

FLINTSHIRE COUNTY COUNCIL

REPORT TO: ENVIRONMENT OVERVIEW & SCRUTINY COMMITTEE

DATE: 23 JULY 2013

REPORT BY: DIRECTOR OF ENVIRONMENT

SUBJECT: PLANNING SERVICE PERFORMANCE

1.00 PURPOSE OF REPORT

1.01 To further analyse the performance of the Planning Service, particularly in Quarters 2 and 3 of 2012/13, which had been reported to Cabinet in March 2013, and to provide further information that was also sought from the Overview and Scrutiny Committee on the role of the Conservation Officer, enforcement of planning conditions and inter-departmental consultations.

2.00 BACKGROUND

2.01 The Quarter 2 and 3 performance of the Planning Service saw two Improvement targets being significantly missed, alongside poor performance against indicators measuring the success rate of defending planning decisions at appeal; the determination of “other” planning applications and the determination of householder planning applications. Further to the publication of the Quarter 3 report, the Service has acted swiftly to address these areas of low performance and this report identifies signs of recovery in the later months of 2012/13. The Committee will be updated verbally on Quarter 1 performance which will be available prior to the Committee date.

3.00 CONSIDERATIONS

3.01 The Planning Service has three **Improvement Targets** identified for 2012/13 – **PL004a** – Major planning applications determined within 13 weeks; **PL004b** – Minor planning applications determined within 8 weeks and **PL005** – Enforcement cases resolved within 12 weeks. Of those indicators, the latter two were reported as “Red” i.e. performing below the intervention target for Quarter 2 and 3 of 2012/13.

3.02 The Planning Service has taken a range of corrective actions within Quarter 4 of 2012/13 to improve performance against these indicators, some have which have been implemented and some which are still in the research phase and will be rolled out in 2013/14. These include:

- Re-allocation of staffing resources between the Enforcement and Minor application teams to address long-term sickness and maternity leave;
- Re-allocation of the planning application workload between colleagues in the major and minor application teams and the Planning Strategy team;
- Backfilling of the Enforcement / Compliance Officer post (currently underway)
- Re-focussing on the Enforcement team's activities to concentrate on more current cases in Quarter 4, rather than reducing the historical case backlog;
- A review of the Planning Enforcement policy at Planning Strategy Group, which will be subject to formal consultation;
- A detailed assessment has been undertaken of why all cases, but particularly Minor and Householder applications, are missing their 8 week deadlines;
- Intensive training on the planning appeal process and decision making for Members and officers, undertaken in November 2013;
- On-going review of all significant appeal decisions at the Planning Strategy Group;
- A review is underway of the Development Management Procedure Manual to compare it against best practice in Wales; a full LEAN review of the process may then follow.
- A review of the current planning application validation checklist is underway;
- Closer scrutiny with colleagues in Legal Services of the position for all current enforcement cases that are subject to formal action and planning applications which are subject to Section 106 Agreements;
- Amendments have been agreed by the Planning Strategy Group for Planning and Development Control Committee report recommendations, to provide the power for the Head of Planning to refuse planning permission for schemes where the Section 106 Agreement has not been completed within six months of the Committee resolution;
- The removal of the Chairman's fortnightly meeting which considered applications of a minor nature where objections have been received but can be addressed by the imposition of planning conditions.

3.03 In relation to indicator **PLA004a**, the determination of Major planning applications, it should be noted that the target **39%** of cases to be determined within 16 weeks was exceeded within Quarter 3 with **43.48%** of applications being determined within 13 weeks. However, there is a need for some caution, as the numbers involved (23 applications determined, with 10 issued within 13 weeks) is a low percentage (less than 10%) of the total planning applications determined. The fact that the target is set at below 50% recognises that most of the major applications are tied to the Committee timetable

and are often subject to Section 106 Obligations.

- 3.04 In relation to **PLA004b**, the determination of minor planning applications within 8 weeks, the outturn for Q3 (**40.45%**) was down slightly in relation to Q2 (**48.08%**), which in turn falls well short of the target (**65%**). Apart from the increased emphasis on negotiating quality, which is presently difficult to quantify and is currently being addressed, there are a number of reasons why decisions on the minor applications have gone beyond the 8 week target. These include the number of applications needing to be reported to the Committee meetings for reasons which include the need for Section 106 Agreements to cover affordability of housing (under Policies HSG 3 and HSG 5).
- 3.05 Since the Q3 performance report, the performance in these areas has been the subject of significant detailed analysis, supporting regular reports to the Cabinet Member on the reasons why applications have gone beyond their decision period. Some of these reasons (e.g. long term sickness absence requiring re-allocation of work) were difficult to address quickly, but have subsequently been resolved. However, other reasons are also in the process of being addressed, e.g. regular liaison meetings with Legal Officers have been established to identify the position on each Section 106 Obligation where instructions have been sent. Action has also been taken to streamline the procedures involved with legal agreements, again to reduce any delays currently involved with these. Planning Strategy Group received a report in May seeking a standard resolution on all planning applications reported to Committee which are the subject of Section 106 agreements. This resolution will allow those applications where the Section 106 Agreement has not been signed within six weeks to be refused under delegated powers, rather than reported back to a later Committee.
- 3.06 Performance against this Improvement target will continue to be monitored on a case by case basis where necessary, to ensure that negotiations on development proposals are carried out in accordance with procedures set out in the Development Management Procedure Manual. The Manual seeks to clarify when negotiation should be undertaken i.e. as early in the process as possible and only when there is a potential for a satisfactory solution. Analysis of cases that went beyond the 8 week period highlighted that this was occurring too late in the process, sometimes only on receipt of consultee comments. In addition, staff will begin to seek clarity from Local Members on the need for Committee determination of applications, where appropriate.
- 3.07 The detailed case analysis also identified consistent delays in awaiting additional information from applicants, following the validation of the application. In some cases this information sought to clarify the detail of the proposed development so that it could be properly assessed. Work is on-going with respect to the validation checklist that needs to

be completed before a planning application is registered. If the checklist can become more detailed, this would “front-load” the process, preventing applications which are not complete enough to be assessed from being validated. This is clearly a difficult approach to take, as the national validation checklist is relatively brief to prevent the onerous cost of completing an application from dissuading a potential developer from applying. Work on the checklist will be beneficial in the long term and any changes will first be discussed at Planning Strategy Group in 2013.

- 3.08 The more rigorous approach to case management introduced mid-way through Quarter 4 has already seen improvements in the performance against this indicator. Q4 performance improved to **50.49%** (**40.45%** in Q3) for minor planning applications (**PLA004b**). More detailed analysis shows that in March 2013, performance against this target achieved **89.19%**. Clearly, this shows that the simple improvements to process, along with greater scrutiny and case management have brought significant dividends. Whilst this improved performance comes too late to address the annual position for 2012/13 significantly, it is envisaged that this level of performance will continue in 2013/14.
- 3.09 The performance in relation to **PLA005**, enforcement cases resolved within 12 weeks, slipped to **58.20%** in Q3, from the **63.93%** in Q2, both of which, were short of the annual target (**73%**). There were, however, significantly more cases closed within Q3 (189, compared to 122 in Q2) which reflects the fact that older, more complex cases continue to be cleared. Again, in the context of those cases subject to formal enforcement action, a liaison group has been established with Legal Officers and a shared database of these cases is regularly updated to ensure that cases are progressed as expeditiously as possible.
- 3.10 The robustness of the Enforcement procedures has been tested through the recent LEAN report and compliance with them through the Audit report. For Quarter 4, performance re-focussed on the resolution of more current cases and, again, the results were encouraging with the overall figure for the Quarter achieving **72.48%**, with **78.79%** being achieved in March 2013. However it should be noted that performance against the Improvement Target has slipped within the last two quarters. Despite these later improvements, we are always looking to improve the quality of service provided. As a result, the Enforcement Policy/Procedure is currently being reviewed and an initial draft of the amended version has been presented to Planning Strategy Group in May 2013, with a view to it being the subject of consultation over the forthcoming months. Its adoption should provide all stakeholders with a clearer understanding of the priorities and processes involved.
- 3.11 With a smaller historical backlog of cases to deal with and the

impending backfilling of the enforcement / compliance officer who moved into the minors application team to address performance issues there, it is envisaged that the improved Quarter 4 performance will be continued into 2013/14.

- 3.12 In addition to the Improvement indicators referred to above, the Planning Service also performed below three other indicators namely the success rate of defending planning decisions at appeal **PLA003**; the determination of “other” planning applications **PLA004d** and the determination of householder planning applications **PLA004c**.
- 3.13 Performance against indicator **PLA003**, the number of planning appeals where the Council’s decision was upheld achieved **54.55%** in Quarter 3, against a target of 66%. The **50%** outturn for 2012/13 falls below the annual target and the 2011/12 return (**67.64%**). This indicator has always been unpredictable, based, as it is, on a relatively low numerator/denominator ratio (30 appeal decisions within the year – 15 of which were allowed). Again, performance in the later months of Quarter 4 showed significant signs of improvement, with **75%** of all decisions (four received) supporting the Council’s original decision. Over the past four years, the number of appeals per year has fallen significantly by approximately 50%. This could reflect that, generally, the decisions to refuse permission have become more robust and less likely to be challenged through the appeal route. The adopted Development Plan can only help this.
- 3.14 An internal Audit report into planning appeals has been received with its recommendations being implemented. Not least of these is the regular reporting to Planning Strategy Group, with an analysis of certain decisions (agreed by officers and Members), particularly those which follow a decision contrary to officer recommendation, or where costs have been awarded against the Council for unreasonable behaviour. The report on those appeal decisions received in 2012/13, was the subject of a report to Planning Strategy Group in May 2013. The planning appeal process and decision making was the subject of considerable Member and Officer training sessions in November 2012, so it is hoped that the results of those sessions will bear fruit in the forthcoming year. A further training session will be programmed in 2013/14, which will be delivered by the Head of the Planning Inspectorate in Wales and it is hoped that this will further inform future decision making by officers and Members alike.
- 3.15 Performance against indicator **PLA004c** – the determination of householder planning applications within 8 weeks, achieved only **72.22%** against a target of 90% in Quarter 3. The poor performance in this category was largely down to staff absences (including a long term sickness absence at a key time commencing in Quarter 2). As householder applications constitute well over a third of the total applications determined (384 out of 925) this clearly has a significant impact on the overall, headline performance figure for the Service.

Similar actions were put in place in terms of more rigorous case management as were used with the minor cases referred to above, and similar improvements have been witnessed in Quarter 4 where **83.75%** resolution has been achieved. By the end of the financial year, once all of the additional monitoring processes mentioned earlier had been applied, performance has been turned round, including a March outturn of **92%**.

- 3.16 The final performance target **PLA004d** - refers to the percentage of “other” planning applications determined within 8 weeks. In Quarter 3 **54.55%** of applications were determined within the target timescale against an annual target of 80%. This category includes a very wide range of development types, e.g. mineral applications and advertisement consent and when combined with a relatively low number of applications falling into this category (only 42 for the year 2012/3), this means that the outturn is difficult to influence in the manner in which some of the other indicators can be. The target of 80% reflects recent good performance in 2011/12 in this area and the fact that we have been seeking to regularise existing advertisements through the application process. This is the only indicator which has seen a drop in performance in Quarter 4, thereby reflecting the difficulty in influencing positive results.
- 3.17 Finally, it is important to note that during Q3 the Planning Service repeated its customer satisfaction survey, focussing on applicants and agents, to provide some qualitative data on how our ‘customers’ feel about their interaction with the Council. The results were very positive with 100% of respondents being satisfied, or very satisfied, with the service that they received. These surveys will continue twice per year with the results being reported to Planning Strategy Group.

The Role of the Conservation Officer

- 3.18 The current Design and Conservation Officer, Jerry Spencer, was appointed in December 2010, prior to which the post had been filled on a part-time basis by an external consultant whilst the role was redefined.
- 3.19 As its title suggests, there are two key aspects to this post. Its primary purpose is the conservation and management of the County’s historic buildings. These may be formally Listed Buildings (which are of national importance), Buildings of Local Importance (of county-wide value) or buildings which are historic, but are not on the BLI register. In addition, the role seeks to manage the Conservation Areas of the County where more restrictive planning constraints apply.
- 3.20 Given the wide breadth of work and the fact that there has been little proactive management of historic building estate in Flintshire, this is a very demanding position with significant competing demands on the role. The Design and Conservation Officer is required to respond to

all planning applications that are related to those properties referred to in the above paragraphs. In addition, he undertakes pre-application discussions on developments on those types of property. He also inputs into policy development in relation to historic environment issues.

- 3.21 To ease the burden on this single officer, the following actions have been undertaken. We are currently providing external training to an existing member of staff in the field of historic buildings. Ultimately, that staff member will be able to assist in those areas identified above. In addition, we are committed to working on an informal basis with officers from CADW and have recently met with them to discuss our approach on particular sites where the opinion of the Design and Conservation Officer has been brought into question.
- 3.22 In addition to the Conservation role, the current postholder is skilled in the area of urban design and master planning. Not all planning authorities in Wales have access to such skills and the officer has been effective in influencing the design of some key schemes in the County often at the pre-application stage. The officer has also held a number of workshops with Councillors and planning staff, including some from adjoining authorities stressing the need to assess and influence the design of new developments.

Inter-Departmental Consultation

- 3.23 The Planning Service finds itself regularly at the centre of a complex consultation process, either on planning applications or development plan work. The view of those consultees are critical to the decision on an application, but unless received in a timely manner, can detrimentally impact on the performance of the Service when measured against those indicators referred to earlier in this report.
- 3.24 The analysis of cases which missed their target did reveal that late responses from consultees (including internal consultees) were preventing some cases being determined within their timescale.
- 3.25 To address this issue, the following steps are being implemented. Wherever possible, the consultation will be undertaken and responded to electronically saving time through the internal mail system. The Service has worked with internal consultees to ensure that they are only being consulted on the cases that they need to be, thereby saving them from being overloaded with inappropriate cases. The importance of effective pre-application discussions is being stressed as these can shape the form and content of any subsequent application thereby requiring a shorter response. Finally, the Service is encouraging consultees to develop standard responses for use wherever possible.
- 3.26 These steps are currently being implemented and the ongoing review

of the planning application caseload will identify if this issue is being addressed positively.

Enforcement of Planning Conditions

- 3.27 All planning permissions are granted subject to planning conditions to control the form of development undertaken. On major developments the permission may include over 50 conditions controlling materials, hours of operation, environmental impacts, drainage etc. As these conditions were required to make the development acceptable in land-use terms, there is an expectation that they will be complied with.
- 3.28 It is currently the responsibility of the Enforcement team to ensure that the planning conditions are complied with. Whilst sometimes non-compliance may be an oversight on behalf of the developer, deliberate non-compliance may result in the serving of a Breach of Condition Notice which cannot be the subject of an appeal.
- 3.29 With over 1,000 planning permissions being granted per year, it is a challenging task to ensure 100% compliance with all planning conditions and the Service is often reliant on other partners e.g. Building Control to advise us when development has commenced, so that compliance checks can be completed.
- 3.30 Through the Service Review, consideration will be given to whether the case officer is the more appropriate figure to be ensuring compliance with planning conditions.

4.00 RECOMMENDATIONS

- 4.01 That Scrutiny notes the further analysis of the Planning Service's performance for 2012/13 and acknowledge the improvements that begun to take hold in Quarter 4 and those planned for 2013/14.

5.00 FINANCIAL IMPLICATIONS

- 5.01 None.

6.00 ANTI POVERTY IMPACT

- 6.01 None.

7.00 ENVIRONMENTAL IMPACT

- 7.01 None.

8.00 EQUALITIES IMPACT

- 8.01 Will need to assess the equality implications further to any proposed changes in policy.

9.00 PERSONNEL IMPLICATIONS

9.01 None at this stage.

10.00 CONSULTATION REQUIRED

10.01 Will need to be undertaken with respect to any future changes in policy and / or procedure. The recent performance of the Planning Service is the subject of a separate paper to the Environment Overview and Scrutiny Committee.

11.00 CONSULTATION UNDERTAKEN

11.01 Applicants and Agents to ascertain their views on the Planning Service.

12.00 APPENDICES

12.01 None.

**LOCAL GOVERNMENT (ACCESS TO INFORMATION ACT) 1985
BACKGROUND DOCUMENTS**

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