

PERTH AND KINROSS COUNCIL**Enterprise & Infrastructure Committee****11 January 2017****Review of the Planning Enforcement Charter****Report by Director (Environment)**

This report seeks approval for an amended version of the Council's Planning Enforcement Charter, following the regular review required by legislation.

1. BACKGROUND / MAIN ISSUES

- 1.1 The Planning Etc. (Scotland) Act 2006 introduced a requirement that all Planning Authorities had to prepare and publish an Enforcement Charter. The Act requires all Planning Enforcement 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 any complaint about how the Authority takes enforcement action can be made; and
 - The Authority's procedures for dealing with any such complaint.
- 1.2 Councils are required to review, update and republish the Charter every two years. The Council last approved and adopted the existing Planning Enforcement Charter in June 2014. A copy of the existing Charter is appended to allow a comparison with the draft proposal.
- 1.3 The Charter has proved useful in clarifying the Council's approach to enforcement both to customers who have brought breaches of planning control to the Planning Enforcement Team's attention and to those who have breached planning controls and are having action taken against them. Experience of applying the Charter and feedback from those who have been involved in the enforcement process in one way or another over the past two years has been examined. This has suggested that while the Charter remains fundamentally sound and fit for purpose, there is scope for further amendments to be made to the content and layout to make it easier to follow and understand.

- 1.4 The current review of the Charter coincided with a review of the Planning Enforcement Service undertaken by the Council's Scrutiny Committee. The purpose of the Scrutiny Review was to consider how effectively the Council uses its planning enforcement powers. This review of the Charter, therefore, takes account of the findings of the Scrutiny Committee, along with the feedback obtained through a customer survey which was carried out as part of their review. The Scrutiny Review Report on Planning Enforcement was considered by the Scrutiny Committee on 21 September 2016 (Report No. 16/397 refers).
- 1.5 The recommendations in relation to the Planning Charter which were accepted by the Scrutiny Committee are summarised as follows:
- 1.6 **Planning Enforcement Charter**
- (i) There should be improved awareness of the Council's Planning Enforcement Charter which could be achieved by the following measures:-
- (a) The next review of the Charter should follow a wider consultation process. It would be appropriate to use some of the information gathered through this Scrutiny Committee review.
- (ii) The review of the Charter should examine the scope for a document which is more accessible to all stakeholders. Although the current version adopts the content recommended in the Scottish Government's guide, it is probable that a document can be produced which is more engaging.
- 1.7 **Public Information**
- The Council's web page relating to Planning Enforcement should be improved and information provided specifically to assist community councils.

2. PROPOSALS

- 2.1 The Scrutiny Committee accepted that that the primary objective of planning enforcement is to secure a satisfactory resolution, rather than automatically sanctioning or penalising those who have breached planning controls. While this may be contrary to some public expectations, the Committee accepted that primacy should be given to protecting the environment from harm and to rectify any adverse impacts that may have occurred. As this reflects one of the key thrusts of the current Charter, no fundamental change is required in these areas. There is, however, scope to consider if more could be done to explain to customers that a proportionate approach to enforcement is normally sought, and this, in turn, might remove some of the unrealistic expectations of the planning system which are sometimes encountered.
- 2.2 The Committee noted that in certain instances where, for example, the complainant lived adjacent to the site, the resolution of a case may have been immediately evident. In some circumstances, it may have been considered inappropriate to regularly update a complainant on the progress of enforcement action. The Review concluded that, in such cases, it would be appropriate for this to be made known to a complainant at the outset, thereby managing their expectations. The proposed Charter has been amended to incorporate this point.

- 2.3 The stakeholder survey which was undertaken invited respondents to suggest priorities for enforcement. While a wide range of suggestions were submitted, no clear priorities were evident and they did not fundamentally differ from those already incorporated in the current Charter. Members provided their opinions on what they felt should be a priority for enforcement, with the 3 most popular categories being:
- Breaching the terms of a planning consent.
 - Development which has taken place without planning permission.
 - Unauthorised development resulting in adverse environmental impacts.
- 2.4 Other stakeholders suggested that, in addition to the above, there should be a greater focus on enforcement of larger developments, which is already the case, together with development which impacts on residential amenity, which is also an existing priority.
- 2.5 On the basis of the above, it is recommended that the priorities within the existing Charter remain largely unchanged as they focus on those breaches causing the highest level of planning harm and adequately reflect the views of the aforementioned stakeholders. Officers are also recommending the inclusion of pedestrian and traffic safety as a new priority, as a consequence of their own operational experience.
- 2.6 The survey suggested that some stakeholders had a lack of awareness of the Charter (including some community councils), while some others felt it could be more more accessible and easier to find. Steps will, therefore, be taken to ensure that the revised Charter is adequately publicised and easy to locate.
- 2.7 One respondent stated that the current Charter explains how a “member of the public” can report a breach of planning but not an organisation like a Civic Trust. The wording of the relevant section of the Charter has been amended to make it clear that the contact details are applicable to all stakeholders.
- 2.8 The survey also suggested that the Charter was viewed as being somewhat generic and similar to other those of other planning authorities. This is to be expected as, to a large extent, Planning Authorities are encouraged to utilise the Scottish Government’s model charter.
- 2.9 While acknowledging that the current Charter adheres to the Scottish Government’s guidance, the Scrutiny Review suggests that it could be made a more visually appealing and engaging document which was more accessible to all stakeholders. To this end, consideration should be given to the use of photographic examples and other visualisations when the reviewed charter is republished. The Charter is likely to be accessed increasingly in electronic form and the Review therefore suggested that the republished Charter should be suitable for on-screen access (including mobile devices). It was further suggested that the knowledge and expertise of the Council’s Design Team could be utilised in this regard.

- 2.10 As a result, the assistance of the Design Team in producing the revised Charter will be sought once the amended content has been approved by this Committee. Once published, the new Charter will be widely publicised and made available in booklet form and in a suitable electronic format.

3. CONCLUSION AND RECOMMENDATION

- 3.1 A revised version of the previously approved Planning Enforcement Charter has been prepared and is appended to this report.
- 3.2 It is recommended that the Enterprise and Infrastructure Committee approves the revised Planning Enforcement Charter.

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Approved

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	Yes
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	Yes
Risk	None
Consultation	
Internal	None
External	None
Communication	
Communications Plan	None

1. Strategic Implications

Community Plan / Single Outcome Agreement

1.1 The Perth and Kinross Community Planning Partnership (CPP) brings together organisations to plan and deliver services for the people of Perth and Kinross. Together the CPP has developed the Perth and Kinross Community Plan which outlines the key things we think are important for Perth and Kinross.

- i) Giving every child the best start in life
- ii) Developing educated, responsible and informed citizens
- iii) Promoting a prosperous, inclusive and sustainable economy
- iv) Supporting people to lead independent, healthy and active lives
- v) Creating a safe and sustainable place for future generations

1.2 It is considered that the revised Charter will contribute to the following objectives:

- (iii) Promoting a prosperous, inclusive and sustainable economy
- (v) Creating a safe and sustainable place for future generations

Corporate Plan

- 1.3 The Council's Corporate Plan 2013-2018 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. The report impacts on the following:

- (iii) Promoting a prosperous, inclusive and sustainable economy;
- (v) Creating a safe and sustainable place for future generations.

2. Resource Implications

Financial

- 2.1 The Head of Finance has been consulted in the preparation of this Report. There are no financial implications for the Council arising directly from the recommendations of this Report, other than publication costs.

Workforce

- 2.2 There are no workforce implications arising from this report.

Asset Management (land, property, IT)

- 2.3 There are no implications for Asset Management arising from this report.

3. Assessments

- 3.1 An Integrated Appraisal of the Revised Enforcement Charter has been undertaken using the Integrated Appraisal Toolkit which combines the functions and requirements of Equality Impact Assessment, Sustainability Assessment and the pre-screening / screening for Strategic Environmental Assessment.

Equality Impact Assessment

- 3.2 An equality impact assessment needs to be carried out for functions, policies, procedures or strategies in relation to race, gender and disability and other relevant protected characteristics. This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new and existing policies.
- 3.3 The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:

- Assessed as **not relevant** for the purposes of EqIA

Strategic Environmental Assessment

- 3.4 Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies (PPS). No further action is required as the Charter does not qualify as a PPS as defined by the Act and is therefore exempt.

Sustainability

- 3.5 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. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions.
- 3.6 The Revised Enforcement Charter is assessed as not having a direct impact on sustainability

Legal and Governance

- 3.7 The Head of Legal and Governance has been consulted and no legal implications have been identified.
- 3.8 The Planning Etc. (Scotland) Act, 2006 introduced the requirement for Planning Authorities to prepare and publish an Enforcement Charter. It also requires that Charter to be reviewed, updated and republished on a regular, two-yearly basis.

Risk

- 3.9 None.

4. Consultation

Internal

- 4.1 Indirectly, in that the report draws on views expressed by Members in relation to a survey carried out in association with a review of the Council's planning enforcement function which was recently reported to the Scrutiny Committee .

External

- 4.2 Indirectly, in that the report draws on views expressed by stakeholders in relation to a survey carried out in association with a review of the Council's planning enforcement function which was recently reported to the Scrutiny Committee.

5. Communication

- 5.1 The revised Charter will be widely publicised to stakeholders. It will be made available in booklet form and in a suitable electronic format for online access.

2. BACKGROUND PAPERS

- 2.1 Perth and Kinross Council's Planning Enforcement Charter (2014)
- 2.2 The Sixth Scrutiny Review Report on Planning Enforcement considered by the Scrutiny Committee on 21 September 2016.

3. APPENDICES

- 3.1 Appendix 1: Draft Planning Enforcement Charter (2016)
- 3.2 Appendix 2: Published Planning Enforcement Charter (2014)