



REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON 1 MARCH 2022

SUBJECT: REVIEW OF ENFORCMENT 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, last reviewed on 25 February 2020 and provides an update on Planning Enforcement.
- 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 25 February 2020 (para 21 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 2020/2021 was undertaken by a full time Planning Enforcement Officer and a full time Condition Compliance Officer. 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 A small team has been formed to develop the Uniform Enterprise module for both enforcement and condition monitoring procedures. Through the use of Enterprise, which is a key management tool, this will add benefits by ensuring that key tasks are complied with and assisting with management of workload. This work is ongoing.
- 4.3 Over the last 12 months (1 January 2021 – 31 December 2021), there have been 373 reports of alleged breaches of planning control that have required investigation and/or research. This is compared to a total of 405 over the same 12 month period in 2020. Although this is an 8% decrease in numbers between the two years it is still the second highest of any year previously recorded.
- 4.4 Out of the 373 enforcement cases open in 2021, 270 cases have been closed with the average time taken to deal with these cases being 10.06 weeks. Cases that are reported to committee take longer to bring to a conclusion as these can then require a notice to be served, time period for an appeal, if lodged and then direct action if not complied with.
- 4.5 In 2021, the following Notices were issued:
- 1 Breach of Condition Notice
 - 5 Section 272 Notices (to obtain land ownership details)
- 4.6 There are currently 140 cases which are pending consideration 96 of which are 2021 cases. Of the 270 cases that have been resolved it will be for one of the following reasons:
- i) through the submission of a retrospective application which is then granted;
 - ii) the breach not requiring planning permission i.e. not constituting development;
 - iii) being Permitted Development;
 - iv) an assessment being made that it is not expedient to pursue any formal enforcement action.
- 4.7 In 2021, 23 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 allowed).
- 4.8 During 2021, 63.7% of all cases were resolved within the 10-week target. This is lower than the target of 75% of cases within 10 weeks but for five months the Enforcement team were down to just one officer due to sickness absence. During this time there was assistance from a Planning officer to help with responding to enquiries. There has also been a reduction in face-to-face

meetings with members of the public which has also contributed to the target of 75% not being met as being able to talk things through face to face can often lead to an earlier resolution of issues.

- 4.9 There has been no attendance at the Scottish Planning Enforcement Forum due to Covid.

5. ENFORCMENT 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 Section 3 of the Enforcement Charter covers Monitoring of Planning Conditions. This area of enforcement has always been a difficult area to resource due to the competing priorities of planning officers dealing with more complex planning applications and the large number of conditions that are imposed on a number of planning consents. This service has one full-time Condition Compliance Officer to enforce breaches of conditions, routine monitoring of consents and sites cannot be resourced within the existing team.
- 5.3 In this regard, it is recommended that Officer time be dedicated to working in collaboration with the larger residential developers such as Springfield Properties Plc, Roberson Homes, Barratts, Tullochs of Cummingston and Morlich Homes. By having a single point of contact for all live development sites and holding regular review meetings this will help raise the importance of condition compliance, dates for triggers to be met and reduce the number of breaches. This section of the Enforcement Charter has been updated to reflect this desired approach to condition monitoring making the most efficient use of our resources and to ensure quality outcomes are delivered timeously within developments.

6. SUMMARY OF IMPLICATIONS

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

The Enforcement Charter plays an important role in monitoring and enforcing breaches of planning control and is a key performance indicator in the Planning Performance Framework.

(b) Policy and Legal

The MLDP 2020 is the statutory development plan for Moray. Legislation is set out in the Town and Country Planning Act 1997, 2006 (as amended), 2019.

(c) Financial implications

There is no specific budget for enforcement and therefore the only implications are for existing staff costs.

(d) Risk Implications

The integrity of the planning system relies on developments being delivered as approved and enforcement action being taken where it is deemed to be in the public interest to do so.

(e) Staffing Implications

The review of the Enforcement Charter has been undertaken as part of the workload of the Development Management team.

(f) Property

None.

(g) Equalities/Socio Economic Impact

None.

(h) Climate Change and Biodiversity Impacts

The enforcement charter ensures that developments approved and conditions imposed that relate to biodiversity are delivered on the ground.

(i) Consultations

Consultation has taken place with the Head of Economic Growth and Development, 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 Paul Connor (Principal Accountant) 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. A more collaborative approach to condition monitoring is being promoted with the larger residential developers to ensure quality outcomes are delivered timeously within developments. The committee is asked to approve the Updated Charter.

Author of Report: Beverly Smith, Development Management & Building Standards Manager

Background Papers:

Ref: