

AGENDA



For a meeting of the
COMMUNITIES POLICY DEVELOPMENT GROUP
to be held on
THURSDAY, 7 MARCH 2013
at
2.30 PM
in
WITHAM ROOM, COUNCIL OFFICES, ST PETER'S HILL, GRANTHAM. NG31 6PZ
Beverly Agass, Chief Executive

Group Members:	Councillor Kelham Cooke, Councillor Breda Griffin, Councillor Charmaine Morgan, Councillor John Nicholson (Chairman), Councillor Mrs Jean Taylor, Councillor Jeff Thompson (Vice-Chairman) and Councillor Raymond Wootten
Portfolio Holders:	Councillor Teri Bryant (Good Housing for All) Councillor Mrs Frances Cartwright (Grow the Economy – Economic Development) Councillor John Smith (Green, Healthy and Arts)
Support Officer:	Jo Toomey Tel: 01476 40 61 52 E-mail: j.toomey@southkesteven.gov.uk

Members of the Group are invited to attend the above meeting to consider the items of business listed below.

- 1. COMMENTS FROM MEMBERS OF THE PUBLIC**
- 2. MEMBERSHIP**

The Group to be notified of any substitute members.
- 3. APOLOGIES**

4. DISCLOSURE OF INTERESTS

Members are asked to disclose any interests in matters for consideration at the meeting.

5. ACTION NOTES FROM THE MEETING HELD ON 10 JANUARY 2013

(Enclosure)

6. UPDATES FROM PREVIOUS MEETING

7. WASTE AND RECYCLING - MISSED BIN POLICY

Report number WAR2013/001 by the Waste and Recycling Service Manager.

(Enclosure)

8. WASTE AND RECYCLING - NEW CONTRACT AND CONTAMINATION

Report number WAR2013/002 by the Waste and Recycling Service Manager.

(Enclosure)

9. PLANNING ENFORCEMENT

Report number PLA980 by the Development Management Service Manager.

(Enclosure)

10. WORK PROGRAMME

(Enclosure)

11. ANY OTHER BUSINESS, WHICH THE CHAIRMAN, BY REASONS OF SPECIAL CIRCUMSTANCES, DECIDES IS URGENT

MEETING OF THE COMMUNITIES POLICY DEVELOPMENT GROUP

THURSDAY, 10 JANUARY 2013 2.30 PM



GROUP MEMBERS PRESENT

Councillor Kelham Cooke
Councillor Breda Griffin
Councillor Charmaine Morgan
Councillor John Nicholson (Chairman)

Councillor Mrs Jean Taylor
Councillor Jeff Thompson (Vice-
Chairman)
Councillor Raymond Wooten

PORTFOLIO HOLDER

Councillor Teri Bryant (Portfolio Holder: Good Housing)

OFFICERS

Head of Housing and Neighbourhoods (Ian Richardson)
Head of Legal and Democratic Services (Lucy Youles)
Housing Options Team Leader (May Read)
Community Engagement and Policy Development Officer (Carol Drury)
Principal Democracy Officer (Jo Toomey)

51. APOLOGIES

Apologies for absence were received from Councillor Mrs Cartwright (Economic Development – Grow the Economy Portfolio Holder) and Councillor John Smith (Green, Healthy and Arts Portfolio Holder).

52. DISCLOSURE OF INTERESTS

No pecuniary interests were disclosed.

53. ACTION NOTES FROM THE MEETING HELD ON 13 DECEMBER 2012

The action notes from the meeting held on 13 December 2012 were noted.

54. FEEDBACK FROM THE EXECUTIVE

The Good Housing Portfolio Holder reported improvements to parking in Stamford since the introduction of Civilian Parking Enforcement and interim arrangements for residents' parking. This was echoed by another Stamford Councillor.

At its meeting on 7 January 2013, Cabinet agreed the Tenancy Strategy, which the PDG helped develop at its meeting on 13 December 2012. The Good Housing Portfolio Holder advised members that key considerations for the Cabinet in taking the decision included the PDG's deliberations and a minority report produced by the Labour group. He explained that he was not recommending use of fixed-term tenancies in the Council's housing stock. One Councillor expressed disappointment that this removed an opportunity for ejecting tenants responsible for anti-social behaviour. Councillors were assured that no difference would be made to enforcement and that early intervention in instances of anti-social behaviour would be a priority.

55. HOUSING PROGRAMME OF WORK

The Head of Housing and Neighbourhoods explained that members of the PDG were being invited to make comments and recommendations to assist the development of the Council's Housing Strategy and Allocations Policy.

Housing Strategy

It was proposed that the Housing Strategy should be developed around three key priorities:

1. High quality new affordable homes available to buy or rent
2. Improved housing standards across all neighbourhoods
3. Access to housing and wellbeing services

Mr Richardson explained the sustainable neighbourhoods project mentioned as a potential solution in support of priority 2 and added that it was not material to the strategy. He gave a brief summary of the project, explaining it was a national project which was a diagnostic tool to improve viability and regeneration, which supported sustainability.

Councillors discussed each proposed priority (summarised in the bullet points below) and made recommendations. Any recommendations are shown within the bullet points as bold italics.

1. High quality affordable homes available to buy or rent
 - Despite changes to the way targets were put together, Councils were still required to project affordable housing need and make plans to meet that need.

- The affordable housing need for the district was estimated at 667 new homes per year. This was not prescribed and would be delivered in partnership with housing associations.
- The Council had a duty to deliver against priority 1.
- It was hoped that this priority would be supported by deterring owners from leaving properties empty through reduced council tax discounts.
- Vacant properties brought back into use could attract New Homes Bonus, which could then be used to bring further vacant properties back into use.
- There were a number of technical definitions for 'affordable housing': 1) local authority: rented housing or access to shared ownership housing. 2) Government: a new build funding programme which provided a subsidy to developers who in turn would charge 80% market rate.
- There was no planned government funding to support the delivery of new affordable housing beyond 2015, which would mean stretching the capacity of the Housing Revenue Account (HRA) and looking for new funding opportunities.
- ***A comment should be included about ensuring that affordable housing should reflect local need*** (the make-up of affordable housing should reflect household sizes across the district).

2. Improved housing standards across all neighbourhoods

- The intention of the priority was to raise standards across the district regardless of neighbourhood or tenure.
- It was difficult to define the terms 'neighbourhood' and 'community' in the context of the priority.
- ***The priority should be amended to read "Improved housing standards across the district and all tenures"***.
- ***To support developing neighbourhoods that work, a fourth priority was proposed: Promotion of sustainable neighbourhoods and communities.***
- Reports about the condition of properties in the private-rented sector were usually received from a concerned party however inspections were reliant on landlords granting officers permission to enter a property.
- The Council budgeted for 500 voids each year. A significant amount of work had been done to minimise voids and keep the number below the budgeted level.
- The Standard Assessment Process (SAP) was a standardised test to determine the thermal efficiency rating of a property. This was put into bands.
- To improve the banding of properties residents could apply through the Green Deal, a national scheme which provided loans

to improve the energy efficiency of properties, which were paid back through savings in energy bills.

- In 2012 the Council spent £1m putting secondary cladding onto some of the properties within the housing stock. Officers were identifying funding opportunities to complete this work across the rest of the housing stock.
- Officers were congratulated on the amount of funding that had been leveraged in to improve the SAP banding of Council properties.
- ***The second potential solution should be amended to read: “Encourage private landlords to ensure their properties are fit and fully utilised through an appropriate balance of positive support and enforcement.”***

3. Access to housing and wellbeing services

- Demographic changes meant that there was a significantly ageing population, increases in the number of people with disabilities and smaller households.
- One potential solution proposed was maximising the initial and ongoing benefit derived from the investment in disabled facilities grants in order to support independent living and the wellbeing of communities.
- Disabled facilities grants formed part of a statutory scheme to provide financial support for people in the private sector and private rented sector whose property needed adaptations.
- ***Change the potential outcome specifically referring to disabled facilities grants to “investment in adaptations” to encompass council properties.***
- ***Reference should be made to ensuring access to transport links.***

Housing Allocations Policy

It was proposed that the Housing Allocations Policy should be developed around four key principles:

1. How do we want to define ‘local connection’?
2. Should we aim to meet housing aspirations or only urgent need?
3. Do we want to reward economic or community contribution?
4. How do we want the scheme to operate?

Councillors discussed each principle (summarised in the bullet points below) and made recommendations. Any recommendations are shown within the bullet points as bold italics.

1. How do we want to define ‘local connection’?

- Armed forces personnel should neither be advantaged nor disadvantaged because of their service in respect of local connection.
- The current allocations policy takes account of local connections, with the weight of that connection growing each year for a maximum of ten years.
- Homelessness legislation defined a local connection as someone who has lived in the area for three of the last six months or three of the last five years.
- The Council's existing allocations policy defined a local connection as someone who was living in the district, or someone who had been resident in the district for three of the last six months or three of the last five years.
- Family connections in the local area were also taken into consideration. Family connections also applied to dependents who were not family members.
- ***Local connection and family connection should continue to be a consideration and it was suggested consideration should be given to mirroring existing criteria.***

2. Should we aim to meet all housing aspirations or only urgent need?

- There were some areas in the district where there was low demand for housing; in those instances it was possible to house people based on aspiration rather than need, subsequently preventing void properties.
- Taking account of aspiration could provide more sustainable, mixed communities.
- ***Both housing need and aspiration should continue to be a consideration.***

3. Do we want to reward economic or community contribution?

- ***Priority should not be given to people based on voluntary work within communities.***
- Consideration was given to a number of scenarios:
 - Giving priority to someone with a job in the district
 - Giving priority to someone with a job who would then be economically active in the district
 - Giving priority to people who have been employed for a specified period
 - Giving priority to someone with a firm job offer
 - Giving priority to someone in low paid employment
 - Giving priority to someone in employment-related training
 - Giving priority to key workers or skilled workers wanting to come into the area
- ***Councillors felt that there would be too many variables to***

make community contribution definable, fair and workable but agreed that in exceptional circumstances there should be facility for officers to use their discretion

4. How do we want the scheme to operate?

- There were three suggestions on how the scheme could operate: points (as per the current scheme), choice based letting and a banded system.
- A working group of the PDG which had considered the Allocations Policy previously had recommended a banding scheme.
- Banding schemes could help estimate when people on the housing list might expect to be housed as properties would be offered to people who had been within that band longest rather than someone coming in with a higher number of points.
- The Portfolio Holder wanted to ensure whatever scheme was adopted would be completely transparent and defensible if an allocation was challenged.
- Any banded scheme would not have a negative impact on people in urgent housing need, (an example was given of someone fleeing an abusive relationship) as priority would always be given to them. There were also additional mechanisms through which they could seek to be housed.
- ***PDG members recommended that the Council should move towards a banded allocations scheme.***

Mr Richardson explained that the Cabinet was due to consider the draft Housing Strategy and Allocations Policy at its meeting on 4 March 2013. A copy of the drafts incorporating the PDG's recommendations and considerations would be circulated to group members for any final comments.

56. COMMUNITY RIGHT TO CHALLENGE

The Head of Legal and Democratic Services presented report number LDS086 on the Community Right to Challenge. She explained that this was another right introduced through the Localism Act, which related to requests from organisations to run council services. An organisation could apply to run services already contracted out or those run in-house. If the application was accepted the organisation would be given the right to be included in a procurement exercise.

The proposed scheme, which was attached as an appendix to the report would regulate when expressions of interest could be made. If it's a service run in-house then expressions of interest would be limited to a period of months that would allow consideration as part of the budget process for the following year. If the application was about an outsourced service then expressions would be tied in with the renewal of that contract.

If the Council did not produce a scheme, it would have to accept applications at any time.

An indication was received that the Labour group might submit a minority report on the Right. Any transfer of staff would be dealt with separately from any procurement exercise. The scheme could not impose conditions on any procurement exercise.

Recommendation

That the Cabinet adopts the draft Community Right to Challenge Scheme as appended to report number LDS086.

57. WORK PROGRAMME

Noted.

58. CLOSE OF MEETING

The meeting was closed at 16:39.

REPORT TO COMMUNITIES P.D.G.

REPORT OF: Waste and Recycling Service Manager

REPORT NO: WAR2013/001

DATE: 7 March 2013

TITLE:	Missed Bins - Policy Options	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:		
PORTFOLIO HOLDER: NAME AND DESIGNATION:	<i>Councillor John Smith Green, Healthy and Arts</i>	
CONTACT OFFICER:	Pat Swinton, Service Manager- Waste and Recycling. Email- p.swinton@southkesteven.gov.uk . Telephone- 01476 406570, 07712199075	
INITIAL IMPACT ANALYSIS: Equality and Diversity	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: Not required
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS		

1. RECOMMENDATIONS

A balanced approach is suggested in the form of a 'three strikes' policy, whereby if a bin was missed and recorded as not presented twice in a rolling 6 month period it would not be collected on the third or any subsequent occasion. Alongside this it is proposed to provide reminders to residents on the first two occasions regarding how and when to present their bins (these can be seen in Appendix 1)

2. PURPOSE OF THE REPORT

This report is intended to facilitate a decision as to the policy regarding the collection of bins which have not been presented in line with the council's requirements, but where further education and advice could assist future collections

3. DETAILS OF REPORT

Background information

Currently the service performs a total of 61,000 collections of recycling and residual waste and 24,000 green bins in each 2 week period – a total of 3.8 million collections per year. The total number of bins logged as justifiably missed are 2,666 a year – around 0.07%.

Although this percentage is small it is the single most important and prevalent complaint and a service failure.

A missed bin is an emotive area and requires a balancing of the customers' expectation that their bins will be emptied with the additional cost of returning to empty missed bins.

Clearly, where the fault is with the service it will always be right to rectify the missed bin as soon as possible. However where there is clear data that a missed bin has been caused by the customer not presenting the bin for collection there is an argument for taking a different position.

There is an additional cost in putting on the missed bin collection service twice each week; the cost is dependent on the number of bins that require collection and their locations. In addition not using the data that is being gathered by the crews would be likely to reduce the incentive for the crews to continue collecting the data accurately.

It needs to be acknowledged that any resident can make a mistake and forget to present their bin on time. It is not therefore considered appropriate to implement a system whereby we refuse to return to collect the bin which would immediately penalise such mistakes.

Current Policy

Currently bins which are reported as 'missed' are collected within 72 hours of the initial report. A missed bin can be reported in a number of ways including via email or direct to the customer service centre.

A missed bin is a bin which the crew have failed to pick up for no obvious reason.

There are other reasons why a bin may not be emptied these are:

- The lid was insufficiently closed
- There were items within a recycling bin which could not be recycled thus contaminating the entire bin.
- There was food/kitchen waste in a Green wheeled bin.
- A black bin may have been emptied but the side waste has been left.
- The bin was too heavy to move and safely empty.

(This policy is not designed to address these other reasons for non collection.)

Bartech System

The service has recently introduced the Bartech monitoring system across the fleet. The system enables to pinpoint each collection point and relay data from the front line collection to the back offices.

The Bartech system enables a clear logging of whether a bin has been presented for collection or if there are other reasons for non collection (such as contamination). By including information regarding where assisted collections are required it is anticipated that Bartech will lead to a reduction in missed bins.

In practical terms the system allows the operatives to log that a bin has not been presented. This information is available to the Waste and Recycling office and to Customer Services in close to real time.

4. OTHER OPTIONS CONSIDERED

- a) No change - bin collected whether or not it has been logged as not presented.
- b) No return to collect when bin has been logged as not presented

5. RESOURCE IMPLICATIONS

The current system is resource intensive with 2 scheduled crews used to collect the bins which are logged as missed. Customer Services receive approximately 400 calls for the service.

A clear policy and guidance would enable a concise message to be passed to the customer providing education and reducing the calls to the help lines as a result of repetitive non presentation of the bin. A reduction in the number of return visits for bins logged as missed could have an effect, in terms of savings, on the missed bin collection rounds, diesel usage, wear and tear on vehicles and ultimately the council's carbon foot print

6. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Public and Media comments	A full and detailed explanation of the reasons the policy is needed, the steps we take to educate and assist our residents to limit any adverse effects

7. ISSUES ARISING FROM IMPACT ANALYSIS

There is no indication of any impact which would be detrimental to any of the protected groups. There is no restriction to the current service provision and any alteration is not perceived to have any differing effect

8. CRIME AND DISORDER IMPLICATIONS

None identified

9. COMMENTS OF FINANCIAL SERVICES

There is the potential for savings to be achieved if there is a reduction in the number of missed bins being collected but this will be dependent on volumes and locations. If this policy is adopted the approach and data collected will also be incorporated in the rounds restructure work currently being undertaken by the Street Scene service.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

The Council has a legal duty under the Environmental Protection Act 1990 to collect household waste. The Localism Act 2011 removed the ability of local authorities to make a charge for waste reduction schemes.

11. COMMENTS OF OTHER RELEVANT SERVICES

12. APPENDICES:

Waste and Recycling Service

Letter 1

Our ref:
Please ask for: Joe Kappen
Direct line: 01476 406279
Email: waste&recycling@southkesteven.gov.uk

Dear ,

Missed Bin Collection.
Collection day

Thank you for reporting your missed bin.

We use a real time recording system which appears to have logged your bin as not being out for collection. We are keen to learn why we have not successfully removed your waste and provide you with information so that you are not inconvenienced again.

Your bin should be out at the edge of your property closest to the highway by 7.30am on the day of collection.

Although our crews may attend your property after this on some occasions there are times when we need to alter collection rounds so by having your bin out by 7.30am you will ensure that yours is emptied.

If you have any questions about this letter or need any further information please do not hesitate to contact us on 01476 406279 or visit www.southkesteven.gov.uk

Yours sincerely

Waste and Recycling Service

Letter 2

Our ref:
Please ask for: Joe Kappen
Direct line: 01476 406279
Email: waste&recycling@southkesteven.gov.uk

Dear ,

Missed Bin Collection.
Collection day

Further to the letter dated ***** we are contacting you regarding your report of a missed bin.

In our first letter to you we explained that we use a real time recording system which appears to have again logged your bin as not being out when we came to collect it.

In order that we can successfully remove your waste it is necessary that it is presented at the edge of your property closest to the highway by 7.30am on the day of collection.

Although our crews may attend your property after this on some occasions there are times when we need to alter collection rounds so by having your bin out by 7.30am you will ensure that yours is emptied.

This is the second report that your waste has not been put out in the manner we require, unfortunately should there be a further reoccurrence in the next six months, we will not return to collect your waste and will return on your next scheduled collection date.

If you have any questions about this letter or need any further information please do not hesitate to contact us on 01476 406279 or visit www.southkesteven.gov.uk

Yours sincerely

REPORT TO COMMUNITIES P.D.G.

REPORT OF: Waste and Recycling Service Manager

REPORT NO: WAR2013/003

DATE: 7 March 2013

TITLE:	Recycling collection and Contamination- Policy Options	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:		
PORTFOLIO HOLDER: NAME AND DESIGNATION:	<i>Councillor John Smith Green, Healthy and Arts</i>	
CONTACT OFFICER:	Pat Swinton, Service Manager- Waste and Recycling. Email- p.swinton@southkesteven.gov.uk . Telephone- 01476 406570, 07712199075	
INITIAL IMPACT ANALYSIS: Equality and Diversity	Carried out and Referred to in paragraph (7) below	Full impact assessment Required: Not required
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS		

1. RECOMMENDATIONS

It is recommended that the policy adopted is that of a comprehensive education and communication policy until August 2013 and thereafter supports action to actively reduce the levels of contamination taken for reprocessing.

It is recommended that a robust policy is made and following the education campaign and individual education where appropriate individual bins are not collected or returned for until all the contamination has been removed. It is recommended that we do not accept the bins on residual collection.

It is recommended that this policy is communicated with our residents and the reasons for the policy explained.

2. PURPOSE OF THE REPORT

This report is intended to facilitate a decision as to the policy regarding the collection of bins which contain contamination.

3. DETAILS OF REPORT

Background information

In February 2012 a procurement exercise was performed in conjunction with Procurement Lincolnshire, South Holland District Council and North Kesteven District Council. The contract was regarding the depositing, disposal and reprocessing of the recycling of the districts. The exercise was performed in a joint manner in order to provide companies with the opportunity to offer greater savings or benefits to the districts by bidding for more than one of the contracts.

The contract we currently have does not expire until August 2013.

A rigorous evaluation was performed of the tenders offered by the companies. HW Martin was awarded the contract by both North Kesteven District Council and South Kesteven District Council.

Contamination

Contamination is all items which are contained within a recycling collection which are unable to be used in the recycling process, for example nappies, food waste, crisp packets or presented in a black bag. These items are specified by the contract provider.

Currently the contamination rate for our district is 10% this has recently risen from 7%.

Disposing of the contamination has additional implications to the contractor which can be passed onto the district council.

Where contamination is that high in a particular load it is possible for the contractors to refuse the load or assign the load for landfill. The cost of such is passed onto the service.

Current Policy

Currently there is no clear stance taken by the operational crews regarding the assessment for contamination. The few crews who do analyse a collection will leave a bin if it is felt to be contaminated or possibly the item is removed and the bin emptied as normal.

If it is not possible to remove the contamination then arrangements can be made to empty the bin as residual waste and removed and taken to landfill.

Advice and assistance is provided to the resident.

Bartech System

The service has recently introduced the Bartech monitoring system across the fleet. The system enables to pinpoint each collection point and relay data from the front line collection to the back offices.

The Bartech system enables a clear logging of whether a bin has contamination. It is important to the crews that the information they provide is used in an effective manner and for us to build a detailed picture of the contamination issues in the district

This information is available to the Waste and Recycling office and to Customer Services in close to real time and can be used to ensure that specific education can be provided to individual households.

Education and Communication campaign

Since the initial implementation of the fortnightly collections education regarding recycling has been performed through the use of SKToday, SKDC website, market and promotional road shows and school visits.

It is therefore the services intention to perform a detailed and targeted education campaign with the assistance of our communications department. It is intended that some of the following are used as a means to education our resident ahead of any policy regarding non collection of contaminated waste:

- Bill board advertising
- Panels on the sides of lorries
- Area targeted education campaigns
- Market stall road shows
- School talks and educational materials provided

Education and support will also be provided to our operational crews so they feel confident to assess a bin for contamination.

4. OTHER OPTIONS CONSIDERED

- a) No change – bins collected as landfill if deemed contaminated.
- b) No return to collect a bin which has been logged as contaminated.

5. RESOURCE IMPLICATIONS

The current system is resource intensive with the customer being unsure as to why we have left a bin they normally call our Customer Services department who receive approximately 400 calls for the service.

A clear policy and guidance would enable a concise message to be passed to the customer providing education and reducing the calls to the help lines as a result of the bin being left.

Should the level of contamination remain at the current level or increase on the introduction of the new contract there will be financial implications.

6. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Public and Media comments	A full and detailed explanation of the reasons the policy is needed, the steps we take to educate and assist our residents to limit any adverse effects
Financial implications	By reducing contamination financial penalties will be kept to a minimum

7. ISSUES ARISING FROM IMPACT ANALYSIS

There is no indication of any impact which would be detrimental to any of the protected groups. There is no restriction to the current service provision and any alteration is not perceived to have any differing effect

8. CRIME AND DISORDER IMPLICATIONS

None identified

9. COMMENTS OF FINANCIAL SERVICES

There is a communications plan currently being developed which will outline how to support the Council in tackling the contamination issues across the district. There has been no budget provision made for any costs associated with raising awareness and delivering the communications plan. Therefore, funding for this will need to be made within existing resources.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

The terms and conditions of the proposed recycling contract should give a clear indication of the provisions relating to contamination. The Council should make every effort to ensure that any contamination of recycled waste is reduced to avoid penalties under the terms of the contract.

11. COMMENTS OF OTHER RELEVANT SERVICES

12. APPENDICES:

REPORT TO COMMUNITIES P.D.G.

REPORT OF: Development Management Service Manager

REPORT NO: PLA980

DATE: 7 March 2013

TITLE:	Planning Enforcement Policy Consultation	
KEY DECISION OR POLICY FRAMEWORK PROPOSAL:	N/A	
PORTFOLIO HOLDER: NAME AND DESIGNATION:	Cllr Frances Cartwright (Portfolio: Economic Development)	
CONTACT OFFICER:	Pat Reid Telephone 01476 40 63 86 E-mail: p.reid@southkesteven.gov.uk	
INITIAL IMPACT ANALYSIS: Equality and Diversity	Carried out and Referred to in paragraph (7) below	Full impact assessment Required:
FREEDOM OF INFORMATION ACT:	This report is publicly available via the Your Council and Democracy link on the Council's website: www.southkesteven.gov.uk	
BACKGROUND PAPERS	Draft Planning Enforcement Policy National Planning Policy Framework	

1. RECOMMENDATIONS

- 1.1 It is recommended that Communities PDG considers the attached draft policy document and supports the publication of the policy for consultation prior to future adoption. The Cabinet will have to authorise the publication of the final draft for consultation.
- 1.2 The PDG is invited to comment on the draft policy.

2. PURPOSE OF THE REPORT

- 2.1 To inform Communities PDG of the draft Planning Enforcement Policy prior to consultation and adoption of this policy.

3. DETAILS OF REPORT

- 3.1 The National Planning Policy Framework (NPPF) which was published in March 2012 superseded the previous guidance on planning enforcement (Planning Policy Guidance 18). The NPPF (Paragraph 207) states that “Local Planning Authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so”.
- 3.2 In response to that guidance and to establish the key principles of planning enforcement at South Kesteven District Council, the attached document has been produced for initial consultation purposes.
- 3.3 The policy explains the key principles of proportionality, consistency, transparency and appropriateness when considering taking enforcement action. It establishes how breaches will be investigated and the protocol for dealing with enquiries or complaints. One of the key aspects of the policy is the “harm system” which is a mechanism for giving weight to alleged breaches of control to enable work and any subsequent action to be prioritised on a rational basis.

4. OTHER OPTIONS CONSIDERED

- 4.1 None, the effectiveness of the Council’s Planning Service would be at risk if it is not underpinned by a robust enforcement policy.

5. RESOURCE IMPLICATIONS

- 5.1 Detailed comments to follow.

6. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
Failure to provide an effective planning enforcement service	The development of a planning enforcement policy with clear priorities

7. ISSUES ARISING FROM IMPACT ANALYSIS

- 7.1 A stage 1 equality analysis for this policy document will need to be completed before the final version is produced. Further work on equality analysis will be carried out as the policy develops.

8. CRIME AND DISORDER IMPLICATIONS

- 8.1 There are no crime and disorder implications arising from this report.

9. COMMENTS OF FINANCIAL SERVICES

- 9.1 Comments to follow.

10. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

- 10.1 In line with paragraph 207 of the National Planning Policy Framework it is appropriate to consider adopting the key principles of planning enforcement at South Kesteven District Council.

11. COMMENTS OF OTHER RELEVANT SERVICES

- 11.1 None.

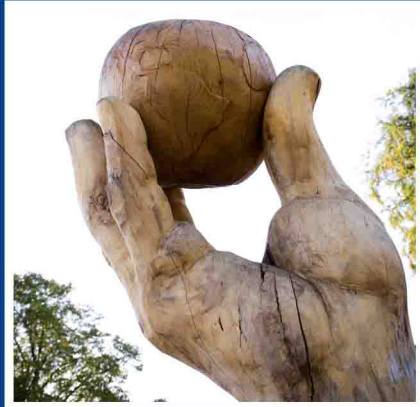
12. APPENDICES:

- 12.1 Draft Planning Enforcement Policy.



Planning Enforcement Policy

Draft 2 - May 2012



your council working for you

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1 **Introduction**

- 0.1. The Development Management section is responsible for the discharge of duties under the Planning Acts, including:
- Preparing and implementation of forward plans
 - Regulating and use of land
 - Preparing Development Plans
 - Determining planning applications
 - Formal enforcement of breaches of planning control
- 0.2. The need to ensure development proceeds in accordance with approved plans and in compliance with conditions imposed through planning permissions or obligations requires an effective enforcement service.
- 0.3. Effective enforcement is necessary to deliver high quality, sustainable development and to protect the integrity of the planning system for the proper planning of the District of South Kesteven.
- 0.4. An effective system of control requires strong powers of sanction against those who transgress regulatory provisions. The Town and Country Planning Acts contain extensive enforcement powers, and the District Council will not hesitate to resort to such powers where circumstances demand firm action.
- 0.5. However, the District Council will not take enforcement action on planning matters, for enforcement's sake. Enforcement action is a discretionary activity and will be invoked only where it proves absolutely necessary and only after all other avenues have been explored. Any action considered must also be in the public interest.
- 0.6. Formal enforcement action will be viewed as a last resort. Prevention is better than a cure. Education and information of the public in respect of planning regulations are seen as the most effective way to reduce the need to formally intervene in enforcing compliance with imposed controls.

2 Aims and Objectives

- 2.1. The aim of the Council's Enforcement Policy is to ensure effective compliance with planning and other associated legislation, which itself is aimed at regulating the development and use of land in the public interest. Development should conform to the provisions of the South Kesteven Core Strategy Plan.
- 2.2. The District Council shall seek to ensure by education, promotion, monitoring, negotiation and, where necessary and appropriate, legal measures, that the quality, character and appearance of the built and natural environment is protected and enhanced.
- 2.3. In the exercise of its enforcement powers, the District Council's objectives are to:
- Strike an appropriate balance between the planning and development needs and the demands of the population, and the need, through regulatory control, to protect and enhance the environment and regulate the development and use of land in the public interest.
 - Apply appropriate and proportionate remedies and wherever possible, without recourse to formal legal action wherever breaches of planning control do occur.
 - Promote the need to protect and enhance the built and natural environment and the need to conform to regulatory controls.
 - Allow acceptable development to take place.

3 Development Management Enforcement Policy

- 3.1. This policy document sets out the basic approach and principles to be followed by the authority in the discharge of its enforcement functions. In its preparation, account has been taken of procedural and policy advice as contained in Department of the Environment Circulars and Planning Policy Guidance Notes, and the Department of the Environment, Transport & the Regions document 'Enforcing Planning Control: Good Practice Guide for local planning authorities'.
- 3.2. This policy is intended to provide clear guidance to users of the planning system; members of the public, local businesses, elected members and service providers, about enforcement controls. It explains the powers available to the District Council to remedy breaches of planning control, and the steps involved in seeking to secure a satisfactory outcome to complaints lodged.
- 3.3. Allied to the policy, and observing the key principles of the policy, working procedures have been developed relating to the most frequently occurring areas of enforcement activity. By the nature of the work involved however, these procedures cannot cover every eventuality. In the absence of a defined procedure, the Council will discharge its enforcement activities in accordance with the general principles of this policy.
- 3.4. This policy shall be monitored and evaluated every 2 years to ensure that it is relevant and applicable to the needs of the organisation and its customers, and to ensure it is implemented in a fair and consistent manner.

4 Key Principles

4.1.1. The Council is a signatory of the Enforcement Concordat. This is a National Code of Practice for Enforcement which the Government recommends is adopted by Local Authorities. The Policy outlined in this document commits investigation and enforcement action on planning matters taken in South Kesteven to the Key Principles set out below.

4.2. Proportionality

4.2.1. **In the discharge of its enforcement powers the District Council shall seek remedies that are proportionate to the identified breach that has occurred, and limited to the measures necessary to rectify the identified breach.**

4.2.2. Proportionality means relating enforcement actions to the significance of the breach. Those whom the planning system is intended to protect, and those on whom it places duties, expect that any action taken by Planning Services to remedy a breach of control, should be proportionate to the seriousness of the breach of control that has occurred. In general, principles of proportionality are built into statutory regulatory controls, which are intended to safeguard against action on the part of the authority which exceed the measures necessary to ensure compliance. For example one of the grounds of appeal against a planning enforcement notice, is the ground that the steps required by the notice exceed what is necessary to remedy the alleged breach of control. In seeking enforcement remedies, remedial actions shall be commensurate with the breach that has occurred, and the harm that is considered to have arisen.

4.3. Consistency

4.3.1. **Wherever circumstances allow, consistency shall be observed in the investigation of alleged breaches of control, in the enforcement of planning controls, and in the exercise of its discretionary powers.**

4.3.2. Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends. Users and consumers of the planning system expect that enforcement procedures and actions will be consistently applied by decision makers and service providers. While it is unusual for any two breaches of planning control to be entirely similar, particular categories of breach and remedies will occur. It is a reasonable expectation that the District Council will approach such matters in a consistent fashion, albeit that the final outcome may be quite specific to the particular case in question.

4.3.3. In the interests of consistency, working procedures have been evolved for the main categories of enforcement investigation and control. These procedures adopt a structured approach to investigation, which ensures both consistency and transparency in procedures followed.

4.4. Transparency

- 4.4.1. **In the exercise of its enforcement functions, the District Council shall operate openly and transparently, ensuring that all parties understand the processes, actions and consequences of the Council's actions.**
- 4.4.2. Transparency means helping users and consumers of the planning system to understand what is expected of them, and what should be expected from the District Council as a decision maker and service provider. It means making clear to persons believed to have committed a breach of control what they are required to do and why, and, explaining to complainants what they can expect the District Council to do when they complain. Openness in the discharge of its enforcement functions enables the District Council to demonstrate its application of the other key principles of the Policy.
- 4.4.3. The keys to transparency are education and information. The District Council shall endeavour to ensure, through correspondence, verbal communication, and information booklets, those users of the system are able to fully understand the processes in which they have or may become involved.

4.5. Appropriateness

- 4.5.1. **In the exercise of its enforcement functions, the District Council shall seek remedies to breaches of control that are appropriate to the particular circumstances of the case, and appropriate in terms of its intended outcomes.**
- 4.5.2. Appropriateness means applying such enforcement measures to a breach of control as are relevant and necessary to remedy the breach of control that has occurred. It also means only taking formal actions when the circumstances of the case dictate that intervention is appropriate in the public interest. Remedial actions should be relevant, directly related to the breach that has occurred, and appropriate in all respects. Actions should directly address the breach of control, and overcome the planning harm that has arisen from the breach.

5 Breaches of Planning Control

- 5.1. A breach of planning control may include the following:
- Building works that do not have planning permission
 - Failing to comply with any condition or limitation, such as Section 106 Agreement, subject to which planning permission has been granted.
 - Unauthorised changes of use
 - Unauthorised works to Listed Buildings
 - Demolition work within conservation areas
 - Works to a protected tree or tree in a conservation area
 - Displaying adverts without consent
 - Neglecting land or property to the extent that it causes harm to local amenity.
- 5.2. In the vast majority of cases, it is not a criminal offence to carry out development without first obtaining planning permission. Only certain works constitute an immediate offence, carrying the risk of criminal sanctions. These include:
- Works to a Listed Building
 - Works to protected trees or trees within a conservation area
 - Removal of most hedgerows outside residential curtilages
 - The display of adverts
- 5.3. The carrying out of works or development without the prior approval of the District Council may be unauthorised and action may be taken against the person causing the breach and persons having an interest in the land. However, such action will only be considered when it is expedient to do so.
- 5.4. There are certain issues that the Council cannot take into account when assessing an alleged breach because they are not planning matters. These may include:
- Loss of value to property
 - Competition with other business
 - Trespass or boundary disputes
 - Breaches of a covenant
- 5.5. The list of above matters is not exhaustive. However, those mentioned are likely to be private civil matters in which the Council has no legal right of intervention.

6 Reporting Alleged Breaches of Planning Control

- 6.1. Enforcement enquiries are queries received relating to suspected breaches of planning legislation.
- 6.2. The Council relies mostly upon the public to report issues as the primary means of identifying potential breaches.
- 6.3. Other matters may be identified by Council officers during the course of their normal operations. These matters will be treated in the same way as if they had been made by a member of the public.
- 6.4. Enquiries about an alleged breach of planning control can be submitted to the Council in person, by telephone, letter, e-mail, fax or using the enquiry forms on our [website](#).
- 6.5. The Council cannot normally act upon anonymous enquiries other than in circumstances where there may be an immediate criminal offence, a threat to public safety or a clear, credible threat to the proper planning of the area. Any investigations into anonymous enquiries in these circumstances will be at the discretion of the Council.
- 6.6. Anybody who has a legitimate concern but wishes to keep their identity confidential to Council Officers may enlist the services of their local councillor to make a complaint on their behalf.
- 6.7. It is the Council's policy not to reveal the identity of an informant to an alleged offender. We may be asked to reveal the identity of an informant, but we will always apply the rights of the individual in accordance with the Data Protection Act 1998 and any other appropriate legislation.
- 6.8. The Council requires contact details from a complainant so that they may be kept informed of the progress of the investigation and approached for further information should this prove necessary.
- 6.9. Complainants should be aware however, any comments that they make specifically in response to a planning application arising from enforcement investigations will be available for the public to read.
- 6.10. The Council also monitor conditions imposed on permissions for some large or contentious development sites to ensure that relevant conditions are discharged at the appropriate times.
- 6.11. Planning Obligations such as Agreements made under Section 106 of the Town and Country Planning Act 1990 will be monitored to ensure the timely payment of developer contributions and accurate allocation of funds to relevant schemes.

7 Responding to Enquiries

- 7.1.1. When a valid enquiry is received, details of the alleged breach will be registered in the Development Management computer system.
- 7.1.2. This register will contain full details of the allegation and the particulars of the complainant and defendant. It will also be used to keep up to date records of investigations on an ongoing basis. Throughout the course of an enforcement investigation detailed records of the complaint, and any investigations, actions and outcomes will be maintained.
- 7.2. Our Commitment to enquirers
- 7.2.1. The Council will acknowledge any complaint in writing or by e-mail **within 3 working days** of the complaint having been received.
- 7.2.2. Investigations will begin straight away and the site will be inspected **within 10 working days** of the complaint having been received.
- 7.2.3. Priority will be given to urgent alleged breaches in order to minimise any immediate harm, such as where:
- Irreparable damage is being caused to a Listed Building
 - Work is being carried out to a protected tree
 - Demolition works within Conservation Areas
- 7.2.4. The Complainant will be informed of the outcome of any investigations **within 15 working days** of the complaint having been received.
- 7.2.5. Should the initial inspection prove inconclusive, an update of the current situation will be given at this point.
- 7.2.6. If the initial inspection reveals that there is no breach of planning control, the case will be closed and the complainant informed of the conclusion.
- 7.2.7. In investigating any alleged breach of planning control, The Enforcement team will consult other Council departments and Agencies that it is felt may have an interest in the allegation. Such departments may include:
- Building Control
 - Environmental Health
 - Housing Services
 - Lincolnshire County Council
 - Highway's Agency
 - Environment Agency
- 7.2.8. These departments/agencies may have powers to deal with the matter which may more effectively deal with the harm than planning enforcement powers. In such cases, the Enforcement team will liaise with these departments/agencies to agree the most suitable course of action.

8 Procedures for dealing with Breaches of Planning Control

8.1.1. If a breach of planning control is found as a result of investigating a complaint, the most appropriate course of action to achieve a satisfactory outcome will depend on the severity and seriousness of the breach.

8.1.2. After the first site visit, an initial assessment will be conducted to prioritise cases. This assessment will be carried out using the "Harm System".

8.2. The Harm System

8.2.1. This system is based on an assessment of the harm to the built and natural environment arising from an alleged breach of planning control and allows for a score to be given.

8.2.2. The scoring system is based on appropriate government guidance and gives due consideration to all relevant legislation. Each case will be scored following a set format in order to provide an equitable and consistent result.

8.2.3. All cases relating to refusals of retrospective planning applications, Works to listed buildings, hedge removals and works to protected trees will automatically receive a full investigation and will not be subjected to the scoring system.

8.2.4. Where a Breach of Planning Control scores 5 points or less, the complainant will be informed of the reasons for the decision and the case closed.

8.2.5. Where a Breach of Planning Control scores more than 5 points, the matter will be fully investigated and appropriate action taken.

8.2.6. The Harm System Assessment Form showing the scoring model can be found as Appendix 1

8.3. Breaches that ARE likely to receive planning permission

8.3.1. Following a full investigation of the case, where it is felt that the breach of planning control could be granted planning permission, the person causing the breach will be invited to submit a retrospective planning application for determination.

8.3.2. Upon receipt of any application, it will be published in accordance with the Council's Code of Practice, and third parties invited to comment.

8.3.3. The application may be decided at The Council's Planning Committee. A decision to refer the matter to a Planning Committee will be made in line with the Council's general policy for dealing with planning applications.

8.3.4. If the person causing the breach fails to submit a valid planning application, the matter will be discussed with the Planning Enforcement Officer,

Development Management Services Manager and The Council's Legal Services Team, with a view to decide whether the facts of the case are such that further action or no action is merited.

8.3.5. This scheme of delegation has been approved under delegated authority, which is part of the Council's Constitution. In doing so, regard shall be given to Government and local policy under the National Planning Policy Framework and South Kesteven Enforcement Policy Document, which states that enforcement action should not be used solely to "regularise" development which is acceptable on its planning merits, but for which planning permission has not been sought.

8.3.6. In considering any enforcement action, the decisive issue for the Local Planning Authority should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. Enforcement action should always be commensurate with the breach of planning control to which it relates (for example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site).

8.4. **Breaches that are NOT likely to receive planning permission**

8.4.1. Where a breach of planning control has occurred which is in principle only likely to be acceptable subject to the imposition of certain controls or conditions, a planning application will be sought. Where such an application is not forthcoming, authority will be sought to initiate formal enforcement action to secure appropriate remedies or controls.

8.4.2. Where the works or development are unacceptable in planning terms, and unlikely to be capable of being rendered acceptable, the person causing the breach will be advised of the unacceptability of the works carried out and advised to cease operations, and to restore the buildings or land to their pre-existing state, or to a state consistent with any approval issued by the Council.

8.4.3. Whilst the person causing the breach will be advised they are at liberty to submit a retrospective planning application, they will also be advised that any such application would not be likely to be supported by Council officers.

8.4.4. The person causing the breach will be advised to cease operations immediately, and to restore the buildings or land to its pre-existing state, or to a state consistent with any approval issued by the Council. They will be advised that failure to respond within a defined time period (which will reflect the nature of the breach), will result in authority being sought to take formal enforcement action.

8.4.5. There will be consultation between The Planning Enforcement Officer, Development Management Services Manager and The Council's Legal Services Team should it be felt that formal enforcement action is required.

- 8.4.6. This scheme of delegation has been approved under delegated authority, which is part of the Council's Constitution. In doing so, regard shall be given to Government and local policy under the National Planning Policy Framework and South Kesteven Enforcement Policy Document, which states that enforcement action should not be used solely to "regularise" development which is acceptable on its planning merits, but for which planning permission has not been sought.
- 8.4.7. In considering any enforcement action, the decisive issue for the Local Planning Authority should be whether the breach of control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. Enforcement action should always be commensurate with the breach of planning control to which it relates (for example, it is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to amenity in the locality of the site).

9 Enforcement Action

- 9.1. Where it becomes apparent that a person causing a breach of planning control is unwilling to comply, either with Officers' suggestions of a voluntary solution or with the terms of an existing permission, the District Council will consider the initiation of measures to secure compliance.
- 9.2. This policy document advises that the need for enforcement action will particularly arise where the following are satisfied:
- Where the breach took place in full knowledge that prior approval was required.
 - Where the person responsible will not submit an application to regularise the development (despite being given the opportunity to do so).
 - Where the breach is causing serious harm to public amenity in the neighbourhood of the site.
- 9.3. The Council has a number of formal options available to assist in resolving a breach of planning control. Not all options will be suitable in each case, and any option used will be dependent on the facts of the case.
- 9.4. Any Formal Notice issued which appears on the Land Charges Register will be available to members of the public to view, either at the Council's Offices, or on the Council's [website](#).
- 9.5. A summary of the main powers available to the Council is attached as Appendix 2.

10 Contacts and Further Information

Planning Enforcement Team

South Kesteven District Council
 Development Management
 St Peters Hill
 Grantham
 Lincolnshire
 NG31 6PZ
 Phone: 01476 406306
 Fax No: 01476 406009
 E-mail: planning@southkesteven.gov.uk
 Website: [Enforcement Website](#)

Department for Communities and Local Government

(The Government Department with overall responsibility for planning)
 Eland House
 Bressenden Place
 London, SW1E 5DU
www.dclg.gov.uk

National Planning Aid Unit (Royal Town Planning Institute)

Unit 419, The Custard Factory,
 Gibb Street,
 Birmingham
 B9 4AA
www.planningaid.rtpi.org.uk

Planning Inspectorate

(The independent body responsible for the processing of planning and enforcement appeals)
 Room 301,
 Kite Wing,
 Temple Quay House,
 2 The Square,
 Temple Quay,
 Bristol, BS1 6PN.
www.planning-inspectorate.gov.uk/pins/index.htm

Planning Portal

(The Government's online planning resource where you can learn about the planning system and research the latest government policy).
www.planningportal.gov.uk

11 **National Guidelines**

- The Town & Country Planning Act 1990
- The Town and Country Planning (General Development Order) 1995 (Amended 2008)
- The Town and Country Planning (Control of Advertisements) Regulations 2007
- DoE Circular 10/97 Enforcing Planning Control
- Enforcing Planning Control: Good Practice Guide for Local Authorities
- The Enforcement Concordat published by the Cabinet Office, March 1998
- The Regulation of Investigatory Powers Act 2000
- The Anti Social Behaviour Act 2003
- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- The Human Rights Act 1998
- The Hedgerow Regulations 1997
- The Control of Fly-Posting – Good Practice Guide
- The Localism Act 2011

Appendix 1 – The Harm System Assessment Form

South Kesteven District Council - HARM ASSESSMENT FORM

TO BE COMPLETED BY AN OFFICER WHO HAS INSPECTED THE DEVELOPMENT

All cases relating to refusals of retrospective planning applications, works to listed buildings, hedge removals and works to protected trees will automatically receive a full investigation – **do not complete form.**

Each new complaint will be allocated scores as set out below to assess its harm. The total will provide its harm score on which its priority will be based.

Points Allocation			Score
1	Is the breach	Worsening Stable	(1) (0)
2	Highway safety issue	Yes No	(2) (0)
3	Other safety issues	Yes No	(2) (0)
4	Causing a statutory or serious environmental nuisance	Yes No	(1) (0)
5	Complainant	Immediate neighbour/staff Other/Parish Council Anonymous/malicious	(2) (1) (0)
6	Age of breach	Within 6 months of immunity Less than 1 month old More than 1 month old	(2) (1) (0)
8	Is there harm	Widespread Local None	(2) (1) (0)
9	Irreversible harm	Yes No	(2) (0)
11	Breach of a planning condition or Article 4 Direction	Yes No	(1) (0)
12	Conservation Area (or adjacent to)	Yes No	(1) (0)
13	Affects the setting of a Listed Building/Ancient monument	Yes No	(1) (0)
14	Special exercise (please provide details)	Yes No	(1) (0)
15	Particularly sensitive site e.g. SSSI, AONB, Scheduled monument Listed Garden, Archaeological importance	Yes No	(1) (0)
16	Undesirable precedent (please provide details)	Yes No	(1) (0)
		TOTAL POINTS (HARM SCORE)	

Appendix 2 – Formal Enforcement Powers

Enforcement Notice

The Council may serve an Enforcement Notice when they are satisfied that there has been a breach of planning control and that it is appropriate to take action.

The recipient(s) of an Enforcement Notice must take the specified steps within a set time period, as required by the Notice.

The recipient(s) of a notice have a right of appeal to the Secretary of State, through the Planning Inspectorate. Any appeal suspends the effect of a notice until the appeal is determined. If the recipient(s) lodge an appeal, we will communicate with all appropriate third parties and neighbours of the appeal and how they can make representations to the Planning Inspectorate.

Failure to comply with an Enforcement Notice is a criminal offence and currently attracts a maximum fine on conviction of £20,000.

Breach of Condition Notice

A Breach of Condition Notice can be served on a developer or occupier when they do not comply with conditions imposed on a planning permission.

There is no right of appeal to the Secretary of State against a Breach of Condition.

It is a criminal offence to fail to comply with a Breach of Condition Notice within the period for compliance specified.

Listed Building Enforcement Notice

This is similar to an enforcement notice in terms of procedures to be followed. It may be issued where works affecting the character of a listed building are being, or have been, carried out in the absence of listed building consent.

The notice can specify steps to be taken to restore the building to its former state, to alleviate the effect of the unauthorised work, or to bring the building to the state that it would have been in had any listed building consent been fully complied with.

An appeal against an Enforcement Notice suspends the notice until the outcome of the appeal.

Stop Notice

These notices are served either with or after an Enforcement Notice if it is considered that continuing with unauthorised operations will cause irreparable and immediate significant harm.

The Stop Notice continues to take effect even if an appeal is lodged against the Enforcement Notice.

There are compensation liabilities if the Enforcement Notice is quashed.

There is no right of appeal and failure to comply with the notice is a criminal offence.

Temporary Stop Notice

This notice can be served if we consider it is necessary to restrict unauthorised activity or development immediately to safeguard the amenity of the area and prevent further irreparable harm.

This differs from the normal Stop Notice powers as it is immediate and does not have to be accompanied by an Enforcement Notice.

The notice has effect for up to 28 days while considering whether further enforcement action is necessary.

There is no right of appeal to the Secretary of State but a judicial review can challenge the validity and propriety of the decision.

There are compensation liabilities where the Council is found to have been unreasonable in issuing such a notice.

Injunction

The Council can apply to the County Court or High Court for an injunction to cease an actual or imminent breach of planning control.

Clear evidence must be provided when seeking an injunction for an imminent breach.

Injunctions may be considered as a supplement to other statutory powers, particularly where an immediate response is required.

Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment.

Section 215 Notice

This notice can be served on the owner and occupier of the land if the Council considers that harm to the amenity of part of its administrative area is adversely affected by the condition of the land.

The notice specifies steps to remedy the condition of the land but it cannot take effect until 28 days after it is issued.

Then the notice must give a compliance period for when the works specified in the notice should be complied with.

Advertisements

The display of advertisements is controlled under The Town and Country Planning (Control of Advertisements) Regulations 2007.

Advertisements are divided into four main groups:

- Advertisements that are specifically excluded from the planning authority's direct control.
- Advertisements that have 'deemed consent' where the planning authority's prior approval is not required provided the advertisement meets certain criteria.
- Those for which the local planning authority's express consent is always needed.
- Advertisements that have been granted express consent are excluded from local planning authority control other than any controls imposed in the terms of the consent itself.

Advertising rules are complex and seek to control amongst other things; the height, size and illumination of the advertisements.

It is an offence to display an advertisement without the consent required and it is open to the Council to take prosecution in the Magistrates Court for an offence under the Advertisement Regulations.

The maximum fine on conviction for the display of unauthorised advertisements is £3,000 with additional fines on conviction for continuing offences.

Fly-posting

Fly-posting is the display of any advertisements and other promotional material without permission, on buildings, posts, poles, litter bins and elsewhere in public places.

Fly-posting without a permit is illegal under the Highways Act 1980, the Town and Country Planning Act 1990, the Anti-Social Behaviour Act 2003 and the Clean Neighbourhoods and Environment Act 2005.

Legal measures available to the Council to prevent fly-posting include:

- On the spot fines
- Fixed penalty notices
- Prosecution in a magistrate's court
- Anti-Social Behaviour Orders
- Charging the offender for the cost of removing the posters.

Protected Trees

Under the Town and Country Planning legislation the local planning authority has may protect important trees in the district by making Tree Preservation Orders.

Any unauthorised works to such protected trees is a criminal offence which is liable, on summary conviction, to a fine of up to £20,000 per tree harmed.

Trees in Conservation Areas are also afforded a degree of protection under the planning legislation.

Unauthorised work to and/or removal of trees in a conservation area also constitutes a criminal offence.

Planning Obligations

Planning Agreements provided under Section 106 of the Town and Country Planning Act 1990 are agreements made between the Local Planning Authority and a developer.

Unilateral undertakings are made by the developer. Both aim to make proposed development acceptable and accord with planning policies. Such obligations may restrict development or use of land, may require certain operations to be carried out, or may require payments to be made to the Authority.

The Council monitors these planning obligations to ensure that operations are carried out and payments made in accordance with the terms of each agreement.

Requirements to comply with planning obligations run with the land so if the terms of an obligation are not complied with any enforcement action may be taken against persons acquiring an interest in the land.

Should there be a breach of a formal obligation there are three methods of enforcement open to the Council. The Council may:

- Apply to the County Court or High Court for an Injunction. The Council must prepare a high level of evidence to convince a judge that an injunction is necessary. Failure to comply with an injunction can lead to an unlimited fine and/or imprisonment.
- Enter the land to complete works and may recover costs where certain operations or works have not been carried out, but must give at least 21 days notice of our intention.
- Place a charge on the land in order to assist the Council in proceedings to recover costs incurred.

High Hedges

The Council has powers under Part 8 of the Anti-social Behaviour Act 2003 to deal with complaints about high hedges. The legislation enables the owner or occupier of a domestic property affected by a high hedge to make a complaint to the Council provided that:

- the hedge concerned is a line of two or more predominantly evergreen or semi-evergreen trees or shrubs
- the hedge is 2 metres or more high
- the hedge is forming a barrier to light or access to their home or garden
- attempts have been made to amicably resolve the problem with the owner of the hedge.

The Council's role is not to mediate or negotiate between the complainant and the hedge owner, but to adjudicate on whether the hedge is adversely affecting the complainant's reasonable enjoyment of his property.

If the circumstances justify it, the Council will issue a remedial notice to the hedge owner setting out what the hedge owner must do to remedy the problem.

The notice may specify future work on the hedge to ensure that it is maintained at a reasonable height.

The Act allows for an appeal to the Secretary of State against the issue or withdrawal of a remedial notice.

The Council will charge a non-returnable fee of £360 for this service, payable on submission of a complaint.

Formal Caution

The Local Planning Authority may consider Formal Cautions as an alternative to prosecution.

Examples of where they may be appropriate are:

- To deal quickly and simply with less serious offences;
- To divert less serious cases away from the court process;
- To deter repeat offences.

Before a caution is administered the officer will ensure:

- There is evidence of the offender's guilt sufficient to sustain a prosecution;
- The offender admits the offence;
- The offender understands the nature of the formal caution and agrees to be cautioned for the offence.

Prosecution

The Council recognises the use of the criminal process to instigate a prosecution as an important part of enforcement.

It uses discretion in making such a decision because the use of other enforcement powers may equally or more effectively and satisfactorily resolve the matter.

Where circumstances warrant, the Council will pursue prosecution action.

All investigations into alleged breaches of legislation will follow best professional practice and the requirements of the Police and Criminal Evidence Act (PACE) 1984, Criminal Procedure and Investigations Act 1996 (CPIA) the Regulation of Investigatory Powers Act 2000 (RIPA) and the Human Rights Act 1998.

Default Powers

In the event of a defendant not complying with the terms of a formal notice, the District Council has 'default' powers to enter land and carry out the necessary works. The Council may also recover their reasonable expenses from the then owner of the enforcement notice land.

Expenses incurred become a legal charge on the land until such time as the expenses are recovered. This charge is binding on successive owners of the notice land.

Access to Land

The Planning Acts confer rights of entry onto land to duly authorised planning personnel, for the purpose of investigating an alleged breach of planning control. Wilful obstruction of this right of entry is a criminal offence.

In the event of access being denied, the District Council, where necessary, shall seek a warrant from magistrates authorising entry, and pursue further action.

Planning Contravention Notice

A Planning Contravention Notice is a method for local authorities to obtain information on a suspected breach of planning control.

It will usually set out a list of questions about the site/development.

It gives the person the opportunity to visit the Council Offices to furnish the information required.

It is a criminal offence not to comply with the terms of a notice or to provide false or misleading statements in reply.

Section 330 Notice

A Notice under section 330 of the Town and Country Planning Act 1990 is used to illicit information about the site being investigated and requires the person upon which it is served to give details about the ownership and interest in the land.

It is a criminal offence not to comply with the requirements of the Notice within the period set for its return, or to make false or misleading statements in reply.

Section 16 Notice

This is primarily intended to establish information about the ownership and other interests in the land.

It is a criminal offence to fail to comply with the requirements of the Notice within the period set for its return, or to make false or misleading statements in reply.

South Kesteven District Council

**Development Management
St. Peter's Hill
Grantham
Lincolnshire
NG31 6PZ**

**Tel: 01476 40 63 06
Fax: 01476 40 60 00
Minicom: 01476 40 61 98**

enforcement@southkesteven.gov.uk

www.southkesteven.gov.uk

Date	Item	Update	Action Notes to Officers	Response	Recurring item	Recommendation	Cabinet/Council Decision
17/05/12	Lincolnshire County Homelessness Strategy Update to PDG on development of a county-wide Strategy to ensure equitable service across the County	Presentation by Service Manager for Housing Solutions detailing the requirements placed on the Authority under the Homelessness Act 2002					
	Reinvigorating the Right to Buy Update to PDG on development of new scheme	Presentation by the Head of Finance which summarized a new scheme in relation to right to buy				That the Council retain receipts from right to buy sales for local investment in affordable housing. 19/7/12 The PDG's recommendation in respect of right to buy sales receipts was taken into account by the Portfolio Holder for Good Housing in a non-key decision made on 25/6/12	25.6.12 Non-Key Decision That approval is granted for South Kesteven District Council to formally agree to enter into an agreement with the Secretary of State for Communities and Local Government for the retention of Right to Buy receipts for local provision of affordable housing, noting that such agreement must be reached with DCLG by not later than noon on 27 th June if receipts are to be retained.
	National Planning Policy Framework Development of planning documents	Presentation to PDG with a summary of the final documents published in March 2012 incorporating the recommendations made by Communities PDG at its meeting of 1.9.11					
	Car Parking Strategy	Feedback from first meeting of the PDG's Working Group to review car parking across the district			06/09/12		21.5.12 Cabinet Decision To approve the Draft South Kesteven District Council Civil Enforcement Off-Street Parking Places Order 2012 as attached to report PD002 for consultation with the statutory bodies and the public in accordance with Local Authorities Traffic Orders (Procedure) (England and Wales) Regulations 1996.

Date	Item	Update	Action Notes to Officers	Response	Recurring item	Recommendation	Cabinet/Council Decision
19/07/12	Wind Energy SPD Development through consultation of a supplementary planning document relating to wind energy	Presentation by Strategic Director for Development and Growth	<p>That the draft Wind Energy SPD should be prescriptive, including separation distances</p> <p>Costs, proposals and a programme for decommissioning of wind turbines at the end of their useful life should be a requirement as part of any application for the installation of a wind turbine. It should also be at the expense of the party who erected the turbines.</p> <p>All applications for wind turbines should include visual rendering to demonstrate their impact on the environment</p> <p>The positioning of transmission lines should be clearly shown at the time an application for a development involving wind turbines is submitted</p>				1.10.12 Cabinet Decision Cabinet approved the draft Wind Energy SPD (appended to report PLA 945) for the purpose of public consultation
	Rural Broadband Update on Superfast Broadband provision for Lincolnshire	Briefing paper supplied by Democratic Services Officers on current position of OnLincolnshire and information from communities that have developed effective Broadband connections independently		No response required - item for information only	22/11/12		
	Sustainable Communities Act Update on Act	Briefing paper provided relating to update of Act		No response required - item for information only			
	Housing Programme of Work Initial outline of forthcoming work in relation to Housing and Neighbourhoods	Presentation by the Head of Housing and Neighbourhoods relating to the forthcoming programme of work for the service area. Items discussed will be fed into the work plan of the PDG	The PDG asked to receive regular updates against the programme of work		22/11/12		

Date	Item	Update	Action Notes to Officers	Response	Recurring item	Recommendation	Cabinet/Council Decision
06/09/12	Car Parking Strategy				22/11/12		13.9.12 Council Decision The Council adopts the SKDC Civil Enforcement Off-Street Parking Places Order 2012 as attached at Appendix 1 of report No. PD003
	Civil Parking Enforcement	Update by Property Development Manager on the implementation of CPE projected for sign off 30/11/12				That £9300 from the Communities PDG support budget be used to commission on-street research work in preparation for proposing resident parking schemes in Stamford	
	Consultation Intercity East Coast Franchise Replacement Consultation	Members input into responses to Dept of Transport Consultation		17/9/12 Recommendations included within the Portfolio Holder's response to the consultation		The response submitted through the Portfolio Holder for Economic Development should include points agreed and minuted.	
22/11/12	Localisation of Council Tax					3.12.12 Cabinet Recommendation Cabinet recommends that Council adopts the proposed scheme for the localisation of council tax support as detailed in the local scheme rules	13.12.12 Council Decision The Council approves the scheme for the localisation of council tax support as detailed in the local scheme rules from 1 April 2013.
	Presentation on the development of local scheme	Update on development of the local scheme following the public consultation process. The proposed scheme was to go to Council on 13.12.12					
	Community Right to Bid						6.12.12 Constitution Committee Recommendation The Constitution Committee recommends to Council changes to the Scheme of Delegation to enable applications to be determined relating to the Community Right to Bid (Assets of Community Value)
	Presentation from Head of Finance and Report by Head of Legal and Democratic outlining the introduction of this right under the Localism Act		That the community groups as defined in legislation should be able to nominate assets, together with Parish meetings and the Grantham Charter Trustees Consideration should be given to decreasing the number of people required to constitute an unincorporated group from 21 people on the electoral register for the district That nominations for community assets should be considered by officers against criteria approved by Councillors That the definition of community assets should be taken from the legislation			That the provisions in respect of the Community Right to Bid proposed in report number LDS082 should go forward to the Constitution Committee and Council subject to the inclusion of parish meetings and the Grantham Charter Trustees as bodies eligible to put forward nominations and that further consideration should be given to the number of people required to form an unincorporated group.	13.12.12 Council Decision The Council approves the recommendations made by the Constitution Committee at its meeting of 6.12.12

Date	Item	Update	Action Notes to Officers	Response	Recurring item	Recommendation	Cabinet/Council Decision
22/11/11	Tenancy Strategy						
Cont..	Report on the development of a Tenancy Strategy for consultation	Deferred to special meeting on 13/12/12			13/12/12		
	Car Parking Strategy				07/03/13		
	Presentation of draft strategy		Property Development Manager to recirculate the draft car parking strategy including changes made at Cabinet briefing for the information of Councillors			That the Cabinet adopt the draft car parking strategy for South Kesteven (as amended at the meeting)	3.12.12 Cabinet Decision That Cabinet approves the draft Car Parking Strategy as the key overarching document in the effective management of our off street car parks and for the strategic planning of car parking in the future. To delegate authority to the Property Development Manager in conjunction with the Portfolio Holder for Grow the Economy and Eco Dev to approve minor amendments to the car parking strategy
	Rural Broadband						
	Further update by Democratic Services Officers	Update on current sign-up to OnLincolnshire and information on Broadband capacity in light of extra exchange boxes being installed in Bourne		No response required - item for information only			
	Question Referred by Council						
	How is SK meeting its statutory Biodiversity Duty?	Briefing paper provided by Service Manager for Planning Policy and Partnerships		Response given at meeting by Service Manager for Planning Policy and Partnerships			
*13/12/12	Tenancy Strategy						
	Report and presentation by Head of Housing and Neighbourhoods	Presentation and consultation with PDG Members on the development of a district Tenancy Strategy				That the Council's Tenancy Strategy should include a statement in support of fixed-term tenancies and the following considerations list for review of fixed-term tenancies: Income and Capital; Housing need and vulnerability; Tenancy conduct	7.1.13 Cabinet Decision To approve the Tenancy Strategy for adoption as appended to report H&N)312 subject to the Equality Impact Assessment being clarified and approved with the Portfolio Holder for Grow the Economy and Eco Dev (Equality Champion) and the Portfolio Holder for Good Housing

Date	Item	Update	Action Notes to Officers	Response	Recurring item	Recommendation	Cabinet/Council Decision
10/01/13	<p>Allocations Policy</p> <p>Report and presentation by Head of Housing and Neighbourhoods</p>	<p>Presentation and consultation with PDG Members on the review of the Allocations Policy</p>	<p>Notes connected to the four key principles of the Allocations Policy included:</p> <p>Definition of Local Connection to include: Local connection and family connection should continue to be a consideration and it was suggested consideration should be given to mirroring existing criteria.</p> <p>Meeting housing aspirations: both housing need and aspiration should continue to be a consideration.</p> <p>Rewarding economic or community contribution: Priority should not be given to people based on voluntary work within communities, Councillors felt that there would be too many variables to make community contribution definable, fair and workable but agreed that in exceptional circumstances there should be facility for officers to use their discretion.</p>			<p>PDG members recommended that the Council should move towards an banded allocations scheme</p>	
	<p>Housing Strategy</p> <p>Report and presentation by Head of Housing and Neighbourhoods</p>	<p>Presentation and consultation with PDG Members on the review of the Housing Strategy</p>	<p>Recommendations to officers based on the priorities of the Housing Strategy included: A comment should be included about ensuring that affordable housing should reflect local need. The priority Improved Housings Standards should be amended to read "Improving housing standards across the district and all tenures". To support developing neighbourhoods that work, a fourth priority was proposed: Promotion of sustainable neighbourhoods and communities. The second potential solution should be amended to read: "Encourage private landlords to ensure their properties are fit and fully utilized through an appropriate balance of positive support and enforcement". In relation to Access to housing and wellbeing services: Change the potential outcome specifically referring to disabled facilities grants to "investment in adaptations" to encompass council properties and reference should be made to ensuring access to transport links.</p>				

Date	Item	Update	Action Notes to Officers	Response	Recurring item	Recommendation	Cabinet/Council Decision
10/01/13 cont..	Community Right the Challenge Report by Head of Legal and Democratic Services	Report to PDG relating to the development of a local scheme to manage the Community Right to Challenge					18.2.13 Cabinet Decision That the Community Right to Challenge Scheme as attached to report LDS087 be adopted.
07/03/13	Missed Bin Policy Report by Service Manager Waste and Recycling Recycling Contamination Report by Service Manager Waste and Recycling Planning Enforcement Policy Presentation of draft policy						