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Date: 13th July 2021

Dear Sir/Madam,

A meeting of the **CABINET** will be held in the Council Chamber, Town Hall, Nuneaton, on **Wednesday, 21st July, 2021** at **6.00 p.m.**

The public can follow the decision making online:-
www.nuneatonandbedworth.gov.uk/virtual-meeting.

Please note that meetings are recorded for future broadcast.

Yours faithfully,

BRENT DAVIS

Executive Director – Operations

To: Members of Cabinet

Councillor K. Wilson (Leader of the Council and Business and Regeneration)
Councillor C. Golby (Deputy Leader and Housing and Communities)
Councillor S. Croft (Finance and Corporate)
Councillor K. Evans (Public Services)
Councillor R. Smith (Planning and Regulation)
Councillor J. Gutteridge (Health and Environment)
Councillor C. Watkins (Leader of the Main Opposition Group and Observer)

AGENDA

PART I

PUBLIC BUSINESS

1. MEETING PROTOCOL

A fire drill is not expected, so if the alarm sounds, please evacuate the building quickly and calmly. Please use the stairs and do not use the lifts. Once out of the building, please gather outside Virgin Money Bank (formerly the Yorkshire Bank) on the opposite side of the road.

Exit by the door by which you entered the room or by the fire exits which are clearly indicated by the standard green fire exit signs.

If you need any assistance in evacuating the building, please make yourself known to a member of staff.

Please also make sure all your mobile phones are turned off or set to silent.

I would also advise that all or part of the meeting will be recorded for future broadcast.

2. APOLOGIES - To receive apologies for absence from the meeting.

3. DECLARATIONS OF INTEREST

To receive declarations of Disclosable Pecuniary and Other Interests, in accordance with the Members' Code of Conduct.

Declaring interests at meetings

If there is any item of business to be discussed at the meeting in which you have a disclosable pecuniary interest or non-pecuniary interest (Other Interests), you must declare the interest appropriately at the start of the meeting or as soon as you become aware that you have an interest.

Arrangements have been made for interests that are declared regularly by members to be appended to the agenda (**Page 6**). Any interest noted in the Schedule at the back of the agenda papers will be deemed to have been declared and will be minuted as such by the Committee Services Officer. As a general rule, there will, therefore, be no need for those Members to declare those interests as set out in the schedule.

There are, however, TWO EXCEPTIONS to the general rule:

1. When the interest amounts to a Disclosable Pecuniary Interest that is engaged in connection with any item on the agenda and the member feels that the interest is such that they must leave the room. Prior to leaving the room, the member must inform the meeting that they are doing so, to ensure that it is recorded in the minutes.

2. Where a dispensation has been granted to vote and/or speak on an item where there is a Disclosable Pecuniary Interest, but it is not referred to in the Schedule (where for example, the dispensation was granted by the Monitoring Officer immediately prior to the meeting). The existence and nature of the dispensation needs to be recorded in the minutes and will, therefore, have to be disclosed at an appropriate time to the meeting.

Note: Following the adoption of the new Code of Conduct, Members are reminded that they should declare the existence and nature of their personal interests at the commencement of the relevant item (or as soon as the interest becomes apparent). If that interest is a Disclosable Pecuniary or a Deemed Disclosable Pecuniary Interest, the Member must withdraw from the room.

Where a Member has a Disclosable Pecuniary Interest but has received a dispensation from Audit and Standards Committee, that Member may vote and/or speak on the matter (as the case may be) and must disclose the existence of the dispensation and any restrictions placed on it at the time the interest is declared.

Where a Member has a Deemed Disclosable Interest as defined in the Code of Conduct, the Member may address the meeting as a member of the public as set out in the Code.

Note: Council Procedure Rules require Members with Disclosable Pecuniary Interests to withdraw from the meeting unless a dispensation allows them to remain to vote and/or speak on the business giving rise to the interest.

Where a Member has a Deemed Disclosable Interest, the Council's Code of Conduct permits public speaking on the item, after which the Member is required by Council Procedure Rules to withdraw from the meeting.

4. MINUTES - To confirm the minutes of the Cabinet meeting held on the 23rd June, 2021 **(Page 10)**.
5. PUBLIC CONSULTATION – Members of the Public will be given the opportunity to speak on specific agenda items or have their submitted statement read by an officer of the Council, if notice has been received.
6. CONTAIN OUTBREAK MANAGEMENT FUND 2021/22 – a report by the Executive Director – Resources and Housing, attached **(Page 20)**
7. GENERAL FUND, HRA AND CAPITAL PROGRAMME OUTTURN 2020-21 – a report by the Executive Director – Resources and Housing, attached **(To follow)**
8. ANNUAL TREASURY MANAGEMENT REPORT 2020/21 – a report by the Executive Director – Resources and Housing, attached **(Page 26)**
9. LOCAL ENFORCEMENT PLAN (PLANNING) – CONSULTATION – a report by the Director – Planning and Public Protection, attached **(Page 45)**

10. RECOMMENDATIONS FROM OVERVIEW AND SCRUTINY PANELS

None.

11. ANY OTHER ITEMS - which in the opinion of the Chair of the meeting should be considered as a matter of urgency because of special circumstances (which must be specified).

Nuneaton and Bedworth Borough Council

Delivering our Future 2019 – 2031

Vision: *To aim to achieve the greatest improvement in quality of life in Warwickshire by 2031*

Background: The 'Delivering Our Future' plan outlines how Nuneaton and Bedworth Borough Council will achieve its vision and ambitions over the next 12 years. It aims to do this by focusing and aligning its delivery to the themes and priorities outlined within this document.

Theme one: Transformation – We want to take the Borough forward to reach its full potential, we want to create and develop opportunities to deliver the following priorities:

Priority one: Economy and business – *building on our strong economic record, growing our economy, capitalising on our strengths, promoting our Borough, telling our story*

Priority two: People – *promoting skills and improving health within our communities, empowering and supporting our employees to deliver excellent services for residents*

Priority three: Housing and communities – *enabling housing development to match our aspirations for the Borough; building homes, investing in safe, empowered, sustainable communities*

Priority four: Technology – *maximising the opportunities presented by technology for our communities and services*

Theme two: Collaboration – achieving more by working together - We recognise the importance of working with others to deliver our vision and recognise that collaboration needs to be central to our work. Our areas of focus will be:

Priority one: *we will work with our communities*

Priority two: *we will work with our partners, businesses, suppliers*

Priority three: *we will work with our employees and elected members*

Theme Three: Investment – making the most of what we have - We want to build and enhance what we have already. We want to encourage investment within the following priorities:

Priority one: Getting the most from our assets – *from our people, land and property*

Priority two: Maximising funding – *identifying and securing funding opportunities, being creative, maximising income streams*

Priority three: Managing our resources – *maintaining our robust financial management arrangements to deliver efficient, economic and effective services*

Priority four: Promoting a sustainable, green economy; minimising our carbon footprint

Priority five: Empowering *our communities to make the most of their resources*

Priority six: Environment – *cherishing our physical environment; enhancing our built environment and open spaces, maximising the value of our green spaces, improving our infrastructure*

Cabinet - Schedule of Declarations of Interests – 2021/2022

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	General dispensations granted to all members under s.33 of the Localism Act 2011			Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> - Housing matters - Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - An allowance, payment given to members - An indemnity given to members - Any ceremonial honour given to members - Setting council tax or a precept under the Local Government Finance Act 1992 - Planning and Licensing matters - Allotments - Local Enterprise Partnership
	S. Croft	Employed at Holland & Barrett Retail Ltd	Treasurer of the Conservative Association Member of the following Outside Bodies: <ul style="list-style-type: none"> • Champion for Safeguarding (Children and Adults) • Local Government Superannuation Scheme Consultative Board • West Midlands Employers 	
	K. Evans	Employed by UK Parliament	Sponsorship: Election Expenses – North Warwickshire Conservative Association Membership of Other Bodies: <ul style="list-style-type: none"> • Sherbourne Asset Co Shareholder Committee; • Nuneaton and Bedworth Sports Forum; • Warwickshire Direct Partnership; • Warwickshire Waste Partnership; • West Midlands Combined Authority Audit Committee. Executive Officer – North Warwickshire Conservative Association; Member of the Conservative	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
			and Unionist Party; Member of the Governing Body – Race Leys Infant School	
	C. Golby		<p>Member of Warwickshire County Council</p> <p>Member of the following Outside Bodies:</p> <ul style="list-style-type: none"> • Coventry, Warwickshire and Hinckley and Bosworth Joint Committee • District Leaders • Local Enterprise Partnership • Nuneaton and Bedworth Community Enterprises Ltd. (NABCEL) • Nuneaton and Bedworth Home Improvement Agency • NBBC representative on the George Eliot Hospital NHS Trust – Public/User Board • NBBC representative on George Eliot Hospital NHS Foundation Trust Governors 	
	J. Gutteridge	Joint shareholder in a factory unit on Bayton Road Industrial Estate	<p>Representative on the following Outside Bodies:</p> <ul style="list-style-type: none"> • Warwickshire Health and Wellbeing Board • Age UK (Warwickshire Branch) <p>Member of NABCEL</p>	To speak and vote on any matters involving the Borough Plan related to land at Leyland Road Bulkington

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	R. Smith		<p>Chairman of Volunteer Friends, Bulkington; Trustee of Bulkington Sports and Social Club.</p> <p>Member of the following Outside Bodies:</p> <ul style="list-style-type: none"> • A5 Member Partnership; • Patrol (Parking and Traffic Regulation Outside of London) Joint Committee; • Building Control Partnership Steering Group • Bulkington Village Community and Conference Centre • Representative on the Nuneaton and Bedworth Older Peoples Forum 	
	C. Watkins	Landlord of a privately rented property	<p>Representative on the following outside bodies:</p> <ul style="list-style-type: none"> • Nuneaton and Bedworth Community Enterprises Ltd. (NABCEL) 	
	K.D. Wilson	Acting Delivery Manager, Nuneaton and Warwick County Courts, HMCTS, Warwickshire Justice Centre, Nuneaton	<p>Nuneaton Conservative Association</p> <p>Corporate Tenancies: properties are leased by NBBC to Nuneaton and Bedworth Community Enterprises Ltd, of which I am a Council appointed Director.</p> <p>Representative on the following:</p> <ul style="list-style-type: none"> • Director of Nuneaton and Bedworth Community Enterprises Ltd (NABCEL) • Coventry, Warwickshire and Hinckley & Bosworth Joint Committee • District Council Network • Local Government Association • Director of Coventry and Warwickshire Local Enterprise Partnership Ltd (CWLEP) • West Midlands Combined Authority • Deputy Chairman – Nuneaton Conservative Association • District Council Network • Local Government Association (LGA) 	

NUNEATON AND BEDWORTH BOROUGH COUNCIL

CABINET

23rd June 2021

A meeting of Cabinet was held on Wednesday 23rd June 2021 in the Council Chamber.

Present

Councillor K. Wilson (Leader of the Council and Business and Regeneration)
Councillor C. Golby (Deputy Leader and Housing and Communities)
Councillor S. Croft (Finance and Corporate)
Councillor K. Evans (Public Services)
Councillor J. Gutteridge (Health and Environment)
Councillor C. Watkins (Leader of the Main Opposition Group and Observer)

CB15 **Apologies**

Apologies were received from Councillor R. Smith, Portfolio Holder for Planning and Regulation.

CB16 **Declarations of Interest**

RESOLVED that the Declarations of Interest for this meeting are as set out in the Schedule attached to these minutes, with the following additions:

- a) Councillor J. Gutteridge noted that he will be a joint shareholder in a factory unit on Bayton Road Industrial Estate, Bedworth, from Friday 25th June;
- b) Councillor K. Evans noted that he was not a representative on the Nuneaton and Bedworth Older People's Forum and that this needed to be corrected on his Declarations of Interest.

CB17 **Minutes**

RESOLVED that the minutes of the Cabinet meeting held on 26th May 2021, be approved, and signed by the Chair.

CB18 **Adoption of Supplementary Planning Documents (SPDs) – Health Impact Assessment SPD and Open Space and Green Infrastructure SPD**

The Director – Democracy, Planning & Public Protection submitted a report to seek approval from Cabinet to recommend the Health Impact Assessment Supplementary Planning Document (SPD) and the Open Space and Green Infrastructure SPD for adoption at Full Council.

RESOLVED that:

- a) the Health Impact Assessment SPD (at Appendix A) and the Open Space and Green Infrastructure SPD (at Appendix B) be recommended for adoption at Full Council;

- b) delegated authority be given to the Head of Planning in consultation with the Cabinet Member for Planning and Regulation to make any minor amendments to the documentation prior to consideration at Full Council.

Speakers:

Mrs Michele Kondakor
Councillor K. Kondakor

Options

1. To accept the recommendation and proceed to Full Council;
2. Not to proceed to Full Council.

Reasons

To provide supplementary planning guidance in accordance with the commitments set out in the adopted Borough Plan and the latest Local Development Scheme dated September 2020.

CB19 Public Space Protection Order Consultation – Control of Begging

The Director – Regeneration, Economy and Assets, presented a report to Cabinet to consider approval of a statutory public consultation in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 for a Public Space Protection Order (PSPO) to address the issues caused by begging throughout the Borough.

RESOLVED that:

- a) A statutory public consultation be undertaken in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 for a Public Space Protection Order to address begging as set out in the report.

Speakers:

Mrs Michele Kondakor
Councillor K. Kondakor

Options

1. To proceed with the consultation;
2. To not proceed with the consultation.

Reasons

Both the Council and the Police have experienced an increase in the number of complaints related to the act of begging and the associated anti-social behaviour. There is currently no Public Space Protection Order to address the impacts of begging on residents and businesses in the Borough. The purpose of this consultation exercise is to understand the overall direct and indirect impact of this problem with a view to identifying measures to address the issue.

CB20 **Car Sales on Highways Public Space Protection Order Consultation**

The Director – Democracy, Planning & Public Protection submitted a report to Cabinet seeking approval to consider a statutory public consultation in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 for a Highway Car Sales Public Space Protection Order (PSPO). An Addendum followed this report to correct a mistake that mentioned another PSPO (Dog Control) that went to a previous Cabinet.

RESOLVED that:

- a) a statutory public consultation be undertaken in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 for a Highway Car Sales Public Space Protection Order as set out in the report.

Speakers

Mrs Michele Kondakor
Councillor K. Kondakor
Councillor J. Clarke

Options

1. Can authorise the proposed consultation;
2. Can not authorise the consultation.

Reasons

The Council is seeking to introduce a highway car sales PSPO to prohibit the exposure for sale of any vehicle on A or B category roads in the Borough. Nuneaton and Bedworth Borough Council, particularly Council members directly, and Warwickshire County Highways have for some time received ongoing complaints related to the exposure for sale of vehicles in prominent positions on main roads in the Borough which detrimental to the street scene and unfair on other car sales businesses.

CB21 **Civic Honours Committee**

The Executive Director – Operations presented a report to Cabinet, seeking approval on establishing a Civic Honours Sub-Committee.

One of the areas of activity that the Conservative Administration have indicated that they wish to progress, is reviving “civic pride” within the Borough. As one part of this, it is proposed that a Civic Honours Sub-Committee of Cabinet is established to enable Elected Members to formally consider bestowing various civic honours such as, but not limited to:

- Community Awards
- Freedom of the Borough
- Honorary Aldermen

RESOLVED that:

- a) a Civic Awards Sub-Committee of Cabinet be established;
- b) the Civic Awards Sub-Committee comprise of:

- Leader of the Council
 - Deputy Leader of the Council
 - The Cabinet Member – Finance and Corporate Services
 - The Mayor
 - Leader of the Main Opposition Party
- and be chaired by the Leader of the Council.
- c) The Civic Awards Sub-Committee of Cabinet be recommended to Council, in order that Article 7 of the Councils' constitution be amended accordingly.

Speakers

Mrs Michele Kondakor
Councillor K. Kondakor
Councillor J. Clarke

Options

1. To accept the recommendations in full or part
2. Reject the recommendations.

Reasons

To help in reviving "civic pride" within the Borough.

CB22 General Fund Revenue and Capital Programme Update 2021/22

The Executive Director – Resources presented a report to Cabinet seeking approval on the adjustments made to the General Fund Revenue and Capital Programme.

RESOLVED that:

- a) the budget changes set out at paragraph 4.1 and the revised General Budget Summary attached at Appendix A be recommended to full Council, at the Extraordinary meeting on 30th June, for approval;
- b) the revised Capital Programme as attached at Appendix B be recommended to Council for approval after taking into account the risks set out at 5.3 and 5.4;
- c) subject to above, delegated authority be given to the Executive Director – Operations to give 21 days' notice of the temporary changes to the Traffic Order as set out at Appendices C, D and E;
- d) subject to above, delegated authority be given to the Director – Democracy, Planning & Public Protection, in consultation with the portfolio-holder Finance and Corporate, to amend the Mayor's Protocol to reflect the approved budget changes;
- e) due to the timescales involved in bringing forward the changes to the revenue budget and delivering schemes within the capital programme, this report be marked not for call-in.
- f) the following alterations and additional points to the reports be noted and approved as follows, now that this report will be discussed at Extraordinary Council Meeting on 30th June 2021, and no longer at Full Council on 14th July 2021:-

- 2.6 A section be added after 2.5 to refer these papers to the Extraordinary meeting to discuss this report, on 30th June 2021;
- 2.7 Councillor S. Croft asked that this point be added after 2.6 to say that on behalf of the Cabinet, their thanks be noted to the Finance Team and Craig Pugh for all their hard work and to Simone Hines and Craig Pugh and the Finance Team for turning this emergency budget around in six weeks at a particularly busy time of the year with year end and audit procedures, when they are short staffed, and noted, their hard work over the last 16 months during these challenging times;
- 4.4 As the budget changes first need to be approved by Council, it is anticipated that the notice period will now start from 10th July, meaning that the 3 hours for £1 will come into effect from Sunday 1st August 2021, as 21 days' notice needs to be given for the temporary changes to the Traffic Order, and not from Friday 6th August as printed in the report.

Speakers

Mrs Michele Kondakor
Councillor K. Kondakor

Options

1. To accept the recommendations;
2. To accept some of the recommendations and propose alternatives;
3. To not accept the recommendations and propose alternatives.

Reasons

To ensure the General Fund budget reflects the priorities of the Council during 2021/22 and incorporates newly confirmed capital funding streams.

CB23 Recommendations from Overview and Scrutiny Panels

There were no recommendations.

CB24 Any Other Items

The Director – Leisure, Recreation & Health presented a special urgency report to Cabinet to update them with a Leisure Strategy report in relation to the Pingles, Bedworth and Top Farm sites.

RIBA Stages 1 for Pingles Physical Hub (PPAH) was approved and RIBA Stage 1-3 for Bedworth Physical Activity Hub (BPAH), is still being progressed. Top Farm in north Nuneaton is on Warwickshire County Council land and forms part of their planning application for this site, to include a new secondary school.

As part of this overall work, the development of Destination Parks Concept Plans for the Miners' Welfare Park has also been undertaken to provide the long-term vision for the BPAH site.

RESOLVED that:

- a) Cabinet noted the report and progress made in delivery against the adopted Leisure Strategy and Open Space works in the Miners' Welfare Park;
- b) the final proposed facility mix for the Bedworth Physical Activity Hub be noted and approved;
- c) further engagement with Sport England to progress funding opportunities for the scheme be approved;
- d) the timescales were met to submit the Levelling Up Fund (LUF) application to Government on 18th June to support the future delivery of the BPAH site and the inclusive of works around the Green Corridor for Bedworth Town Centre, which also included additional RIBA Stages now required, was noted.
- e) Cabinet noted the Top Farm update.
- f) Councillor K. Evans on behalf of Cabinet, gave their extended thanks to be noted, to Director K. Hollis, the Head of Sports Development, the Sports Development Team and our external consultants, who have all worked hard on this bid and their hard work and commitment is noted.

Speakers

Mrs Michele Kondakor
Councillor K. Kondakor

Options

To note the recommendations.

Reasons

The work being undertaken to deliver future leisure and green space activities is a key strategic outcome for the Council, supporting residents with opportunities for improvements in their health and well-being.

Chair

PUBLICATION DATE: 30th June 2021

DECISIONS COME INTO FORCE: 8th July 2021

Cabinet - Schedule of Declarations of Interests – 2021/2022

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	General dispensations granted to all members under s.33 of the Localism Act 2011			Granted to all members of the Council in the areas of: <ul style="list-style-type: none"> - Housing matters - Statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992 - An allowance, payment given to members - An indemnity given to members - Any ceremonial honour given to members - Setting council tax or a precept under the Local Government Finance Act 1992 - Planning and Licensing matters - Allotments - Local Enterprise Partnership
	S. Croft	Employed at Holland & Barrett Retail Ltd	Treasurer of the Conservative Association Member of the following Outside Bodies: <ul style="list-style-type: none"> • Champion for Safeguarding (Children and Adults) • Local Government Superannuation Scheme Consultative Board • West Midlands Employers 	
	K. Evans	Employed by UK Parliament	Sponsorship: Election Expenses – North Warwickshire Conservative Association Membership of Other Bodies: <ul style="list-style-type: none"> • Sherbourne Asset Co Shareholder Committee; • Nuneaton and Bedworth Sports Forum; • Warwickshire Direct Partnership; • Warwickshire Waste Partnership; • West Midlands Combined Authority Audit Committee. Executive Officer – North Warwickshire Conservative Association; Member of the Conservative	

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
			and Unionist Party; Member of the Governing Body – Race Leys Infant School	
	C. Golby		<p>Member of Warwickshire County Council</p> <p>Member of the following Outside Bodies:</p> <ul style="list-style-type: none"> • Coventry, Warwickshire and Hinckley and Bosworth Joint Committee • District Leaders • Local Enterprise Partnership • Nuneaton and Bedworth Community Enterprises Ltd. (NABCEL) • Nuneaton and Bedworth Home Improvement Agency • NBBC representative on the George Eliot Hospital NHS Trust – Public/User Board • NBBC representative on George Eliot Hospital NHS Foundation Trust Governors 	
	J. Gutteridge	Joint shareholder in a factory unit on Bayton Road Industrial Estate	<p>Representative on the following Outside Bodies:</p> <ul style="list-style-type: none"> • Warwickshire Health and Wellbeing Board • Age UK (Warwickshire Branch) <p>Member of NABCEL</p>	To speak and vote on any matters involving the Borough Plan related to land at Leyland Road Bulkington

	Name of Councillor	Disclosable Pecuniary Interest	Other Personal Interest	Dispensation
	R. Smith		<p>Chairman of Volunteer Friends, Bulkington; Trustee of Bulkington Sports and Social Club.</p> <p>Member of the following Outside Bodies:</p> <ul style="list-style-type: none"> • A5 Member Partnership; • Patrol (Parking and Traffic Regulation Outside of London) Joint Committee; • Building Control Partnership Steering Group • Bulkington Village Community and Conference Centre • Representative on the Nuneaton and Bedworth Older Peoples Forum 	
	C. Watkins	Landlord of a privately rented property	<p>Representative on the following outside bodies:</p> <ul style="list-style-type: none"> • Nuneaton and Bedworth Community Enterprises Ltd. (NABCEL) 	
	K.D. Wilson	Acting Delivery Manager, Nuneaton and Warwick County Courts, HMCTS, Warwickshire Justice Centre, Nuneaton	<p>Nuneaton Conservative Association</p> <p>Corporate Tenancies: properties are leased by NBBC to Nuneaton and Bedworth Community Enterprises Ltd, of which I am a Council appointed Director.</p> <p>Representative on the following:</p> <ul style="list-style-type: none"> • Director of Nuneaton and Bedworth Community Enterprises Ltd (NABCEL) • Coventry, Warwickshire and Hinckley & Bosworth Joint Committee • District Council Network • Local Government Association • Director of Coventry and Warwickshire Local Enterprise Partnership Ltd (CWLEP) • West Midlands Combined Authority • Deputy Chairman – Nuneaton Conservative Association • District Council Network • Local Government Association (LGA) 	

Cabinet/Individual Cabinet Member Decision

Report Summary Sheet

Date: 21st July 2021
Subject: Contain Outbreak Management Fund 2021/22
Portfolio: Finance and Corporate
From: Executive Director – Resources and Housing

Summary: This report sets out the Council's allocation from the Contain Outbreak Management Fund during 2021/22 and the eligible spending requirements identified so far.
Recommendations: 2.1 That Cabinet note the Contain Outbreak Management Fund (COMF) allocation for 2021/22 and the criteria for eligible spend; 2.2 That Cabinet approve the spend allocations from the fund as set out in the table at 4.1 and also approve the required virements; 2.3 That a further report be brought back to Cabinet identifying further spending allocations from the fund for 2021/22.
Options:

1. To accept the recommendations;
2. To accept some of the recommendations and propose alternatives;
3. To not accept the recommendations and propose alternatives.

Reasons:

To ensure the COMF is spent in line with the criteria of the fund to support the Council's work in the response and recovery to COVID-19.

Consultation undertaken with Members/Officers/Stakeholders

Consultation has taken place with the;

- Portfolio Holder Finance and Public Services
- Management Team

Subject to call-in:

Yes

Ward relevance:

All Wards

Forward plan:

Yes

Delivering Our Future Theme:

- 1 – Transformation
- 2 – Collaboration

Delivering Our Future Priority:

- T1 – Priorities 3
- T2 – Priorities 1

Relevant statutes or policy:

Local Government Finance Act

Equalities Implications:

There are no specific equalities impacts arising from the report

Human resources implications:

None

Financial implications:

The Council has an allocation of £197k to spend on activities that meet the eligibility criteria for the COMF in 2021/22. Any unspent grant must be returned to government.

Health Inequalities Implications:

None

Section 17 Crime & Disorder Implications:

None

Risk management implications:

The Council may be required to return the funding if the conditions of the grant are not met.

Environmental implications:

None

Legal implications:

Health Protection (Coronavirus Restrictions) Act

Contact details:

Simone Hines – Executive Director – Resources and Housing (02476 7637 6182)

AGENDA ITEM NO. 6

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Cabinet - 21st July 2021

From: Executive Director – Resources and Housing

Subject: Contain Outbreak Management Fund 2021/22

Portfolio: Finance and Corporate

Delivering Our Future Themes: 1 and 2

Delivering Our Future Priorities: T1 - 3;T2 –1

1. Purpose of Report

1.1 This report outlines the Contain Outbreak Management Fund (COMF) allocation for 2021/22 and the criteria that must be met to claim eligible spend against the fund.

1.2 The report also sets out the identified spend from the fund so far in 2021/22.

2. Recommendations

2.4 That Cabinet note the Contain Outbreak Management Fund (COMF) allocation for 2021/22 and the criteria for eligible spend.

2.5 That Cabinet approve the spend allocations from the fund as set out in the table at 4.1 and also approve the required virements.

2.6 That a further report be brought back to Cabinet identifying further spending allocations from the fund for 2021/22.

3. Background

3.1 The COMF is a ring-fenced grant for public health purposes to tackle COVID-19, working to break the chain of transmission and protecting the most vulnerable. During 2020/21 the COMF was only allocated to County Councils in two-tier areas but for 2021/22 district and borough councils have been given their own allocation to reflect the critical role that we have played and continue to play in the COVID-19 response and recovery effort.

3.2 A list of activities that this funding maybe used for is included in the updated COMF guidance document for the Financial Year 2021/22. This can be summarised as follows:

- targeted testing for hard-to-reach groups out of scope of other testing programmes
- additional contact tracing
- additional resource for compliance with, and enforcement of, restrictions and guidance
- enhanced communication and marketing – for example, towards hard-to-reach groups and other localised messaging
- targeted interventions for specific sections of the local community and workplaces
- harnessing capacity within local sectors – for example, voluntary, academic, commercial
- extension/introduction of specialist support – for example, behavioural science, bespoke comms
- targeted support for school/university outbreaks
- additional non-financial support for those who are self-isolating
- community-based support for those disproportionately impacted such as the BAME population
- support for engagement and analysis of regional areas to assess and learn from local initiatives
- providing support, as needed, to vulnerable people classed as clinically extremely vulnerable.

3.3 The Councils allocation for 2021/22 is £196,750. This is ring-fenced for the activities above and the Council is required to complete regular monitoring forms on our spend and provide confirmation that spend is in line with the Contain Outbreak Management Framework and criteria.

4. COMF allocated spend

4.1 The identified spending allocations form the COMF are set out below:

Spend Area	£'000	Comments
Works to Abbey House and Norman Avenue	50	This will create more self-contained accommodation in the Councils temporary accommodation provision to meet current Public Health guidance and reduce the number of void units at any one time. Even when/if current guidance on self-contained accommodation changes, these works will still have benefits in

		the long term as it will improve the facilities available for families.
Rough Sleeper Support	42	Additional support for Rough Sleepers during the winter months when the Severe Cold Weather Protocol is most likely to apply.
Support for surge testing and vaccination activity	5	This relates to the staffing support that the Council provided (by way of additional casual staff) to the surge testing and vaccination activity. It also includes estimated further costs for pop-up vaccination clinics over the summer.
Communication materials	10	Estimated cost for communication and promotion activities, including refreshing the signage on our refuse vehicles.
	107	

4.2 It should be noted that there are no identified spending needs for compliance and enforcement in the table above as this is due to be funded from the governments Welcome Back Fund. However, this is subject to the Welcome Back Fund business case being approved. The level of resources required for compliance and enforcement will also be kept under review and COVID restrictions change over the coming months.

4.3 After taking into account the activities above there will still be approximately £90k of COMF remaining to spend during this financial year. The fund is for the whole of 2021/22 and at this stage we do not yet know what impact COVID may have during the autumn/winter period, and how the Council will be expected to support residents and the Public Health activity for the rest of the year. Therefore, any future demands from the COMF will be kept under review and a report brought back to Cabinet later in the year to set out any further spending proposals.

5 Conclusion

5.1 The spend identified above will assist with the Council's continued COVID-19 response and recovery work and this will be kept under review as the situation with the pandemic changes through the year and as restrictions continue to ease. A further report will be brought back to Cabinet identifying further eligible spending allocations from the COMF.

Simone Hines

Cabinet

Report Summary Sheet

Date: 21 st July 2021
Subject: Annual Treasury Management Report 2020/21
Portfolio: Finance and Corporate (Councillor S Croft)
From: Executive Director – Resources & Housing
Summary: To report the results of the Council’s Treasury Management activities for 2020/21 as required by the Prudential Code.
Recommendations: That it be recommended to Council that: <ul style="list-style-type: none">• The actual 2020/21 Treasury and Prudential Indicators detailed in this report and summarised in Appendix 1 be approved.• The Annual Treasury Management Report for 2020/21 be noted.
Options: None

Reasons:

It is a requirement of the CIPFA Prudential Code for the Treasury Outturn to be reported Council annually following review by the Cabinet

Consultation undertaken with Members/Officers/Stakeholders**Subject to call-in:**

No – Statutory requirement for report to be submitted to Cabinet and Council prior to end October.

Ward relevance: None directly

Forward plan:

Yes

Delivering our Future Themes & Priorities:

Theme 3 : Investment – making the most of what we have
Priority 3 : Managing our resources

Relevant statutes or policy:

Local Government Act 2003
CIPFA Code of Practice on Treasury Management
CIPFA Prudential Code for Capital Finance in Local Authorities

Equalities Implications:

None

Human resources implications:

None

Financial implications:

As detailed within the report

Health Inequalities Implications:

None

Section 17 Crime & Disorder Implications:

None

Risk management implications:

Investment and borrowing decisions have been based on the approved Treasury Strategy 2020/21 and with approved counterparties

Environmental implications:

None

Legal implications:

Statutory requirement to report to Council per the Local Government Act 2003 and the CIPFA Prudential Code

Contact details:

Craig Pugh – Head of Financial Services

02476 376104

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Cabinet – 21st July 2021

From: Executive Director - Resources

Subject: Annual Treasury Management Report 2020/21

Portfolio: Finance and Corporate (Councillor S Croft)

Delivering our Future Theme: 3

Delivering our Future Priority: T3-3

1. Purpose of Report

1.1 This Council is required through regulations issued under the Local Government Act 2003 to produce an Annual Treasury Report reviewing the treasury management activities and the actual prudential and treasury indicators for 2020/21. This report meets the requirements of both the CIPFA Code of Practice on Treasury Management (the Code) and the CIPFA Prudential Code for Capital Finance in Local Authorities (the Prudential Code).

2. Recommendations

2.1 That it be recommended to Council that:

- The actual 2020/21 Treasury and Prudential Indicators detailed in this report and summarised in Appendix 1 be approved.
- The Annual Treasury Management Report for 2020/21 be noted.

3. Introduction

3.1 During 2020/21 the minimum reporting requirements were that the full Council should receive the following reports from the Cabinet:

- An annual treasury strategy in advance of the year (Council 17 February 2020);
- A mid year treasury update report (Council 2 December 2020);
- An annual review following the end of the year describing the activity compared to the strategy (this report)

3.2 The regulatory environment place a much greater onus on Members for the review and scrutiny of treasury management policy and activities. This report is important in that respect, as it provides details of the outturn position for treasury activities and highlights compliance with the

Council's policies previously approved by Members.

- 3.3 This Council also confirms that it has complied with the requirement under the Code to give prior scrutiny to all of the above treasury management reports by the Cabinet before they were reported to the full Council.
- 3.4 In addition, the Audit & Standards Committee received treasury management activity update reports on 3rd November 2020, 16th March 2021, and 20th July 2021.

4. The Economy and Interest Rates During 2020/21

- 4.1 **UK. Coronavirus.** The financial year 2020/21 will go down in history as being the year of the pandemic. The first national lockdown in late March 2020 did huge damage to an economy that was unprepared for such an eventuality. This caused an economic downturn that exceeded the one caused by the financial crisis of 2008/09. A short second lockdown in November did relatively little damage but by the time of the third lockdown in January 2021, businesses and individuals had become more resilient in adapting to working in new ways during a three month lockdown so much less damage than was caused than in the first one. The advent of vaccines starting in November 2020, were a game changer. The way in which the UK and US have led the world in implementing a fast programme of vaccination which promises to lead to a return to something approaching normal life during the second half of 2021, has been instrumental in speeding economic recovery and the reopening of the economy. In addition, the household saving rate has been exceptionally high since the first lockdown in March 2020 and so there is plenty of pent-up demand and purchasing power stored up for services in the still-depressed sectors like restaurants, travel and hotels as soon as they reopen. It is therefore expected that the UK economy could recover its pre-pandemic level of economic activity during quarter 1 of 2022.
- 4.2 **Bank Rate.** While Bank Rate remained unchanged for the rest of the year, financial markets were concerned that the MPC could cut Bank Rate to a negative rate; this was firmly discounted at the February 2021 MPC meeting when it was established that commercial banks would be unable to implement negative rates for at least six months – by which time the economy was expected to be making a strong recovery and negative rates would no longer be needed.
- 4.3 **Average inflation targeting.** This was the major change adopted by the Bank of England in terms of implementing its inflation target of 2%. The key addition to the Bank's forward guidance in August was a new phrase in the policy statement, namely that "it does not intend to tighten monetary policy until there is clear evidence that significant progress is being made in eliminating spare capacity and **achieving the 2% target sustainably**". That seems designed to say, in effect, that even if

inflation rises to 2% in a couple of years' time, do not expect any action from the MPC to raise Bank Rate – until they can clearly see that level of inflation is going to be persistently above target if it takes no action to raise Bank Rate. This sets a high bar for raising Bank Rate and no increase is expected by March 2024, and possibly for as long as five years. Inflation has been well under 2% during 2020/21; it is expected to briefly peak at just over 2% towards the end of 2021, but this is a temporary short lived factor and so not a concern to the

- 4.4 **Government support.** The Chancellor has implemented repeated rounds of support to businesses by way of cheap loans and other measures, and has protected jobs by paying for workers to be placed on furlough. This support has come at a huge cost in terms of the Government's budget deficit ballooning in 20/21 and 21/22 so that the Debt to GDP ratio reaches around 100%. The Budget on 3rd March 2021 increased fiscal support to the economy and employment during 2021 and 2022 followed by substantial tax rises in the following three years to help to pay the cost for the pandemic. This will help further to strengthen the economic recovery from the pandemic and to return the government's finances to a balanced budget on a current expenditure and income basis in 2025/26. This will stop the Debt to GDP ratio rising further from 100%. An area of concern, though, is that the government's debt is now twice as sensitive to interest rate rises as before the pandemic due to QE operations substituting fixed long-term debt for floating rate debt; there is, therefore, much incentive for the Government to promote Bank Rate staying low e.g. by using fiscal policy in conjunction with the monetary policy action by the Bank of England to keep inflation from rising too high, and / or by amending the Bank's policy mandate to allow for a higher target for inflation.
- 4.5 **BREXIT.** The final agreement on 24th December 2020 eliminated a significant downside risk for the UK economy. The initial agreement only covered trade so there is further work to be done on the services sector where temporary equivalence has been granted in both directions between the UK and EU; that now needs to be formalised on a permanent basis. There was much disruption to trade in January as form filling has proved to be a formidable barrier to trade. This appears to have eased somewhat since then but is an area that needs further work to ease difficulties, which are still acute in some.

5. Treasury Position as at 31 March 2021.

5.1 At the beginning and the end of 2020/21 the Council's treasury position is as follows:

	31 March 2020	Rate/Return	Avg Remaining Life (yrs)	31 March 2021	Rate/Return	Avg Remaining Life (yrs)
Total External Debt	£77.205m	3.17%	8.0	£72.705m	3.17%	7.4
Capital Financing Requirement (CFR)	£92.813m			£94.067m		
Over / (under) Borrowing	(£15.608m)			(£21.362m)		
Total Investments (all internally managed)	£30.318m	1.16%	0.5	£27.238m	0.56%	0.5
Net Debt	£46.887m			£45.467m		

5.2 This Council operates separate loan pools for the General Fund and the Housing Revenue Account since the commencement of HRA Self Financing in April 2012. The following table details the debt positions for both funds as at 31 March 2021, with prior year information as a comparative, and their corresponding Capital Financing Requirement (CFR) to demonstrate that the gross borrowing position by fund is either equal to or lower than the borrowing need (CFR):

General Fund	31 st March 2020			31 st March 2021		
	Amt	Rate	Avg Life (yrs)	Amt	Rate	Avg Life (yrs)
PWLB Loans	£7.750m	4.67%	15.2	£6.750m	4.61%	16.3
Market Loans	£2.000m	4.10%	58.2	£2.000m	4.10%	57.2
Interest Free Loans	<i>nil</i>		-	<i>nil</i>		-
Total External Debt	£9.750m	4.55%	24.0	£8.750m	4.49%	25.7
Capital Financing Requirement (CFR)	£14.498m			£14.956m		
Over / (under) borrowing	(£4.748m)			(£6.206m)		

Housing Revenue Account	31 st March 2020			31 st March 2021		
	Amt	Rate	Avg Life (yrs)	Amt	Rate	Avg Life (yrs)
PWLB Loans	£67.455m	2.97%	5.6	£63.955m	2.99%	4.9
Total External Debt	£67.455m	2.97%	5.6	£63.955m	2.99%	4.9
Capital Financing Requirement (CFR)	£78.315m			£79.111m		
Over / (under) borrowing	(£10.860m)			(£15.156m)		

5.3 The tables at 5.2 display that the CFR for both the General Fund and the HRA have actually increased year on year due to the level of capital spend being financed by borrowing during 2020/21, however they also display a decrease in physical debt holdings therefore increasing the council's under-borrowed position.

5.4 At each year end it is possible to analyse the Council's balance sheet to identify how the investment balances are derived and the following table shows the composition of cash resources that make up the investment portfolio total. Total resources available for investment purposes were £48.6m and a small increase on the prior but the internal decision to utilise some of these resources for internal borrowing decisions due to interest rates reduced the amounts available to approximately £27m.

	<u>31 March 2020</u>	<u>31 March 2021</u>	<u>Change</u>
General Fund Balances (incl' minimum working balances)	£1.35m	£1.45m	£0.10m
General Fund Earmarked Reserves	£10.80m	£18.21m	£7.41m
HRA Balances (incl' minimum working balances)	£6.76m	£6.47m	(£0.29m)
HRA Earmarked Reserves	£4.53m	£4.06m	(£0.47m)
HRA Major Repairs Reserve	£4.36m	£1.61m	(£2.75m)
Capital Receipts	£3.59m	£4.10m	£0.51m
Ringfenced grants and contributions	£7.89m	£10.16m	£2.27m
Working Capital (i.e. money owed to others less money owed to us)	£6.65m	£2.54m	(£4.11m)
Total Resources Available for Investment	£45.93m	£48.60m	£2.67m
Less amounts utilised for internal borrowing decisions	(£15.61m)	(£21.36m)	(£5.75m)
Actual Investments	£30.32m	£27.24m	(£3.08m)

- 5.5 As can be seen from the above table, the resources invested by the Council does not represent the amount of cash available to service day to day revenue spend, with much of the cash being made up of grants, capital receipts and earmarked reserves (amounts set aside for specific purposes e.g. risk, future committed spend). General Fund balances stand at £1.45m, of which £1m is ringfenced as the Council's Minimum Working Balance.
- 5.6 General Fund earmarked reserves have increased substantially from prior year and this is largely due to the specific accounting treatment of some Covid Grants for Business Rates. Early in 2020/21 Government announced a range of reliefs for businesses including small businesses, retail, hospitality and the leisure sector. To prevent central policy impacting on the resources of local authorities a Section 31 grant was issued to councils to compensate for these losses. Furthermore government announced a Tax Income Guarantee (TIG) where a proportion of the losses in council tax and NDR due to the pandemic would be compensated. However, the accounting treatment for council tax and NDR requires that the actual losses are retained within the Collection Fund for 2020/21 and will not be charged to the General Fund until 2021/22. Therefore the Section 31 and TIG grants has been set aside in an earmarked reserve specifically for this purpose. These amount to £5.4m.

6. The Strategy for 2020/21

- 6.1 The expectation for interest rates within the treasury management strategy for 2020/21 was that Bank Rate would continue at the start of the year at 0.75 % before rising to end 2022/23 at 1.25%. This forecast was invalidated by the Covid-19 pandemic bursting onto the scene in March 2020 which caused the Monetary Policy Committee to cut Bank Rate in March, first to 0.25% and then to 0.10%, in order to counter the hugely negative impact of the national lockdown on large swathes of the economy. The Bank of England and the Government also introduced new programmes of supplying the banking system and the economy with massive amounts of cheap credit so that banks could help cash-starved businesses to survive the lockdown. The Government also supplied huge amounts of finance to local authorities to pass on to businesses. This meant that for most of the year there was much more liquidity in financial markets than there was demand to borrow, with the consequent effect that investment earnings rates plummeted.

7. The Borrowing Requirement and Debt

- 7.1 The Council's underlying need to borrow to finance capital expenditure is termed the Capital Financing Requirement (CFR).

7.2 The following table details the movements in the CFR for the General Fund and the HRA:

CFR	31 March 2020 Actual	Add new prudential borrowing	Deduct MRP/VRP	31 March 2021 Actual
General Fund	£14.498m	£0.885m	(£0.427m)	£14.956m
Housing Revenue Account	£78.315m	£0.796m	-	£79.111m
Total CFR	£92.813m	£1.681m	(£0.427m)	£94.067m

8. Borrowing Outturn for 2020/21

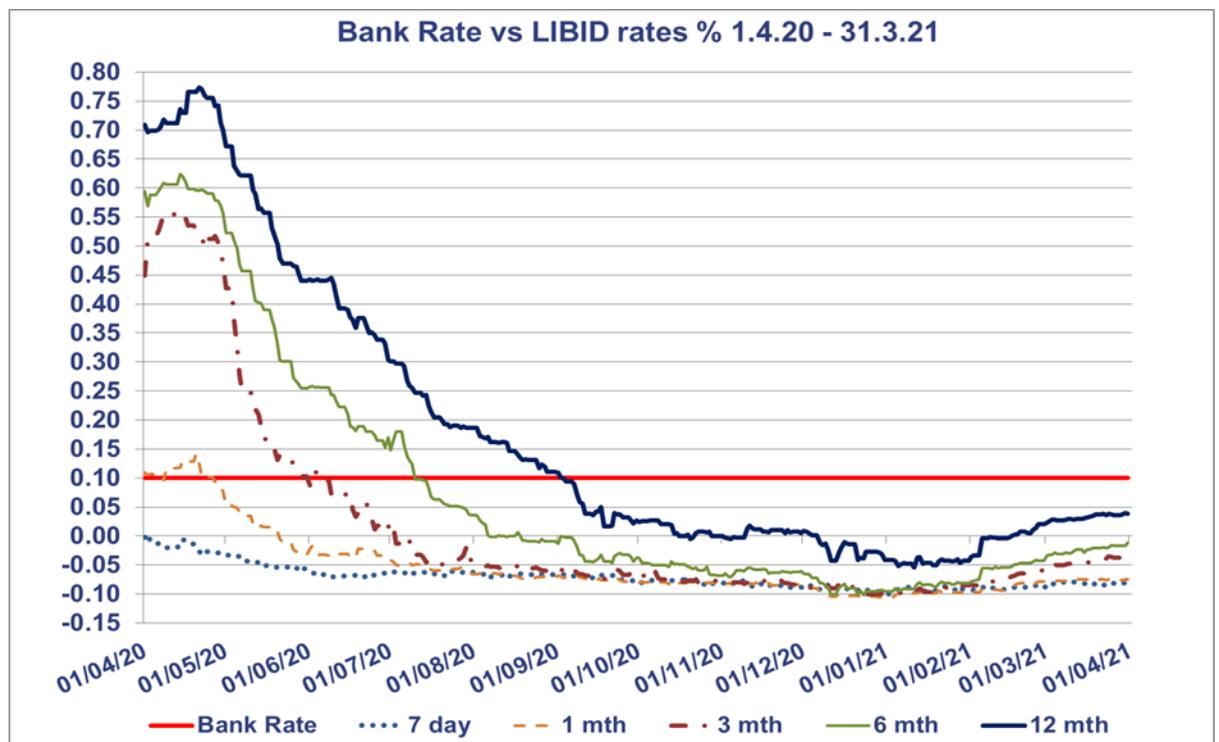
- 8.1 During 2020/21, the Council increased its under-borrowed position. This meant that the capital borrowing need, (the Capital Financing Requirement), was not fully funded with loan debt, as cash supporting the Council's reserves, balances and cash flow was used as an interim measure. This strategy was prudent as investment returns were low and minimising counterparty risk on placing investments also needed to be considered.
- 8.2 A cost of carry remained during the year on any new long-term borrowing that was not immediately used to finance capital expenditure, as it would have caused a temporary increase in cash balances; this would have incurred a revenue cost – the difference between (higher) borrowing costs and (lower) investment returns.
- 8.3 The policy of avoiding new borrowing by running down spare cash balances, has served well over the last few years. However, this was kept under review to avoid incurring higher borrowing costs in the future when this authority may not be able to avoid new borrowing to finance capital expenditure and/or the refinancing of maturing debt.
- 8.4 No new debt was taken during the year despite the capital programmes for both funds having elements of capital expenditure financed by prudential borrowing (to avoid the cost of carry implications), and no debt rescheduling was undertaken due to significant premium charges that would have been incurred, rendering it unaffordable. A number of loans were also repaid during the year as their natural maturities were reached and therefore increasing the under-borrowed position further.

9. Investment Outturn for 2020/21

- 9.1 Investment returns dropped significantly to new low levels during 2020/21. The expectation for interest rates within the treasury

management strategy for 2020/21 was that Bank Rate would increase from 0.75%, however the rate was actually cut to 0.10% and remained at that level throughout the year.

- 9.2 While the Council has taken a cautious approach to investing, it is also fully appreciative of changes to regulatory requirements for financial institutions in terms of additional capital and liquidity that came about in the aftermath of the financial crisis. These requirements have provided a far stronger basis for financial institutions, with annual stress tests by regulators evidencing how institutions are now far more able to cope with extreme stressed market and economic conditions.
- 9.3 Investment balances have been kept to a minimum through the agreed strategy of using reserves and balances to support internal borrowing, rather than borrowing externally from the financial markets. External borrowing would have incurred an additional cost, due to the differential between borrowing and investment rates as illustrated in the charts shown above and below. Such an approach has also provided benefits in terms of reducing the counterparty risk exposure, by having fewer investments placed in the financial markets.
- 9.4 Investment rates dropped rapidly following the cut in Bank Rate and in some circumstances returns were nil for investments placed (e.g. Money Market Funds and current account balances).



- 9.5 **Investment Policy** – the Council’s investment policy is governed by MHCLG investment guidance, which has been implemented in the annual investment strategy approved by Council. This policy sets out

the approach for choosing investment counterparties and is based on credit ratings provided by the three main credit rating agencies supplemented by additional market data such as rating outlooks and credit default swaps.

- 9.6 The investment activity during the year conformed to the approved strategy, and the Council had no liquidity difficulties.
- 9.7 The treasury section managed an average investment balance of £38.91m (£40.84m – 2019/20). These funds earned an average rate of return of 0.52% (1.11% - 2019/20). The comparable performance indicators used by the Council are the 3 month LIBID rate which was 0.02% and the 6 month LIBID rate which was 0.07%. This compares with a budget assumption of £43.44m of investment balances earning an average rate of 0.50%. The budgeted rate was lower than the interest rate forecast as officers were prudent in their expectations for interest rate increases and actually assumed a cut in rates in the base budget. The lower than budgeted investments balances placed was due to new debt not being taken to fund the prudential borrowing elements of the capital programmes resulting in cash balances decreasing as internal borrowing increased.
- 9.8 **Long Term Strategic Investments** – The Treasury Team will only place long term deposits after considering the medium term cash flow, interest rate forecasts and credit quality of counterparties. As at 31st March 2021 there was only one investment placed which meet this long term category:
- £2m placed with the CCLA Local Authority Property Fund. This is a variable rate pooled investment vehicle and is deemed to be a long dated investment due to the structure of the fund. Since the date of initial deposit this has generated an average return of 4.17% against the amount invested and 4.01% for 2020/21 financial year.
- 9.9 The March valuation of the property fund investment indicates that the capital value of the £2m investment stands at approx. £1.87m after entry charges and changes in capital value:

<u>Period</u>	<u>Deposit</u> <u>£000</u>	<u>Entry</u> <u>Charges</u> <u>£000</u>	<u>Capital</u> <u>Growth/</u> <u>(Loss)</u> <u>£000</u>	<u>Closing</u> <u>Value</u> <u>£000</u>	<u>Quarterly</u> <u>Yield (against</u> <u>deposit)</u>	<u>Financial</u> <u>Year</u> <u>Average</u> <u>Return</u>	<u>Return</u> <u>(since</u> <u>inception)</u>
2015/16	1,000	(54)	10	956	4.26% - 4.81%	4.59%	4.17%
2016/17	0	0	(15)	941	4.17% - 4.52%	4.30%	
2017/18	0	0	45	986	4.25% - 4.88%	4.47%	
2018/19	1,000	(63)	26	1,949	3.99% - 4.27%	4.15%	
2019/20	0	0	(70)	1,879	4.01% - 4.35%	4.14%	
2020/21 - Q1	0	0	(75)	1,804	3.57%	4.01%	
2020/21 - Q2	0	0	(3)	1,801	3.91%		
2020/21 - Q3	0	0	26	1,827	4.72%		
2020/21 - Q4	0	0	39	1,866	3.84%		

9.10 The table above shows that there has been a drop in capital value over the last financial year totalling £13k. This is due to continued uncertainties from Brexit and Covid19 and the impact that this has had on economic activity. However, the final two quarters of the year saw a bounce back with some of the capital losses incurred during 2019/20 and the first two quarters of 2020/21 being recovered.

9.11 This fund is only open to UK local authorities with the fund value as at end March 2021 being £1.20bn (£1.21bn March 2020)

9.12 From 2018/19, there was a change in accounting regulations regarding how capital gains and losses are accounted for. Historically, the gains or losses were held on the Balance Sheet, outside of General Fund and would only impact on GF balances when the deposit was withdrawn. From 2018/19 the regulations required and gains or losses in capital value, plus the charges on entry to the fund, to be charged to investment income/ costs.

9.13 MHCLG have issued a statutory override for 5 years commencing 2018/19 which allows local authorities to reverse these charges, thereby negating the impact on general fund resources. Once this override ends then any impact of gains/ losses will impact the general fund balances, unless there is an extension to the statutory override or it is made permanent.

9.14 Although this is a substantial change to the accounting treatment in these types of investments, this does not change the view of officers with regards to utilising these types of funds to ensure that there is sufficient spread across investment types and institutions to manage risk.

9.15 The following table shows the property fund returns for 2020/21 before and after the statutory override:

				£000	Return (based on deposit amount)
Property Fund Dividends Received				80	
Capital Gains / (Losses)				(13)	
Net Return				67	3.34%
Statutory Override				13	
Return as reflected in the accounts of NBBC				80	4.01%

9.16 **Short Term Investments** - the Treasury Team have been continuing to make use of liquid cash facilities and short dated fixed term deposits to ensure liquidity of funds. These deposits have been restricted to UK banks, UK building societies and Money Market Funds.

9.17 All deposits placed were in accordance with the approved counterparty selection criteria and there was no credit default occurrences in the period, with all maturities repaid in accordance with the deposit agreements.

10. Average Investment and Debt Balances Held

10.1 The following table provides further detail on the Council's average investment and debt position for 2020/21 with comparative information from the previous year:

	2019/20		2020/21	
	Weighted Average Principal	Avg Rate	Weighted Average Principal	Avg Rate
Investments				
Long Dated Fixed Rate:				
• Fixed Term Deposits	£0.24m	2.40%	-	-
Short Term Fixed Rate:				
• Fixed Term Deposits	£13.15m	1.03%	£7.68m	0.26%
• Certificates of Deposit	£10.23m	1.03%	£6.18m	0.64%
Total Fixed Rate Deposits	£23.62m	1.04%	£13.86m	0.43%
Variable Rate Deposits:				
Long Term:				
• Property Fund	£2.00m	4.14%	£2.00m	4.01%
Short Term:				
• Notice Accounts	£8.00m	0.95%	£8.00m	0.63%
• Liquid Accounts (<i>incl MMF</i>)	£7.22m	0.68%	£15.05m	0.09%
Total Variable Rate Deposits	£17.22m	1.21%	£25.05m	0.58%
Total Investments	£40.84m	1.11%	£38.91m	0.52%
Borrowings				
Long Term				
• PWLB	£76.44m	3.14%	£72.29m	3.15%
• Market Debt	£2.00m	4.10%	£2.00m	4.10%
• Interest Free Loans	£0.02m	0.00%	-	-
Total Long Term Debt	£78.44m	3.16%	£74.29m	3.18%
Temporary Borrowing	-	-	-	-
Total Borrowing	£78.44m	3.16%	£74.29m	3.18%

11. Conclusion

11.1 As is highlighted within this report, 2020/21 continued the trend in recent years of low interest rates and investment returns with no beneficial opportunities for rescheduling or repayment of debt.

11.2 Despite these difficulties, all the prudential limits and indicators are reported with no breaches during the year.

Appendix 1

During 2020/21, the Council complied with its legislative and regulatory requirements. The key actual prudential and treasury indicators detailing the impact of capital expenditure activities during the year, with comparators, are as follows:

Actual prudential and treasury indicators As at 31 st March	2019/20 Actual	2020/21 Original Indicator	2020/21 Mid Year Review	2020/21 Predicted Outturn (Feb' report)	2020/21 Actual
Capital expenditure					
• General Fund	£9.33m	£16.28m	£19.21m	£15.56m	£10.53m
• GF commercial	£1.04m	£3.46m	£3.46m	£0.00m	£0.00m
• HRA	<u>£17.22m</u>	<u>£26.30m</u>	<u>£27.79m</u>	<u>£17.22m</u>	<u>£15.13m</u>
• Total	£27.59m	£46.04m	£50.46m	£32.78m	£25.66m
Capital Financing Requirement:					
• General Fund	£12.46m	£15.34m	£15.39m	£13.99m	£12.99m
• GF commercial	£2.04m	£2.97m	£2.97m	£1.97m	£1.97m
• HRA	<u>£78.31m</u>	<u>£87.16m</u>	<u>£87.16m</u>	<u>£80.23m</u>	<u>£79.11m</u>
• Total	£92.81m	£105.47m	£105.52m	£96.19m	£94.07m
Net debt (debt less investments)	£46.89m	£69.52m	£56.12m	£45.21m	£45.47m
External debt					
• Borrowing	£77.21m	£94.21m	£80.71m	£72.71m	£72.71m
• Finance lease	<u>£0.00m</u>	<u>£0.00m</u>	<u>£0.00m</u>	<u>£0.00m</u>	<u>£0.00m</u>
• Total	£77.21m	£94.21m	£80.71m	£72.21m	£72.71m
Investments (long and short dated)	£30.32m	£24.59m	£24.59m	£27.00m	£27.24m

Comments:

Capital Expenditure: An increased underspend compared to February forecast due to additional slippage in the capital programme.

External Debt: Actual debt is approximately £21m lower at year end compared to the original estimate due to the level of slippage funded by borrowing but also the increase under-borrowed position. The decision to delay taking new external debt was due to market volatility and the significant reduction in investment rates available which would create a large increase in the 'cost of carry' if debt had been taken. This would have created a net cost

increase on General Fund and HRA. An under-borrowed position can be maintained in the short term and will be monitored to ensure that the most cost effective position in the medium term is taken.

Gross borrowing and the CFR – in order to ensure that borrowing levels are prudent over the medium term the Council’s external borrowing must only be for a capital purpose. This essentially means that the Council is not borrowing to support revenue expenditure. Borrowing should not therefore, except in the short term, have exceeded the CFR for 2020/21 plus the expected changes to the CFR over 2021/22 and 2022/23 from financing the capital programme. This requirement has been complied with, with no breaches during 2020/21.

The authorised limit – the authorised limit is the “affordable borrowing limit” required by s3 of the Local Government Act 2003. The Council does not have the power to borrow above this level. The table below demonstrates that during 2020/21 the Council has maintained gross borrowing within this authorised limit.

The operational boundary – the operational boundary is the expected borrowing position of the Council during the year. Periods where the actual position is either below or above the boundary is acceptable subject to the authorised limit not being breached.

	2020/21 Original	2020/21 Mid-Year Review	2020/21 Predicted Outturn
Authorised limit	£119.47m	£115.47m	£110.19m
Operational boundary	£105.47m	£105.47m	£96.19m
Maximum gross borrowing position during year	£77.21m		
Average gross borrowing position during year	£74.29m		

Actual financing costs as a percentage of net revenue stream – this indicator identifies the trend in the cost of capital (borrowing and other long term obligation costs net of investment income) against the net revenue stream.

Ratio of financing costs to net revenue stream	2019/20 Actual	2020/21 Original Indicator	2020/21 Mid Year Review Update	2020/21 Predicted Outturn	2020/21 Actual
General Fund	3.8%	5.3%	4.0%	4.4%	4.4%
HRA	8.3%	10.2%	10.3%	8.3%	8.0%

Comments:

General Fund: The original indicator included an assumed increase in debt interest costs as new external debt was budgeted for. However, due to the Covid19 impact on markets and interest rates new debt has been deferred thereby reducing the indicator.

HRA: The HRA actual closing position was significantly lower than the original indicator. A significant amount of capital programme funded by borrowing (primarily new build) has been slipped to 2021/22 and has therefore reduced the expected debt interest cost to the HRA for 2020/21,.

Debt and investments – the net debt position and the maturity profile of the debt and investment portfolios are detailed in the following tables:

	31 March 2020 Principal	Rate/ Return	Avg Life yrs	31 March 2021 Principal	Rate/ Return	Avg Life yrs
Fixed rate funding:						
-PWL B	£75.21m	3.15%	6.6	£70.71m	3.15%	6.0
-Market	£2.00m	4.10%	58.2	£2.00m	4.10%	57.2
-Interest Free	nil		-	nil		
Total External Debt	£77.21m	3.17%	8.0	£72.71m	3.17%	7.4
CFR	£92.81m			£94.07m		
Over/ (under) borrowing	(£15.6m)			(£21.36m)		
Internally Managed Investments	£30.32m	1.16%	0.5	£27.24m	0.56%	0.5
Total Investments	£30.32m			£27.24m		
Net debt	£46.89m			£45.47m		

The maturity structure of the debt portfolio was as follows and is within the approved limits/ indicators:

Debt	31 Mar 2020 Actual	2020/21 Indicator	31 Mar 2021 Actual
Under 12 months	6%	20%	-
12 months to 2 years	-	20%	12%
2 to 5 years	33%	50%	40%
5 to 10 years	50%	75%	37%
10 to 20 years	5%	100%	5%
20 to 30 years	-	100%	-
30 to 40 years	3%	100%	3%
40 to 50 years	-	100%	-
Over 50 Years	3%	100%	3%

The maturity structure of the internally managed investment portfolio, including the percentage of the total portfolio, was as follows:

Investments	31 March 2020 actual	31 March 2021 actual
Instant Access	£4.32m 14%	£8.24m 30%
Less than 3 months	£16.00m 53%	£7.00m 26%
Between 3 months and 1 year	£8.00m 26%	£10.00m 37%
Over 1 year	£2.00m 7%	£2.00m 7%
Total	£30.32m	£27.24m

CABINET

Cabinet

Report Summary Sheet

Date:	21st July 2021
Subject:	Local Enforcement Plan (Planning) - consultation
Portfolio:	Planning, Development & Health
From:	Director - Planning and Public Protection

Summary:

The purpose of this report is to seek Cabinet approval to consult on Local Enforcement Plan (Planning).

Recommendations:

1. That the Local Enforcement Plan (Planning) document (as set out in Appendix A to the report) be approved for public consultation for 12 weeks.
2. That the period of public consultation will begin 13 August 2021 and conclude on the 5 November 2021, or such later dates (but for the same duration) as agreed between the Head of Planning and Building Control and the Cabinet Member for Planning, Development and Health.
3. That delegated authority be given to the Head of Planning and Building Control in consultation with the Cabinet Member for Planning, Development and Health to make any minor amendments to the documentation prior to consultation.

Options:

1. To accept the recommendation and proceed to public consultation.
2. Not to proceed to consultation on the document.

Reasons:

The development of a Local Enforcement Plan for the planning operations is recommended within national planning policy. It is considered beneficial to undertake public consultation to assist with its development.

Subject to call-in: Yes.

Ward relevance: All.

Forward plan: Yes.

Delivering Our Future Theme: 1, 2, and 3.

Delivering Our Future Priority: All.

Relevant statutes or policy: National Planning Policy Framework.

Equal opportunity implications: None.

Human resources implications: None.

Financial implications: None with respect the consultation.

Health Inequalities Implications: None.

Section 17 - Crime and Disorder Implications: None.

Risk management implications: Not consulting on a Local Enforcement Plan exposes the Authority to challenge with respect its approach for prioritising planning enforcement.

Environmental implications: None with respect to the consultation.

Legal implications: None with respect to the consultation.

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AGENDA ITEM NO. 9

NUNEATON AND BEDWORTH BOROUGH COUNCIL

Report to: Cabinet – 21st July 2021

From: Director - Planning and Public Protection

Subject: Local Enforcement Plan (Planning) - consultation

Portfolio: Planning, Development & Health

Delivering Our Future Theme: 1, 2, and 3

Delivering Our Future Priority: All

1. Purpose of Report

- 1.1 The purpose of this report is to seek Cabinet approval to consult on the Local Enforcement Plan (Planning).

2. Recommendations

- 2.1 That the Local Enforcement Plan (Planning) document (as set out in Appendix A to the report) be approved for public consultation for 12 weeks.
- 2.2 That the period of public consultation will begin 13 August 2021 and conclude on the 5 November 2021, or such later dates (but for the same duration) as agreed between the Head of Planning and Building Control and the Cabinet Member for Planning Development and Health.
- 2.3 That delegated authority be given to the Head of Planning and Building Control in consultation with the Cabinet Member for Planning, Development and Health to make any minor amendments to the document prior to consultation.

3. Background

- 3.1 A Local Enforcement Plan pertaining the planning enforcement will set out the general principles and procedures pertaining to the planning enforcement service.
- 3.2 The development of the Enforcement Plan is established within paragraph 58 of the National Planning Policy (NPPF). Consultation on the plan is considered to be good practice and will add robustness to

the Council's final policy.

3.3 The draft plan identifies the following objectives:

- assist business and others in meeting their legal obligations without unnecessary expense;
- focus on remedying the effects of development;
- ensure that we enforce breaches of planning control in a fair, equitable and consistent manner;
- take firm action when it is necessary or appropriate to do so; and
- ensure cross Council advice where necessary.

3.4 The draft plan then identifies the following priority hierarchy:

- Priority 1 Where irreversible harm is likely to be caused if the Council do not act immediately. Example: Unauthorised works to Listed Buildings; unauthorised felling/pruning of protected trees.
- Priority 2 Where there is significant public concern or where there is (or is the potential for) significant harm to be caused to residential amenity in the surrounding area. Example: Breaches of planning conditions specifically identified to meet expressed public concerns, such as hours of operation; unauthorised uses/activities which are causing significant harm; illegal advertisements, particularly larger scale advertising on hoardings.
- Priority 3 Smaller scale infringements which do not result in significant immediate or irreversible harm. Example: Single storey rear extensions and rear dormer windows, unauthorised building of walls/fences; unauthorised installation of satellite dishes.

3.5 In addition to the proposed objectives and priorities the consultation draft identifies the proposed approach to dealing with different planning enforcement activities.

3.6 All of these elements of the plan are subject to amendment following the consultation process. A report will be presented to Cabinet identifying the consultation responses and any proposed changes to the plan with a view to then adopting the plan as Council policy.

4. Consultation on the Local Enforcement Plan (Planning)

- 4.1 The development of the Local Enforcement Plan (planning) is not a statutory requirement. As a consequence, the requirements within the Council's Statement of Community Involvement do not apply.
- 4.2 It is recommended that a period of 12 weeks be allowed for the public consultation process to allow for the school holiday period. Consultation will take the form of publication on the Council's website and contact with all those on the Council's planning policy consultation database. Copies of the documents will also be available at Nuneaton Town Hall.

5. Conclusion

- 5.1 That the Local Enforcement Plan (planning) document be approved for public consultation.

6. Appendices

Appendix A – Local Enforcement Plan (planning)

7. Background Papers

None

Planning Enforcement Policy

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Introduction

This proposed policy sets out the general principles that form the standard procedures and function of the Planning Enforcement Service within the planning service at Nuneaton and Bedworth Borough Council. The preparation and adoption of a local enforcement plan is recommended in paragraph 58 of the NPPF.

Nuneaton and Bedworth Borough Council are firmly committed to effective planning enforcement. This will focus on planning breaches, trees, high hedges, advertisements and listed buildings. This means that we will investigate alleged breaches of planning control and take proportionate action to resolve the harm. Regard will be given in each instance to the prevailing circumstances and the particular impact of the unauthorised development or breach in question.

This plan defines “enforcement” broadly, to encompass both informal approaches such as advice, and formal enforcement.

Specifically the plan:

- a) allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
- b) sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
- c) provides greater transparency and accountability about how the Nuneaton and Bedworth planning authority will decide if it is necessary to take action or not; and
- d) provides greater certainty for all parties engaged in the development process.

Objectives and Principles of Planning Enforcement

Objectives

The approach adopted for Planning Enforcement is intended to :

- assist business and others in meeting their legal obligations without unnecessary expense;
- focus on remedying the effects of development;
- ensure that we enforce breaches of planning control in a fair, equitable and consistent manner;
- take firm action when it is necessary or appropriate to do so; and
- ensure cross Council advice where necessary.

All planning and enforcement officers will have regard to these objectives when carrying out their functions in relation to breaches of planning control.

Principles of Good Enforcement

The Council's authorised Officers will deal with anyone subject to the enforcement process in a courteous, impartial and objective manner, taking into account the Council's Equal Opportunities Policy. Planning enforcement officers must be fair and not let any personal views about issues such as ethnic origin, sex, religious beliefs, political views or the sexual orientation of any persons influence their decisions as per Anti-Discrimination policy.

All investigations will be carried out on a strictly confidential basis and the complainant's details will normally be treated as confidential. In respect of serious breaches of planning control which warrant prosecution, or which result in an appeal, this may not be possible particularly when matters progress to court and the complainant is required to give evidence (e.g. the other side may seek to compel a witness) and/ or details of the complaint must be disclosed. However, such occasions are rare and where possible involvement in these cases will be on a voluntary basis.

We will assist offenders and complainants to understand the legal requirements and obligations imposed by the relevant legislation as well as explaining the course of action that the Council can take. In investigating alleged breaches, officers will comply with the provisions of the Police and Criminal Evidence Act 1984, Data Protection Act 2018, Regulation of Investigatory Powers Act 2000, Human Rights Act 1998 and Equalities Act 2010

Planning Enforcement Officers in conjunction with Planning Officers will explain how to remedy the situation and provide solutions. Should the issue not be remedied then Officers can advise on the course of enforcement action and what the consequences are for non-compliance.

Advice and information will be freely given and available and businesses, employers and the public will be encouraged to contact the planning duty Officers regarding relevant matters. We will provide a contact details for the Council and encourage persons to seek information and advice.

We will attempt to reach a negotiated solution to ensure compliance with legislative requirements and planning policies. If the negotiation process is unsuccessful then a range of enforcement options including statutory notices, formal cautions and prosecutions may be the resolution.

The Council will be mindful that enforcement action is a discretionary power to be used only when it is expedient and necessary to do so. In addition to this it should also be noted that it is not a criminal offence to carry out development without permission, except for works to listed buildings, protected trees and displaying adverts which require consent.

However where statutory notices have been served they are required to be complied with within the specified time limits. Failure to comply with notices within the required timescales is a criminal offence that may result in prosecution.

Where enforcement action maybe contemplated by the Council and another agency or service provider, prior consultation will take place with that body and if appropriate a co-ordinated approach will be taken. Officers undertaking enforcement activities will be duly authorised under the delegated powers and will appropriately trained.

Reporting and Handling Complaints

Reporting a Complaint

Complaints can be made via telephone, in writing, by email, via the Council's website and in person. All complaints will be treated as confidential. Anonymous complaints will be accepted although it will not be possible to update the complainant and inform them of the outcome.

- Email at planning@nuneatonandbedworth.gov.uk;
- Filling out the standard enforcement complaints form on our website;
- Over the phone on (02476) 376328;
- Letter to Planning Enforcement, Development Control, Nuneaton and Bedworth Borough Council, Town Hall, Coton Road, Nuneaton, CV11 5AA ;
- Or in person at the planning reception area at the Council Offices, opening hours are 09:00 – 17:00 Monday to Friday.

All complaints initially found to be suspected breach will be registered, this is recorded on our database so it is important that we have the following information:

- name and contact details of complainant;
- full address of the alleged breach of planning control;
- nature of the breach and the harm it may be causing.

Complainants will be asked to provide as much information as possible regarding the alleged breach of planning control. This will include the site address, nature of the alleged breach, length of time it has been occurring, contact details (if known) of the relevant persons and how the alleged breach affects the complainant.

Handling the Complaint

All enforcement complaints are logged onto our computer system with a unique reference number so that each complaint can be monitored and the complainant updated on progress. An acknowledgement will be made with the complainant within 3 working days of the alleged breach being reported. The Planning Enforcement Officer will initially undertake research of the Council's planning records, to establish the planning history of the land under investigation. This may reveal that no breach of planning has occurred; however in most cases further investigation will be necessary.

To avoid the unnecessary use of resources, anonymous reports of suspected breaches of planning control will not normally be pursued unless other evidence suggests that the breach is causing serious harm to the environment or the amenities of residents.

Confidentiality of a complaint's identity will be safeguarded. The Council will treat complaints in confidence so far as possible and subject to any relevant law or court order. In accordance with the Environmental Information Regulations 2004, the Freedom of Information Act 2000 and Data Protection Act 1998 the Council will not disclose the identity of the complainant; however it is sometimes possible for the individual subject of the complaint to make assumptions about who may have made the initial complaint. If complainants are worried about giving their name and address they can contact their local Ward Councillor who may be willing to make the complaint on their behalf.

If a case proceeds to formal action we may need the evidence of a complainant to substantiate the matter. If this is the case the Council would not be able to maintain the anonymity of the complainant. The complainant will be made aware of this prior to formal action taking place.

The Council will investigate all validated complaints relating to breaches of planning control such as changes of use, unauthorised structures, works to listed buildings or protected trees and non-compliance with planning conditions.

The Council will typically undertake/ consider the following when progressing with a complaint:

- Site Visit - In all but the most straight forward cases Officers will visit the site and will ascertain if a breach of planning control has occurred and if so will collect evidence. The majority of sites visits are made without prior arrangement and Officers are required to identify themselves as Planning Enforcement Officers as soon as they enter the site.
- Powers of Entry - The Council's Planning Enforcement Officers have powers of entry. Where site visits are made and no occupier can be found at the time of visit, officers have powers to inspect the land in their absence. Officers do not have powers to force entry into any residential property without first giving 24 hours notice. Where appropriate, Officers will leave a business card requesting the occupier of the land to contact the Council. If officers are refused entry, a course of action can be taken to enter the premises (such as obtaining a warrant (obstruction of a Planning Enforcement Officer is a criminal offence)), however this will be based on whether it will be necessary and proportionate to the alleged breach under investigation.
- Gathering Evidence - Where a complaint relates to an alleged unauthorised use of land, Officers will make a reasonable attempt to determine whether a breach has taken place. In most cases a 'reasonable attempt' will consist of an appropriate number of site visits at days and/or times deemed most suitable for the allegation. This ensures that the Council's limited resources are used efficiently. Where Officers can find no evidence of a breach of planning control the investigation will be closed and no further action will be taken. This will generally happen after a period of 28 days. Such cases will not be reinvestigated unless the complainant is able to provide more substantive evidence of the alleged breach of planning control.
- Research - Officers may use a variety of other methods to determine whether or not a breach of planning control has taken place, including obtaining information from complainants and other sections of the Council and other

agencies. The Council may also seek clarification from case law or obtain legal advice. Some developments do not require planning permission or may be immune from enforcement. For example developments will sometimes benefit from a general planning permission granted by law and known as “Permitted Development”. Where development complies with these requirements, it does not constitute a breach of planning control.

- Enforcement action cannot be taken against developments which are immune under planning legislation due to specific time limits which are:
 - 4 years for unauthorised operational development or change of use of a building to use as a single dwelling house;
 - 10 years for a material change of use of land and buildings or a breach of a condition imposed on a planning permission.
 - In those cases there will be no breach of planning control and no action can be taken.

The Planning Enforcement Officer will update all parties when there is new information to report.

What is not a valid complaint?

Development Control often receive complaints regarding matters that are not breaches of planning control. Often this is where other legislation covers and controls the matter. The following are examples of what we cannot become involved in through our planning enforcement service:

- dangerous structures – please contact the Building Control Partnership on 02476 376125;
- fly tipping and fly posting – please contact our Environmental Enforcement Team on 02476 376170;
- any matter covered by other substantive legislation such as noise and smell – please contact our Environmental Protection Team on 02476 376405;

- any matter covered by advertisements on the highways are dealt with Warwickshire County Council, however enforcement powers are devolved to Environmental Protection Team on 02476 376405;
- use of/ or development on the highway, footway or verge that is covered by highway legislation – please contact Warwickshire County Council on 01926 412515; and
- neighbour nuisance/ boundary and land ownership disputes – these are civil matters that the Council can not get involved in. Further advice on these matters should be obtained from a solicitor or the Citizens Advice Bureau.

Enforcement Priorities

In order to make the best use of the resources available to the Council it is important to prioritise the complaints received in accordance with the seriousness of the alleged breach. This will initially be decided by the Council following receipt of the complaint but may be subject to change following a site inspection or when further information comes to light.

To make the most effective use of resources, all incoming enforcement cases are prioritised when registered, based on information provided by the complainant, and an assessment of any planning history. This will determine the time frame for making an initial site visit and will be affected mainly by the assessment of the type and extent of the harm caused. There are three enforcement priorities:

Priority 1

Where irreversible harm is likely to be caused if the Council do not act immediately. Example: Unauthorised works to Listed Buildings; unauthorised felling/pruning of protected trees.

Priority 2

Where there is significant public concern or where there is (or is the potential for) significant harm to be caused to residential amenity in the surrounding area.

Example: Breaches of planning conditions specifically identified to meet expressed public concerns, such as hours of operation; unauthorised uses/activities which are causing significant harm; illegal advertisements, particularly larger scale advertising on hoardings.

Priority 3

Smaller scale infringements which do not result in significant immediate or irreversible harm. Example: Single storey rear extensions and rear dormer windows, unauthorised building of walls/fences; unauthorised installation of satellite dishes.

Taking Enforcement Action

Enforcement action will only be taken when expedient to do so and is in the public interest. Expediency is based on an assessment of the harm resulting from the breach of planning control. Harm comprises of a number of elements and in order to assess the harm the Planning Enforcement Officers along with Planning Officers would take these elements of harm and take the appropriate action.

Planning Enforcement Officers will seek specialist advice should it be required from other departments or external agencies or other such bodies. Following a breach of planning control, there are four possible courses of action which maybe taken depending on the harm arising from the breach. These are indicated below.

- No action - Inform the complainant and alleged offender that the harm is not sufficient in order to proceed with enforcement action. Complainants will be informed when the file has been closed and informed what action has been taken and the reasons for those decisions.

- Invite an application for consideration in order to regularise the breach of planning control. Where it is assessed that it is possible that planning permission would be granted for the development, the offender would normally be invited to submit a retrospective planning application. Enforcement action is not taken simply because there has been a breach of planning control. It is not a “punitive” measure. The council would not take formal enforcement action against a trivial or technical breach of control, which causes no harm to amenity or the environment. The Council will seek to work with those in breach to voluntarily resolve contraventions to avoid formal action having to be taken. However, an offender can submit an application against Officer’s advice and has the right of appeal (to the Planning Inspectorate) if that application is refused. Case law indicates it would be unreasonable to pursue formal action whilst an application/appeal is under consideration.
- Negotiate to remedy the breach of planning control - Where it is considered that the breach of planning control is unacceptable, Officers will initially attempt to negotiate a solution without recourse to formal enforcement action. Negotiations may involve the reduction or cessation of the breach. Where initial attempts at negotiation fail, formal action will be considered to prevent a protracted process where it is expedient to do so.
- Formal Action - The Council will only take enforcement action when it is considered expedient to do so. Formal enforcement action will not be instigated solely to regularise breaches in planning control. In taking formal enforcement action the Council will be prepared to use all the enforcement powers available commensurate with the seriousness of the breach. In deciding whether to take enforcement action the council will have regard to the development plan and to any other material considerations including national policies and procedures. In considering whether it is expedient to take enforcement action the decisive issue for the Council will be whether the breach of planning control unacceptably affects public amenity, existing land uses and buildings which merit protection in the public interest or the natural environment. Enforcement action is discretionary, and the council will act proportionately in responding to suspected breaches of planning control. It is

not the role of the planning system or planning enforcement to protect the interests of one party against those of another. As such, breaches of planning control are not subject to public consultation. Factors such as breaches of restrictive covenants, private disputes, competition, damage to property and reduction in value of land or property can not be taken into account when assessing whether it would be expedient to take action.

When this is not possible or appropriate, and it is considered expedient to take formal action to resolve a breach, the main options for action are summarised as follows:

- Planning Contravention Notices and Section 330 Notices – These are precursors to more formal action and require in writing details of people’s interest in a property, including the mortgagee. These Notices are requisitions for information to allow the Council to consider serving an appropriate notice.
- Breach of Condition Notice - Can be used where conditions imposed on a planning permission have not been complied with. There is no right of appeal to the Planning Inspectorate. Failure to comply with the Notice is a criminal offence
- Enforcement Notice - This is the usual method of remedying unauthorised development and there is a right of appeal against the notice. The recipient must take the specified steps set out in the notice within a set time period. Failure to comply with the Notice is a criminal offence. There is a right of appeal to the Planning Inspectorate.
- Section 215 Notice - Can be used in relation to untidy land or buildings when the condition of the land or buildings adversely affects the amenity of an area.
- Stop Notice - Can be used in conjunction with an enforcement notice where the breach of planning control is causing irreparable and immediate significant harm. Where Stop Notices are issued, the Council may be liable to pay compensation if it is later decided that such a notice was not appropriate.
- Temporary Stop Notice - These take effect immediately from the moment they are issued, and last for up to 28 days. A Temporary Stop Notice would only be

issued where it is appropriate that the activity or development should cease immediately to safeguard the amenity of the area.

- Prosecution – These are where a person has not complied with a Notice, there must be sufficient evidence to offer a realistic prospect of conviction and that the action would be in the public interest.
- Injunction - This involves seeking an order from the court preventing activity or operation taking place if the breach is serious and would cause exceptional harm.
- Direct Action - The Council may enter land and take the necessary action to secure compliance when enforcement notice or Section 215 Notice are in effect. The council will seek to recover all cost associated with carrying out works. This is only used in extreme cases where resources allow. In defending enforcement action on appeal and in the courts, it will be necessary to show that the relevant procedures have been followed and that national policy on planning and enforcement has been taken into account.

In considering whether to take enforcement action the Council will not give weight, either way, to the fact that development may have commenced. Other than in very specific situations (e.g. works to Listed Buildings) it is not a criminal offence to carry out development without planning permission and it is therefore important that unauthorised developments are treated on their individual merits in the same way as proposed developments. The test to be applied will be “would planning permission have been granted for this development had it been the subject of a planning application?” Any retrospective planning application submitted to rectify a breach of planning control will not be treated any differently from an application made in advance of the works being carried out.

[Other powers – Listed Buildings, Conservation Areas, Advertisements, Trees and High Hedges](#)

[Listed Buildings and Conservation Areas](#)

Cases involving unauthorised works carried out to a Listed Building and unauthorised demolition in a Conservation Area constitutes a criminal offence in their own right. We will consider whether it would be expedient to prosecute for these works rather than issuing a Notice on a case by case basis.

Before commencing any proceedings we would need to be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest.

Advertisements

This is covered by different legislation and unlike most spheres of planning control the display of advertisements without consent is a criminal offence. Therefore we have the power to initiate prosecutions without the need to issue a Notice. Where it has been considered that an advertisement should be removed an offender will normally be given one written opportunity to remove the advertisement voluntarily. Failure to do so will normally result in further action being taken.

Trees

Legislation protects trees which are the subject of Tree Preservation Orders (TPOs) or are within a Conservation Area from felling or other works unless appropriate consent is first obtained. As with advertisements such works are a criminal offence and therefore prosecution can be sought without the requirement to issue a Notice. However, such action would not remedy the harm caused. Section 207 of the Town and Country Planning Act (as amended) provides for a Tree Replacement Notice to be issued. This will require an appropriate tree to be planted where a tree covered by a TPO has been removed.

High hedges

Councils have the power, under Part 8 of the Anti Social Behaviour Act 2003, to adjudicate on disputes over high hedges. Following the complainant having approached their neighbour in order to resolve the matter. Failure to resolve the matter may mean that the Council carry out an assessment of the hedge. If subsequent assessment finds that the hedge is too high the complainant will have to pay a fee of £400 if they wish to progress the matter. In cases where we find in favour of the complainant we will ensure compliance through enforcement of the Remedial Notice if action is necessary. There is a right of appeal to the Planning Inspectorate against the Remedial Notice.

General Information

Complaints against the service – The Council aims to fully investigate and assess all breaches of planning control, and to take enforcement action where it is considered expedient to do so. The Council also aims to ensure high customer service standards are maintained with all parties involved in an enforcement investigation. Where customers are not satisfied with the way an enforcement investigation has been carried out, the complaint will be investigated in accordance with the Council's complaints policy.

If the complaint remains unresolved and you are still unhappy with the response the complaint can be referred to the Local Government Ombudsman.

Officers should not be subjected to any insulting, threatening words or behaviour at any time, either in person or via any other means. Any abusive telephone calls will be terminated. In cases where a complainant acts unreasonably, or takes up a disproportionate amount of officer time, restrictions on contact may be imposed.