

North Yorkshire County Council

Executive

15 March 2022

Consideration of revised Planning Enforcement and Monitoring Policy

Report of the Corporate Director – Business and Environmental Services

1.0 Purpose of Report

- 1.1 To receive, consider and comment on a proposed draft Planning Enforcement and Monitoring Policy.

2.0 Background

- 2.1 Under his delegated decision making powers in the Officers' Delegation Scheme in the Council's Constitution, the Chief Executive Officer has power, in cases of emergency, to take any decision which could be taken by the Council, the Executive or a committee. Following on from the expiry of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which allowed for committee meetings to be held remotely, the County Council resolved at its meeting on 5 May 2021 that, for the present time, in light of the continuing Covid-19 pandemic circumstances, remote live-broadcast committee meetings should continue (as informal meetings of the Committee Members), with any formal decisions required being taken by the Chief Executive Officer under his emergency decision making powers and after consultation with other Officers and Members as appropriate and after taking into account any views of the relevant Committee Members. This approach will be reviewed again at the Council AGM on 18 May 2022.
- 2.2 The County Council, through its Planning Services, is responsible for discharging the development control planning functions associated with minerals extraction, the management of waste, and the Council's own development under the provisions of the Town & Country Planning General Regulations 1992. The planning functions relating to mineral and waste matters are often referred to as 'county matters' and are defined within Schedule 1 of the Town & Country Planning Act 1990 and the Town & Country Planning (Prescription of County Matters) (England) Regulations 2003. This includes the processing of planning applications, the monitoring of planning permissions and investigations into alleged or identified breaches of planning control.
- 2.3 Planning Services are responsible for determining planning applications for minerals and waste development proposals and for the County Council's own development proposals such as roads, schools, nursing homes etc. Planning Services are also responsible for investigating alleged or identified breaches of planning control associated with mineral extraction and processing, the management of waste and the County Council's own developments. Enquiries and complaints may relate to development that has been carried out without planning permission or a breach of the terms of a planning permission.
- 2.4 Planning Services are also responsible for monitoring minerals and waste developments for which planning permission has been granted to ensure compliance with the planning permission, planning conditions, plans, approved schemes and programmes and the requirements of S106 Planning Agreements.
- 2.5 Guidance and advice regarding planning enforcement, how to report a suspected breach of planning control, how it would be investigated and types of action that could be taken to

rectify a breach of planning control is provided on the County Council's web pages under Planning and Development: www.northyorks.gov.uk/planning-enforcement

- 2.6 The County Council adopted its first 'Planning Enforcement Control Service Pledge' in March 2000 and while Members of this Committee received an Officer Report on 7 March 2005 conveying a revised version of this Pledge (dated February 2005), which was subsequently adopted, it is clear that an update and refresh to reflect current expectations is necessary and the following paragraphs explain what that entails.

3.0 Proposed Planning Enforcement & Monitoring Policy

- 3.1 A 'Planning Enforcement and Monitoring Policy' has been drafted and is appended to this report. The draft policy provides details on:

- The Council's Planning Functions
- Responsibilities
- Objectives
- Commitments
- The Enforcement and monitoring functions
- Investigating unauthorised development
- Dealing with enquiries and complaints
- Recording and Acknowledging Complaints
- Joint Working
- Identifying a breach of planning control
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- Approach to enforcement
- Breaches remedied by negotiation
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- What action can be taken
 - Planning Contravention Notice
 - Breach of Condition Notice
 - Enforcement Notice
 - Temporary Stop Notice
 - Stop Notice
 - Injunction
 - What might happen after serving a notice or injunction
- Compliance
- Prosecution
- Direct action
- Monitoring
- Dissatisfaction with the service
- Policy review

4.0 Consultations, notifications, advertisement

- 4.1 No consultations, notifications or advertisements on the draft policy are required or proposed.
- 4.2 The draft 'Planning Enforcement and Monitoring Policy' was reported to the Planning and Regulatory Functions Committee on 18 January 2022 for information and comments. Whilst raising a number of questions in respect of the draft Policy and enforcement practices in general, the Committee:

- Supports the updating of the County Council's 'Planning Enforcement Control Service Pledge' and the draft 'Planning Enforcement and Monitoring Policy' subject to the 'Policy' being strengthened;
- Expressed concern that the Policy does not effectively address issues around climate change and carbon reduction;
- Proposed the Policy should be given more weight as a practical tool for enforcement and compliance as the public considered this issue to be a very important aspect of the Planning service;
- Expressed concerns about available resources in Planning Services and the ability of one enforcement and monitoring officer to deal with all enforcement and monitoring matters across the county.

4.3 The Committee resolved to advise the Executive that:

- (i) the Committee's comments regarding the proposed draft Planning Enforcement and Monitoring Policy be taken account of and incorporated into reports on this matter, going forward ; and
- (ii) subject to the incorporation of those comments, the draft Planning Enforcement and Monitoring Policy be reported to the Executive for approval and recommendation to County Council for approval and adoption.

4.4 The minutes of the Planning and Regulatory Functions Committee meeting 8 January 2022 are appended as 4 to this report.

4.5 The draft 'Planning Enforcement and Monitoring Policy' was reported to the Transport, Economy and Environment Overview and Scrutiny Committee for information / comments on 20 January 2020. The Committee resolved to advise the Executive that it:

- Supports the updating of the County Council's 'Planning Enforcement Control Service Pledge' and the draft 'Planning Enforcement and Monitoring Policy';
- Recommends the draft 'Planning Enforcement and Monitoring Policy' be supported by the Executive and presented to Full Council for adoption;
- Considers the adopted 'Planning Enforcement and Monitoring Policy' be made available to those who it is most likely to relate to so they are aware of the County Councils approach to enforcement and monitoring in respect of breaches of planning control.

4.6 The draft minutes to the Transport, Economy and Environment Overview and Scrutiny Committee 20 January 2020 had not been published at the time of writing this report.

5.0 Planning Policy and Guidance

5.1 National Planning Policy Framework

Paragraph 59 of the National Planning Policy Framework (July 2021) states: 'Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They 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 appropriate'.

5.2 The draft 'Planning Enforcement and Monitoring Policy' has been prepared to comply with paragraph 59 of the National Planning Policy Framework.

6.0 Advice

- 6.1 The Transport, Environment and Economy Overview and Scrutiny Committee (TEEOSC) and the Planning and Regulatory Functions Committee (PRFC) support the updating of the 'Planning Enforcement Control Service Pledge' and the draft 'Planning Enforcement and Monitoring Policy'.
- 6.2 The TEEOSC recommended the updated policy should be made available to those who it is most likely to relate to so they are aware of the County Councils approach to enforcement and monitoring in respect of breaches of planning control. The County Council's web pages currently provide advice on Planning Enforcement;
- How to report a suspected breach of planning control;
 - What is a breach of planning control?;
 - Enforcement objectives;
 - Summary of planning enforcement powers;
 - Time limits for taking enforcement action;
 - Anonymous complaints and confidentiality.
- 6.3 A link to the adopted 'Planning Enforcement and Monitoring Policy' will be provided on the County Council's Planning Enforcement webpage. It is also proposed to inform authorised mineral and waste operators within the County of the adoption of the new Policy and provide advice where it can be viewed.
- 6.4 The PRFC recommended the draft 'Planning Enforcement and Monitoring Policy' be strengthened, therefore, to give more weight to the draft 'Planning Enforcement and Monitoring Policy', some changes are proposed to the draft set out in Appendix 1. Proposed additional text is written in red, and text proposed to be deleted is struck-out. The proposed changes are in the 'Guidance' section to make the parameters of discretion and expediency clearer when considering the need to take enforcement action.
- 6.5 The PRFC also expressed concern that a single planning enforcement and monitoring officer would not be able to carry out all the enforcement and monitoring functions across the County. Should the need arise, support from other planning officers in Planning Services would be provided. A wider review of planning and enforcement services will be undertaken as part of local government reorganisation.

7.0 Equalities

- 7.1 Consideration has been given to the potential for any adverse equalities impacts arising from the recommendations of this report. It is the view of officers that the recommendations included in this report do not have any adverse impacts on any of the protected characteristics identified in the Equalities Act 2010 or NYCC's additional agreed characteristics. The completed Equalities Impact Assessment screening form can be found in Appendix 2.

8.0 Finance

- 8.1 There are no financial implications. Planning enforcement and monitoring is carried out, and will continue to be carried out, by the County Council's Planning Services Team within current budget allocations and resources.

9.0 Climate Change

- 9.1 Consideration has been given to the potential for any adverse impacts on climate change arising from the recommendations of this report. The completed Climate Change Impact Assessment can be found in Appendix 3 and it is the view of officers that approval of this report will not have a direct climate change impact.

10.0 Legal

- 10.1 Preparation of these policies and procedure updates is part of the County Council's function as the local planning authority. Consideration of whether any legal implications arise will be given as the proposed update to the policy progresses through the County Council's formal procedure to adoption.
- 10.2 Proper consideration as outlined in section 7.0 is being given to equalities issues that are pertinent to the policy.

11.0 Recommendations

- 11.1 Having considered the proposed draft 'Planning Enforcement and Monitoring Policy', Executive Members are asked to recommend to the Chief Executive that using his emergency delegated powers he recommend the draft Policy to Full Council for adoption.

Karl Battersby
Corporate Director – Business and Environmental Services

24 February 2022

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Background Documents: None

Appendix 1 – Draft Planning Enforcement and Monitoring Policy

**NORTH YORKSHIRE COUNTY COUNCIL PLANNING
ENFORCEMENT & MONITORING POLICY**

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About this Policy

1. Guidance

North Yorkshire County Council's (the 'Council') *Planning Enforcement & Monitoring Policy* (the '*Policy*') provides guidance for members of the public, developers and other interested parties in relation to the principles and standards that the Council will apply in pursuance of its planning enforcement and monitoring responsibilities relating to mineral and waste development and the Council's own developments. The *Policy* will assist the Council in considering the most appropriate action to take specific to enforcement and monitoring matters.

~~The *Policy* provides general guidance on the factors that the Council will take into account when deciding whether to take enforcement action in relation to a breach of planning control. Each individual case will be considered on its own merits as to whether it is expedient to enforce against not only the *Policy*, but also having regard to the relevant *Development Plan* and material considerations including relevant Government planning and enforcement guidance before any decision is taken. The *Policy* provides general guidance on the factors that the Council will take into account when deciding whether to take enforcement action in relation to a breach of planning control.~~

The nature of enforcement action taken by the Council in relation to a breach of planning control is within the discretion of the Council. The Council ~~will consider whether it is expedient to take enforcement action having considered, in the planning balance, whether enforcement action is reasonable, proportionate and in the public interest, and in consideration of the planning harm and any negative impact of development.~~ ~~and must be in the public interest.~~

Designated Council Planning and Legal Officers have delegated authority to take enforcement action, or conversely, take decisions not to initiate enforcement action. Enforcement matters are reported quarterly to the Council's *Planning and Regulatory Functions Committee* for information.

The *Policy* also provides general guidance on the Council's approach to pro-active monitoring of mineral and waste management sites.

2. Information

This document is provided as information only. It is not a full and authoritative statement of the law and does not constitute professional and/or legal advice. Any statement in this document does not replace, extend, amend or alter in any way the statutory provisions of the *Town & Country Planning Act 1990 (as amended)* or any statutory guidance issued in relation to it. In addition, any web links provided within this document are correct at the time of publication, but may be subject to change.

3. The Council's Planning Functions

3.1 Responsibilities

The Council is responsible for discharging the development control planning functions associated with minerals extraction, management of waste, and the Council's own development under the provisions of the *Town & Country Planning General Regulations 1992*. The planning functions relating to mineral and waste matters are often referred to as '*county matters*' and are defined by *Schedule 1* of the *Town & Country Planning Act 1990* and the *Town & Country Planning (Prescription of County Matters) (England) Regulations 2003*.

Currently, the District and Borough Councils of North Yorkshire are responsible for all other forms of planning control, including fly tipping, and developments permitted by them; this includes the importation and exportation of materials to develop sites where the materials are an integral part of the development and are necessary for the development to be carried out. However, this division of responsibilities will be subject to change with the advent of local government re-organisation and the introduction of a new authority replacing the County, District and Borough Councils in April 2023 and after which, a review of policies will be undertaken.

Enforcement responsibilities between District and/or Borough Councils and County Councils can be shared for some engineering operations involving inert waste materials. Decisions will be taken on the responsibility for these types of alleged breaches of planning control in consultation with the relevant District/Borough Council Enforcement Teams.

The Council has no responsibility for investigating complaints or taking enforcement action on matters under the respective jurisdictions in District/Borough Council areas, or the Yorkshire Dales National Park and the North York Moors National Park Authority areas.

3.2 Objectives

In line with Government advice, it is the Council's objective to:

- Prevent serious or irreparable harm;
- Bring unauthorised activity under control;
- Remedy the undesirable effects of unauthorised development;
- Ensure breaches of planning permission do not compromise the basis of any original permission.

The Council will always seek to resolve breaches of planning control by negotiation and only pursue formal enforcement action as a last resort where negotiation has failed. Enforcement action is a discretionary power to the Council and the Council reserves the right to use the powers available to it as appropriate. If it chooses not to pursue enforcement action, even if negotiation has failed, the reasons for not doing so will be made clear and conveyed to the complainant.

3.3 Commitments

- The Council is committed to protecting the environment and local amenity and in the majority of cases will seek to remedy breaches of planning control by negotiation.
- The process of dealing with a complaint will be open and transparent and the Council will be accountable for decisions, actions and service on planning enforcement. The Council will be consistent in approach, always working in accordance with agreed procedures.
- A range of formal enforcement powers is available to the Council to remedy the undesirable effects of unauthorised development. The Council will use the powers available in a manner proportionate to the impact or harm resulting from the breach.
- This policy commits the Council to good enforcement and monitoring practices and procedures and provides the means to control unauthorised development effectively for the benefit of the environment in general and to protect local amenity.

This *Policy* complies with the National Planning Policy Framework (NPPF) (July 2021; paragraph 59 of the NPPF states:

‘Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They 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 appropriate’.

3.4 Openness

Council Officers will advise a complainant and those involved in carrying out unauthorised development of the *Policy* that applies and will keep as much information as is practically possible in the public domain, whilst protecting the confidentiality of a complainant and any sensitive business information. Officers will seek to maintain dialogue with operators and landowners in order to achieve an agreed solution. Where enforcement action is taken through the issue of a formal notice, it will be reported to the Council’s *Planning and Regulatory Functions Committee* (or successor in title).

4. The enforcement and monitoring functions

This *Policy* sets out the Council’s approach to achieving planning compliance at mineral and waste management sites within North Yorkshire; it consists of two elements. The first sets out how enquiries/complaints alleging a breach of planning control has occurred will be investigated and remedied where appropriate; the second relates to the proactive monitoring by the Council of authorised mineral and waste management sites.

5. Enforcement - Investigating unauthorised development

Breaches of planning control may be brought to the attention of the Council through complaints made by members of the public, Parish Councils, District or Borough Councils, elected Members, private organisations and/or other regulatory bodies such as Environmental Health, the Environment Agency, the Health and Safety Executive and the Oil and Gas Authority.

Planning breaches identified by Council Officers undertaking monitoring visits are raised with operators and landowners and compliance is sought through a process of informal discussion and encouragement. Where such actions are, or are likely to be, unsuccessful, then formal enforcement action may be taken. This may result in either a negotiated cessation, compliance through the issue of a *Breach of Condition Notice* or an *Enforcement Notice* or potentially the retrospective grant of planning permission, either through a planning application or through an appeal.

6. Identifying a breach of planning control

There are many activities that can take place without the need for planning permission. This may be because they do not constitute development, or because permitted development rights are available. In these circumstances, there may be no breach of planning control.

There are other instances where no breach of planning control would occur. For example:

- The issue is a private legal matter.
- The matter is outside the control of planning law and controlled by other legislation.
- There are no planning conditions on an existing site to control the subject of the complaint.

Where there is no breach of planning control, the Council cannot take further action. Where it may be a breach of other legislation, the Council will refer the matter to the appropriate enforcing body for investigation such as the Environment Agency, the Health and Safety Executive, the District/Borough Council Environmental Health Officer, or the Oil and Gas Authority.

A breach of planning control occurs when:

- Development has commenced without the required planning permission; or
- There is a failure to comply with a condition on a planning permission.

Where breaches of planning control are identified, it is the Council's objective to remedy the breach and any problems caused. The Council will:

- Check the planning register to establish whether planning permission has been granted or is being applied for and that it is not permitted development;
- Establish the facts of the case, visiting the site if necessary, recording findings, and taking a photographic record and liaising with those responsible for generating the complaint and/or complainant;
- Pass on any relevant information to other agencies who may have an interest in the case.

Where information regarding the use of land is required, a *Planning Contravention Notice* (PCN) (see below) may be served on known owners and occupiers of the land. A PCN requires information about the suspected breach of planning control and identify the breach to the person/persons, groups or bodies responsible.

7. Dealing with enquiries and complaints

The Council will investigate alleged or identified breaches of planning control, whether it is the result of a complaint or whether it is found as part of the Council's monitoring procedures.

The Council should be contacted when there are concerns about mineral or waste development or the Council's own developments or it is considered there has been a breach of planning control relating to such. The best way of making an enquiry or a complaint is by email to the following address:

planning.enforcement@northyorks.gov.uk

An enquiry or complaint can also be made in writing to:

Planning Services,
Growth, Planning & Trading Standards,
Business & Environmental Services,
North Yorkshire County Council,
County Hall,
Racecourse Lane,
Northallerton
North Yorkshire
DL7 8AH

or by telephone: (01609) 780780.

It is important to provide as much information as possible about the issue and include:

- your name, address, telephone number and email address;
- the address or location of the alleged breach (mark on a plan if possible);
- the name and address of the person(s), company, developer carrying out the breach (if known);
- the nature of the complaint and what you believe is the breach of planning control;
- when the problem started or took place;
- an assessment of the 'harm' the alleged breach is causing; and
- whether you would like to be kept informed of the progress of your complaint.

Once a breach of control is confirmed, a complainant may be asked to make a note of observations and keep a log of any relevant activities including for example particular, times, dates, names, addresses, telephone numbers and the registration details of any vehicles.

8. Recording and Acknowledging Complaints

When the Council receives a complaint, it will:

- Treat all complaints as confidential as far as is practicable;
- Record and acknowledge receipt of a complaint within 3 working days of receipt by email or telephone call;
- Make an initial assessment to classify the complaint depending on its nature (see table below);
- Investigate complaints within 21 days;
- Inform the complainant of the outcome of the investigations within 28 days.

Priority	Risk	Examples
Low	Minor breaches of planning conditions	A failure to turn off lights outside permitted hours of working
	Unauthorised development that is complete	Mineral extraction that has ceased Waste management that has ceased
Medium	Major breaches of planning conditions	Failure to install or maintain wheel cleaning equipment Non-compliance with approved plans.
	Unauthorised activities and/or development with the potential to cause harm to the environment or amenities of an area	Unauthorised mineral extraction or waste disposal/management activities
High	Unauthorised activities and/or development posing a significant risk of irreversible harm to the environment and/or public amenity	The disposal / management of mixed waste materials causing the risk of irreversible harm to the environment. Unauthorised mineral extraction causing risk and irreversible harm to the environment.

Should the outcome of Council's investigation fail to meet the complainant's satisfaction, then recourse can be made to the Council's formal Complaint Procedure and, ultimately, the *Local Government Ombudsman* (see 'Dissatisfaction with the service' section below).

The Council will not disclose a complainant's name or address to anyone as far as is practicable without express consent and subject to *General Data Protection Regulations* where applicable. However, if a site has few neighbours, it is possible a complainant could be identified when we are investigating a complaint or the person causing the complaint may rightly assume who made it. In some cases, a complainant may be invited to provide evidence and give evidence as part of any legal proceedings. However, they would be under no obligation to do so and could decline and retain their anonymity.

Anonymous complaints will only be recorded on file and investigated where it appears there could be significant harm caused to the environment by the alleged breach.

Before considering any possible future action, it is necessary to establish whether there is a breach of planning control. Even if there is a breach of control, it may not be expedient to take enforcement action, for example if the breach is very minor, has ceased or has not caused an unacceptable impact. The Council will decide whether or not what has been carried out is acceptable in principle and if anything needs to be done to bring to make it acceptable. When assessing possible breaches of planning

control, the Council will have to find a balance between the rights of a developer, user or owner of land or buildings, and the wider public interest. If it is not acceptable, the Council will decide what action is appropriate to prevent it continuing.

9. Joint Working

Joint working is maintained with authorities within and bordering North Yorkshire and other statutory regulating and enforcing bodies such as the Environment Agency, the Health and Safety Executive, the District/Borough Council Environmental Health Officer, the Oil and Gas Authority, the Police, HM Revenue and Customs, Department of Transport and the Driver and Vehicle Licensing Authority (DVLA). Joint investigations may be carried out or, if not available, the relevant bodies will be informed of our investigations and findings. Breaches of planning control that are not related to 'county matter' development will be referred to the relevant District/Borough Council or National Park Authority.

Where the Council's planning enforcement function overlaps or runs parallel to the legislative functions of other authorities, any enforcement action pursued will be based on planning considerations only.

10. Time limits for taking enforcement action

In most cases, development becomes immune from enforcement if no action is taken:

- Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed;
- Within 4 years for an unauthorised change of use to a single dwelling house;
- Within 10 years for any other breach of planning control (essentially other changes of use and breaches of conditions).

The time limits do not prevent enforcement action after the relevant dates referred to above in certain circumstances:

- Further enforcement action may be taken in respect of any breach of planning control within 4 years of previous action in respect of the same breach in the event the previous action proved to be defective.
- Where there has been deliberate concealment of a breach of planning control, the Council may apply for a 'planning enforcement order' (from the magistrates' court) to allow action to be taken after the time limits;
- Where a person has deliberately concealed a breach of planning control, the time limits do not engage until the breach has been discovered.

In cases of deliberate concealment, the Council may decide to serve an enforcement notice 'out of time' or apply for a planning enforcement order.

11. Approach to enforcement

11.1 Breaches remedied by negotiation

In most circumstances where a breach of planning has occurred, we will seek to resolve the breach through negotiation to achieve the cessation and remediation of works, for example, the removal of waste that has been deposited to avoid the need for further enforcement action. In these cases, providing the breach has been satisfactorily resolved, the Council will not take enforcement action unless the breach were to persist or recur.

11.2 Breaches remedied by a retrospective planning permission

In other cases, the activity or development that is identified as a breach of planning control may appear to be an acceptable use or development of land or could be made acceptable. In these instances, the Council may invite the developer to submit

a retrospective planning application to regularise the unauthorised development or the use of the land. The fact that the development has gone ahead without planning permission will not influence the consideration or determination of any planning application.

A decision on any planning application will be taken after considering the nature of the proposal, assessing it against the policies in the *Development Plan*, with regard to the comments of other relevant organisations or bodies and the views of individuals. Providing the development is considered an acceptable use of land, planning permission may be granted subject to planning conditions that would control the development. Conversely, if planning permission is refused or a planning application has not been submitted and negotiations have failed to remedy the breach, further appropriate and proportionate enforcement action may be pursued if it is considered expedient to do so. It should be noted that pursuing enforcement action is a discretionary function.

11.3 Where negotiation fails to resolve the breach

In those cases where negotiation does not swiftly secure a remedy, or the development is considered unacceptable in principle and does not cease, then the Council will decide whether to pursue formal enforcement action in accordance with this *Policy*.

The Council's decision on whether it is expedient to pursue further action will be made following a formal assessment of the breach. This assessment could follow consultation with other regulatory bodies and the relevant District/Borough Council and would consider the nature, scale and impact of the development on the environment and on local amenity, the actual harm caused by the breach and against the policies in the *Development Plan*. The Council will have due regard to the Human Rights Act 1998 and will not act in a way which is incompatible with any convention right and will balance the private interests of the person breaching planning control against the wider public interest. The Council's assessment of the breach will conclude what is necessary to prevent the breach continuing, any works required to rectify the breach, and whether or not it is expedient to take further action, setting out reasons in support of that decision. There will be some cases where immediate action (see below for types of action) will be considered appropriate without consultation with other bodies where there is clear evidence that the breach of planning control is detrimental to the environment or the amenities of the area.

11.4. Where enforcement action is not expedient

In some cases where a breach has occurred and an assessment of the breach has concluded that the resulting harm is negligible, or '*de minimis*' (*meaning lacking significance or importance: so minor as to be disregarded*), the Council would be unlikely to take enforcement action, as it would not produce a clear benefit to the environment or local amenity.

In other cases where either limited impact has occurred or the harm is temporary or has already ceased, then there is often little to be gained from taking formal enforcement action. In such cases, the Council may conclude that it is not expedient to take further action.

Some activities that represent a breach of planning control may also be breaches of other legislation, for example in relation to the unauthorised landfilling of waste. In such circumstances, the Council will seek to co-ordinate any action with that taken by other regulators such as Environmental Health, the Environment Agency, the Health and Safety Executive and the Oil and Gas Authority.

11.5 Where enforcement action is expedient

Where breaches of planning control are causing significant harm to the environment or local amenity and we are unable to remedy the situation by negotiation, then the

Council may consider it expedient to take appropriate and proportionate formal enforcement action after an assessment of the breach.

The Council will normally only take formal action when there is evidence that a breach of planning control has occurred and that it has caused demonstrable harm to interests of acknowledged importance. In addition, it must be shown that the remedial actions identified are in proportion to the breach and will help to remedy the harm caused.

If there is relevant proof that a breach of planning control has occurred and Council Officers have decided that it is expedient to take any necessary steps to remedy the breach identified, enforcement action may be taken in conjunction with Officers from the Council's Legal and Democratic Services team.

12. What action can be taken?

There are a number of enforcement powers available that can be used against the landowner, the developer or anyone else with an interest in the land.

The Council's action would depend on the amount of harm caused by the breach and the risk of further harm occurring. In general, the greater the impact of the breach on its surroundings and/or the local community, the stronger the Council's action will likely to be and shorter times within which it would be taken. There are a number of enforcement tools available to the Council; these are summarised as follows. More details can be found in the Government's guidance on '*Enforcement and post-permission matters*': [Enforcement and post-permission matters - GOV.UK \(www.gov.uk\)](http://www.gov.uk).

12.1 Planning Contravention Notice

A *Planning Contravention Notice* (PCN) enables information to be gathered from the owner of land or someone using the land to establish whether a breach has occurred and who has an interest in the land. Details of ownership, activities or uses being undertaken and relevant dates in addition to matters relating to any planning conditions imposed by any planning permissions in respect of the land, can be required to be given. The PCN can be effective in identifying whether a breach of planning control has taken place, those responsible for the breach, who has an interest in the land and provide information that will assist the Council in deciding whether to pursue further enforcement action. The recipient(s) of a PCN are given 21 days to respond.

Non-compliance with the requirements of a PCN is an offence, and on conviction, the offender may be liable to a fine; the Council will reserve the right to pursue prosecution in appropriate cases.

12.2 Breach of Condition Notice

Where a planning condition to a planning permission is being or has been contravened, a *Breach of Condition Notice* (BCN) can be served on all those known parties who have an interest in the land requiring the breach to stop and is not repeated. There is no right of appeal against the serving of a BCN. However, recipients of a BCN are given at least 28 days before the notice takes effect so they can instigate action to remedy the breach.

The BCN will specify the steps that the Council consider need to be taken, or the activities that they consider should cease, to secure compliance with the condition(s) specified in the notice. Non-compliance with the requirements of a BCN is an offence, and on conviction, the offender may be liable to a fine; the Council will reserve the right to pursue prosecution in appropriate cases. Failure to comply with a BCN may result in further enforcement action being pursued.

12.3 Enforcement Notice

An *Enforcement Notice* (EN) can be issued where a breach of planning control has caused or is causing harm to the environment or local amenity and it is expedient to do so having regard to the provisions of the development plan and any other material considerations. An EN is served on all those known to have an interest in the land (and who may be identified by a PCN). The EN specifies exactly what, in the Council's view, constitutes the breach of control and what steps the Council require to be taken, or what activities are required to cease, to remedy the breach and the times within which the steps should be taken. When, or at any time after, an EN is served on a person(s) having an interest in the land on which action is being taken, the Council may provide a letter of assurance stating, that in the circumstances known to the Council, the person(s) on whom the EN has been served, may not be at risk of prosecution in connection with some or all of the matters contained within the EN.

An EN does not take effect for 28 days, during which time those on whom an EN has been served may lodge an appeal with the *Planning Inspectorate*. Any appeal suspends the requirements of the notice until the appeal is determined. However, once the notice takes effect, the remedial works set out in the notice must be carried out within the specified timescale. Failure to comply with the terms of the EN would constitute a criminal offence for which the offender could be prosecuted and subject to a fine on conviction.

12.4 Temporary Stop Notice

A *Temporary Stop Notice* (TSN) can be issued where there has been an identified breach of planning control and when it is expedient that the activity, or any part of the activity that amounts to the breach, should cease immediately. Unlike a '*Stop Notice*' (see below), a TSN can be served on its own; there is no requirement for it to be served with an *Enforcement Notice*. Recipients of a TSN may make representations to the Council, but there is no right of appeal against the service of such a notice, although a recipient may challenge its validity by making an application to the High Court for a judicial review. The notice has effect immediately but ceases to have effect after 28 days, unless the Council withdraws it sooner. This allows a period of time (up to the maximum of 28 days) for the Council to decide whether further enforcement action is necessary and what that action should be, without the breach intensifying by being allowed to continue.

◀ The recipient of a TSN is at risk of immediate prosecution for failing to comply with the requirements of a TSN. A person convicted of an offence is liable to a fine. As a TSN prevents an activity from continuing, the recipient has a right to claim compensation against the Council if the notice has not been served properly.

12.5 Stop Notice

Where the Council considers it expedient a breach of planning control should cease before the expiry of the period for compliance specified in an EN, a *Stop Notice* (SN) may be issued. A SN prohibits activities in breach of planning control on land subject to an EN and may only be issued with, or following, the issue of an EN notice. A SN normally takes effect after 3 days of it being served, although if special reasons exist, e.g. if significant or irreversible harm is taking place, a SN can be specified to take immediate effect. Recipients of a SN may make representations to the Council, but there is no right of appeal against the service of such a notice, although a recipient may challenge its validity by making an application to the High Court for a judicial review.

Contravention of a SN is an offence, and if proceedings are taken by the Council at Court on conviction the recipient shall be liable to a fine determined by the Court.

12.6 Injunction

Where the Council consider it necessary or expedient for any actual or apprehended breach of planning control to be restrained, having first considered its other enforcement powers, may apply to the High Court or County Court for an *Injunction*. An application for an *Injunction* can be made whether or not the Council has exercised, or proposes to exercise, any of its other powers to enforce planning control referred to above.

In making a decision to initiate injunctive proceedings, the Council will carefully consider:

- It has sufficient evidence that a breach of planning control has already occurred, or is likely to occur on land in the Council's area;
- That injunctive relief is a proportionate remedy in the circumstances of the particular case.
- Whether all relevant considerations including the personal circumstances of those on whom injunctive proceedings are to be taken have been taken in to account.

12.7 What might happen after serving a notice or injunction?

All notices and injunctions must set out what is required to rectify the breach of planning control, undertake any remedial works, and specify the time periods the within which the breach of planning control must be rectified and any remedial works shall be carried out by. The length of time for compliance depends on the severity of the problem and the type of notice issued.

If the recipient of an EN lodges an appeal, this will suspend the requirements of the EN, unless an accompanying *Stop Notice* has also been issued. Notification of an appeal will be by site notice, press notice and by letter to any known or identified interested parties and bodies. If a notice has been issued following the refusal of a planning application, then all those who made representations on the planning application will also be notified. The *Planning Inspectorate* determines the appeal, so it is outside the control of the Council and this commonly delays the remedial works. The appellant can also make an application for planning permission as part of the appeal process.

If no appeal is lodged within 28 days then the EN comes into force and its requirements must be complied with in the specified timescale.

Failure to comply with an injunction may result in the case being referred back to the High Court or County Court who may impose more severe penalties if the offence continues which could include a custodial sentence.

13. Compliance

Following the serving of a notice, we will visit sites to monitor compliance. If we find that the requirements of the notice are not being complied with, we will inform those identified with an interest in the land of the likely consequences. If those identified with an interest in the land fail to comply with the requirements of the notice, the Council will consider prosecution. If the notice is complied with, it will remain in force, unless withdrawn, but confirmation of compliance can be provided to those identified with an interest in the land if requested.

14. Prosecution

The Council's objective throughout planning enforcement proceedings is to prevent and remedy harm to the environment and local amenity. In cases where those identified with an interest in the land have failed to comply with the requirements of a notice, the only way in which the Council can secure its objectives is to prosecute for non-compliance.

The failure to comply with the requirements of a notice or an injunction is an offence. Whilst the aim of the criminal process is to punish wrongdoing, the Council's decision

to prosecute as part of enforcement action, is not to penalise, but to prevent further harm and to act as a deterrent to others.

Prosecution is a serious matter and will only be pursued after consideration of the implications and consequences and the details of the case, including any changed or mitigating circumstances. Decisions about prosecutions will take account of the *Code for Crown Prosecutors*. A prosecution would not be commenced or continued unless there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of conviction.

In deciding whether or not to prosecute the Council will have due regard to the Human Rights Act 1998 and will not act in a way which is incompatible with any convention right; and will balance the private interests of the person breaching planning control against the wider public interest. The Council will take account of equality and the impact of its action on people who share protected characteristics. When considering the harm caused by the offence, the intent and personal circumstances of the offender, the history of offending and the deterrent effect that the prosecution may have on potential future offenders will be carefully considered and taken into account. Where the likelihood of success is remote, this is likely to deter the Council from pursuing a prosecution.

If the Council prosecute and the Court rules in the Council's favour, the offender will usually be fined. If following conviction, the requirements of a Notice are still not carried out, the Council will consider the need to prosecute again. If convicted, the offender could expect an increased fine and which is unlimited. In determining the amount of any fine, the Court will have regard to any financial benefit, which has been accrued or appears likely to accrue in consequence of the offence. If an injunction were breached, the Council might refer the matter back to the Court that made the order. The Court would decide how to deal with the breach, but in the most serious of cases, it could lead to a custodial sentence.

15. **Direct or default action**

In certain circumstances, direct or default action involving the Council going onto the land to do the works required as part of an EN may be taken to ensure compliance. It is an offence to wilfully obstruct the Council, or anyone exercising the powers on behalf of the Council. Default action will be only be pursued when all other methods have failed to achieve the steps required by an EN. The Council can recover from the person who is then the owner of the land any expenses reasonably incurred in undertaking the work or a charge may be placed on the land to cover the costs of completing the work. In deciding whether to pursue such action, the Council will have regard to the up to date circumstances and the provisions of the Human Rights Act to ensure that any action is in the public interest and that it is proportionate to the breach of planning control, and the rights and circumstances of those that are in breach. The decision to initiate such action will be taken by the Council following the completion of a cost/benefit audit.

16. **Monitoring**

For all dormant and operational minerals sites and operational waste sites with planning permissions granted by the Council, Officers will undertake periodic routine monitoring visits in accordance with a prescribed schedule to ensure sites comply with planning conditions, approved schemes, plans and documents and requirements of legal agreements and to identify any non-compliance with planning conditions, approved schemes, plans and documents and requirements of legal agreements and any unauthorised development that requires addressing or action.

The monitoring process involves an assessment of all current planning permissions pertaining to a site; a site may be operating with the benefit of one or more planning permissions. Monitoring is carried out on a periodic basis, the frequency of which will be determined by the nature of the site and how it is understood to be operating.

Monitoring is usually carried out as part of a prearranged visit to the site with the operator, although unannounced visits may be carried out, particularly if there is a need to investigate reported alleged breaches of planning control.

The visit involves a comprehensive inspection of all those areas with planning permission and an assessment whether the development is being carried out in accordance with the planning permission(s), planning conditions, approved schemes and programmes and plans and the requirements of any legal agreements to each planning permission.

A report will be prepared at the time of the visit that:

- confirms whether the site is operating in accordance with the planning permission(s), planning conditions, approved schemes and programmes and plans or otherwise; and
- what action, if any, is necessary to ensure compliance; and
- the timescales within which action, if any, is to be completed; and
- the date of the next visit to confirm the identified action has been carried out.

A copy of the report will be signed by the Council's Officer, provided to the operator at the time of the visit and the person responsible for the site at the time of the visit be invited to sign. A letter, with a copy of the report, will be sent to the site operator confirming compliance or highlighting areas needing action within 14 days of the visit.

In the event any identified action is not subsequently taken, depending on the scale and nature of any non-compliance, the Council may pursue any of the enforcement options referred to above. The Council will always work with an operator to ensure compliance with the approved planning permission(s), planning conditions, approved schemes, programmes, plans and legal obligations to ensure there is no unacceptable risk to the environment or the amenities of the area or others.

17. Dissatisfaction with the service

Should an individual, group or body not be satisfied with the outcome of a specific investigation into an alleged breach of planning control, they may in the first instance write to the Council expressing their concerns and/or requesting a review of the investigation. If a complainant is concerned about progress at a particular site then they may also speak to their County Councillor who will be able to pursue matters with officers on their behalf:

[Councillors information | North Yorkshire County Council](#). A member of public may use the County Council's *Complaints Procedure* if they are concerned about the nature of action taken by the Council where unauthorised development has been alleged:

[Complaints, comments or compliments | North Yorkshire County Council](#). If not satisfied with the outcome, the individual may then refer the case to the *Local Government Ombudsman*:

[Planning enforcement - Local Government and Social Care Ombudsman](#). The *Local Government Ombudsman* may refuse to investigate a complaint if the complainant has not followed the Council's internal complaints procedure first.

18. Policy review

This *Policy* will be reviewed every year, updated every 3 years and shared with the Council's *Planning & Regulatory Functions Committee* or its successor.

Publication date: day/month/2022

Equality impact assessment (EIA) form: evidencing paying due regard to protected characteristics

(Form updated April 2019)

Update to the Planning Enforcement and Monitoring policy

Equality Impact Assessments (EIAs) are public documents. EIAs accompanying reports going to County Councillors for decisions are published with the committee papers on our website and are available in hard copy at the relevant meeting. To help people to find completed EIAs we also publish them in the Equality and Diversity section of our website. This will help people to see for themselves how we have paid due regard in order to meet statutory requirements.

Name of Directorate and Service Area	Business and Environmental Services
Lead Officer and contact details	Vicky Perkin Vicky.perkin@northyorks.gov.uk
Names and roles of other people involved in carrying out the EIA	Stuart Perigo – Planning Officer
How will you pay due regard? e.g. working group, individual officer	Individual officer(s)
When did the due regard process start?	13 December 2021

Section 1. Please describe briefly what this EIA is about. (e.g. are you starting a new service, changing how you do something, stopping doing something?)

The EIA is about a review and update of the County Council's '*Planning Enforcement Control Service Pledge*' adopted in March 2000 in respect of minerals and waste planning matters.

Section 2. Why is this being proposed? What are the aims? What does the authority hope to achieve by it? (e.g. to save money, meet increased demand, do things in a better way.)

The County Council's '*Planning Enforcement Control Service Pledge*' is being reviewed and updated to provide improved advice and guidance on the County Councils approach to the enforcement of planning control, investigations into alleged breaches of planning control and monitoring of minerals and waste operations in the County.

Section 3. What will change? What will be different for customers and/or staff?

The proposed '*Planning Enforcement and Monitoring Policy*' will provide improved and updated advice on the County Councils approach to the enforcement of planning control, investigations into alleged breaches of planning control and the monitoring of minerals and waste operations in the County for the benefit of those who may be adversely affected by breaches of planning control by the minerals and waste industry. It will also inform the minerals and waste industry in the County how the Council will investigate alleged breaches of planning control, the actions the Council may pursue to rectify an identified breach of planning control and the risks to an operator of non-compliance with any enforcement action that may be taken. It will also inform minerals and waste operations in the County of the Council's approach to monitoring their operations and activities.

Section 4. Involvement and consultation (What involvement and consultation has been done regarding the proposal and what are the results? What consultation will be needed and how will it be done?)

The proposed '*Planning Enforcement and Monitoring Policy*' will be reported to the Planning and Regulatory Functions Committee and the Transport, Economy and Environment Overview and Scrutiny Committee for information / comments. Subject to any comments received from the Planning and Regulatory Functions Committee and the Transport, Economy and Environment Overview and Scrutiny Committee, the draft '*Policy*' will be reported to the County Council's Executive Committee for recommendation to Full Council for approval and adoption.

Section 5. What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?

Please explain briefly why this will be the result.

There are no financial implications associated with the review of the '*Planning Enforcement Control Service Pledge*'. Planning enforcement and monitoring is carried out, and will continue to be carried out, by the Council's Planning Services Team within current budget allocations and resources.

Section 6. How will this proposal affect people with protected characteristics?	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
Age	x			
Disability	x			
Sex	x			
Race	x			
Gender reassignment	x			
Sexual orientation	x			
Religion or belief	x			
Pregnancy or maternity	x			
Marriage or civil partnership	x			

Section 7. How will this proposal affect people who...	No impact	Make things better	Make things worse	Why will it have this effect? Provide evidence from engagement, consultation and/or service user data or demographic information etc.
..live in a rural area?		x		Ensure mineral and waste operations in rural areas in the County are properly regulated and proportionate action is taken to rectify any breach of planning that is causing harm or unacceptable impact to the environment and amenities of the area.
...have a low income?	x			
...are carers (unpaid family or friend)?	x			

Section 8. Geographic impact – Please detail where the impact will be (please tick all that apply)

North Yorkshire wide	x
Craven district	
Hambleton district	
Harrogate district	
Richmondshire district	
Ryedale district	
Scarborough district	
Selby district	
If you have ticked one or more districts, will specific town(s)/village(s) be particularly impacted? If so, please specify below.	

Section 9. Will the proposal affect anyone more because of a combination of protected characteristics? (e.g. older women or young gay men) State what you think the effect may be and why, providing evidence from engagement, consultation and/or service user data or demographic information etc.

N/A

Section 10. Next steps to address the anticipated impact. Select one of the following options and explain why this has been chosen. (Remember: we have an anticipatory duty to make reasonable adjustments so that disabled people can access services and work for us)	Tick option chosen
1. No adverse impact - no major change needed to the proposal. There is no potential for discrimination or adverse impact identified.	x
2. Adverse impact - adjust the proposal - The EIA identifies potential problems or missed opportunities. We will change our proposal to reduce or remove these adverse impacts, or we will achieve our aim in another way which will not make things worse for people.	
3. Adverse impact - continue the proposal - The EIA identifies potential problems or missed opportunities. We cannot change our proposal to reduce or remove these adverse impacts, nor can we achieve our aim in another way which will not make things worse for people. (There must be compelling reasons for continuing with proposals which will have the most adverse impacts. Get advice from Legal Services)	
4. Actual or potential unlawful discrimination - stop and remove the proposal – The EIA identifies actual or potential unlawful discrimination. It must be stopped.	
<p>Explanation of why option has been chosen. (Include any advice given by Legal Services.)</p> <p>The proposed '<i>Planning Enforcement and Monitoring Policy</i>' relates to land use planning. There is no potential for discrimination or adverse impact.</p>	

Section 11. If the proposal is to be implemented how will you find out how it is really affecting people? (How will you monitor and review the changes?)

The proposed Planning Enforcement and Monitoring Policy relates to land use planning and will be reviewed every year, updated every 3 years and shared with the County Council's *Planning & Regulatory Functions Committee* or its successor.

Section 12. Action plan. List any actions you need to take which have been identified in this EIA, including post implementation review to find out how the outcomes have been achieved in practice and what impacts there have actually been on people with protected characteristics.

Action	Lead	By when	Progress	Monitoring arrangements
Review the Planning Enforcement and Monitoring Policy	Planning Services	Every year		Update every three years

Section 13. Summary Summarise the findings of your EIA, including impacts, recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The review and update of the County Council's '*Planning Enforcement Control Service Pledge*' has been carried out in accordance with the requirements of the Governments National Planning Policy Framework 2021 and Planning Practice Guidance – 'Enforcement and post-permission matters'. The regulation and monitoring of minerals and waste developments in the County and investigation of alleged breaches of planning control would ensure developments are carried out or prevented from being carried out in a way that would adversely affect climate change and would protect the environment and amenities of the area.

Section 14. Sign off section

This full EIA was completed by: Planning Services

Name: Vicky Perkin

Job title: Head of Planning Services

Directorate: Business and Environmental Services

Signature: Vicky Perkin

Completion date: 20 December 2021

Authorised by relevant Assistant Director (signature): Matt O'Neill

Date: 21 December 2021



Climate change impact assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email climatechange@northyorks.gov.uk

Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:

Planning Permission
Environmental Impact Assessment
Strategic Environmental Assessment

However, you will still need to summarise your findings in in the summary section of the form below.

Please contact climatechange@northyorks.gov.uk for advice.

Title of proposal	Update to the Planning Enforcement and Monitoring Policy
Brief description of proposal	A review and update of the County Councils 'Planning Enforcement Control Service Pledge' adopted in March 2000.
Directorate	Business and Environmental Services
Service area	Planning Control
Lead officer	Vicky Perkin
Names and roles of other people involved in carrying out the impact assessment	Stuart Perigo
Date impact assessment started	13 December 2021

Options appraisal

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

The proposal is a review and update of the County Council's '*Planning Enforcement Control Service Pledge*' adopted in March 2000.

What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

The planning enforcement and monitoring functions of the County Council as local planning authority is, and will continue to be, carried out by Planning Services. There may be an increase in travelling costs due to the need to visit existing minerals and waste sites and investigate alleged breaches of planning control. It is not possible to estimate any increase in travelling costs due to the variable nature of planning enforcement and monitoring practices.

How will this proposal impact on the environment?		Positive impact (Place a X in the box below where	No impact (Place a X in the box below where	Negative impact (Place a X in the box below where	Explain why will it have this effect and over what timescale? Where possible/relevant please include: <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise greenhouse gas emissions e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel			x	Potential increase in vehicular journeys	Minimise the number of journeys required	Ensure mineral and waste operations in the County are properly regulated to protect the environment and amenities of the area
	Emissions from construction						
	Emissions from running of buildings						
	Other						

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p>Positive impact (Place a X in the box below where</p>	<p>No impact (Place a X in the box below where</p>	<p>Negative impact (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise waste: Reduce, reuse, recycle and compost e.g. reducing use of single use plastic</p>	x			<p>Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations</p>	<p>Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations</p>	<p>Ensure mineral and waste operations in the County are properly regulated to protect the environment and amenities of the area</p>
<p>Reduce water consumption</p>						
<p>Minimise pollution (including air, land, water, light and noise)</p>	x			<p>Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations</p>	<p>Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations</p>	<p>Ensure mineral and waste operations in the County are properly regulated to protect the environment and amenities of the area</p>
<p>Ensure resilience to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers</p>						

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p>Positive impact (Place a X in the box below where</p>	<p>No impact (Place a X in the box below where</p>	<p>Negative impact (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
Enhance conservation and wildlife	x			Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations	Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations	Ensure mineral and waste operations in the County are properly regulated to protect the environment and amenities of the area
Safeguard the distinctive characteristics, features and special qualities of North Yorkshire's landscape	x			Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations	Regulate existing minerals and waste operations and take appropriate action against alleged unauthorised operations	Ensure mineral and waste operations in the County are properly regulated to protect the environment and amenities of the area
Other (please state below)						

Are there any recognised good practice environmental standards in relation to this proposal? If so, please detail how this proposal meets those standards.

The review and update of the County Council's '*Planning Enforcement Control Service Pledge*' has been carried out in accordance with the requirements of the Governments National Planning Policy Framework 2021 and Planning Practice Guidance – 'Enforcement and post-permission matters'.

Summary Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.

The review and update of the County Council's '*Planning Enforcement Control Service Pledge*' has been carried out in accordance with the requirements of the Governments National Planning Policy Framework 2021 and Planning Practice Guidance – 'Enforcement and post-permission matters'. The regulation and monitoring of minerals and waste developments and investigation of alleged breaches of planning control would ensure developments are carried out or prevented from being carried out in a way that would adversely affect climate change and would protect the environment and amenities of the area.

Sign off section

This climate change impact assessment was completed by:

Name	Vicky Perkin
Job title	Head of Planning Services
Service area	Planning Services
Directorate	Business and Environmental Services
Signature	<i>Vicky Perkin</i>
Completion date	20 December 2021

Authorised by relevant Assistant Director (signature): Matt O'Neil

Date: 21 December 2021

North Yorkshire County Council

Planning and Regulatory Functions Committee

Minutes of the meeting held remotely, via Microsoft Teams, on 18 January 2022 at 10.00 a.m.

Present:-

County Councillors Peter Sowray (Chairman), David Blades, Eric Broadbent, Caroline Goodrick, Robert Heseltine, David Hugill, Mike Jordan, John McCartney, Chris Pearson and Clive Pearson.

The meeting was available to watch live via the County Council's website and a recording of the meeting is now available on the website via the following link www.northyorks.gov.uk/livemeetings

Copies of all documents considered are in the Minute Book

259. Welcome and Introductions

The Chairman welcomed everyone to the meeting and made the following statement:-

You will have seen the statement on the Agenda front sheet about current decision making arrangements within the Council, following the expiry of the legislation permitting remote committee meetings. I just want to remind everyone, for absolute clarity, that this is an informal meeting of the Committee Members. Any formal decisions required will be taken by the Chief Executive Officer under his emergency delegated decision-making powers after taking into account any the views of the relevant Committee Members and all relevant information. This approach was agreed by full Council at its July meeting following a review, and will be the subject of a further review and consideration at the November meeting of the County Council.

The Chairman advised that apologies for absence had been received from County Councillor Zoe Metcalfe

Members and officers then introduced themselves.

260. Minutes of the meeting held on 16 November 2021

Resolved -

That the Minutes of the meeting held on 16 November 2021, having been printed and circulated, be taken as read and confirmed and signed by the Chairman as a correct record at the next available opportunity.

261. Declarations of Interest

There were no declarations of interest.

262. Public Questions or Statements

There were no public questions or statements.

263. Planning Enforcement and Monitoring Policy**Considered -**

The report of the Corporate Director, Business and Environmental Services, requesting Members to receive, consider and comment on a proposed draft Planning Enforcement and Monitoring Policy.

The Head of Planning Services presented the Committee report, highlighting the following:-

- The proposed Planning Enforcement & Monitoring Policy would replace the existing Enforcement Charter.
- The proposed Policy explained how enforcement would be carried out by NYCC and for what purposes, providing details in respect of the following :-
 - The Council's Planning Functions
 - Responsibilities
 - Objectives
 - Commitments
 - The Enforcement and monitoring functions
 - Investigating unauthorised development
 - Identifying a breach of planning control
 - Dealing with enquiries and complaints
 - Recording and Acknowledging Complaints
 - Joint Working
 - Time limits for taking enforcement action
 - Approach to enforcement
 - Breaches remedied by negotiation
 - Breaches remedied by a retrospective planning permission
 - Where negotiation fails to resolve the breach
 - Where enforcement action is not expedient
 - Where enforcement action is expedient
 - What action can be taken
 - o Planning Contravention Notice
 - o Breach of Condition Notice
 - o Enforcement Notice
 - o Temporary Stop Notice
 - o Stop Notice
 - o Injunction
 - o What might happen after serving a notice or injunction
 - Compliance
 - Prosecution
 - Direct action
 - Monitoring
 - Dissatisfaction with the service
 - Policy review
- The proposed Policy has been developed in line with the National Planning Policy Framework and the Planning Practice Guidance on 'Enforcement and post-permission matters'

- The draft will be reported to the Transport, Economy and Environment Overview and Scrutiny Committee for information / comments. Subject to any comments received from the Planning and Regulatory Functions Committee and the Transport, Economy and Environment Overview and Scrutiny Committee, the draft policy will be reported to the Council's Executive Committee for approval and recommendation to County Council for approval and adoption. The adopted Policy will then be published on the Council's website.
- A copy of the draft proposed Policy was provided as an appendix to the report.

Members discussed the proposed Policy, and the following issues and points were highlighted:-

- It was noted that a recruitment exercise was currently coming to a close in terms of employing a Planning Monitoring and Compliance Officer. Members raised concerns that there was only one officer in place to undertake these duties on behalf of NYCC, covering the whole of the County. In response it was noted that Planning Case Officers also provided assistance when and where required in terms of monitoring compliance. A Member suggested that more use should have been made of District Council Planning Enforcement Officers, taking advantage of the knowledge of local areas. In response it was stated that it was likely that this pool of talent would be utilised as North Yorkshire moved forward into being a unitary authority.
- A Member considered that the Policy did not effectively address issues around climate change and carbon reduction. In response it was emphasised that this Policy related to enforcement and focussed entirely on that aspect of the Planning service, other reports would address the issues raised.
- A Member noted that there was no single, on-line register for enforcement issues in North Yorkshire. In response the Head of planning Services stated that on-line enforcement registers were a statutory responsibility of the District Councils, and were, therefore, provided by those authorities. Going forward, as North Yorkshire moved into a new Authority, it was likely that an overarching register would be created for the whole County.
- Clarification was provided as to the process involved in adopting the Policy through the democratic structure of the County Council.
- It was noted that Section 10 of the proposed Policy dealt with the time-frame for enforcement, and specifically set out how and when action could be taken where deliberate concealment had occurred.
- Members suggested that the Policy should be given more weight as a practical tool for enforcement and compliance as the public considered this issue to be a very important aspect of the Planning service.
- A Member suggested that previously enforcement had not been effective enough by NYCC Planning and that more assistance should have been obtained from the District Councils. He also suggested that reference to homes within the proposed Policy was irrelevant as the County Council dealt with minerals and waste.

Resolved:-

- (i) That the Committee's comments regarding the proposed draft Planning Enforcement and Monitoring Policy be taken account of and incorporated into reports on this matter, going forward ; and

- (ii) that, subject to the incorporation of those comments, the draft Planning Enforcement and Monitoring Policy be reported to the Executive for approval and recommendation to County Council for approval and adoption

264 Items dealt with under the Scheme of Delegation – 15 October 2021 to 14 December 2021, inclusive.

Considered –

A report by the Corporate Director, Business and Environmental Services, which listed Items dealt with under the Scheme of Delegation. The Items had been determined during the period 15 October to 14 December 2021, inclusive.

Resolved:-

That the report be noted.

265 Any other business

There being no other business, the Chairman declared the meeting closed

The meeting concluded at 10.26 a.m.