

# Cabinet

## 2 June 2021



Working in partnership with **Eastbourne Homes**

### Time and venue:

6.00 pm in the Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG

**Note:** This meeting is a public meeting. However, the number of public seats are limited and need to be carefully managed to ensure the meeting is covid-secure. For this reason, we would like to ask that anyone intending to attend as a member of the public, contact Democratic Services in advance by email: [committees@lewes-eastbourne.gov.uk](mailto:committees@lewes-eastbourne.gov.uk) or phone: 01323 415021. Anyone attending the meeting will be asked to check in at the venue and to wear a face covering.

### Membership:

**Councillor David Tutt (Chair); Councillors Stephen Holt (Deputy-Chair) Margaret Bannister, Jonathan Dow, Alan Shuttleworth, Colin Swansborough and Rebecca Whippy**

### Quorum: 3

*Published: Monday, 24 May 2021*

## Agenda

- 1 Minutes of the meeting held on 22 March 2021 (Pages 5 - 8)**
- 2 Apologies for absence**
- 3 Declaration of members' interests (Please see note at end of agenda)**
- 4 Questions by members of the public**

On matters not already included on the agenda and for which prior notice has been given (total time allowed 15 minutes).
- 5 Urgent items of business**

The Chairman to notify the Cabinet of any items of urgent business to be added to the agenda.
- 6 Right to address the meeting/order of business**

The Chairman to report any requests received to address the Cabinet from a member of the public or from a Councillor in respect of an item listed below and to invite the Cabinet to consider taking such items at the commencement of the meeting.

**7 Recovery and Reset (Pages 9 - 16)**

Report of Chief Executive  
Lead Cabinet member: Councillor David Tutt

**8 Eastbourne Biodiversity Strategy (Pages 17 - 38)**

Report of Director of Service Delivery  
Lead Cabinet members: Councillors Jonathan Dow and Colin Swansborough

**9 Planning Enforcement Policy Document (Pages 39 - 70)**

Report of Deputy Chief Executive and Director of Regeneration and Planning  
Lead Cabinet member: Councillor Colin Swansborough

**10 Exclusion of the public**

The Chief Executive considers that discussion of the following items is likely to disclose exempt information as defined in Schedule 12A of the Local Government Act 1972 and may therefore need to take place in private session. The exempt information reasons are shown beneath the items listed below. Furthermore, in relation to paragraph 10 of Schedule 12A, it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. *(The requisite notices having been given under regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.)*

(Note: Exempt papers are printed on pink paper).

**11 Redundancy and redeployment - activity update (Pages 71 - 74)**

Report of Assistant Director for Human Resources and Transformation  
Lead Cabinet member: Councillor Colin Swansborough

Exempt information reasons 1 and 2: Information relating to an individual or likely to reveal the identity of an individual.

## **Information for the public**

### **Accessibility:**

Please note that the venue for this meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired. 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.

### **Filming/Recording:**

This meeting may be filmed, recorded or broadcast by any person or organisation. Anyone wishing to film or record must notify the Chair prior to the start of the meeting. Members of the public attending the meeting are deemed to have consented to be filmed or recorded, as liability for this is not within the Council's control.

### **Public participation:**

Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

## **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).

### **Councillor right of address:**

Councillors wishing to address the meeting who are not members of the committee must notify the Chairman and Democratic Services in advance (and no later than immediately prior to the start of the meeting).

## **Democratic Services**

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

**Email:** [committees@lewes-eastbourne.gov.uk](mailto: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](#) .

This page is intentionally left blank



Working in partnership with **Eastbourne Homes**

## Cabinet

**Minutes of meeting held remotely on 22 March 2021 at 6.00 pm.**

### **Present:**

Councillor David Tutt (Chair)

Councillors Stephen Holt (Deputy-Chair), Margaret Bannister, Jonathan Dow, Alan Shuttleworth, Colin Swansborough and Rebecca Whippy.

### **Officers in attendance:**

Robert Cottrill (Chief Executive), Ian Fitzpatrick (Deputy Chief Executive and Director of Regeneration and Planning), Tim Whelan (Director of Service Delivery), Becky Cooke (Assistant Director for Human Resources and Transformation), Oliver Dixon (Head of Legal Services), Nathan Haffenden (Head of Commercial Business Development), Sarah Roberts (Commercial Business Project Manager) and Simon Russell (Head of Democratic Services).

### **45 Minutes of the meeting held on 10 February 2021**

The minutes of the meeting held on 10 February 2021 were submitted and approved and the Chair was authorised to sign them as a correct record.

### **46 Apologies for absence**

None were reported.

### **47 Declaration of members' interests**

Councillor Shuttleworth declared a personal interest in agenda item 7 (Housing development update) as a member of the Bedfordwell Road Project Board. He remained on the meeting and voted on the item.

Councillor Holt declared a personal interest in agenda item 7 (Housing development update) as he resided near the proposed development at Cavalry Crescent. He remained on the meeting and voted on the item.

### **48 New housing development update**

The Cabinet considered the report of the Deputy Chief Executive and Director of Regeneration and Planning, updating them on the progress of the Housing Revenue Account new developments.

Sarah Roberts, Commercial Business Project Manager delivered a presentation at the meeting on the proposed delivery programme. The programme aimed to deliver 200 homes by 2024 and would include

sustainability features that would help the Council hit the zero-carbon target of 2030.

Councillors Holt and Shuttleworth declared a personal interest in this item. They remained on the meeting and voted on the item.

**Resolved (Key decision):**

(1) To note the progress of the Housing Revenue Account (HRA) Capital Programme for housing delivery.

(2) To authorise the development of the garage sites at Brede Close and Timberley Road, as well as the site at Fort Lane, for new homes and to allocate a budget within the capacity of the approved HRA Capital Programme, with reference to the delegations in recommendation 6.

(3) To approve a waiver under paragraph 2.4.1(a) of the Contract Procedural Rules (CPR) to allow the direct negotiation with, and appointment of, a main contractor for the development at Brede Close, which has an estimated contract value below £4,733,252.

(4) To authorise (a) the transfer for a nominal consideration of the garage site at Biddenden Close to the Eastbourne Community Land Trust (ECLT), and (b) where for any reason the transfer referred to in recommendation 4(a) above does not proceed, the development by Eastbourne Borough Council (EBC) of such property for new homes and to allocate a budget within the approved HRA Capital Programme.

(5) To authorise commencement of the project to develop the site known as Cavalry Crescent up to the planning stage, subject to further Cabinet approval on the appointment of a contractor and the commencement of any works.

(6) To authorise the Director of Regeneration and Planning, in consultation with the Portfolio Holder for Housing and Chief Finance Officer, to carry out all necessary actions to facilitate the proposals outlined at Recommendations 2), 3), 4) and 5) including feasibility, development and determining the terms of, and authorising the signature of, all necessary documentation and to sub-delegate those actions as required. Also to authorise the Director of Regeneration and Planning to take all necessary actions including determining the terms of, and authorising the signature of, all necessary documentation to let the homes to new tenants and dispose on shared ownership terms as required

(7) To approve an increase to the feasibility revenue budget of £250,000, approved in July 2018, up to a total amount of £350,000 to enable the development of a new housing delivery project pipeline as part of the HRA Capital Programme and to delegate authority to the Director of Regeneration and Planning to approve all expenditure, to be sub-delegated as required.

(8) To note that EBC proposes to procure a single provider framework for a

contractor offering an off-site manufactured house building solution, through an advertised open competition. Further details to follow.

**Reason for decisions:**

To provide information and secure approvals in relation to ongoing key development projects.

The meeting ended at 6.30 pm

Councillor David Tutt (Chair)

This page is intentionally left blank



<b>Report to:</b>	<b>Cabinet</b>
<b>Date:</b>	<b>2 June 2021</b>
<b>Title:</b>	<b>Recovery and Reset</b>
<b>Report of:</b>	<b>Robert Cottrill, Chief Executive</b>
<b>Cabinet member:</b>	<b>Councillor David Tutt, Leader of the Council</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To update on progress of the Recovery and Reset Programme</b>
<b>Decision type:</b>	<b>Key</b>
<b>Officer recommendation(s):</b>	<b>(1) To note the progress made with the Recovery and Reset Programme,</b> <b>(2) To agree the service and organisational change proposals set out at para 4.1,</b> <b>(3) To formally approve acceptance of the Culture Recovery Fund grant of £1.871m from the Arts Council, and</b> <b>(4) To delegate authority to the Chief Executive, in consultation with the Cabinet Member for Tourism and Leisure Services, to oversee delivery of the agreed plan for spend in accordance with the Culture Recovery Fund aims and objectives, and for the Chief Finance Officer to update the budget accordingly.</b>
<b>Reasons for recommendations:</b>	<b>The Recovery and Reset Programme provides a structured and accountable approach for delivering the level of significant organisational change needed to respond to current and future challenges.</b>
<b>Contact Officer(s):</b>	<b>Name: Jo Harper</b> <b>Post title: Head of Business Planning and Performance</b> <b>E-mail: <a href="mailto:jo.harper@lewes-eastbourne.gov.uk">jo.harper@lewes-eastbourne.gov.uk</a></b> <b>Telephone number: 01273 085049</b>

---

## **1 Introduction**

- 1.1 Cabinet will recall that the purpose of the Recovery and Reset programme is to tackle the financial, organisational and borough-wide challenges we are facing.

These challenges result from the Covid-19 pandemic, the resultant economic climate and the changing needs and demands of our residents, all of which need to be addressed in a sustainable way. The council faced a significant budget shortfall over the next four years (Medium Term Financial Strategy (MTFS) period), and in response to this has established the Recovery and Reset Programme (R&R) which is making good progress and delivering changes in the way the council operates to meet these challenges and to oversee the council's response to the Covid pandemic.

- 1.2 As previously reported, the programme has four pillars; best use of digital, reshaping delivery, best use of assets, and restart. The progress that has been made in each of these areas is set out in this report.

## **2 Financial context**

- 2.1 When the Recovery and Reset programme was established in the autumn of 2020, it was clear that significant savings would need to be delivered. To this end, Medium Term Financial Strategy (MTFS) set savings targets of £850k for 2021/22 and £2.5m for each year thereafter. However, since these targets were set it has become clear that the Covid pandemic and resultant economic downturn was to have adverse impacts on the council's budgets well beyond this.

- 2.2 As was reported to Cabinet and Council in February 2021, because of the extreme financial pressures being experienced by the council, it was necessary to seek support from central Government. This has been provided in the form of a capitalisation direction (effectively allowing us to borrow or use capital receipts) to fund revenue expenditure not exceeding £6.8m, for the financial year 2020/21 and up to £6m for 2021/22. Beyond this, into 2022/23, the council will need to reach a financially balanced position without the requirement for further capitalisation.

- 2.3 It should be noted that in accepting the capitalisation direction, the council was required to agree to an external assurance review being undertaken. Initially it was reported that this would be completed by end of May. However, we have now been advised that the Ministry of Housing, Communities and Local Government (MHCLG) will be running a procurement round to commission an external partner to deliver the assurance reviews shortly. This means that there will be a significant delay in the review process, which introduces an added uncertainty and risk to the council's financial planning processes for the coming year.

- 2.4 Following the announcement of the capitalisation direction, extensive work is being undertaken to identify a package of service and organisational changes, sufficient to, where possible, reduce the need to borrow for capitalisation purposes. The package is also designed to reduce operational costs in order to meet the projected budget shortfall in 2022/23. This is being achieved through a Priority Based Budgeting approach which is working to ensure priority functions and services are protected whilst driving efficiency wherever possible.

- 2.5 It is expected that, with the anticipated recovery of the local economy, as the country moves forward out of the Covid pandemic, the council's income will start

to recover. This will then enable some of the unavoidable reductions in service levels to be reconsidered and, where appropriate, reinstated and for the council to continue to move forward in delivering against its corporate plan commitments.

- 2.6 The table below sets out the budget challenges which are being tackled through the Priority Based Budgeting exercise. This reflects the pressures identified in the MTFs previously reported to Cabinet last September. This includes reductions in income, increased costs associated with housing, and now the additional cost of financing the capitalisation directions;

	<b>21/22</b> <b>£'000</b>	<b>22/23</b> <b>£'000</b>
Capitalisation	6,000	-
Latest Revenue budget shortfall after capitalisation (including costs of loan repayments)	910	6,572
Less: Budgeted Recovery and Reset programme	(850)	(2,500)
<b>Remaining shortfall to be met through Priority Based Budgeting proposals</b>	<b>60</b>	<b>4,072</b>

Proposals are being developed which will deliver savings to meet the budget shortfall in both 21/22 and 22/23. The full set of proposals will be presented to Cabinet for approval at its next meeting in July. However, ahead of this, Cabinet is asked to endorse some initial service and organisational change proposals which require early implementation. These are set out at para 4.

- 2.7 In addition, we have worked to secure external funding, where applicable. The council has been successful in its application to the Culture Recovery Fund and has been granted £1.87m in 2021/22 from the Arts Council. The funding, which has been one of the largest received by a local authority, will be used to support the reopening and provision of key cultural services, in a Covid safe way, which are critical in supporting the borough's tourism economy. Delivery of the action plan for the spend (as accepted by the Arts Council) is being overseen by a project board chaired by the Chief Executive - additional detail on the activities/areas of spend that will be supported by the funding is set out in Appendix A. As the award is to be spent by the end of June 2021, Cabinet is recommended to approve delegated authority to the Chief Executive to oversee delivery of the agreed plan in consultation with the Cabinet Member for Tourism and Leisure Services within the funding timescales and objectives.

### **3 Recovery and Reset Progress**

- 3.1 Good progress has been made in delivering the Recovery and Reset plans which were agreed by Cabinet in the autumn of 2020. Some key outcomes have been;

### Best use of digital

- The new system for 'taking payments at home' has been introduced to ensure safe and secure financial transactions with customers in all working environments.
- The project to explore a new Revenues and Benefits system has progressed to meeting with potential suppliers.
- The pilot to automate a number of processes has been a success and areas of search for additional automation are being explored.
- The Digital Democracy project is progressing and proposals on next steps will be confirmed shortly.
- While the council is currently unable to hold hybrid meetings, solutions continue to be explored for when such meetings are permitted.
- A revised digital strategy is being prepared to steer the council's use of digital technology in the future, building on an already strong track record in this area.

### Reshaping delivery

- A number of service reshaping exercises have been undertaken in different parts of the organisation which have delivered savings.
- Positive feedback from staff has been received, through the staff wellbeing survey, to the new hybrid working style enabling a reduced office space requirement.

### Best use of assets

- The vacated space at 1 Grove Road is in the final stages of being leased to a public sector organisation – further details including the annual income provided will be confirmed as soon as contracts have been finalised.
- A review of the capital programme was completed ahead of the annual budget process.
- An asset review has also been completed which has informed proposals set out later in this report.
- Alternative governance arrangements for Devonshire Park continue to be investigated and will result in proposals being presented at a future meeting of Cabinet.
- A review of the council-owned Companies has started and, again will result in proposals for Cabinet to consider in due course.

### Restart

- The covid community hub helpline continues to operate but has experienced a very low level of activity in recent months.
- The council continues to focus on supporting social and economic recovery going forward.

3.2 The Recovery and Reset programme is continuing to deliver its original objectives. However, as explained in section 2 of this report, the scale of the financial challenges which are likely to be experienced by the council has meant that additional savings would be required to address the budget gap, particularly in 22/23. The next section of this report sets out an initial set of additional service and organisational changes that Cabinet is asked to consider in order to address those challenges.

## **4 Service and organisational change proposals**

4.1 To contribute to the required savings in 21/22 and 22/23, it is recommended to;

- Make some changes to the council's events programming, both within Devonshire Park (The Congress and Devonshire Park Theatre), and outdoor events in the town, proceeding only with events that do not require council subsidy.
- Adjust the bulky waste collection service to remove a limited number of free collections.
- Increase the cost of garden waste collection by £5 per year from April 2022.
- Reduce the frequency of street cleansing, in some localities, whilst maintaining a focus on priority areas, and offering a responsive and flexible service as required.
- Reduce the level of some aspects of grounds maintenance in some parks and open spaces.
- Change the opening hours of some public conveniences, prioritising their availability during peak visitor periods, and reduce the number of facilities with attendants.
- Whilst retaining support for local community and equality organisations through the ward budget programme, rent support scheme and Eastbourne Local Lottery, reduce the level of ward grants for each ward from £10k to £5k in 21/22 and to £3k in 22/23 and suspend the small grants programme to voluntary and community organisations and the disability inclusion fund grants programme for 21/22 and 22/23. Projects to support disability inclusion, such as enabling an accessible beach, and providing access advice to businesses, will continue.
- Make some reductions in the allocation of major community grants in 22/23, whilst ensuring support for key information and advice services is protected.
- Reduce the level of some aspects of maintenance on the seafront parade (for a limited period).
- Cease council tax reduction for second homes (subject to formal consultation).

## **5 Consultation**

5.1 As it is recognised that there may be some differential impact of these proposals on particular groups within the community, informal discussion has taken place with groups representing those with protected characteristics under the Equality Act. Views have been actively requested regarding any mitigating measures that

might need to be considered in relation to any of the proposals outlined in this report.

- 5.2 The results of that engagement, including recommendations received, are included in the equality and fairness analysis referred to in para 11.1.

## **6 Corporate plan and council policies**

- 6.1 The proposals in this report do not adversely impact on the councils' long-term strategic aims as set out in the Corporate Plan and associated policies.

## **7 Business case and alternative option(s) considered**

- 7.1 In arriving at the proposals in this report extensive options appraisal work was undertaken using a Priority Based Budgeting approach. Other savings options were considered and discounted because of the potential for adverse impact on local residents, businesses or the economy. It is considered that the recommendations in this report provide the least disruptive and most sustainable way for the council to address its short term financial challenges.

## **8 Financial appraisal**

- 8.1 Section 2.6 of the report shows that there is a £4m budget gap for 2022/23 still to be addressed through the Priority Based Budget process, which is after meeting the Recovery and Reset target savings of £2.5m. Overall, this means savings of £6.5m need to be achieved.

The ability of the Council to demonstrate it can deliver this level of savings will be assessed as part of the MHCLG external assurance review and will inform whether the Council will receive the £6m capitalisation direction for 2021/22.

## **9 Legal implications**

- 9.1 In approving the changes set out at paragraph 4.1, Cabinet must, under the Council's public sector equality duty, have due regard to the need to eliminate discrimination against those with a protected characteristic, such as old age or a disability. The consultation described in paragraph 5.1 helps in meeting that duty, and Cabinet will want to ensure that views received from consultees are actively considered.

*Lawyer consulted 10.05.21*

*Legal ref: 09851-EBC-OD*

## **10 Risk management implications**

- 10.1 The risks within R&R are regularly assessed and managed as part of the R&R and project management activities. The identification and management of any significant risks in relation to the programme will be reported to CMT and the R&R Member Board, along with mitigation plans to address them.

## **11 Equality analysis**

- 11.1 An Equality & Fairness Analysis has been undertaken on these proposals/ this project. This has concluded that the proposals that are likely to impact protected and/ or disadvantaged groups are those relating to public conveniences and the Community Grants Programme. A reduction to grants through the major grants fund would impact young people and men particularly, with wider potential impacts for people experiencing homelessness and support available to the voluntary sector. A suspension of the Small Grants and Disability Inclusion Funds would impact disabled groups specifically with wider implication for protected groups who otherwise may have been eligible to apply.
- 11.2 Proposals around public conveniences would have enhanced impacts for age and disability, with carers and pregnant people also potentially impacted. Plans around 'changing places' may go some way towards mitigating this however only if they are open at times when the public conveniences are closed.

## **12 Environmental sustainability implications**

- 12.1 The proposals in this report do not adversely impact on the councils' long-term carbon reduction aims, as set out in the EBC Climate Emergency Strategy.

## **13 Appendices**

Appendix A – Culture Recovery Fund award

## **14 Background papers**

The background papers used in compiling this report were as follows:

- MHCLG capitalisation conditions

## Culture Recovery Fund Award

The Arts Council England (ACE) confirmed earlier this year that Eastbourne Borough Council had been successful in its bid to the Culture Recovery Fund (CRF) and had been awarded £1,871,262. The award is to support the reopening and provision of key cultural services, in a Covid-19 safe way, which are critical in supporting the borough's tourism economy.

The council submitted, as part of its bid to the ACE, an action plan setting out the areas of activity and spend that would be supported by a successful funding award.

Spend within the ACE approved action plan incorporates a range of activities/areas including:

- Building readiness – ensuring the theatre and conference facilities can operate effectively following the period of closure as a result of Covid-19.
- Theatre programming – supporting the return to a programme of events (including, where necessary, social distancing arrangements depending on the regulations in place at the time of the event).
- Marketing – promoting the programme of events to regular and new customers, including the measures that have been put in place to support Covid-19 safe productions/shows.
- Technological innovation – exploring opportunities for new technology, kit and systems to support the provision of a modern cultural offer (eg. the ability to support paperless ticketing and entry to theatres).

In confirming the council's CRF grant, the ACE acknowledged that we may need to vary the items that will be supported by the funding. Where any variations to the plan are required, the council can vary spend in accordance with the CRF areas of eligible costs as set out below.

Eligible costs for the CRF programme include:

- staffing
- overheads
- marketing
- cultural activities
- rehiring or recruiting staff
- contracting freelancers
- Covid-19 related capital costs
- repaying or clearing Covid-19 related debt incurred since 1 October 2020

Subject to Cabinet approval, the Chief Executive will, in consultation with the Cabinet Member for Tourism and Leisure Services:

- Oversee delivery of the action plan for spend, supported by the project board.
- determine any variations to the funding spend in accordance with the areas of eligible costs set out above.



# Agenda Item 8

**Report to:** Cabinet

**Date:** 2 June 2021

**Title:** Eastbourne Biodiversity Strategy

**Report of:** Tim Whelan, Director of Service Delivery

**Cabinet member:** Councillor Colin Swansborough, Portfolio Holder for Place Services and Councillor Jonathan Dow, Portfolio Holder for Climate Change

**Ward(s):** All

**Purpose of report:** To introduce the Biodiversity Strategy and associated work plan

**Decision type:** Key

**Officer recommendation(s):** That Cabinet approves

(1) The Eastbourne Borough Council Biodiversity Strategy 2021-2025 set out in Appendix 1

(2) The associated Action Plan, set out in Appendix 2 of the Biodiversity Strategy

**Reasons for recommendations:** To set out the principles and approach to supporting biodiversity and to provide a framework and work plan for Eastbourne Borough Council in its collaborative approach to protecting and enhancing natural assets

**Contact Officer(s):** Name: Jane Goodall  
Post title: Strategy and Partnership Lead, Quality Environment  
E-mail: [jane.goodall@lewes-eastbourne.gov.uk](mailto:jane.goodall@lewes-eastbourne.gov.uk)  
Telephone number: 07788 515359

Name: Andy Frost  
Post title: Customer First Resolution Team Senior Specialist Advisor (Green Consultancy)  
E-mail: [andy.frost@lewes-eastbourne.gov.uk](mailto:andy.frost@lewes-eastbourne.gov.uk)  
Telephone number: 07966 645005

---

## **1 Introduction**

- 1.1 The natural world is facing threats on an unprecedented scale with the known rates of biodiversity loss and disappearance of habitats and species attributed to ongoing human pressures.
- 1.2 In 2019 the council declared a climate emergency and committed to deliver a carbon neutral town by 2030. Nature-based solutions are at the heart of delivering against this target and work programmes are aligned to climate resilience and improving local biodiversity, through:
- the adoption of a pollinator strategy and pesticide policy in 2019.
  - ongoing projects to increase valuable ecological habitats through better mowing regimes and tree and hedge planting where feasible.
  - continual reviews of management and contracts for council-owned land and property

## **2 Proposal**

- 2.1 The purpose of this strategy is to set out ambitious yet achievable aims and actions in order to better tackle biodiversity loss and ecosystem degradation across the borough and the wider inter-connected landscape.
- 2.2 The visions and actions contained within the strategy have been developed in response to the urgency of the climate emergency being faced. The strategy will enable the council to work with the community to co-ordinate its response into meaningful and long-lasting action.

## **3 Outcome expected and performance management**

- 3.1 As custodian of significant areas of land, by adopting these strategies the council can make a positive impact on the natural environment across the borough and influence others where possible.
- 3.2 Biodiverse landscapes bring a multitude of benefits including:
- Carbon storage
  - Ecosystem function
  - Recreation and wellbeing
  - Food production
  - Adaptation to climate change
- 3.3 Our broad key aims can be summarised as follows:
- To maintain and increase biodiversity on council-owned and managed land.
  - To engage and enable community-led nature-based projects and to be involved in partnerships that promote natural capital and biodiversity across the borough.
  - To ensure that all developments maximise the opportunities for well-considered gains in biodiversity.

- 3.4 Officers will meet with the two Portfolio Holders to review the progress of activity within the attached action plan on a six-monthly basis.

#### **4 Consultation**

- 4.1 The strategy and action plan has been shared with Treebourne, our local community delivery partner, and suggestions for the action plan were gratefully received.

#### **5 Corporate plan and council policies**

- 5.1 The strategy is wholly aligned with the Sustainability Policy 2018, with these statements in particular:

We are aware of and will work to reduce our environmental impact wherever it is within our power to control or influence this:

We will seek out opportunities to improve biodiversity and green infrastructure within our district.

- 5.2 The vision for biodiversity set out in 'Eastbourne Carbon Neutral 2030 - A plan for action' is:

Existing green spaces, the coast and the sea have been protected and enhanced where appropriate and new protected spaces have been created to enable animal and plant life to flourish.

- 5.3 This Biodiversity Strategy complements the Climate Emergency Strategy, November 2020.

#### **6 Financial appraisal**

- 6.1 The adoption of the strategy will not of itself have an immediate direct financial consequence, as the incorporation of biodiversity into many of the Council's functions and services can be achieved within existing resources, providing that this is maintained. However, it will not be possible to meet fully all the objectives and actions in the 2021–2025 EBC Biodiversity Strategy within the existing budgets of those services responsible for implementing the actions identified. The intention should be to make progress in all the areas described within the strategy, and monitoring progress should identify whether resources need to be redirected.

- 6.2 The funding of many activities is complicated: for example, some are pursued through combination of funding with partners; some through encouraging other organisations to pursue them independently; some through bids to grant giving bodies; and some through realigning budgets. In some areas the Council has statutory obligations to meet duties and responsibilities; while others are driven by the need to meet targets. In both instances budgets should reflect this. The key to determining whether budgets need to be realigned will be a comprehensive and effective monitoring procedure.

#### **7 Legal implications**

- 7.1 Part 3 of the Natural Environment & Rural Communities Act 2006 requires specified public bodies (including borough councils), in exercising their functions, to have regard to the purpose of conserving biodiversity. In this context,

conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat.

*Lawyer consulted 17.02.21*

*Legal ref: 009913-JOINT-OD*

## **8 Risk management implications**

- 8.1 Failure to agree and progress the strategy could impact upon the council achieving its ambitions to address the climate emergency.

## **9 Equality analysis**

- 9.1 The Equality Act does not have key relevance to this strategy, which is chiefly aimed at land management and development considerations.

However, the Covid 19 pandemic has brought the subject of mental health and wellbeing to the fore, with access to nature paramount to healthy, thriving communities able to cope with such difficult times.

*Agreed 06/05/2021*

## **10 Environmental sustainability implications**

- 10.1 The proposals presented in the accompanying documents aim to mitigate climate change impacts in the borough by protecting and enhancing Eastbourne's natural assets. The council is committed to supporting measures to help arrest biodiversity losses, restore habitats and species and work for climate resilience to promote healthy and thriving communities. This is recognised through this strategy, with the need to protect and maintain as well as enhance and increase biodiversity and nature across Eastbourne.

## **11 Appendices**

- Appendix 1 – The Eastbourne Borough Council Biodiversity Strategy 2021-2025

## **12 Background papers**

- Eastbourne Borough Council Climate Emergency Strategy, Baseline Report and Action Plan November 2020

<https://www.lewes-eastbourne.gov.uk/resources/assets/inline/full/0/294156.pdf>



Eastbourne Borough Council

# Biodiversity Strategy

2021 – 2025



# STRONGER together



Lewes District Council



Working in partnership with **Eastbourne Homes**

<b>Document name:</b>	<b>Biodiversity Strategy</b>
<b>Document type:</b>	Strategy

<b>Authority covered:</b>	EBC
<b>Responsible (Executive Lead):</b>	Andy Frost, Customer First Resolution Team Senior Specialist Advisor (Green Consultancy)  Jane Goodall, Strategy Lead QE
<b>Accountable (Operational Lead):</b>	Andy Frost, Customer First Resolution Team Senior Specialist Advisor (Green Consultancy)
<b>Version (e.g. first draft, final report):</b>	Draft v5
<b>Approved by:</b>	Cllrs Dow and Swansborough
<b>Date of publication:</b>	Date
<b>Revision due:</b>	2023
<b>Final Equality and Fairness Analysis (EaFA) report approved by:</b>	Seanne Sweeney
<b>Date final EaFA report approved:</b>	Date: 6/5/21



# Contents

Page	Contents
4	Executive Summary
4	Purpose of the strategy
4	What is biodiversity?
5	Why do we need a Biodiversity Strategy?
5	Policy and legislative context
5	The Focal Areas
6	Collaboration through partnership working
7	Preserve and enhance existing valuable habitats
8	Creating more and joining up existing biodiversity habitats
8	The importance of trees and tree planting
9	Implement biodiversity net gains within development
10	Promoting biodiversity and understanding throughout our councils
11	Appendix 1 – Our Partners
	Appendix 2 – Action Plan, as attachment

### Executive Summary

In 2019 the council declared a climate emergency and committed to deliver a carbon neutral town by 2030. Nature-based solutions are at the heart of delivering against this target and work programmes are aligned to climate resilience and improving local biodiversity, through:

- the adoption of a pollinator strategy and pesticide policy in 2019.
- ongoing projects to increase valuable ecological habitats through better mowing regimes and tree and hedge planting where feasible.
- continual reviews of management and contracts for council-owned land and property.

The council is committed to supporting measures to help arrest biodiversity losses, restore habitats and species and work for climate resilience to promote healthy and thriving communities. This is recognised through this strategy, with the need to protect and maintain as well as enhance and increase biodiversity and nature across Eastbourne.

The vision for biodiversity set out in ‘Eastbourne Carbon Neutral 2030 - A plan for action’ is:

Existing green spaces, the coast and the sea have been protected and enhanced where appropriate and new protected spaces have been created to enable animal and plant life to flourish.

Our broad key aims can be summarised as follows:

- To maintain and increase biodiversity on council-owned and managed land.
- To engage and enable community-led nature-based projects and to be involved in partnerships that promote natural capital and biodiversity across the borough.
- To ensure that all developments maximise the opportunities for well-considered gains in biodiversity.

### Purpose of this strategy

The purpose of this strategy is to set out ambitious yet achievable principles, aims and actions to better tackle biodiversity loss and ecosystem degradation across Eastbourne.

In 2019, Eastbourne Borough Council adopted a Pesticide Policy and Pollinator Strategy. Both should be considered alongside this strategy, as their overall aims and goals are to achieve greater biodiversity across the borough.

### What is biodiversity and why is it important?

Biological diversity or biodiversity is the wealth of ecosystems, species and genes on our planet, which underpin our health and our livelihoods.

The definition of biodiversity includes the variability within and between species and within and between ecosystems and so also includes size of habitats and the quantity of plants and animals as well as the number of species.



### Why do we need a biodiversity strategy?

Biodiversity losses and climate change are deemed the most critical global environmental threats of our time.

Current rates of species extinction are unparalleled with little dispute within the scientific communities that it is being driven by human activities, namely loss of habitats to urbanisation and agricultural intensification. Population sizes of wildlife decreased by 60% globally between 1970 and 2014<sup>1</sup>.

This well-documented deterioration and loss of biodiversity jeopardises the environment at every level including climate regulation and the provision of ecosystem services on which all healthy and thriving communities depend.

For more detail on the council's approach to these issues, [visit our climate change webpage](#).

The Covid 19 pandemic has brought the subject of mental health and wellbeing to the fore, with access to nature paramount to healthy, thriving communities able to cope with such difficult times.

### Policy and legislative context

Emerging legislative drivers, namely the UK Government's long-anticipated Environment Bill<sup>2</sup>, alongside the Agriculture Bill<sup>3</sup>, seek to redress this by providing a framework for the tangible recovery of our natural environment through a natural capital, ecosystems services and biodiversity net gain approach.

The Bills are proposing a substantial legal framework to achieve the Defra 25 Year Environment Plan's ambition to leave our environment in a better state than we found it and to pass on to the next generation a natural environment protected and enhanced for the future by restoring and enhancing nature and green spaces<sup>4</sup>.

### The focal areas

Aligned to Lawton's "Making Space for Nature" principles of '**Bigger, better, more joined up**'<sup>5</sup>, we see the following as the key focal areas for this biodiversity strategy:

- 1. Collaboration through partnership working**  
The need for partnership and community involvement, including integrated working, to achieve tangible, meaningful biodiversity aims at a local level.
- 2. Preservation and enhancement of existing habitats**  
The need to protect and enhance existing biodiversity resources through biodiversity-led management, including council owned assets, designated sites, buffer zones, corridors and 'stepping stones'.
- 3. Create more and connect up**  
The need to achieve Nature Recovery Networks (NRNs) and Ecological Networks dedicating land specifically for biodiversity-rich habitats and wild landscapes, by increasing and creating new and joining up fragmented islands of habitat, such as nature reserves.

---

<sup>1</sup> <https://www.newscientist.com/article/dn25645-we-are-killing-species-at-1000-times-the-natural-rate/>

<sup>2</sup> [The Environment Bill 2020](#)

<sup>3</sup> [www.gov.uk/government/news/agriculture-bill-to-boost-environment-and-food-production](http://www.gov.uk/government/news/agriculture-bill-to-boost-environment-and-food-production) 16 January 2020

<sup>4</sup> [www.gov.uk/government/publications/25-year-environment-plan](http://www.gov.uk/government/publications/25-year-environment-plan) Published 11 January 2018 with updates May 2019

<sup>5</sup> <https://www.gov.uk/government/news/making-space-for-nature-a-review-of-englands-wildlife-sites-published-2010>

**4. Implementation of Biodiversity Net Gain within development management**

The need to implement meaningful, measurable and appropriate biodiversity net gains accurately and transparently in new developments – secured for the long term.

**5. Promotion of biodiversity understanding council wide**

The need for understanding and due process to ensure current and future biodiversity duties are being meaningfully met.

---

**1. Collaboration through partnership working**

The need to pool knowledge and resources is especially important given severe resource and funding restrictions, and land constraints.

To achieve collaboration and sharing of knowledge, skills, resources and funds we see the importance of working with new and existing partners to sustain and enhance biodiversity.

**Strategic Level:**

1. Active participation and appropriate representation and resourcing of strategic partnerships including Team East Sussex (LEP), Local Nature Partnerships (LNP), South Down National Park and Sussex Wildlife Trust.
2. Support wider landscape project partnerships such as Changing Chalk, Local Wildlife Sites Initiative and the Eastern South Downs Farm Cluster.
3. Raising awareness and understanding of biodiversity.
4. Knowledge sharing and capacity building.
5. Influencing planning and development.
6. Enabling delivery and project design.

**Community:**

1. Key to our success is the support of civic groups, residents and local communities.
2. We will continue to work with and support informal groups of residents that actively look for space to plant trees and create more diverse areas within their communities, as well as working closely with [Treebourne](#) and similar more formal organisations.
3. We will build on our links with the community using existing community groups (Friends of Groups etc) to encourage and promote better biodiversity awareness and we will use available tools such as social media, press releases and interpretation/information panels.

## 2. Preserve and enhance existing valuable habitats

There is an ongoing need to enhance the protection and management of existing biodiversity resources including council-owned assets, designated sites, buffer zones and corridors and help educate and influence regarding those resources outside council ownership.

The borough covers a wide, varied and valued landscape and coast, with those assets under council control consisting of amenity spaces including parks, verges and open spaces, downland, grassland scrub and trees; cemeteries; amenity woodland; and landscaped grounds in and around council housing.

The coastline of Eastbourne Borough Council lies completely within the Beachy Head East Marine Conservation Zone (MCZ) and partly in the Beachy Head West MCZ and includes parts of the Seaford to Beachy Head Site of Special Scientific Interest within the coastal sections.

The shallow nearshore waters and highly dynamic intertidal environment support a rich diversity of wildlife, including barnacles, anemones, crustaceans and molluscs and protected animals including short-snouted seahorses, blue mussel beds and native oysters. It is also known to be a key nursery and spawning ground for several fish species.

Beachy Head is a nationally important departure and arrival point for many tens of thousands of migratory birds and insects. Nationally protected species such as peregrine falcons hunt and breed along the coastal cliffs.

East of Beachy Head the coastline fronting Eastbourne town is mainly composed of mobile shingle deposits that are prone to erosion and require regular artificial replenishment and wooden groynes to capture much of the material to attempt to prevent it washing away through the process of longshore drift. At Sovereign Park, Eastbourne, an area of 'fossil' shingle ridges that were once storm beaches are protected on the landward side of the modern promenade. Many plants typical of the littoral zone still exist there along with rare spider and unusual lichen species.

The many priority habitats including vegetated shingle, chalk grassland, floodplain grazing marsh, creeks, cliffs and maritime slopes are all important and irreplaceable habitats. Coastal habitats are under threat from development, visitor pressure and coastal protection measures. Some of these habitats such as vegetated shingle are extraordinarily fragile once removed from or protected from natural processes. Sussex vegetated shingle is of high significance due to the proportion of national and European extent and yet it has probably suffered the greatest loss of area due to it being a favourite substrate upon which urban development has taken place.

It has become widely recognised that even the undesignated countryside and other undeveloped areas, due to their location near the coast, are particularly important for a wildlife assemblage not seen just a short distance inland. The local council and community recognise the importance of this and will support the protection and enhancement of coastal areas.

### 3. Creating more and joining up existing biodiversity habitats

Nature Recovery Networks (NRNs)<sup>6</sup> create new biodiversity-rich habitats, increasing those existing and joining them up where possible.

Such a network can be understood as a number of core, well connected areas of well-functioning ecosystems, together with those parts of the intervening landscape that are ‘wildlife-friendly’ and which, collectively, allow wildlife to thrive. Opportunities should be taken to deliver benefits for people, such as flood alleviation, recreational opportunities and provide nature-based solutions to climate change adaptation and mitigation.

Strategic locations connected or in proximity include Eastbourne to Pevensey Levels and Seaford to Eastbourne Downs.

Building on the Sussex Local Nature Partnership adopted Natural Capital Strategy<sup>7</sup> we will work with the Sussex Local Nature Partnership, South Downs National Park, Sussex Wildlife Trust and Sussex Biodiversity Record Centre to identify strategic Nature Recovery Network areas in the local area.

#### 3.1 The importance of trees and tree planting

The council is committed to protecting, improving and developing the borough’s tree stock in public places, in accordance with the principle of the right tree for the right place. This will be achieved by seeking a continuous improvement in the quality and quantity of trees on public land where it is practicable to do so, developing a suitable palette of native trees, and to retain the council’s own tree stock where we can. In addition, encouraging natural regeneration of woodland, ancient woodland restoration, maintenance of existing trees, and connecting habitats where we have the influence to do so.

A high priority and preference will always be given to native species, including fruit-bearing trees, and a conscious effort will be made to plant more native hedge mixes to assist or replace fences, providing living barriers with ecological value. Resilience to pests and diseases will be achieved by varying species diversity wherever possible and where appropriate with locally, or at least UK & Ireland, sourced & grown plants, for biosecurity. The sad experience of ash dieback and other pests and diseases demonstrates why this matters.

The value of street trees and urban greening lies in improving climate resilience: they provide shelter and shade, urban cooling and contribute to natural drainage. They also have immense value for human wellbeing, absorbing pollution and improving mental health. An additional vital role played by urban trees and hedgerows is to provide connectivity between habitats, and this is another reason that native tree species are important, because other natives species (birds, bugs, fungi, small mammals, etc) rely on them as part of complex ecosystems.

For more information, [visit the Woodland Trust website.](#)

In terms of carbon capture, it is established woodland, in particular woodland soil, that has the greatest value, as the recent [Natural England study on carbon and habitats](#) confirms.

---

<sup>6</sup>[Wildlifetrusts.org/nature-recovery-network](http://Wildlifetrusts.org/nature-recovery-network)

<sup>7</sup>[SussexLNP.org.uk/Natural-Capital-Investment-Strategy\\_ADOPTED\\_Final\\_Dec2019.pdf](http://SussexLNP.org.uk/Natural-Capital-Investment-Strategy_ADOPTED_Final_Dec2019.pdf)

We will work closely with partners such as East Sussex County Council and local community and tree groups, to identify suitable planting locations.

### 4. Implement biodiversity net gains within development management

Biodiversity Net Gain (BNG) is an approach to development and/or land management that aims to leave nature in a measurably better state than it was beforehand. Following public consultation, the government confirmed the forthcoming Environment Bill will be used to mandate BNG within planning – meaning the delivery of much-needed infrastructure, housing and development is not at the expense of vital biodiversity.

In advance of biodiversity net gain becoming mandated we ask that development proposals incorporate BNG principles and to support this requirement we will be publishing a Biodiversity Technical Advice Note to inform planning applicants of the council's expectations at an early stage, so the necessary integration of biodiversity can inform the design of schemes from the outset.

The BNG process will require developers to provide a quantitative account for biodiversity losses and gains resulting from development or land management changes through the use of DEFRA's / Natural England's Biodiversity Metric tool<sup>8</sup>. The metric provides an evaluation to be undertaken by suitably qualified, experienced and competent personnel (i.e. ecologists) to ensure habitats for wildlife are measurably left in a better state than they were pre-development.

They must assess the type of habitat and its condition before submitting plans, and then demonstrate how they are improving biodiversity – such as through the mitigation hierarchy of retention and protection of valuable habitats, mitigation and compensation required and appropriate measures such as habitats creation, improvement, and inclusion of green corridors, or forming integrated local nature spaces in-situ.

Biodiversity improvements on site would be encouraged, but in circumstances where they are not possible, developers will need to pay a levy for habitat creation or improvement elsewhere.

Linking to the NRN's (in section 3 above) – the NPPF (National Planning Policy Framework) says that plans should: “identify and map components of the local ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity, wildlife corridors and stepping stones that connect them and areas identified by local partnerships for habitat restoration or creation”.

Paragraph 170 states; Planning policies and decisions should contribute to and enhance the natural and local environment by (among other criteria) minimising impact on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

We commit to working towards the British Standard and will achieve this by:

1. Publishing our TAN to clearly state what is expected of developers in line with the emerging legislation, British Standard and policy.

---

<sup>8</sup> [publications.naturalengland.org.uk/publication/The-Biodiversity-Metric-2.0-\(JP029\)](https://publications.naturalengland.org.uk/publication/The-Biodiversity-Metric-2.0-(JP029))

2. Ensuring developers provide ecological information, proportionate to scale and impacts, showing how the mitigation hierarchy has been applied and also to evidence how net biodiversity gains are to be achieved and integrated into the development.
3. Upskill our Planning staff by way of training and briefings, and knowledge sharing sessions.
4. Work closely with partners including SDNP etc adopting shared goals such as BNG and a landscape scale approach to planning and development.
5. We will work with local partners to ensure that Nature Recovery Network areas described in section 3 will inform off site BNG delivery.

### **5. Promoting biodiversity understanding**

As reflected throughout this strategy and the accompanying action plan, there is a need for coherent and integrated understanding and due process to ensure current and future biodiversity duties are being meaningfully met. Communication and engagement, internal and external, will be key to the success of this strategy.

## Appendix 1: List of Partner Groups

### Strategic Partners - working on policy/strategy direction etc.

Sussex Wildlife Trust  
Sussex Biodiversity Records Centre (inc. Local Wildlife Sites initiative)  
Sussex Local Nature Partnership  
ESCC (Rights of Way)

### Development Planning partners

Sussex Biodiversity Records Centre  
ESCC  
South Downs National Park  
Eastbourne Eco Action Network

### Land management partners

South Downs National Park (Volunteer Ranger Service)  
Eastern South Downs Farm Cluster  
ESCC Dutch Elm Disease  
Marine Conservation Society

### Natural history information partners

Sussex Botanical Recording Society  
Sussex Ornithological Society  
Sussex Moth Group  
Bat Conservation Trust  
Sussex Amphibian and Reptile Group  
Sussex University  
British Bryological Society (Sussex group)

### Community engagement partners

South Downs National Park  
Sussex Moth Group  
Treebourne  
Bat Conservation Trust  
National Trust (Changing Chalk)

### Misc.

Seaford Natural History Society  
Tenant Farmers (Eastbourne)  
Eastbourne Archaeology and Natural History Society  
Whitbread Hollow Bird Ringing Station  
Sussex Ornithological Society  
Sussex Botanical Society  
Sussex Peregrine Group  
South Downs Society  
Woodland Trust



Appendix 2: Biodiversity Strategy Action Plan – Eastbourne Borough Council#

Focal Area	ACTION	DETAIL	TIMEFRAME	RESOURCES NEEDED
1	<p>Commit to finding and applying “Nature Based Solutions”, such as natural regeneration and re-naturing and re-wilding opportunities, as one of our key principles.</p> <p>Maintain and expand partnership working with existing and new partnerships to ensure we are making the best use of resources, finance, grant funding and knowledge to achieve our biodiversity goals.</p>	Partnerships include Sussex Biodiversity Records Centre, Sussex Local Nature Partnership, SDNP, Treebourne and local community groups.	Short term / ongoing	Officer time
1	<p>Identify areas where the community could take on management of land to create local biodiversity assets at the heart of communities. This will also help in nature education for local people.</p>	Existing sites / groups with community involvement include Edible Eastbourne, Treebourne and ‘Friends of’ groups. Existing sites can be reviewed to see if they are suitable for “local management” if the local community is keen.	Short / medium term	Officer time in set up and oversight
2	<p>Maintain and improve existing biodiversity friendly management of land owned or managed by EBC</p>	<p>This includes nature &amp; Downland sites, parks, open spaces, housing areas and cemeteries.</p> <p>Sites will be managed in line with this Biodiversity Strategy. Where work is to be carried out by a contractor, these elements will be built into any work specification.</p>	Short term	Existing staff and budgets



## BD EBC Action Plan May 2021

2	Where possible, ensure that our commitment to biodiversity is passed to third parties when and if our land is leased to them.	EBC land can be leased to third parties such as sports clubs and community groups. We will ensure that compliance to our Biodiversity Strategy is built into any legal agreements.	Short term / ongoing	Officer time
3	Review the management of 1-3 sites per year that are owned and managed by EBC that are not currently managed for biodiversity and develop plans to increase biodiversity on those sites.	Working with parks/estates/housing teams and where applicable local groups, identify three new areas per year to bring in more favourable biodiversity management.	Medium term	Officer time
5	Engage with all areas of the council to identify and review where adjustments and improvements can be made for biodiversity.  Set up due process for taking account of biodiversity in all council decisions.	As and where relevant, facilitate and / or provide training and briefings to staff at team meetings or as standalone sessions.  Internal and external communications including the website, to signpost and promote standard guidance and information on biodiversity. This to ensure up to date guidance and information is readily available for colleagues and residents.  The over-arching aim is to increase biodiversity on all council-owned estate, to stimulate natural habitats, such as: identifying verges / areas that would benefit from reduced mowing and wildflower management regimes; reduction in hedge cutting; maintenance of our woodland stock; maintaining chalk grass lands and understanding and educating that nature rich and ecologically productive areas are not always neat and tidy.	Medium / long term	Officer time

## BD EBC Action Plan May 2021

2/3	Continue to manage the EBC Downland to increase and improve biodiversity.	The EBC downland sites need to be managed to ensure that different areas of habitat are created. This needs to be done by managing grass at different heights, creating glades, prevention of scrub areas becoming too dominant where there are areas suited to other habitats, management of chalk grassland etc	Short / ongoing	Officer time
2	Allow and encourage re-naturing in suitable areas within parks and open spaces wherever possible, to include the development of wildflower / wildlife borders and the sowing of pollinator friendly species.	Ascertain suitable sites for re-naturing and promote and encourage feedback from residents as to where these areas could be, thereby encouraging community buy-in to new management regimes of local sites. We will continue the existing programme of maintaining existing, and introducing new wildflower areas each year into parks, open spaces and verges.	Short – long term	Officer time
2	Adopt a policy within parks and open spaces where the use of pollinator friendly / biodiversity rich planting is used as a “first choice” where appropriate.	When landscaped areas within existing sites are renewed or renovated, pollinator friendly plants grown in peat free soils will be used in any new scheme as a first choice where this is possible and appropriate. Ensure that biodiversity is key when developing any new contract for the grounds maintenance of our land, and to existing contracts wherever possible.	Short – medium term	Officer time
2/3	Encourage and support tree planting, and other natural habitat creation measures, to improve biodiversity, store carbon, protect against flooding and generally enhance the environment	Develop tree planting programmes with our partners to increase tree planting on council-owned land where feasible and appropriate	Ongoing	Officer time / funding

**BD EBC Action Plan May 2021**

	which can benefit our physical health and mental well-being.	and explore options of tree planting on third party land where available.		
<b>5</b>	Support the objectives of the Black Robin Farm project, to encourage biodiversity and ecological learning and experience.	Potential works at Black Robin Farm would be subject to future external funding being secured.	Long term	External
<b>3/4/5</b>	Produce a Biodiversity Net Gain Technical Advisory Note and a sustainability checklist to reflect and incorporate BNG in the interim.	This Technical Advisory Note will be to advise developers on our requirements. It will need to be promoted by the planning team who will need training in Biodiversity requirements. We will need to engage with Planning First to identify existing practices and opportunities for better decision making for biodiversity.	Short term	Officer time
<b>3</b>	Create wildlife friendly parks and open spaces.	Manage our parks and open spaces in a way that encourages and promotes wildlife. Develop mini-projects to make our parks and open spaces a haven for wildlife, such as creating wilder areas for birds to nest and feed; wild flower and grass-rich habitat for butterflies; also to encourage hedgehogs (which are becoming extinct) we will provide suitable areas for hibernation, ensure areas are checked prior to clearing leaves, make operatives aware of the risks of strimmers and other machinery to create hedgehog-friendly parks. The banning of pesticides and use of some slug pellets has already helped our wildlife.	Medium term	Officer time

**BD EBC Action Plan May 2021**

<p><b>2/4/5</b></p>	<p>Review planning applications for new and existing developments to meet net biodiversity gains and ensure regulation with wildlife laws.</p>	<p>These need to be reviewed by a qualified and experienced ecologist.</p> <ol style="list-style-type: none"> <li>1. We will enter into transparent, open and honest discussions with developers at the earliest stage to help guide and influence them to achieve multifunctioning biodiverse development design.</li> <li>2. Ensuring developers provide ecological information, proportionate to scale and impacts, showing how the mitigation hierarchy has been applied and to evidence how net biodiversity gains are to be achieved and integrated into the development. This will be by way of submission of the Metric and / or by submission of an ecological Impact Assessment Report measured and assessed in line with the current industry best practice including British Standards on Biodiversity and the Chartered Institute of Ecology and Environmental Management's guidance.</li> </ol>	<p>Short – medium term</p>	<p>Officer time</p>
<p><b>3</b></p>	<p>Look at options for re-naturing selected road and highway verges.</p>	<p>Highway verges and grass areas are owned by ESCC. Grass cutting is currently carried out by EBC. Work has already started to look at areas where the grass cutting regime can be changed to encourage more biodiversity.</p>	<p>Short – medium term</p>	<p>Officer time</p>

## BD EBC Action Plan May 2021

2	Carry out a continuous review of available herbicides, with a view to stopping the use of Glyphosate as soon as it is practical to do so.	Although Glyphosate is no longer used in our parks and open spaces (except in exceptional circumstances) it is still used for highway weed spraying at present, due to the lack of a viable alternative. (See EBC Pesticide Policy for further details) Promote and share good practice / knowledge using social media, networks and other communication channels.	On going	Available alternatives becoming available
1/5	Encourage academia to view council assets as a learning and research resource.	For example, by inviting the University of Sussex to consider our sites for student research into flora and fauna. Also encourage schools to use the assets for nature study, science, art and wellbeing projects.	Medium term	Officer time

### Focal Areas:

- 1 Collaboration through partnership working
- 2 Preservation and enhancement of existing biodiversity
- 3 Creation of more / connecting habitats
- 4 Implementation of Biodiversity Net Gain
- 5 Promotion of biodiversity understanding

This page is intentionally left blank

# Agenda Item 9

<b>Report to:</b>	<b>Cabinet</b>
<b>Date:</b>	<b>2 June 2021</b>
<b>Title:</b>	<b>Planning Enforcement Policy</b>
<b>Report of:</b>	<b>Ian Fitzpatrick, Deputy Chief Executive and Director of Regeneration and Planning</b>
<b>Cabinet member:</b>	<b>Councillor Swansborough, Cabinet Member for Place &amp; Special Projects</b>
<b>Ward(s):</b>	<b>All wards</b>
<b>Purpose of report:</b>	<b>To seek Cabinet approval for the adoption and publication of the Council Enforcement Policy document and to use it for managing/processing planning enforcement related matters.</b>
<b>Decision type:</b>	<b>Key</b>
<b>Officer recommendation(s):</b>	<b>(1) To agree the publication and use of the Planning Enforcement Policy contained in Appendix 1.</b> <b>(2) To provide delegated authority to the Director of Regeneration and Planning, in consultation with the Portfolio Holder for Planning and Infrastructure, to make minor or technical amendments to the Planning Enforcement Policy prior to their publication or as otherwise required following publication.</b>
<b>Reasons for recommendations:</b>	<b>(1) To publicise the Council's expectations for the delivery of the planning enforcement function.</b> <b>(2) To make minor amendments to address technical or drafting issues.</b>
<b>Contact Officer(s):</b>	<b>Name: Leigh Palmer</b> <b>Post title: Head of Planning</b> <b>E-mail: <a href="mailto:leigh.palmer@lewes-eastbourne.gov.uk">leigh.palmer@lewes-eastbourne.gov.uk</a></b> <b>Telephone number 07939 57 82 35</b>

---

# 1 Introduction

- 1.1 Attached is the proposed Council's Planning First Enforcement Policy
- 1.2 This issue has been reported to Eastbourne Planning Committee on the 23<sup>rd</sup> of March where they were in support of the proposals with two modest revisions. These revisions are attached as Appendix 2.
- 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 Borough 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 Councils 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 TBC.

## **10 Risk management implications**

10.1 The following risk will arise if the recommendations are not implemented and the following mitigation is proposed:

**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.

**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 complaints 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**

- Appendix 1 – Planning Enforcement Policy
- Appendix 2 – Minute of Eastbourne Planning Committee

This page is intentionally left blank

# APPENDIX 1



## ENFORCEMENT POLICY STATEMENT for

Eastbourne Borough Council &  
Lewes District Council

June 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 EBC or LDC 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 Eastbourne Borough Council (EBC) and Lewes District Council (LDC) and 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 have 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 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 Eastbourne Borough Council (EBC) and Lewes District Council (LDC) 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.
- 2.8 The Council are keen to assist and support key partners regarding joined-up enforcement. Co-operation is an integral part of the approach to enforcement and these working relationships will continue to be developed in the future to make the most effective use of available resources throughout the Council.

## Openness

- 3.1 The planning enforcement service will:



- 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 which can be found at Lewes and Eastbourne Council website \(lewes-eastbourne.gov.uk\)](http://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.

### 3. General Approach to Enforcement

- 4.1 The integrity of the development control process depends on the Council 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 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).

#### 4. Type and Incidence of Enforcement Problems

##### Responding to Complaints (Reactive)

- 5.1 Both Council 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 instigate 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.

## 5. 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.

A list of enforcement complaints received will be distributed to Councillors on a regular basis.

### 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 Council 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 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 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.
  - Inform the developer that there has been a breach and that retrospective planning consent is required which does not imply that consent will 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.

## 6. 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 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 Planning Applications Committee, or the Head of Planning or other Senior Officers of Planning Services in accordance with the Council 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 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 appropriate 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 appropriateness 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 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 in Lewes District:**

- 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.

## 7. 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 EN4 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 (EBC and LDC) 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](mailto: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>

## APPENDIX 2

**Meeting:** Cabinet  
**Date:** 2 June 2021  
**Subject:** Planning Enforcement Policy  
**Report of:** Leigh Palmer, Head of Planning First

---

The Cabinet is asked to consider the minute and resolution of the Planning Committee held on 23 March 2021 as set out below.

---

### **Minute extract EBC Planning Committee – 23 March 2021**

#### **Planning Enforcement Policy**

The Head of Planning First presented his report on the Planning Enforcement Policy. He explained that the purpose of the proposed policy was to publicise the Council's approach in the management and guidance of planning enforcement matters.

A written representation supporting the policy was read aloud by the by the Head of Planning First on behalf of Mr Scard, Chair of Meads Community Association. The speech proposed an amendment to the policy referred to in paragraph 6.13 of Appendix 1. It was recommended the word 'invite' be replaced with 'inform the developer that there has been a planning breach and that retrospective planning consent is required which does not imply that consent will be granted and the development regularised', and this was supported by Members.

The Committee welcomed the Planning Enforcement Policy and requested that in addition to the change above, it also includes guidance on notifying ward members when a formal complaint about a breach of planning control had been made.

#### **Resolved (unanimously):**

1. That the contents of the report be noted; and
2. That Cabinet be recommended to approve the new Planning Enforcement Policy as set out in Appendix 1, subject to replacing the word 'invite' with 'inform the developer that there has been a planning breach and that retrospective planning consent is required which does not imply that consent will be granted and the development regularised' as set out in paragraph 6.13 of the proposed policy, and include guidance on notifying ward members when a formal complaint about a breach of planning control had been made.

---

For a copy of the report please contact Democratic Services:

Tel. (01323) 410000.

E-mail: [committees@lewes-eastbourne.gov.uk](mailto:committees@lewes-eastbourne.gov.uk)

A copy may be downloaded on the Council's website by following the link below:

<http://democracy.eastbourne.gov.uk/mgGeneric.aspx?MD=CommitteesLanding&bcr=1>

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted

This page is intentionally left blank