

ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE

Date of Meeting	Tuesday, 19 September 2017
Report Subject	Planning Enforcement Policy and Approach
Cabinet Member	Cabinet Member for Planning and Public Protection
Report Author	Chief Officer (Planning and Environment)
Type of Report	Operational

EXECUTIVE SUMMARY

To present a draft Planning Enforcement Policy for approval to allow it to be taken forward for consultation before seeking its adoption and to outline the future approach to the enforcement function.

RECOMMENDATIONS

1	To approve the revised Planning Enforcement Policy for consultation.
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REPORT DETAILS

1.00	EXPLAINING THE PLANNING ENFORCEMENT POLICY AND APPROACH
1.01	<p>A report was presented to the April 2016 meeting of the Planning Strategy Group (PSG) advising of the intention to review the Council's Planning Enforcement Policy. The reasons behind this related to recent changes in legislation; the proposed restructuring of the Development Management service and changes in the way that the performance of the planning enforcement service is reported and benchmarked. This was followed by a report to the Environment Overview and Scrutiny Committee in May 2016 and in both cases the resolution supported the preparation of the revised policy. A further report was taken to PSG in September 2016.</p>
1.02	<p>In September 2016 a new Development Management Service Manager was appointed and after a review of the current practices and informed by the outcome of an audit of the service, further changes to the Enforcement Policy are recommended. These changes are intended, alongside a restructure of the service, to improve communication between enforcement officers, the public and elected members and to increase the speed and clarity of decision making in relation to enforcement investigations. The Service Manager is aware of a high number of complaints in relation to the enforcement function, some unfounded, however there are clearly ongoing concerns from elected members and the public which need to be addressed.</p>
1.03	<p>The strategy for change is as follows;</p> <ul style="list-style-type: none">• The implementation of the restructure the development management and enforcement teams to enable effective casework management and the inclusion of enforcement as part of the wider planning function;• Adoption and implementation of the revised enforcement policy to clearly set out the approach of officers, reflecting the needs of the public, elected members and the requirements of Welsh Government performance indicators; .• Carry out accompanying IT and administrative changes to support the revised policy, provide the public and elected members with the information which they need and respond to Welsh Government performance indicators;• Complete process mapping and carry-out lean processing to understand how and where further changes could be made;• Use the above information to inform the selection of updated software to support the publication of simple information and more effective case management. <p>The remainder of the report examines key factors in revising the Policy, how we will communicate with our customers and report to Welsh Government.</p>

1.04	<p><u>The Restructure</u></p> <p>The Development Management and Enforcement Service is currently structured in a way which makes it ineffective in responding to demand. The enforcement element of the service has also been isolated from the development management function. It is important that enforcement is part of the planning process and embedded in the service. It is proposed to create two area teams with an investigating enforcement officer in each team. It is intended that both teams will also have an assistant planner who will carry out many of the technical functions which currently inhibit the work of the enforcement officer. Furthermore, the work of enforcement will be extended throughout the team with each planning officer having a small enforcement caseload. This is largely envisaged to be compliance based work based on the cases which individual officers have worked on previously.</p>
1.05	<p>The most critical change which can be delivered is the implementation of a casework approach. Team leaders will be expected to hold bi-weekly meetings with each member of their team to review every case. This ensures that issues are identified as early as possible in the process, resolved cases are actively progressed and provides clear direction for all planning officers.</p>
1.06	<p>The restructure process began on 6th September 2017 and it is envisaged that it will be completed in late November 2017. A copy of the proposed restructure is attached at Appendix 1.</p>
1.07	<p><u>The Policy</u></p> <p>The current “Policy for the Operation of the Planning Enforcement Service” was approved in December 2005 and mostly continues to be relevant and applicable reflecting the principles behind effective planning enforcement in general. However, it needs to be updated to take account of lessons learnt from complaints received and the outcome of the recent draft audit report.</p>
1.08	<p>Previously, there has been an attempt to ensure that the revised policy was less formal and more user friendly. The initially proposed document remained 14 pages long and it is considered that this is still overly complex. For the policy to become more accessible, it should be reduced in volume where possible without damaging its content. Reference to performance indicators has been removed as these frequently change and will quickly become outdated discrediting the remainder of the policy. Planning Strategy Group regularly receive reports on performance in which the enforcement indicators would be examined. Reference to the structure of the service has also been removed as this is not relevant in a policy document.</p> <p>The revised policy is attached at Appendix 2.</p>
1.09	<p><u>Communication with elected members</u></p> <p>There is an overall desire within the Development Management Service to publicise information as widely as possible. This would mean that the public and elected members could regularly update themselves on the progress of</p>

	<p>planning applications, appeals and enforcement investigations. Investment is required to procure a purpose- designed planning software system which would assist in holding the enforcement register and an update of any investigations on-line.</p>
1.10	<p>However, until we have a software system which will allow us to report easily and link information to the Council's website, planning officers have to build reports to extract the data from our current software system and develop further Excel reports to convert the data into usable form. We have developed a report which will break down live enforcement complaints by ward area; with a priority status; a status code; case officer's name and the date when the complaint was received. This level of categorisation will enable elected members to understand the volume and nature of complaints in their ward, who is dealing with them and how they are progressing. At present, due to reporting software restrictions we can expect to only provide a printed report to member services at the start of each month.</p>
1.11	<p><u>Performance monitoring</u></p> <p>The performance monitoring of enforcement activities has always been a difficult area. This is because it is often successful negotiation which results in a breach being resolved which unlike serving a notice or approving an application is harder to define, record and monitor. The number of notices served or amount of prosecutions carried out is not an appropriate measure of success. Currently Welsh Government Sustainable Development Indicators for enforcement are as follows;</p> <ul style="list-style-type: none"> • Number of cases investigated in 84 days or under • Number of cases investigated in more than 84 days • Average time taken to investigate cases • % of cases resolved within 180 days • Total number of cases investigated
1.12	<p>However, the Planning Officers' Society in Wales (POSW) approved a draft Planning Enforcement Performance Indicator Guidance Document in June 2017. This proposes to alter Welsh Government's Performance Indicator Framework in which the above indicators are set out. Those indicators have been reported for the last two years in the Annual Performance Report (APR) for each Local Planning Authority.</p>
1.13	<p>The draft guidance proposes to delete the indicators which consider the average time taken to investigate cases and the indicator to record the percentage of resolved cases in 180 days. This seems to reflect the realisation that although a case may have taken a long time to resolve, that period of time may have been appropriate to achieve the correct outcome or the length of time may be due to matters beyond a Council's control such as waiting for a court date.</p>
1.14	<p>Therefore, POSW have revised the indicators to record the average time taken to pursue positive enforcement action. Positive action is defined as either:</p> <ul style="list-style-type: none"> • Negotiation to remove the breach; • Issuing of a notice; • Granting of planning permission;

	<ul style="list-style-type: none"> • Bringing forward a prosecution; or • Taking of direct action. <p>The time period measured is from deciding there is a breach to one of the points above.</p>
1.15	At present this target is draft, however, it is likely to be adopted and reporting commence in early 2018. These indicators will then appear in APRs from 2019 onwards. We will have to adapt out software system and introduce trigger points so we can formally measure when a breach is confirmed and when positive action is taken. This performance indicator is welcomed as it will further help to formalise and regularise the enforcement process and more accurately reflect the active work of enforcement.
1.16	It is considered that regardless of Welsh Government targets we should set our own standards. Primarily there is a need to reduce the number of complaints made about the service and improve communication, transparency, accountability and consistency. The current software system and acknowledgement letters have been altered to reflect the priority rating set out in the proposed policy. Similarly, the status field of the current software system has been enabled with a number of options to indicate the status of a complaint.
1.17	Officers using the system have been involved in team meetings to design and implement these changes and have been instructed to use them. Not only will these modifications enable elected members to have a list of cases with a status update and priority grading attached to it but it will also enable enforcement cases to be reviewed alongside planning applications in a casework approach. Case-working, along with accurate records of caseloads means both planning applications and enforcement cases can be allocated according to officer workloads and reallocated, or adjusted, if needed. This will help eradicate back-log of cases and cases which may be left to stagnate.
1.18	Further changes to processes will be identified through a lean process review and reported to PSG. The enforcement process has not been formally recorded and set down. This makes the process inaccessible to other members of staff and it is unclear whether the current processes are the optimum or consistent approach. This will help significantly when training the wider team about the enforcement process following completion of the restructure.

2.00	RESOURCE IMPLICATIONS
2.01	<p>Personnel - none direct.</p> <p>Financial - none at this stage, but investment will be needed in the medium term to procure a new back-office system.</p>

3.00	CONSULTATIONS REQUIRED / CARRIED OUT
3.01	The revised document will require consultation with interested parties (Town/Community Councils, developers, etc.) before it can be adopted as policy.

4.00	RISK MANAGEMENT
4.01	Environmental impact - adoption of the policy will assist in tackling unauthorised developments which have negative environmental impact. Equalities impact - none direct. Anti-poverty impact - none.

5.00	APPENDICES
5.01	1. Proposed restructure 2. Draft Planning Enforcement Policy 2017

6.00	LIST OF ACCESSIBLE BACKGROUND DOCUMENTS
6.01	Existing "Policy for the Operation of the Planning Enforcement Service", December 2005 Contact Officer: Mandy Lewis, Development Manager Telephone: 01352 703248 E-mail: mandy.lewis@flintshire.gov.uk

7.00	GLOSSARY OF TERMS
7.01	<u>1.Casework management</u> Planning and enforcement case officers meet with team leaders or other senior officers to review all live cases. These meeting may take place on a weekly or bi-weekly basis <u>2. Process mapping</u> A procedure in which the current processes which are undertaken within a function are recorded in writing. <u>3. Lean processing</u> A procedure which reviews any process mapping and seeks to eradicate any unnecessary stages of a process.

4. Development Management

Formerly known as development or planning control. The part of the planning service which deals with determining planning and other applications.

5. Enforcement

Part of the planning service which investigates unauthorised development.

6. Compliance

A part of the planning and enforcement process which deals with development which is not in accordance with planning permission.

7. Planning Officers Society Wales

A society of planners who ensure that planning makes a major contribution to achieving sustainable development. Welsh Government often rely upon POSW for their view on planning matters.

8. Annual Performance Review

A report proposed as part of the positive planning Welsh Government consultation in December 2013. The APR is an annual report discussing how an organisation performs against a series of criteria. The principle was to highlight and share good practice.

9. Welsh Government Performance Indicators

The APR above is measured against criteria which is set out and defined in the Welsh Government Performance Framework. There are often referred to as the indicators.