

Perth And Kinross Council

Economy & Infrastructure Committee

29 May 2024

PLANNING ENFORCEMENT CHARTER REVIEW

Report by Strategic Lead - Economy, Development & Planning
(Report No. 24/159)

1. PURPOSE

- 1.1 This report seeks approval of an updated version of the Council's Planning Enforcement Charter, following review, as required by The Town and Country Planning (Scotland) Act 1997.

2. RECOMMENDATIONS

- 2.1 It is recommended that Committee:

- Approves the recommended update to the Council's Planning Enforcement Charter

3. STRUCTURE OF REPORT

- 3.1 This report is structured over the following sections:

- Section 4: Background/Main Issues
- Section 5: Proposals
- Section 6: Conclusion
- Appendices

4. BACKGROUND / MAIN ISSUES

- 4.1 The Town and Country Planning (Scotland) Act 1997 (as amended) places a statutory requirement for Planning Authorities to prepare and publish a Planning Enforcement Charter. The Act specifically requires Charters to set out:

- A statement of the Authority's policies as regards their taking of enforcement action;
- An account of how members of the public can bring any ostensible breach of planning control to the attention of the Authority;
- How to complain about the way in which the Authority takes enforcement action; and
- The procedures for dealing with any such complaint.

- 4.2 Members are reminded that while there is no duty on the Planning Authority to pursue planning enforcement action, there is a requirement for Planning Authorities to review, update and publish a new Charter whenever they think it is appropriate to do so but no later than two years after last being published. The Council adopted the latest Planning Enforcement Charter on 27th January 2021. As it is now beyond the required 2-year period for publication of a revised charter, it is important that an updated Planning Enforcement Charter is agreed as expediently as possible. The delay was primarily due to staff resourcing issues within the planning enforcement team at the time and resulted in a red marker from the Scottish Government in the 2022/23 Planning Performance Framework.
- 4.3 The Planning Enforcement Charter is key to clarifying the Council's role within, and approach to, planning enforcement; both to stakeholders who report suspected breaches of planning control and to those who have an interest in the site subject of the possible breaches. Since the adoption of the latest Charter, officers have gained useful experience in delivering its objectives. This experience, and feedback from stakeholders during the consideration of enforcement cases, has been used to examine the effectiveness of the Charter and identify areas for improvement. Benchmarking and reviewing of other Planning Authorities' Charters was also undertaken.

5. PROPOSALS

Charter Review

- 5.1 The previous Charter identifies the priority areas for planning enforcement within Perth and Kinross, informed through staff discussions and a stakeholder engagement process. Officers consider that the key priorities for, and the approach to, planning enforcement as expressed through the existing Charter remain appropriate, proportionate and reflective of Council objectives.
- 5.2 Accordingly, it is recommended that the proposed 'Priorities for Planning Enforcement' in the 2024 Charter remain largely unchanged. However, since the adoption of the last Charter the economy, businesses and individuals have had to adapt to manage the impacts of the cost-of-living crisis. It is therefore proposed to expand one of the existing priorities to underline the proportionate use of action and to act sensitively to exceptional circumstances. This follows from a similar approach taken in the 2021 Charter in recognising the economic impact of the Covid-19 pandemic. This general principle is supported by the Scottish Government's *Circular 10/2009: Planning Enforcement* which recognises the need to act sensitively in respect of impacts on small businesses when taking enforcement action.

- 5.3 The proposed 2024 Charter is attached at Appendix 1. The main changes in the updated charter are highlighted with the use of *italics*. These seek to:
- Recognise the impact of the cost-of-living crisis;
 - Clarify how it will be used in support of the Council's corporate priorities;
 - Reflect Development Plan policy objectives;
 - Reflect Scottish Government guidance in practice; and
 - Set out how and when proportionate enforcement action will be taken (ie. where evidenced planning harm warrants it).
- 5.4 The document provides a summary and overarching message about the approach to enforcement as well as the priorities. It also provides details on how to report a suspected breach of planning control and where further, more detailed, guidance on planning enforcement can be found. Specifically, it highlights the key role planning stakeholders can play and how they are engaged in the process.
- 5.5 Consistent with the 2021 Charter, the updated Charter continues to guide stakeholders chronologically through the planning enforcement process, with a flow chart of the key stages:
- Identifying what constitutes a breach of planning control;
 - How to report suspected breaches to the Council;
 - Explaining possible informal and formal action that could be taken by the Planning Authority;
 - The process for investigating report breaches; and,
 - How the enforcement team will act on breaches to secure compliance

Service Improvements

- 5.6 Since the adoption of the last Charter, the Council now displays active enforcement cases on the Public Access planning portal. This allows members of the public and interested parties to view details of cases more readily, as well as understanding actions taken. The 2024 Charter is therefore updated to reference enforcement cases now being on Public Access. Perth & Kinross Council was one of the first Planning Authorities in Scotland to display enforcement cases on Public Access, demonstrating a commitment to effective communication through the customer journey.
- 5.7 As with the previous version of the Charter, following Committee approval, a Plain English document suitable for publication will be produced. The publication will be in e-booklet form available to download from the Council's website. In the interests of environmental sustainability, it is not proposed to print any hard copies of the Planning Enforcement Charter.

Future Review Process

- 5.8 As noted, the Planning Authority is required to review, update and publish a new Charter when necessary, and no later than every two years. Should the 2024 Charter recommendation be agreed by Committee and subsequently adopted, the intention would be for an updated Charter to be presented to Committee in 2026.

6. CONCLUSION

- 6.1 The revised Planning Enforcement Charter builds on the established principles of the Council's approach to, and priorities for, planning enforcement. Several refinements and clarifications have been made to the revised Charter to make the process clearer for all planning stakeholders. The publication of the revised Charter will set out these updated principles and represent a material consideration for officers in the handling for all planning enforcement matters.
- 6.2 It is recommended that Committee **approves** the update to the Council's Planning Enforcement Charter.

Author

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Approved

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APPENDICES

- Appendix 1 – Proposed Planning Enforcement Charter (2024)

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	None
Corporate Plan	Yes
Resource Implications	
Financial	None
Workforce	None
Asset Management (land, property, IST)	None
Assessments	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	Yes
Legal and Governance	None
Risk	None
Consultation	
Internal	Yes
External	None
Communication	
Communications Plan	Yes

1. Strategic Implications

Community Plan/Single Outcome Agreement

1.1 No implications.

Corporate Plan

1.2 This report supports the following objectives within the new Corporate Plan:

- (i) *People and businesses are increasingly able to prosper in a local economy which support low carbon ambitions and offers opportunities for all.*

2. Resource Implications

Financial

2.1 No implications.

Workforce

2.2 No implications.

Asset Management (land, property, IT)

2.3 No implications.

3. Assessments

Equality Impact Assessment

3.1 Under the Equality Act 2010, the Council is required to eliminate discrimination, advance equality of opportunity, and foster good relations between equality groups. Carrying out Equality Impact Assessments for plans and policies allows the Council to demonstrate that it is meeting these duties. As the Planning Enforcement Charter is a revised document, there is no requirement for further Equality Impact Assessments to be undertaken as it is not relevant.

Strategic Environmental Assessment

3.2 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals. However, no action is required as the Act does not apply to the matters presented in this report.

Sustainability

3.3 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. Under the Climate Change (Scotland) Act 2009 the Council also has a duty relating to climate change and, in exercising its functions must act:

- in the way best calculated to delivery of the Act's emissions reduction targets;
- in the way best calculated to deliver any statutory adaptation programmes; and
- in a way that it considers most sustainable.

The Planning Enforcement Charter considers how best to deal with breaches of planning control, and as such does not directly impact sustainable development. However, the planning process itself is closely linked with sustainable development and there are relevant policies within the Perth & Kinross Local Development Plan 2 (2019) and National Planning Framework 4 to control this.

Legal and Governance

3.4 No implications.

Risk

3.5 No implications.

4. Consultation

Internal

4.1 The Planning Enforcement Team were consulted on the proposal due to their role in implementing the previous charter. The experience the staff obtained from implementing the previous charter is therefore an important consideration for the revised charter. All staff in the Planning Enforcement Team are in agreement with the content proposed.

External

4.2 No external consultations required.

5. Communication

5.1 As with the previous version of the Charter, following Committee approval, a Plain English document suitable for publication will be produced. The publication will be in e-booklet form available to download from the Council's website. In the interests of environmental sustainability, it is not proposed to print any hard copies of the Planning Enforcement Charter. The Council's social media platforms will be used to advertise the publication of the new Charter. Staff members will also be promoting the new document where relevant through correspondence.

2. BACKGROUND PAPERS

2.1 There are no other background papers relevant to the revised charter.