

Report to	Communities Scrutiny Committee
Date of meeting	12 December 2024
Lead Member / Officer	Cllr. Alan James (Lead Member for Local Development and Planning)
Head of Service	Emlyn Jones (Head of Planning, Public Protection and Countryside Service)
Report author	Paul Mead (Development Manager)
Title	Sustainability of the Planning Compliance Function

1. What is the report about?

- 1.1. This report examines: (i) the degree to which Denbighshire County Council's planning compliance function is fulfilling its purpose to investigate and remedy alleged breaches of planning control; and (ii) the future sustainability of the function.

2. What is the reason for making this report?

- 2.1. A decision on the adoption of a new version of the Council's planning compliance charter (Appendix 1) is required of the Committee.
- 2.2. To inform future decisions about the allocation of resources, the view of the Committee on the sustainability of the planning compliance function is sought.

3. What are the Recommendations?

- 3.1. That the Committee—

- (i) Establishes a view on the sustainability of the planning compliance function to inform future decisions about the allocation of resources;
- (ii) Endorses the new version of the charter;
- (iii) Supports officers' intention to present the final version of the charter for Lead Member approval;

4. Report Details

- 4.1. The performance of the planning compliance function generally requires improvement according to Welsh Government indicators (Appendix 2). Over the six quarters for which statistics are available (Q1 2023-4 to Q2 2024-5), approximately half of reports of alleged breaches have been investigated. Of these investigations, approximately two thirds were carried out within 12 weeks. During the same period, 48 enforcement notices were issued, but only two cases were taken to court and the Council did not carry out any direct action. This means that a number of cases remain unremedied even when an enforcement notice has been issued.
- 4.2. Accordingly, the Council is not fully meeting the expectations that customers might reasonably have, given what is stated within our existing planning compliance charter. (This is the document which advises stakeholders on how the Council investigates and remedies alleged breaches of planning control.) This leads to a high volume of enquiries, service requests and formal complaints, which compound the issue further by taking officers away from investigatory work. Formal complaints, if escalated to the Public Services Ombudsman for Wales, can also lead to the Council being fined where maladministration is found to have occurred.
- 4.3. From 2015 to 2024, the Council had either one or two officers dedicated to planning compliance. This is evidently insufficient to properly deal with the caseload of alleged breaches in Denbighshire, leading to a backlog which is significantly greater than those of neighbouring authorities (Appendix 3). This situation has become more critical in recent months, when certain recruitment decisions and officer resignations have left the Council with no officers dedicated to planning compliance.

- 4.4. Given the above, amendments to the charter are being proposed (Appendix 1). If adopted, these amendments would reduce the level of service offered by the Council's planning compliance function to the minimum level set out in relevant legislation and practice guidance. The level of service delivered may of course exceed the level offered in due course—if vacant officer positions are backfilled—but the proposed amendments would protect the Council against claims of maladministration in the meantime. They would also manage customer expectations more realistically, which should result in fewer requests for updates, allowing officers to focus more on investigatory work and remedial action.
- 4.5. While the proposed amendments to the charter would put the planning compliance function on a more sustainable footing in the immediate term, the years since 2016 demonstrate that backlogs will continue to increase without adequate resources. The view of the Committee on how the function should be resourced is therefore being sought, so officers can understand whether and how the medium- to long-term sustainability of the function can be secured. Extrapolating from the figures in paragraph 4.1 above provides an indication of the resources required: approximately four officers would be required to investigate all cases which are reported to the Council; approximately six officers would be required to carry out all investigations within 12 weeks; further officers still would be required to follow up investigations with remedial and/or court action; and yet further officers would be required to carry out these tasks whilst also reducing the existing backlog.

5. How does the decision contribute to the Corporate Plan 2022 to 2027: The Denbighshire We Want?

- 5.1. Effective enforcement underpins the whole planning system, and thus the planning compliance function is fundamental to the delivery of the Denbighshire We Want. It ensures that developments are located sustainably and benefit biodiversity. The function is also therefore fundamental to the Council's regulatory approach to tackling the climate and ecological emergencies. Unless and until resources are increased, continuing the function under the current charter risks it becoming largely ineffective, with the investigation of all

allegations, however minor, taking priority over the remedying of breaches which most impact the nine themes of the Corporate Plan.

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

6.1. The adoption of the amendments to the charter would not involve significant cost. The amendments are not anticipated to impact the interrelationship between planning compliance and other services, which are described in both the previous and proposed iterations of the charter.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. N/A at this stage.

8. What consultations have been carried out with Scrutiny and others?

8.1. N/A.

9. Chief Finance Officer Statement

9.1. N/A.

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

10.1. There is a significant risk to both the built and natural environment from continuing to follow the terms prescribed in the current adopted Planning Compliance Charter with the lack of staffing resources the Council has.

10.2. This could lead to more upheld complaints to the Public Services Ombudsman for Wales (PSOW) that the Council is failing to follow its own adopted processes.

10.3. Adopting the proposed, revised Charter (which can be reviewed as resources allow) would protect the Council from risk of PSOW challenge and it would

enable limited resources to be focussed on the most harmful damage to the built and natural environment.

10.4. There are no risks to adopting the revised Charter as per the recommendation providing expectations are managed around staffing resources and priorities.

11. Power to make the decision

11.1. Local Government Act 1972, Town and Country Planning Act 1990.