

Bolsover District Council

Planning Committee

4th November 2020

Local Enforcement Plan (Planning)

Report of the Principal Enforcement Officer / Planning Manager

This report is public

Purpose of the Report

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

1 Report Details

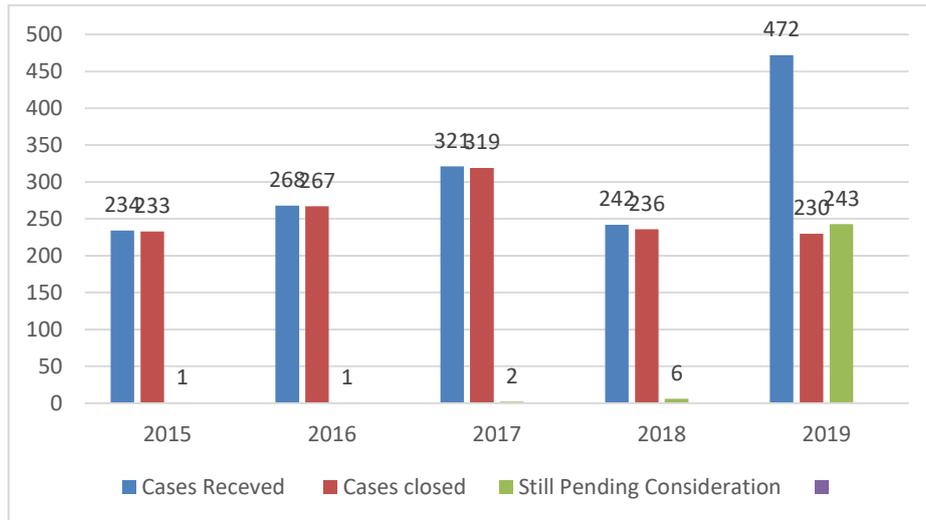
Background

- 1.1 The Local Enforcement Plan was adopted by the Planning Committee in 2019. The Plan sets out the following service standards that Planning Enforcement Officers consider are specific, measurable, achievable and realistic:
- The site of a high priority case will be visited on 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.
 - The site of a medium priority case will be visited within **two weeks** of identifying a suspected breach of planning control. A decision on what further action to take will be made within four weeks of that site visit.
 - The site of a low priority case will be visited within **six weeks** of identifying a suspected breach of planning controls. A decision on what further action to take will be made within six weeks of that site visit.
- 1.2 These service standards have been designed to facilitate prompt investigation of suspected breaches of planning control and encourage making timely decisions on how to progress individual cases.
- 1.3 The purpose of this report is to evaluate the performance of the Planning Enforcement Service against these service standards for the period 01 July 2019 to 30th June 2020. This report is the second planning enforcement report presented to the Planning Committee. The third report will be presented in February 2021 to conclude the 2020 statistics. Reports are expected to be submitted 6 monthly.

Performance

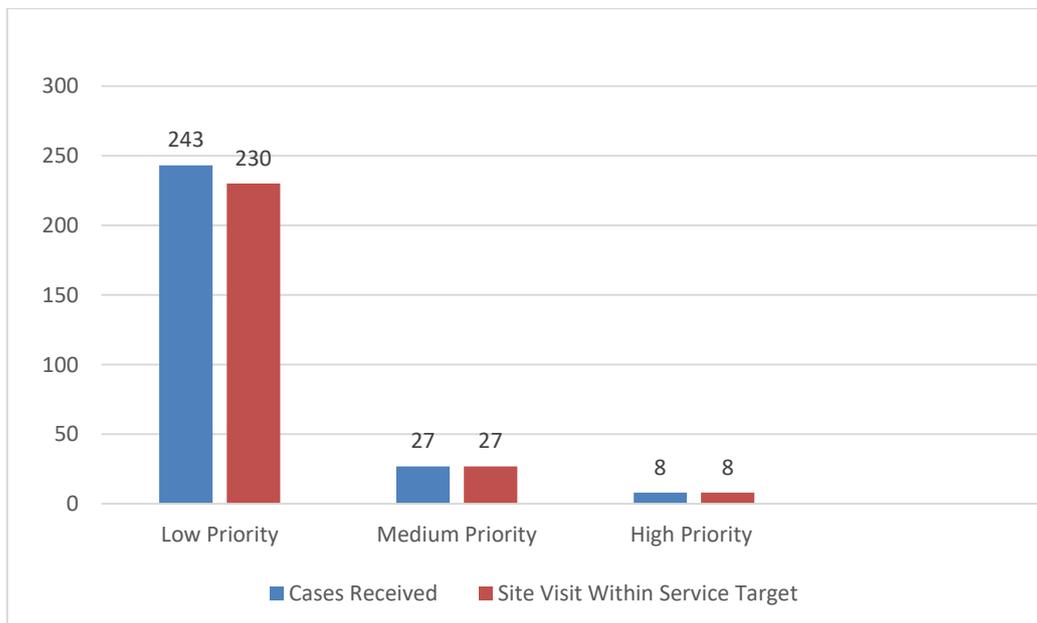
- 1.4 The previous report to Members in July 2019 explained that whilst workload pressures placed high demands on the two full-time equivalent (FTE) Enforcement Officers the number of enquiries relative to enquiries closed as well as successive years back to 2015 was manageable. The report further explained that whilst the enquiries to the department have been managed in a reactive fashion this has been at the expense of other planning enforcement projects in the district, especially relating to Conservation Areas / Article 4 directions and an increase in developers breaching pre-commencement conditions (amongst other pending projects).
- 1.5 Graph 1 (Workflows) below shows the number of enquires received by the planning department over the last five calendar years (there are no outstanding cases older than 2015). Over this five year period, the enforcement team has tried to operate with an establishment of 2 FTE officers but for 18 months (2016-2017) there was only 1 FTE officer dealing with all unauthorised developments. A similar situation occurred for 3 months in 2019 when a full-time officer left the employment of the Council and pending the recruitment of a replacement officer. This meant that many low priority enforcement cases had to await investigation, as did the issue of some Enforcement Notices (that were not high priority cases) until the enforcement section was again at full capacity. The enforcement section is now fully staffed.
- 1.6 Whilst graph 1 below shows a significant increase in complaints in 2019 (472 cases) this was due to a proactive investigation into a project relating to the Creswell Model Village (CMV). Following a multi-million pound investment into the CMV and to preserve the longevity of that investment, the Council invoked an Article 4 direction to remove certain householder permitted development.
- 1.7 To enable a proactive investigation into the CMV with the aim of considering future options regarding unauthorised householder development, one FTE Enforcement Officer was employed on a 12 month contract to progress with the Creswell Model Village Project.
- 1.8 Whilst the CMV project is not yet complete it is hoped that the results and recommendations of that investigation should be reported to the Planning Committee early in 2021.
- 1.9 Discounting the enquires that have been raised as a consequence of the CMV project, the actual number of enquires received by the department relating to alleged unauthorised development in 2019 equates to 278, which is a figure similar to previous years.

Graph 1: Workflows



1.10 Graph 2 below shows that of the 278 actual enquires that were received in 2019 (excluding the CMV Project) the enforcement team managed to visit 100% of high (8 cases) and medium priorities (27 cases) within the service target. However of the 243 low priority cases 14 cases were not inspected within the 42 day target. This was due to the loss of a full-time member of staff and pending a replacement.

Graph 2: Site Visits within Service Targets 2019
(Excluding Creswell Model Village Project)



1.11 Table 1 below shows the numbers of cases and the number of cases by priority that have been closed in 2019 as well as the number that remain pending consideration.

Table 1 Workflows; 2019 (Excluding Creswell Model Village Project)
Number of cases closed and t still pending consideration.

2020	No. of Enquiries	Closed Cases		Cases Pending	
Total	278	230	83%	48	17%
Low Priority	243	210	86%	33	14%
Medium Priority	27	16	59%	11	41%
High Priority	8	4	50%	4	50%

1.12 Graph 3 and Table 2 below together shows the number of enquires received into the department between January 1st 2020 and 30th June 2020 (6 Month period). The data shows that during the first six months of 2020, 163 enquires were received. Despite the implications of remote working, project work and the coronavirus pandemic and the national lockdown, the enforcement team still managed to visit 100% of high and medium priorities within the service standard i.e. the team visited all 10 of the high priority cases reported within 24 hours, and all 20 of the reported medium priority cases within two weeks. Regrettably, 4 low priority enquires were not met within the 42 day initial inspection period. This was due to the initial National Coronavirus Lockdown.

Graph 3: January 2020 – June 2020 (First Six Month 2020)

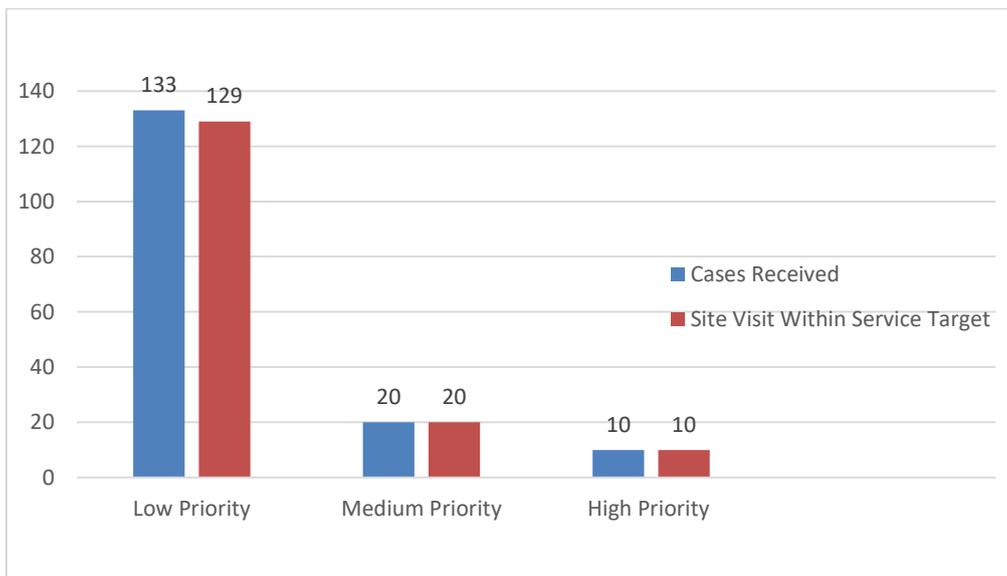


Table 2 Workflows; 01 January 2020 – 30 June 2020

2020	No. of Enquiries	Closed Cases		Cases Pending	
Total	163	121	74%	41	26%
Low Priority	133	102	77%	31	23%
Medium Priority	20	10	50%	10	50%
High Priority	10	9	90%	1	10%

1.13 Table 3 below shows the number of historic cases that have been closed over the last five years as well as the number of cases that officers continue to process.

Table 3 Historic Cases:

Year	No. of Enquiries	Closed Cases	Cases Pending
2015	234	233	1
2016	268	267	1
2017	321	319	2
2018	242	236	6
2019 <i>(Excluding Creswell Model Village)</i>	278	230	48
2020 <i>(1st January – 30th June)</i>	163	121	42

1.14 To the end of June 2020 the enforcement team have 100 cases pending, by industry standards this can be considered exemplary.

- 1.15 In many of the cases in Table 3 above, the delays are caused by the process of adhering with the Corporate Enforcement Plan which requires working proactively with landowners, and dealing with the submission of a retrospective application and subsequent appeal of refusal of planning permission for that application.
- 1.16 For example, the team has served a formal Listed Building Enforcement Notice in respect of unauthorised works to a Grade II Listed Building in Pinxton, which was a case first reported in 2018. A significant amount of resource was required to serve this Notice because of the nature of the works and the technicalities of drafting up the Notice, which required the input of a Principal Planner, Principal Enforcement Officer, the Planning Manager and the Council's heritage conservation specialist as well as colleagues in the legal department. Similarly in 2019, a valid high hedges complaint was submitted to the Council which was equally resource intensive in preparing the reports and issuing the Remedial Notice after presentation at the High Hedges committee (a site that continues to be monitored).
- 1.17 Obviously if the Planning Service continued to receive a large volume of new low priority enquires whilst dealing with high priority cases, there is the potential for some slippage against service standards for the initial visit on low priority cases, which might then mean these cases take longer to bring to a conclusion than we would prefer to see. However the current 3 x FTE should facilitate all targets being met.
- 1.18 As the analysis of the last five years shows, we have previously been able to 'catch up' with pending cases by following the principles in the Local Enforcement Plan and in particular, by using formal enforcement action as a last resort in most low and some medium priority cases.
- 1.19 Equally, by dealing expeditiously with minor breaches of planning control, we can give more resource to tackling breaches of planning control that have an unacceptable adverse impact on the character and appearance of the local area and/or have an unacceptable adverse impact on the living conditions of local residents.
- 1.20 Table 4 below shows all the cases that have now progressed to taking some form of enforcement action. Some of these cases have remained pending due to resource issues during the training and mentoring (opportunities for new members of staff) of new officers, the loss of a Planning Manager which required the Principal Enforcement Officer to focus on ensuring the Planning Department continued to function (pending the appointment of a new Planning Manager), project work, including the Creswell Model Village and the development of a planning condition monitoring regime to allow for sites to be proactively monitored to ensure any pre-commencement conditions and other planning conditions are monitored through the lifetime of the development of a site, as well the Coronavirus Pandemic lockdown.

Table 4: Status of Historic Cases

Reference	Location Allegation	Status
E16/211 Medium priority case	Barlborough Unauthorised alterations to the property and boundaries.	Appeal Allowed. Monitoring to ensure development is carried out in accordance with the approved planning permission.
E17/086 Medium priority case	Clowne Alleged hard-landscaping, front extension and erection of walls.	Monitoring site following recent negotiations with Conservation Officers.
E17/178 Medium priority case	South Normanton Change of use of carpet warehouse to tyre fitting unit.	Preparing Enforcement Notice for issue November 2020.
E18/061 Medium priority case	Shirebrook Alleged unauthorised change of use to a C3 dwelling house Shirebrook.	Pending consideration: Working with landowner to regularise the use of the building.
E18/069 Low priority case	South Normanton Land On Corner Of Duke Street And, Main Street.	Issued S215 Notice to tidy land / working with Empty Properties Officer.
E18/092 Medium priority case	Barlborough Siting and permanent residential use of static caravans.	Awaiting Planning Inspectorate Decision.
E18/145 Low priority case	Clowne Untidy Land / building / residential use of static caravans.	Pending consideration.
E18/163 Low priority case	Bolsover High Hedges complaint.	Remedial Notice issued continue to monitor.
E18/187 High Priority Case	Pinxton Unauthorised alterations to a Listed Building.	Awaiting Planning Inspectorate Appeal Decision.

- 1.21 With regard's Table 4 (above) Enforcement Officers are progressing with issuing two enforcement notices before the end of the 2020; E17/178, and E18/061.
- 1.22 Of the 48 cases still pending consideration from 2019 (Table 1), officers are progressing with the preparation of one Enforcement Notice for a site in Clowne relating to the change of use of the land (agricultural to haulage) including operational development. All remaining 2019 cases still pending consideration will be reported as historic cases in the report to Planning Committee in February 2021.

- 1.23 Following the successful 12 month contract of a temporary Enforcement Officer, the enforcement team has now been increased to three FTE (one of whom is undertaking a planning degree) enabling the proactive monitoring of development sites to ensure compliance with planning decision notices.
- 1.24 It is hoped that from 2021 the increase in officers in the enforcement team will enable those officers to determine retrospective planning applications, certificates of lawful use, as well as the determination of applications for the discharge of planning conditions. This will reduce workflows to Development Management (DM) Officers, enable a proactive enforcement service, and ensure long term resilience, especially in relation to the forthcoming changes in the Planning White Paper, whilst also developing key DM planning skills for Enforcement Officers.

2 Conclusions and Reasons for Recommendation

- 2.1 Whilst officers consider that the Local Enforcement Plan is working, insofar as it is allowing the enforcement team to ensure there are sufficient resources to make sure breaches of planning control are dealt with effectively and efficiently, it is also considered that the enforcement team is performing well against the service standards with regard to promptly visiting sites where cases have been reported to the Planning Service and making first contact with the suspected offender. Furthermore, headway is being made on two proactive projects, firstly the CMV Project and secondly the proactive monitoring and enforcement of all small major and major sites to ensure compliance with planning decisions.
- 2.2 Consequently, officers would recommend that this report is noted and further monitoring reports are resumed and submitted to the Planning Committee on a half-yearly basis to allow members to retain appropriate oversight of these issues and the effectiveness of the Council's planning enforcement function.
- 2.3 In these respects, Members will already be aware that effective planning enforcement is important to:
- tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of the area;
 - maintain the integrity of the decision-making process by tackling unauthorised development that would not normally get planning permission; and,
 - Maintain public confidence in the Council's decision-making processes by ensuring conditions and planning obligations needed to make development acceptable in planning terms are complied with.
- 2.4 Members are reminded that a review of the Local Enforcement Plan is due to take place before March 2022. Early indications would suggest that the Low Priority targets could be tightened on the basis of their now being 3 FTE officers in the enforcement section of the planning department. However this must be considered alongside meeting other objectives including project work and the proactive monitoring and enforcement regime of approved sites; a regime that could reduce the number of enquiries into the department.

3 Consultation and Equality Impact

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

4 Alternative Options and Reasons for Rejection

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

5 Implications

5.1 Finance and Risk Implications

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

5.2 Legal Implications including Data Protection

- 5.2.1 Producing this type of monitoring report is consistent with advice in the Local Enforcement Plan that says the Plan will be monitored and reviewed to ensure it remains consistent with case law and/or any subsequent changes in national guidance or legislation and continues to enable planning enforcement to be carried out effectively within the District. However, there is no legal requirement to produce a monitoring report.
- 5.2.2 The above report does not contain any personal data.
- 5.2.3 Where the case is still pending consideration, the property address has been anonymised to provide a reasonable amount of privacy for the landowners involved. Where the property is subject to formal action, the presence of an Enforcement Notice is a matter of public record and that information is publically available.
- 5.2.4 Therefore, the way property addresses have been reported in the above report is considered to be consistent with the key principles in the GDPR.

5.3 Human Resources Implications

- 5.3.1 The adoption of a Local Enforcement Plan should help officers make the most efficient and effective use of resources by setting clear priorities and establishing a clear framework to work within. However, monitoring progress against service standards in the Plan may identify additional resource is needed to enable planning enforcement to be carried out effectively within the District.

6 Recommendations

6.1 This report is noted

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

7 Decision Information

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: <i>BDC: Revenue - £75,000</i> <input type="checkbox"/> <i>Capital - £150,000</i> <input type="checkbox"/> <i>NEDDC: Revenue - £100,000</i> <input type="checkbox"/> <i>Capital - £250,000</i> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
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
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
Richard Scott	Ext. 2264