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To: Leader & Members of the Executive

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Friday, 14th February 2020

Dear Councillor

EXECUTIVE

You are hereby summoned to attend a meeting of the Executive of the Bolsover District Council to be held in the Council Chamber, The Arc, Clowne on Monday, 24th February, 2020 at 10:00 hours.

Register of Members' Interests - Members are reminded that a Member must within 28 days of becoming aware of any changes to their Disclosable Pecuniary Interests provide written notification to the Authority's Monitoring Officer.

You will find the contents of the agenda itemised from page 2 onwards.

Yours faithfully

A handwritten signature in black ink that reads "Sarah Steenberg".

Joint Head of Corporate Governance & Monitoring Officer

The logo for Bolsover District Council, featuring the word "Bolsover" in a large, black, serif font, with "District Council" in a smaller, black, sans-serif font below it. A black swoosh underline is positioned beneath the text.

We speak your language
Polish **Mówimy Twoim językiem**
Slovak **Rozprávame Vaším jazykom**
Chinese **我们会说你的语言**

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EXECUTIVE AGENDA

Monday, 24th February, 2020 at 10:00 hours in the Council Chamber, The Arc, Clowne

Item No.	<u>PART 1 – OPEN ITEMS</u>	Page No.(s)
1.	Apologies For Absence	
2.	Urgent Items of Business To note any urgent items of business which the Chairman has consented to being considered under the provisions of Section 100(B) 4(b) of the Local Government Act 1972.	
3.	Declarations of Interest Members should declare the existence and nature of any Disclosable Pecuniary Interest and Non Statutory Interest as defined by the Members' Code of Conduct in respect of: a) any business on the agenda b) any urgent additional items to be considered c) any matters arising out of those items and if appropriate, withdraw from the meeting at the relevant time.	
4.	Minutes To consider the minutes of the last meeting held on 10 th February 2020.	4 - 9
	<u>MATTERS REFERRED FROM SCRUTINY</u> None.	
	<u>BUDGET & POLICY FRAMEWORK ITEMS</u> None.	
	<u>NON KEY DECISIONS</u>	
5.	Service Planning and Charging for Commercial Team Support Services in Environmental Health <i>Recommendations on page 16</i>	10 - 56
6.	Sale of land to registered custom and self builders <i>Recommendations on pages 61 and 62</i>	57 - 65

KEY DECISIONS

None.

7. Exclusion of the public

To move:-

“That under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the stated Part 1 of Schedule 12A of the Act and it is not in the public interest for that to be revealed.” [The category of exempt information is stated after each item].

PART 2 - EXEMPT ITEMS

KEY DECISIONS

- | | | |
|-----------|--|----------------|
| 8. | Safe and Warm Upgrade Scheme - Pattison Street, Shuttlewood | 66 - 69 |
| | <i>Recommendations on page 68</i> | |
| | <i>(Paragraph 3)</i> | |
| 9. | Central Heating Upgrade, Bramley Vale and other sites within the District | 70 - 73 |
| | <i>Recommendations on page 72</i> | |
| | <i>(Paragraph 3)</i> | |

EXECUTIVE

Minutes of a meeting of the Executive of the Bolsover District Council held in the Council Chamber, The Arc, Clowne on Monday, 10 February 2020 at 10:00 hours.

PRESENT:-

Members:-

Councillor Steve Fritchley in the Chair

Councillors Duncan McGregor (Deputy Leader), Nick Clarke, Clive Moesby, Sandra Peake, Liz Smyth and Deborah Watson.

Officers:- Karen Hanson (Joint Strategic Director - Place), Lee Hickin (Joint Strategic Director - People), Theresa Fletcher (Head of Finance and Resources & Section 151 Officer), Victoria Dawson (Solicitor - Team Manager (Contentious)) and Donna Cairns (Senior Governance Officer).

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor Mary Dooley.

2 URGENT ITEMS OF BUSINESS

The Leader agreed to an urgent item of business at the meeting of Executive on 10th February 2020, in accordance with Section 100(B) 4(b) of the Local Government Act 1972, as follows:

Disposal of a parcel of land off St Martin's Walk at Hodthorpe.

This item of business was exempt from publication under Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972, therefore the exclusion of the public was also added to the agenda.

Reason for Urgency: The Council had been in negotiations with Keepmoat Homes Limited over the access / disposal of this piece of land since 2015. Keepmoat Homes Limited were bound by a Grampian Condition as part of their planning application for the development in Hodthorpe, which required the confirmed access over the aforementioned land prior to commencement of any works on site. The urgency was necessary to ensure that the negotiated price was accepted and there was no room for Keepmoat to reduce the price due to a delay. They had set a deadline for agreement of the week commencing 10th February 2020. By considering the matter on 10th February, the Council could continue to progress the matter with Keepmoat Homes Limited's solicitor and complete the matter promptly. This was also to enable Keepmoat to commence with the development of the land.

The Chair of Growth Scrutiny Committee had consented to the use of the Special Urgency Procedure as the requirements to give notice of 28 clear days of a key decision and the private meeting had not been met.

EXECUTIVE

3 DECLARATIONS OF INTEREST

Members were requested to declare the existence and nature of any disclosable pecuniary interests and/or other interests, not already on their register of interests, in any item on the agenda and withdraw from the meeting at the appropriate time.

There were no declarations made at the meeting.

4 MINUTES

It was noted that at the Exclusion of the Public item, the Minutes incorrectly stated that Councillor Duncan McGregor both moved and seconded the motion. This should have stated that the motion was seconded by Councillor Steve Fritchley.

Moved by Councillor Duncan McGregor and seconded by Councillor Steve Fritchley
RESOLVED that, subject to the amendment noted above, the minutes of a meeting of Executive held on 20th January 2020 be approved as a true and correct record.

MATTERS REFERRED FROM SCRUTINY

None.

BUDGET & POLICY FRAMEWORK ITEMS

5 MEDIUM TERM FINANCIAL PLAN 2020/21 TO 2023/24

Executive considered the report of the Portfolio Holder – Finance & Resources which recommended the proposed budget for 2020/21 for the General Fund, Housing Revenue Account and Capital Programme as part of the Council's Medium Term Financial Plan covering the years 2020/21 to 2023/24 and provided elected Members with an overview of the Council's financial position in order to inform the decision making process.

The Head of Finance and Resources & Section 151 Officer gave a presentation which outlined key areas of the report and the Council's financial position. Members were advised that the presentation had also been given to Budget Scrutiny Committee and all Members were able to access a copy of the presentation even if they were unable to attend the meeting.

The Medium Term Financial Plan covered three areas:-

- General Fund;
- Housing Revenue Account (HRA);
- Capital Programme.

Executive's recommendations were to be reported to Council at its meeting on 19th February 2020 in order to secure agreement for the Council's budget in respect of the 2020/21 financial year.

EXECUTIVE

The Council's Section 151 Officer was satisfied that the methodology adopted to calculate the estimates was robust and provided Members with reliable information on which to base their decisions. Likewise the Section 151 Officer was satisfied that the proposed level of reserves was adequate to cover the issues and potential risks which the Council may face.

General Fund

The Council's original budget for 2019/20 showed a deficit of £0.083m. Executive considered the Revised Budget in December 2019 and no changes were made to the budget position since that time. The final in-year surplus was dependent on the actual financial performance in line with the revised budget. It was agreed that the estimated surplus of £0.261m, be used to increase the General Fund balance and be utilised to mitigate the expected increase in the contribution to the Local Government Pension Scheme over the next three financial years.

The proposed budget for 2020/21 showed a deficit of £0.290m.

The report set out details of the anticipated level of Government funding and other areas of income, as well as details of the expenditure changes forecast over the Medium Term Financial Plan period. An increase in Council Tax of 2.83% was proposed.

The assumptions made in the budget setting process were also outlined in the report that related to: increase in staffing budgets from pay awards; increases in employer superannuation contributions; inflation; income from planning fees; fees and charges; and the departure of the UK from the European Union.

The Council's main uncommitted Financial Reserves were the General Fund Working Balance of £2.0m and the uncommitted element of the Transformation Reserve of £2.159m. Due to the uncertainty surrounding local authority income and the fact that the Council had reduced budgets to a minimal level, it was considered important that the Council continue to review whether the Council has an acceptable General Fund Working Balance.

Housing Revenue Account (HRA)

A surplus of £0.155m was estimated on the 2019/20 budget, which was £0.132m higher than the current budget. It was agreed that the estimated surplus be allowed to increase the HRA balance and be utilised to mitigate the expected increase in the contributions to the Local Government Pension Scheme over the next three financial years.

In the 2019/20 budget, the setting of rent levels was in line with the Government's regulations which required a reduction in rent levels by 1% per annum for four years commencing from April 2016.

For 2020/21, an annual increase in line with Consumer Price Index plus 1% was proposed, in line with the Ministry of Housing, Communities and Local Government's Policy Statement. The Head of Finance and Resources & Section 151 Officer reported that this increase would be an average increase on rents of £2.23 per week, which equated to £107 per year.

EXECUTIVE

The report set out details of the assumptions on which the HRA budget was based and details of the proposed charges in relation to non-dwelling rents.

Capital Programmes

Details of the proposed Capital Programmes in respect of the General Fund and the HRA over the period of the Medium Term Financial Plan were set out in the report.

It was noted that there were to be three separate reports to Council on 19th February 2020 concerning the Council's Treasury Management Strategy, Investment Strategy and Capital Strategy. The Capital Strategy report was to consider capital financing such as borrowing which would enable the proposed capital programme budgets to proceed.

Executive agreed that the Council was in a comfortable financial position but that work would continue to improve efficiencies and generate income in order to manage the budget in a sustainable manner.

Moved by Councillor Clive Moesby and seconded by Councillor Sandra Peake

RESOLVED – *That the following recommendations be referred to Council:*

- (1) *That in the view of the Chief Financial Officer, that the estimates included in the Medium Term Financial Plan 2020/21 to 2023/24 are robust and that the level of financial reserves whilst at minimum levels are adequate, be accepted.*
- (2) *That officers report back to Executive and to the Budget Scrutiny Committee on a quarterly basis regarding the overall position in respect of the Council's budgets. These reports to include updates on achieving savings and efficiencies for 2020/21 and future years.*

GENERAL FUND

- (3) *A Council Tax increase of £5.00 is levied in respect of a notional Band D property (2.83%).*
- (4) *The Medium Term Financial Plan in respect of the General Fund as set out in **Appendix 1** to the report be approved as the Revised Budget 2019/20, as the Original Budget in respect of 2020/21, and the financial projection in respect of 2021/22 to 2023/24.*
- (5) *That any further under spend in respect of 2019/20 is transferred to the Council's General Fund Reserves.*
- (6) *On the basis that income from Planning Fees may exceed £0.500m in 2019/20, the Chief Executive in consultation with the Leader be granted delegated powers to authorise such additional resources as are necessary to effectively manage the resultant increase in workload.*

HOUSING REVENUE ACCOUNT (HRA)

- (7) *That Council sets its rent levels in line with government policy, increasing rent levels by CPI (1.7%) plus 1% to apply from 1st April 2020.*

EXECUTIVE

- (8) *That the increases in respect of other charges as outlined in **Appendix 3 Table 1** to the report be implemented with effect from 1st April 2020.*
- (9) *The Medium Term Financial Plan in respect of the Housing Revenue Account as set out in **Appendix 3** to the report be approved as the Revised Budget in respect of 2019/20, as the Original Budget in respect of 2020/21, and the financial projection in respect of 2021/22 to 2023/24.*
- (10) *That under spends in respect of 2020/21 to 2023/24 are transferred to the HRA Revenue Reserve.*

CAPITAL PROGRAMME

- (11) *That the Capital Programme as set out in **Appendix 4** to the report be approved as the Revised Budget in respect of 2019/20, and as the Approved Programme for 2020/21 to 2023/24.*
- (12) *That the Director of Development be granted delegated powers in consultation with the relevant Portfolio Holder and the Asset Management Group to approve the utilisation of the £260,000 of AMP Refurbishment Work allocation, with such approvals to be reported back to Executive through the Quarterly Budget Monitoring Report.*

REASON FOR DECISION:

To make recommendations on setting the budget in respect of the General Fund, the Housing Revenue Account and the Capital Programme.

OTHER OPTIONS CONSIDERED:

Alternative options were considered throughout the process of the preparation of the budget and were outlined in the report.

(Head of Finance and Resources & Section 151 Officer)

6 EXCLUSION OF THE PUBLIC

Moved by Councillor Duncan McGregor and seconded by Councillor Steve Fritchley

RESOLVED that under Section 100(A)(4) of the Local Government Act 1972 (as amended), the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in the stated Part 1 of Schedule 12A of the Act and it is not in the public interest for that to be revealed. [The category of exempt information is stated after each Minute].

EXECUTIVE

PART 2 - EXEMPT ITEMS

KEY DECISION – UNDER SPECIAL URGENCY

7 **DISPOSAL OF A PARCEL OF LAND OFF ST MARTIN'S WALK AT HODTHORPE**

Executive considered the report of the Portfolio Holder – Economic Development which sought approval for the sale of a parcel of land, as indicated on the plan attached to the report, to Keepmoat Homes Limited, to facilitate a pedestrian access as part of a new residential development scheme.

Moved by Councillor Liz Smyth and seconded by Councillor Sandra Peake

RESOLVED – That Executive approve the disposal of the parcel of land on St Martins Walk to Keepmoat Homes Limited and delegate powers to the Director of Development, in consultation with the Leader, to finalise the terms of sale.

REASON FOR DECISION:

In order for Keepmoat Homes Limited to commence development of the scheme on land to the north west of Broad Lane in Hodthorpe, approval was granted for the disposal of the Council owned ransom strip to Keepmoat Homes Limited to satisfy condition 2 of the Planning Approval.

OTHER OPTIONS CONSIDERED:

There was no other alternative option available in order to achieve sustainable development.

(Paragraph 3)

(Director of Development)

The meeting concluded at 10:17 hours.

Bolsover District Council

Executive

24th February 2020

Service Planning and Charging for Commercial Team Support Services in Environmental Health

Report of the Portfolio Holder - Environment

This report is public

Purpose of the Report

- To present to the Executive the 2019/20 Service Plans for Food Safety and Health and Safety Law Enforcement.
- To advise on the need to ensure appropriate charges are in place for re-scoring of food hygiene and animal licensing inspections.
- To recommend introducing charging for inspection re-scores available through the Food Hygiene Rating Scheme and the Animal Activity Licensing inspection regime.

1 Report Details

1.1 Food and Safety Service Plans

1.2 The Council is responsible for delivering official food hygiene and safety controls in food businesses within the district as well as Health and Safety law enforcement at a range of retail and service industries. The Food Standards Agency (FSA) and Health and Safety Executive (HSE) are regulating bodies in respect of these duties and require the Council to keep performance and its intervention plans under review, and that elected Members are made aware of those service plans. The Food Safety Service Plan can be found at Appendix 1 and the Health and Safety Law Enforcement Service Plan is attached at Appendix 2 of this report.

1.3 The Food Safety Service Plan details the inspection programme the Authority is required to complete, any national and local initiatives which relate to food safety which the Council will work to deliver and the resources available for the regulatory activity. The service plan provides assurance to the FSA that the Council is delivering upon its statutory duties and is a requirement of the Framework Agreement on Local Authority Food Controls¹.

1.4 In the current financial year, the Council has been required by the FSA to also ensure a backlog of very low risk food businesses are inspected. This backlog of work had resulted from problems recruiting and retaining suitably qualified inspectors. As

¹ [The Framework Agreement on Official Feed and Food Controls by Local Authorities, Food Standards Agency](#)

discussed in the service plan, the inspection programme is on target to be met by the end of the financial year through the use of external agency staffing. A full review of the Joint Environmental Health Service is underway to ensure that the service has the resources and skills it needs to ensure this and other elements of the service become high performing and deliver statutory duties effectively.

- 1.5 The Health and Safety Law Enforcement Service Plan similarly provides assurance to the HSE that the Council is delivering upon its obligations under the Health and Safety at Work etc. Act 1974. It also sets out how the Council will meet the requirements of the HSE's National Local Authority Enforcement Code² which specifies how Councils should meet their legal obligations including having a transparent, risk based service plan.
- 1.6 The service plans should be prepared at the beginning of the financial year to review the previous year's performance and present the plans for the forthcoming year. Due to pressures within the Joint Environmental Health Service, these plans have not been prepared as frequently as required. Each service plan will be renewed annually for Executive to consider from May 2020.
- 1.7 These service plans also provide a basis for future enhancements to service delivery, enabling more joined up working within the service and with partners. For example, identifying early where intervention plans will take food and safety inspectors, will enable other teams to contribute to low risk interventions or to work closely on other matters such as business waste duty of care and environmental enforcement activity. They also enable the Corporate Enforcement Group to facilitate further joined up enforcement services between the different regulating services and maximising potential income streams from business support and development services.
- 1.8 Regulatory re-scoring to support businesses
- 1.9 As part of the food safety inspection programme, each business is awarded a 0-5 star rating as part of the Food Standard Agency's national Food Hygiene Rating System (FHRS), formerly known as 'Scores on the Doors'. This rating scheme provides for a food business operator to request a re-visit and re-scoring to recognise any improvements it has made since the official inspection. It should also be noted that the re-scoring may result in no change to the original score or the score could also fall.
- 1.10 The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 have made significant changes to the regulatory framework for regulating various commercial activities with animals, with a new licensing regime linked to a scoring system, similar to the FHRS. This also allows for an unlimited number of re-score requests, which is currently not accounted for in the licensing fees. The licensing fees the Council set in 2018 are based on a full cost recovery model for the licensing and in relation to some, enforcement action. It has not accounted for the additional re-visits which may be requested by a business which is likely to place a significant additional burden on the Council, which would be funded by existing revenue budgets.

² [National Local Authority Enforcement Code, Health and Safety Executive](#)

- 1.11 Under these rating schemes, the scores each business receives are placed in the public domain through public registers which the Council and FSA have a duty to maintain and in relation to food hygiene, have been subject to significant local and media interest in the past. Businesses prefer to receive high scores and often will request re-scores where they feel they have improved ahead of the next routine inspection. In 2018/19 the Council fulfilled 18 requests for a re-score from food businesses. In 2019/20 the service has received 8 requests in the first seven months of the financial year with a projection of 12-15 rescoring requests as the year comes to a close. Although this has not happened as yet with Animal Activity licensing, there is likely to be a significant interest in re-scores as the regime matures with businesses recognising the potential loss to their business by not being rated as 5 star.
- 1.12 Currently, all this is offered free of charge but this has a direct impact on the productivity of the statutory services the Council offers. Income received for these rescoring activities would be reinvested in food hygiene inspection programmes to pay for new technologies to enable the service to be more efficient and to cover the costs associated with additional inspection and food sampling activity.
- 1.13 Part 1 of the Localism Act 2011 provides Councils with the power to charge on a full cost recovery basis where there is no statutory requirement to provide a service. In 2017, the FSA formally recognised under the Brand Standard³ for the FHRS that a charge can be made under the Localism Act 2011 on a full cost recovery basis for the re-visit and associated re-score for the premises. The Guidance to Local Authorities for Animal Activity Licensing⁴ makes reference to the ability to charge for re-scoring inspections.
- 1.14 For Food businesses, where fees for re-inspections upon request are introduced, the Council will be required to meet tighter timescales for re-visits and re-assessment. Normally the Council has six months to carry out the unannounced re-inspection, but where a charging scheme is in place that inspection must be completed within 3 months. Additionally, the Council are required to offer multiple re-visits if requested where a charging scheme is in place, whereas without charging only one request can be made.
- 1.15 In relation to Animal Activity licences, businesses can request an unlimited number of re-visits and re-scores. This additional level of re-inspection activity will not be achievable without ensuring the costs are recovered. Without additional resources, statutory services may be put at risk of failure. With a clear charging structure the demand for additional inspection activity will be managed.
- 1.16 The length of time a re-scoring process takes will vary, depending on the nature and size of the business and the complexity of the operation. For example, a large food retailer will require a greater depth of reassessment than a small sandwich shop. Likewise a large horse riding establishment will also require a greater level of reassessment than a small home dog boarding establishment. For this reason there

³ [The Food Hygiene Rating Scheme: Guidance for local authorities on implementation and operation - the Brand Standard. 2017](#)

⁴ [The Animal Welfare \(Licensing of Activities Involving Animals\) \(England\) Regulations 2018: Procedural guidance notes for local authorities](#)

needs to be flexibility built into the charging scheme, based on the time that would be required to carry out the assessment.

1.17 Proposed Scale of Charges – Food Hygiene re-inspection/scoring

- 1.18 Each re-scoring requires an assessment of the previous inspection and consideration of the reasons and evidence the business has put forward. Prior to any re-scoring being agreed a further inspection of the business would also need to take place.
- 1.19 Due to the wide variety of food businesses the Council regulates, it is not possible to define a scale of charges based on complexity or size of the business. Therefore, a single charge for each re-score has been calculated on the basis that each rescoring exercise will take approximately 5 hours to consider the application, review the previous inspection, carry out a further re-inspection and complete the inspection report. Locally charges range from £150 across South Yorkshire and between £155 and £175 in the authorities in Derbyshire who currently charge for re-scoring.

Local Authority	Food Safety Re-scoring Charge
Derby City Council	£155
Erewash Borough Council	£175
Chesterfield Borough Council	£170
Amber Valley Borough Council	£160
Rotherham Metropolitan Borough Council	£150
Barnsley Metropolitan Borough Council	£150
Sheffield City Council	£150

- 1.20 A charge of £170 for each accepted application would be consistent with the Council's full cost recovery rates for the Environmental Health Officers who would be carrying out the re-scoring. These fees will be reviewed annually to ensure they are appropriate given the actual time taken to re-score premises.

1.21 Proposed Scale of Charges - Animal Activity Licensing

- 1.22 Animal activity licences cover a wide range of activities and some are more complex than others due to the number of and type of animals and the complexity of the premises and the standard conditions.
- 1.23 For boarding and day care establishments, breeding of dogs and selling animals a charge covering an average of 5 hours work would be appropriate for the assessment of the application, inspection and post inspection report.
- 1.24 In relation to Horse Riding Establishments, hiring of horses, a rate of £250 would likely cover the costs of the re-inspection and assessment activity. This would account for one full day of activity.
- 1.25 In relation to licensed zoos, a charge of £250 for the first day, and £34 per hour (or part of an hour) thereafter would be chargeable, with the full rate confirmed before the application is accepted.

- 1.26 Any additional costs for vet fees (where required for inspections by the guidance) would be paid separately by the establishment. These fees will be reviewed annually to ensure they are appropriate given the actual time taken to re-assess licences.
- 1.27 The Council is not able to make a profit on these services. In addition to the hourly rate charges for each activity there are other development costs and support costs involved in managing and maintaining the systems, documentation, materials and equipment the service requires. These charges will be reviewed annually to ensure they can meet the costs of delivering the service.

2 Conclusions and Reasons for Recommendation

- 2.1 The food and safety service plans are documents required to be produced by the Council's regulating bodies for food safety and health and safety law enforcement. These plans are required to be presented to elected members to ensure oversight of the work programmes and to ensure awareness of the Council's responsibilities at a senior decision making level. It also enables the Council to effectively prioritise resources to these statutory and essential public health and safety functions whilst maximising efficiency.
- 2.2 Charging for all re-assessment services is also preferred. The additional requirements to provide a re-assessment for businesses places a previously unrealised burden on the Council and revenue budgets are focussed on providing statutory services.
- 2.3 Charging may assist in managing demand whilst supporting businesses who wish to improve standards. The charges will cover the cost of providing these services, which can be invested in additional support staff and services. If the Council does not charge, statutory intervention and licensing programmes will be put at increased risk of future failure.

3 Consultation and Equality Impact

- 3.1 Legal Services have been consulted and have contributed to this report. The Portfolio Holder for the Environment has also been consulted on the service plans.

4 Alternative Options and Reasons for Rejection

- 4.1 The Council can maintain its current process of undertaking requested re-inspection visits without charging. With this option the re-inspection should not usually take place until three months have elapsed from the initial inspection, after which, the re-inspection must take place within three months. Consequently, the Council is allowed a maximum of six months to undertake the re-inspection.
- 4.2 This option is not recommended due to the potential to draw essential resources away from statutory services, which put them at risk of failure due to the potential high demand for re-assessment.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 The publication of a Food Safety and a Health and Safety Law Enforcement Service plan provides the Council, elected members and the public with a level of assurance as to the plans the Council has in place to protect public health. It also ensures the Council is compliant with its statutory obligations and that it can effectively performance manage the services. They are also a tool for ensuring continuous improvement within the Joint Environmental Health Service, and enable the Council to ensure value for money from the Joint service.
- 5.1.2 In terms of the cost recovery methods for re-scoring activity, although there is likely to be income related to this activity, this will be used to cover the cost of providing the services. There were 18 requests for a re-inspection for food hygiene in 2018/19 and a projection of at least 12 requests in 2019/20. The charging may deter some from applying, however if the number of applicants are reduced by 50% this will result in an additional £1,500 income to the service. The demand for Animal Activity Licence re-inspections is likely to be lower, due to the relatively small number of licensed premises, however lower scores may result in competition to improve, and a number may have lower scores simply due to the new uplifted licensing conditions of the new regulatory framework.
- 5.1.3 Although this is a small level of income compared with the overall cost of operating these services, this equates to an additional 25 inspections procured from an external agency, if such a resource is required if there are continuing staffing challenges within the service in the next financial year.
- 5.1.4 The same income could fund the costs to the Commercial Team of the mobile inspection software the service has started to use for food and safety inspections.
- 5.1.5 There is a risk that the move could be considered as not supporting businesses to improve, however these re-scoring inspections and follow up work are not currently funded within the revenue budget and there is an increasing number of food premises the Council is required to regulate. In addition, there are increasing levels of complexity in food inspection activity such as the recent shift to focus closely on the risks associated with allergens in food.

5.2 Legal Implications including Data Protection

- 5.2.1 Section 1 of the Localism Act 2011 confers on councils a general power of competence, which would allow them to carry out a re-inspection of a food business for re-rating purposes at the request of the operator. Section 3 of the 2011 Act would permit councils to charge a fee for that service as it is not a service councils are statutorily required to provide, as long as the recipient of the service has agreed to the service being provided.
- 5.2.2 In making a charge for this service, the Council has a duty to secure that in any given financial year, the charges should not exceed the costs of providing the service. In addition, it is important that once introduced that the scheme is managed in accordance with the Council's collection and debt recovery procedures and policies.

- 5.2.3 The FSA's revised Brand Standard guidance states:
"Legal advice received by the FSA indicates that powers available to local authorities in England under the Localism Act 2011 allows for the recovery of costs of reinspections/re-visits made at the request of the FBO [Food Business Operator] to re-assess the food hygiene rating. It is for each authority to decide to use these powers and set the charge in line with their costs."

5.3 **Human Resources Implications**

- 5.3.1 There are no human resource implications for these recommendations as these revisits and refreshed annual service plans would be made using existing resources.

6 **Recommendations**

- 6.1 That the Executive notes the content of the Food Safety Service Plan and the Health and Safety Law Enforcement Service Plan.
- 6.2 That the Executive approves the charges set out in this report for re-inspections and re-scoring under the Food Hygiene Rating System and in relation to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.
- 6.3 That the proposed fees and charges be kept under review and any proposed changes considered during annual budget processes.

7 **Decision Information**

Is the decision a Key Decision? 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: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	BDC – To be confirmed

8 Document Information

Appendix No	Title
1	Joint Food Safety Service Plan 2019/20
2	Joint Health and Safety Law Enforcement Service Plan 2019/20
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)	
Report Author	Contact Number
Matt Finn, Environmental Health Manager	01246 217848

Joint Environmental Health Service

FOOD SAFETY SERVICE PLAN 2019-20



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1.0 INTRODUCTION

1.1 Joint Food Service Plan

Bolsover and North East Derbyshire District Councils recognise the important role they play in securing the safety of food consumed and or produced in the districts. The Food Service Plan is an expression of the Councils' continuing commitment to the provision of food safety and ancillary Services. It covers the key areas of food safety enforcement and the relevant management arrangements and objectives against which Bolsover and North East Derbyshire District Councils will monitor service delivery.

It has been compiled in accordance with the guidance issued by the Food Standards Agency (FSA), including the information required by the Framework Agreement on Local Authority Food Law Enforcement. The FSA has a key role as the central competent authority in overseeing official feed and food controls undertaken by local authorities. It also seeks to work in partnership with local authorities to help them deliver official feed and food controls. The Agency is therefore proactive in setting and monitoring standards, and in auditing local authorities' delivery of official controls, in order to ensure that this activity is effective, risk based, proportionate and consistent.

This Service Plan makes clear what Bolsover and North East Derbyshire District Councils will put in place to ensure that there are adequate arrangements for food safety enforcement and how they will take account of local needs whilst contributing to current FSA priorities.

The plan also identifies other work undertaken by the Commercial Team.

Service plans are seen as an important part of the process to ensure that national priorities and standards are addressed and delivered locally. They should: -

- Follow the principles of good regulation;
- Focus on key delivery issues and outcomes;
- Provide an essential link with corporate planning;
- Set objectives for the future, and identify major issues that cross service boundaries;
- Provide a means of managing performance and making performance comparisons; and
- Provide information on an authority's service delivery to stakeholders, including businesses and consumers.

The Food Safety Service Plan is reviewed on an annual basis and the next revision will take place in 2020.

In 2019-20 resourcing issues and temporary staffing interventions have meant that this plan was produced part way through the year.

These issues and the steps taken by the Councils to address performance are explained in section 5.

Copies of this Service Plan will be available on our websites www.bolsover.gov.uk and www.ne-deberbyshire.gov.uk

2.0 BACKGROUND

2.1 Profile of the Local Authorities

About Bolsover

Bolsover District is a largely rural area covering 160sq kilometres. It is home to the four individual market towns of Bolsover, Clowne, Shirebrook and South Normanton, and a number of attractive villages and historic hamlets. Population is around 79,000.

The District offers a wealth of recreational and leisure activities; from rich heritage sites at Bolsover Castle, Hardwick Hall, Creswell Crags and the Peter Fidler Nature Reserve to Pleasley Vale Outdoor Pursuits Centre and The Arc Leisure Centre.

A number of large nationally known businesses are based within the District; Shirebrook is home for Sports Direct, the East Midlands Designer Outlet is in South Normanton, and Barlborough has Dobbies Garden Centre. The business base has over 2,700 businesses with micro enterprises (under 10 employees) forming the majority.

About North East Derbyshire

North East Derbyshire is a largely rural area, set within one of the most picturesque counties in England, and forms part of the border of the historic Peak District.

A district of contrasts, from thriving urban settlements to beautiful rural villages and countryside. It covers almost 258sq kilometres with the main centres being Clay Cross, Dronfield, Eckington and Killamarsh.

It has a population of 100,780 and a business base of over 4,000 businesses with micro enterprises (under 10 employees) forming the majority. The District is also home to some large nationally recognised businesses.

2.2 Political Arrangements

The political arrangements for the Councils are as follows: -

Bolsover District Council

37 Local District Councillors
16 Parish Councils
1 Member of Parliament

The political composition of the Council is currently Labour - 18, Independent - 17, Conservative – 2.

North East Derbyshire District Council

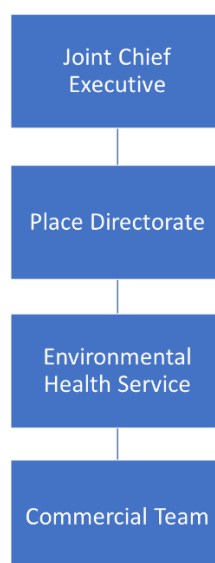
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2.3 Organisational Structure

The Food Service is delivered by a Joint Environmental Health Service. The Joint Service was formed in 2013 to deliver services to both Councils under arrangements designed to provide resilience, flexibility and economies of scale.

Structure Diagram



Within the joint Environmental Health Service, food controls are delivered by the Commercial Team.

The officers with key responsibility for the Service include: -

- Environmental Health Manager – service development; management of the service reporting to the Head of Service.
- Senior Environmental Health Officer (Commercial) – day to day management of the service, service development, official returns, service requests, co-coordinating food hygiene rating scheme and supporting officers.
- Environmental Health Officers (5) – high and low risk premises inspection, service requests, infectious disease investigations, food sampling and food complaints, along with other duties within the Commercial Team.
- Technical Support – receiving service requests, alternative strategy administration, food hazard warnings, data inputting and infectious disease investigation.

The Commercial Team also works closely with other teams in the Service, including Licensing, to reduce the burden on business and ensure a holistic, integrated approach to business regulation.

The Pollution and Housing Team also provide support to businesses and team members in respect of pest control, drainage advice, investigation and preventing and resolving pollution issues.

In relation to Food Standards, colleagues from Derbyshire County Council's Trading Standards Service cover issues relating to food composition, chemical contamination of food, labeling, feeding stuffs, premises inspection and weights and measures.

The Public Health England (PHE) Laboratories support our service by operating a courier service for samples and undertaking microbiological examination.

2.4 Access Details

Address: -

Joint Environmental Health Service
North East Derbyshire District Council
2013 Mill Lane
Wingerworth
Chesterfield S42 6NG

Customer Services: 01246 242424 (Bolsover District Council) or 01246 231111 (North East Derbyshire District Council), between 9am and 5pm

enquiries@bolsover.gov.uk or connectne@ne-derbyshire.gov.uk
www.bolsover.gov.uk or www.ne-deberbyshire.gov.uk

3.0 DESCRIPTION OF SERVICE

3.1 Commercial Team Functions

The Commercial Team provides a range of regulatory services to the business community and the general public as follows: -

- **Food Safety.** Sustaining and improving the standards of safety and quality of food manufactured, prepared and supplied in the Bolsover and North East Derbyshire Districts.
- **Health and Safety.** Ensuring that risks in the workplace for both workers and the public are properly and proportionally managed.
- **Infectious Diseases.** Investigating incidents of infectious diseases to control spread and identify causes.
- **Private Water Supplies.** Assessing risk and sampling water to ensure that supplies do not pose a threat to health.
- **Animal Welfare Licensing.** Maintaining the standards of animal welfare in premises such as breeding and boarding establishments, pet shops and riding establishments.

Our business customers rely on the Service to maintain a level regulatory playing field in the markets they operate so that non-compliant businesses do not gain a competitive advantage. They expect us to be consistent and fair, providing advice and guidance when it is needed and using enforcement tools when appropriate.

The public expect us to ensure that they are protected and increasingly that they have access to information that allows them to make educated choices about the businesses they engage with.

3.2 Food Safety Functions

Food safety service functions include: -

- To carry out programmed proactive and re-active food hygiene interventions and revisits within the FSA targeted timescales to ensure compliance with Food Safety, in order to determine hazard rating and inspection frequency.
- To investigate complaints regarding food sold or prepared in the districts.
- To investigation of complaints regarding food safety and hygiene practices.
- To investigate sporadic cases and outbreaks of food poisoning/suspected food poisoning and infectious disease control in conjunction with PHE.
- Respond to food alerts issued by the Food Standards Agency.

- To provide advice and information on food safety issues.
- To ensure that approved premises are inspected and updated as necessary in line with legislation and guidance changes.
- To participate in the National Co-ordinated and Cross-Regional sampling surveys for 2019/20 and to undertake additional sampling to meet local need.

3.3 Service Aims and Objectives

The Service aims are as follows: -

- Improving the public health of those living in our community in connection with the consumption of food and likewise to protect the interests of consumers in relation to food produced within our community.
- Maintaining and improving food hygiene and safety standards, protecting the public, employees and businesses alike, ensuring that we are equitable, proportional, consistent, helpful, and transparent and address equality issues.
- To help reduce the administrative burdens on business, by promoting more efficient approaches to regulatory inspection and enforcement, without compromising regulatory standards or outcomes.
- Ensuring food including all imported products are produced or sold in the UK are safe to eat, food producers and caterers give priority to consumer interests in relation to food and consumers have the information to enable them to make informed choices about where and what they eat.
- Regulation is effective, risk-based and proportionate, is clear about the responsibilities of the food business operations, and protects consumers and their interests from fraud and other risks ensuring our enforcement is effective, consistent, risk-based and proportionate and is focused on improving public health.

The service contributes to the corporate aims of: -

- Unlocking Our Growth Potential.
- Providing Our Customers with Excellent Service.
- Supporting Our Communities to be Healthier, Safer, Cleaner and Greener.
- Transforming Our Organisation.

This will be achieved through: -

- Providing help, advice and support to consumers to protect health and promote consumer choice e.g. promoting the Food Hygiene Rating Scheme and Heart of Derbyshire scheme.

- Protecting the environment through approval, registration and licensing of relevant premises in accordance with current legislation ensuring appropriate and proportionate enforcement a robust inspection and intervention programme including advice and support for business.
- Investigation and resolution of consumer complaints regarding food and businesses in a transparent, robust and consistent manner.
- Identifying our current delivery in Food Safety and its effectiveness and ensuring next year's work programme is based on government guidance and local agendas, ensuring that alternative interventions are effective and non-compliant premises are monitored and improved.

Our service is measured against performance targets which have been set for 2019/20 as:-

- 90% of food premises in the area are broadly compliant with food hygiene legislation.
- 100% of high risk premises interventions are carried out 'on time'.

These indicators provide an objective measure on how our premises are improving and how well our service is performing.

3.4 Demands on the Food Service

In relation to food safety, the districts contain a mix of manufacturing, retail and catering premises.

Catering and retail are the dominant sectors within this mix. The businesses are predominantly small to medium sized establishments. The Councils have a traditional cross-section of food businesses: -

	Premises at 1st April 2018	Premises at 1st April 2019
Total number of Food Premises	1,657	1,697
Categories A-C (High Risk)	258	262
Categories D-E (Others)	1,343	1,337
Non Rated	56	98
Retail premises	351	353
Catering premises	1,193	1,242
Distributors	31	33
Importers/exporters	1	1
Manufacturers	41	40
Primary producers	18	18

External factors impacting on food safety enforcement service delivery include: -

- Seven day local economy.
- Transition from manufacturing to service industry economy.
- Turn-over of occupancy/use.
- Increasing number of fast food outlets.
- Nationally set priorities, initiatives and programmes etc.

3.5 Policy and Standards

Delivery of Food Controls is carried out in accordance with national procedures and guidance including: -

- Regulators' Code.
- Food Law Code of Practice.
- Food Law Practice Guidance.
- Food Standards Agency Guidance.

In addition, the Councils have adopted a joint Enforcement Policy which is available upon request and on the Councils' websites.

3.6 Competency

Officer competencies are managed by means of a Performance Development Review process with individual training and development records being maintained. Officers have completed a competency matrix following the Food Law Code of Practice. This is reviewed annually.

Specialised training previously undertaken within the team includes: -

- Lead auditor training in compliance with ISO 9001.
- HACCP evaluation.
- Sous-vide and low temperature cooking or processing.
- Vacuum and modified atmosphere packing.
- Evidence gathering and investigation skills.
- Regulatory and legal skill competencies.

- E coli/control of cross contamination.
- Annex 5 risk rating consistency.
- Microbiological criteria for food with an emphasis on *Listeria monocytogenes*.
- Approved establishments.
- Food allergens.

As required under the Food Law Code of Practice a minimum of 20 hours CPD per year is obtained by the Lead Food Safety Officer and authorised officers, with a minimum 10 hours on relevant core food related hours per officer per year being undertaken. Training is provided to address needs identified during the FSA officer competency assessment and within the Councils' Performance Development Review framework.

Additional training will be resourced subject to emerging demands.

Training requirements provisionally identified for 2019-20 included: -

- Imported food controls.
- Regulatory consistency.
- Sampling.
- Shelf life testing and microbiology.

A documented procedure is maintained for recording qualifications, training and individual competencies which are reviewed annually as part of the Performance Management process.

4.0 SERVICE DELIVERY

4.1 Interventions at Food Establishments

The Service will undertake a programme of comprehensive and targeted interventions at food premises in accordance with the Food Law Code of Practice, to ensure compliance with relevant legislation and the promotion of best practice.

As in previous years, the concentration of activity for qualified officers will be in carrying out all high risk and approved premises inspections due as part of the inspection programme.

The Commercial Team is responsible for 14 premises (2 in BDC) and (12 in NEDDC) currently subject to approval under Regulation EC 853/2004 for manufacturing/processing of products of animal origin. These are inspected in accordance with our risk rating programme.

In line with the Food Law Code of Practice, interventions other than inspections have been adopted in respect of certain, particularly low risk, premises. For some of the lowest risk businesses, a telephone call is made to the business in order to assess whether there have been any changes since the last inspection, the extent of the business and the level of food safety control. Many low risk premises may still need to be visited by an officer to gather information regarding food safety.

It is possible to use an officer as a Regulatory Support Officer in accordance with the Code of Practice to do the initial work thereby maximising the use of resources. The information gathered is assessed and a decision made as to what further action is required. This could range from no further action to a full inspection. A visit is likely to be triggered if other contact cannot be made or if the activity of the business has changed.

In 2019-20 an Alternative Enforcement Strategy has been incorporated into the intervention programme which has targeted chemist's shops, child minders and community centres by using questionnaires and telephone calls to assess food safety controls. These interventions will be made where considered appropriate on a case by case basis on allocation of inspections.

Idox Uniform is used to maintain the premises database. The following is a summary of the current Food Business risk rating profile: -

		Active Food Businesses 1st April 2019	Active Food Businesses 1st October 2019
Risk Category (Inspection frequency)	A (at least 6 monthly)	4	1
	B (at least 12 monthly)	47	51
	C (at least 18 monthly)	211	254
	D (at least 24 monthly)	618	563
	E (at least 36 monthly)	719	661
	Unrated	98	121
	TOTAL	1,697	1,651

The following table outlines the provisional intervention programme for the financial year 2019-20 and shows progress during the first half of the year: -

Risk Category	Interventions due 1st April 2019 – 31st March 2020	Interventions undertaken 1st April 2019 – 30th September 2019
A	4	2
B	47	14
C	141	33
D*	443	231
E*	514	189

* Includes backlog of overdue interventions

4.2 Food Hygiene Rating & Compliance

The Councils have adopted the National Food Hygiene Rating Scheme (FHRS).

The premises rating profile is as follows: -

FHRS Rating	Number of premises 1st April 2018	Number of premises 1st April 2019
5 – Very Good	1,056	1,080
4 - Good	156	152
3 – Generally Satisfactory	49	37
2 – Improvement Required	11	7
1 – Major Improvement Required	10	12
0 – Urgent Improvement Required	2	4
Awaiting inspection	48	59
Exempt	117	113

The total number of non-compliant premises (Food Hygiene Rating 0 – 2 inclusive) at 1st April 2018 and at 1st April 2019 was 23.

Revisits will be limited to non-compliant premises, to follow up formal action and to premises with a Food Hygiene Rating of 3 with a poor compliance history or at officer discretion. Enforcement action will be taken on a graduated approach in accordance with the Enforcement Policy.

Re-visits will be carried out free of charge until March 2020 after which charging for rescore re-visits will be considered.

4.3 Food and Food Premises Complaints

The Councils investigate all complaints they receive relating to food where it is the enforcement authority and will liaise with Home, Primary and Originating Authorities as appropriate.

An initial response to a food complaint will be made within 3 working days. A 1 day response time is implemented for food contamination or pest infestation complaints reported in open food premises.

	Actual for 2018/19	Actual to 30th September
Food and food premises complaints	150	87

Complaints shall be investigated in accordance with the Enforcement Policy.

4.4 Business Advice

The Service has a policy of offering advice to any start-up business or established business which has trading premises within our areas, unless the trader has entered into a Primary Authority or Home Authority arrangement with another Local Authority.

Initial advice will normally be limited to telephone advice, provision of advisory material or sign-posting to relevant sources of information. Advisory visits will be undertaken at the discretion of the officers prior to food businesses opening.

The Service is exploring alternative models for the provision of business advice, including the development of online resources and chargeable services. We are also pursuing links with colleagues working in economic development at district and county level.

4.5 Food Sampling

Programmed food sampling will be carried out in the year, in liaison with Public Health England and in line with the sampling protocols agreed by the regional PHE sampling programme. The service will also undertake sampling based on local intelligence.

Despite the challenges facing the service, a total of 98 samples have been taken in the first half of the year and sampling will continue at approved premises, as this is achievable within current resources.

Other sampling which may be carried out includes: -

- Sampling as part of an official control intervention.
- In response to complaints.
- Where local intelligence indicates a potential risk to health, and sampling forms part of the service's response.

All formal food samples will be submitted to the Public Analyst for compositional analysis or to the Public Health England Food, Water and Environmental Laboratory Service for microbiological examination.

4.6 Infectious Diseases

The Commercial Team carries out the statutory responsibilities of the two local authorities with regards to infectious diseases.

This includes but is not solely in relation to food borne illness so whilst the service will investigate outbreaks of Salmonella and E. coli for example, it will also follow up incidents of Legionella and Hepatitis. The duties include working with Public Health England (PHE) to identify sources of disease, reducing the risk of transmission, gathering data, liaising with people suffering from infectious diseases and when necessary taking formal legal action to prevent the spread of disease.

Investigation and control of major outbreaks is undertaken in conjunction with the Consultants in Communicable Disease Control at Public Health England. Investigation, the establishment of an Outbreak Control Team and control measures are all implemented in accordance with the agreed Joint Communicable Disease Incident/Outbreak Management Plan.

We have a target response time for infectious disease outbreak notifications of 1 working day.

4.7 Private Water Supplies

The Water Industry Act requires a local authority to keep itself informed about the wholesomeness and sufficiency of every private water supply within its area.

This is achieved through statutory duties which include; risk assessments, investigations, authorisations and monitoring (sampling and analysis).

Regulations also make provisions for local authorities to charge fees to the relevant person(s) for conducting these duties.

If through these duties the councils deem a private water supply to be unwholesome and/or insufficient then it has the power to serve notices on the supply in order to mitigate against these.

There are 55 commercial (regulation 9 supplies), 82 shared (regulation 10 supplies) and 114 single supplies in the Bolsover and North East Derbyshire Districts.

Work is underway to explore outsourcing this function to a suitably competent private provider.

4.8 Health and Safety and Animal Welfare Licensing

The Commercial Team also delivers the enforcing authority responsibilities of the Council under the Health and Safety at Work etc. Act 1974, through proactive and reactive interventions in relation to safety of workplaces and Animal Activity and Welfare Licensing under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations.

These animal welfare regulations significantly changed the way in which we administer the majority of animal welfare licenses, introducing a rating scheme that determines the frequency of relicensing from between one and three years and a two part fee structure.

The new legislation considerably increased the volume of work necessary and the complexity of this types of licensing which has placed pressure upon the service however this is being managed through additional resources employed to ensure the delivery of this additional programme. Licensing fees are charged on a cost recovery basis.

5.0 PERFORMANCE & IMPROVEMENT

5.1 Service Challenges & Improvement

Over the last 2 years, service delivery has been adversely impacted by staff vacancies and recruitment difficulties.

The Service has struggled to meet some of its responsibilities, chiefly due to the loss of Environmental Health Officers to other local authorities, which has come at a time when there has been an increase in the workload the Service is required to deliver.

There has been a general increase in complex cases leading to an increase in legal work, including prosecutions and high profile enforcement cases. The turnover in food business operators, particularly within takeaways, is presenting additional challenges and demands.

These factors have resulted in a backlog of low risk premises overdue inspection.

In 2019-20 the Service is responding to these issues in the following ways: -

- Engagement of an Environmental Health advisor and interim Head of Service.
- Appointment of an Environmental Health Manager (to fill an existing vacancy).
- Appointment of five part time contract Environmental Health Officers, undertaking food hygiene inspections on a per inspection basis.
- Secondment of an Environmental Health Officer from a neighbouring authority for two days a week providing support in the Commercial Team.
- Appointment of an agency Environmental Health Officer able to undertake the full range of commercial duties including high risk food inspections.
- Extension of temporary arrangements to provide additional technical and administrative support to the Commercial Team, providing assistance to officers with administration and data entry.
- Regular review and analysis of performance levels informing the procurement of additional contract support, as required, to complete the programme by 31st March, 2020.

The Leaders of both Councils and the Joint Chief Executive have also instigated a review of the Environmental Health Service, which with Cabinet and Executive support will include: -

- A review of existing staffing structures.
- A review of teams including functional synergies and the skills mix of staff.
- A review of salary levels and individual posts to help address recruitment difficulties.
- Business process improvements including the use of technology, new ways of working and other efficiency measures.

The Interim Head of Service will co-ordinate the review and contribute to the development of a detailed improvement plan for the Service.

In addition, Bolsover District Council is participating in a Local Government Association (LGA) corporate peer challenge in November 2019. The Leader of the Council has asked the review team to focus on three priorities, including Environmental Health.

5.2 Performance Monitoring

Monitoring arrangements are in place to assist in the quality assessment of the work being carried out by the Commercial Team as follows: -

- Peer review of inspections (shadowing), including of agency contractors.
- Structured quarterly review of a sample of post inspection records.
- Regular team meetings.

- Individual performance reviews.

In addition, the Interim Head of Service is overseeing the staffing interventions in place to address performance during this interim period.

Work will continue with the Environmental Health Manager and the Senior Environmental Health Officer (Commercial) to monitor performance, to forecast outputs and to ensure that sufficient and appropriate resource is provided to enable the programme to be delivered in 2019-20.

5.3 Other Challenges & Risk Management

Other challenges to service delivery include: -

- Brexit. The food law currently enforced by local authorities is predominantly based on European regulations and will require reproducing domestically.
- Our team currently has not received any requests to produce export certificates for our approved establishments or larger premises within the district, however as the plan is to leave the EU in October 2019 we may be required to provide export certificates ensuring that food exported is in strict accordance with the Food Hygiene Regulations.
- The FSA Regulating Our Future (ROF) review includes some proposals that may change the focus of the way we currently regulate food businesses. These are quite complex and still under development and consultation.

Risk Management /Business Continuity: -

Identified service level risks relate to resourcing, having appropriate structural elements in place (including service planning and performance management) and to maintaining and building upon the level of skills within the team (recruitment and retention).

6.0 DOCUMENT CONTROL

Second draft: 23rd October 2019

Released in draft to the FSA: 23rd October 2019

Approved by Portfolio Holders:

Joint Environmental Health Service

HEALTH AND SAFETY LAW ENFORCEMENT SERVICE PLAN 2019-20



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1.0 INTRODUCTION

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It has been compiled in accordance with the guidance issued by the Health and Safety Executive (HSE), in particular the [National Local Authority Enforcement Code](#). The HSE has a key role as the national authority for Health and Safety regulation, setting priorities for and overseeing local authority regulatory activity. It also seeks to work in partnership with local authorities to help them deliver Health and Safety regulation. The HSE is therefore proactive in setting and monitoring standards, and in auditing local authorities' delivery, in order to ensure that this activity is effective, risk based, proportionate and consistent.

This Service Plan makes clear what Bolsover and North East Derbyshire District Councils will put in place to ensure that there are adequate arrangements for Health and Safety enforcement and how they will take account of local needs whilst contributing to current HSE priorities.

The plan also identifies other work undertaken by the Commercial Team.

Service plans are seen as an important part of the process to ensure that national priorities and standards are addressed and delivered locally. They should: -

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The Service Plan is reviewed on an annual basis and the next revision will take place in 2020. In 2019-20 resourcing issues and temporary staffing interventions have meant that this plan was produced part way through the year.

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Structure Diagram



Within the joint Environmental Health Service, Health and Safety Law Enforcement is delivered by the Commercial Team.

The officers with key responsibility for the Service include: -

- Environmental Health Manager – service development; management of the service reporting to the Head of Service.

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- Environmental Health Officers (5) – high and low risk premises inspection and interventions and accident investigations, along with other duties within the Commercial Team.
- Technical Support – Receiving service requests, alternative strategy administration, food hazard warnings, data inputting and infectious disease investigation.

The present staffing allocation in relation to Health and Safety enforcement is as follows: -

Job title	FTE
Environmental Health Manager	0.1
Senior EHO	0.25
EHO (split between 5 FTE posts)	0.75
Total:	1.1

The Commercial Team also works closely with other teams in the Service, including Licensing, to reduce the burden on business and ensure a holistic, integrated approach to business regulation.

The Pollution and Housing Team also provide support to businesses and team members in respect of pest control, drainage advice, investigation and preventing and resolving pollution issues.

2.4 Access Details

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Joint Environmental Health Service
North East Derbyshire District Council
2013 Mill Lane
Wingerworth
Chesterfield S42 6NG

Customer Services: 01246 242424 (Bolsover District Council) or 01246 231111 (North East Derbyshire District Council), between 9am and 5pm

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3.0 DESCRIPTION OF SERVICE

3.1 Commercial Team Functions

The Commercial Team provides a range of regulatory services to the business community and the general public as follows: -

- **Health and Safety.** Ensuring that risks in the workplace for both workers and the public are properly and proportionally managed.
- **Food Safety.** Sustaining and improving the standards of safety and quality of food manufactured, prepared and supplied in the Bolsover and North East Derbyshire Districts.
- **Infectious Diseases.** Investigating incidents of infectious diseases to control spread and identify causes.
- **Private Water Supplies.** Assessing risk and sampling water to ensure that supplies do not pose a threat to health.
- **Animal Welfare Licensing.** Maintaining the standards of animal welfare in premises such as breeding and boarding establishments, pet shops and riding establishments.

Our business customers rely on the Service to maintain a level regulatory playing field in the markets they operate so that non-compliant businesses do not gain a competitive advantage. They expect us to be consistent and fair, providing advice and guidance when it is needed and using enforcement tools when appropriate.

The public expect us to ensure that they are protected and increasingly that they have access to information that allows them to make educated choices about the businesses they engage with.

3.2 Health and Safety Law Enforcement Functions

The Health and Safety Law Enforcement functions include: -

- to undertake proactive inspections, where appropriate, in the high risk sectors/activities outlined in the Health and Safety Executive (HSE) National Code (Appendix 1).
- to investigate all work place accidents, which meet our investigation criteria.
- to respond to complaints and enquiries.
- to undertake targeted projects based on national priorities and local knowledge.

Against this background, the Councils have responded in this plan to the HSE's key areas, as laid out in their strategy '[Helping Great Britain Work Well](#)' which include six strategic themes that bring a renewed emphasis on improving health in the workplace.

These themes will underpin our work programme for 2019-20. This strategy runs for the next 3 years.

- [1. Acting together](#) Promoting broader ownership of health and safety in Great Britain.
- [2. Tackling ill health](#) Highlighting and tackling the costs of work-related ill health.
- [3. Managing risk well](#) Simplifying risk management and helping business to grow.
- [4. Supporting small employers](#) Giving SMEs simple advice so they know what they have to do.
- [5. Keeping pace with change](#) Anticipating and tackling new health and safety challenges.
- [6. Sharing our success](#) Promoting the benefits of Great Britain's world-class health and safety system.

The Service continues to deliver by targeting the high risk injury and ill health areas. This plan ensures that we target our health and safety interventions having regard to the range of interventions available as outlined by the HSE, the risk profile of businesses within the districts, national priorities and local knowledge/priorities.

In line with the requirements of the [National Code](#) we are committed to ensuring compliance by providing sufficient staff resources of the right type, quality and competence, to deliver proportionate, transparent and fair services in line with our Enforcement Policy. This will ensure that not only are the statutory duties of the Councils met, but that the objectives of safe, strong and ambitious districts are achieved as far as is reasonably practical.

The Code makes it clear that proactive inspection must only be used to target the high risk activities in those sectors specified by HSE, or where intelligence suggests risks are not being effectively managed. For this purpose HSE publishes a list of high risk sectors (and the key activities that make them such) that are to be subject to proactive inspections by LAs on an annual basis. Appendix 1 outlines those high risk sectors for 2019-20.

Detailed guidance on targeting interventions has been issued by the HSE Local Authorities Enforcement Liaison Committee (HELA) as [LAC 67-2 \(Revision 8\)](#) and regard has been had to its contents when producing this Service Plan in order to focus our enforcement activity on higher risk sites and tackle serious breaches of the rules.

3.3 Service Aims and Objectives

The Service aims are as follows: -

- To effectively use resources including enforcement and education to promote compliance with occupational health and safety legislation.
- To ensure that duty holders protect the health and safety of people at work and of others who may be harmed by work activities.

- Work in partnership with other enforcement authorities and with other regulators and stakeholders to make best use of joint resources and to maximise impact on local, regional and national priorities.

The service contributes to the corporate aims of: -

- Unlocking Our Growth Potential.
- Providing Our Customers with Excellent Service.
- Supporting Our Communities to be Healthier, Safer, Cleaner and Greener.
- Transforming Our Organisation.

This will be achieved through: -

- Providing information and advice on health and safety to businesses and members of the public.
- Delivering an intervention programme focusing on high risk premises and sectors as guided by the HSE.
- Undertaking safety hazard spotting exercises concentrating on matters of evident concern, including electrical safety, during all food hygiene inspections.
- Investigating accidents and taking appropriate action in accordance with current legislation and accompanying guidance and the Enforcement Management Model.

Our Service is measured against performance targets which have been set for 2019-20 as: -

- 100% of high risk (A-B1) premises interventions are carried out as determined by the risk rating scheme.
- 100% of other planned interventions completed within the financial year.
- 90% of service requests and accident notifications responded to within 3 working days.

These indicators provide an objective measure on how our premises are improving and how well our Service is performing.

3.4 Demands on the Service

The districts contain a mix of manufacturing, retail and catering premises. Catering and retail are the dominant sectors within this mix. The businesses are predominantly small to medium sized establishments, however there are a number of larger distribution centres on the M1 corridor which the Councils have enforcement responsibilities for.

The Councils have a traditional cross-section of businesses: -

	Premises at 1st April 2019
Total number of Business Premises on Commercial Premises database	2,627
Categories A-B1 (High Risk)	17
Categories B2-C (Others)	1,301
Non Rated	802
Enforcement responsibility unallocated*	507

* Database review underway to clarify allocation.

Premises Types	
Retail premises	521
Catering premises	645
Distributors/ Warehouses	92
Skin Piercing and Beauty Establishments	101
Animal Activity Licensed establishments	103

External factors impacting on health and safety enforcement service delivery include: -

- Seven day local economy.
- Transition from manufacturing to service industry economy.
- Turn-over of occupancy/use.
- Increasing number of fast food outlets.
- Nationally set priorities, initiatives and programmes etc.

3.5 Policy and Standards

Delivery of Health and Safety Controls is carried out in accordance with national procedures and guidance including: -

- Regulators' Code.
- HSE National Local Authority Enforcement Code.

In addition, the Councils have adopted a joint Enforcement Policy which is available upon request and on the Councils' websites.

3.6 Competency

Officer competencies are managed by means of a Performance Development Review process with individual training and development records being maintained.

Officers have completed a competency matrix following the guidance in [Local Authority Circular 22/8](#). This is reviewed annually.

Only staff that are competent are authorised to undertake Health and Safety enforcement. Competency is based on qualifications and relevant experience. This is monitored annually through our benchmarking, quality checks and appraisals.

Officer training will be provided for all authorised officers to ensure continued professional development and officer competency. An internal training programme will be prepared for 2019-20. If additional training is required this will be arranged externally or in-house.

The following monitoring arrangements are in place to assess the quality of health and safety enforcement work and ensure expected standards are maintained: -

- Daily support provided by Managers and Senior EHO.
- Allocation of premises requiring inspection according to risk, from the Idox Uni-form IT system.
- Documentation audits.
- Team Manager approval of recommendations for legal proceedings.
- Senior Officer peer review of the service of notices.
- Use of standard phrases for Schedules of Contraventions.
- Ongoing appraisal and regular 1 to 1 meetings.
- Procedures for investigating complaints against the Service.
- Subscription to HSE Extranet.
- Team meetings to discuss matters of professional and technical interest.

A documented procedure is maintained for recording qualifications, training and individual competencies which are reviewed annually as part of the Performance Management process.

4.0 SERVICE DELIVERY

4.1 Interventions

The Councils are required to work to meet the [HSE National Code](#), a risk-based approach to determining its priorities for preventive health and safety at work. This plan outlines the work required to deliver the national priorities set by HSE and local priorities and is accompanied by an inspection programme that meets the requirements of the Code.

We will also focus on the key strategic areas outlined in the HSE's 'Helping Great Britain Work Well' strategy and the risk reduction topics during our interventions to make an active contribution to raise awareness of these priority issues with duty holders.

The estimated number of interventions due in 2019-20 is summarised in the table below. A breakdown is also indicated of those premises that fall within Appendix A of the HSE National Code because of the high risk activity/sector.

Premises Profile	Total Number of Premises	Minimum number of Interventions due 01/04/19 – 31/03/20
Category A	3	3 - Inspection based on national priorities
Category B ₁	14	14 - Inspection based on national priorities
Category B ₂ (B ₂ and B ₃)	310	65
Category C (B ₄ and C)	991	Minimum of 5% of premises covered by alternative interventions based on national priorities.
Unrated and unallocated enforcement responsibility*	1,309	65 Data captured and interventions during where premises may fall into a national priority category, other regulatory activity, accident notifications and complaints where HSE mandate an investigation or intervention can take place.
Total	2,627	147

** A proportion of these will fall within scope of an intervention undertaken during a visit for another purpose e.g. during food hygiene visits.*

The team's intervention programme will focus on inspections of the highest risk known premises based on the HSE's National Code for priority sectors and activities (summarised in Appendix 1). Additional inspection/interventions may also be triggered in response to complaints, accident notifications or local knowledge with the intention to carry out interventions of some form at at least 10% of the premises within the lower risk or unrated risk groups, again based on the National Code.

The risk rating methodology built into the Service's inspection management system will be used during all premises interventions to ensure any potentially high risk (A-B1 rated) premises are identified proactively.

Primary Authority Scheme

The Primary Authority (PA) scheme was launched by the Local Better Regulation Office (LBRO) in April 2009 under powers in the Regulatory Enforcement and Sanctions Act 2008, which is legislation that applies to England and Wales.

The Primary Authority scheme, however, is national and gives companies the right to form a statutory partnership with a single local authority, which then provides robust and reliable advice for other councils to take into account when carrying out inspections or dealing with non-compliance.

Each business formally agrees to an inspection plan with its Primary Authority for its particular regulatory domain. Inspecting LAs are required to take agreed inspection plans into account when planning interventions for such companies and to consult with the Primary Authority before taking enforcement action. A number of the larger business chains in the districts have Primary Authority agreements in place and the Commercial Team must have regard to their agreed inspection plans in order to plan more efficient and targeted interventions for these businesses.

We currently have no Primary Authority relationships, but are actively pursuing these or other relationships. Costs of these relationships would be recovered on a full cost recovery basis.

Risk Category A Premises and those specified in Appendix A of the National Code

The rating scheme directs LA resources towards the highest risk premises within the area. The highest risk premises (Category A) will be subject to a proactive inspection on a risk priority basis along with those high risk sectors/activities identified in the National Code. Each will receive a full detailed inspection, which will include any national and local programmes as appropriate to the work activities of the business.

For 2019-20 the following interventions are scheduled: -

Risk Rating	A
Number of interventions scheduled	3
Performance Aim	Carry out 100% of proactive inspections
Performance Indicator	% of inspections achieved

Inspectors will also take note of any of the following in their inspection: -

- Hazards proven significant risk to that industry.
- Significant risks identified during the inspection.
- Issues raised by employers, employees and representatives.
- Complaints or reportable accidents related to the premises or duty holder.
- An assessment of compliance with smoke-free legislation.

These visits should be for health and safety purposes only, unless the inspector can ensure that sufficient time can be devoted to health and safety during a joint inspection, such as a food hygiene inspection.

Risk Category B1 Premises

Although these premises are of medium risk, LAC 67-2 (Revision 8) clearly states they are unsuitable for pro-active inspection. However, a proportion of these businesses will fall within the sectors/activities specified in the HSE National Code and therefore may be subject to a pro-active inspection and the others have been identified as poor performers for local intelligence matters.

For 2019-20 the following interventions are scheduled: -

Risk rating	B1
Number of interventions scheduled	14
Performance Aim	Carry out 100% of interventions
Performance Indicator	100% of interventions

Risk Category B2 to C (Non-Code Premises)

For these categories of premises, LAC 67-2 (Revision 8) clearly states non-inspection intervention methods/techniques should be utilised. Premises due a health and safety intervention that do not fall within the scope of the HSE National code will only receive an intervention if accident notifications or complaints are received, on a risk priority basis. A small proportion of these premises will fall within the HSE's prescribed list of premises allowed to be intervened by the Councils.

For 2019-20 the following interventions are scheduled: -

Risk rating	B2 to C
Number of interventions scheduled	<p>65</p> <p>5% of premises in these categories and are premises falling within scope of an intervention prescribed by HSE, as per Appendix 1.</p> <p>Other premises outside this core group will be subject to an intervention if set by the HSE including asbestos and fragile roofs, if intelligence suggests they are failing their duty holder obligations. Such intelligence would be from complaints or reported incidents or officer observations.</p>
Performance Aim	Carry out interventions in those prescribed by HSE and interventions in other premises subject to accident notifications or complaints received for these premises.
Performance Indicator	100% of interventions when accident notifications or complaints are received.

New and Unrated Premises

The move from traditional inspection programmes towards targeted interventions ensures work is aimed at businesses that present the greatest risk to employees. However, this has resulted in a substantial number of unrated premises on our database and premises where we are unable to easily determine the relevant enforcing authority.

Through national deregulation, new businesses have no legal responsibility (as with food law) to register with the Councils. New businesses are identified by the Service through other regulatory activity.

The Service has the difficult task of ensuring its database is accurate and therefore the correct interventions are undertaken. Where intelligence suggests that a premise is low risk, it will be treated in the same manner as a Category C low risk premises (see above) unless further intelligence is received in the form of an accident notification or complaint.

For 2019-20 the following interventions are scheduled: -

Risk rating	Unrated and New
Number of interventions scheduled	65 interventions
Performance Aim	Carry out interventions for accident notifications or complaints received for these premises or where other intelligence suggests there is an unmanaged risk, or where a premises is likely to fall within a national priority.
Performance Indicator	100% of interventions when accident notifications fall within the National Code for an intervention.

4.3 Workplace Safety Complaints

The Councils will respond to all complaints they receive relating to health and safety where it is the enforcement authority and will liaise with HSE, Home, Primary and Originating Authorities as appropriate.

An initial response to a health and safety complaint will be made within 3 working days.

	Actual for 2018/19	Actual to 30th September
Health and Safety complaints	42	18

Complaints shall be investigated in accordance with the Enforcement Policy.

4.4 Business Advice

The Service has a policy of offering advice to any start-up business or established business which has trading premises within our areas, unless the trader has entered into a Primary Authority or Home Authority arrangement with another Local Authority. Comprehensive health and safety advice is available online at www.hse.gov.uk.

Initial advice will normally be limited to telephone advice, provision of advisory material or sign-posting to relevant sources of information. Advisory visits will be undertaken at the discretion of the officers prior to businesses opening.

The Service is exploring alternative models for the provision of business advice, including the development of online resources and chargeable services. We are also pursuing links with colleagues working in economic development at district and county level.

5.0 PERFORMANCE & IMPROVEMENT

5.1 Service Challenges & Improvement

Over the last 2 years, service delivery has been adversely impacted by staff vacancies and recruitment difficulties.

The Service has struggled to meet some of its responsibilities, chiefly due to the loss of Environmental Health Officers to other local authorities, which has come at a time when there has been an increase in the workload the Service is required to deliver.

There has been a general increase in complex cases leading to an increase in legal work, including prosecutions and high profile enforcement cases. The turnover in business operators, particularly within takeaways, is presenting additional challenges and demands.

These factors have resulted in a backlog of low risk food premises overdue inspection.

In 2019-20 the Service is responding to these issues in the following ways: -

- Engagement of an Environmental Health advisor and interim Head of Service.
- Appointment of an Environmental Health Manager (to fill an existing vacancy).
- Appointment of five part time contract Environmental Health Officers, undertaking food hygiene inspections on a per inspection basis.
- Secondment of an Environmental Health Officer from a neighbouring authority for two days a week providing support in the Commercial Team.
- Appointment of an agency Environmental Health Officer able to undertake the full range of commercial duties.
- Extension of temporary arrangements to provide additional technical and administrative support to the Commercial Team, providing assistance to officers with administration and data entry.
- Regular review and analysis of performance levels informing the procurement of additional contract support, as required.

The Leaders of both Councils and the Joint Chief Executive have also instigated a review of the Environmental Health Service, which with Cabinet and Executive support will include: -

- A review of existing staffing structures.
- A review of teams including functional synergies and the skills mix of staff.
- A review of salary levels and individual posts to help address recruitment difficulties.

- Business process improvements including the use of technology, new ways of working and other efficiency measures.

The Interim Head of Service will co-ordinate the review and contribute to the development of a detailed improvement plan for the Service.

In addition, Bolsover District Council is participating in a Local Government Association (LGA) corporate peer challenge in November 2019. The Leader of the Council has asked the review team to focus on three priorities, including Environmental Health.

5.2 Performance Monitoring

Monitoring arrangements are in place to assist in the quality assessment of the work being carried out by the Commercial Team as follows: -

- Peer review of inspections (shadowing), including of agency contractors.
- Structured quarterly review of a sample of post inspection records.
- Regular team meetings.
- Individual performance reviews.

In addition, the Interim Head of Service is overseeing the staffing interventions in place to address performance during this interim period.

Work will continue with the Environmental Health Manager and the Senior Environmental Health Officer (Commercial) to monitor performance, to forecast outputs and to ensure that sufficient and appropriate resource is provided.

5.3 Other Challenges & Risk Management

Other challenges to service delivery include: -

- Brexit. Food safety regulatory activity may have an impact on other activity due to increases in demands in the event of a no-deal Brexit.

Risk Management /Business Continuity: -

Identified service level risks relate to resourcing, having appropriate structural elements in place (including service planning and performance management) and to maintaining and building upon the level of skills within the team (recruitment and retention).

6.0 DOCUMENT CONTROL

Second draft: 6th November 2019

Approved by Portfolio Holders:

Appendix 1 – List of activities/sectors considered suitable for proactive inspection ([National Code Annex B](#))

No	Hazards	Potential Poor Performers within an Industry Sector	High Risk Activities
1	Legionella infection	Premises with cooling towers/evaporative condensers	Lack of suitable legionella control measures, including premises that have: <ul style="list-style-type: none"> Not yet demonstrated the ability to manage their legionella risk in a sustained manner, includes new cooling towers/evaporative condensers, or Relevant enforcement action in the last 5 years and have not yet demonstrated sustained control of legionella risk.
2	Explosion caused by leaking LPG	Communal/amenity buildings on caravan/camping parks with buried metal LPG pipework	Caravan/camping parks with poor infrastructure risk control/management of maintenance
3	E.coli/ Cryptosporidium infection esp. in children	Open Farms/Animal Visitor Attractions ²	Lack of suitable micro-organism control measures
4	Fatalities/injuries resulting from being struck by vehicles	High volume Warehousing/Distribution ³	Poorly managed workplace transport
5	Fatalities/injuries resulting from falls from height/ amputation and crushing injuries	Industrial retail/wholesale premises ⁴	Poorly managed workplace transport/ work at height/cutting machinery /lifting equipment

6	Industrial diseases (occupational deafness/ occupational lung disease - silicosis)	Industrial retail/wholesale premises ⁴	Exposure to excessive noise (steel stockholders). Exposure to respirable crystalline silica (Retail outlets cutting/shaping their own stone or high silica content 'manufactured stone' e.g. gravestones or kitchen resin/stone worktops)
7	Occupational lung disease (asthma)	In-store bakeries ⁵ and retail craft bakeries where loose flour is used and inhalation exposure to flour dust is likely to frequently occur i.e. not baking pre-made products.	Tasks where inhalation exposure to flour dust and/or associated enzymes may occur e.g. tipping ingredients into mixers, bag disposal, weighing and dispensing, mixing, dusting with flour by hand or using a sieve, using flour on dough brakes and roll machines, maintenance activities or workplace cleaning.
8	Musculoskeletal Disorders (MSDs)	Residential care homes	Lack of effective management of MSD risks arising from moving and handling of persons
9	Falls from height	High volume Warehousing/Distribution ³	Work at height
10	Manual Handling	High volume Warehousing/Distribution ³	Lack of effective management of manual handling risks
11	Unstable loads	High volume Warehousing/Distribution ³ Industrial retail/wholesale premises ⁴	Vehicle loading and unloading

12	Crowd management & injuries/fatalities to the public	Large scale public gatherings e.g. cultural events, sports, festivals & live music	Lack of suitable planning, management and monitoring of the risks arising from crowd movement and behaviour as they arrive, leave and move around a venue
13	Carbon monoxide poisoning	Commercial catering premises using solid fuel cooking equipment	Lack of suitable ventilation and/or unsafe appliances
14	Violence at work	Premises with vulnerable working conditions (lone/night working/cash handling e.g. betting shops/off-licences /hospitality ⁶) and where intelligence indicates that risks are not being effectively managed	Lack of suitable security measures/procedures. Operating where police/licensing authorities advise there are local factors increasing the risk of violence at work e.g. located in a high crime area, or similar local establishments have been recently targeted as part of a criminal campaign
55	Fires and explosions caused by the initiation of explosives, including fireworks	Professional Firework Display Operators ⁷	Poorly managed fusing of fireworks

- 1 See LAC 67-2 (Revision 8) for guidance on the application to certificated petroleum storage sites.
- 2 Animal visitor attractions may include situations where it is the animal that visits e.g. animal demonstrations at a nursery.
- 3 Typically larger warehousing/distribution centres with frequent transport movements/work at height activity.
- 4 Includes businesses such as: steel stockholders; builder's and timber merchants.
- 5 For supermarket and other chain bakeries etc. check to see if there is a Primary Authority inspection plan with more specific guidance.
- 6 Pubs, clubs, nightclubs and similar elements of the night time economy.
- 7 Specific guidance on the application of the Explosives Regulations 2014 to the activities of professional firework display operators is available on the HSE website - www.hse.gov.uk/explosives/er2014-professional-firework-display.pdf

Bolsover District Council

Executive

24th February 2020

Sale of land to registered custom and self builders
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Report of the Portfolio Holder - Housing & Community Safety

This report is public

Purpose of the Report

- To inform Executive of the proposal for the sale of council owned land to registered custom and self-builders for a consideration less than the best that can reasonably be obtained
- To seek approval of targeted marketing and subsequent sale of the following plots to individuals and groups registered on the Council's self-build and custom housebuilding register:
 - a) Land at Baker Street, Creswell
 - b) Land at Blind Lane, Bolsover
 - c) 263A Creswell Rd, Clowne
- To seek delegated powers to agree the terms for the sale (including the price) of other surplus Council-owned land to individuals or groups on the Council's self-build and custom housebuilding register.

1 Report Details

Self-build and Custom Housebuilding

- 1.1 The Self-build and Custom Housebuilding Act 2015 requires the Council to have regard to the self-build and custom housebuilding register ("the register") when carrying out its functions relating to—
 - (a) planning;
 - (b) housing;
 - (c) the disposal of any land of the authority; and
 - (d) regeneration.
- 1.2 Government guidance says with regard to the disposal of land:

Authorities who are under the duty to have regard to registers that relate to their areas should consider the evidence of demand for self-build and custom housebuilding in their area from the register when developing plans to dispose of land within their ownership.

- 1.3 Government guidance goes on to say the Council could increase the number of planning permissions which are suitable for self-build and custom housebuilding by using their own land if available and suitable for self-build and custom housebuilding and marketing it to those on the register.
- 1.4 However, although there is a statutory duty to 'permission' sufficient serviced plots to meet demand on the register, Government guidance does not address the question of disposal of land to individuals or groups on the register at less than best consideration and there is no regulatory or statutory requirement to do so.

The Council's Disposals and Acquisitions Policy

- 1.5 The Council's actions in disposing of land are otherwise subject to statutory provisions; in particular, to the overriding duty on the Council, under section 123 of the Local Government Act 1972, to obtain the best consideration that can be reasonably obtained for the disposal of land.
- 1.6 This duty is subject to certain exceptions that are set out in the Local Government Act 1972: General Disposal Consent (England) 2003. The specified exceptions are:
 - a) the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the following objectives in respect of the whole or any part of its area, or of all or any persons resident or present in its area;
 - i) the promotion or improvement of economic well-being;
 - ii) the promotion or improvement of social well-being;
 - iii) the promotion or improvement of environmental well-being; and
 - b) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000 (two million pounds).
- 1.7 Where an asset is being disposed at less than best consideration that can be reasonably obtained for the disposal of land, a market valuation is needed as part of the process of considering the wider public benefits alongside any financial implications. A market valuation would also enable accurate accounting and reporting.
- 1.8 In this context 'Market Value' has a specific definition, which is set out in the Royal Institution of Chartered Surveyors Valuation - Global Standards 2017 (the Red Book) VPS 4 para 4 and by the International Valuation Standards (IVS) 104 paragraph 29 as:

'The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion'.

The Issue

- 1.9 In light of these legislative provisions, the definition of Market Value and the Council's own disposals policy, the Council's senior valuer has raised concerns that the targeted marketing of plots and restricted sale to individuals and groups registered on the Council's Self-build and Custom-build Housing Register may result in an asset being disposed of for a consideration less than the best that can reasonably be obtained.
- 1.10 To address this risk, and in accordance with the Council's Disposals and Acquisitions Policy, officers are now seeking approval from Executive for the disposal of the nominated plots of land to registered custom and self builders through targeted marketing and informal tender.

2 Conclusions and Reasons for Recommendation

- 2.1 As noted above, the 'Local Government Act 1972: General Disposal Consent (England) 2003' gives consent to the Council to dispose of land for less than the best consideration that can reasonably be obtained; providing the disposal would contribute to the achievement one or more of the following objectives:
- i) the promotion or improvement of economic well-being; and/or
 - ii) the promotion or improvement of social well-being; and/or
 - iii) the promotion or improvement of environmental well-being.
- 2.2 Proposals to dispose of land at less than best consideration should also be considered with regard to '*Circular 06/03: Local Government Act 1972 general disposal consent (England) 2003 disposal of land for less than the best consideration that can reasonably be obtained*' and with particular regard to guidance in this Circular on valuation and state aid rules.
- 2.3 In this case, the targeted sale of land to custom and self builders on the register would have a **social dimension** by promoting opportunities for home ownership for individuals and groups who want to play a role in developing their own homes.
- 2.4 This approach would also help to diversify the type of housing across the District and make a positive contribution to housing delivery.
- 2.5 The targeted sale of land to custom and self builders on the register would have an **economic dimension** insofar as custom and self builders on the register may not have the financial ability to compete with other house builders when seeking to purchase land on the open market.
- 2.6 The targeted sale of land to custom and self builders on the register would have an **environmental dimension** by making better use of under-utilised sites that are surplus to requirements and may become an ongoing maintenance liability or attract anti-social behaviour.
- 2.7 In terms of valuation, the sites will be offered with a reserve price set at the Council's senior valuer's 'market valuation' so they will not be sold at a price that is 'under value'

but the sites may not achieve the same value through a restricted sale to people on the register compared to disposal through public auction, for example.

- 2.8 In terms of state aid, this proposal does not offer a subsidy (by way of an under value, for example) and land would be disposed of via a competitive process (informal tender) rather than a private sale. Therefore, it is unlikely state aid rules would be engaged in any event.
- 2.9 However, if these proposals were approved, it is also considered notification of state aid would not be required unless a “single undertaking” would benefit from a subsidy on the ‘full cost’ of the land worth more than £55,000 per annum over a three year period. It is highly unlikely the sale of the three nominated plots of land to a single entity would give rise to any form of subsidy that would exceed this threshold.
- 2.10 Finally, the unrestricted value of the land to be disposed of and the consideration for the disposal would not exceed £2,000,000.
- 2.11 It is therefore concluded that it is appropriate to recommend approval of targeted marketing and subsequent sale by informal tender of the following plots to individuals and groups registered on the Council’s self-build and custom housebuilding register for a price no less than the senior valuer’s market valuation:
- a) Land at Baker Street, Creswell
 - b) Land at Blind Lane, Bolsover
 - c) 263A Creswell Rd, Clowne
- 2.12 If Members were satisfied that this approach was appropriate, it is recommended that delegated power be granted to the Director of Development, following consultation with the Portfolio Holder, to agree the terms for the sale (including the price) of other surplus Council-owned land to individuals or groups on the Council’s self-build and custom housebuilding register in the future.

3 Consultation and Equality Impact

- 3.1 The Housing Department has consulted on the disposal of the nominated sites with local councillors and senior leadership. The Asset Management Group have approved disposal of the sites to individuals or groups on the register.
- 3.2 The proposals for house building on these sites have also been subject to public consultation prior to the adoption of local development orders for all three nominated sites.
- 3.3 No equality issues were identified during public consultation and there are no obvious reasons why the proposals to dispose of these sites would have any significant impact on any person with a protected characteristic or group of people with a shared protected characteristics.

4 Alternative Options and Reasons for Rejection

- 4.1 The nominated sites have been chosen as they are considered to be the most attractive to individuals on the register, they qualify as serviced plots (within the

regulatory definition) and they have the benefit of local development orders granting permission in principle for custom and self-build houses on the land.

- 4.2 Asset Management Group considered disposing of these sites through public auction but with due regard to the duties placed on the Council by the Self-build and Custom Housebuilding Act 2015; it was agreed to seek Executive's approval for disposal of the nominated sites at less than best consideration to promote opportunities for custom and self builders on the register to acquire land.

5 Implications

5.1 Finance and Risk Implications

- 5.1.1 There is a risk that these sites would attract more interest and sell for more money if they were disposed of through public auction. There is also a risk that targeted marketing would miss the opportunity to increase awareness of land availability amongst potential custom and self builders in the wider market who are not on the register and are unaware the sites benefit from local development orders.
- 5.1.2 There was a potential risk the sites could be sold to individuals on the register but not get built out. However, it is intended that the land will be sold subject to a clause that if the purchaser has not applied for Planning Permission a year after the purchase of the land or not started on site within 18 months of applying for planning permission; the Council will be entitled to buy the land back at sale price less £500 for admin charges.

5.2 Legal Implications including Data Protection

- 5.2.1 The legal issues arising from these proposals have been fully addressed in the above report.
- 5.2.2 Any personal data associated with individuals or organisations on the register will be processed in accordance with the Council's privacy statement.

5.3 Human Resources Implications

- 5.3.1 These proposals do not give rise to any significant human resources implications.

6 Recommendations

- 6.1 That approval is granted for the targeted marketing and subsequent sale by informal tender of the following plots to individuals and groups registered on the Council's self-build and custom housebuilding register for a price no less than the senior valuer's market valuation:
- a) Land at Baker Street, Creswell
 - b) Land at Blind Lane, Bolsover
 - c) 263A Creswell Rd, Clowne
- 6.2 That, if by 30 June 2020, no successful bids have been forthcoming, the sites shall be disposed of by public auction.

- 6.3 That delegated power be granted to the Director of Development, to agree the terms for the sale (including the price) of other Council-owned land surplus to requirements to individuals or groups on the Council's self-build and custom housebuilding register, following consultation with the Portfolio Holder, and on the basis that the land shall not be disposed of for a price less than the senior valuer's market valuation of that land.

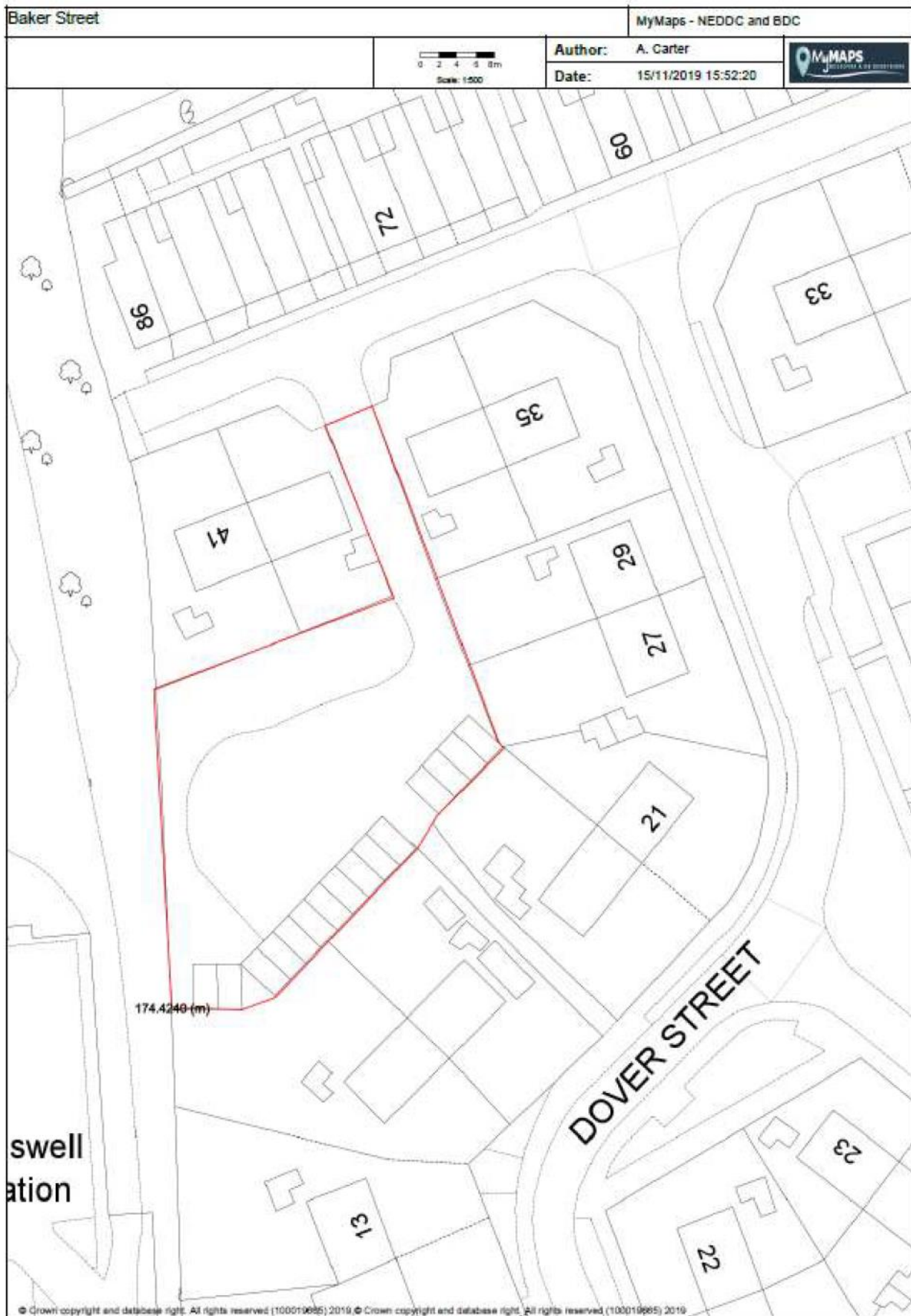
7 Decision Information

Is the decision a Key Decision? 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: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> Please indicate which threshold applies	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
Has the relevant Portfolio Holder been informed	Yes
District Wards Affected	All
Links to Corporate Plan priorities or Policy Framework	All

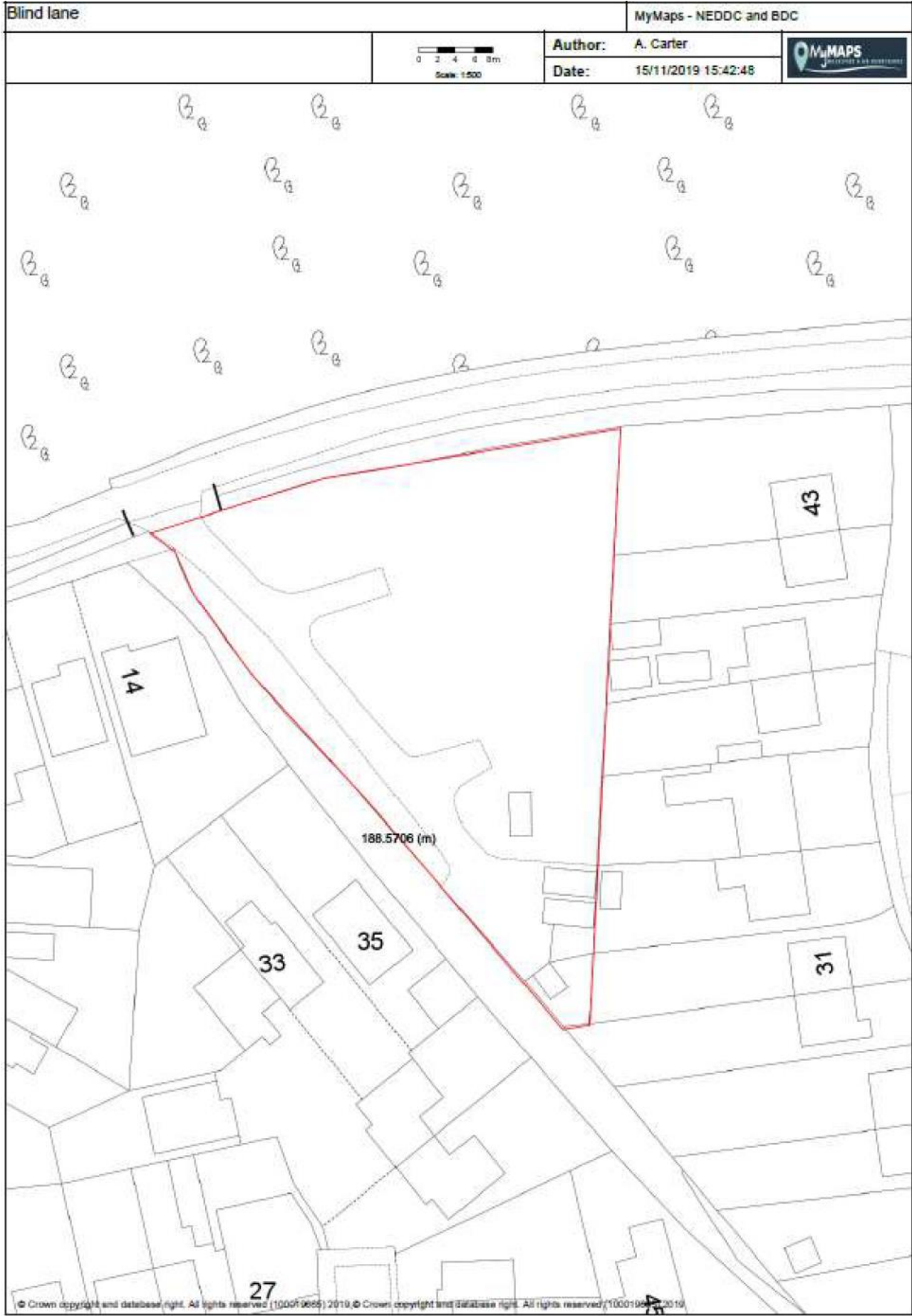
8 Document Information

Appendix No	Title	
1	Land at Baker Street, Creswell	
2	Land at Blind Lane, Bolsover	
3	263A Creswell Rd, Clowne	
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)		
Report Author		Contact Number
Eve Hagon, Joint Housing Growth Officer Chris Fridlington, Assistant Director of Development		01246 217319 01246 242354

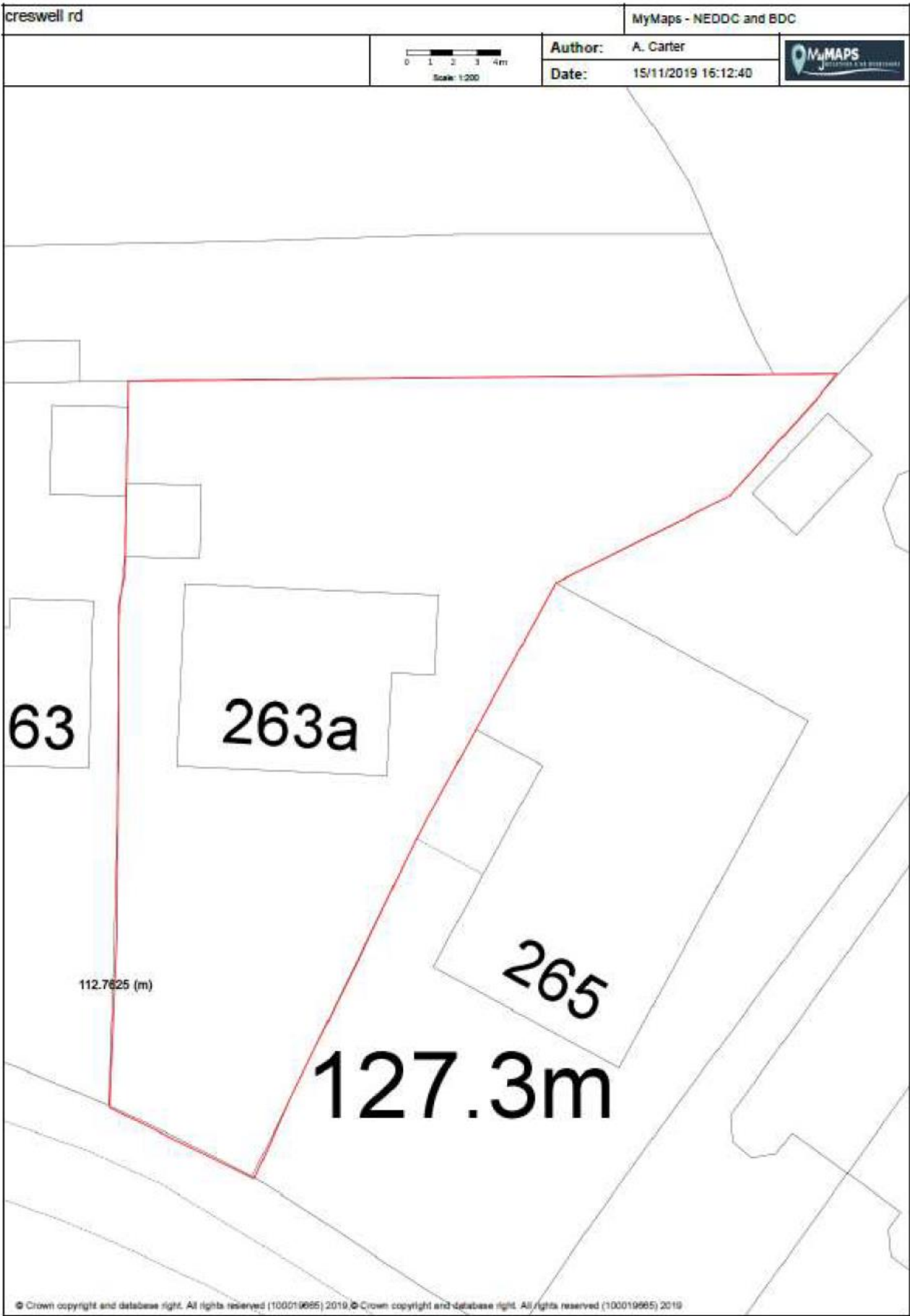
Appendix 1: Garage Site To The Rear Of 15 – 21, Baker Street, Creswell



Appendix 2: Garage Site to rear of 33 to 43 Iron Cliff Road, Blind Lane, Bolsover



Appendix 3: 263A Creswell Road, Clowne



Agenda Item 8

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

Agenda Item 9

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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