

# REPORT FOR DECISION



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| Agenda<br>Item <b>7</b> |
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| <b>DECISION OF:</b>   | <b>PLANNING CONTROL COMMITTEE</b>  |
| <b>DATE:</b>  | <b>24<sup>th</sup> JANUARY 2017</b>  |
| <b>SUBJECT:</b>   | <b>PLANNING ENFORCEMENT CHARTER</b>  |
| <b>REPORT FROM:</b>   | <b>ASSISTANT DIRECTOR (LOCALITIES)</b>   |
| <b>CONTACT OFFICER:</b>   | <b>DAVID MARNO (HEAD OF DEVELOPMENT MANAGEMENT)</b>  |
| <b>TYPE OF DECISION:</b>  | <b>COUNCIL OR EXECUTIVE (KEY DECISION OR NON KEY DECISION)</b>   |
| <b>FREEDOM OF INFORMATION/STATUS:</b>   | This paper is within the public domain   |
| <b>SUMMARY:</b>   | <b>This report seeks to update the Planning Enforcement charter, both to bring it up to date with current legislation and National guidance and also to better reflect to processes and procedures of the Enforcement Team</b>   |
| <b>OPTIONS &amp; RECOMMENDED OPTION</b>   | <p>Options</p> <ul style="list-style-type: none"> <li>• Approve the charter's standards unaltered and adopt it;</li> <li>• Amend the charter's standards and adopt it;</li> <li>• Refuse the charter's standards.</li> </ul> <p>It is recommended that Planning Control Committee: -</p> <ul style="list-style-type: none"> <li>• Approve the charter's standards unaltered and adopt it.</li> </ul> |
| <b>IMPLICATIONS:</b>  |  |
| <b>Corporate Aims/Policy Framework:</b>   | Do the proposals accord with the Policy Framework? <b><u>Yes</u></b>   |
| <b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b> | Executive Director of Resources to advise regarding risk management<br><b>N/A</b>  |
| <b>Health and Safety Implications</b>   | Set out any impact in terms of Health, Safety and Welfare. <b>N/A</b>  |
| <b>Statement by Executive Director</b>  | There are no wider resource implications.  |

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| <b>of Resources (including Health and Safety Implications)</b> |      |
| <b>Equality/Diversity implications:</b>                        | None |
| <b>Considered by Monitoring Officer:</b>                       | N/A  |
| <b>Wards Affected:</b>   | All  |
| <b>Scrutiny Interest:</b>                                      | N/A  |

**TRACKING/PROCESS**

**DIRECTOR:**

| Chief Executive/<br>Strategic Leadership<br>Team | Cabinet<br>Member/Chair | Ward Members | Partners |
|--|-------------------------|--------------|----------|
|  |                         |              |          |
| Scrutiny Committee                               | Cabinet/Committee       | Council      |          |
|  | ✓                       |              |          |

**1.0 BACKGROUND**

- 1.1 The Development Management's functions as well as the processing of planning applications, is also to consider Enforcement Action where breaches of planning control have occurred.
- 1.2 The Council and public rest great weight on enforcement action and where breaches are proven to be significant and enforcement action is expedient, the Development Management's Enforcement Officers carry out the necessary steps to either secure corrective actions, require fresh applications to remedy matters, take legal action or confirm where no action is necessary.
- 1.3 In order to set out a clear to Members, staff and the public, the Enforcement Team have an Enforcement Charter that sets out the processes, timeframes and stages of what will be undertaken in the event of planning breaches or the receipt of complaints. The original Enforcement Charter was written and adopted in 2005 and since this date, legislation, case law and national policy has moved on markedly and the section has re-organised with staffing changes.
- 1.4 The charter is therefore in need of an update and this report seeks to set out the main changes and therefore enable the update to be adopted.

**2.0 ISSUES**

- 2.1 Bury has maintained a high level of both achievements in terms of meeting it's deadlines set out in the charter and also in securing appropriate action where necessary and expedient to do so.
- 2.2 The charter sets out 14 different standards which the Enforcement Team will strive to achieve ranging from what the Team will/will not investigate,

timeframes for responses, follow up action, court proceedings and consideration of anonymous complaints.

- 2.3 Like many other districts, it has also witnessed an increase in complaints received about building and development proposals, not least with improved media usage such as the rise of internet and email usage, making communication easier.
- 2.4 However, this has also increased pressure on the two Enforcement Officers in having to meet deadlines, not least when on annual leave. As such it is easy to miss deadlines set out in the charter and this needs to be addressed.
- 2.5 The numbers of applications is a clear indication to building and economic activity i.e. more applications received, more buoyant the economy is and development follows on from that. As such, there are increasing cases to investigate and this can include condition compliance.
- 2.6 Complaint logging will remain at 24 hours (which ensures that there is a close monitoring of major or significant issues raised and that can be actioned).
- 2.7 First assessment will take place within 48 hours (previously 24) and complaints will be acknowledged within 10 working days not 5 as previously.
- 2.8 Detailed investigations will now be carried out within 20 working days (previously 15).
- 2.9 Complainants are also invited to seek updates if there has been no contact within 20 working days.
- 2.10 Anonymous complaints can be ignored if the complaint is not considered to be significant and the public's expectations of very minor breaches are also managed by confirming that the Council will not normally take action if a breach is minor (reflecting the National Planning Guidance approach).
- 2.11 The use of temporary stop notices is set out whereby 28 day cessations can be required to establish what is taking place where there are suspected breaches of planning and further time without the pressure of on-going development would inhibit investigations.

### **3.0 CONCLUSION**

- 3.1 All in all, the changes made by the charter update are relatively minor and reflect a growing area of work, where expectations of the public and Council remain high. The changes to the charter demonstrate a clear commitment to compliance with planning legislation and of course, in a way that reflects the most up to date guidance issued by the Government in the National Planning Practice Guidance.

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#### **List of Background Papers:**

National Planning Policy Framework  
National Planning Practice Guidance  
Bury Council's Planning Enforcement Charter

**Contact Details:-**

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for Resources and Regulation | Bury Council  
3 Knowsley Place, Duke Street, Bury BL9 0EJ | Office: +44 (0) 161 253 5291

## **Customer Charter for the Planning Enforcement Service**

### **Introduction**

A function of the Council's Planning Services is to regulate development and uses of land within Bury. This leaflet explains how the Planning Service can help members of the public who have an enquiry or complaint on matters controlled by the Council. The leaflet also advises on how the enquiry will be processed and the levels of service that can be expected.

### **Contents of this leaflet**

- Planning Enforcement Functions
- How to make a complaint or enquiry regarding unauthorised activities or development
- What will happen to your enquiry/complaint
- The approach the Council adopt when development is carried out without Planning Permission or Conditions are not complied with
- What action can the Council take?
- More Information

## **Planning Enforcement Functions**

### **Standard 1**

**Enforcement action by the Council is carried out in many areas other than Planning and the Council has adopted the principles of good enforcement practice as set out in the Council's Enforcement Policy, across all services.**

The Planning Enforcement service operates from the Development Management Section of Environment and Development Services.

The Enforcement functions of the Development Management Section include:

- Investigating complaints regarding unauthorised development or advertisements
- Investigating complaints regarding uses of land or buildings
- Checking that development or uses approved by the Council are carried out in accordance with approved plans
- Checking whether planning conditions imposed on planning permissions are being complied with
- Following investigations, taking action, if appropriate and considered expedient to do so, to bring unauthorised activities to a satisfactory conclusion

## **How to make a complaint or enquiry regarding unauthorised activities or development**

### **Standard 2**

**Enquiries will only be recorded if they raise legitimate Planning considerations. If issues are raised which are more appropriately dealt with by another function of the Council, the details will be forwarded to the appropriate team.**

When you first become aware of activities or development taking place you may wish to know whether or not planning permission has been obtained or if it is needed. Alternatively you may wish to complain about activities or development taking place without planning permission.

The Enforcement Officers may be contacted using the following methods:

**By Telephone:** 0161 253 5318 or 5315

**In Writing:** Development Management Section  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ

Should you wish to speak to an officer directly it would be advisable to telephone to make an appointment

**Email:** [planning.enforcement@bury.gov.uk](mailto:planning.enforcement@bury.gov.uk)

Wherever possible your complaint should include details of:

- Address and location of activities
- Nature of enquiry/complaint
- Name of person(s) involved if known
- Your name, address and telephone number (if your enquiry is via email you should be aware that these details may not be secure)
- Photographic evidence of your complaint

### **Anonymous complaints**

The Council will consider all complaints received but cannot guarantee to investigate anonymous complaints unless a serious breach of planning control is alleged.

## **What will happen to your Enquiry/Complaint?**

### **Standard 3**

**All Planning Enforcement enquiries will be logged within 24 hours of receipt.**

#### Priorities

To best utilise the resources available to the Council and to prioritise complaints an assessment of the alleged breach will be made and the complaint will be prioritised accordingly. In prioritising the complaint the following will be considered

- Whether the alleged breach would lead to a danger to the public or could lead to irreversible damage being caused to land and/or buildings including works to listed buildings.
- Whether the breach results in a significant loss of amenity or other significant public impact.
- Does the breach relate to minor development e.g. Fences, extensions, sheds or relate to advertisements not falling into any of the above. These will not be given priority and you would be expected to include photographic evidence of the development.
- The Council will not investigate matters arising out of a private dispute unless a serious breach of planning control is occurring.

### **Standard 4**

**All complaints given a high priority will be assessed within 24 hours and, if appropriate, a site visit carried out within 24 to 48 hour period.**

### **Standard 5**

**All Planning Enforcement enquiries will be registered on the Enforcement Computer Database.**

All complaints will be registered on the Enforcement Computer Database which records and manages the progress of any action. This information is strictly confidential and is not subject to public scrutiny.

### **Standard 6**

**All Planning Enforcement enquiries providing address details of the enquirer will be acknowledged within 10 working days of receipt**

We will acknowledge receipt of the enquiry in writing within 10 working days and you will be advised of which officer is dealing with your enquiry and their contact details.

### **Standard 7**

**All complaints will be initially assessed within 10 working days and, if appropriate, a site visit carried out within this time period.**



## **Standard 8**

**Detailed investigations will be carried out appropriate to the nature of the enquiry. These investigations will be carried out within 20 working days of the receipt of the complaint.**

The case officer will carry out appropriate detailed investigations. They will check appropriate Council records they may also carry out interviews to establish if a breach of planning control has occurred. These investigations will be carried out within 20 working days of the receipt of the complaint. It may be that depending upon the nature of the breach that a longer period of time would be required. Should this be the case, then the team will let you know.

## **Standard 9**

**Complainants will be kept informed on progress in the matter within 20 working days of the complaint being assessed with communications being clear, understandable and appropriate to the person receiving them.**

During the course of investigations all parties will be kept up to date with progress. Where expedient to do so and with your agreement this will be done by telephone.

In all cases you will be advised either by telephone or writing, within 20 working days of the complaint being assessed on the progress of the Council's investigations and any intended action. Following being informed of the outcome of the investigation, you should then contact the team directly for any future updates.

The Council is aware that not everyone is familiar with the planning process and therefore communications will be understandable and appropriate to the person receiving them.

## **Standard 10**

**Complainant's details will remain confidential and will not be revealed without prior consent from the complainant.**

All complaints are dealt with confidentially and your details will not be made known without your agreement. However, in some cases it may be necessary to rely on your evidence in order to take court action. If a breach of planning control is confirmed, you may be asked to make a note of your observations and keep a log of relevant information and activities. The case officer will explain what may be required in these circumstances.

**The approach the Council adopt when development is carried out without Planning Permission or Conditions are not complied with**

## **Standard 11**

**Enforcement Action will be taken where it is expedient to do so and in line with government guidelines and in accordance with Council policy.**

The Council recognise that most businesses and others want to comply with the law. Therefore care will be taken to help businesses and others to meet their legal obligations. However, Enforcement Action will only be taken where it is expedient to do so.

This means that the Council must consider the following prior to commencing action:

- Whether there is an unacceptable impact upon the amenity of the area and its residents.
- Action will not be taken just because development has started/carried out without planning permission.
- The particular circumstances of the case must be considered as the Council does not always have to take action against unauthorised activities.
- It is not normal to take formal action against minor breaches of planning control that does not cause real harm.

### Retrospective Planning Applications

Anyone who has carried out activities or development without seeking the necessary planning permission beforehand has the right to apply for planning permission to be granted afterwards or to submit an application to verify that the works or uses are lawful. However, there is no guarantee that permission will be granted and if it is, the permission may impose conditions that will need to be complied with.

### What action can the Council take?

#### Standard 12

**When the Council have decided that Enforcement Action is necessary they will advise the parties involved verbally where possible but also in writing if not, of the details of the breach.**

#### Standard 13

**When Enforcement Action is necessary this action will commence promptly with the complainant being informed within 5 working days of the decision to take action.**

Breaches of planning control can have serious implications for individuals and businesses. Consequently the Council will take action, including prosecution where appropriate, against those who flagrantly breach the legislation and do not satisfactorily comply with any request or notice served. The Council will also, where appropriate, apply to the Court for proceedings to be taken under the Proceeds of Crime Act 2002 to recover any financial benefit gained from illegal activities.

In respect of unauthorised works to Listed Buildings and the display of advertisements without the appropriate consent, the Council can undertake direct prosecution in the Courts without the serving of a formal notice.

When the Council have decided that action is necessary they will:

- Advise those responsible that they should stop all work including the use of stop notices where appropriate.
- The Council will discuss the circumstances of the case with those responsible and if possible resolve the matter informally.

- Where appropriate, request the submission of a retrospective planning application or an application to verify that the works or uses are lawful.
- If necessary, request the Council's Legal Services to commence formal action. This may include serving a formal notice on those responsible advising what steps they should take to rectify the breach of planning control or the carrying out of direct prosecution in the Courts, (Listed Buildings/Advertisements).

#### How long does this take?

The investigation of complaints about unauthorised activities, the gathering of evidence and the taking of formal action can take a long period of time. Those responsible for these activities normally have the right of appeal against any formal action by the Council.

### **More Information**

#### **Standard 14**

**The Council is committed to improving our service and dealing promptly with any failures.**

Should you wish to comment on the Enforcement Service provided, in the first instance you should discuss the matter with the case officer.

If you require more information about the Council's Development Management Enforcement Service or wish to comment further on this service enquiries may be directed to:

The Head of Development Management  
Department of Resources and Regulations  
3 Knowsley Place  
Duke Street  
Bury  
BL9 0EJ

Further information about functions of the Development Management Section of Environmental and Development Services can be obtained from Bury Council's website:

[www.bury.gov.uk](http://www.bury.gov.uk)