

Rother District Council

Report to:	Overview and Scrutiny Committee
Date:	Monday 6 July 2026
Title:	Local Enforcement Plan
Report of:	Mike Hughes, Head of Planning
Ward(s):	All Wards
Purpose of Report:	To present the draft Local Enforcement Plan for recommendation for approval by Cabinet and onward approval and adoption by full Council.
Officer Recommendation(s):	It be RESOLVED : That, subject to any comments of Overview and Scrutiny Committee and the appropriate formatting of the document, Cabinet be requested to agree that the Local Enforcement Plan be recommended to Council for approval and adoption.

Introduction

1. This report seeks the agreement of Overview and Scrutiny Committee (OSC) to recommend that the Local Enforcement Plan (for planning enforcement) be approved for adoption.

Overview

2. Planning enforcement is not a statutory service. However, it is an important service in the public eye, one that is seeing rising demand and expectations and a service that hundreds of Rother's residents and businesses interact with each year. The Council is committed to, and recognises the importance of, providing an effective planning enforcement service.
3. The draft Local Enforcement Plan attached sets out Rother District Council's (RDC) approach to planning enforcement for all those who interact with the service, whether that be those affected by development, or those undertaking development. Importantly, it sets out how the Council prioritises enforcement cases and what users can, and cannot, expect. Local Planning Authorities have discretion as to when to take enforcement action and there is no formal Government requirement to take enforcement action.
4. Breaches of planning control are not a criminal offence. However, failure to comply with an Enforcement Notice or Breach of Condition Notice is a criminal offence, as are unauthorised works to listed buildings, unauthorised works to or felling of trees protected by a Tree Preservation Order, unauthorised display of advertisements and the unauthorised demolition of buildings or unauthorised works to trees in a conservation area.

National Policy and Guidance for Planning Enforcement

5. The National Planning Policy Framework (NPPF) (2024) sets out the Government's planning policies for England and how these should be applied. Paragraph 60 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....

6. More detailed guidance on planning is provided in the Government's National Planning Practice Guidance. This guidance is extensive, but the following is of particular relevance to planning enforcement (reference ID 17b-003-20140306):

There is a range of ways of tackling alleged breaches of planning control, and local planning authorities should act in a proportionate way.

Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework,...

Background to the Rother Local Enforcement Plan

7. It is important to say that the Council has committed additional resource to planning enforcement and recruited an extra Planning Enforcement Officer in December 2025, taking the total planning enforcement resource to 3.5 Full Time Equivalent posts. This is already bearing dividends with the number of open planning enforcement cases having been reduced by approximately 20% in the last year.
8. The Council has an existing Local Enforcement Plan, dated January 2022. This is now somewhat out of date, including in respect of legislative provisions, it could be more concise and it commits the Council to, in some cases, unrealistic timeframes.
9. As a result, Members previously expressed a desire to update this document and a new Local Enforcement Plan was presented to Cabinet in February 2024. This 2024 Local Enforcement Plan was not taken any further forward as Cabinet found the document, as presented at that time, to be inconsistent and not fit-for-purpose and therefore required reviewing. Cabinet raised a number of further concerns with the revised document, namely:
 - numbering of paragraphs;
 - more detailed advice was required for listed building owners;
 - use of the term 'expedient';

- public confidence in the service needed to be increased; and
 - the document was not easily readable.
10. Cabinet, in 2024, agreed that further work on the 2024 draft Local Enforcement Plan was required with Member involvement and that the Overview and Scrutiny Committee be requested to set up a Task and Finish Group to undertake this work. One meeting of this Task and Finish Group was held and then the group was put on hold pending the arrival of the then new Head of Planning.
 11. The document now attached is a completely new document from that presented in 2024. The 2026 Local Enforcement Plan attached has been subject to detailed review and comment by officers (including planning lawyers) and has been reviewed by the Cabinet Portfolio Holder for Planning and the Chair of Planning Committee. It has also been circulated informally for comment to Overview and Scrutiny Committee Members. Please note that since this document was circulated informally to Members a new bullet point (relating to single points of contact for enforcement cases that trigger substantial community interest) has been added at the end of paragraph 21.
 12. There is a view that the attached document is ready to be presented to the Overview and Scrutiny Committee.

Comments made on the latest Local Enforcement Plan at Overview and Scrutiny Committee on 1 June 2026

13. Informal feedback was provided on the latest draft Local Enforcement Plan at OSC on 1 June 2026, discussed under Agenda Item 7. Comments raised, together with the officer response, are provided below.

No.	Member Comment	Officer Response
1	There is little about the operational side of planning enforcement (i.e. how enforcement is done).	This is acknowledged. However, the document is not intended to be used as a process manual for staff, not least as this would increase the length of the document significantly (including because there are so many potential enforcement powers).
2	Where we use lawyers they should recover the Council's own legal fees, together with our own staff cost.	It is an established principle of the English planning system that each party pays its own costs, including in relation to enforcement. However, where there is successful litigation, the Council would always seek to recover our own costs to the fullest extent possible. While litigation costs can be applied for by the Council, what is awarded is at the discretion of the Court and not ultimately within the Council's control.

3	There is a perception in the rural areas that some deliberately flout planning enforcement and are repeat offenders.	The number of repeat offenders is in the minority but does, as with any Local Planning Authority, exist. Each planning enforcement case has to be considered on its individual merits but where, for example, there is a breach of an enforcement notice and RDC are considering prosecution the existence of previous breaches by the same individual/company will be considered (for example, it will likely be more in the public interest to prosecute a repeat offender).
4	Officers are sometimes unsure about going further on enforcement than they want to.	Officers do know the legislation and powers they have available. Officers also have regular access to specialist legal advice. Failure to comply with an enforcement notice, for example, is a criminal offence that can be prosecuted. However, the fact is that the more direct/serious forms of planning enforcement (injunctions and direct action) can only ever be used in the most extreme cases and, also, where the public purse allows it (i.e. they are extremely expensive).
5	There can be multiple costs to not enforcing.	Agreed as this can be the case. With an additional staff resource in planning enforcement and this Local Enforcement Plan we have a solid basis to determine appropriate actions in planning enforcement cases.

Key points in relation to Planning Enforcement

14. The service receives hundreds of reports of alleged planning breaches a year. Not all, upon investigation, are found to be breaches of planning. Our resources are directed to the breaches of planning that cause the greatest planning harm. For example, the potential permanent damage to a listed building or the felling of a tree subject to a Tree Preservation Order (TPO) will have a greater priority than a new shed in a residential garden. It is obviously not possible to investigate every complaint with equal priority and intensity.
15. In all but the most serious cases, enforcement officers will attempt to resolve matters through negotiation. This is successful in many cases and is the quickest course of action. Where formal enforcement action is required, it has to be recognised that under the English planning system this may take time. For example, at the time of writing this report, it is not unusual for the Planning

Inspectorate to take two years to issue decisions in respect of appeals against a Planning Enforcement Notice. Rother does not design the planning enforcement system in England, but it does have to operate within it.

16. It must also be recognised that there can be significant lobbying and correspondence involved with planning enforcement cases and third parties involved in any planning enforcement case can have wildly differing views on the level of harm involved with the same breach of planning. It is the role of planning enforcement officers to ascertain and then weigh up the facts and circumstances of each case and decide whether or not to take any action. This requires careful investigation, tenacity in decision making, as well as a proportionality and consistency to our decision making. It should be noted that where the Council takes formal planning enforcement action that is not justified, or is unreasonable, inadequately evidenced or inconsistent with other decisions the Council is open to costs, both at appeal and from potential legal action.

Financial Implications

17. There are no direct financial implications for the proposals within this report. Planning enforcement officer time is covered with the budget for the Council's Planning Service.

Legal Implications

18. The legal implications are set out in the body of this report together with the human rights and equalities considerations below.
19. The attached Local Enforcement Plan has been drawn up and reviewed in conjunction with legal colleagues.

Human Resources Implications

20. There are no Human Resource implications for the proposals within this report.

Human Rights

21. There are no Human Rights implications for the proposals within this report. However, Human Rights legislation can be a relevant consideration in both planning enforcement and planning application decisions.
22. Article 8 of the European Convention on Human Rights, which is law via the Human Rights Act 1998, confirms that everyone has the right to respect for their private and family life, their home and their correspondence. Planning enforcement action may interfere with that right. Such interference is permitted so long as it is in accordance with the law and necessary in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others. Caselaw confirms that this requires the planning enforcement team apply a proportionate approach balancing individual's Article 8 rights against the public interest in environmental protection. This means enforcement action must be appropriate and necessary without imposing an excessive burden on individuals, taking into consideration their circumstances (*South*

Buckinghamshire DC v Porter [2003] 2 AC 558). Having a clear policy on how the Council will approach planning enforcement supports the planning enforcement team achieve this.

23. As National Planning Practice Guidance sets out there is a clear public interest in enforcing planning law and planning regulation in a proportionate way. In deciding whether enforcement action is taken, local planning authorities should, where relevant, have regard to the potential impact on the health, housing needs and welfare of those affected by the proposed action, and those who are affected by a breach of planning control.

Crime and Disorder

24. There are no direct Crime and Disorder implications arising from this report or the Local Enforcement Plan.

Environmental Implications

25. There are no direct environmental implications arising from this report or the Local Enforcement Plan.

Risk Management

26. Having a Local Enforcement Plan means that the Council can effectively prioritise and address planning enforcement matters which cause the most harm.

GDPR / Data Protection

27. Details of those making enforcement complaints (but not the nature of the complaint itself) are kept strictly confidential by the Council.

Equalities, Diversity and Inclusion

28. The public sector equality duty requires decision makers to have due regard to the need to: eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
29. An Equality Impact Assessment has been prepared for the draft Local Enforcement Plan and accompanies this report.

Socio Economic Duty

30. There are no direct implications for the Council under its socio economic duty for the proposals within this report.

Local Government Reorganisation (LGR) Considerations

31. Given impending LGR, the Local Enforcement Plan is likely to have a relatively short shelf life as it will likely be replaced by a Local Enforcement Plan produced by the new unitary authority.

Exempt from publication

32. This report is not confidential.

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Appendices:	Appendix A - Draft Local Enforcement Plan Appendix B – Equality Impact Assessment
Relevant Previous Minutes:	Minutes of Cabinet from 5 th February, 2024, available here: (Public Pack)Minutes Document for Cabinet, 05/02/2024 18:30
Background Papers:	None
Reference Documents:	2022 Local Enforcement Plan, available here: Local Enforcement Plan 2022.pdf