

Bolsover District Council

Planning Committee

26 September 2018

Draft Local Enforcement Plan

Report of the Planning Manager

This report is public

Purpose of the Report

- To consider publication of a Local Enforcement Plan to provide information on how the Council will respond to suspected breaches of planning control, tackle unauthorised developments and monitor the implementation of planning permissions.

1 Report Details

Background

- 1.1 Paragraph 58 of the revised National Planning Policy Framework (published July 2018) 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.
- 1.2 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.
- 1.3 Therefore, a Local Enforcement Plan is not a statutory requirement and would not form part of the Local Plan. However, publication of Local Enforcement Plan would be consistent with Government guidance on best practice in respects of planning enforcement. This report provides further analysis of the additional benefits arising from the Council publishing a Local Enforcement Plan.
- 1.4 A draft version of a Local Enforcement Plan for Bolsover District is included as Appendix A to this report.

Assessment

- 1.5 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.

- 1.6 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.
- 1.7 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.
- 1.8 Therefore, the preparation and adoption of a Local Enforcement Plan is 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.
- 1.9 By achieving these objectives, a Local Enforcement Plan will also promote effective planning enforcement, which is important to:
 - tackle breaches of planning control which would otherwise have unacceptable impact on the amenity of the area;
 - maintain the integrity of the decision-making process; and
 - help ensure that public acceptance of the decision-making process is maintained.
- 1.10 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.

Service Standards

- 1.11 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.
- 1.12 The Local Enforcement Plan also introduces service standards even though 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.
- 1.13 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 publication of the Local Enforcement Plan will help reduce both.
- 1.14 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 eight weeks of that site visit.
- 1.15 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 Planning enforcement is carried out across the District and is a front-line service that can have an impact on the reputation of the Council and public confidence in the planning system. It is therefore important that the wider Council is kept informed of proposals that directly affect how planning enforcement will be carried out within the District.
- 2.2 In these respects, oversight of planning enforcement falls most directly to members of the Planning Committee 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.
- 2.3 Finally, the publication of a Local Enforcement Plan is consistent with Government guidance on best practice and carrying out effective planning enforcement accords with the Council's corporate priorities and vision for the District.

3 Consultation and Equality Impact

- 3.1 The draft Local Enforcement Plan has been developed by senior officers in this Council's Planning Department in liaison with the Planning Manager and Principal Enforcement Planner at North East Derbyshire to ensure that it is fit for purpose. Feedback from SAMT has also fed into the draft and the draft has been taken to the Growth Scrutiny Committee and Executive at Bolsover District Council. Following consideration of the draft Local Enforcement Plan attached to this report as Appendix A by the Council's Planning Committee, it is intended to carry out public consultation.
- 3.2 A formal Equality Impact Assessment on the Local Enforcement Plan is not considered to be necessary as it is legislation and national guidance led. Nonetheless, 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 and comply with human rights legislation when we carry out planning enforcement. In these respects, officers have assessed the supporting procedures to ensure that there are no barriers to the service and support will be given to any person affected by enforcement issues if it is requested.

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 carrying out effective planning enforcement accords with the Council's corporate priorities and vision for the District. Therefore, no alternative options were considered.

5 **Implications**

Finance and Risk Implications

- 5.1 There are no significant cost implications involved with publication of a Local Enforcement Plan not least because it is intended to be a web-based resource.
- 5.2 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.

Legal Implications including Data Protection

- 5.3 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.

Human Resources Implications

- 5.4 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**

- To note the proposals to publish a Local Enforcement Plan and provide feedback on the current draft; and
- To consult on the draft Local Enforcement Plan subject to any amendments agreed by the Planning Committee;
- To consider further amendments and approval of a publication version of the Local Enforcement Plan following public consultation on the draft attached as Appendix A.

7 **Decision Information**

Is the decision a Key Decision? (A Key Decision is an executive decision which results in income or expenditure to the Council of £50,000 or more or which has a significant impact on two or more District wards)	No
Is the decision subject to Call-In?	No

(Only Key Decisions are subject to Call-In)	
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	Links to growth, transformation, customer service and healthy communities.

8 Document Information

Appendix No	Title
A	Draft Local Enforcement Plan
Background Papers (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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Report Reference –