

Report to:	Performance Scrutiny Committee
Date of Meeting:	23 February 2012
Lead Officer:	Head of Planning, Regeneration and Regulatory Services
Report Author:	Business and Performance Manager
Title:	Performance of Planning, Regeneration and Regulatory Services

1. What is the report about?

The report summarises the performance of specific parts of the Service, which Members of Performance Scrutiny Committee have previously identified.

2. What is the reason for making this report?

To provide information regarding the performance of the specific parts of the service, so that Members can scrutinise these areas.

3. What are the Recommendations?

Members consider the report and comment on any performance related issues.

4. Report details

Planning, Regeneration and Regulatory Service delivers a diverse range of front line services but this report only focuses on the “topics” which Members have identified and which are listed on the forward work programme. All these topics are featured in our Joint Service Plan 2011/12, some have a strategic performance indicator measuring how we are performing and others are actions or projects delivering our outcomes.

The Joint Service Plan 2011/12 contains eight outcomes (jointly with Conwy CBC as part of the collaboration project), which are

1. Safer Communities
2. An Environment that minimises the harm caused to people
3. Improved Customer Service
4. People will live in appropriate housing that is safe, affordable, accessible and fit for purpose
5. A business environment in which people have confidence
6. A safe, quality food chain minimising the risk to human and animal health
7. Regenerated business areas and communities
8. The development and use of land and buildings meets the needs of our communities

This report is not intended to highlight all areas of performance within the Joint Service Plan, because this is already scrutinised as part of the bi-annual Service Challenge process. This report will only focus on the specific topics which Members have requested.

4.1 LOCAL DEVELOPMENT PLAN - UPDATE

The 'Examination in Public' stage of the Local Development Plan (LDP) is now completed. This is the final stage in the preparation of the LDP and focuses on hearing sessions exploring the soundness of the plan. The hearing sessions started on 10th January 2012 and ran until early February, and took the form of round-table discussions led by an independent Planning Inspector. Only those invited by the Inspector to speak were allowed to do so but all sessions were open for the public to attend as observers. The Examination in Public culminates in the publication of the Inspector's report of recommendations, which is binding on the Council. It is anticipated this will be received by August 2012. Following this, the LDP can proceed to adoption for use in determining planning applications.

Two Planning Inspectors have been appointed to examine the Denbighshire's LDP and a Programme Officer, based in Caledfryn, Denbigh, is assisting with the running of the 'Examination in Public'.

One of the main issues of discussion has been the Council's justification for why its housing growth figures up to 2021 are below Welsh Government's projected housing needs figures. The Council has established an LDP Steering Group to monitor progress with the LDP.

4.2 DISABILITY FACILITIES GRANTS

Disability Facilities Grants (DFGs) are issued by every local authority, under the Housing Grants, Construction and Regeneration Act 1996, to help towards the cost of providing adaptations and facilities to give disabled people better freedom of movement into and around their home and to access essential facilities within it.

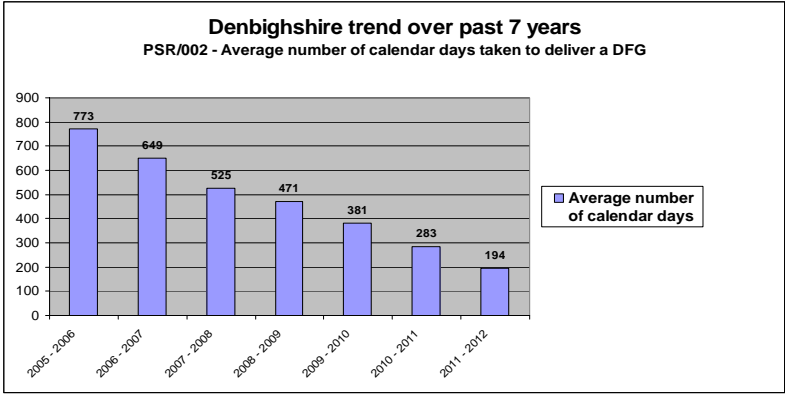
Over the past five years Denbighshire has spent over £6.6 million on delivering DFGs. A breakdown of the expenditure can be found in the below table:

2007 / 2008	£1,140,595.61
2008 / 2009	£1,407,344.61
2009 / 2010	£1,478,211.18
2010 / 2011	£1,462,825.33
2011 / 2012 *	£1,197,060.87
TOTAL	£6,686,037.60

* 1st April 2011 to 31st January 2012

There is a national strategic indicator (PSR/002) measuring how local authorities are performing in utilising these mandatory DFGs. The indicator provides an accurate representation of how long the process takes from the client’s perspective, from the first point of contact with the authority to when the ‘Certificate of Satisfactory Completion’ is issued.

Denbighshire has improved significantly against this national strategic indicator and our performance over the past seven years can be seen in the graph:



Note: 2011/2012 data relates to April to December 2011

We also compare well against other authorities in Wales. In 2010/11 we were the fourth best performing authority in Wales against this indicator. When the Council identified this performance indicator in the ‘2012 indicator set’ the Head of Service diverted resources to this area of work. A Building Control Officer was seconded to the Housing Renewal team to focus on the delivery of DFGs. This action, as well as streamlining the processes, had a positive impact on performance in Denbighshire.

Our performance in 2011/12 is currently at 194 days (April to December 2011) against a target of 235 days. We are confident of being in the top two quartiles in Wales in 2011/12 against this indicator. A potential risk is that other authorities may give this area of work a higher priority therefore reducing the Welsh median. Another potential risk for the future is that if capital allocation is reduced by the Council this will reduce our ability to deliver the DFGs and our performance against this indicator.

4.3 NORTH WALES HOSPITAL - UPDATE

An update on the North Wales Hospital site is provided below:

4.3.1 Urgent Works Notice

An Urgent Works Notice was served on 6th June 2011. As there was no response within the 2 week deadline we sent our contractor on site. The work to the most important part of the main building includes the removal of all timber to prevent uncontrolled collapse, the erection of a steel roof structure and a temporary roof covering. The anticipated completion date is now the end of March 2012 which is

longer than anticipated due to problems associated with the structural fragility of the building, recent stormy weather and the removal of asbestos.

4.3.2 Section 55 Notices

Section 55 Notices are demands for payment served on the owner for the cost of the Urgent Works. To date we have served two Section 55 Notices amounting to a total sum of approximately £250k. If we receive no payment from the owner we intend applying to the courts for the debt to be transferred as a charge on the property. The projected final cost of the Urgent Works including the demolition of a dangerous building is £850k.

4.3.3 Dangerous Structures Notices

It has become apparent that despite the contractor being on site there was still a significant amount of unauthorised access into other parts of the building. We therefore issued a Dangerous Structures Notice. When no action was taken we arranged for key entry points to be boarded up and for warning signs to be erected around the site. We intend invoicing the owner for this work and if not paid we will place a charge on the property.

One part of the main building is causing us concern. It is in such a precarious condition that there is no option but to demolish it. We intend serving another Dangerous Structures Notice and if no action is taken then we will arrange for it to be demolished.

4.3.4 Repairs Notice

A Repairs Notice is being considered. Such a notice would only be served if a Single Purpose Vehicle has been created (see 4.3.5 below). As Denbighshire does not want to take ownership of the site it is necessary to enter into a back to back agreement with a third party, in this case a SPV, before serving the Repairs Notice.

4.3.5 Prince's Regeneration Trust

We are continuing to work with the Prince's Regeneration Trust. They have brought together a group of eminent people who are prepared to become trustees of a Building Preservation Trust which will act as a Single Purpose Vehicle (SPV). The SPV will take ownership of the site should we need to compulsorily purchase it. They will then lead on bringing about a viable project for the site and building based on an adopted masterplan (see below).

4.3.6 Masterplan

A masterplan is in preparation and once agreed it will be used as an adopted development brief for the site.

4.3.7 Private Sector Interest

Over the last 12-18 months there have been several enquiries from the private sector expressing an interest in the site. One developer in particular has been very enthusiastic and has met with DCC officers several times and has managed to have meetings with the owner's agent. At the time of writing there seems to be some progress with negotiations.

There is a Denbigh Hospital Working Group comprising mainly of Denbigh Members and immediately adjacent Ward Members (Cllrs Gwilym C Evans, Paul Marfleet, Gwyneth Kensler, Neville Hughes, Colin Hughes, Jane G Yorke, Ray Bartley and Selwyn Thomas Chair of Planning Committee).

4.4 ENFORCEMENT

The 'Regulatory' side of the service is very much focused on enforcement work. Most of the teams are enforcing as part of their day to day activities, for example:

- **Animal Health team:** is responsible for enforcing legislation in relation to animal welfare, disease control, movement and traceability of animals;
- **Food Safety and Health & Safety team:** ensures that all food produced, imported or distributed in Denbighshire is safe to eat and complies with food safety legislation and that workplaces are protected against factors affecting health, safety and welfare.
- **Housing Enforcement team:** improves the conditions in private rented sector to ensure the health and safety of occupiers.
- **Pollution and Public Health team:** protect the public from risks to human health arising from such matters as pest infestations and statutory nuisances.
- **Trading Standards:** protects the public from unsafe goods, unscrupulous trading activities and doorstep and e-commerce crime.

The **Community Safety Enforcement** team is primarily all about enforcing various legislations. We have assumed that when Members requested information on 'Enforcement' they were interested in the work of this team, who focus mainly on five main areas:

4.4.1 Taxis

Since April 2011 all taxis licensed by Denbighshire are required to have an MOT test with our fleet department in Bodelwyddan. This was agreed by the Licensing Committee in order to improve the conditions of the taxi fleet in Denbighshire. Worryingly, over 100 taxis failed the MOT last year, which is almost half of the taxi fleet in Denbighshire.

4.4.2 Licensed premises

Alcohol related crime has been reduced in Conwy and Denbighshire. This is as a result of both authorities working jointly together with North Wales Police, and joining forces with pubs and off-licences. Denbighshire saw 69 fewer incidents between April and September 2011 compared to the same period in 2010. It is believed that more CCTV, better training for doormen at licensed premises, and a crackdown on fake IDs have led to a drop in alcohol-related crime in Denbighshire.

4.4.3 Smoke Free Legislation

We do not receive many complaints regarding smoking in restricted areas, but we are working with the Council's Health and Well-being Officer to deliver education in schools about smoking.

4.4.4 Anti Social Behaviour

There has been an increase in the number of complaints received about street drinking, which often leads to anti social behaviour. A report was submitted to Full Council on 7 February seeking approval to introduce Designated Public Places Order which will give additional powers to the Police to tackle public nuisance and disorder as well as anti social behaviour linked to the consumption of alcohol in public spaces.

4.4.5 Environmental Crime

We have issued more fixed penalty notices this year, against environmental crime, than in previous years. 'Environmental Crime' predominantly relates to dog fouling, littering and fly posting. Between April and December 2011 we issued 295 notices, compared with 224 in 2010 and 83 in 2009 for the same period.

4.4.6 Planning Enforcement

Members have commented on the need for additional planning enforcement officers. Historically, we have had three planning enforcement officers who enforce and regulate development within the county.

Historically the County has operated with 2 planning enforcement officers, with additional management support from within the wider planning team. Some years ago additional funding was provided to take on an addition planning enforcement officer with cross cutting responsibilities. This initiative did not work as well as it could of done and the additional officer became more of a traditional planning enforcement officer, and didn't contribute as much as was envisaged on the cross cutting areas of enforcement.

Currently the Officer responsible for the cross cutting enforcement initiative has been allowed to take a 2 year unpaid sabbatical (his wife was successful in getting a 2 year work placement in Australia). The decision to allow the sabbatical was driven by the desire to make savings and reduce costs. This has temporarily left the Planning Compliance team short of staff resources. It is accepted that this is only a temporary measure pending:

- possible collaboration with CCBC in the area of planning enforcement
- a redefining of enforcement responsibilities between planning and the Joint DCC/CCBC Community Safety Enforcement Team to reduce some of the less "specialist" enforcement work within the planning enforcement team (e.g. fly posting and other "petty" breaches that do not necessarily require specialist planning knowledge/input).
- restructuring the team to delete one of the posts and create a new slightly more senior planning enforcement officer who can provide more direction and day to day support of the 2 officers, while having a case load themselves, although that case load would look to support specific planning enforcement projects (e.g. problems with signage in a particular area, planning enforcement issues in specific Conservation Areas etc) or wider generic enforcement projects, ensuring a robust planning enforcement input (e.g. tidying up "eyesore" sites, tougher enforcement regime in Rhyl Town Centre etc).

A review is currently on going looking into the business case for these options. A decision will be made within the next couple of months with implementation and integration soon thereafter.

4.5 APPEALS

We have assumed that Members are interested in two types of appeals – planning and licensing – and can provide the following update:

4.5.1 Planning appeals

In relation to the planning appeals dealt with by the Local Planning Authority the table below highlights some statistics from the past four years. The number of appeals dealt with has remained relatively consistent in the last 4 years. The Council's success rate at appeals can fluctuate (seen by the "dismissed" column). This can be due to a number of factors including the type of development proposed, the interpretation of the policies by an Inspector and whether the decision was made contrary to officer recommendation or not. Member training, the adopted Protocol for Member Involvement in Planning Appeals and the adopted Scheme of Delegation has meant that the Council rarely has costs awarded against it on planning appeals. Most decisions made at Planning Committee are sound with valid planning issues debated and used in the decision making process.

Planning Appeals	2007/08	2008/09	2009/10	20010/11
No. of appeal decisions	34	21	25	30
Allowed	9 (26%)	8 (38%)	7 (28%)	16 (53%)
Dismissed	23 (68%)	10 (48%)	18 (72%)	12 (40%)
Withdrawn	2 (6%)	3 (14%)	0 (0%)	2 (7%)
From decisions made under Delegated Powers	27	15	13	15
Costs Awarded against Council	1	2	2	2
No. of appeal allowed which were determined under delegated powers	4	3	1	6
No of appeals allowed which were against officers recommendations	3	5	6	4 +5 called in and allowed by Inspectorate

Between April and December 2011 we have received decisions on 13 planning appeals and one enforcement appeal. Six of the planning appeals have been dismissed and six allowed by the Planning Inspectorate. One planning appeal was withdrawn and the enforcement appeal was dismissed.

11 of the appeals this year have been dealt with by the written procedure, 2 hearings and 1 public inquiry. The public inquiry allowed the proposed development and costs were awarded against the Council. These costs have not been agreed to date.

4.5.2 Licensing Appeals

Decisions made by the Licensing Committee, relating to licensed premises and taxis, can be appealed to the magistrate's court. Over the past five years we have had two significant appeals to the courts:

- V2 Nightclub, Ruthin (pubic entertainment licence) - Denbighshire lost the appeal on the V2 Nightclub in Ruthin. A report detailing the case was submitted to Communities Scrutiny Committee on 14 July 2011
- A taxi driver's licence was suspended and the driver has appealed to the magistrate's court and therefore this appeal is still pending.

4.6 BRINGING EMPTY HOMES BACK INTO USE

There is a national strategic indicator monitoring this area of work which specifies “the percentage of private sector dwellings that had been vacant for more than 6 months at 1 April that were returned to occupation during the year through direct action by the local authority”. This indicator measures the extent to which local authorities are bringing dwellings, that have been vacant for long periods of time, back into occupation.

In their guidance the Welsh Government provides examples of the types of “direct action” which can lead to a dwelling being returned to occupation, such as providing grants, loans or other financial assistance; or providing advice and taking enforcement action, etc.

Our performance against this indicator, over the past 6 years, can be seen in the below table:

DENBIGHSHIRE - PSR/004					
Percentage of private sector dwellings that had been vacant for more than 6 months at 1 April that were returned to occupation during the year through direct action by the local authority					
Year	Number of vacant homes	Number bought back into use	Performance	Welsh Median	Position in Wales
2005/06	1190	24	2.02%		
2006/07	686	3	0.44%		
2007/08	740	1	0.14%		
2008/09	800	66	8.25%		
2009/10	800	188	23.50%		
2010/11	913	154	16.87%	3.59%	3rd
2011/12	890	95	10.60%		

Note: 2011/2012 data relates to April to December 2011

Our target for 2011/12 is to bring 10% of empty properties back into use and this has already been exceeded by the end of December.

It is not easy for Denbighshire or any other local authority in Wales to have an accurate register of empty homes. The guidelines suggest that local authorities should use the data provided by the Revenues Section, who should have information relating to whether council tax is being paid on the private sector dwellings.

It was interesting to note from the all Wales data that there were huge discrepancies between local authorities on the number of empty homes (denominator figure). For example, in 2010-11 Denbighshire had 913 empty homes which was comparable to

Conwy's figure of 1056. However, Wrexham reported a figure of 114 vacant dwellings. This disparity obviously skews the all Wales performance data and indeed questions the robustness of this performance indicator.

We are confident of performing in the top two quartiles in Wales for 2011/12 against this indicator. A potential risk, which is unknown, is that other authorities may give this area of work a higher priority therefore increasing the Welsh median. Another potential risk for the future is that the Empty Homes Officer is employed by the North Wales Housing Association, under their terms and conditions on a fixed term contract, which expires in May 2013. To build on our performance in this area we need to make this post permanent in Denbighshire. There may also be a short term increase in vacant dwellings due to regeneration in West Rhyl as part of Strategic Regeneration Area (SRA) project.

4.7 HOUSES IN MULTIPLE OCCUPATION TAKEN THROUGH THE LICENSING SCHEME

A House in Multiple Occupation (HMO) is a property which has multiple occupancy, whether shared facilities or self contained. For example, a large house (with planning and building control consent) sub-divided into four self contained flats would fall into the definition of one HMO under the Housing Act. However, under the Planning Act it would be classified as four self contained dwellings/houses.

4.7.1 Licensed properties

There are approximately 366 HMOs in Denbighshire. This figure is our best estimate taken from our intelligence gathering. Of the 366 HMOs known to us 54 are licensed; 32 under the Additional Licensing Scheme and 22 under the Mandatory Licensing Scheme.

It is anticipated that approximately 30 additional properties will be licensed under the Additional Licensing Scheme by the end of March.

4.7.2 Interim Management Order

A House in Multiple Occupation (HMO) property in Rhyl has been taken over using management powers under the Housing Act 2004 for the first time in Denbighshire and the second of its kind in Wales. The property was taken over on 15th September, 2011 by service of an Interim Management Order, the Order which gives the Council control of a HMO if we consider that there is no realistic prospect of a licence being issued.

The property in Crescent Road, Rhyl, is an unlicensed HMO which is a poorly converted block of flats containing 3 people. The Order lasts a maximum of 12 months. In legal terms the Council now is the responsible landlord of the property, however a signed agreement has been previously agreed with Clwyd Alyn Housing Association in the event that the Council would be under a duty to use these powers, Clwyd Alyn would, on behalf of the Council, manage the property. The Council

through their managing agent has the responsibility to take over the collection of rents and the carrying out of repairs. The landlord is however, entitled to receive whatever rent is left after the council has charged for its management and repair costs.

4.7.3 Prosecutions

During the year two landlords have been found guilty of running unlicensed HMO, both properties are in West Rhyl, one was fined £2,000 and the other £1,500, costs were awarded for both cases.

4.8. FINANCIAL PLAN FOR RHYL REGENERATION

There are more than 65 projects relating to the Regeneration of Rhyl and the Rhyl going Forward Plan as well as a multitude of funding sources in various stages of commitment. Members are asked to consider whether a separate report should be produced on this topic, which could be included on the forward work programme for the committee, as this is a complex area which merits a separate agenda item for the future.

The Rhyl Going Forward Team, part of the Council's wider Regeneration function, has been restructured over the last 12 months, with the addition of a senior Manager with regeneration and Project Management experience and the recent appointment of an additional officer to assist with the project management of the West Rhyl Housing Regeneration Plan, for which WG has secured £10 million worth of additional funding. The Council has recently adopted the Rhyl Going Forward Delivery Plan, which concentrates efforts at the moment on the 4 Workstreams for "Neighbourhoods & Places (West Rhyl Regeneration Area, Town Centre, Tourism & the Coastal Strip and Housing & Neighbourhoods).

This year's WAO Annual Improvement Report includes a "proposal for improvement" relating to the Rhyl Going Forward Plan. Their proposal is:

"By Sept 2012 the Council should establish how it will support the RGF delivery plan, including:

showing how it fits with the County regeneration programme

confirming the staff and financial resources that will be available to support delivery

arrangements for the periodic evaluation of progress"

There will therefore be sufficient Audit and Corporate Scrutiny of the RGF Plan, its funding and its success.

5. How does the decision contribute to the Corporate Priorities?

Several of the topics highlighted in this report links to the corporate priorities, in particular Regeneration and Demographics.

6. What will it cost and how will it affect other services?

Not relevant.

7. What consultations have been carried out?

Not relevant.

8. Chief Finance Officer Statement

Not relevant.

9. What risks are there and is there anything we can do to reduce them?

Any risks and measures taken to address them have been identified within the body of the report.

10. Power to make the Decision

Article 6.3.4(b) of the Council's Constitution