

Planning Services Scrutiny Working Group

Date: 19 March 2015

Time: 10am

Venue: Chamber Meeting Room, Swansea Civic Centre

Summary: This is the agenda pack for a meeting of the Planning Services Working Group taking place on 19 March 2015. The main item is about the development, conservation and design service. Background reports are included

Members of the Working Group:

Cllr David Cole (Convener)	Cllr Keith Marsh
Cllr Tony Colburn	Cllr Hazel Morris
Cllr Anne Cook	Cllr Des Thomas
Cllr Phil Downing	Cllr Miles Thomas
Cllr Lynda James	

Attending:

Councillor Robert Francis-Davies

Phil Holmes, Head of Economic & Strategic Development

Ryan Thomas, Development, Conservation & Design Manager

AGENDA

No.	Item
1.	Report of the Development, Conservation and Design Service <i>Phil Holmes, Head of Economic & Strategic Development</i> <i>Ryan Thomas, Development, Conservation & Design Manager</i>
	Items for information
2.	Convener's letter to Cabinet Member for Place, 6 January 2014
3.	Cabinet Member response, 7 March 2014
4.	Convener's letter to Cabinet member for Enterprise, Regeneration & Development,
5.	Cabinet Member response

Contact: Dave Mckenna, Scrutiny Manager

Contact: 01792 636090 dave.mckenna@swansea.gov.uk

**Report of the Head of Economic Regeneration & Planning
 Planning Services Scrutiny Working Group – 19 March 2014
 DEVELOPMENT, CONSERVATION & DESIGN SERVICE**

Purpose	To provide an information report to the Scrutiny Working Group regarding the Planning Service.
Content	This report provides an update on the performance of the Authority's Enforcement Service and the potential impact of planned service improvements and budget cuts together with a response to the recommendations of the Planning Services Scrutiny Working Group on the publication of enforcement activity. An update on the progress of the Wales Planning Bill is also provided.
Councillors are being asked to	Give their views on service provision and plans.
Lead Councillor(s)	Cllr David Cole
Lead Officer(s)	Phil Holmes Head of Economic Regeneration & Planning
Report Author	Ryan Thomas Development, Conservation & Design Manager

1. Background

1.1 This report provides an update on the performance of the Authority's Enforcement Service and the potential impact of planned service improvements and budget cuts together with a response to the recommendations of the Planning Services Scrutiny Working Group on the publication of enforcement activity. An update on the progress of the Wales Planning Bill is also provided.

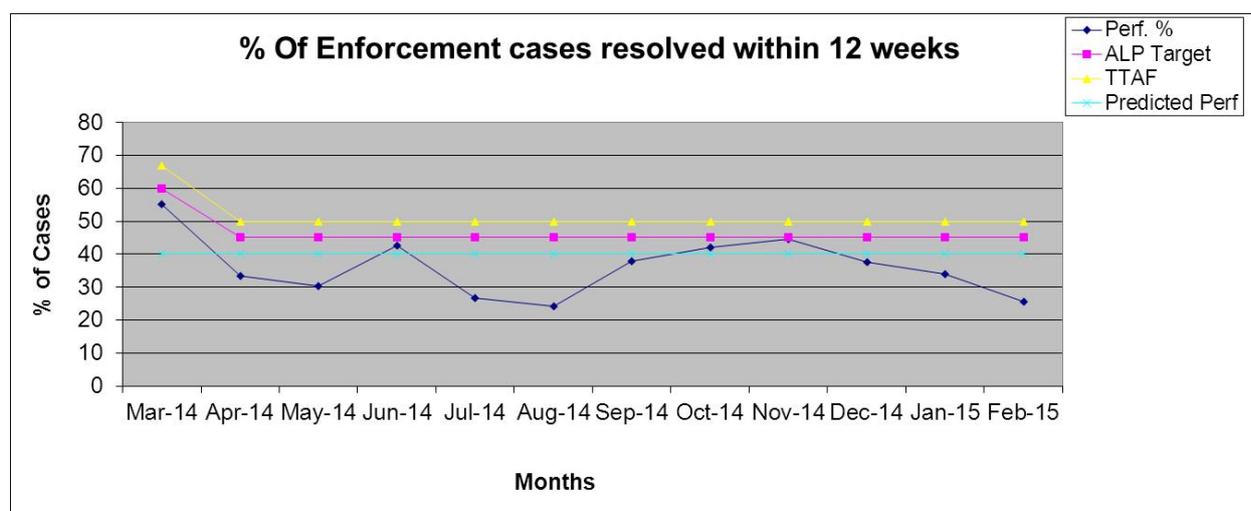
2. Performance of the Enforcement Service

2.1 There are three Planning Enforcement PIs set out below. The first is a 'national' PI which measures the speed at which enforcement cases are resolved, whilst the second and third are 'local' PIs. The second PI is designed to indicate the progress being made in reducing the backlog of unresolved enforcement complaints.

2.2 The third PI has been devised in order to measure the speed at which Enforcement Officers carry out initial visits to sites that are the subject of enforcement complaints.

3 PERFORMANCE INDICATORS

3.1 PI – PLA/005



3.2 The Enforcement Team’s performance for the 3rd Quarter 2014/15 (Oct-Dec) when measured against this indicator was on average 2% above predicted target levels of 40%. This reflects a consistent month on month improvement in performance in the last 4 months of 2014 (September to December).

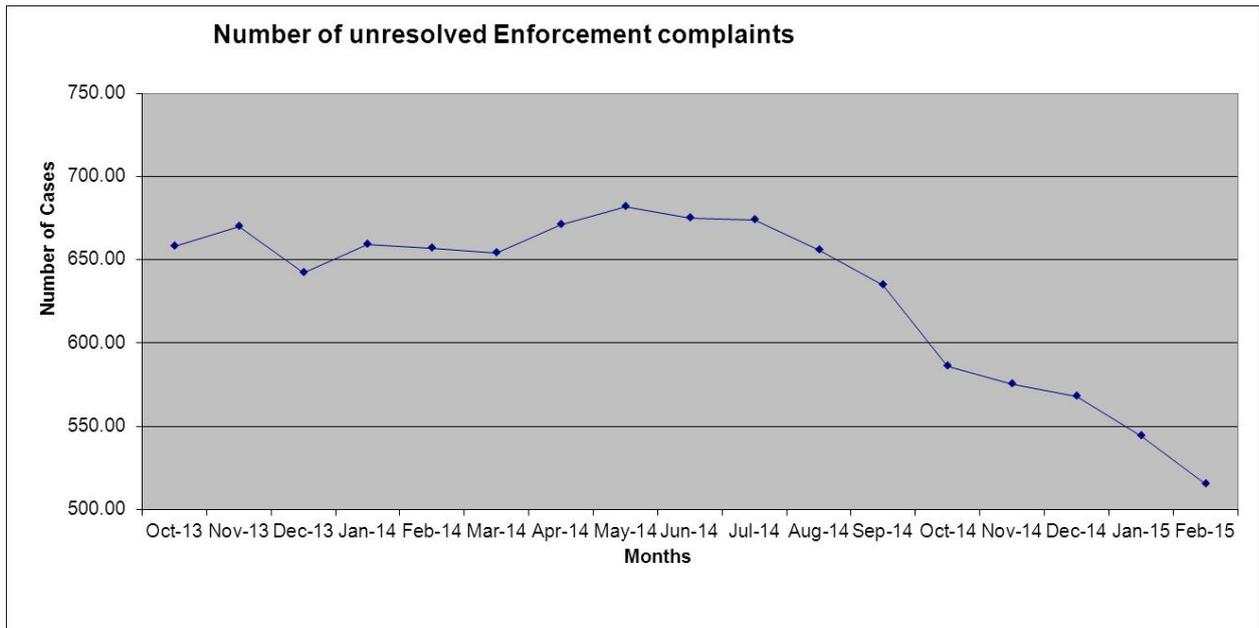
3.3 This improvement has been influenced by a number of key factors, firstly the recruitment and retention of additional staff resources such that the Authority currently employs 3 Enforcement Officers and 3 Senior Enforcement Officers. In addition as part of the restructuring process officers of the original Enforcement Team have been embedded within 3 self-contained Area Teams also incorporating technical staff and Planning Officers. Job descriptions have also been amended to facilitate the potential for more flexible working arrangements with resources within each team being allocated to meeting competing enforcement and planning application workload as required.

3.4 Working arrangements have also been amended to enable Enforcement Officers to carry out prompt initial site visits leaving Senior Enforcement Officers to focus on more complex complaints, appeals and preparing for prosecutions.

3.5 Finally, the enforcement process is also being reviewed and amended to provide more robust validation of enforcement complaints and to facilitate electronic working via the Authority’s IDOX Document Management System.

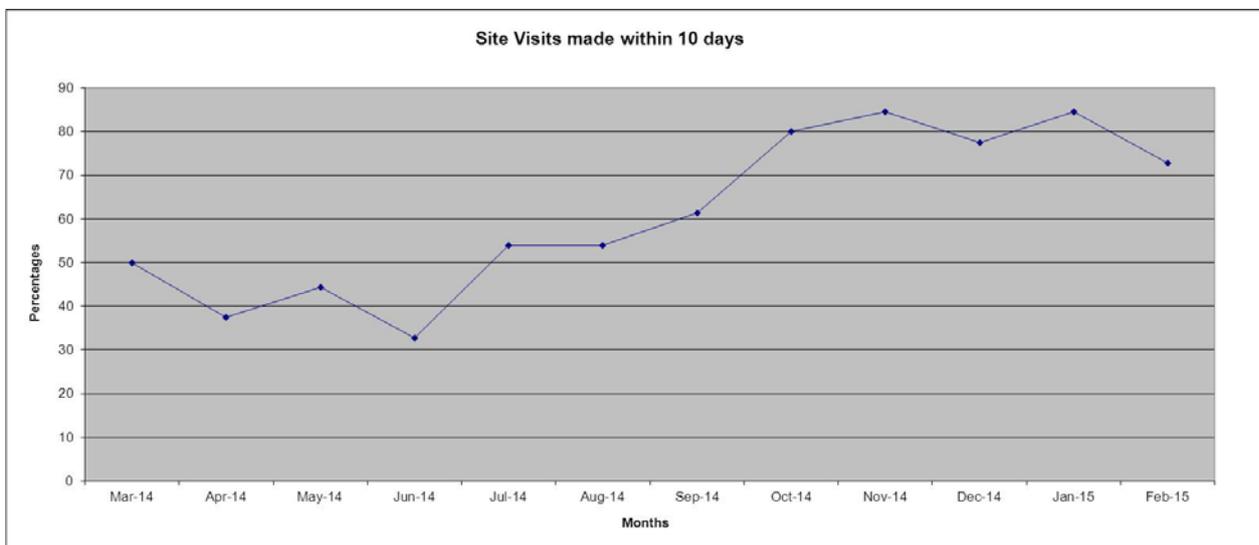
3.6 It should be recognised, however, is that performance against this indicator is likely to be affected as the backlog of older enforcement cases is cleared and this is reflected in performance to-date in the final quarter (Jan-Feb 2015).

3.7 PI – Backlog of Unresolved Cases



3.8 The number of unresolved enforcement cases stood at 659 in January 2014 rising to 674 by July 2014. Since August 2014, however, there has been a consistent month on month reduction in outstanding cases which stood at 515 in February 2015 and 496 in the first week of March. This again reflects the resources, structure, working arrangements and revised processes introduced during this time.

3.9 PI – Speed of initial site visits



3.10 The level of performance of this PI has improved significantly since August 2014 with an average of 81% of sites visited within 10 days during the 3rd Quarter (Oct-Dec). This again reflects the availability of staff resources, the structural changes detailed above and a greater focus of Enforcement Officers on initial site visit.

4. Budget Implications

- 4.1 The Development, Conservation and Design Service is facing a planned budget cut upwards of 40% over a 3 year period. The implications of such significant budget savings on service delivery and particularly enforcement cannot be underestimated particularly as one of the Senior Enforcement Officers and two Enforcement Officers are currently employed on temporary contracts expiring at the end of July 2015.
- 4.2 Identified budget savings for 2015/16, however, focus on consolidating resources within the Business Support Team with the loss of up to 4 posts, together with the restructuring of the Urban Design and Conservation Team with the loss of a further post.
- 4.3 The Authority is also in the process of introducing fees for the provision of pre-application advice and for the Monitoring of S106 Agreements to offset some of the required budget savings. Targets of some £50k and £10k respectively appear aspirational at this stage and will only be sufficient to allow existing staff resources and structure within the Area Teams to be retained in the next financial year (2014/15).
- 4.4 As the economy recovers it is inevitable that the Service will come under increasing workload pressures it is inevitable that current service delivery options will have to be reconsidered.

5 Progress on Publicising Enforcement Activity

- 5.1 In January 2014 the Planning Services Working Group raised concerns that planning enforcement can be perceived as a “soft touch”, and that publicity of enforcement activity could serve to discourage breaches of planning control .
- 5.2 In response the then Cabinet Member recognised this issue but considered that any such campaign should usefully focus on a range of enforcement related cases where the Authority has been able to successfully resolve breaches of planning control through a variety of mechanisms including, for example, through the agreement of amendments to schemes via the planning application process. This would serve to improve wider understanding and illustrate both the positive and negative aspects of the enforcement function.
- 5.3 Since this time efforts have focussed on dealing with the backlog of outstanding enforcement cases and in this respect good progress has been made to-date, as detailed above. There remain, however, a significant number of outstanding prosecutions to be resolved and in this respect officers are liaising with legal colleagues with a view to progressing a number of these historic cases.
- 5.4 It is anticipated that forthcoming changes to the planning system in Wales will provide the mechanism to provide wider public understanding and publicity not only of the changes proposed but also the Authority’s enforcement activity.

6 Progress on the Wales Planning Bill

6.1 The Planning (Wales) Bill was introduced to the National Assembly for Wales on the 6th of October 2014 and has completed Stage 1 scrutiny by the Environment and Sustainability Committee. The Committee consulted on the 'General Principles' of the Planning (Wales) Bill, inviting oral and written evidence from key stakeholders and the Minister for Natural Resources. The Committee published its Report on the General Principles of the Bill during January 2015 and the General Principles were agreed by the Assembly on the 10th of February 2015.

6.2 The Bill is now at Stage 2. During this stage, amendments to the Bill can be put forward by the Government and Assembly Members for consideration by the Committee. Once this stage has been completed, the Bill will proceed to Stage 3 where it will be considered in detail by the Assembly. This is the second amending stage and any amendments will be considered by all Assembly Members. The Bill will then pass into Stage 4, where the Assembly will vote on whether the Bill should be passed as law. If the Bill passes Stage 4 it is anticipated that it will receive Royal Assent in the Summer.

For further information on the Bill, visit: www.wales.gov.uk/planning.

For further information on the current stage of the Assembly's scrutiny process for the Bill, visit:

www.senedd.assembly.wales/mglIssueHistoryHome.aspx?Ild=11271

6.3 During the Spring a number of consultation papers seeking views on secondary legislation implementing the Planning (Wales) Bill and existing planning legislation will be published. The consultations will cover secondary legislation associated with:

- Appeals under section 217 of the Town and Country Planning Act 1990 [untidy land notices];
- Non-Validation of planning applications;
- Decision Notices;
- Notification of commencement of development;
- Consultations under s100A of the Bill [discharge of conditions – statutory consultees /discretionary consultation];
- Amendments to planning application post submission; and
- Applications under s.73 of the TCPA [renewals and minor material amendments].

Welsh Government will also be consulting on Developments of National Significance (DNS) threshold, criteria and procedural matters in late Spring 2015.

7 Employment Generation

7.1 Under the provisions of paragraph 7.2.2 of Planning Policy Wales Edition 7 (July 2014) (PPW) Local Planning Authorities are now required to ensure that the economic benefits associated with a proposed development are understood and that these are given equal consideration with social and environmental issue in the decision making process. In addition PPW provides that there will be occasions when economic benefits will outweigh social and environmental considerations.

- 7.2 Whilst the Authority's adopted Supplementary Planning Guidance on Planning Obligations (March 2010) provides for the inclusion of social benefit clauses in S106 Agreements including targeted recruitment and training and the development of local supply chains this requirement has been superseded by the Community Infrastructure Levy Regulations 2010.
- 7.3 This makes clear that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
- (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.
- 7.4 In this respect whilst the Authority seeks to promote these principles as part of it's "Beyond Bricks and Mortar" initiative failure to enter into these requirements as part of a S106 planning obligation would not normally constitute a reason for refusal.
- 7.5 Under the provisions of PPW, however, the Authority should weigh, in the balance, the potential economic benefits of a scheme against the social and environmental impacts of a development as part of its consideration of any planning application.

Background Papers:

None

Contact: Ryan Thomas Tel 01792 635731

Date: 09/03/15



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DINAS A SIR ABERTAWE

Councillor June Burtonshaw
Cabinet Member for Place

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6th January 2014

Dear Councillor Burtonshaw,

Planning Services Scrutiny Working Group – 17th December 2013

Issues relating to the Planning Service were raised by Councillors as part of the Scrutiny Annual Work Planning Conference in May 2013. When the Scrutiny Programme Committee agreed the work programme in June, it was decided that a working group would be established to enable interested Councillors to be provided with a service briefing from relevant officers and raise questions on any issues of concern. A meeting was held on 17th December.

The Working Group would like to pass on their thanks to the lead officers who attended, namely Phil Holmes (Head of Economic Regeneration & Planning) and Ryan Thomas (Development, Conservation & Design Manager). This letter reflects the main issues discussed together with our views. We will also be sharing this with the Scrutiny Programme Committee.

A report was prepared by the Development, Conservation & Design Manager and this was presented to the Working Group. This report outlined the following key themes:

- Overview of the service and the legal basis of the statutory planning functions
- Current performance and trends in planning applications; customer satisfaction; appeals; and enforcement
- The performance of Area Planning Committees

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- Future challenges and opportunities including: reform of the planning system in Wales; the budget challenges facing the service; staff restructuring; the introduction of a new Electronic Document Management System; and business process re-engineering.

Overall, we were pleased to see that the Planning Service is taking positive action to address performance issues and we enjoyed a full and frank discussion on some of the key issues facing officers and Councillors.

The following paragraphs cover the particular issues that we discussed in more detail.

Enforcement activity:

One of the main areas of concern for Scrutiny Councillors, which triggered the need for a working group, was the backlog of cases (670 as at end of November) relating to planning enforcement and the perceived lack of consistency in both granting permission and enforcement.

Officers provided us with some very useful information about the role of planning enforcement and the barriers that they face when enforcing planning conditions. It was useful for us to gain a better understanding of what is and isn't possible and the constraints the Authority faces. In particular, we were advised that the ethos behind planning guidance and legislation (as prescribed by the Welsh Government) favours developments. Therefore the question that must be considered when undertaking enforcement activity is not whether there has been a breach of planning control or whether planning conditions have been breached, but rather what harm has been caused? If it can be shown that planning permission would have been granted in the first instance, then the Authority has no grounds for enforcement.

We welcome the pro-active measures the Department has taken to address performance, particularly focusing on new enforcement cases as they come in by carrying out a site visit as soon as possible. Whilst at the same time recruiting additional staff members to address the back log of cases. The effect of this was demonstrated in the improved performance indicator figures for the percentage of enforcement cases resolved within 12 weeks. However officers also warned that as the backlog of cases is dealt with there will be a corresponding dip in the relevant performance indicator as cases are completed that have been open for longer than 12 weeks.

We were pleased to hear that the new Planning Bill contains measures to sharpen the enforcement tools available to Local Authorities, particularly the possible introduction of fixed penalty notices. We look forward to seeing this bill become law and hope that it strengthens the Authority's ability to deal with planning breaches.

Despite these developments there is still a concern among Scrutiny Councillors that planning enforcement is seen as a “soft touch” in Swansea and that this negatively affects the public’s view of the Authority. We support the idea that the Authority should utilise press releases in the local media to highlight cases where the Authority has taken enforcement actions to enforce the planning obligations on developments. We believe that this would send an important message to developers and householders that this Authority will take action when necessary.

Finally, we have some concerns over whether the level of legal support provided for planning enforcement activity is sufficient however we did not have time to explore this during the meeting.

Relationship between Planning and Building Control:

Linked to the issue of enforcement is the relationship between Planning and Building Control. We asked the question whether Building Control officers could assist in ensuring that planning conditions and agreed plans are adhered to by carrying out planning checks when they make their first and subsequent site visits. We felt that this would be a relatively simple action that could assist in minimising the need for retrospective planning applications and reduce the need for enforcement by ensuring that developments are adhering to plans from the start. However, we were advised by officers that this would be difficult to implement as Building Control operates in a competitive market and has to compete for work with external, private “Approved” building inspectors. Consequently, if our in-house Building Control officers were seen as less likely to sign off developments then they will lose business to the external inspectors. The service is currently self-funding through fees, therefore any changes may jeopardise this.

Despite this, we feel that there is scope for improved working between Building Control and Planning and we would like to recommend that you explore the pros and cons of moving Building Control under the management of the Head of Economic Regeneration & Planning in order to improve communication between the two sections and to provide additional opportunities for joint-working.

Staff recruitment and retention:

The information we have gathered suggested that staff shortages have had a significant impact on performance levels, and it has been sometime since the Planning Service has had its full complement of staff in post. Officers advised that there has been a general issue with the shortage of qualified planning officers, and this is in part to do with Swansea’s location – it is felt that as the closest planning training school is in Cardiff then the majority of qualified

applicants head east for work and that we need to be doing more to promote Swansea as an exciting and challenging place to work.

We were told that budget constraints have extended the period of time it takes to recruit staff and additionally experienced staff have left through the Early Retirement and Voluntary Redundancy policy. However, we were advised that re-structuring is taking place to manage the effects of job losses. In addition a review of working practices has taken place, which is resulting in an increased emphasis on the Pre-Application Advice Service and the introduction of an Electronic Document Management System. It is anticipated that these changes will have a significant impact on performance levels. The officers advised us that the Department is mid-way through these changes therefore the full effects will not be seen immediately.

We would like to hear your views on whether you feel it would be appropriate for a staff recruitment and retention strategy to be developed to ensure that the new staff that have been recruited remain in the Authority and to promote Swansea as an exciting and challenging place to work.

Officer/Member relations:

We identified a number of gaps in the area of Officer/Member relations. Planning is a complex area and we felt that there is a need for an improved training programme for Councillors. We recognise a need for on-going training, particularly in terms of developing learning points from cases where Councillors have disagreed with officer decisions. We feel that it would be beneficial to provide Councillors with a 6 monthly review of cases that have been up-held and over-turned to understand the reasons why and hopefully lead to more effective decision making in the future. We noted with some concern the significant difference in the number of call-ins between the two area committees. We feel that additional training may go some way to address the issue of planning applications being "called-in".

In addition, we would recommend the development of a system to allow the opportunity for pre-committee discussions to enable officers to help Councillors understand the planning issues that will arise at the meeting so that clarity can be provided and potential issues addressed. We understand that there are examples of this approach in other Local Authorities; therefore we recommend that the Department looks at good practice in this regard with the aim of introducing a pre-committee discussion process here.

We also acknowledge that Councillors have a personal responsibility to contact planning officers about cases in their areas to ensure that communication starts as early as possible in the process. We were pleased to hear that the officers wish to encourage this and would always wish to be in a position to understand Councillors' issues and provide advice to help the necessary debates in committee.

Planning Fee Income:

We learnt that the fees for planning applications are set by the Welsh Government and there has been no increase in these for several years. The Working Group felt that this is an issue that the Local Authority should raise with the Welsh Government. Therefore we would ask the Cabinet Member to write to Carl Sergeant AM to lobby for a review of planning fees in Wales to be carried out to assess whether current levels cover the cost of providing services.

In summary we recommend that you:

- a) instruct officers, where appropriate, to utilise press releases in the local media to highlight some successful enforcement cases where the Authority has taken notable actions to enforce the planning obligations on developments.
- b) explore the pros and cons of moving Building Control under the management of the Head of Economic Regeneration & Planning in order to improve communication between the two sections and to provide additional opportunities for joint-working.
- c) provide a view on whether it would be appropriate for a staff recruitment and retention strategy to be developed to ensure that the new staff that have been recruited remain in the Authority and to promote Swansea as an exciting and challenging place to work.
- d) ensure that additional planning training is developed for Councillors.
- e) instruct officers to develop a system of pre-committee discussions for Councillors and officers.
- f) lobby the Welsh Government to carry out a review of planning fees.

We are grateful for the information and advice provided to us by the officers and look forward to receiving your reply. It would be helpful if you could respond by 7th February, so that we can report our correspondence to the Scrutiny Programme Committee in a timely fashion.

Yours sincerely,



COUNCILLOR MARK THOMAS

Convener, Planning Services Scrutiny Working Group

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Our Ref:

Date:

7th March 2014

Dear Councillor Thomas,

Re: Planning Services Scrutiny Working Group – 17th December 2013

I refer to your letter received 6th January 2014 regarding the above. Firstly, I would like to thank you as Convener and the Members of the Scrutiny Working Group for your work, for your focus on key elements of the Planning Service and for your recommendations for improvement.

I am pleased to see that the positive action of the Planning Service to-date has been acknowledged and that there was a full and frank discussion of the issues facing officers and Councillors.

You will be aware that the Planning Service is currently working through a process of change and the input of the Working Group, at this stage, provides a valuable contribution towards this process and efforts to provide continuous improvement within the Service.

As requested I provide below a response to the specific issues raised by the Working Group and to its main recommendations.

Enforcement Activity

I am pleased that there appears to have been a thorough discussion relating to the role of planning enforcement, the barriers facing the delivery of this element of the Service and the pro-active measures undertaken by the Department to-date to improve performance.

Whilst the reforms proposed as part of the Welsh Planning Bill should help strengthen the enforcement of planning control I acknowledge that planning enforcement can be perceived as a “soft touch” although it should be recognised that this perception is not necessarily peculiar to Swansea.

In this respect I welcome any efforts to improve the profile of the enforcement function and agree that this could discourage developers and householders from carrying out unauthorised development or breaching planning control.

- Continued -

To receive this information in alternative format, please contact the above.
I dderbyn yr wybodaeth hon mewn fformatt arall, cysylltwch a'r person uchod.

We welcome communications in English and Welsh.

Rydym yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg.



Any such campaign could also usefully focus on a range of enforcement related cases where the Authority has been able to successfully resolve breaches of planning control through a variety of mechanisms including, for example, through the agreement of amendments to schemes via the planning application process. This would serve to improve wider understanding and illustrate both the positive and negative aspects of the enforcement function.

With regard legal support currently available to the Planning Service I am assured that temporary arrangements have been put in place to help bolster the current level of service and that arrangements are in place to recruit additional staff resources and secure a permanent solution in this respect.

Relationship between Planning and Building Control

Perceived issues relating to the links between the planning and building control functions are recognised as are the limitations of the latter to directly assist in enforcement monitoring.

Despite these constraints I agree that, in principle, benefits could accrue from joint working and communication if both these functions were within the same Service area, however, this is a matter which must rightly be considered as part of any subsequent review of Departmental structures by the Chief Executive Officer.

Staff Recruitment and Retention

It is acknowledged that staff recruitment and retention has had an impact upon performance and service levels within the Planning Service, however, despite the current economic climate the Authority has recently recruited a Senior Enforcement Officer and two Assistant Planning Officers. Authorisation has also been secured to fill a further 3 vacant professional officer posts within the Enforcement and Planning Control Teams.

The Service must, however, secure some £200,000 in planned budgetary savings which will together with the implementation of Single Status have an impact upon staff within the service.

It is impossible, therefore, to divorce the Planning Service, in this respect, from Council wide terms, conditions, policies and programmes which have an impact upon staff recruitment and retention. I have therefore instructed the Development, Conservation and Design Manager to discuss the issue of a specific staff recruitment and retention strategy for the Planning Service with colleagues in Human Resources. This is, I consider, of growing importance in the current economic climate.

Officer/Member Relations

The benefits of Members training is well recognised, with the requirement for a competency framework for Members forming a key component of proposals within the Welsh Planning Bill.

- Continued -

The requirement to provide a programme of Member training is also a key action within the Service's Business Plan and I agree that the suggested 6 monthly review of planning decisions by Councillor's should form an integral part of this training programme.

The provision of pre-committee discussions is an interesting proposal and I can see significant benefits associated with this approach which, in particular, would allow Members to obtain greater clarity on any outstanding specific issues relating to a planning application prior to the meeting. Whilst there may be benefits associated with this proposal these must be weighed against the potential resource and logistical issues associated with this approach, particularly given the short timescales for report production and publication and the programming of Committee Site visits in advance of the relevant Committee meeting. In addition issues relating to Member pre-determination would also need to be carefully considered.

Finally, I note that the Welsh Planning Bill proposes the introduction of a national Committee protocol which will dictate the form and nature of future Committees although at this stage it is not clear what specific requirements this will imposed.

Against this background, therefore, I have asked the Development, Conservation and Design Manager to give further consideration to this issue and seek further legal and procedural advice on matter.

Planning Fee Income

I understand that proposals for a review of planning fees again form part of the Welsh Planning Bill proposals and will be subject to separate consultation in due course. I anticipate that this Authority will respond in a robust manner to this consultation exercise.

I trust that the above provides an appropriate response to the issues raised by the Planning Services Scrutiny Working Group. Once again I would like to thank you as Convener and the Working Group as a whole for the positive approach adopted and the constructive recommendations that have been forthcoming. I would, however, be more than happy to provide further clarification or comment on any of the issues raised.

Yours sincerely,

COUNCILLOR JUNE BURTONSHAW
Cabinet Member for Place



CITY AND COUNTY OF SWANSEA
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2 July 2014

Dear Councillor Burtonshaw,

Planning Services Scrutiny Working Group – 10 June 2014

As you are aware a Scrutiny Working Group was set up in December 2013 in order to look at performance issues relating to the Planning Service and in particular the area of planning enforcement. A number of recommendations were made by the Group, which you responded to via letter. It was agreed that the Working Group would reconvene in June 2014 in order to see whether anticipated improvements in performance levels had been achieved. This meeting was held on 10 June.

We are grateful to the officers who attended, Ryan Thomas and Phil Holmes, who engaged in a full and frank discussion with the Working Group. A report was prepared by the officers, which gave details of the progress made regarding our previous recommendations and provided us with up-dated performance indicators.

This letter reflects the main issues discussed together with our views. We will also be sharing this with the Scrutiny Programme Committee.

Performance Levels

We found that there has been no improvement in the number of unresolved enforcement complaints and that the target to resolve cases within 12 weeks has not been achieved.

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We understand that the level of complaints is particularly high, therefore it will be difficult for the limited number of enforcement officers to immediately make a significant reduction, especially when factoring in the need for resource intensive court cases. Despite this, we had anticipated that there would have been some improvement 6 months after our initial meeting. We appreciate the determination of officers to address the backlog and were informed that whilst more resources have been made available and staffing levels have improved, other factors have impacted on the full complement of staff being available. However, officers advised us that they are confident that the team is now on a more even keel and that improvement will now start to be made.

It would be helpful for the Panel to put performance levels into context by considering comparative information from similar sized, urban authorities. Both in terms of the level of resources they have available to deal with planning enforcement and their performance levels. We would be grateful if you could provide us with this information.

We were also previously informed that the planned re-organisation of the service was intended to contribute to improving performance. Officers advised us that progress on this has been delayed and is anticipated to be completed by the end of July 2014. Please could you confirm the revised timescales for the restructure, including the expected date for the full implementation of the Idox Document Management System.

Planning Conditions

We discussed the issue of planning conditions, as Members raised concerns regarding the ability of the Authority to monitor the implementation of these. We would be interested to hear your views on whether you feel that the current methods for monitoring implementation of planning conditions are sufficient.

It would be helpful for the Panel to receive data on the number of retrospective planning applications that are made and granted, to help understand the scale of the issue.

Communication issues

Staying with the issue of enforcement, we feel that Members should be better informed about the enforcement activity that is undertaken in their wards. There is an effective system in place to notify ward members of the planning applications that are in place through the weekly lists, but nothing similar for enforcement. Whilst we understand that there may be issues of confidentiality due to the possibility of future court action, we feel that there is still scope to consider ways to provide this information to Members to ensure that they are fully aware of all planning related activity in their wards.

Planning and building control

We previously recommended that you look at the pros and cons of increasing joint working between planning and building control by bringing both functions

within the same service area. You advised that whilst you agreed that potential benefits could accrue if this took place, that the matter was one for consideration be the Chief Executive in any future review of Departmental structures. We were encouraged to see an example of where joint working between the two functions has taken place, i.e. the development of a protocol to deal with listed buildings at risk in order to utilise their respective powers in relation to dangerous situations. However, we still feel that this recommendation would be worth considering further, therefore we propose that you raise the issue with the Chief Executive.

Pre-committee meetings

We were provided with feedback in respect of our previous recommendation that the Authority looks into the development of a system for pre-committee discussions to enable officers to help Members understand the planning issues that will arise at the meeting. We were informed that officers in Legal and Democratic Services raised concerns regarding the potential to expose Members to allegations of pre-determination. However, we feel that further consideration should be given to this, with definitive legal advice provided on the issue. We feel that a briefing in advance of a committee meeting would be no different to an individual councillor seeking advice from officers, and therefore would ask that you reconsider this recommendation and ask officers to look to introduce a mechanism that allows Members to gain clarification on issues prior to Committee meetings.

Training issues

We previously recommended that learning points are developed from cases where Councillors have disagreed with officer decisions. We felt that it would be beneficial to provide Councillors with a 6 monthly review of cases that have been up-held and over-turned to understand the reasons why and hopefully lead to more effective decision making in the future. This has not yet taken place. We were advised that a review of planning decisions with Councillors will form an integral part of the Service's plans to provide a programme of Member training, however we would like this element to be introduced as soon as possible and to be advised on the timetable for Member training.

Statutory consultees

We were made aware that there are significant external factors that impact on the Authority's ability to meet national performance indicators to determine major applications within 13 weeks and minor applications within 8 weeks. Particularly in respect of the time it takes statutory consultees such as Welsh Water to respond, and that the timescale of 14 days is rarely met by some. We feel that more work should be done to establish why this is the case and measures put in place to try to address any issues.

Future meetings

Considering the fact that enforcement performance levels remain unchanged and that there are significant changes in the planning system forthcoming with the anticipated Planning Bill, we feel that further meetings of the Working

Group are merited. In addition, the planned restructure of the Planning Service, which is intended to contribute to improving performance, has been delayed, therefore we believe that the Working Group should assess whether these service changes lead to improvements. Consequently, as convener, I am giving thought to appropriate arrangements for any further scrutiny, which the Scrutiny Programme Committee will need to consider in due course.

In summary we recommend that you:

- Provide comparative information from similar sized, urban authorities regarding the level of resources they have available to deal with planning enforcement and their performance levels.
- Give your views on whether you feel that the current methods for monitoring the implementation of planning conditions are sufficient.
- Provide data on the number of retrospective planning applications that are made and granted, to help understand the scale of the issue.
- Confirm the revised timescales for the restructure, including the expected date for the full implementation of the Idox Document Management System.
- Discuss with the Chief Executive our previous recommendation to explore the pros and cons of moving Building Control under the management of the Head of Economic Regeneration & Planning.
- Give further consideration to our previous recommendation which proposed the introduction of pre-committee briefings and ask officers to look to introduce a mechanism that allows Members to gain clarification on issues prior to Committee meetings.
- Provide the timetable for the development of the Members training programme, and introduce the element that will provide Members with learning points from cases that have been up-held and over-turned as soon as possible.
- Examine the reasons why some statutory consultees fail to respond to planning application consultations within the required timescales and consider whether measures can be put in place to improve this.

We look forward to receiving your reply. It would be helpful if you could respond by 1/8/2014, so that we can report our correspondence to the Scrutiny Programme Committee in a timely fashion.

Yours sincerely,

A handwritten signature in black ink that reads "Mark Thomas". The signature is written in a cursive style with a large initial 'M' and a long, sweeping tail on the 's'.

COUNCILLOR MARK THOMAS

Convener, Planning Services Scrutiny Working Group

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Planning Services Scrutiny Working
Group

Please ask for:

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Our Ref:

Date:

22nd October 2014

Re: Planning Services Scrutiny Working Group – 10th June 2014

I refer to your letter received 2nd July 2014 regarding the above and please accept my apologies for the delay in responding to you.

Firstly, I would again like to thank you as Convener and the Members of the Scrutiny Working Group for your work, for your focus on key elements of the Planning Service and for your further recommendations for improvement. I comment below on the points raised.

Enforcement Activity

Directly comparative data for other Authority's regarding the resources they have available to deal with planning enforcement is not readily available or published and it has proven difficult to obtain such data from other Authority's, not least because of differences in the structure and make up of each service.

Welsh Government do, however, record data on the performance of other Authority's in Wales in terms of the resolution of cases within 12 weeks which is reproduced at Appendix 1. Whilst performance is low when measured against this indicator this data illustrates that Swansea resolved some 746 enforcement cases in the 12 months to June 2014 which is more than any other Authority in Wales and significantly more than comparable sized Local Planning Authorities namely Cardiff (671), RCT (508) and Carmarthen (403).

It is acknowledged that enforcement investigations are very often responsive to complaints given the available resources and scale of complaints the service is currently facing. However as has previously been discussed Building Control records are accessed by the Enforcement Team to establish when development has commenced on site and where "prior to commencement" conditions have not been discharged an enforcement case is set up.

This is then recorded as an enforcement complaint and investigated by the relevant area enforcement officer. Whilst this is an effective mechanism to establish where a breach of planning control may have taken place you will appreciate that the investigation and subsequent resolution of such a case may take some time to resolve.

- Continued -

To receive this information in alternative format, please contact the above.
I dderbyn yr wybodaeth hon mewn fformatt arall, cysylltwch a'r person uchod.

We welcome communications in English and Welsh.
Rydym yn croesawu gohebiaeth yn y Gymraeg a'r Saesneg.



Whilst there has been some disruption in this process this year I am comfortable that the monitoring mechanism in this respect is robust, however, there are clear issues, as has previously been discussed, with the subsequent resolution of such breaches of planning control, where they occur. In this respect the Enforcement Team is now fully staffed and I am confident that there will be an improvement in performance although this may take some time to be reflected in the time related performance indicators set for the service, as older backlog cases are resolved.

In view of the above, therefore, and whilst I understand the logic behind your recommendation I do not consider it necessary, at this stage to recommend that the Building Control Service be moved under the management of the Head of Economic Regeneration & Planning.

I attach as Appendix 2 data on the number of retrospective applications received over the past 3 years and the outcome. These represent a small number of the total applications determined by the Authority over this period (13%) with an average approval rate of some 78% although these figures do illustrate that a large number of unauthorised developments can be regularised through this mechanism.

In this respect it is anticipated that proposals in the Draft Wales Planning Bill to allow Authorities to issue a notice to require the submission of a planning application will assist in bringing such complaints to a more speedy resolution via this mechanism.

Planning Restructure

I can confirm that the restructure of the Service was formally introduced at the end of June but that interim management arrangements were in place until 10th August 2014 pending the re-organisation of the office layout which has now been completed.

Officers are now, therefore, working towards the introduction of revised business processes to “front load” the planning application process and provide a greater focus on providing advice prior to the submission of a valid planning application. This is seen as providing two benefits, firstly providing applicants with advice as early as possible in the process so that they can make better informed judgements about the nature, form and design of their scheme as early as possible in the process and secondly, reducing the need for negotiation during the statutory 8 week period to improve performance when assessed against this statutory measure.

Pre-Committee Briefings

I have considered the recommendation of the Working Group relating to pre-committee briefings and am conscious that Committee structures and protocols are currently being reviewed by Welsh Government following consultation on the Draft Wales Planning Bill. I propose, therefore, that the Authority await the outcome of this consultation and the publication of the Wales Planning Bill later this year, which may have wider implications for current governance arrangements in this Authority, before we consider this matter further.

Member Training

I have discussed this matter with the Development, Conservation & Design Manager who will provide a series of sessions with Members after the Area 1 and Area 2 Committee's in January 2015 and provide learning points on specific appeal cases including those relating to applications over-turned by Members at Committee.

Statutory Consultees

The Authority actively engages with its colleagues in a number of statutory agencies and at a variety of levels to consider service delivery issues for example in the agreement of a Memorandum of Understanding signed by Welsh Water, Natural Resources Wales and both this Authority and Carmarthenshire Council to release development which discharges foul and surface water to the Burry Inlet.

It is widely acknowledged, however, that competing priorities, objectives and increasing pressures on budgets can inhibit the delivery of sustainable development in a timely manner. The performance of statutory consultees and their engagement with the planning process is, therefore, critical to the success of any proposals to improve the planning system and again is a key issue being considered as part of the current Welsh Government review.

Whilst officers within the Authority will continue to develop a strong working relationship with its statutory partners this Authority has limited scope to introduce measures to directly influence the performance of these agencies although this is an issue, it is anticipated, that will be addressed as part of the Wales Planning Bill.

I trust that the above provides an appropriate response to the issues raised by the Planning Services Scrutiny Working Group. Once again I would like to thank you as Convener and the Working Group as a whole for the positive approach adopted and the constructive recommendations that have been forthcoming. I would, however, be more than happy to provide further clarification or comment on any of the issues raised.

Yours sincerely,

COUNCILLOR ROBERT FRANCIS-DAVIES
Cabinet Member for Enterprise, Development & Regeneration

APPENDIX A

Enforcement Cases Resolved within 12 Weeks by Authority			
Authority	Total No	Within 12 weeks	%
Swansea CC	746	245	33
Bridgend CBC	721	583	81
Cardiff CC	671	354	53
Newport CC	544	401	74
Rhondda Cynon Taf CBC	508	370	73
Wrexham CBC	503	388	77
Caerphilly CBC	444	227	51
Conwy CBC	437	360	82
Neath Port Talbot CBC	414	300	72
Carmarthenshire CC	403	260	65
Denbighshire CC	391	227	58
Ceredigion CC	342	104	30
Flintshire CC	300	245	82
Vale of Glamorgan CBC	298	246	83
Pembrokeshire CC	282	93	33
Monmouthshire CC	282	207	73
Torfaen CBC	269	163	61
Blaenau Gwent CBC	252	160	63
Merthyr Tydfil CBC	234	140	60
Powys CC	207	44	21
Gwynedd CC	183	128	70
Isle of Anglesey CC	163	110	67
Snowdonia NPA	153	85	56
Brecon Beacons NPA	115	30	26
Pembrokeshire Coast NPA	96	71	74
Wales	8958	5541	61

APPENDIX B

Retrospective Planning Applications Determined Per Annum 2011-14								
	2011/12	%	2012/13	%	2013/14	%	Totals	%
Approved	101	78.91	88	77.88	94	76.42	283	77.75
Refused	24	18.75	21	18.58	27	21.95	72	19.78
Not Lawful	2	1.56	0	0.00	0	0.00	2	0.55
Lawful	1	0.78	4	3.54	2	1.63	7	1.92
Total	128		113		123		364	