, which form part of the woodland Tree Protection Order covering the site. The applicant has submitted an Arboriculture Assessment, which details a degree of tree removal. Whilst this degree of removal has been submitted, it may be subject to significant change taking account of any revisions to the scheme, including the building locations and associated landscaping works. All matters would be reserved for consideration when a comprehensive assessment can be made on a

detailed scheme. This could include a lesser loss of trees, including in relation to the ecology of the site.

- 8.3.3 Taking into account that tree works are would not be approved as part of this application, it is not considered that refusal of this application on the loss of trees could be adequately justified.

8.3.4 Landscaping

- 8.3.5 Indicative plans show the potential layout of hard and soft landscaping features for the site. The plans demonstrate that the proposed quantum of development can be accommodated on the site with a good degree of soft landscaping around the dwellings and access/parking surfacing.

- 8.3.6 The site take up of any development, including hard and soft landscaping, would need to be assessed in relation to a full and conclusive ecological assessment, tree works, drainage and the detailed design and scale of the proposed dwellings. However, the site is considered to be sufficient in size to accommodate an appropriate proportion of good quality hard and soft landscaping as part of a comprehensive and detailed scheme.

- 8.3.7 A landscaping scheme would be secured by reserved matters and would be required to provide rich and diverse planting to achieve biodiversity net gains.

8.4 Amenity for future occupants

8.4.1 Privacy

- 8.4.2 The indicative layout shows buildings that would face each other across the width of the site. The window to window layout would be across a centrally placed access road running the length of the site. This layout could result in privacy issues for future occupants. However, it is considered that there is scope within the site to achieve an alternative layout and, together with detailed building designs, could overcome privacy issues.

8.4.3 Daylight

- 8.4.4 The topography of the site and the existing tree cover has implications on the delivery of high quality, well-lit, residential accommodation. Successful residential accommodation would require excellent architectural design and orientation, coupled with careful and effective tree removal to allow for daylight/sunlight to serve the dwellings not just following construction, but throughout the lifetime of the development, taking into account of the regrowth of trees. Given that both the extent of tree works and the exact layout / building design is to be considered at a later date, it is not considered that this application could reasonably be refused on these grounds when a detailed scheme submitted at reserved matters stage could effectively overcome the issues.

8.5 Affordable Housing provision

- 8.5.1 Any development which involves the net gain of 10 or more new dwellings is required to incorporate provision of affordable housing as per para. 64 of the Revised NPPF and policy D5 of the Eastbourne Core Strategy.
- 8.5.2 The Policy D5 of the Eastbourne Core Strategy (2013) and the Affordable Housing SPD (2017) require on-site affordable housing provision unless such provision would render the development financially unviable. The following order of preferred provision forms the basis for assessment, taking into account the characteristics of the site:-
- The Council's on-site preferred mix;
 - An on-site alternative mix to be agreed upon by the Council and the relevant developer(s);
 - A level of affordable housing on-site which is less than the specified threshold;
 - Serviced plots onsite;
 - Service plots offsite;
 - Transfer of land;
 - A commuted sum.
- 8.5.3 The site is located within a 'high value area', as stated within the Council's adopted Affordable Housing SPD 2017, which requires 40% affordable housing provision. Based upon the submitted scheme (18 units), this would amount to 7.2 units; 7 units provided on-site, with the remaining provision forming an off-site financial contribution, in accordance with the Affordable Housing SPD.
- 8.5.4 An on-site tenure mix of 70:30 Rented to Shared Ownership would be sought in any scheme brought at reserved matters stage and would be adjusted where necessary to take account of any viability issues
- 8.5.5 A mix of unit sizes would be sought to reflect, where possible, the following defined housing need, as stated within the Affordable Housing SPD:-
- 1 bedroom: 40 per cent;
 - 2 bedrooms: 30 per cent;
 - 3 bedrooms: 20 per cent;
 - 4+ bedrooms: 10 per cent.
- 8.5.6 All The above provision would be sought via Section 106 Agreement and secured at reserved matters stage, in accordance with the requirements of the Affordable housing SPD.

8.6 Accessibility and impacts upon highway networks

- 8.6.1 Policy TR2 of the Eastbourne Borough Plan states that development proposals should provide for the travel demands they create and shall be met by a balanced provision for access by public transport, cycling and walking. Additionally, Policy D8 of the Core Strategy

recognises the importance of high quality transport networks and seeks to reduce the town's dependency on the private car.

8.6.2 Visibility

8.6.3 ESCC Highways have raised the importance of visibility splays to be provided at the access to Coppice Court from Willingdon Road. The visibility splays would affect both land outside of the application site and the land ownership of the applicant. It is not possible to require visibility splays that would affect land under separate private ownership.

8.6.4 The access to Coppice Court from Willingdon Road is existing and allows for any number of vehicles to negotiate the existing highway arrangement both in visiting the application site and Coppice Court Care Home. Visibility from the access is sufficient to have allowed the creation of the access in the first instance. The level of visibility for highway users visiting the application site would be no different to existing highway users and is therefore considered to be acceptable.

8.6.5 Accessibility

8.6.6 The site is located in a Predominantly Residential Area and is accessible by foot and car. The nearest bus stops served by a regular bus route 1 (20-minute daytime frequency and up to 30 minutes evenings and Sundays) are on Victoria Drive. These are approximately 600 metres from the site. On Selmeston Road there is an off-peak hourly bus route 4, with a bus stop approximately 400 metres from the site. This is accessed by a pedestrian walkway between Willingdon Road and Selmeston Road, though this needs to be upgraded to comply with accessibility standards.

8.6.7 ESCC Highways have stated within their consultation response that improvements to the public transport accessibility would need to be funded by any development of the site. As such, this has been included with other heads of terms for the S106 legal agreement that would accompany any permission and would be secured through a S278 with ESCC. The works secured by S106 would include:-

- New raised bus boarding kerb, minimum 125mm, in place of a section of grass verge;
- Bus stop clearway markings;
- New bus shelter in consultation with Eastbourne Borough Council;
- New bus stop pole and socket base (sourced from Stagecoach or Externiture); and
- Real time passenger display.

8.6.8 Parking

8.6.9 The submitted indicative layout demonstrates that both vehicle and cycle parking can be adequately accommodated on site for the quantum of proposed development. Detailed scrutiny of the size and arrangement of parking spaces and any other on-site vehicle

manoeuvring would be reserved for consideration at reserved matters stage.

8.6.10 It is considered that the transport needs generated by the quantum of dwellings that would be approved by way of this application could be adequately provided for in detailed proposals.

8.6.11 Taking the above considerations into account, it is considered that the proposed development complies with Policy TR11 of the Eastbourne Borough Plan Saved Policies (2007).

8.7 Other matters

8.7.1 Sustainability / Energy

8.7.2 In line with Core Strategy Policy D1 and the Sustainable Building Design SPD, sustainability measures would be sought by reserved matters and would be required to demonstrate that would include solar voltaic and water heating panels on the roof for renewable energy provision.

8.7.3 Taking account of the site's location, electric vehicle charging would be sought as part of a detailed scheme in line with the Council's sustainability aspirations.

8.7.4 Archaeology

8.7.5 The site is located within an Archaeological Notification Area. As such, the developer would be required by the reserved matters to submit a programme of archaeological works in accordance with a written scheme of investigation.

8.7.6 Drainage

8.7.7 A full SUDs scheme would be required by reserved matters and would be subject to the agreement of ESCC SUDs and Southern Water regarding any drainage design and this would be approved prior to commencement and implemented in accordance with the approved design prior to first occupation.

8.7.8 Construction Management

8.7.9 A Construction and Environmental Management Plan would be required by reserved matters to ensure that construction related traffic would be suitably managed in relation to the site, including delivery times, parking, types of vehicles and construction traffic movement on and around the site. The Plan would demonstrate how the environmental impacts of construction upon neighbouring occupants would be mitigated. The plan would also include the previously mentioned pollution mitigation measures.

8.7.10 Flood Risk

8.7.11 The site is located within the Environment Agency's Flood Risk Area 1 (Low Risk).

8.7.12 However, a large area of the site is shown to be at high risk from surface water flooding on the Environment Agency's Risk of Flooding from Surface Water data set, with flood depths up to 0.90m predicted

during the 1 in 30-year rainfall event. This area of flooding is shown to affect proposed residential units. Therefore, a flood risk assessment would be required for submission at reserved matters stage together with the detailed building design, to ensure that future residents would be protected in the event of flooding of the site.

8.7.13 Community Infrastructure Levy

8.7.14 The development is CIL liable.

9. **Human Rights Implications**

9.1 The impacts of the proposal have been assessed as part of the application process. Consultation with the community has been undertaken and the impact on local people is set out above. The human rights considerations have been taken into account fully in balancing the planning issues; and furthermore the proposals will not result in any breach of the Equalities Act 2010.

10. **Recommendation**

10.1 Grant planning permission subject to a Section 106 Legal Agreement for the following Heads of Terms: Affordable Housing and Local Labour Agreement.

10.2 Outline permission would be subject to the following reserved matters and conditions:

10.3 **Time Limit** - The development hereby permitted shall be begun before the expiration of three years from the date of permission.

Reason: To comply with Sections 91 and 92 of the Town and County Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

10.4 **Reserved Matters** a) Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:-

- i. Layout
- ii. Scale
- iii. Dwelling design
- iv. Access
- v. Landscaping
- vi. Tree removal/works/protection
- vii. Construction and environmental management
- viii. Drainage
- ix. Details of any excavation or alterations to site levels
- x. Archaeology
- xi. Sustainability
- xii. Affordable housing
- xiii. Flood risk
- xiv. Ecology / Biodiversity
- xv. Daylight/Sunlight
- xvi. Transport

- b) The development shall be implemented strictly in accordance with the approved reserved matters.
- c) Approval of all reserved matters shall be obtained from the Local Planning Authority in writing prior to commencement of development or tree works.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 (as amended) of the Town and Country Planning Act 1990.

- 10.5 **Approved Site Plan** - The development, hereby permitted, shall be carried out on the land specified in the Location Plan shown on drawing number: (04)0000.

Reason: For the avoidance of doubt and in the interests of proper planning.

- 10.6 **Dwelling Design** - Reserved matters for dwelling design shall include plan, elevation and cross-section drawings including in relation to external ground levels, manufacturer's details of all fenestration and a full schedule of facing materials to be used in the construction of all external surfaces of the development, hereby approved.

Reason: To ensure a satisfactory appearance of the development.

- 10.7 **Drainage** - Reserved matters for drainage shall include a surface water drainage scheme and a maintenance and management plan covering the lifetime of the development, which should be supported by an assessment of the site's potential for disposing of surface water by means of a sustainable drainage system.

Prior to submission, the applicant shall first make contact with ESCC SuDS Team and Southern Water to ensure their agreement with the details.

Reason: To reduce the risk of flooding, both on and off site, to improve and protect the water quality and improve existing habitats.

- 10.8 **Construction and Environment Management** - Reserved matters for construction and environmental management shall include the submission of a Construction and Environmental Management Plan (CEMP), which shall provide details as appropriate but not be restricted to the following matters:-

- the anticipated number, frequency and types of vehicles used during construction;
- the method of access and egress and routing of vehicles during construction;
- the parking of vehicles by site operatives and visitors;
- the loading and unloading of plant, materials and waste;
- the times of any deliveries related to the development, which should avoid peak travel times;
- the storage of plant and materials used in construction of the development,
- the erection and maintenance of any security hoarding;
- the provision and utilisation of wheel washing facilities or any other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders);

- dust and/or any pollutants;
- measures to manage flood risk during construction; and
- details of public engagement both prior to and during construction works.

Prior to submission of the CEMP, the applicant shall first make contact with ESCC Highways to ensure their agreement with the submitted details.

Reason: In the interests of highway safety and the amenities of the area.

- 10.9 **Arboriculture** - Reserved matters for trees shall include: an Arboricultural Impact Assessment, including details of all tree removal/works; a scheme for the protection of retained trees in accordance with BS 5837:2012; a Tree Protection Plan(s) (TPP); and an Arboricultural Method Statement (AMS). Specific issues to be dealt with in the TPP and AMS shall include:-

- a) Location and installation of services/ utilities/ drainage;
- b) Details of construction within the Root Protection Area (RPA) or that may impact on the retained trees;
- c) A full specification for the construction of all hard landscaped areas, including details of the no-dig specification and including relevant sections through them;
- d) Specification for protective fencing to safeguard retained trees during both demolition and construction phases and a plan indicating the alignment of the protective fencing;
- e) Specification for scaffolding and ground protection within tree protection zones;
- f) Arboricultural supervision and inspection by a suitably qualified tree specialist;
- g) Reporting of inspection and supervision.

Reason: To satisfy the Local Planning Authority that the trees to be retained will not be damaged during demolition or construction and to protect and enhance the appearance and character of the site and locality, pursuant to section 197 of the Town and Country Planning Act 1990.

- 10.10 **Access** - Reserved matters for access shall include, but not be limited to, swept path diagrams to demonstrate that vehicles can safely access, manoeuvre and egress the site in a forward gear.

Prior to submission of the details, the applicant shall first make contact with ESCC Highways to ensure their agreement with the submitted details.

Reason: In the interests of highway safety and the amenities of the area.

- 10.11 **Archaeology** - Reserved matter for archaeology shall include a programme of archaeological works in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development, hereby permitted, shall not be occupied until the archaeological site investigation and post-investigation assessment (including provision for analysis, publication and dissemination of results and archive deposition) has been completed and approved in writing by the Local Planning Authority. The archaeological site investigation and post-

investigation assessment shall be undertaken in accordance with the programme set out in the written scheme of investigation.

Reason: To enable the recording of any items of historical or archaeological interest.

10.12 **Landscaping** - Reserved matters for landscaping shall include details of the treatment of all parts of the site not covered by buildings, including:-

- a) a scaled plan showing all hard and soft landscaping, including vegetation to be retained and planting of trees and plants;
- b) details of all hard surfaces;
- c) all boundary treatments;
- d) a schedule detailing sizes, species and numbers of all proposed trees/plants
- e) sufficient specification to ensure successful establishment and survival of new planting.

Reason: To safeguard and enhance the character, amenity and biodiversity of the site.

11. **Appeal**

- 11.1 Should the applicant appeal the decision the appropriate course of action to be followed, taking into account the criteria set by the Planning Inspectorate, is considered to be written representations.

12. **Background Papers**

- 12.1 None.

Report to:	Planning Committee
Date:	23 March 2021
Title:	Planning Enforcement Policy
Report of:	Head of Planning
Ward(s):	All
Purpose of report:	To present details of the proposed Planning Enforcement Policy.
Officer recommendation(s):	(1) That the report be noted; and (2) That Cabinet be recommended to approve the Planning Enforcement Policy as set out in Appendix 1.
Reasons for recommendations:	(1) To publicise the Council's expectations for the delivery of the planning enforcement function.
Contact Officer(s):	Name: Leigh Palmer Post title: Head of Planning E-mail: leigh.palmer@lewes-eastbourne.gov.uk Telephone: 07939 578235

1 Introduction

- 1.1 Attached is the Council's proposed Planning First Enforcement Policy.
- 1.2 Members will appreciate and acknowledge the importance of planning enforcement in the development management of the applications process. The Enforcement Policy outlines, gives structure to, and provides guidance in relation to the application of judgement in assessing and determining breaches of planning control.
- 1.3 Following the establishment of Planning First it has given the opportunity to set out the Council's approach to planning enforcement. The purpose of this policy document is to ensure that Councillors and Officers, external agencies and the public are aware of the Council's proactive approach to its planning enforcement responsibilities.
- 1.4 The planning system operates to regulate the development and use of land in the public interest. The effective and proper enforcement of planning controls is essential to protect the local environment and interests of residents, visitors, and businesses of the District from the harmful effects of unauthorised development.

- 1.5 The National Planning Policy Framework states ‘...effective enforcement is important as a means of maintaining public confidence in the planning system...’ The need for effective enforcement is very important as it assists in-
- Tackling breaches in planning control which would otherwise have an unacceptable impact on the amenity of the area;
 - Maintaining the integrity of the decision making process;
 - Helping to ensure that the public acceptance of the decision making process is maintained.
- 1.6 The Council has a duty to investigate alleged breaches of planning control and has powers to remedy proven breaches by statutory and other means.
- 1.7 Breaches of planning control are viewed very seriously and it is our policy to exercise these powers appropriately, proportionately and rigorously so that development takes place in accordance with the appropriate legislation or conditions and limitations imposed on any planning permission.
- 1.8 The integrity of the development management process depends on the Council's readiness to take effective enforcement action when it is justifiable.
- 1.9 This report outlines the importance of delivering enforcement investigations and subsequent actions in a prompt and efficient manner.

2 General approach to Enforcement

- 2.1 The decision to take enforcement action is discretionary and the Council will always act in a proportionate manner.
- 2.2 In considering whether to pursue action, the Council will have regard to:
- Whether the breach of planning control unacceptably harms public amenity, or the authorised use of land and buildings merits protection in the public interest.
 - Ensuring any enforcement action is commensurate with the breach of planning control to which it relates. Enforcement action will not normally be taken to remedy trivial or technical breaches of control which are considered to cause no harm to amenity.
 - Ensuring that, if initial attempts to persuade an owner or occupier of a site to voluntarily remedy the harmful effects of unauthorised development fail, negotiations

should not be allowed to hamper or delay whatever formal enforcement action may be required to make the development acceptable on planning grounds.

- Statutory time limits for taking enforcement action.
- Relevant planning policies and other material considerations.

3 Complaint priorities

- 3.1 The Policy document outlines that to make the most effective use of resources, all reports of suspected breaches of planning control will be investigated and progressed in accordance with a priority rating of '1', '2' or '3' depending on the nature of the breach and the degree of harm caused. Individual cases may be reprioritised as the investigation progresses.

4 Where no further action is proposed

- 4.1 When it is proposed to take no further action, either because no breach has occurred, a minor or insignificant breach has occurred, or there is insufficient evidence to pursue the matter, the person reporting the suspected breach of control will be notified preferably in writing within 15 working days of the initial site visit that no further action will be taken and an explanation provided of the Council's reason(s).

5 Where a breach of planning control is established

- 5.1 Where a breach of control is established, the person reporting the suspected breach will be notified which course of action the Councils intend to take to secure regularisation of the breach of planning control. In most instances this will involve one of the three following options:
- Attempt to negotiate a solution.
 - Invite the submission of retrospective application for planning permission to allow the Councils to consider whether planning permission should be granted, and the development regularised.
 - Consider formal enforcement action.

6 The Council's policies for enforcing planning control.

- 6.1 The policy document lists a range of policies that cover the key themes and common material breaches of planning control.

7 Corporate Plan and Council policies

- 7.1 Effective operation of this policy will support both the Council's priorities in the Council Plan and Departmental Service Plan to protect and enhance the quality of the local environment.

8 Financial appraisal

- 8.1 The Enforcement Policy Document will be used by the existing staffing structure and therefore there are no financial implications of this report.

9 Legal implications

- 9.1 The Town and Country Planning Act 1990 and the other legislation which empowers the Council to take enforcement action are cited in the Policy Statement.
- 9.2 The Council's scheme of delegation requires consultation with the Council's Senior Legal Officer before serving injunctions or taking proceedings for the recovery of CIL. However, it is also common practice for all statutory notices to be issued in consultation with the appropriate legal officers and this is a safeguard that is secured by the Head of Planning in the terms of his sub-delegation to the officers responsible for planning enforcement.

Legal implications provided by JCS 10.02.21 IKEN ref 9941.

10 Risk management implications

- 10.1 The following risk will arise if the recommendations are not implemented and the following mitigation is proposed:
- 10.2 **Risk:** if not implemented, the advice, policies and procedures within the enforcement policy would potentially result in delay and ad-hoc processing of complaints. This would result in an inconsistent service.
- 10.3 **Mitigation:** That the recommendations of this report are approved, allowing the publication of the enforcement policy to present the Council's expectations for how planning enforcement complaint should be addressed.

11 Equality analysis

- 11.1 An Equality Screen has been completed in conjunction with this report. Although the proposals are unlikely to impact on protected groups, taking steps to promote equal access to the enforcement complaints process may improve the health and wellbeing of communities as well as the character and amenity of the area.

12 Environmental sustainability implications

- 12.1 By seeking to influence how planning enforcement is undertaken and to ensure that planning permissions are monitored and adhered to will ensure that where appropriate actions will help to meet the target of zero carbon by 2030.

13 Appendices

- 13.1 Appendix 1 – Planning Enforcement Policy



ENFORCEMENT POLICY STATEMENT for

Lewes District Council &
Eastbourne Borough Council

April 2021

Contents

1. Introduction	3
2. Council Vision for Enforcement	3
3. Openness	5
4. General Approach to Enforcement	6
5. Types & Incidence of Enforcement Problems	7
6. Investigation of Suspected Breaches of Planning Control	8
7. Consideration of Enforcement	11
8. Powers Available to the Local Authority	12
9. Policies for Enforcing Planning Control	18
10. Contact Us	24
11. Appeals	24

1. Introduction

- 1.1 This policy sets out a joint policy approach. However, formal enforcement action can only be taken by an individual council against a breach of planning control within their administrative area and for the avoidance of doubt references to 'Council' in this policy statement means either LDC or EBC as appropriate.
- 1.2 The planning system seeks to regulate the development and use of land in the public interest. The effective and proper enforcement of planning control is essential to protect the local environment and the interests of residents, visitors and businesses of the District and Borough from the harmful effects of unauthorised development. It is also important for public acceptance of the planning system that unauthorised development is kept under control.
- 1.3 This document sets out Lewes District Council (LDC) and Eastbourne Borough Council (EBC) policy for the enforcement of planning control within their administrative areas.
Effective operation of this policy will support both the Council priorities in the Council Plan and Departmental Service Plan to protect and enhance the quality of the local environment.
- 1.4 The South Downs National Park (SDNP) was designated in April 2010 and affects about half of Lewes District Council area. As from 1 April 2011 the South Downs National Park Authority (SDNPA) assumed the responsibility of Planning Authority for the designated area. The SDNPA has decided that a wide range of planning services, including enforcement, should be provided by Lewes District Council for that part of the district within the National Park. There is an agreed delegation and liaison procedure with the SDNPA dependent upon the significance of the case.
- 1.5 The SDNP have an enforcement guide which can be found using the link below.

<https://www.southdowns.gov.uk/wp-content/uploads/2015/01/SDNPA-Enforcement-Guide-Amended-Sep-2018.pdf>

2. Council Vision for Enforcement

- 2.1 The Council will seek to control unauthorised development, works and operations and ensure effective compliance with planning permissions, Listed Buildings and other relevant consents and regulations through an approach to enforcement that is fair, proportionate, targeted, timely, consistent and clear, and in the

interests of protecting the environment, local amenity and the community.

- 2.2 It is the developer's responsibility to ensure that the appropriate consent is applied for and that any development takes place in accordance with the decision, including any conditions or legal agreements. However, on occasions, unauthorised development does take place.
- 2.3 The Council has ~~ve~~ a duty to investigate alleged breaches of planning control and has powers to remedy proven breaches by statutory and other means. Breaches of planning control are viewed very seriously and it is our policy to exercise these powers appropriately and rigorously so that development takes place in accordance with the appropriate legislation, or with the conditions and limitations imposed on any planning permission.
- 2.4 The integrity of the development control process depends on the Council's readiness to take effective enforcement action when it is essential. Public acceptance of the development control process is quickly undermined if unauthorised development, which is unacceptable on planning merits, is allowed to proceed without any apparent attempt by the Council to intervene before serious harm to amenity results from it.
- 2.5 The Council will therefore act positively and swiftly in tackling breaches of planning control in accordance with the considerations and process described in Section 6 of this Enforcement Policy Statement.
- 2.6 The purpose of this policy document is to ensure that Councillors and officers, external agencies and the public are aware of the Council proactive approach to its planning enforcement responsibilities.
- 2.7 Lewes District Council (LDC) and Eastbourne Borough Council (EBC) are always trying to improve the service we provide. Please contact us if you would like to make comments or suggestions about how we can improve our planning enforcement service.
3. The Council's -key priorities include crime prevention and enforcement, with particular emphasis on "joined up enforcement". Co-operation with other Council service areas and external agencies (for example the East Sussex Building Control Partnership, Fire and Police Services, Environment Agency, etc.), is an integral part of the approach to enforcement and these working relationships will continue to be developed in the future in order to make the most effective use of available resources throughout the Council.

Openness

- 3.1 The planning enforcement service will:

STRONGER together



- Review performance regularly and publish results. The success of policies will be monitored, and a report presented to the Planning Committee on a quarterly basis to show the results of enforcement investigations, actions, and outcomes.
- The enforcement policy will be subject to review at least every three years, but the policy will be reviewed on a more regular basis if circumstances dictate.
- Always provide information and advice to individuals and organisations to remain transparent.
- Keep all interested parties informed as to the progress with any investigation.
- Where formal action is necessary, make it clear as to why the Local Planning Authority intends to take, or has taken, enforcement action. Conversely, where it is decided that it is not expedient to take enforcement action any complainants will be informed of the reasons for this decision.
- Publish copies of all enforcement notices, stop notices, breach of condition notices and planning enforcement orders issued and served on the respective [Planning Enforcement Register](http://lewes-eastbourne.gov.uk) which can be found at [Lewes and Eastbourne Council website \(lewes-eastbourne.gov.uk\)](http://lewes-eastbourne.gov.uk) Planning enforcement register - Lewes and Eastbourne Council (lewes-eastbourne.gov.uk)

- 3.2 Each individual matter will be considered on its merits. There will be a consistent approach to enforcement action in similar circumstances.
- 3.3 Where immediate action is considered necessary, an explanation of the reasons will be given at the time and confirmed in writing together with a timescale for implementation.
- 3.4 Where formal action is taken by the Council issuing a statutory enforcement notice, all parties served with a copy of the notice will be informed of the appeal procedure and advised in writing of the consequences of non-compliance with such a notice.
- 3.5 The Council will consider prosecuting individuals or organisations who do not comply with any formal notice served on them and, in exceptional cases, will take direct action to remedy a breach of planning control, where this is necessary having regard to the degree of harm and public safety.

4. General Approach to Enforcement

- 4.1 The integrity of the development control process depends on the Council's readiness to take enforcement action when it is required to do so. Parliament has given local planning authorities the primary responsibility for taking whatever enforcement action is necessary within their area and the Council will always exercise their planning enforcement powers rigorously when it is considered expedient to do so.
- 4.2 In considering enforcement, the Council will have regard to:
- Whether the breach of planning control unacceptably harms public amenity, or the existing use of the land and buildings merits protection in the public interest.
 - Ensuring any enforcement action is commensurate with the breach of planning control to which it relates. Enforcement action will not normally be taken to remedy trivial or technical breaches of planning control which are considered to cause no harm to amenity.
 - Ensuring that, if initial attempts to persuade an owner or occupier of a site to voluntarily remedy the harmful effects of unauthorised development or an unauthorised use fail, enforcement action may be required to make the development acceptable on planning grounds, or to compel it to cease.
 - Statutory time limits for taking enforcement action.
 - Relevant planning policies and other material considerations, including where appropriate, the individual circumstances of the person, business, or other organisation in breach of planning control.
- 4.3 The identity of persons reporting suspected breaches of planning control will be treated as **confidential** unless the complainant authorises otherwise, or the complainant is required to give evidence at a public hearing, inquiry, or court case. The Council will **not accept anonymous** complaints relating to a suspected breach of planning control and will require the full address or site description and location to investigate any suspected breaches of planning control.
- 4.4 The right to privacy under the Human Rights Act 1998 enhances and strengthens the Council's policy on the protection of complainants.

The more recent implementation of the Freedom of Information Act 2000 does not apply in these circumstances and the identity of complainants will not be revealed to third parties unless any of the circumstances above apply.

- 4.5 However, where success of an appeal or prosecution is dependent on evidence being provided by the person who reported the breach of planning control, the Council will discuss with the complainant whether they are willing to relinquish their confidentiality and provide the required evidence before proceeding with formal action or a prosecution.
- 4.6 When the development has become 'established' the Council should make known the provisions for the application of a Certificate of Lawfulness. (Section 192 of the Town & Country Planning Act 1990 as amended by Section 10 of the Planning & Compensation Act 1991).

5. Type and Incidence of Enforcement Problems

Responding to Complaints (Reactive)

- 5.1 Both Councils typically receive between 400 and 500 planning enforcement complaints annually. Many of these are dealt with within a relevantly short period of time, as there is either no breach of planning control taking place, or the enquiry relates to minor technical breaches of planning control that can be resolved without formal action. Others lead to formal enforcement action being taken to resolve the breach.
- 5.2 A variety of breaches occur throughout both the Council areas from unauthorised development, non-compliance with planning conditions and unauthorised changes of use, to unlawful advertisements, works to listed building and to protected trees.

Taking the Initiative (Proactive)

- 5.3 There are several areas where the Council instigates positive action to remedy breaches of planning control, or to remedy harm to the environment. These include:
- Development carried out without the necessary planning permission, listed building consent, conservation area consent, scheduled ancient monument consent, or other consents necessary under planning legislation.

- Action under Section 215 of the Town & Country Planning Act 1990 to remedy the environment harm caused by unsightly land and or buildings.
- Monitoring of planning conditions to ensure that development is carried out in accordance with the approval issued.
- Action against unlawful advertisements situated around the council areas.
- Action against any unauthorised felling, or other works, to protected trees.

6. Investigation of Suspected Breaches of Planning Control

Service Standards

- 6.1 Reports of suspected breaches of planning control will be acknowledged within three working days of receipt. Acknowledgements will be provided by letter or email. The acknowledgment will provide the name of the officer investigating the matter and details of how they can be contacted. To avoid the unnecessary use of resources, anonymous reports of suspected breaches of planning control will not normally be pursued unless evidence suggests that a breach of planning control has occurred or it is obvious that the breach is causing serious harm to the environment or the amenities of residents.

Recording Alleged Breaches of Planning Control

- 6.2 Where a breach of planning control is suspected, this should be reported in writing see Section 10 on how to do this.

We will:

- ✓ Give all complaints a reference number and inform the complainant of name and contact details of the case officer.
- ✓ It is important for the Council to receive as much information as possible regarding the alleged breach to enable the investigating officer to investigate fully.
- ✓ Allocate each complaint a priority code according to the assessed level of harm.
- ✓ Investigate all complaints made in writing. Anonymous complaints and letters will not normally be dealt with, although this is at the discretion of the Enforcement team.

- ✓ Complaints lodged with either of the Councils will be handled in confidence.
- ✓ Where possible, acknowledge all complaints within three working days.
- ✓ Aim to inform complainants of progress in writing or by telephone within 15 working days of the alleged breach being reported. Complainants will be updated as appropriate and informed of the proposed action, within 10 working days of a decision on the case being made.
- ✓ Aim to keep all parties informed of progress where complex investigations are becoming protracted.

Priorities

- 6.3 To ensure that our resources are used and targeted effectively, we will allocate each case a code according to the alleged or potential level of harm caused and the urgency of the case.

The following priority coding system will be used:

Level 1

- Demolition or alterations to a Listed Building
- Demolition in a Conservation Area that is causing immediate and irreparable harm.
- Works to trees subject to a Tree Preservation Order or within a Conservation Area
- Development that is causing serious harm or danger to the public, such as affecting traffic safety
- Unauthorised works affecting protected sites such as Sites of Special Scientific Interest, National and Local Nature Reserves, sites of archaeological interest etc.
- Unauthorised development that has gone undetected and the statutory time limit for taking enforcement action is imminent.

Level 2

- Development/uses that cause serious harm to the amenities of neighbours or to the character and appearance of an area or are otherwise contrary to significant policies in the Development Plan.
- Advertisements causing serious harm to amenity or public safety.
- Disrepair of a Listed Building

- Unsightly buildings or untidy land that is causing serious harm to the amenity of neighbours.

Level 3

- Other advertisements
- Businesses being operated from home, except where they cause serious harm to the amenity of neighbours.
- Minor works i.e. gates, walls, fences, domestic outbuildings, and satellite dishes
- Untidy land and/or buildings

6.4 In most cases, a site visit will be required to establish whether a breach of planning control has occurred. The initial site visit will be conducted within the following timescales:

- Level 1 cases – within one working day
- Level 2 cases – within ten working days
- Level 3 cases – within fifteen working days

6.5 On completion of the initial site visit, the findings will be assessed, and a view taken as to how the investigation will proceed.

6.6 The code given to a case only reflects our initial assessment. Once investigations commence, it may be found that the harm caused is greater or less than originally anticipated. The initial coding is therefore undertaken without prejudice to any subsequent enforcement action.

6.7 All level 1 & 2 cases that fall within the South Downs National Park (SDNPA) will involve close liaison with the SDNPA. Consultation with the SDNPA on level 3 cases will be discretionary.

Where no further action is proposed:

6.8 When it is proposed to take no further action, either because no breach has occurred, a minor or insignificant breach has occurred, or there is insufficient evidence to pursue the matter, the person reporting the suspected breach of control will be notified preferably in writing within 15 working days of the initial site visit that no further action will be taken by the Council and an explanation provided of the reason(s).

Where further investigation is required:

6.9 Where it is not possible to determine from the initial site visit whether or not a breach of planning control has occurred, the person reporting

the suspected breach of control will be notified either verbally or in writing within 15 working days of the initial site visit that further investigation is required. 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, or the owner or other person responsible for the land or building.

- 6.10 In some cases, the Council may request the person reporting the suspected breach of planning control to assist with the investigation by providing a written log detailing the dates, times, duration, and nature of the suspected breach. If the person reporting the suspected breach of planning control is unwilling to assist, they will be advised that this may hinder the Council's investigation, due to the difficulty of gathering sufficient evidence.
- 6.11 Where it appears to the Council that a breach of planning control may have occurred, it will consider serving a Planning Contravention Notice to obtain information relating to the suspected breach.
- 6.12 In cases where further investigation is required, the person reporting the suspected breach of planning control will be notified either verbally or in writing within 15 working days of the Council determining whether or not a breach of planning control has occurred, and if so, what course of action the Council intend to take.

Where a breach of planning control is established:

- 6.13 Where a breach of control is established, the person reporting the suspected breach will be notified which course of action the Council intends to take to secure regularisation of the breach of planning control. In most instances this will involve one of the three following options:
- Attempt to negotiate a solution.
 - Invite the submission of retrospective application for planning permission to allow the Council to consider whether planning permission should be granted, and the development regularised.
 - Consider formal enforcement action.

7. Consideration of Enforcement Action

- 7.1 Where it is established that a breach of planning control has occurred, the Council will determine whether to take formal enforcement action and the nature of such action. In determining this, the Council will have regard to the level of harm resulting from

the breach. In assessing the level of harm, the Council will have regard to current planning policies, and other material considerations.

Negotiating a solution:

- 7.2 Where a breach of planning control has occurred, the Council will normally try to negotiate a solution to regularise the breach of planning control without recourse to formal enforcement action. Such negotiations may involve the reduction or cessation of an unauthorised use or activity, or the modification or removal of the unauthorised operational development. However, these negotiations will not be allowed to hamper or delay the consideration of enforcement action where the breach of control causes serious harm to amenity. Where the Council are unable to negotiate an acceptable solution within a reasonable timescale, or it is clear at the outset that the breach is not capable of being remedied through negotiation, the Council will proceed with formal enforcement action where it is expedient to do so.

Retrospective application for planning permission:

- 7.3 Where a breach of planning control has occurred, but no harm is being caused, or any harm caused might be removed or alleviated by the imposition of conditions on a planning permission, the person(s) responsible will be invited to submit a retrospective planning application within a specified timescale. In such circumstances it will be made clear that the invitation to submit a retrospective application is made without prejudice to any final decision the Council may take in the matter. If such an application is not submitted, the Council will consider whether it is expedient to take formal enforcement action.

8. Powers available to the Local Planning Authority

- 8.1 Where it has been established that a breach of planning control has occurred, the Council will consider using its statutory powers to take action to remedy the breach. The use of these powers is discretionary, but they will always be used when it is considered expedient to do so.
- 8.2 The decision to take enforcement action or commence prosecution will be taken in accordance with the delegation arrangement detailed in the Council's Constitution and will be fully documented on the case file, prior to any decision being made by an authorised officer. All such decisions to take formal action shall only be taken by the Council after authority has been given by the Council's Planning Applications Committee, or the Head of Planning or other Senior

Officers of Planning Services in accordance with the Council's Scheme of Delegation.

Requisition for Information Notices:

- 8.3 Under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, the Council can require the receipt of a requisition for information notice to supply in writing details of their 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 £5,000.
- 8.4 Under Section 330 of the Town & 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 misstatement, is an offence punishable by a fine of up to £1,000.

Planning Contravention Notice (PCN):

- 8.5 A PCN 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. 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 being £1,000. To knowingly provide false information on a PCN can result in a fine of up to £5,000.

Police & Criminal Evidence (PACE) Act 1984:

- 8.6 A PACE interview may or may not be appropriate. This depends on the evidence already gathered by the Enforcement Officer. Occasionally in serious cases where an offence may have been committed, it may be necessary to conduct an interview under caution, as required by the Police and Criminal Evidence Act 1984.

Breach of Condition Notice (BCN):

- 8.7 In cases of a breach of planning conditions it may be appropriate to serve a Breach of Condition Notice (BCN). Consideration should be given to the type of condition and the steps required remedying the breach. Once issued and served the Notice does not take effect for 28 days although there is no appeal against a BCN. The failure to

comply with the notice is dealt with by a prosecution in the Magistrates Court. The maximum fine is £2,500. This may not be a sufficient deterrent in the more serious cases. The BCN is ideal for matters where the steps to be taken are relatively straightforward and can be readily achieved.

- 8.8 Where the breach of planning control relates to non-compliance with a condition on a planning permission, or a limitation on a deemed permission has been exceeded, the Council will consider the expediency of serving a BCN.
- 8.9 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.

Enforcement Notice:

- 8.10 The Council will consider the service of an Enforcement Notice where unauthorised operations or development, or changes of use, have taken place and it is considered expedient to do so. Where a breach of planning control exists and any harm caused would be removed or alleviated by the impositions of conditions on a planning permission, but the invitation to submit a retrospective planning application or rectify the breach voluntarily has been declined, the Council will consider the expediency of serving an Enforcement Notice.

Listed Building Enforcement Notice:

- 8.11 If the breach of planning control relates to a Listed Building, or unauthorised demolition within a Conservation Area, the Council will consider the expediency of serving a Listed Building Enforcement Notice or a Conservation Area Enforcement Notice and where appropriate, commencing a prosecution in the courts.
- 8.12 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.
- 8.13 Service of an Enforcement Notice will be made on any person with an interest on the land. The Notice will come into effect after a minimum period of 28 days. There is a mechanism for an appeal against the Notice. Once the Planning Inspectorate holds an appeal valid, the Enforcement Notice has no effect until the appeal has been heard and a decision published.

Stop Notice:

- 8.14 Where a breach of planning control is causing very serious harm to public amenity and the environment, and this harm could not be

removed or alleviated by the imposition of conditions on a planning permission, the Council will consider the expediency of serving a Stop Notice (at the same time or after the service of an Enforcement Notice) in cases where urgent action is necessary to bring about a cessation of a relevant activity before the expiry period for compliance with the related Enforcement Notice.

- 8.15 The Stop Notice will refer to the Enforcement Notice to which it relates, specify the activity or activities that are required to cease and the date that it takes effect. Failure to comply with the notices is a triable either way offence and carries an unlimited fine.

Temporary Stop Notice:

- 8.16 A Temporary Stop Notice can also be served; however, this can be served without the service of an Enforcement Notice and becomes effective immediately and will stay in effect for 28 days.

Section 215 Notice:

- 8.17 In cases where the amenity of an area is adversely affected by the condition of land or buildings, the Council will consider serving a Notice under Section 215 of the Town & Country Planning Act 1990. The failure to comply with the notice can be dealt with by a prosecution in the Magistrates Court. The maximum fine is £2,500.
- 8.18 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. The Council will firstly write to the owner of the land or building requesting improvements to be made before considering the service of a formal notice.

Prosecution:

- 8.19 The Council 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
 - Breach of Condition Notice
 - Section 215 Notice
 - Stop Notice
 - Temporary Stop Notice
- 8.20 The Council will also consider commencing a prosecution in the Courts where:

- Unauthorised works have been carried out to trees subject to a Tree Preservation Order, or in a designated Conservation Area.
- An advertisement is being displayed without the necessary consent and the Council request to remove it within a specified timescale has been declined or ignored.
- Unauthorised works have been carried out to a Listed Building.
- Unauthorised demolition has been carried out in a Conservation Area.
- The recipient of a Planning Contravention Notice has failed to provide a response within the prescribed time or has supplied false or misleading information.

8.21 Before commencing any legal proceedings, the Council must be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.

Injunction:

8.22 Where an Enforcement Notice has not been complied with and a prosecution is not considered expedient or previous prosecution(s) have failed to remedy the breach of planning control, the Council will consider applying to the Court for an injunction. Such action will only normally be considered if the breach is particularly serious and is causing, or likely to cause, exceptional harm.

Direct Action:

8.23 Where any steps required by an Enforcement Notice or S215 Notice have not been taken within the compliance period (other than the discontinuance of the use of land), the Council will consider whether it is expedient to exercise its power under Section 178 or Section 219 of the Town & Country Planning Act 1990 (as amended) to:-

- a) Enter the land and take the steps to remedy the harm: and
- b) Recover from the person who is then the owner of the land any expenses reasonably incurred by them doing so.
- c) A charge against the land will be imposed where direct works are undertaken, and the expenses are not recovered.

Monitoring of Conditions:

8.24 The Council actively monitors conditions to ensure that development is carried out in accordance with a planning permission. Failure to comply with a planning condition will be viewed seriously and appropriate action taken in accordance with the powers outlined above.

Trees & Landscape:

- 8.25 When alleged cases of unauthorised works on a protected tree(s) come to the attention of the Council, an initial investigation will be carried out as soon as reasonably practicable. The initial investigation will consist of a check to establish whether the tree is protected, whether any consent for the works has been granted, and, where appropriate conduct a site visit. In certain circumstances the Council can invoke a right of entry to enter private land to carry out such investigations where appropriate.

High Hedges:

- 8.26 From the 1 June 2005 Local Authorities have the power, under Part 8 of the Anti Social Behaviour Act 2003, to adjudicate on disputes over high hedges subject to various legal tests being met which include the requirement for occupiers to take all reasonable steps to resolve matters by negotiation before making a complaint to the Council. In cases where the Council finds in favour of the complainant the Council will ensure, through enforcement action if necessary, that any specified schedule of remedial works is carried out.

Common Land:

- 8.28 When alleged cases of unauthorised works have been undertaken on Common Land comes to the attention of Lewes District Council, an initial investigation will be carried out as soon as reasonably practicable. This will likely involve a site visit to assess the situation. Efforts will be made to contact the person(s) alleged to be carrying out the works to try and establish the reasons and objectives for the works. Action will only be considered where there is a clear breach of the Commons Act 2006 and where applicable the Lewes District Council Scheme of Regulation made under section 1 of the Commons Act 1899 and Lewes District Council byelaw dated 28 May 1997. The Council (LDC) can undertake enforcement action where it is appropriate or necessary to do so.

Community Infrastructure Levy Enforcement Procedures:

- 8.29 To ensure that the CIL collection process runs smoothly, collecting authorities have been given a stringent set of enforcement powers, including surcharges for failing to submit CIL notices prior to commencement. The CIL regulations also allow collecting authorities to penalise late or non-payment of CIL charges, including applying interest on late CIL payments and imposing surcharges where payments are not received in full when due.

Persistent failure to pay CIL charges due may result in the council serving a CIL stop notice prohibiting further development on the site, and taking action to recover the debt due, including seizing assets.

The consequences of failing to follow the CIL collection and payment procedures are set out on our website's CIL Section. Guidance on the Community Infrastructure Levy, including the collection and enforcement process, can be found on the Planning Practice Guidance website: Government's Online Planning Practice Guidance.

9. The Council Policies for Enforcing Planning Control

POLICY EN1: General enforcement policy 1

The Council recognise the importance of establishing effective controls over unauthorised development, to assist in the preservation and enhancement of the qualities of both the built and natural environment, and to protect public amenities and will vigorously exercise its enforcement powers to ensure that development takes place in accordance with the appropriate legislation or conditions and limitations imposed on any planning permission.

POLICY EN2: General enforcement policy 2

The Council will exercise its powers in relation to enforcement that are granted under the provisions of the TCPA 1990 and other relevant Acts of Parliament, Orders, Regulations and Bylaws, to control unauthorised development effectively having regard to the significance and seriousness of the breach, the policies in Development Plan and all other material considerations.

POLICY EN3: General enforcement policy 3

In considering enforcement action, the Council will assess whether the breach of planning control unacceptably affects public amenity or causes harm to land or buildings.

POLICY EN4: Serious breaches of planning control

The Council will immediately commence planning enforcement action against any unauthorised development which has a seriously adverse impact on public amenity or causes unacceptable harm to land or buildings.

POLICY EN5: General approach for other breaches of planning control

The Council will attempt to persuade an owner or occupier of land to remedy voluntarily any harmful effects of unauthorised development. The Council will not, however, allow discussions to delay any necessary formal enforcement action to make the development more acceptable on planning grounds, or to make it cease.

POLICY EN6: Derelict or unsightly land or buildings

Where a building or land is in a condition which seriously detracts from, or affects the visual amenity of an area, the Council will take the following measures:

- a) the owner will be requested in writing to improve the appearance of the land or building(s).
- b) where no improvement works are carried out within a reasonable time (as specified in writing), the Council will serve a Notice under Section 215 of the Town and Country Planning Act 1990.
- c) where the Notice has not been complied with prosecution proceedings will be commenced and consideration will be given to entering the land and carrying out the works in default.

POLICY EN7: Protection of tourist accommodation (EBC)

Within the Tourist Accommodation Area, designated in the Eastbourne Borough Plan and the Eastbourne Core Strategy Local Plan 2027, enforcement action will be taken against the unauthorised change of use of Tourist Accommodation to any other use unless it can be proven that the change of use meets the viability criteria in the Council Supplementary Planning Guidance: "Assessment of Financial Viability of Tourist Accommodation".

POLICY EN8: Development without planning permission

Where development has been, or is in the process of being, carried out without planning permission and where immediate action under Policy EN2 would not be justified, the following steps will be taken:

- a) an assessment will be made to establish if it is likely that unconditional planning permission could be granted.
- b) If planning permission is likely to be granted, the submission of a retrospective planning application will be invited.

c) where a retrospective planning application has been requested but not submitted within a reasonable time, a planning contravention notice may be served.

d) where there is no specific planning objection to the development, further enforcement action will not normally be considered appropriate.

e) where the development is considered to cause demonstrable harm then formal enforcement action will be taken.

POLICY EN9: Development not in accordance with approved plans

a) Where development is carried out with planning permission, but it does not strictly accord with the approved plans, an assessment will be made to establish whether the changes from the approved plans are sufficiently material to constitute new development, requiring a separate planning permission or whether they can be dealt with under a non-material change application. Where the changes are of a very minor nature they may sometimes be considered as being "de-minimis" (i.e. so small that they are of no consequence) and no action will be taken.

b) where development is being carried out which is significantly different from the approved plans and the changes cause serious harm to public amenity, immediate enforcement action may be taken, including the issue of a Stop Notice or Enforcement Injunction to stop the unauthorised development.

POLICY EN10: Imposition of conditions to make development more acceptable.

Where development has been carried out without planning permission and the development could only be made acceptable by imposing conditions to overcome planning objections, the Council will request the submission of a retrospective application for planning permission. If after a reasonable period no application has been submitted, an Enforcement Notice will be issued. The notice will have the effect of granting planning permission subject to full compliance with those steps specified in the notice which will address any harm caused by the development.

POLICY EN11: Non-compliance with conditions

Where conditional planning permission has been granted for development, but conditions have not been complied with, a Breach of Condition Notice or Enforcement Notice will be served where demonstrable harm is caused by the development.

POLICY EN12: Minor variations to works carried out under 'Permitted Development' rights

Where development carried out under permitted development rights exceeds the limitations specified in the relevant Order the Council will not necessarily take enforcement action solely to counteract a slight variation over what would be permitted, unless the excess causes unacceptable harm to public amenity.

POLICY EN13: Retrospective applications

Where unauthorised development has been carried out which causes demonstrable material harm to amenity, the submission of a retrospective application will not be encouraged and will not stop enforcement action being taken. When a retrospective application has been refused and enforcement action has not already been taken in accordance with the Council enforcement policies, the applicant will be advised that an enforcement notice is to be issued.

POLICY EN14: Refusal of retrospective applications

Where retrospective planning permission has been refused, enforcement action will be taken, and the appropriate Notices served even if an appeal has been lodged against the refusal of planning permission.

POLICY EN15: Trivial or technical breaches of planning control

Formal enforcement action will not normally be taken against trivial or technical breaches of planning control that cause no material harm to amenity.

POLICY EN16: Unauthorised works to listed buildings.

Where works without consent have been carried out to a listed building and they materially affect its character and appearance either internally or externally, consideration will be given to issuing a Listed Building Enforcement Notice and/or starting criminal proceedings.

POLICY EN17: Unauthorised development in conservation areas

Where development has been carried out in a conservation area without planning permission or conservation area consent, and the development does not preserve or enhance the character and appearance of the area, enforcement action will be considered in accordance with the general enforcement policies EN1 to EN5.

POLICY EN18: Unauthorised business development where re-location is feasible.

Where business development has been carried out without planning permission and it is unacceptable on the site, alternative acceptable sites, if available, will be investigated, with a timetable to allow for re-location. If the timetable is ignored, an Enforcement Notice may be issued giving a reasonable time to allow re-location to take place.

POLICY EN19: Acceptable unauthorised development by small businesses

Where development has been carried out by a small business without planning permission, consideration will be given to allowing the business to continue operating acceptably from the site or operate less intensively.

POLICY EN20: Unauthorised development by small businesses

If unauthorised activity by a small business cannot be allowed to continue, an Enforcement Notice may be issued giving a realistic time to stop the activity and allow for re-location if necessary. Where it is clear to us that serious attempts are being made to comply with the requirements of the Enforcement Notice, consideration may be given to extending the time for compliance.

POLICY EN21: Display of illegal advertisements

Where an advertisement which has been displayed without express consent causes substantial injury to amenity or public safety the Council will ask for it to be removed. Where the advertisement continues to be displayed, prosecution proceedings will be commenced.

POLICY EN22: Fly Posting

Where resources permit, all posters illegally displayed will be removed. Where flyposting has been carried out on sensitive sites and it causes substantial injury to the character or amenity of the area, prosecution proceedings will be commenced against all those responsible for its display.

POLICY EN23: Advertisements on listed buildings

Where an advertisement has been displayed on a listed building without consent, and that advertisement adversely affects the character and appearance of the building or compromises its setting, the Council

will ask for it to be removed. Where the advertisement continues to be displayed, action will be taken to secure its removal.

POLICY EN24: Retrospective applications for advertisement consent

Where a retrospective application for express consent has been refused, the applicant will be asked to remove the advertisement within a specified time. If the advertisement continues to be displayed, proceedings will be commenced even if an appeal has been lodged against the decision to refuse consent.

POLICY EN25: Lawful uses or activities

Where unauthorised development has taken place, but it is claimed that the use or activity is lawful, the submission of an application for a lawful development certificate will be invited. A lawful use or activity will not be conclusively accepted unless a certificate has been granted. Where a certificate has not been granted, enforcement action will be considered in accordance with the general enforcement policies EN1 to EN5.

POLICY EN26: High hedges applications

In cases where the Council finds in favour of the complainant the Council will pursue the necessary enforcement action to ensure that that the specified schedule of remedial works is carried out within a specified timescale.

POLICY EN27: Resources for effective planning enforcement

The Council will commit reasonable resources to ensure effective implementation and maintenance of planning enforcement control.

10. How to Contact the Council (LDC and EBC) in respect of a suspected breach of planning control:

For further information about the Planning Enforcement function or to report an alleged breach of planning control please email customerfirst@lewes-eastbourne.gov.uk

Alternatively call 01273 471600 or 01323 410000 or visit our website and follow this link <https://www.lewes-eastbourne.gov.uk/planning-and-building-control/development-management/planning-enforcement/>

11. Appeals

11.1 If you are served with an Enforcement Notice, there is a right of appeal. The appeal procedure is set out and explained in the enforcement notice.

11.2 The appeal is lodged with the Planning Inspectorate and further details relating to appeals can be found at <https://www.gov.uk/government/publications/enforcement-appeals-procedural-guide>