

# CYNGOR SIR CEREDIGION COUNTY COUNCIL

**Report to:** Thriving Communities Overview and Scrutiny

**Date of meeting:** 19<sup>th</sup> of January 2025

**Title:** Planning Enforcement Support

**Purpose of the report:** To discuss the requirement for additional resource support in the planning enforcement service and the level of service members would wish to foster.

**Reason Scrutiny have requested the information:**

Following an October 24 report on the planning service members requested a specific report on the enforcement service resource support requirements.

**Cabinet Portfolio and Cabinet Member:**

Cllr Clive Davies Economy and Regeneration

## **Background**

The Local Planning Authority's Enforcement Service has been struggling for some time. In the past, attempts to recruit have been unsuccessful, and combined roles were utilised across DM and Enforcement team to fill this void. Unfortunately, due to the high caseloads in DM and specialist, highly litigious nature of enforcement the situation has worsened. Audit Wales brought this to our attention in 2021 and again in 2023.

Securing additional third party support through consultants has proved fruitless, with costs high and cases closed low.

At present the service consists of 2 Compliance Assistants (grade 8) (one FT one PT a further PT role is available for which we are currently recruiting) the service has a backlog of over 400 cases. Neither Compliance assistant is a qualified planner or enforcement specialist, albeit they have a wide range of experience gathered over a number of years. Managing correspondence on the 400 cases takes up a substantial amount of the services time. Recently we have appointed a member of the DM team as a senior officer to support the compliance assistants, the budget uplift required being funded from vacancy drag in other areas of the service and representing an uplift from scale 10 to scale 12. The Senior Officer still carries a full DM case load.

The following identified concerns are known:

1. The case load is unsustainable for the staffing resource we have available
2. Planning Officers have limited capacity to support the enforcement function and maintain current performance

3. There is an identified lack of enforcement knowledge in the team (wider planning service)
4. The Service Manager spends considerable time supporting the Enforcement function
5. There is no formal structure in the enforcement team, thus no progression available for staff
6. There is no dedicated legal or enforcement specialist within the wider authority

### **Current Situation**

As of the 12/4/24 (start of Task and Finish work) the case load stood at 432 cases down from a peak of over 600 in the past two years. Furthermore there were approximately 250 'clicks' in need of responses.

The general enforcement enquiry planning email further receives on average 220 emails and a further 30 clicks are recorded per month.

In 2023/2024 financial year the enforcement service opened 116 cases and during the same period closed 220 cases.

The need to support the enforcement service has been discussed at the wider Planning Service Task and Finish group implemented post AW review. Members and Officers in that group are of the view that in-order to ensure an effective enforcement service is delivered, additional resources are required. This was set out in a Platinum, Gold, Silver and Bronze type approach with Bronze representing our current budget and capacity.

#### **Platinum A No Breach Allowed Approach**

- 1 Full time dedicated Enforcement Solicitor
- 1 Full time senior Enforcement Officer
- 2 Full time Specialist Enforcement Officers (Heritage and Direct Action)
- 3 Full time Enforcement Officers
- 2 Full time Compliance Assistants (currently in post)

The above structure represents a team that could within short timeframes tackle the backlog, proactively seek out enforcement and compliance issues, drive home heritage crime and undertake direct action. The structure above represents a case load of 56 per FTE (excluding the solicitor) with specialist officers to mobilise direct action and heritage enforcement both of which are specialist skills with differing legislation. Such a team would be partially self financing with the seeking out of case

work and operationally having capacity to pursue compensation such as through the Proceeds of Crime Act. This team would be in the most effective position to pursue a No breach allowed agenda. However its important to reiterate recruitment may be difficult and the costs of delivering such a team would be approx. £460,000 per annum. Representing an increase in budget of £360,000 pa.

#### Gold A Proactive Enforcement Service

- 1 Full time dedicated Enforcement Solicitor
- 1 Full time senior Enforcement Officer
- 3 Full time Enforcement Officers
- 2 Full time Compliance Assistants (currently in post)

A structure such as that listed above would allow for a case load of 75 cases per FTE (excluding legal), a dedicated legal resource which could reduce the external costs of seeking Barrister advice regularly. And would allow the capacity for officers to act on breaches of enforcement notices through direct action. A team structure such as this would in time allow (once the backlog is cleared) to be proactive in seeking out enforcement cases, and partially finance itself through the fees generated in retrospective application fees and other legal mechanisms available to recoup costs such as the Proceeds of Crime Act. However its important to note the likely annual costs of such a structure would be approx. £340,000. Representing an uplift in current budget of circa £240,000 pa.

#### Silver A purposeful Enforcement Service

- 1 Part time dedicated Enforcement solicitor
- 1 Full time Senior Enforcement Officer
- 1 Full time Planning Enforcement Officer
- 2 Full time Compliance Assistants (Currently in post)

A structure such as this would allow for a caseload of 115 case per FTE (excluding legal), dedicated legal support but additional resource may be needed from external partners dependant on the case. And would allow the senior officer some capacity to action breaches of enforcement notices through direct action. This team would still need to prioritise the most urgent cases for enforcement action but would prove more effective in doing so than the current structure. Simple breaches could be addressed, but complex cases would still be lengthy. Whilst some income generation would be achieved through retrospective planning applications, this would be more limited than in option 1 and 2. The costs of delivering such a service would be approx. £210,000. Representing an uplift in current budget of circa £100,000 pa.

#### Bronze The In-budget Enforcement Service

1 Part time Senior Enforcement officer (Still has full DM caseload)

1 Full time Enforcement Officer

1 Full time Compliance Assistant

The above structure can be delivered within the current service budget (approx. £100,000 pa) and steps have been taken to implement such a structure without the need for a formal re-structure or additional resources. A structure such as this would allow a case load of 225 cases per FTE for the enforcement officer, and compliance assistant. The Senior enforcement officer role does not carry an enforcement case load due to the fact they still undertake planning applications, instead providing mentoring and line management to the team.

It is important to note this case load is unsustainable and not appropriate for delivering an effective planning function. By contrast the planning officers currently carry a 30-40 case load with an annual determination rate of approximately 120 cases. In this structure All legal advice is sought internally where possible (but there is limited capacity within the legal service) and then by paid for barrister advice as required, this is costly and time consuming. The case load is able to be reduced but the pace is slow with only the most highly urgent cases progressed to formal action, beyond serving enforcement notices, there is no capacity or resources to undertake direct action. The costs of this structure are all available within the existing budget, the service does generate some income through retrospective applications, but has no capacity to be pro-active in enforcement. In continuing as we are there are no budget uplifts required.

It is important to be mindful that in all the options outlined above recruitment for enforcement roles is difficult, there is a recognised national shortage. However, the risks associated with not resourcing the service effectively are as follows:

1. Risks to the reputation of the council as being ineffective are evident
2. not effectively enforcing the planning function undermines confidence in the whole planning system
3. having a reputation as being lax could encourage others not to comply with planning regulations perpetuating the problem, this is being seen and felt on the ground
4. income generation through proactive enforcement is lost
5. as the backlog of cases continues to grow, so too does the number of cases becoming immune from action
6. not addressing the issue now will generate further problems in terms of staff morale and wellbeing

7. complaints to the service are high, this could result in ombudsman involvement
8. trials of other solutions (external support/ planning and enforcement officer combined roles) have proved ineffective – Audit Wales have raised this point

Whilst inevitably in an environment of ever decreasing budgets and increased cost pressures the decision to invest in a service is a difficult one. It's important to be mindful that the impact of a failing enforcement service has wider than service implications. There are knock on resource impacts on the complaints team, the Clic team, the legal service, the housing function, education and beyond the remit of the local authority, impacts on health and social care, the postal service and potentially law enforcement. Whilst having an inefficient enforcement service may seem merely inconvenient the knock-on impacts of unauthorised additional residential units in Ceredigion affects local services. And finally to the complainants the impact of unauthorised works and the often felt limited scope the authority have to deal with it can have a significant impact on the enjoyment of their home and mental wellbeing. It is the firm belief of the service that investment in this service will reap cost savings in the future as problems are addressed earlier and generate some income as pro-active enforcement is commenced.

Finally it is worth being mindful that the planning service as a whole cost the authority (23/24) £1.3 million, but generates direct fee income of £1.03 million, The budget of the service equates to 7.85% of the total Economy and Regeneration budget and 0.15% of the total Local Authority budget. The Planning service which encompasses Development Management, Enforcement, Building Control, Policy and Local Land charges effectively cost the council £292,255 in 23/24 to operate. For this in one year Ceredigion received 1034 planning Applications, 1000 Local Land changes registered, 900 Building Control applications determined, 220 enforcement cases closed, and 190 new homes were completed and occupied, 40 of which are Affordable. The housebuilding of which directly supports 434 jobs locally and contributed in excess of £280,000 in additional council tax per annum and an additional £1.7 million in household spending in retail and leisure in the local economy. Given the direct and indirect economic impact of the planning service it is vital we support the service to effectively deliver the enforcement function which is essential in operating an effective and efficient planning service on the whole.

**Wellbeing of Future Generations:**

**Has an Integrated Impact Assessment been completed? If, not, please state why.**

No as this is a request for support for additional resources and not implementation of a new policy or program.

**Recommendation(s):**

That the Thriving Communities Overview and Scrutiny Committee support the request to seek additional funding for the enforcement service and outline the type of service from the options above they would wish to support. In order to secure additional resources, recruit additional staff and ensure an effective enforcement service is operational for the next financial year.

**Reasons for decision:**

The recommendation is made in order to secure additional resources, recruit additional staff and ensure an effective enforcement service is operational for the next financial year.

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**Designation:** Corporate Manager for Planning Services

**Date of Report:** 29/11/24

**Acronyms:**

DM – Development Management

FTE – Full time equivalent