



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
19 DECEMBER 2023**

**SUBJECT: REVIEW OF ENFORCEMENT CHARTER AND UPDATE ON
ENFORCEMENT**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND
FINANCE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to agree the revised Enforcement Charter, and provides an update on Planning Enforcement activity.
- 1.2 This report is submitted to Committee in terms of Section III (E)) (1) of the Council's Scheme of Administration relating to the statutory functions of the Council as a Planning Authority.

2. RECOMMENDATION

- 2.1 It is recommended that the Committee;
 - (i) note the contents of this report; and
 - (ii) agree the updated Enforcement Charter as set out in Appendix 1

3. BACKGROUND

- 3.1 The Planning Enforcement Charter was last reviewed by this Committee on the 1 March 2022 (para 20 of the minute refers). The Planning Performance Framework (PPF) has 15 key markers that are reported annually to the Scottish Government and receive either a red, amber or green rating. Key marker number 5 relates to the Enforcement Charter and Moray has received a green rating every year by reviewing the content and effectiveness of the Charter - within the two year time period.

4. CURRENT ENFORCEMENT POSITION

- 4.1 Planning Enforcement during 2023 was undertaken by a full time Planning Enforcement Officer and a full time Condition Compliance Officer. The Planning Enforcement Officer deals primarily with breaches of planning Control relating to unauthorised development, amenity and use of land, High Hedge enquiries and unauthorised works to trees protected by a Tree Preservation Order. The Condition Compliance Officer monitors approved planning applications to ensure that they are developed as per the approved conditions and plans. This monitoring includes both local and major applications.

Supervision of Enforcement is undertaken by a Principal Planning Officer who monitors workload and advises on actions along with input from other internal, and where appropriate external consultees

- 4.2 Since 1 January 2023 there have been 353 enforcement cases opened that have required investigation and/or research. This is compared to a total of 306 cases over the same period in 2022. Of the 353 enforcement cases opened in 2023, 261 cases have been closed with the average time taken to deal with these cases being 6.82 weeks.
- 4.3 One of the Enforcement targets is to close 75% of cases received within 10 weeks, in 2023 76.2% of the cases received were closed within the 10 week period.
- 4.4 There are currently 104 cases which are pending consideration 92 of which are 2023 cases. Of the 261 cases that have been resolved it will be for one of the following reasons:
- i) through the submission of a retrospective planning application which is then approved;
 - ii) the breach not requiring planning permission as it does not constitute development;
 - iii) the development is considered Permitted Development;
 - iv) a planning assessment being made that it is not expedient to pursue any formal enforcement action.
- 4.5 In 2023 17 retrospective planning applications were submitted and either approved with planning conditions or refused. The ones refused then became subject of enforcement reports (unless a local review was sought and granted).
- 4.6 During the last year the following formal notices have been issued:-
- i) Enforcement Notice x 3
 - ii) Temporary Stop Notice x 1
 - iii) Stop Notice x 1
 - iv) Breach of Condition notice x 2
 - v) S.179 Amenity Notice x 1
 - vi) High Hedge Notice x 1
 - vii) Direct Action x 1

TOTAL NUMBER NOTICES = 9

- 4.7 Since the Covid pandemic there has been no meetings of the Scottish Planning Enforcement Forum.

5. ENFORCEMENT CHARTER

- 5.1 The Moray Planning Enforcement Charter (**Appendix 1**) has been reviewed and updated to make minor changes to sections for ease of reference and understanding.
- 5.2 Enforcement investigations are split into 3 categories headed as Priority 1,2 and 3 in the Enforcement Charter (**Appendix 1**). A number of these priorities have been either upgraded or downgraded to ensure the most urgent material considerations are dealt with due to our limited resources.
- 5.3 Other changes to the Charter include advising the public how their personal information is dealt with when they report an alleged breach of planning. The Charter also provides a link to the Enforcement Register which is now available online via Public Access on the Moray Council website. This allows members of the public to search the Register for Enforcement Notices issued by the Council reducing Officer time in replying to Freedom of Information requests.

6. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

No implications anticipated.

(b) Policy and Legal

Planning legislation requires Planning Authorities to have a Planning Enforcement Charter and by reviewing the Charter bi-annually the Council are complying with their legislative responsibility in this regard.

(c) Financial implications

No financial implications.

(d) Risk Implications

No risk implications anticipated

(e) Staffing Implications

Preparation of Charter and report undertaken by existing staff therefore no staffing implications.

(f) Property

No implications

(g) Equalities/Socio Economic Impact

No impact anticipated.

(h) Climate Change and Biodiversity Impacts

No impact anticipated.

(i) Consultations

Consultation has taken place with the Head of Economic Growth and Development, Development Management & Building Standards Manager, the Head of Housing and Property, the Legal Services Manager, the Senior Engineer Transportation, the Principal Climate Change Officer, the Equal Opportunities Officer, the Strategic Planning & Development Management and Lissa Rowan, Committee Services Officer and their comments incorporated into the report.

7. CONCLUSION

- 7.1 The Enforcement Charter has been the subject of a review and sets out the process for prioritising breaches of planning control, the tools available and the penalties for failing to comply with legislation. The Committee is asked to approve the updated Charter.**

Author of Report: Stuart Dale, Planning Enforcement Officer

Background Papers:

Ref: