

Bolsover District Council

Meeting of the Planning Committee on 8th June 2022

May 2022 Local Enforcement Plan (Planning) – Review

Report of the Planning Manager (Development Control)

Classification	This report is Public
Report By	Sarah Kay Planning Manager (Development Control)
Contact Details	01246 242265 sarah.kay@bolsover.gov.uk

PURPOSE/SUMMARY OF REPORT

- To report to the Planning Committee the overall performance against the Local Enforcement Plan (Planning) since its original adoption in March 2019 – April 2022; and
- To report to the Planning Committee the May 2022 review of the Local Enforcement Plan (Planning) for adoption.

REPORT DETAILS

1. Background

1.1 In March 2019 the Planning Committee adopted the Local Enforcement Plan (Planning), which set out:

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

1.2 The 2019 Plan committed to a 6 monthly reporting cycle to Planning Committee against performance targets set, and a review of the entire Plan after 3 years.

1.3 Alongside a collaborative review of the last 3 years performance figures, the review of the Local Enforcement Plan (Planning) for Bolsover District May 2022 is included as Appendix 1 to this report.

- 1.4 Paragraph 59 of the National Planning Policy Framework (July 2021) states that, *'Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.'*
- 1.5 Publication of a Local Enforcement Plan is therefore consistent with Government guidance on best practice in respects of planning enforcement; as well as the Regulator's Code and the Council's corporate enforcement policies.

2. Details of Proposal or Information

- 2.1 Since the adoption of the March 2019 Local Enforcement Plan (Planning) update reports have been brought to Planning Committee on 31/07/2019, 04/11/2020, 30/06/2021 and 19/01/2022 setting out the service areas performance against the Plan targets. These dates were broadly in line with the 6 monthly reporting schedule set out in the Plan, with the exception of 2020 when committee dates were cancelled due to the pandemic.
- 2.2 The update reports have consistently presented details in respect of the number of planning enforcement cases received, closed and pending since 2015 – 2021; and since 2019 performance against site visit targets for all low, medium and high priority cases. The reports have also presented anonymous details of outstanding historic cases.
- 2.3 A reminder of the high, medium and low priority categories and the Plan targets against those categories are set out below:

What is a high priority case?

High priority cases are cases where there is an immediate and serious risk of harm or irreparable damage resulting from the unauthorised works that might be taking place. We will aim to investigate these cases on the same day that they are reported to the Council. We will then decide what further action to take, if any, within 24 hours. Examples of high priority cases are as follows:

- Demolition in a Conservation Area;
- Destruction of an important hedgerow;
- Hazardous substances;
- Unauthorised works to protected trees;
- Unauthorised works to listed buildings; and
- Unauthorised development in Green Belt

What is a medium priority case?

Medium priority cases will not normally require immediate action to prevent serious harm. They will include suspected breaches of planning control that would not normally get planning permission because they are contrary to

local planning policies and/or have a harmful impact on the amenity of the area.

We will aim to start investigating cases that are likely to be a medium priority by visiting the site within two weeks of receiving a complaint. We will then decide what further action to take, if any, within four weeks of the site visit. Examples of medium priority cases are as follows:

- Unauthorised development that contravenes local planning policy;
- Unauthorised development that significantly impacts on local amenity and public safety;
- Unauthorised development that results in harm to the character of a Conservation Area; and
- Unauthorised development that results in harm to the setting of a listed building.

What is a low priority case?

Low priority cases will be minor breaches of planning control. We will aim to start investigating cases that are likely to be a low priority by visiting the site within six weeks of receiving a complaint. We will then decide what further action to take, if any, within six weeks of the site visit. Examples of low priority cases are as follows:

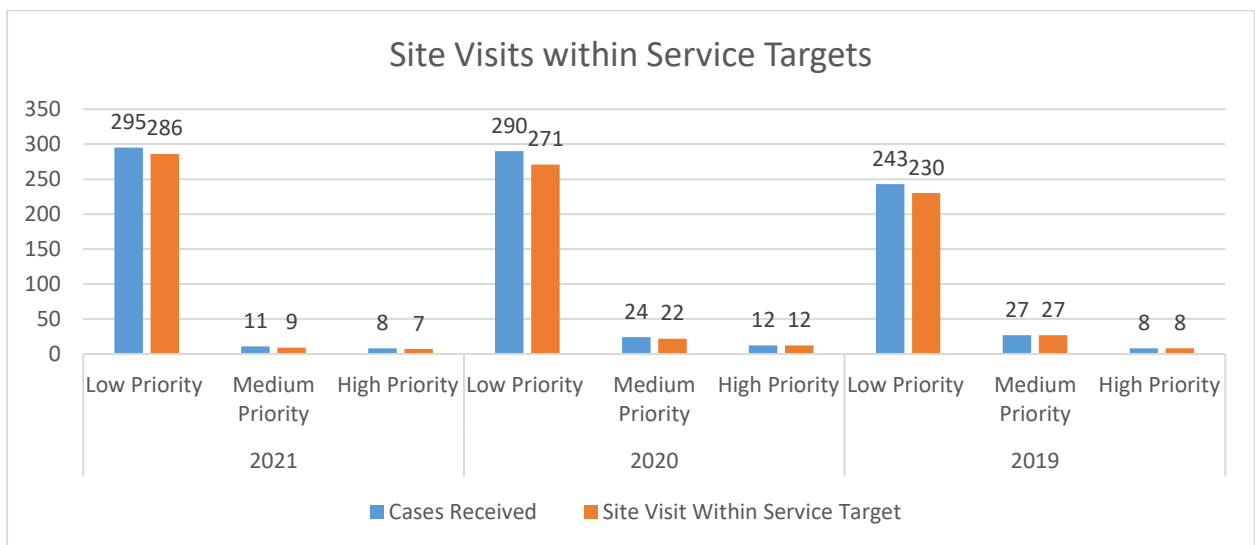
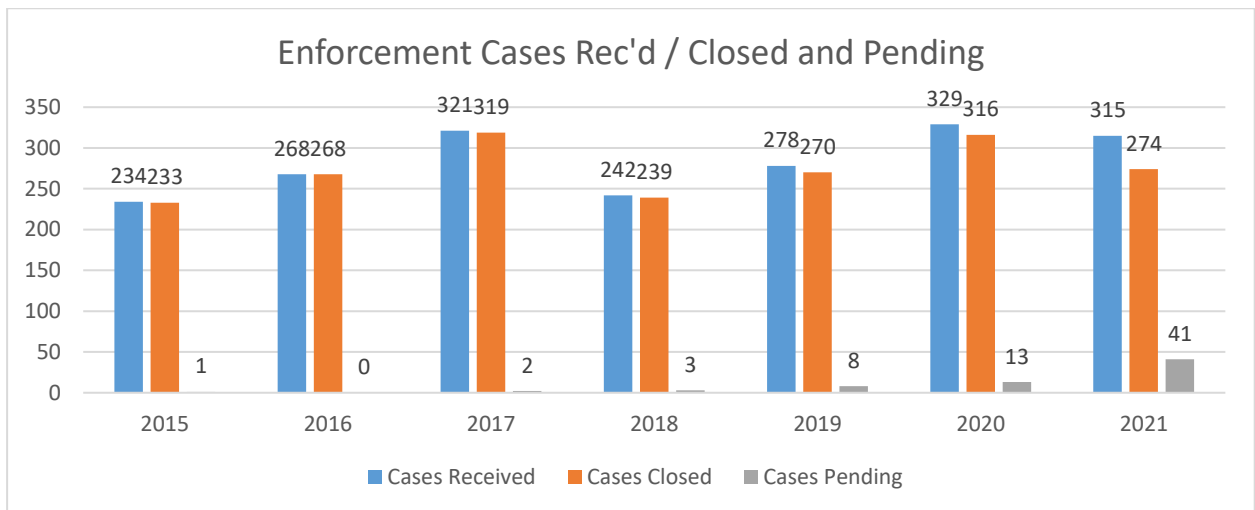
- Running a small business from a residential property;
- Unauthorised advertisements;
- Unauthorised fences and walls;
- Unauthorised householder developments; and
- Untidy land and buildings.

The site of a **HIGH** priority case will be visited in the same day the suspected breach of planning control has been identified, wherever possible, and a decision on what further action is required will be taken within **24 hours** of that site visit.

A site visit will be undertaken within **2 weeks** of identifying a suspected breach of planning controls that is likely to be a **MEDIUM** priority case. A decision on what further action to take will be made within four weeks of that site visit.

A site visit will be undertaken within **6 weeks** of identifying a suspected breach of planning controls that is likely to be a **LOW** priority case. A decision on what further action to take will be made within six weeks of that site visit.

- 2.4 Detailed below are the latest figures for all of these performance indicators, which have been used to gauge the suitability of the service area targets set and assess overall performance of the Local Enforcement Plan (Planning) to inform this 3 yearly review.



- 2.5 The figures presented demonstrate that the Local Enforcement Plan (Planning) is working, and reported breaches of planning control are being dealt with efficiently and effectively. This is reflected in the performance against service standards whereby the team continue to promptly visit sites and make first contact with suspected case subjects.
- 2.6 Since the adoption of the Local Enforcement Plan (Planning) there have been no Ombudsman cases upheld against the Council concerning the way in which any planning enforcement cases have been handled, which suggests that the Plan is effective in explaining the way in which reported breaches of planning control will be handled by the Planning Department.
- 2.7 The number of historic outstanding cases are low, with any outstanding cases from 2015 – 2021 representing only 3% of the overall cases which have been dealt with. Furthermore less than 1% of these cases pre-date 2020.
- 2.8 Having regard to the background data presented above, it is considered that there is little reason to amend or change the targets and priorities set out in the Local Enforcement Plan (Planning) review. It is therefore proposed that the same targets and priorities are maintained, alongside the 6 monthly report of performance to planning committee. The review of the document has allowed its branding and appearance to be refreshed and it has also been published in an

'accessible' format to ensure it is accessible to all users of the service as part of its publication on our website.

- 2.9 In November 2021 the Citizen Panel Review included questions about the Planning Enforcement Service, where it was revealed that many service users (74%) were not aware of the Local Enforcement Plan (Planning) or that they could report a concern about a suspected breach of planning control to the Council using our self-service forms. Where service users had reported a suspected breach of planning control to the Council they had done so by either **phoning** the Council (18%), **emailing** the Council (9%), **speaking** directly to an Elected Member (5%), **visiting** Council premises and talking to a member of staff (4%) or **writing** to the Council (3%). The remaining 64% of panel respondents had never had need to use the service.
- 2.10 The results of the Citizen Panel Review suggest that we should utilise the timing of this review of the Plan as an opportunity to highlight how the Planning Enforcement Service can be accessed and to make sure that our website holds sufficient information and direction for service users. Drawing attention to the self-service forms is one way of doing this, but we also want to make sure that officers in the team are accessible to all service users who still want to phone, email, speak or visit to discuss their concerns.
- 2.11 Following Planning Committee approval the document will be promoted amongst all Parish Council's, Contact Centres and on Bolsover TV / Bolsover News outlets.

3. Reasons for Recommendation

- 3.1 It is not a criminal offence to carry out unauthorised development (unless an enforcement notice is in place) and there are many different ways that the Council can tackle unauthorised development and other breaches of planning control including taking no further action because planning enforcement is discretionary.
- 3.2 The Government says that the Council should act in a proportionate way when tackling breaches of planning control. This means the Council cannot normally justify taking formal enforcement action against minor breaches of planning control and formal enforcement action should be used as a last resort in most cases.
- 3.3 The Council has to prioritise cases to ensure there are sufficient resources to make sure serious breaches of planning control are dealt with urgently and to ensure other cases are dealt with effectively and efficiently. This means cases will be dealt differently depending on the individual circumstances of the case but the Council still needs to demonstrate it takes a consistent approach to planning enforcement.
- 3.4 In these respects, effective planning enforcement is important to:
- tackle breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area, or have an unacceptable adverse impact on the living conditions of local residents;

- maintain the integrity of the decision-making process by tackling unauthorised development that would not normally get planning permission; and
 - maintain public confidence in the Council's decision-making processes by ensuring conditions and planning obligations needed to make development acceptable in planning terms are complied with.
- 3.5 Therefore, the preparation and adoption of a local enforcement plan is equally important because it:
- allows engagement in the process of defining objectives and priorities which are tailored to local circumstances;
 - sets out the priorities for enforcement action, which will inform decisions about when to take enforcement action;
 - provides greater transparency and accountability about how the Council will decide if it is expedient to exercise its discretionary powers;
 - provides greater certainty for all parties engaged in the development process.
- 3.6 Consequently, officers consider the review and further adoption of a Local Enforcement Plan (Planning) is not only best practice from a planning perspective; adoption of a Local Enforcement Plan (Planning) is also closely aligned with the Council's priorities including promoting sustainable development and growth, transforming our organisation, promoting healthy and safe communities and delivering excellent customer service. Confidence in the Planning Enforcement Service is important to all service users, and this aligns with indications of the Governments aspirations to give greater enforcement powers to Local Planning Authorities as set out in the Planning White Paper and the latest Levelling Up and Regeneration Bill May 2022.

4. Alternative Options and Reasons for Rejection

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

RECOMMENDATION(S)

1. To note the overall performance against the Local Enforcement Plan (Planning) since its original adoption in March 2019 – April 2022; and
2. To agree to the adoption of the May 2022 review of the Local Enforcement Plan (Planning).

Approved by Portfolio Holder – Corporate Governance

IMPLICATIONS:**Finance and Risk:** Yes No **Details:** There are no significant cost implications involved with reporting performance against the Local Enforcement Plan or its review but as noted below, this monitoring report may give rise to further consideration of the resources required by the enforcement team to work effectively.

On behalf of the Section 151 Officer

Legal (including Data Protection): Yes No **Details:** The above report does not contain any personal data. Where the case is still pending consideration, the property address has been anonymised to provide a reasonable amount of privacy for the landowners involved. Where the property is subject to formal action, the presence of an Enforcement Notice is a matter of public record and that information is publically available. Therefore, the way property addresses have been reported in the above report is considered to be consistent with the key principles in the GDPR.

On behalf of the Solicitor to the Council

Staffing: Yes No **Details:** The adoption of a Local Enforcement Plan should help officers make the most efficient and effective use of resources by setting clear priorities and establishing a clear framework to work within. However, monitoring progress against service standards in the Plan may identify additional resource is needed to enable planning enforcement to be carried out effectively within the District.

On behalf of the Head of Paid Service

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"/> <input type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i>	No

District Wards Significantly Affected	All
Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Executive <input type="checkbox"/> SLT <input type="checkbox"/> Relevant Service Manager <input type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input checked="" type="checkbox"/>	Yes Details: Portfolio Holder and Chair of Planning Committee

Links to Council Ambition: Customers, Economy and Environment

- Developing attractive neighbourhoods;
- Increasing customers satisfaction with our services.

DOCUMENT INFORMATION

Appendix No	Title
1.	Local Enforcement Plan (Planning) May 2022

Background Papers

(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)

N/A