

Harborough District Council

Report to the Communities Scrutiny Panel Meeting of 15 December 2022



Report Number:	2
Title:	Development Management Services Update
Status:	Public report
Key Decision:	No (not a decision-making report)
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Portfolio Holder:	Councillor Jonathan Bateman, Cabinet Lead Member for Planning - Environmental Services & Waste Management.
Appendices:	Appendix A Revised Local Enforcement Plan Appendix B Public Open Space Protocol Document

Executive Summary

This report is presented to Scrutiny for consideration in respect of:

- The Revised Local Enforcement Plan.
- A process for handling public open space.
- The outcome of a review of the Council's Development Management Services' handling of the approved landscape management plan (LMP) for the Mulberry Homes development at Hursley Park, Great Bowden (planning reference 15/01801/OUT & 16/02083/REM).

Recommendations

That the Panel review and comment on the contents of this report.

1. Purpose of Report

- a. This report seeks the comments of the Scrutiny Panel in respect of the adoption of a revised draft Local Enforcement Plan for dealing with development control enforcement issues and a protocol for the handling of public open spaces.
- b. The report also proposes a process of consultation with relevant members in respect of non-material planning applications amendments and variations to planning conditions where the associated primary planning application was presented to, and agreed by, the Council's Planning Committee.

2. Points for Discussion

- i) Do Panel have any comments on the contents of the revised draft Local Enforcement Plan (LEP) at Appendix A, and are they content to recommend it to Cabinet?
- ii) Do Panel have any comments concerning the proposed process for managing non-material amendments (NMA) and variations of conditions (VAC) set out in paragraphs 4.2, 4.3 and 4.4 below?
- iii) Are Panel content to review and note the Public Open Space Protocol, at Appendix B, and outlined at paragraph 4.9 below? This protocol is designed to make it easier for the community to understand the planning processes for new Public Open Space. This protocol is based on the up-to-date Open Spaces Strategy adopted by the Council in June 2021.

3. Background

3.1 At its meeting of the 24 May 2022, the Planning Committee resolved:

- 2.5 That the Planning Committee request the Scrutiny Commission explore how further oversight may be given to the Chairman and/or the Planning Committee regarding instances when changes are made to conditions on applications previously agreed by the Planning Committee and ask for the policy on enforcement to be reviewed.
- 2.6 That the Planning Committee request the Scrutiny Commission consider the need to review the circumstances in which the Council might adopt large, significant open spaces.
- 2.7 That the Planning Committee request the Scrutiny Commission explore the possibility of implementing a compliance check on the standards of large, significant open spaces for which responsibility is due to be handed over to a Residents Management Committee, before the large, significant open space concerned is signed off by the Council and the Residents Management Committee concerned takes responsibility for it.

3.2 This report addresses recommendations 2.5, 2.6 and 2.7 detailed above.

4. Details

- 4.1 **Recommendation 2.5** *That the Planning Committee request the Scrutiny Commission explore how further oversight may be given to the Chairman and/or the Planning Committee regarding instances when changes are made to conditions on applications previously agreed by the Planning Committee and ask for the policy on enforcement to be reviewed.*
- 4.2 On receipt of a NMA or a VAC application, the Council's Validation officer will check whether the primary application associated with the NMA, or VAC was either an officer delegated decision or a decision of the Planning Committee. If the latter, the Validation officer will send an email to the Planning Committee Chair, and the relevant Ward Member(s) advising them of the application, giving them 14 days to respond with any comments. If no comments are received within that period from either the Planning Committee Chair or the relevant Ward

Members(s) it will be deemed that either the Planning Committee Chair and/or the relevant Ward Member(s) are content with the proposed NMA or VAC.

4.3 It should be noted that:

- a. There is no statutory definition of 'non-material', this is because it will be dependent on the context of the overall scheme (section 96A of the Town and Country Planning Act 1990)
- b. An application to make a non-material amendment is not an application for planning permission
- c. Unlike a planning application Local Planning Authorities have only 28 days to determine a NMA application, or a longer period if that has been agreed in writing between the parties.
- d. In terms of a VAC application to vary or remove conditions associated with a planning permission (section 73 of the Town and Country Planning Act 1990), Local Planning Authorities have 8 weeks to determine such applications (13 weeks if associated with a major development). If the application is not determined within this time, the applicants have a right of appeal to the planning inspectorate.

4.4 It is recommended that the above consultation procedure as set out in paragraph 4.2 above commences on and from the 1st January 2023.

4.5 **Recommendation 2.6** *That the Planning Committee request the Scrutiny Commission consider the need to review the circumstances in which the Council might adopt large, significant open spaces*

4.6 The Council's new Open Spaces Strategy 2021 (OSS 2021) was presented to the Panel on the 25 March 2021 and was subsequently adopted by the Council on the 21 June 2021. Importantly at paragraph 9.25 of the OSS 2021 it states "Harborough District Council will not routinely adopt open space provided as part of new development. The Council may adopt open space which has strategic value within the district, e.g., those which draw visitors from further afield". It is important that Panel should note that in the light of the fact that the Council have so recently adopted the up-to-date Open Spaces Strategy 2021 it is not due for further review for around 5 years from the date of adoption.

4.7 It is therefore not proposed to proceed with recommendation 2.6 further given the Council's recently adopted OSS 2021.

4.8 **Recommendation 2.7** *That the Planning Committee request the Scrutiny Commission explore the possibility of implementing a compliance check on the standards of large, significant open spaces for which responsibility is due to be handed over to a Residents Management Committee, before the large, significant open space concerned is signed off by the Council and the Residents Management Committee concerned takes responsibility for it.*

4.9 The draft Open Space Protocol document, attached at Appendix B, sets out the different stages for delivery of POS through the planning system. Panel are asked to review and note the Public Open Space Protocol. This is a technical and operational document, it does not require a member decision, and making this available to the community will assist them in understanding the process new open space follows as it proceeds through the planning

process. Panel should note that the protocol is based on the up-to-date Open Spaces Strategy recently adopted by the Council in June 2021. This addresses recommendation 2.7.

5. Implications of Decisions

5.1. Corporate Priorities

The formal decision-making process supports all the Corporate Priorities.

5.2. Financial

No financial issues arise directly from this report.

5.3. Legal

No legal issues arise directly from this report.

5.4. Policy

The Council needs to ensure that it has an up-to-date Local Enforcement Plan as set out in paragraph 59 of the National Planning Policy Framework 2021.

5.5. Environmental Implications including contributions to achieving a net zero carbon Council by 2030

None as far as this report is concerned.

5.6. Risk Management

None as far as this report is concerned.

5.7. Equalities Impact

None as far as this report is concerned.

5.8. Data Protection

No data protection issues arise directly from this report.

6. Summary of Consultation and Outcome

6.1 Not applicable to the contents of this report.

7. Alternative Options Considered

7.1 Not to request that Panel recommend to Cabinet that it approves the revised draft of the Local Enforcement Plan and/or not to ask Panel to review and note the Public Open Space

Protocol. Neither alternative option is recommended as they would fail to adequately address the resolutions of Planning Committee.

8. Background papers

- Reports to the Planning Committee meeting 24 May 2022 and minutes of that meeting considered by Planning Committee on 21st June 2022.
- Adopted Harborough District Council Open Spaces Strategy 2022

