

Birmingham City Council

Report to Cabinet

18 May 2021



Subject: **ADOPTION OF THE BIRMINGHAM LOCAL ENFORCEMENT PLAN**

Report of: **Acting Director, Inclusive Growth**

Relevant Cabinet Member: **Councillor Ian Ward, Leader**

Relevant O &S Chair(s): **Councillor Shabrana Hussain, Economy and Skills**

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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – all Wards affected
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 008443/2021		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

1 Executive Summary

- 1.1 Provides Cabinet with an update on the outcomes of the public consultation into the Birmingham Local Enforcement Plan (BLEP) carried out during October and November 2020 (attached at Appendix 1)
- 1.2 Seeks authority from Cabinet to adopt the BLEP (attached at Appendix 2).

2 Recommendations

- 2.1 That Cabinet adopts the Birmingham Local Enforcement Plan as a document which describes the purposes of Birmingham City Council's planning enforcement service and how it will be delivered.

3 Background

- 3.1 The National Planning Policy Framework suggests that Local Planning Authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area.
- 3.2 The BLEP relates to Birmingham City Council's planning enforcement service and describes the purposes of the service and how it will be delivered.
- 3.3 The BLEP explains the Council's policy and procedure for dealing with reports of alleged breaches of planning control and handling planning enforcement issues. It identifies local priorities for enforcement action so that the Council's enforcement resources are put to the best use in dealing with breaches of planning control. The BLEP has been designed to meet the current needs of the city rather than producing an "off the shelf" version similar to other Local Planning Authorities.
- 3.4 Although planning enforcement is discretionary and not a mandatory function of Local Planning Authorities, it is commonly recognised the Council must act reasonably when exercising a discretion ("the Wednesbury Principle") and that the integrity of the Development Management process depends on the Council's commitment to take effective action against unauthorised development.
- 3.5 The BLEP will therefore ensure that officers, councillors and the general public will be aware of the approach to planning enforcement and provides greater certainty for all parties engaged in the development process.
- 3.6 The BLEP was consulted on publicly from the 5th October 2020 to 16th November 2020 seeking views from the public and stakeholders. The consultation statement attached as Appendix 1 details the comments received and how the BLEP addresses them. The stand out issue was the perception of the service and what it can and cannot do. The BLEP addresses in detail the planning enforcement process which is bound by legislation and government guidance, but as a result of the consultation a decision has been made to publicise the achievements and statistics of the service in order to inform the public of the work being carried out.

4 Options Considered and Recommended Proposal

- 4.1 **Option 1 – Do not adopt the BLEP** - Should the Council not adopt the BLEP, there will be a lack of strategic policy for comprehensive planning enforcement action specific to the needs of the city. The current enforcement charter will continue to be used to manage the enforcement process.
- 4.2 **Option 2 – Adopt the BLEP** – The BLEP would give greater clarity and assurances for delivery of the planning enforcement function. Without this, there will be a lack of direction for planning enforcement decisions within the city.

4.3 Recommended Proposal – Adopt the BLEP.

5 Consultation

- 5.1 The consultation has followed the principles set out in the Birmingham Statement of Community Involvement Temporary Amendments due to COVID-19 Restrictions. The draft BLEP has been published online and all those on the Planning Policy Consultation database, including all Birmingham City Council elected members, have been notified. The database includes a wide range of consultees covering voluntary, ethnic, religious, disability, environmental and business groups, statutory bodies, agencies and other key stakeholders. All feedback and comments received have been taken into consideration in formulating the final version of the BLEP which is presented at Appendix 2 to Cabinet for adoption alongside a summary of the comments received.

6 Risk Management

- 6.1 Three risks were identified: Effective planning service; Protection of the amenity of occupiers/residents and Protection of the historic environment. All three are considered low risk with the adoption of the BLEP. See risk register at Appendix 4.

7 Compliance Issues:

- 7.1 **Are the recommended decisions consistent with the City Council's priorities, plans and strategies?**

7.1.1 The BLEP will support the delivery of the Birmingham Development Plan 2031. The BLEP is consistent with the Council Plan 2018-2022 (as updated in 2019) and in particular, the outcome; Birmingham is an Entrepreneurial City to learn, work and invest by providing a framework for planning enforcement.

7.2 Financial Implications

7.2.1 Public consultation and preparation of the BLEP has been carried out using existing Planning and Development staff resources whose costs are funded from existing approved Inclusive Growth revenue budgets.

7.2.2 There are no additional financial implications arising from the adoption and operation of the BLEP, as planning enforcement action will be undertaken by existing Planning and Development staff.

7.3 Legal Implications

7.3.1 The drafting of the BLEP has been informed by paragraph 58 of the National Planning Policy Framework, and Planning Practice Guidance as well as the requirements of the Birmingham Development Plan which is fundamental in guiding decisions relating to breaches of planning control. In addition, Part

VII of the Town and Country Planning Act (T&CPA) 1990 (as amended) provides the statutory basis for planning enforcement matters

7.4 Procurement Implications

7.4.1 N/A

7.5 Human Resources Implications

7.5.1 N/A

7.6 Public Sector Equality Duty

7.6.1 An Equality Analysis screening has been undertaken and is attached at Appendix 3. The initial assessment has not identified that the BLEP will have any specific impact on protected characteristics defined under the Equalities Act 2010, and therefore a full equalities impact assessment is not required.

7.6.2 The Equality Analysis will be updated following a review of the consultation feedback and will inform the preparation of the final BLEP.

8 Appendices

8.1 Appendix 1 – Consultation Statement

8.2 Appendix 2 – Birmingham Local Enforcement Plan

8.3 Appendix 3 – Equality Analysis

8.4 Appendix 4 – Risk Register

9 Background Documents

9.1 The Birmingham Development Plan (BDP) 2031 - adopted 10 January 2017 by Birmingham City Council

9.2 Statement of Community Involvement Temporary Amendments due to COVID-19 Restrictions – Birmingham City Council July 2020