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Am unrhyw ymholiad yn ymwneud â'r agenda hwn cysylltwch â Sharon Hughes
(Rhif Ffôn: 01443 864281 E-bost: hughesj@caerphilly.gov.uk)

Dyddiad: Dydd Iau, 3 Rhagfyr 2020

Annwyl Syr/Fadam,

Bydd cyfarfod o'r **Pwyllgor Craffu Tai ac Adfywio** yn cael ei gynnal trwy Microsoft Teams ar **Dydd Mercher, 9fed Rhagfyr, 2020 am 5.30 pm** i ystyried materion a gynhwysir yn yr agenda canlynol. Gall cynghorwyr a'r cyhoedd sy'n dymuno siarad am unrhyw eitem wneud hynny drwy wneud cais i'r Cadeirydd. Mae croeso i chi ddefnyddio'r iaith Gymraeg yn y cyfarfod, a dylid rhoi cyfnod rhybudd o 3 diwrnod gwaith os ydych yn dymuno gwneud hynny.

Bydd y cyfarfod hwn yn cael ei recordio a bydd ar gael i'w weld trwy wefan y Cyngor, ac eithrio trafodaethau sy'n ymwneud ag eitemau cyfrinachol neu eithriedig. Felly, bydd delweddau/sain yr unigolion sy'n bresennol ac/neu sy'n siarad yn ystod ar gael i'r cyhoedd trwy'r recordiad ar wefan y Cyngor yn www.caerffili.gov.uk

Yr eiddoch yn gywir,

A handwritten signature in black ink, appearing to read 'CHarrhy'.

Christina Harrhy
PRIF WEITHREDWR

A G E N D A

Tudalennau

- 1 I dderbyn ymddiheuriadau am absenoldeb
- 2 Datganiadau o Ddiddordeb.

Atgoffi'r Cynghorwyr a Swyddogion o'u cyfrifoldeb personol i ddatgan unrhyw fuddiannau personol a/neu niweidiol mewn perthynas ag unrhyw eitem o fusnes ar yr agenda hwn yn unol â Deddf Llywodraeth Leol 2000, Cyfansoddiad y Cyngor a'r Cod Ymddygiad ar gyfer Cynghorwyr a Swyddogion.

A greener place Man gwyrddach



I dderbyn ac ystyried yr adroddiadau Craffu canlynol:-

- | | | |
|---|---|---------|
| 3 | Adroddiad Staffio a Chyllideb y Gwasanaeth Cynllunio. | 1 - 14 |
| 4 | Adolygiad o Lefelau Gwasanaeth a Phrosesau Gwneud Penderfyniadau ar gyfer Swyddogaethau Rheoli Datblygu a Gorfodi Cynllunio y Gwasanaeth Cynllunio. | 15 - 54 |

Cylchrediad:

Cynghorwyr J. Bevan, D. Cushing, C. Elsbury, Mrs C. Forehead (Is Gadeirydd), R.W. Gough, L. Harding, A.G. Higgs, G. Kirby, Ms P. Leonard, Mrs G.D. Oliver, B. Owen, Mrs D. Price, Mrs M.E. Sargent, A. Whitcombe (Cadeirydd), W. Williams a B. Zaplatynski

A Swyddogion Priodol

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SPECIAL HOUSING AND REGENERATION SCRUTINY COMMITTEE – 9TH DECEMBER 2020

SUBJECT: PLANNING SERVICES STAFFING AND BUDGET REPORT

REPORT BY: INTERIM CORPORATE DIRECTOR - COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 To outline proposals for staff budget growth and realignment of fee income targets within the Planning Services Section of the Regeneration and Planning Service and to seek Scrutiny Committee endorsement for their implementation.

2. SUMMARY

- 2.1 The Regeneration and Planning Service has undergone a significant change process in recent years in response to significant budgetary pressures. The Planning Service itself has been restructured and shouldered significant budget cuts and is currently in the process of a consequential review of working practices, service levels and decision making processes as it responds to the challenges and opportunities provided by COVID-19 and Brexit.
- 2.2 In addition the Service faces several legacy budget issues relating to current fee income targets set for its fee earning functions. More specifically the fee earning service areas namely, Development Management, Building Control and Land Charges have historic unachievable fee income targets within each of their budgets which were set over a decade ago. In this respect income budgets were increased significantly (particularly in the years 2005/2006 to 2008/2009 as shown in Appendix 1) in response to Councils requirements to achieve budget savings as part of the MTFP. They were then subsequently partly reduced in 2009/2010 in response to a significant down turn in the economic climate and fee income levels, but it transpires not to realistic achievable levels.
- 2.3 Within the Development Management Team and following the implementation of the final elements of the restructure in October, planning officers individual planning application and enforcement caseloads will be well above sustainable levels. In addition, there are serious resilience issues for the Service given the age profile of the remaining staff in the Team and significant challenges relating to the long term sustainability of service delivery particularly when measured against the Welsh Government Planning Performance Framework (1) (2).
- 2.4 In response to the acknowledged pressures that planning services across Authorities in Wales currently face, Welsh Government have introduced a 20% increase in

planning application fees pending the outcome of an ongoing review of planning application fee levels. In this respect Welsh Government have made clear that this fee increase should be reinvested exclusively into improving the delivery of the development management service at the local level.

- 2.5 Given the legacy budget issues faced by the service this fee increase will however be absorbed entirely by the projected deficit in fee income, which is an issue that clearly illustrates the impact that unachievable legacy fee income targets have had on these service areas.
- 2.6 The Building Control Team also faces serious succession issues given the age profile of existing officers within the team. Whilst an apprentice post (Grade 3) was introduced as part of a recent restructure this scheme comes to an end in January 2021 but a further step in the staff structure is needed to allow the necessary qualifications and experience to be developed to meet the essential requirements required for the post of a Building Control Officer.
- 2.7 To address capacity and resilience issues the report, therefore, makes a request for an increase in the staff budget for Development Management roughly equivalent to 20% fee income to allow the creation of 2 new permanent full time entry level planning officer posts (Grade 8) together with an increase in staff budget to allow the creation of one permanent full time Principal Enforcement Officer post (Grade 10) and 2 permanent full time Enforcement Officer posts (Grade 8). With regard Building Control the report requests an increase in staff budget to allow the creation of a full time permanent Trainee Building Control Officer (through Grade 5-7), whilst maintaining the 2 existing Grade 8 Building Control Officer posts, together with recommendations for a reduction in the current unachievable fee income targets for both Building Control and Land Charges.
- 2.8 In addition, endorsement is also sought for staff budget growth for the creation of a CIL Officer (Grade 9) and for the permanent appointment of a Strategic Planning post (Grade 9) following 3 unsuccessful attempts to fill the post on a fixed term basis.

3. RECOMMENDATIONS

3.1 That Scrutiny Committee:

- a) Endorses the creation of 2 No. full time permanent entry level Planning Officer posts (Grade 8, £84.4k per annum with on costs) partly funded from the unallocated £31.4k staff budget following restructure and partly from staff budget growth from 2021/22. If recruited during 2020/2021 the part year funding required for the posts could be financed from increased fee income from the 20% increase in fees and/or unallocated staff budget;
- b) Endorses the creation of 1 No. full time permanent Principal Enforcement Officer (Grade 10, £52.3k) and 2 No. full time permanent Enforcement Officers (Grade 8, £84.4k). If recruited during 2020/2021 the part year funding required for the posts could be financed from increased fee income from the 20% increase in fees and/or unallocated staff budget;
- c) Endorses the creation of a Trainee Building Control Officer post (Grade 5-7, £29.2k-37.5k) part funded by the existing staff budget for the apprentice post of £12.2 and part funded from staff budget growth from 2021/22;
- d) Endorses a reduction in the Building Control fee income target of £100k from 2021/22;
- e) Endorses a reduction in the Land Charges fee income target of £20k from 2021/22;

- f) Endorses the creation of a permanent full time CIL officer post funded by staff budget growth of £46.7k per annum in 2021/22. If recruited during 2020/2021 the part year funding required for the posts could be financed from CIL administration fee income generated in 2020/2021 and/or unallocated staff budget;
- g) Endorses staff budget growth of £46.7k per annum in 2021/2022 to cover the costs of a Strategic Planning Officer (Grade 9). This post was originally planned to be a 2 year fixed term post funded from approved use of Communities Directorate ring fenced reserve agreed by Council in October 2019. If budget growth is provided in 2021/2022 the ring fenced reserve funding would no longer be required and could be reutilised for other initiatives. Alternatively budget growth for this permanent post could be delayed until 2023/2024 and the ring fence reserve utilised for the first 2 years.

3.2 That these proposals are included as part of the budget proposals for 2021/22 to be considered by full Council and the resultant recruitment progresses once the 2021/22 budget has been agreed.

4. REASONS FOR THE RECOMMENDATIONS

4.1 To endorse proposals for staff budget growth in the Development Management, Building Control and Strategic Planning budget and the reduction in the fee income targets for Building Control and Land Charges and that these proposals are included as part of the budget proposals for 2021/22 to be considered by full Council.

5. THE REPORT

Background

5.1 The Regeneration and Planning Service has shouldered significant budgetary pressures and accommodated a significant core budget cut of some 72% over the last 5-6 years.

5.2 In October 2018 a restructure was approved which, for Planning Services, included the rationalisation of management roles under a single Planning Services Manager, the deletion of 6 existing posts including one Development Management Team Leader and the creation of 3 new posts including an Apprentice Building Control Officer to deal with identified succession planning issues.

Development Management and Enforcement

5.3 The final elements of the most recent restructure of Planning Services was implemented in October 2020 and as a result, following the retirement of a further member of staff, the Development Management Team now comprises of a single Team Leader and 5 case officers, comprising, 3 Principal Planning Officers (Grade 10) and 2 Planning Officers (Grade 9). The number of Enforcement Officers has already been reduced from 6 officers to 2 with this service currently being delivered by one, recently appointed, Principal Enforcement Officer (Grade 10) and one Enforcement Officer (Grade 7). In addition, there remains £31.4k of staff budget which has not as yet been allocated following restructure.

5.4 From a succession and resilience perspective, the service area currently has an aging profile with an average age of 45 years and only 2 members of staff below 35 years. This poses a significant risk to the resilience of what is now a very small team, with a

large proportion of experienced professional staff at or nearing retirement age and very few development opportunities in the structure below.

- 5.5 With regard planning application workload on average the Authority determines in excess of 1000 planning and related applications per annum. On this basis, and following the restructure, future individual caseloads will on average comprise of some 200 cases per case officer which will be well above sustainable levels, and significantly more than traditionally recommended caseloads of 135 per annum.
- 5.6 Clearly, the current level of staff resource in development management is unsustainable. Further, responding positively to the impact of COVID-19 together with Brexit to facilitate the delivery of a sustainable recovery will present the Local Planning Authority with a significant and unprecedented challenge.
- 5.7 To increase capacity, address current resilience issues and maximise the opportunities offered from existing income streams the report below proposes the creation of 2 additional entry level Planning Officer posts (Grade 8) in the Development Management Team. These posts will be provided with a broad job description incorporating responsibilities for the determination of planning applications and planning enforcement, maximising the development opportunities for the post holders and the flexibility to respond to changing work pressures within the service.
- 5.8 The current level of enforcement complaints of over 300 per annum coupled with an existing caseload of in excess of 250 enforcement cases also presents a significant challenge for the Authority's 2 remaining enforcement officers.
- 5.9 Historically between 80 and 100 enforcement cases are resolved per annum, per officer, depending on the complexity of the caseload. In this respect, of the existing outstanding caseload there remains a range of complex cases requiring positive action to remove unauthorised breaches including those requiring the service or monitoring of the requirements of an enforcement notice and/or prosecution.
- 5.10 To reduce individual caseloads to manageable levels and address the complexity of some of the caseload it is recommended that 1 No. full time permanent Principal Enforcement Officer post (Grade 10) be created together with 2 No. full time permanent Enforcement Officers (Grade 8).
- 5.11 In parallel with the implementation of separate proposals to modernise service levels and decision making, and coupled with the flexibility built into the responsibilities of the proposed Planning Officer (x2) and CIL Officer posts this level of resource should allow for significant inroads to be made into the existing outstanding caseload over a 2 year period, whilst effectively managing new complaints received during this period.
- 5.12 In the longer term it is anticipated that this additional resource would also facilitate the provision of a more proactive enforcement service including the monitoring of development commencements and the discharge of conditions.
- 5.13 Taken together with separate proposals to modernise service levels and decision making these resources should facilitate the long term sustainability of service delivery particularly when measured against the Welsh Government Planning Performance Framework (1) (2) with the objective of consistently maintaining top quartile performance in Wales.

Building Control

- 5.14 The Building Control Team currently comprises of a Team Leader (Grade 11), 1 No. Principal Building Control Officer (Grade 9), 2 No. Building Control Officers (through Grade 7-8) and 1 No. Apprentice Building Control Officer (Grade 3).
- 5.15 This apprentice post was introduced in 2019 following restructure of the Section in response to acknowledged succession and resilience issues given the age profile of the team. This apprentice scheme, however, currently comes to an end in January 2021 but a further step in the staff structure is needed to allow the necessary qualifications and experience to be developed to meet the essential requirements required for the post of a Building Control Officer.
- 5.16 On this basis it is recommended that a new permanent full time Trainee Building Control Officer post be created (through Grade 5-7) part funded by the existing budget of £12.3k which currently fund 50% of the apprentice post, with progress through to each grade dependent upon completion of Levels 4 and 5 of the LABC Diploma in Public Service Building Control Surveying (or equivalent) funded by existing training budget.
- 5.17 As part of this proposal the structure of the remaining Team would remain in its current form with the Trainee post serving to address ongoing concerns regarding the succession of existing Building Control Officers following their retirement in due course.

Fee Income

- 5.18 Each of the three fee earning functions of Planning Services, namely development management, building control and land charges are set demanding annual fee income targets, the achievement of which is inextricably linked to the development industry and property market. In this respect the table attached as Appendix 1 illustrates the consistent underachievement and/or volatile and unpredictable nature of fee income since 2011/12.
- 5.19 It is clear that the development management fee income is volatile, with the fee income target being under achieved consistently since 2011/12 with the exception of 2015/16, 2017/18 and 2018/19 when a number of large allocated housing sites were progressed through the planning process as a consequence of the preparation of the now withdrawn Replacement LDP. Since then fee income has returned to historic levels. The current forecast for 2020/21 is for a fee income shortfall of circa £110k.
- 5.20 A comprehensive review of the fee structure for planning applications is currently ongoing by Welsh Government in an attempt to provide adequate resources to fund the statutory development management process. This is a complex piece of work and in recognition of the current pressures and significant resource and resilience issues Local Planning Authorities currently face, a 20% planning application fee increase across the board was introduced on 24th August 2020. The expectation is that this fee increase will be reinvested exclusively into improving the delivery of the development management service at the local level.
- 5.21 Based upon income in 2019/20 the 20% increase would equate to approximately £87k and would be sufficient to fund 2 Grade 8 entry level posts. Whilst this is welcomed, it should be recognised that the current underachievement of fee income by the Service is in excess of 20% and, as a consequence, this increase will be absorbed by the existing fee income target and will not release further resources to invest into service delivery.

- 5.22 To facilitate the creation of 2 permanent full time planning officer posts in development management, therefore, it is proposed that the fee income target be retained at current levels in anticipation that the 20% increase in fee income will go some way to meeting existing fee income targets, but that the staffing budget be increased by circa £84k per annum from 2021/22 to accommodate these new entry level posts. In addition, to facilitate the appointment of these posts in this financial year, it is recommended that any associated staff budget shortfall be offset by additional fee income generated by the 20% increase in fee income.
- 5.23 Building Control fee income has been consistently below target and has underachieved by circa £100k per annum over the past 3 years.
- 5.24 The fee earning elements of this service operate in a highly competitive market with private sector approved inspectors, and fee levels are set strictly in accordance with CIPFA guidance on a cost recovery basis. Any surplus fee income should be reinvested in the service where justified or used to adjust the cost of using the service.
- 5.25 The effect of an unachievable income target in the budget is, therefore, two-fold. Firstly, it prevents any fee income from being reinvested and secondly for fees to be adjusted to improve the competitiveness of the service and maintain or develop its customer base.
- 5.26 On this basis it is requested that fee income targets for the Building Control Service be reduced by £100K from the 2021/22 financial year.
- 5.27 Land charges fee income has consistently underachieved during the period since 2011/12 being circa £20k (approx. 20%) per annum below target on average over the last 3 years. This service also competes for elements of its income with personal search agents and an unachievable fee income target within its budget can serve to undermine the competitiveness and development of the service.
- 5.28 It is proposed therefore that the fee income target for this service be reduced by £20k in the 2021/22 financial year.

Community Infrastructure Levy (CIL)

- 5.29 CIL is a statutory levy on qualifying development, collected by the charging authority, i.e. Caerphilly County Borough Council. It is the vehicle for funding infrastructure to support development in accordance with the Adopted Caerphilly County Borough Local Development Plan up to 2021 (LDP).
- 5.30 At the end of March 2020, available CIL funds totalled £2,007,820.66. In addition to this, CIL can be utilised to lever in funds that would not otherwise be available, i.e. to match or draw down other funding.
- 5.31 Since CIL was introduced in 2014, the cost of administering CIL has increased each year in line with the increasing workload involved in its administration.
- 5.32 The day to day operation of CIL includes: determining whether development is CIL liable/chargeable, the calculation of CIL amount, the administration of the CIL including issuing of notices and enforcement of the CIL Regulations for recovery action and appeals, the recording and reporting of financial details and arranging the relevant payments to Community Councils.

- 5.33 Administration requires an in-depth knowledge of the CIL Regulations and processes and procedures and is currently undertaken by several officers within the Planning Technical Support, Development Management and Strategic Planning teams.
- 5.34 The CIL Regulations make provision for a proportion of CIL receipts to be retained to cover administrative costs. At the end of March 2020, this amounted to £125,299.80. This CIL admin fee is, however, an annual amount set at 5% of CIL income levy and therefore varies from year to year (19/20 £57.5k, 18/19 £37.8k and 17/18 £16.4k). This fee is not, however, accumulated and currently represents an income value in that financial year.
- 5.35 Due to the level and complexity of the work involved in CIL, administering CIL would be best undertaken by a single officer with a specific remit for the deliverability of CIL. The post could be funded or part funded from the CIL administrative fee that the Council can claim from the overall CIL receipts, however as noted in para 5.24 above the CIL administration fee income cannot be guaranteed each year as it depends on the level of overall CIL income generated each year. Therefore the CIL Officer post would need to be funded from base budget growth in 2021/2022. There is scope for the role of any CIL Officer to be expanded to include S106 matters and some enforcement issues if so required.
- 5.36 Consequently, it is proposed that a new permanent, full-time post with the specific responsibility for all CIL related duties be created. The post would be located within the Development Management Team. It is considered that the post be of sufficient grade to undertake the requirements of administering and enforcing CIL including prosecution and, therefore it is intended that the post would be a Planning Officer level grade post (grade 9). As such it is requested that a new Grade 9 post be created at a cost, including on costs, of £46.7k per year (including on costs) and that the cost is met from staff budget growth.

Strategic Planning

- 5.37 On 23rd October 2019 Council resolved to commence the preparation of a full revision of the Adopted Local Development Plan and approved the necessary budgetary measures to provide the finance necessary to meet the costs of delivering the Strategic Development Plan and the second Replacement LDP.
- 5.38 In addition, Council agreed to the creation of a two-year fixed term Grade 9 post, at the cost of £42K per year (including on-costs and pay inflation at top of the Grade this would now equate to £46.7k) to complete the delivery of the Council's Regeneration Strategy Framework via the development and publication of area masterplans.
- 5.39 Since this time the post has been advertised on 3 separate occasions without any applications being received from any applicants that met the essential criteria. As a consequence, authorisation was provided to advertise this post on a full time basis and the recruitment process is currently ongoing. Initially this post will be appointed on a fixed term basis and if Council approve budgetary growth as per para 3.1(e) above this post would then be made permanent.
- 5.40 Growth in the Strategic Planning staff budget is therefore requested to cover the costs of this post from 2021/22 with the cost in the first two years being offset by the existing approved allocation of funding from the Communities reserves as agreed by Council in October 2019.

6. Conclusion

- 6.1 The proposals in this report seek to resolve legacy budget issues relating to current fee income targets set for the fee earning functions of Planning Services and staff budget growth to resolve capacity and resilience issues in the Development Management and Building Control Teams and to facilitate the effective management of CIL funding and to complete the delivery of the Council's Regeneration Strategy Framework.
- 6.2 Given the significant challenges the service faces this is considered to be the most effective way of providing the necessary resources to respond to the COVID-19 crisis and facilitate the delivery of a sustainable recovery in environmental, social, cultural and economic terms.

7. ASSUMPTIONS

- 7.1 None.

8. LINKS TO RELEVANT COUNCIL POLICIES

- 8.1 The recommendations contained within this report are designed to create a more sustainable Planning Service that will actively support the delivery of each of the Corporate Well-being Objectives in the Corporate Plan 2018-2023:

Objective 1 - Improve education opportunities for all.

Objective 2 - Enabling employment.

Objective 3 - Address the availability, condition and sustainability of homes throughout the County Borough and provide advice, assistance or support to help improve people's wellbeing.

Objective 4 - Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment.

Objective 5 - Creating a County Borough that supports a healthy lifestyle in accordance with the sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015.

Objective 6 - Support citizens to remain independent and improve their well-being.

9. WELL-BEING OF FUTURE GENERATIONS

- 9.1 The proposals in this report will assist the Authority in its duties as a public body under the Well-being of Future Generation (Wales) Act 2015 to contribute of the well-being goals for Wales:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh Language
- A globally responsible Wales

9.2 The recommendations of this report are also consistent with the five ways of working as defined within the sustainable development principle in the Act. The five ways of working of the sustainable development principle, listed in the Act are:

- Long Term – the proposals will enable the Authority to develop a more sustainable service in response to significant budgetary and resource pressures and deliver its statutory obligations.
- Prevention – taking a more commercial approach and strategic focus will allow services to be targeted more effectively and prevent current resource issues from frustrating the delivery of development and key strategic projects.
- Integration – further development of a single point of contact for access to services, online resources, formalisation of advice and frontloading will facilitate more integrated working.
- Collaboration – the proposals will facilitate greater collaboration through the planning process with other organisations and bodies in the delivery of strategic projects.
- Involvement – the proposal will facilitate engagement and access to resources through a great range of digital platforms.

10. EQUALITIES IMPLICATIONS

10.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential unlawful discrimination and/or low level or minor negative impact has been identified, therefore a full EIA has not been carried out.

11. FINANCIAL IMPLICATIONS

11.1 The proposals will result in a reduction of fee income targets by £120k (£100k Building Control fees and £20k Land charge search fees) to more realistic achievable levels and also staff budget growth from 2021/22 of £53k for 2 x Grade 8 Planning Officer posts, £52.3k for a Grade 10 Principal Enforcement Officer, £84.4k for 2 x Grade 8 Enforcement Officer posts, £25.3k for a Trainee Building Control Officer, £46.7k for a Strategic Planning Officer post (Communities ring fenced reserve funding already approved for 2 years) and £46.7k for a Grade 9 CIL Officer post. The annual CIL administration fee income referred to in this report generated from 5% of annual CIL income, would be retained within the service to support other CIL administration activities and if necessary offset any ongoing shortfall in fee income targets in Development Control, Building Control or Land Charges.

Posts	Annual Cost (inc. on cost - top of grade)	Funding Available	Budget Growth
Planning Officer (Grade 8) x 2	£84.4k	£31.4k	£53k
Principal Enforcement Officer (Grade 10)	£52.3k	0	£52.3k
Enforcement Officer (Grade 8) x 2	£84.4k	0	£84.4k
Trainee Building Control Officer (Grade 5-7)	£37.5k	£12.2k	£25.3k
CIL Officer (Grade 9)	£46.7k	0	£46.7k
Strategic Planning Officer (Grade 9)	£46.7k	£84k (2 years from Directorate Reserve)	£46.7k
Budget Growth			
Building Control	£100k	0	£100k
Land Charges	£20k	0	£20k
Total	£472k	£43.6k (plus £84k for 2 years from Directorate Reserve)	£428.4k

12. PERSONNEL IMPLICATIONS

12.1 There are no specific personnel implications directly resulting from this report.

13. CONSULTATIONS

13.1 The draft report was distributed as detailed below. All comments received have been reflected in the report.

14. STATUTORY POWER

14.1 The Local Government Acts 1998 and 2003.

Author: Ryan Thomas, Planning Services Manager

Consultees: Cllr Sean Morgan, Cabinet Member for Finance, Performance and Planning
Christina Harrhy, Chief Executive
Mark S Williams, Interim Corporate Director – Communities
Steve Harris, Head of Financial Services & S151 Officer
Rob Tranter, Head of Legal Services & Monitoring Officer
Lynne Donovan, Head of People Services
Rhian Kyte, Head of Regeneration & Planning
Mike Eedy, Finance Manager
Cllr Andrew Whitcombe, Chair of Housing and Regeneration Scrutiny Committee
Cllr Christine Forehead, Vice Chair of Housing and Regeneration Scrutiny Committee

Background Papers:

(1) Planning Performance Framework -

<https://gov.wales/sites/default/files/publications/2018-12/planning-performance-framework-indicators-and-targets-in-detail.pdf>

(2) Planning Performance Framework Table - Planning performance framework table (April 2018 to March 2019) | GOV.WALES

Appendices:

Appendix 1 Fee Income History

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Fee Income History Compared to Budgets

Year	Budget target	Actual	Variation	Budget target	Actual	Variation	Budget target	Actual	Variation
		To date end Aug			To date end Aug			To date end Aug	
20/21	537,074	210,970	326,104 (to end Aug)	273,469	92,549	180,920 (to end of Aug)	113,086	25,904	87,182 (to end of Aug)
19/20	537,074	435,701	101,373 under	273,469	204,656	68,813 under	112,486	86,209	26,277 under
18/19	537,074	603,450	66,376	295,065	191,924	103,41 under	112,486	91,192	21,294 under
17/18	537,074	608,713	71,639	295,065	176,706	118,359 under	112,486	97,115	15,371 under
16/17	541,074	449,344	91,730 under	301,065	190,676	110,389 under	112,486	110,525	1,961 under
15/16	541,074	579,790	38,716	306,577	225,464	81,113 under	112,486	100,210	12,276 under
14/15	533,078	503,216	29,862 under	302,047	246,708	55,339 under	110,824	109,871	953 under
13/14	525,200	450,465	74,735 under	272,583	236,774	35,809 under	105,245	91,903	13,342 under
12/13	525,200	453,817	71,383 under	255,500	226,067	29,433 under	103,690	89,848	13,842 under
11/12	525,200	424,551	100,649 under	255,000	228,039	26,961 under	103,692	102,865	827 under
Average	533,561 average	501,005 average	32,556 under achieved average	284,041 average	214,113 average	69,929 under achieved average	109,542 average	97,749 average	11,794 under average
			3 yr average – 12,214.21 Over achieved			96,77 under achieved			20,981 under

Budget History (reflecting increases in income budgets between 04/05 and 08/09 due to fee income increases) BUT reductions in budget 09/10 due to significant reduction in fee income in 08/09.

10/11	520,000		302,000	Includes £50k for energy certificates
09/10	500,000	Reduced as not being achieved (see 8/9)	300,000	Includes £50k for energy certificates
08/09	720,000	Outturn 553,505	337,400	Outturn 224,501
07/08	700,000	MTFP saving (outturn 748,000)	370,000	MTFP saving (outturn 326,545)
06/07	570,000	MTFP saving (outturn 980,000)	340,000	Outturn 340,943
05/06	470,000	Outturn 568,894	330,000	Outturn 350,339
04/05	410,000	Outturn 595,000	306,400	Outturn 360,000
03/04	340,000	Outturn 492,267	300,400	Outturn 304,063

Risks in generating MTFP savings from increasing fee income budgets when the fee levels cannot be sustained long term



SPECIAL HOUSING AND REGENERATION SCRUTINY COMMITTEE – 9TH DECEMBER 2020

**SUBJECT: REVIEW OF SERVICE LEVELS AND DECISION-MAKING
 PROCESSES FOR THE DEVELOPMENT MANAGEMENT
 AND PLANNING ENFORCEMENT FUNCTIONS OF THE
 PLANNING SERVICE**

REPORT BY: INTERIM CORPORATE DIRECTOR - COMMUNITIES

1. PURPOSE OF REPORT

- 1.1 To provide a review of service delivery and decision making processes for the development management and enforcement functions of Planning Services, and seek a view from Scrutiny Committee on the service levels proposed and on the recommendations for amendments to the Scheme of Delegation and Member protocols and for a review of the size of the Planning Committee.

2. SUMMARY

- 2.1 The Planning Service will play a key role in facilitating the delivery of a sustainable recovery as the country emerges from the COVID-19 crisis and faces the challenges and opportunities presented by Brexit.
- 2.2 In this respect the Planning Service has recently undergone the final stages of restructure to accommodate significant budgetary pressures with staff resources now well below historic levels.
- 2.3 In recent years the planning system in Wales has been modernised as part of the Welsh Government Positive Planning Agenda whilst the TeamCaerphilly – Better Together Strategy set in place a whole organisation transformation programme which, in response to the COVID-19 lockdown, has facilitated the introduction of new ways of working and models of service delivery.
- 2.4 The opportunity now exists to review the development management and enforcement service in light of the ongoing staff restructure and embed many of these new approaches through the introduction of an output driven statutory service and more strategically focussed decision making processes.
- 2.5 This report, therefore, sets out proposals which will help the Planning Service more effectively respond to the challenges it now faces, whilst seeking to deliver on its statutory obligations.

3. RECOMMENDATIONS

3.1 That Scrutiny Committee:

- a) Endorses the output driven service delivery model proposed for the development management and enforcement function, with a focus on the delivery of its statutory obligations, frontloading, further commercialisation and the delivery of major and strategically significant schemes underpinned by the introduction of a new Wellbeing local performance indicator,
- b) Endorses amendments to the Enforcement Charter,
- c) Endorses changes to the Planning Committee structure with a reduction from 20 to 16 Members,
- d) Endorses changes to the Scheme of Delegation to provide Planning Committee with a more strategic role and focus,
- e) Endorses the Non- Planning Committee Member Protocol for Ward Members.

4. REASONS FOR THE RECOMMENDATIONS

- 4.1 To seek the views of Scrutiny Committee on the proposed service delivery model and amendments to the Council Constitution.

5. THE REPORT

Background

- 5.1 The impact of the COVID-19 pandemic on our economy, communities and society coupled with the imminent impact of Brexit is acknowledged as presenting one of the biggest challenges we have faced in a generation. In this respect Welsh Government recognise that the planning system will play a key role in achieving its Wellbeing objectives and delivering a sustainable recovery in environmental, social, cultural and economic terms.
- 5.2 Central to the delivery of these objectives must be an efficient, flexible and responsive development management and enforcement function which facilitates sound and timely decision making and the investigation of breaches of planning control.

Current Staff Resources and Caseloads

- 5.3 The Planning and Regeneration Service has undergone a significant restructure in recent years in response to ongoing budgetary pressures. In this regard the core planning budget has been reduced by some 72% over the last 5-6 years.
- 5.4 More specifically the development management and enforcement function has accommodated a budget saving of £337k during this period and this has been achieved mainly through a reduction in staff resources. The service also has demanding fee income targets which in a volatile economic climate with peaks and troughs in development can prove difficult to achieve year on year.
- 5.5 The final elements of the most recent restructure of Planning Services was implemented in October 2020 and as a result, following the retirement of a further member of staff, the Development Management Team now comprise of a single Team Leader and 5 case officers, comprising, 3 Principal Planning Officers (Grade 10) and

2 Planning Officers (Grade 9). The number of Enforcement Officers has already been reduced from 6 officers to 2 with this service currently being delivered by one, recently appointed, Principal Enforcement Officer (Grade 10) and one Enforcement Officer (Grade 7).

- 5.6 On average the Authority determines in excess of 1000 planning and related applications per annum. On this basis, and following the restructure, future individual caseloads will on average comprise of some 200 cases per case officer which will be well above sustainable levels, and significantly more than traditionally recommended caseloads of 135 per annum.
- 5.7 The current level of enforcement complaints of over 300 per annum coupled with an existing caseload of in excess of 250 enforcement cases also presents a significant challenge for the Authority's 2 remaining enforcement officers.
- 5.8 Historically between 80 and 100 enforcement cases are resolved per annum, per officer, depending on the complexity of the caseload. In this respect, of the existing outstanding caseload there remains a range of complex cases requiring positive action to remove unauthorised breaches including those requiring the service or monitoring of the requirements of an enforcement notice and/or prosecution.
- 5.9 Clearly with the current level of staff resources, responding positively to the impact of COVID-19 coupled with Brexit and facilitating the delivery of a sustainable recovery in environmental, social, cultural and economic terms will present the Local Planning Authority with a significant and unprecedented challenge. Detailed consideration of the budget and staffing issues within the Planning Service is presented in a separate report which is also reported to this Committee for consideration.

Positive Planning

- 5.10 The planning system in Wales has undergone a significant change process as part of the Welsh Government Positive Planning agenda, culminating in the Planning (Wales) Act 2015 and the introduction of subsequent secondary legislation.
- 5.11 In this respect the Positive Planning agenda sought to change culture and provide a planning system that can deliver national, local and community wellbeing objectives by supporting the delivery of appropriate sustainable development.
- 5.12 An efficient development management and enforcement service and modern governance arrangements underpinned by a robust output driven performance framework is seen as integral to the delivery of this agenda.
- 5.13 In this respect the concept of "front loading" introduced a formal paid statutory pre-application advice service for all applications and Pre-Application Consultation (PAC) for major developments, with early engagement being central to delivering quality positive outcomes in a timely and efficient manner.
- 5.14 The enforcement function has also been refocussed to deliver the timely investigation of cases within prescribed timescales, with new tools including temporary stop notices and enforcement warning notices introduced to deal more expeditiously with breaches of planning control which may cause irreparable damage and facilitate the submission of planning applications to regularise unauthorised development.
- 5.15 The Planning Performance Framework (PPF) set in place key qualitative and quantitative performance indicators used to focus resources on delivering the key

elements of a good planning service (1). In addition key sustainable development indicators have also been introduced. All Local Planning Authorities are required to report quarterly on performance to Welsh Government and publish an Annual Performance Report (APR) (2) detailing its performance in the context of the PPF. Local Planning Authorities are also required to refund fees where decisions are not made in a timely manner with the provision for penalties to be used in the event of consistent under performance.

- 5.16 The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 which came into force on 5th May 2017 requires Planning Committees to comprise of no less than 11 Members and no more than 21, it also provides that no more than one Member from a multi Member Ward can sit on a Planning Committee at any one time.
- 5.17 This secondary legislation followed a comprehensive review of planning committees and decision making across Wales which concluded that large planning committees are resource intensive, diminish the valuable role of Councillors as representatives of their community and generate slow and inconsistent decision making as a result of the associated administrative burden, low average attendance and the tensions between respective Electoral Division and Committee roles (3).
- 5.18 On this basis, the overriding duty of a Planning Committee Member is seen as being to the wider community and the whole Authority, with the role of the Planning Committee focussed on the delivery of the Development Plan by making locally strategic planning decisions, which go beyond protecting the private interests of one person, or group of people, against the activities of others. In this context a Planning Committee should not deal routinely with a plethora of minor development proposals, particularly householder development, which have minimal impact upon the wider area.
- 5.19 Such issues remain current today and were again raised in the recent Wales Audit Office report on the Effectiveness of the Planning Authorities in Wales, which identified continued inconsistencies in the size of Planning Committees, inconsistent decision making and a lack of strategic focus with some Committees still focussing on parochial ward based issues (4).
- 5.20 A comprehensive review of the fee structure for planning applications is also currently ongoing by Welsh Government in an attempt to provide adequate resources to fund the statutory development management process. This is a complex piece of work and in recognition of the current pressures and significant resource and resilience issues Local Planning Authorities currently face, a 20% planning application fee increase across the board was introduced on 24th August 2020. The expectation is that this fee increase will be reinvested exclusively into improving the delivery of the development management service at the local level.
- 5.21 Whilst this is welcomed, it should be recognised that the current underachievement of fee income by the Service is in excess of 20% and as a consequence this increase will be absorbed by the existing fee income target and will not release further resources to invest into service delivery.

TeamCaerphilly – Better Together

- 5.22 The TeamCaerphilly – Better Together Strategy is based on 3 main pillars: Service Reviews, Commercialisation and PlaceShaping, and sets in place a whole organisation transformation programme which, in response to the COVID-19 lockdown, has

facilitated the introduction of new ways of working and models of service delivery.

- 5.23 The opportunity now exists, therefore, to review the development management and enforcement service, deploy the principles of TeamCaerphilly and embed many of these new approaches into its future service delivery and decision making processes.
- 5.24 In this respect the proposals in this report seek to capitalise on the opportunities provided by the TeamCaerphilly Framework with further commercialisation in the promotion of fee earning elements of the service, further refinement of agile working, the development of a single point of contact and online resources and provision of a more strategic focus for service delivery and decision making to facilitate the PlaceShaping agenda, underpinned by an output driven performance management framework.

6. Service Delivery

- 6.1 Whilst the Regeneration and Planning Service has recently implemented the final stages of a restructure, the corresponding impact upon the level of service and service delivery options is yet to be reviewed in this regard or in light of the Positive Planning Agenda or to meet the requirements of the Planning Performance Framework.
- 6.2 As part of its response to the COVID-19 crisis the development management and enforcement functions have also been forced to operate in different ways, investing in paperless working, providing a different level of service with a focus on its statutory obligations as a priority. This review, therefore, provides the opportunity to embed the principles of positive planning into service delivery options and learn lessons from the current crisis to build a more efficient, output driven service with a greater strategic focus on delivery.

Frontloading the Development Management Process

- 6.3 Use of the statutory pre-application advice service offered by the Authority has been low. In Q1 2020/21 just 14 pre-application enquiries were submitted and this is a consistent picture in previous quarters.
- 6.4 Historically scarce resources have instead been dedicated to the provision of informal advice on an adhoc basis and significant negotiation at the formal planning application stage. Whilst this can be regarded as good practice it results in delays in the formal decision making process with the average time to determine applications standing at around 82 days in 2019/20. Importantly, this officer time is not formally accounted for, has resulted in depressed take up of the pre-application advice service, reduced income generation from this service and conflicts with the concept of frontloading with a high percentage of applications being submitted as invalid, requiring amendment and re-consultation, drawing further on the burden of administering the process.
- 6.5 During the COVID-19 lockdown, officers have worked from home and the Authority has moved quickly to capitalise on available digital technology, kit and equipment to migrate from a paper, office based system to a paperless digital based system. The service is now delivered to customers through a range of digital platforms with the ongoing development of online resources, payment processes and use of virtual meetings and telephone conferencing.
- 6.6 Resources have been dedicated to the processing of planning applications in a timely manner with limited negotiation and an emphasis on the use of the Council's pre-application advice service to frontload the process and reduce the need for negotiation

at the formal planning application stage. Where negotiation has taken place it has been focussed on delivering significant or major applications which, by their nature, are more likely to have an economic imperative that could stimulate recovery in a post-Covid19 and post-Brexit era or those applications which are likely to have a wider community interest or impact.

- 6.7 As a consequence, and despite the circumstances, performance and productivity has improved when measured against key indicators in the Planning Performance Framework with the percentage of applications determined within timescales, over the lockdown period, increasing from 80% in Q1 2019/20 to 97% in the same quarter 2020/21.
- 6.8 Whilst there remains significant work to do in terms of modernising the delivery of the service, managing public contact and expectations in response to the current crisis and future challenges, the above approach to service delivery has proven to be an efficient model moving forward, particularly given the significant economic, social and environmental challenges we now face and the increasingly diminishing staff resources the service has at its disposal.
- 6.9 It is therefore recommended, that the service continues to develop its service delivery model along the following lines: with a focus on outputs as measured by the Planning Performance Framework; an increasing emphasis on frontloading; the provision of paid formal services; signposting to free online resources; and a focus on the delivery of major or significant schemes which have a broader economic and/or community impact.

In this regard the following are seen as key aspects of modernising the service:

- Single point of contact for access to services and signposting of public to online resources for advice, submission of applications and complaints and reporting of breaches of planning control,
 - Further commercialisation and development of range of paid services,
 - Frontloading of the planning application and enforcement processes,
 - Timely determination of householder and minor planning applications,
 - Focus on the delivery of major and strategically significant schemes which have a broader economic and/or community impact,
 - Output driven service delivery model focussed on meeting key performance indicators.
- 6.10 In this latter respect it is also recommended that an additional local performance indicator be introduced relating to the percentage of applications with an economic imperative that are approved i.e. major applications. Overlain with the existing National performance management framework currently in place which measures performance in quantitative and qualitative terms and against key sustainable development measures this new local indicator will have the effect of providing the service with a greater a focus on delivery and will also embed economic Wellbeing objectives into service delivery in a measurable way.

Responsive Planning Enforcement

- 6.11 As indicated above the enforcement service has shouldered significant cuts in staff resources in recent years with the remaining 2 enforcement officers receiving on average in excess of 300 enforcement cases each year in addition to a significant existing caseload. Such staff levels are clearly not sufficient to maintain traditional

levels of service. In this respect the issue of budget and staffing within Planning Service is subject to a further report also presented to this Committee meeting for consideration.

- 6.12 During the lockdown period the level of enforcement complaints has remained consistent, but in line with Welsh Government advice officers have not been able to visit sites to investigate these complaints unless it is essential to do so where irrevocable damage was taking place to the environment or where there is a risk to life. During this period the Authority has for the first time issued a number of temporary stop notices to cease ongoing operational development.
- 6.13 An online complaints process has also been launched with all complaints being submitted via an online form. In addition, to assist investigations, complainants have been contacted and asked to provide further clarification and supporting information, including photographs, and virtual meetings have been undertaken to assist the investigation by remote means.
- 6.14 Historically enforcement complaints have been submitted via a range of methods, including via word of mouth, telephone, in writing or by email. Frequently complaints are submitted anonymously, lack the necessary information to allow cases to be prioritised or expedited without significant investigation. In many cases no breach of planning control takes place and the opportunity to triage complaints and manage public expectations at the outset is lost through a lack of information.
- 6.15 Addressing the existing backlog when lockdown restrictions are lifted will clearly present a significant challenge given the resources at the Authority's disposal even should additional staff resources be allocated. The Enforcement Charter was adopted by the Council in 2019. This set in place the service levels complainants can expect, ways in which a complaint can be submitted and the level of information required. This embodies many of the principles adopted during the lockdown period but has been updated and revised in light of the lessons learned to provide more focussed and efficient processes, to align with the principles of TeamCaerphilly and to manage public and member expectations.
- 6.16 The revised Enforcement Charter is attached as Appendix 1. Whilst the proposed changes are subtle they will go some way to assisting the delivery of the enforcement service and to focus on the performance levels set down in the Planning Performance Framework.
- 6.17 In this respect all enforcement complaints should now be submitted in a uniform way, namely online via the enforcement complaint form and complainants are required to provide a range of information, depending on the complexity of the case, before the complaint can be submitted, accepted and investigated. In addition, a triage system has been introduced which will allocate complaints a priority at the outset allowing expectations to be managed and resources to be allocated in the most efficient manner to deal with the most severe breaches of planning control. Public expectation will need to be managed with service levels clearly articulated at the outset and contact with the case officer throughout an investigation limited to that required as part of statutory processes namely at the end of the investigation stage.

7. Decision Making

- 7.1 The Council Constitution prescribes the form and composition of Planning Committee and via the Scheme of Delegation identifies those decisions which must be made by

Planning Committee, providing delegated powers to officers to issue decisions on a range of functions including planning and related applications and enforcement cases.

Planning Committee Structure

- 7.2 The Size and Composition of Local Planning Authority Committees (Wales) Regulations 2017 which came into force on 5th May 2017 requires Planning Committees to comprise of no less than 11 Members and no more than 21, it also provides that no more than one Member from a multi Member Ward can sit on a Planning Committee at any one time.
- 7.3 As detailed above the legislation was introduced by Welsh Government to control, by statute, the size of Planning Committees as small Committees were regarded as facilitating better, more efficient, consistent and timely decision making.
- 7.4 The table below illustrates the range in the current size of Planning Committee's in Wales.

Table 1 – The Size of Planning Committees in Wales

Local Planning Authority	No. Members
Merthyr	11
Newport	11
Cardiff	11
Isle of Anglesey	11
Rhondda Cynon Taf	11
Swansea	12
Neath Port Talbot	12
Blaenau Gwent	15
Conwy	15
Gwynedd	15
Pembrokeshire	15
Torfaen	16
Monmouth	16
Flintshire	16
Vale of Glamorgan	17
Bridgend	18
Brecon Beacon National Park	18
Pembrokeshire Coast National Park	18
Snowdonia National Park	18
Denbighshire	19
Caerphilly	20
Carmarthenshire	20
Wrexham	20
Ceredigion	21
Powys	21

- 7.5 The Authority's current Planning Committee comprises some 20 Members and is one of the largest Planning Committees in Wales, the largest within the Cardiff Capital Region and significantly larger than other large urban Authorities such as Cardiff (12), Swansea (12), Newport (11) and Rhondda Cynon Taff (11). It also represents the

largest Committee in the Council with Licensing comprising 15 Members and Scrutiny Committee 16.

- 7.6 Average attendance at each Planning Committee meeting was 14 in 2019/20 and the quality of decision making when assessed against the Planning Performance Framework was relatively inconsistent with 8% of Committee decisions being made contrary to professional officer recommendation. Good performance being categorised as 5% or less and poor performance 9% or more.
- 7.7 The COVID-19 lockdown has starkly demonstrated the need for the Authority's decision making processes to adapt quickly to ever changing circumstances. Whilst Planning Committee reconvened on 17th June 2020 via virtual meetings, significant resources were deployed to train all 20 Members to facilitate this process.
- 7.8 Setting aside the views of Welsh Government and the Auditor General for Wales regarding the benefits of small Planning Committees, clearly in a rapidly changing environment where both decision making processes and policy responses may have to react quickly, a smaller and more focussed Planning Committee would, it is considered, be more responsive to change.
- 7.9 On this basis and having regard to the political balance of the Council it is recommended that the size of Planning Committee be reduced to 16 Members which more closely aligns with Licensing and Scrutiny Committees and other Local Planning Authorities in the Cardiff Capital Region.

Scheme of Delegation

- 7.10 A National Scheme of Delegation has not, as yet, been introduced, however, Welsh Government have been clear that the role of Planning Committee should be focussed on making locally strategic planning decisions which go beyond protecting the private interests of one person, or group of people, against the activities of others. In this context a Planning Committee should not deal routinely with a plethora of minor development proposals, particularly householder development, which have minimal impact upon the wider area (3).
- 7.11 In this context the role of Planning Committee should be to deliver the adopted development plan by making locally strategic planning decisions and by determining those applications:
1. That are identified as major development;
 2. That raise policy issues affecting the delivery of the development plan, such as applications departing from the adopted plan; and
 3. Where there is quantifiable, community-wide interest in a development which goes beyond protecting the private interests of one person, or group of people, against the activities of others.
- 7.12 The Authority's current scheme of delegation relating to the determination of planning applications is reproduced below:

"The determination of all applications for planning permission, reserved matters, listed building consent, conservation area consent, tree preservation order consent, advertisement consent and all other matters submitted for the determination formal application or comment of the local planning authority under the relevant Town and Country Planning Act and associated legislation, **OTHER THAN** :-

- (a) any application which any member requests in writing to the Head of Regeneration & Planning within 21 days of the publication of the weekly list containing the application, should be considered by the Planning Committee.
 - (b) any application where it is recommended that permission be granted contrary to the Council's planning policies.
 - (c) any application which in the opinion of the Head of Regeneration & Planning or the Planning Services Manager are likely to be controversial or of significant public interest or should in any event be determined by the Planning Committee.
 - (d) applications where the decision would conflict with an objection received from a statutory consultee.”
- 7.13 The Authority's current Scheme of Delegation, therefore, has a broad focus ranging from strategic to very minor issues. In this respect under the terms of criteria a) there are no thresholds relating to the nature of applications that should be considered by Planning Committee in terms of their scale or to quantify the community wide interest. Any application could, therefore, be reported to Planning Committee for decision, including very minor or householder applications where the issues for consideration relate to protecting the private interests of one person, or group of people, against the activities of others. Conversely major applications which, by their nature, would have a much broader community impact can currently be determined under delegated powers.
- 7.14 This process can create uncertainty for Members, officers, the public, applicants and developers and can serve to distract from the strategic focus of the Committee. If Planning Committee is to adopt a more strategic role it is considered that both development and objection thresholds should be introduced into the scheme of delegation. In this respect it is considered that decisions on householder applications should not be made at Planning Committee level. This clarity would allow Members to engage more effectively in the planning process from the outset whether in a Planning Committee or Ward member role.
- 7.15 Under criteria (b) applications which depart from the provisions of the Development Plan are clearly of strategic significance and would require Planning Committee consideration if recommended for approval as are those considered to be controversial or of significant public interest under criteria (c).
- 7.16 It is not considered, however, that an objection received from a statutory consultee should trigger an automatic requirement for Planning Committee consideration. The list of statutory consultees appears to be growing following the recent inclusion of Dŵr Cymru/Welsh Water and current proposals to include the Fire and Rescue Service. Very often the issues raised by consultees or the development concerned is relatively minor and a more appropriate mechanism for consideration would be to include both a development and/or an objection threshold against which to focus Planning Committee decision making.
- 7.17 In addition there is no provision in the scheme of delegation for planning applications submitted by Officers or Members to be considered by Planning Committee. This lack of clarity can lead to a large number of applications being reported to Planning Committee because the applicant may work for the Council, however, their relationship is entirely unrelated to the decision making process. In the interests of transparency, it is considered appropriate to require all applications submitted by any officer involved in the planning process or a Councillor to be considered by Planning Committee. In this respect an officer is involved in the planning process if they are a member of staff in planning services, or involved in enforcing planning matters, or giving advice or support to officers or Councillors involved in the planning process or could be

perceived to be involved in the planning process.

- 7.18 In view of the above it is recommended that the scheme of delegation for planning applications be amended to read as follows:

“The determination of all applications for planning permission, reserved matters, listed building consent, conservation area consent, tree preservation order consent and advertisement consent and all other matters submitted for the determination, formal application or comment of the local planning authority under the relevant Town and Country Planning Act and associated legislation, **OTHER THAN** :-

- (a) Development Threshold - All major planning applications or those involving Environmental Impact Assessments;
- (b) Objection Threshold Call In - Any planning application, other than a householder application, where a petition containing 30 or more names from separate households or 20 or more written objections on material planning grounds have been received from separate households or organisations within the 21 day consultation period and a member has requested in writing to the Head of Regeneration & Planning within the 21 day consultation period that the application should be considered by the Planning Committee;
- (c) Departure Applications - any application where it is recommended that permission be granted contrary to the Council’s planning policies.
- (d) Officer Referral - any application which in the opinion of the Head of Regeneration & Planning or the Planning Services Manager has a community wide impact, is of strategic significance or should in any event be determined by the Planning Committee.
- (e) Any planning application submitted by any officer of the Council involved in the planning process or a Councillor.”

- 7.19 For the purposes of criteria (a) of the above proposed scheme of delegation a major planning application is as defined in the Town and Country Planning (Development Management Procedures) (Wales) Order 2012 (DMPWO) namely:

- a proposal to erect 10 or more dwellings (including flats)
- where the number of dwellings is not known (outline applications), the application site exceeds 0.5 hectares
- where the application site exceeds 1 hectare
- where proposed buildings/extensions create a floor area exceeding 1000 square metres
- winning and working of minerals
- waste development

- 7.20 In relation to criteria (b) whilst the call-in procedure is a fundamental and important part of the democratic process, unnecessary ‘call-ins’ can lead to unreasonable delay.

- 7.21 Therefore, where it is considered that a Member or Members is/are unreasonably calling in planning applications or otherwise potentially abusing the ‘call-in’ process, the Chair and Vice-chair, in consultation with relevant Ward Member(s), will have the authority to withdraw any “call-in” request. The decision of this panel is final.

- 7.22 Finally under the provisions of criteria (e) an officer is involved in the planning process if they are a member of staff in planning services, or involved in enforcing planning matters, or give advice or support to Officers or Councillors involved in the planning process or could be perceived to be involved in the planning process.

Role of Members

- 7.23 All Elected Members are required to adhere to the Council's agreed code of conduct and in this context there is a clear difference between the role of a Planning Committee Member and that of a Ward Member.
- 7.24 To fulfil their role as a Planning Committee Member and take a full part in the decision making process a Member of the Planning Committee must be satisfied that they approach any decision with an open mind and have not been influenced or unduly prejudiced to the extent that this would influence the way they would vote.
- 7.25 In planning terms a Ward Member has, however, a much broader role in representing their community and constituents whether for or against a development. This can result in pressures and demands on officers and Members alike.
- 7.26 Given the proposed output driven and strategic focus of the development management and enforcement service and decision making processes moving forward it is important that Member expectations and those of the public are effectively managed if the Service is going to respond effectively and play a central role in facilitating recovery.
- 7.27 In this respect it is recommended that the attached Member Protocol be adopted which will assist in guiding Members through the planning process in the exercise of their Ward Member role.

8. Conclusion

- 8.1 The recommendations proposed in this report seek to embed new ways of working deployed during the COVID-19 lockdown and capitalise on the ongoing investment in technology to provide the development management and enforcement service and its decision making processes with a more strategic, output driven focus.
- 8.2 Given the significant challenges the service faces this is considered to be the most effective way of focussing scarce resources to respond to the COVID-19 crisis and facilitate the delivery of a sustainable recovery in environmental, social, cultural and economic terms.

9. ASSUMPTIONS

- 9.1 None.

10. LINKS TO RELEVANT COUNCIL POLICIES

- 10.1 The recommendations contained within this report are designed to create a new operating model for the development management and enforcement functions of Planning Services that will actively support the delivery of each of the Corporate Well-being Objectives in the Corporate Plan 2018-2023:

Objective 1 Improve education opportunities for all.

Objective 2 Enabling employment.

Objective 3 Address the availability, condition and sustainability of homes throughout the County Borough and provide advice, assistance or support to help improve people's wellbeing.

Objective 4 Promote a modern, integrated and sustainable transport system that increases opportunity, promotes prosperity and minimises the adverse impacts on the environment.

Objective 5 Creating a County Borough that supports a healthy lifestyle in accordance with the sustainable Development Principle within the Wellbeing of Future Generations (Wales) Act 2015.

Objective 6 Support citizens to remain independent and improve their well-being.

11. WELL-BEING OF FUTURE GENERATIONS

11.1 The recommendations in this report will assist the Authority in its duties as a public body under the Well-being of Future Generation (Wales) Act 2015 to contribute of the well-being goals for Wales:

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities
- A Wales of vibrant culture and thriving Welsh Language
- A globally responsible Wales

11.2 The recommendations of this report are also consistent with the five ways of working as defined within the sustainable development principle in the Act. The five ways of working of the sustainable development principle, listed in the Act are:

- Long Term – the proposals will enable the Authority to develop a more sustainable service in response to significant budgetary and resource pressures and deliver its statutory obligations.
- Prevention – taking a more commercial approach and strategic focus will allow services to be targeted more effectively and prevent current resource issues from frustrating the delivery of development and key strategic projects.
- Integration – further development of a single point of contact for access to services, online resources, formalisation of advice and frontloading will facilitate more integrated working.
- Collaboration – the proposals will facilitate greater collaboration through the planning process with other organisations and bodies in the delivery of strategic projects.
- Involvement – the proposal will facilitate engagement and access to resources through a great range of digital platforms.

12. EQUALITIES IMPLICATIONS

12.1 An EIA screening has been completed in accordance with the Council's Strategic Equality Plan and supplementary guidance. No potential unlawful discrimination and/or low level or minor negative impact has been identified, therefore a full EIA has not been carried out.

13. FINANCIAL IMPLICATIONS

13.1 None.

14. PERSONNEL IMPLICATIONS

14.1 There are no specific personnel implications directly resulting from this report.

15. CONSULTATIONS

15.1 The draft report was distributed as detailed below. All comments received have been reflected in this version of the report.

16. STATUTORY POWER

16.1 The Local Government Acts 1998 and 2003.

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Background Papers:

(1) Planning Performance Framework - <https://gov.wales/sites/default/files/publications/2018-12/planning-performance-framework-indicators-and-targets-in-detail.pdf>

(2) Planning Annual Performance Report - <https://www.caerphilly.gov.uk/Search-Result.aspx?searchtext=Planning%20Annual%20Performance%20Report&searchmode=all>
words

(3) Planning Committees, Delegation & Joint Planning Boards -
<https://gov.wales/sites/default/files/consultations/2018-01/141006committees-consultation-document-en.pdf>

(4) The Effectiveness of Local Planning Authorities in Wales -
<https://audit.wales/system/files/publications/planning-services-2019-full-report-english.pdf>

Appendices:

Appendix 1 Enforcement Charter
Appendix 2 Ward Member Protocol

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Planning Enforcement Charter

A guide to the Enforcement of Planning Control
in Caerphilly County Borough Council





Summary

The Council as local planning authority (LPA) has powers to take enforcement action against development carried out without the appropriate consent under planning legislation. While all valid complaints will be investigated, it is not always possible or expedient for the LPA to take action. The purpose of this charter is to explain the basis on which the LPA will investigate breaches of the planning statutes, and in what circumstances they will take action.

This Charter seeks to:-

- Provide an overview of the planning enforcement system, including a summary of what may constitute a breach of planning control.
- Detail the enforcement processes and powers available to the Council.
- Identify policies and procedures which set out how the Caerphilly County Borough Council Planning Enforcement team will deal with enforcement complaints in a fair, reasonable and consistent manner.
- Set out the service standards that we strive to achieve to ensure that enforcement complaints are dealt with in a timely manner, and that complainants are advised of the outcome of such investigations at appropriate stages.

This Charter is not an authoritative source in respect of the legislation and policy, and does not bind the Council in those regards.

1. Introduction

- 1.1 The Town and Country Planning Act 1990 provides the Council as LPA with the powers to serve an enforcement notice where it is expedient to issue one, having regard to the provisions of the development plan and to any other material considerations. That means that the Council will not serve a notice in every case, and will often look to resolve breaches of Planning legislation by other means, such as removing the unauthorised development through negotiation, or by getting the developer to submit an application to secure planning permission retrospectively.
- 1.2 The planning enforcement function is carried out by the Council's Planning Enforcement Officers within the Regeneration and Planning Service of the Communities Directorate.
- 1.3 Welsh Government policy on planning enforcement is set out in section 14 of its Development Management Manual which can be found at the following website:

<https://gov.wales/sites/default/files/publications/2018-10/development-management-manual.pdf>

2. What is a Breach of Planning Control?

2.1 The main breaches of planning control are:

- Carrying out building works or engineering operations, or materially changing the use of land or buildings, without the necessary planning permission;
- Where planning permission has been granted but the approved plans or the conditions attached to the approval have not been complied with;
- Unauthorised works to a Listed Building that affect its character as a building of special architectural or historic interest;
- Unauthorised demolition in a Conservation Area;
- Unauthorised display of advertisements;
- Unauthorised works to trees protected by Tree Preservation Order (TPO) or because of they are in a Conservation Area;
- Untidy land or buildings that may be adversely affecting the amenity of an area.

3. Determining whether action should be taken

- 3.1** Welsh Government's Development Management Manual states that effective enforcement underpins the whole Development Management function. The decisive issue is to consider whether the breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. The intention should be to remedy the effects of the unauthorised development, not to punish the people carrying out the operation or use.
- 3.2** The Manual emphasises that
- Any enforcement action should be commensurate with the breach of planning control to which it relates;
 - It is usually inappropriate to take formal enforcement action against a trivial or technical breach of control which causes no harm to public amenity; and
 - Enforcement action should not be taken simply to regularise development for which permission had not been sought but which is otherwise acceptable.
- 3.3** When investigating an alleged breach of planning control the LPA always tries to ensure that decisions are taken concerning the most appropriate way forward in an effective and timely manner. This does not, however, mean that formal action will be taken. Indeed such action is limited to the most serious cases where harm arises and action is warranted in the public interest.
- 3.4** In the majority of cases, even where breaches are identified, we will seek to resolve them informally, which may include:

- Informal negotiation with an owner or developer to remove a breach, or to make changes to a development such that it no longer constitutes a breach, or no longer causes material harm;
- Seeking the submission of a planning application to regularise a breach, which may include the need to comply with conditions to mitigate any harm caused by the development;
- Concluding that no harm arises from the breach, such that it is not expedient for the Council to take the matter further.

3.5 When we investigate complaints, and these are found to require planning permission we will undertake an initial assessment to determine whether the development would be acceptable judged against the policies within the Council’s adopted Local Development Plan, and other material considerations such as Welsh Government policy, and decisions taken by The Planning Inspectorate.

Where we consider that such development is likely to be acceptable, and it is minor, e.g. a garden shed, we will advise the developer that it is not expedient to take action, but the development is unlawful, and they may wish to regularise the matter by submitting a planning application.

Where the development is more significant and could be made acceptable by conditions, we will usually seek submission of an application to regularise the development.

However, where unauthorised development has adverse impacts that cannot be controlled adequately by condition, we will serve an enforcement notice seeking its removal.

- 3.6** There are time limits for taking enforcement action: four years in the case of unauthorised buildings, and 10 years for unauthorised changes of use or failures to comply with planning conditions.
- 3.7** There are rights of appeal against enforcement notices to The Planning Inspectorate details of which can be found at the following website:

<https://gov.wales/planning-appeals>

If an appeal is received, no further action can usually be taken until the appeal has been determined.

4. Reporting a Breach of Planning Control

- 4.1** Anyone can report a breach of planning control. Please be assured that a complainant's details will remain confidential and will not be publicly available. The Freedom of Information Act 2000 and the Environmental Information Regulations 2004 give a general right of access to information and environmental information held by public authorities. While the presumption will always be in favour of disclosure of such information, having regard to the wider principles of promoting accountability and transparency in the planning process, in respect of enforcement complaints details will be treated in strictest confidence.

Accordingly, while requests to disclose the identity of a complainant are likely to be resisted because it would discourage others from reporting alleged breaches of planning control to the Council, thereby prejudicing the proper enforcement of planning laws, each request will have to be considered individually to establish whether an exemption applies.

- 4.2** We will only act upon a complaint where it is received via the Planning Enforcement complaints section of the Council's website. You may phone the Planning Enforcement team to notify us of a breach of planning control but you will be advised to complete the online form before the potential breach of planning is investigated.
- 4.3** All Enforcement complaints, upon receipt, will be validated to ensure that adequate information is provided prior to being passed onto the Planning Enforcement Officers for investigation. To ensure that the enforcement complaint has enough information to be registered, the following information will be required:

- Your name.
- Your address.
- A valid e-mail address, this is to ensure we can update you on the progress of the investigation.
- As well as the relevant evidence listed under point 4.4 of this charter.

If the authority believe that a valid email address has not been provided, then a decision will be made regarding whether the reported breach will be investigated.

4.4 All complaints should be accompanied by the following evidence.

1. Allegations of unauthorised buildings and structures including fences, and alterations to listed buildings.

- The address of the site where the work is taking place.
- The location on the site of the alleged breach.
- A description of the development taking place supported where possible by photographs.
- Details of when the unauthorised works were commenced or completed.

If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.

2. Allegations of unauthorised changes of use

- The address of the site where the use is taking place.
- The location on the site of the alleged breach.
- A description of the change of use taking place.
- A log of the occasions on which you have observed the alleged

change of use, being a minimum of at least five occasions on five separate days, with a full description of the activities, and supported where possible by photographs.

- Details of how long the alleged breach has been taking place.

If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.

3. Failure to comply with planning conditions or approved plans

- The address of the site where the alleged breach is taking place.
- The location on the site of the alleged breach.
- Which plan or condition the developer is failing to comply with, and in what manner, supported if possible by photographs.
- Details of how long the alleged breach has been taking place.
- A log of the occasions on which you have observed the alleged breach taking place, being a minimum of at least five occasions on five separate days, with a full description of the activities, and supported where possible by photographs.

If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.

4. Untidy land or buildings

- The address of the site where the work is taking place.
- The location on the site of the alleged breach.
- A description of the site's condition supported where possible by photographs.
- Details of how long the alleged breach has been taking place.

If there is no known address to the site where works are being taken place, then a map showing clearly the location of where the breach is being undertaken will be required.

The complaint will not be registered and acted upon unless that information is submitted. If the authority consider that not enough information has been submitted to support the complaint, then a letter will be sent out via e-mail to the complainant requesting that the required information is provided within 14 days of the date of the letter. If the required information is not received within this timeframe then the reported breach will **NOT** be investigated.

4.5 Anonymous complaints will **NOT** be investigated unless the Council's officers determine that the nature of the complaint is sufficiently serious that it may require immediate action by the Council in terms of public amenity, or includes irreversible actions that involve serious breaches resulting in significant harm. If the complainant's details clearly indicate that the complaint has been made anonymously then the alleged breach of planning control will **NOT** be investigated.

4.6 Planning Enforcement complaints can only be made **ONLINE** by completing the Enforcement Complaint Form at the Council's website: <https://www.caerphilly.gov.uk/>

4.7 The LPA will not investigate some complaints, such as neighbour disputes over boundaries or complaints over anti-social behaviour as they relate to matters over which planning legislation has no control. Where officers consider the complaint relates to such matters where there are private or civil law solutions, the Council will not become involved. In such cases you will be advised of this and, if possible, where the complaint could be directed.

5. How Do We Deal With Complaints?

5.1 On receiving a valid complaint fully supported by the appropriate evidence we will.

- Register the complaint in the Council's Enforcement System.
- Allocated a priority in line with Appendix A of the Charter.
- Acknowledge the complaint in writing within 5 working days from receipt (by email where the address is provided), providing:-
 - The Enforcement Case reference number.
 - The priority allocated to the complaint.
 - The name and contact details of the investigating Enforcement Officer.

The Council will seek to ensure that 100% of complaints are registered and acknowledged in writing within 5 working days of receipt.

5.2 Following registration and acknowledgement of a complaint we will

1. Undertake any relevant initial research which may assist in identifying whether the complaint constitutes unauthorised development. Depending on the findings, the complaint may not be investigated any further.
2. Carry out a site visit to gather information and evidence relating to the alleged breach of planning control, including taking notes and photographs from the site or adjoining land. Depending on the findings, the complaint may not be investigated any further.

At the end of either of these stages, if the development under investigation is found to be unauthorised, the LPA may come to the view that it is not expedient to take further action.

5.3 The timescales for those activities will depend on how serious officers consider the breach to be. In some case a site visit and initial investigation will be made no later than the next working day following the registration of the complaint. In most other cases a site visit will be made within twenty-five working days and initial investigation be made within 84 days of receipt.

5.4 Following the appropriate investigations, officers will come to one of the following conclusions:

1. That there has not been a breach of planning control.
2. That there has been a breach, but it would not be expedient to pursue further action.
3. That a breach has occurred, and action is expedient.

The action can include requesting the submission of a planning application, negotiating the removal of the breach, or to take enforcement action to remove the breach.

4. Notify the complainant in writing of the outcome of the investigation phase, including information on the next stages of the investigation where relevant.
5. Notify the owner or developer of the conclusions of the investigation phase, including details of the next stage of the investigation where a breach of planning has been identified and it is expedient to pursue the matter further.

The Council will look to advise complainants in writing (including email) of the conclusion of this phase of the investigation within 12 weeks of the receipt of the original case, in 90% of cases. In all cases, an assessment will be made taking account of the relevant matters, which will assist the LPA to a final conclusion regarding the case.

- 5.5** There are a number of actions the Council can take to try to resolve a breach of planning control including, encouraging the submission of a planning application, removal through negotiation, serving an enforcement notice, prosecution following the service of an enforcement notice and the exhaustion of any appeal procedure, and in some cases direct action to remove the breach. The Council will strive to ensure that such action is taken in no fewer than 80% of cases within 180 days of the complainant being advised of the course of action.
- 5.6** The term 'enforcement action' encompasses a number of procedures which are summarised below.
- Enforcement notice: this is usually served against unauthorised operational development or changes of use.
 - Breach of condition notice: as the name suggests, this is served to secure compliance with a condition on a planning permission e.g. one that limits hours of operation.
 - Temporary stop notice: this is a new procedure which can require an activity which is a breach of planning control to stop immediately, but ceases to have effect after 28 days. Before issuing, the LPA must consider the consequences of the notice, including any implications in respect of the Human Rights Act 1998, and the Equalities Act 2010.
 - Enforcement warning notice: this is served to provide a developer with a clear indication that if an application for planning permission is submitted, adequate controls could be applied to the development by conditions to make it acceptable.

- Section 215 notice: this is served on land and buildings to require their proper maintenance.
- Stop notice: this can be served in conjunction with an enforcement notice when there is a severe amenity problem. Before issuing, the LPA must consider the consequences of the notice, including any implications in respect of the Human Rights Act 1998, and the Equalities Act 2010. There are also compensation implications if the notice is later withdrawn, varied or quashed at appeal.
- Injunction: this is usually used at the end of a long process of enforcement action.
- Completion notice: this requires development to be completed within a certain time, otherwise the planning permission will cease to have effect for the uncompleted part of the operations.

5.7 It is difficult to predict a general timescale for the closure of enforcement cases. Some developers recognise their mistake immediately, are cooperative, and the breach is removed or planning permission is secured fairly promptly. Others will refuse to resolve the breach despite being prosecuted and fined. There are also rights of appeal to The Planning Inspectorate. Therefore the Council cannot commit to any targets for the closure of enforcement cases. The LPA will, however, always seek to ensure final resolution of enforcement cases at the earliest opportunity, and will pursue all appropriate and reasonable action to secure resolution.

Appendix A

Due to the large number of enforcement complaints received by the Planning Enforcement team, as part of a review into the effective operation of the team and the service, it has been determined that with effect from September 2020, at registration stage complaints will be prioritised.

This will ensure that the resources of the Planning Enforcement team are appropriately and proportionately targeted, having regard to the likely level of harm being caused to the local community and public amenity. It also ensures that expectations of complainants can be managed, notably during periods of high workload and holiday periods.

All complaints will be prioritised in accordance with the following protocol:-

Priority 1: High Priority Cases

In general, 'Priority 1' cases will be restricted to those cases where the likelihood of harm being caused to the environment or amenity is significant, immediate and potentially irreparable, and there is a likelihood that urgent action may be needed to prevent or mitigate existing or potential immediate harm.

This is likely to relate to serious breaches such as:

- Unauthorised works to a Listed Building, archaeological site or Scheduled Ancient Monument (SAM) (contact will be made with Cadw in respect of SAM).
- Demolition of important unlisted buildings in a Conservation Area,
- Development Works affecting a European Protected Species (EPS) Site of Special Scientific Interest (SSSI) or other designation

- Unauthorised development that is causing severe disturbance to neighbours or poses a threat to public safety.
- Unauthorised works to trees covered by a Tree Preservation Order (TPO) or in a Conservation Area.
- Unauthorised display of advertisements which appear likely to be causing significant harm to public safety.

Priority 2: Medium Priority Cases

'Priority 2' will normally be given to those cases which the Authority consider there is a potential likelihood of a serious or significant effect on the environment or local amenity, which could merit formal enforcement action being taken, but no short-term harm would.

This is likely to relate to serious breaches such as:

- Breaches of planning contrary to the policies of the Local Development Plan (e.g. Unauthorised residential use in the countryside).
- Complaints where the time limit for taking formal action may be about to expire.
- Serious breach of conditions on planning permissions, including non-compliance with 'conditions precedent'
- New Building works of medium-large scale.
- Complaints of significant harm being caused to amenity, for example, extensions to residential property that result in serious overlooking or other amenity problems, unauthorised uses of land which cause amenity problems to neighbouring properties.
- Unauthorised display of advertisements which appear likely to be causing significant harm to visual amenity.

* A condition which require approval of details or actions to be undertaken prior to development commencing.

Priority 3 Low Priority Cases

‘Priority 3’ will be assigned to all other cases, these cases being those which, while potentially of significance to a complainant, are nevertheless (based on the information available at registration stage:-

- Likely to have a limited degree of harm, and thus may be cases where it will not be expedient to take positive action; or
- Deemed unlikely to represent a breach of planning;
- This is likely to relate to complaints relating to:
- Householder development such as small-scale extensions, boundary enclosures etc.
- Advertisements (other than those identified under Priority 2).
- Minor development where there may be a breach of planning control but there is little or no immediate harm to amenity, for example incidental minor developments that only just exceed permitted development rights.
- Material Change of Use of a property.
- Minor Breaches of Planning Conditions.

Assigning a Priority to a Case

The priority of a case will normally be assigned by the Principal Area Enforcement Officer or Team Leader in liaison with the Development Manager – Planning.

In all cases it will be for the Council to determine whether and to what level any harm to public amenity results from an alleged breach, and which priority is assigned to an enforcement case.

Please note:

1. A Priority will be assigned to a case irrespective of the source of the complaint.
2. Although a Priority rating will be given to each case as it is received, the rating may change during the investigation.
3. Notwithstanding the priority given to a complaint, the Council remains committed to investigating every alleged breach of planning in accordance with the guidance and targets within the Charter.

Depending on the seriousness of the alleged breach and available resources the target time for our initial investigation will be as follows: -

Priority 1 cases:

A site visit and initial investigation will be made no later than the **next working day** following the registration of the complaint.

Priority 2 cases:

A site visit will be made within **ten working days** of receipt.

Priority 3 cases:

A site visit will be made within **twenty-five working days** of receipt.

All enforcement complaints have a target investigation time of 12 weeks, where the authority will strive to investigate 90% of complaints within this timeframe.

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Planning

Non- Planning Committee Member – Officer Protocol

1. The Development Management process is a regulatory one, and the Planning Act states that the Authority must determine planning applications in accordance with the provisions of the development plan unless material considerations indicate otherwise. It is essential that members bring their concerns to the attention of officers as soon as possible so that they can be run through that statutory filter. Having been advised of the members', and the public's concerns, it is for the professional officers to decide:

- which of those concerns is a material planning consideration,
- what weight to give the material considerations,
- which of them needs to be resolved before permission is granted and which can be dealt with by condition, and
- which may merit refusing planning permission.

Where applications are reported to Planning Committee, the members have a right to disagree with the officers' assessment of the case, and give a different weight to the material considerations.

2. Guidance on the conduct of non-Planning Committee members is contained in the *Planning Code of Practice* which can be found in the *Codes and Protocols* part of the Council's Constitution. The Code currently states as follows:

“Non-Committee members of the council

2.7 Members who are not on the Planning Committee represent their electoral division and the county borough as a whole. They may attend the Planning Committee and address it for no more than five minutes but may not take part in any debate and will not have a vote on any matter. They may also attend site visits. Such members do not act in the quasi-judicial role performed by Planning Committee members, but shall:

- Act fairly and openly and avoid any actions that would give rise to an impression of bias or undue influence.
- Avoid inappropriate social contact with applicants and their agents, objectors and other interested parties.

2.8 Such members may express support for a particular opinion in advance of the matter being considered by the Planning Committee, or by the Chief Planning Officer and Development Control Manager under delegated powers.

2.9 A member who has declared an interest in a matter is not permitted to attend the Planning Committee, either as a councillor or as a private citizen.”

3. Members are consulted about planning submissions by means of the weekly list of planning applications, which gives them the opportunity to specify which proposals should come before committee, and should prompt them to advise officers of their concerns as early in the process as possible.
4. Officers cannot give members a blow-by-blow account of the determination of a planning application. They cannot enter into correspondence about material planning considerations with members or interested persons whilst an application is in the process of being determined. The important thing is that members provide officers with their concerns as soon as possible so that they can be properly investigated.
5. It is not appropriate for members to communicate directly with the applicants, developers or statutory consultees. It is for officers to resolve any matters with the applicants, developers or statutory consultees.
6. Officers will not attend public or site meetings to discuss planning applications.
7. Officers will commit to one meeting with ward members for each major planning application, to give councillors the opportunity to express their concerns. A maximum two members of the public can attend such a meeting as representatives of the local community and unless there are exceptional circumstances these meetings should be held a virtually. If further concerns come to light, an email will normally be enough to advise officers.
8. Members will not be provided with any paper copies of a planning application or supporting documents. That would be wasteful of resources and contrary to the general trend of communicating information electronically.
9. Officers will ensure that all additional documentation submitted by applicants or agents in support of a planning application will be placed on the Public Access part of the Council's website as soon as practically possible to allow members to update themselves on the progress of an application.
10. Members should communicate to officers their concerns or support for a scheme based on the submission of amended plans and documentation as soon as practically possible.
11. The feedback on members' concerns is contained in the report to Planning Committee or in the delegated officer report. Officers will provide to members a general quarterly update in respect of major applications stating when they are likely to come before committee, and what the outstanding issues are. The timescale for reporting an application to Planning Committee will vary depending on the scale and complexity of the application.
12. In multi-Member Wards only one Member from each political group should normally exercise speaking rights at Planning Committee unless they have opposing views.