

**Bolsover District Council**

**Growth Scrutiny Committee**

**25 July 2018**

<b>Draft Local Enforcement Plan (Planning)</b>
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**Report of the Planning Manager**

This report is public

**Purpose of the Report**

- To allow the Scrutiny Committee to consider the Planning Department's proposals to publish a Local Enforcement Plan (Planning).

**1 Report Details**

**Background**

- 1.1 A draft version of a local enforcement plan for Bolsover District is included as Appendix A to this report.
- 1.2 Paragraph 207 of the National Planning Policy Framework says: effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.
- 1.3 This paragraph goes on to say: local planning authorities should consider publishing a Local Enforcement Plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.
- 1.4 Therefore, a Local Enforcement Plan is not a statutory requirement, would not form part of the Local Plan, and would not be a development plan document or supplementary planning document. It is also not clear whether the Local Enforcement Plan (as drafted) would be classed as guidance rather than a 'strategy' or 'policy' as defined in the Council's Constitution. However, publication of a Local Enforcement Plan would be consistent with Government guidance on best practice in respects of planning enforcement, the Regulator's Code and the Council's existing and emerging corporate enforcement policies.

## Key Points

### 1.5 The draft Local Enforcement Plan sets out:

- how we will prioritise suspected breaches of planning controls;
- how to report a suspected breach of planning controls;
- how we will deal with suspected breaches of planning controls;
- who is responsible for implementing these policies; and
- how we will monitor planning enforcement.

### 1.6 In terms of service standards, the nature of planning enforcement means that it is not possible to target a timescale in which to close a case. For example, if an enforcement notice is served, officers have no control over how long the Planning Inspectorate will take to deal with any subsequent appeal against that enforcement notice and cannot guarantee the outcome of that appeal.

### 1.7 It is also not possible for officers to meaningfully control how many complaints the Planning Department receive about suspected breaches of planning controls or how many breaches occur within the District at any particular time although it is hoped this document will help reduce both.

### 1.8 However, the draft Local Enforcement Plan sets out the following service standards that officers consider are specific, measurable, achievable and realistic:

- The site of a high priority case will be visited in the same day the suspected breach of planning control has been identified, wherever possible, and a decision on what further action is required will be taken within 24 hours of that site visit.
- A site visit will be undertaken within two weeks of identifying a suspected breach of planning controls that is likely to be a medium priority case. A decision on what further action to take will be made within four weeks of that site visit.
- A site visit will be undertaken within four weeks of identifying a suspected breach of planning controls that is likely to be a low priority case. A decision on what further action to take will be made within six weeks of that site visit.

### 1.9 These service standards have been designed to facilitate prompt investigation of suspected breaches of control and encourage making timely decisions on how to progress individual cases.

## **2 Conclusions and Reasons for Recommendation**

### 2.1 Firstly, it is not a criminal offence to carry out unauthorised development (unless an enforcement notice is in place) and there are many different ways that the Council can tackle unauthorised development and other breaches of planning control including taking no further action because planning enforcement is discretionary.

- 2.2 The Government also says that the Council should act in a proportionate way when tackling breaches of planning control. This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control and formal enforcement action should be used as a last resort in most cases.
- 2.3 The Council also has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means cases will be dealt differently depending on the individual circumstances of the case but the Council still needs to demonstrate it takes a consistent approach to planning enforcement.
- 2.4 In these respects, effective planning enforcement is important to:
- tackle breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area, or have an unacceptable adverse impact on the living conditions of local residents;
  - maintain the integrity of the decision-making process by tackling unauthorised development that would not normally get planning permission; and
  - maintain public confidence in the Council's decision-making processes by ensuring conditions and planning obligations needed to make development acceptable in planning terms are complied with.
- 2.5 Therefore, the preparation and adoption of a local enforcement plan is equally important because it:
- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
  - sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
  - provides greater transparency and accountability about how the Council will decide if it is expedient to exercise its discretionary powers;
  - provides greater certainty for all parties engaged in the development process.
- 2.6 Consequently, officers consider the publication of a Local Enforcement Plan is not only best practice from a planning perspective; publication of a local enforcement plan is also closely aligned with the Council's priorities including promoting sustainable development and growth, transforming our organisation, promoting healthy and safe communities and delivering excellent customer service.

### **3 Consultation and Equality Impact**

- 3.1 Following consideration of the draft Local Enforcement Plan by the Scrutiny Committee it is intended to report the Local Enforcement Plan to Planning Committee and then Executive. Subject to any revisions or amendments suggested or required by Members, it is intended to carry out public consultation primarily to raise awareness of the document and the Council's work on planning enforcement more generally.
- 3.2 It is not considered that the publication of a Local Enforcement Plan would have any direct impacts on any person with a protected characteristic or any group of people that share a protected characteristic.
- 3.3 However, the Local Enforcement Plan is written in plain English to make our processes more accessible. The Local Enforcement Plan also explains how we will deal with enforcement cases fairly and consistently and how we will fulfil the public sector equality duty when we carry out planning enforcement.

### **4 Alternative Options and Reasons for Rejection**

- 4.1 Members of the Planning Committee have oversight of planning enforcement and it is considered publication of a Local Enforcement Plan will provide the Planning Committee with greater certainty of how officers will carry out this function within the District. The publication of a Local Enforcement Plan is also consistent with Government guidance on best practice and accords with the Council's priorities. Therefore, no alternative options were considered.

### **5 Implications**

#### **5.1 Finance and Risk Implications**

- 5.1.1 There are no significant cost implications involved with publication of a Local Enforcement Plan because it is intended to be a web-based resource. Publication of a Local Enforcement Plan should also reduce the risk of complaints about planning enforcement and the risk of abortive action because it sets out clearly how we intend to carry out planning enforcement fairly and consistently across the District.

#### **5.2 Legal Implications including Data Protection**

- 5.2.1 The Local Enforcement Plan would not contain any personal data and therefore does not raise any issues in respects of the GDPR. There are no particular legal implications in respects of a decision not to publish a Local Enforcement Plan because publication is discretionary. However, a publication version of a Local Enforcement Plan will need to be monitored and reviewed to ensure it remains consistent with case law and/or any subsequent changes in national guidance or legislation.

### 5.3 Human Resources Implications

- 5.3.1 Publication of a Local Enforcement Plan does not give rise to any additional staffing costs but adoption of a Local Enforcement Plan should help officers make the most efficient and effective use of resources by setting clear priorities and establishing a clear framework to work within.

## 6 Recommendations

- 6.1 That this report is noted and Members provide comments as necessary.
- 6.2 That Members agree to the public consultation and subsequent submission of the Plan to Planning Committee and Executive for adoption and implementation.

## 7 Decision Information

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No
<b>Has the relevant Portfolio Holder been informed</b>	Yes
<b>District Wards Affected</b>	All
<b>Links to Corporate Plan priorities or Policy Framework</b>	All

## 8 Document Information

Appendix No	Title
A	Draft Local Enforcement Plan
<b>Background Papers</b> (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
n/a	
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