

**Bolsover District Council**

**Planning Committee**

**31<sup>st</sup> July 2019**

**Local Enforcement Plan (Planning)**

**Report of the Planning Manager**

This report is public

**Purpose of the Report**

- To report progress on the service targets set out in the Local Enforcement Plan.

**1 Report Details**

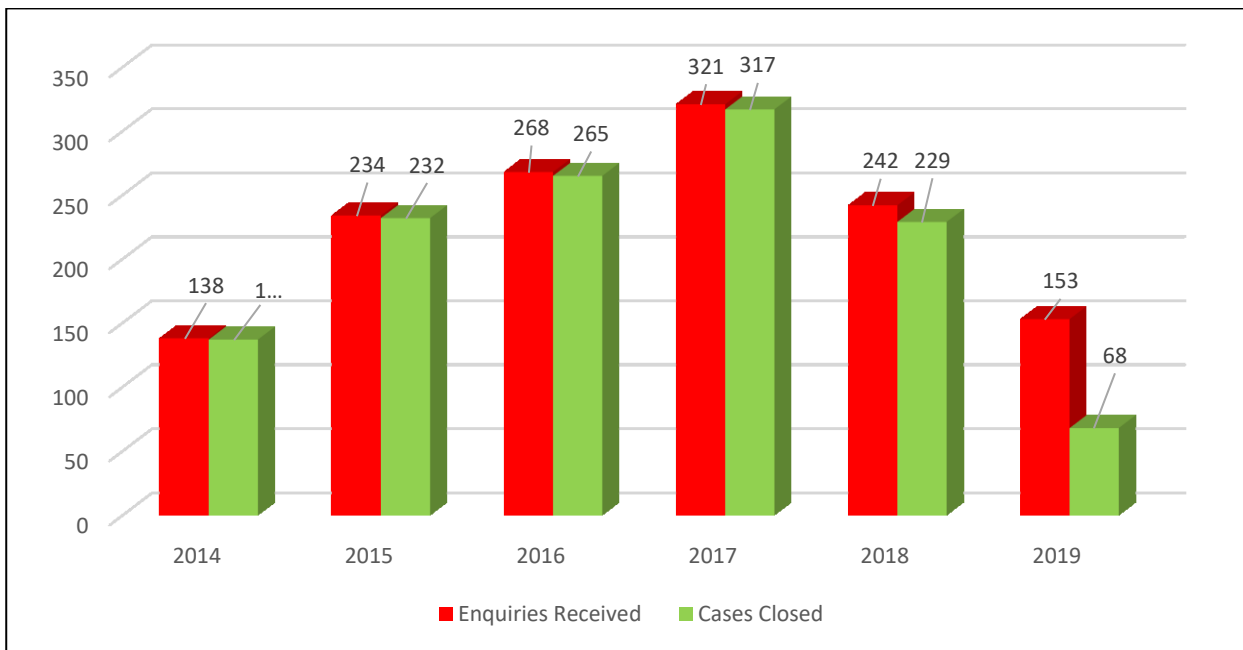
**Background**

- 1.1 The Local Enforcement Plan was adopted by the Planning Committee earlier this year and 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 six 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.
- 1.2 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.
- 1.3 The purpose of this report is to evaluate the performance of the Planning Service against these service standards for the first six months of 2019 (i.e. from January 2019 – June 2019).

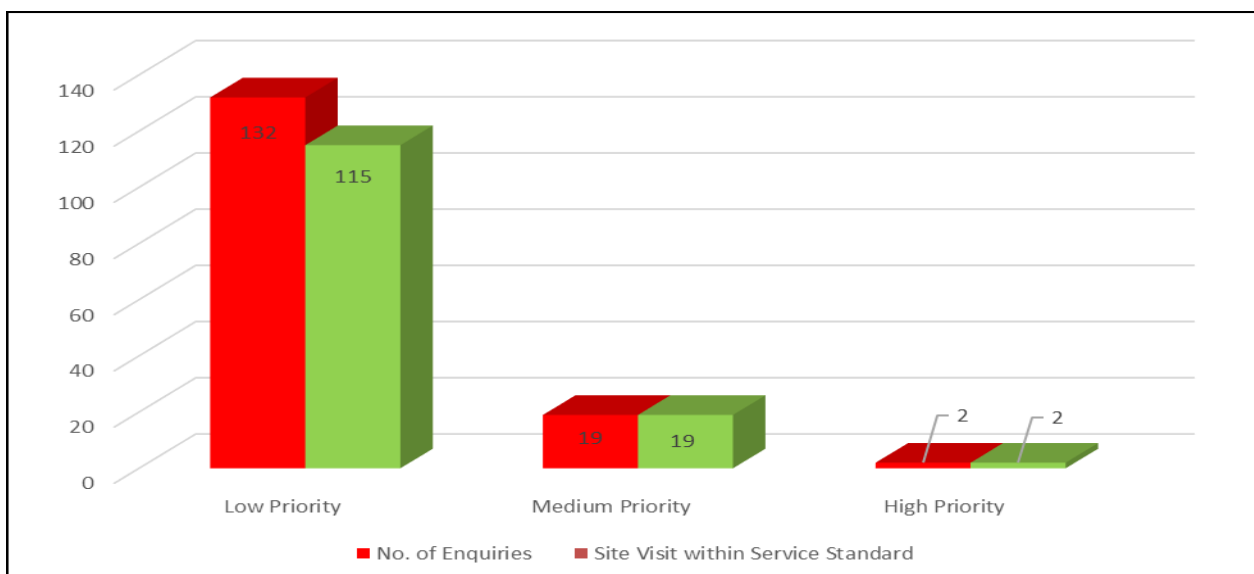
## Performance

- 1.4 The following graphic show workflows over the last five calendar years and the first six months of 2019. Over this period, the enforcement team operated with an establishment of 2 Full Time Equivalent (FTE) employees but for 18 months (2016-2017) there was only 1 FTE dealing with unauthorised developments. The department is now fully resourced again after one of the team recently left the Council for other employment.
- 1.5 The graphic below helps to show that 2 FTE are needed because the Planning Service has received 153 new complaints and closed 68 cases over the last 6 months so workload pressures continue to place a high demand on the team.

## Workflows



## 2019 Site Visits within Service Targets



- 1.6 The graphic immediately above shows that during the first six months of 2019, despite other workload pressures, the enforcement team still managed to visit 100% of high and medium priorities within the service standard i.e. the team visited both high priority cases the same day as the initial enquiry was received and all 19 reported medium priority cases within two weeks of the initial enquiry.
- 1.7 Over the last six months, the team also managed to visit 115 out of 138 low priority cases within six weeks of the initial enquiry i.e. the team managed to visit 87% of all new low priority cases within the service standard.
- 1.8 It is considered this represents good performance against the service targets taking into account the volume of new enquiries, the disruption to the team caused by having to replace one of the team members and other workload pressures.
- 1.9 For example, workflows have been affected by two ongoing high priority cases and two new high priority cases, which means the table below shows that more lower priority cases are pending further action at the time of writing than might have been anticipated.

2019 Status of new Enquiries

<b>2019</b>	<b>No. of Enquiries</b>	<b>Closed Cases</b>		<b>Cases Pending</b>	
<b>Total</b>	<b>153</b>	<b>68</b>	<b>44%</b>	<b>85</b>	<b>56%</b>
<b>Low Priority</b>	<b>132</b>	<b>65</b>	<b>49%</b>	<b>67</b>	<b>51%</b>
<b>Medium Priority</b>	<b>19</b>	<b>3</b>	<b>16%</b>	<b>16</b>	<b>84%</b>
<b>High Priority</b>	<b>2</b>	<b>0</b>	<b>-</b>	<b>2</b>	<b>100%</b>

- 1.10 The other major factor affecting current workloads is dealing with the legacy of historic cases, which has partially arisen due to the enforcement team being 1 FTE down for a significant period of time, as noted above. The table below shows the number of long-standing cases we still have 'on the books'.
- 1.11 In summary, there are 23 long-standing 'pending' cases of which 13 were first reported last year. However, compared to other authorities, this represents exceptionally good performance based on the recent localised benchmarking carried out by officers.

### Historic Cases

<b>Year</b>	<b>No. of Enquiries</b>	<b>Closed Cases</b>	<b>Cases Pending</b>
<b>2014</b>	138	137	1
<b>2015</b>	234	232	2
<b>2016</b>	268	265	3
<b>2017</b>	321	317	4
<b>2018</b>	242	229	13

- 1.12 The following table show the current status of the longest-running cases still pending (as noted in the above table) and it can be seen that even when formal action has been taken, it can take a period of several years before some cases can be brought to a satisfactory conclusion.

### Status of Historic Cases

<b>Reference</b>	<b>Location</b>	<b>Allegation</b>	<b>Status</b>
E14/081	27 High Street Whitwell	External insulation and render applied to the property	Notice served and subsequent appeal dismissed. Landowner currently removing render
E15/120	Grade II Listed Building	Alleged unauthorised works to listed building	Potential action pending outcome of structural survey
E15/232	The Laurels Barlborough	Stable block erected in Green Belt without planning permission	Notice served but awaiting outcome of appeal against refusal of planning permission for retention of a 'smaller' building.
E16/211	Property in Conservation Area	Unauthorised alterations to the property and boundaries.	Awaiting outcome of appeal against refusal of planning permission.

E16/220	Commercial Premises in Conservation Area	Installation of UPVC windows without planning permission.	Further action pending due to recent change of ownership
E16/233	Domestic property outside settlement framework	Unauthorised use of land for tree surgery business	Use ceased but ongoing monitoring
E17/086	Grade II Listed Building	Alleged hard-landscaping, front extension and erection of walls.	Pending consideration following refusal of planning application.
E17/117	Grade II listed Building	Erection of a stainless steel chimney on existing garage and erection of an outbuilding.	Pending consideration following refusal of planning application.
E17/178	Commercial Premises within residential area	Change of use of carpet warehouse to tyre fitting unit.	Pending consideration following refusal of planning application.

- 1.13 In many of the above cases, it can also be seen that the main delays are caused by the process of dealing with the submission of retrospective applications and subsequent appeal of refusal of planning permission for that application.
- 1.14 This is a process that is repeated in a very similar manner when a formal enforcement notice is issued following a dismissed planning appeal and then the formal notice is subsequently appealed - often on almost identical grounds as the first appeal.
- 1.15 Therefore, officers are considering 'fast-tracking' the process by issuing an enforcement notice at the time of a refusal so the issues can be dealt with by way of a 'single' appeal.
- 1.16 It is also notable that many of the long-standing cases relate to high priority cases including unauthorised development within a Conservation Area and unauthorised works to listed buildings, which often take up a significant amount of officer time.
- 1.17 For example, the team has recently served a formal notice in respects of unauthorised works to a Grade II Listed Building in Pinxton, which was a case first reported last year. A significant amount of resource was required to serve this notice because of the nature of the works and the technicalities of drafting up the notice, which required the input of a principal planner, principal enforcement officer, planning manager and the Council's heritage conservation specialist.

- 1.18 The notice has now been served and requires the owner to put a historic concert room partially converted into living space and other architectural features (damaged by the associated works) back to their original condition - as far as is practicable. However, the suspected offender now has the right of appeal, which may require further work preparing for a hearing.
- 1.19 As noted above, the planning service are awaiting the outcome of a structural survey of a Grade II listed building, which may also result in the need for further action. In addition, the planning service have two recently reported high priority cases involving unauthorised developments in Conservation Areas, which may require further action to resolve.
- 1.20 Consequently, if the Planning Service continues to receive a large volume of new enquiries about low priority cases while we are dealing with these high priority cases, there may continue to be some slippage against service standards for the initial visit to low priority cases, which might then mean these cases take longer to bring to a conclusion than the Planning Service would prefer to see.
- 1.21 However, as the analysis of the last five years shows, the Planning Service have previously been able to 'catch up' with pending cases by following the principles in the Local Enforcement Plan and in particular, by using formal enforcement action as a last resort in most low and some medium priority cases.
- 1.22 Equally, by dealing expeditiously with minor breaches of planning control, the Planning Service can give more resource to tackling breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area and/or have an unacceptable adverse impact on the living conditions of local residents.

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

- 2.1 Officers consider that the Local Enforcement Plan is working insofar as it is allowing the enforcement team 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.
- 2.2 It is also considered that the enforcement team is performing well against the service standards with regard to promptly visiting sites where cases have been reported to the Planning Service and making first contact with the suspected offender.
- 2.3 However, it is too early at this stage to properly determine whether the amount of pending cases currently on hand is down to whether we have sufficient resource to deal with the nature of the work we are dealing with and the current volume of enquiries within the relevant service standards for low priority cases.
- 2.4 Consequently, officers would recommend that this report is noted and further monitoring reports are submitted to the Planning Committee on a half-yearly basis to allow Members to retain appropriate oversight of these issues and the effectiveness of the Council's planning enforcement.

2.5 In these respects, Members will already be aware effective planning enforcement 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 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.

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

3.1 This report has not been subject to consultation because it is mainly for information rather than for the purposes of policy making or decision making. For the same reasons, it not considered that the above report gives rise to any issues under the public sector duty set out in the Equality Act 2010.

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

4.1 Members of the Planning Committee have oversight of planning enforcement and it is considered appropriate to report on performance against the Local Enforcement Plan and highlight issues within planning enforcement on a regular basis. Therefore, options other than producing this type of report for Members on a half-yearly basis have not been considered in any detail.

### **5 Implications**

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

5.1.1 There are no significant cost implications involved with reporting performance against the Local Enforcement Plan but as noted below, this monitoring report may give rise to further consideration of the resources required by the enforcement team to work effectively.

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

5.2.1 Producing this type of monitoring report is consistent with the Local Enforcement Plan that says the Plan will be monitored and reviewed to ensure it remains consistent with case law and/or any subsequent changes in national guidance or legislation and continues to enable planning enforcement to be carried out effectively within the District. However, there is no legal requirement to produce a monitoring report.

5.2.2 This report does not contain any personal data other than some details of the addresses of properties where there are ongoing enforcement issues.

5.2.3 Where the case is still pending consideration, the property address has been anonymised to provide a reasonable amount of privacy for the landowners involved. Where the property is subject to formal action, the presence of an enforcement notice is a matter of public record and that information is publically available.

5.2.4 Therefore, the way property addresses have been reported in this report is considered to be consistent with the key principles in the GDPR.

### 5.3 Human Resources Implications

5.3.1 The 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. However, monitoring progress against service standards in the Plan may identify additional resource is needed to enable planning enforcement to be carried out effectively within the District.

## 6 Recommendations

6.1 That this report be noted.

6.2 That the planning department's performance against the Service Standards in the Local Enforcement Plan and updates on planning enforcement continue to be reported to Planning Committee on a half-yearly basis.

## 7 Decision Information

<p><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></p>	No
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	No
<p><b>Has the relevant Portfolio Holder been informed</b></p>	Yes
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All



**8 Document Information**

Appendix No	Title
n/a	
<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	
Report Author	Contact Number
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