

**Updated Planning Enforcement and Monitoring Charter 2020**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 This report seeks the endorsement of an updated Argyll and Bute Enforcement and Monitoring Charter which is contained at **Appendix A**. Enforcement Charters should be reviewed every 2 years and they must outline what service we provide to our customers and complainants in relation to breaches and alleged breaches of planning control.
- 1.2 Our Charter outlines a proportionate and pragmatic approach to planning enforcement to ensure our environment and economy can co-exist and complement each other. Effective regulation and enforcement is also essential to ensure that all developers operate on a 'level playing field' and the aspirations of the Council's development strategy (contained within our Development Plan) are turned into reality on the ground.
- 1.3 It is recommended that the Committee:-
- Approve and endorse the updated Enforcement and Monitoring Charter

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**2.0 SUMMARY**

- 2.1 This report seeks the endorsement of the updated Argyll and Bute Enforcement and Monitoring Charter which is contained at **Appendix A**.
- 2.2 The Scottish Government stipulates that Enforcement Charters should be reviewed every 2 years and they must outline what service we provide to our customers and complainants in relation to breaches and alleged breaches of planning control.
- 2.3 Enforcement is one of the most complex parts of the planning system. Effective and timely enforcement is essential for public confidence, fairness and natural justice. The aim of this Charter is to ensure that adopted procedures are fair and reasonable, and that interested parties are kept informed and are made aware of what is required. Enforcement is an issue that concerns many members of the public.
- 2.4 The Council's Enforcement Service contributes to the making of (and more so the protecting of) our great places and physical environment which is consistent with the Single Outcome Agreement, the Council's Corporate Plan objectives and the Planning Service Plan objectives.
- 2.5 The purpose of planning enforcement is to resolve a problem rather than to punish a mistake. However, the presumption remains that development should be authorised in advance and the regularisation of development after the event by retrospective proposals should be the exception, where there have been inadvertent breaches of control or deviations from previously approved plans, for example. Any action taken has to be appropriate to the scale of the breach and we seek to work progressively with customers seeking negotiated solutions before recourse to formal enforcement intervention.
- 2.6 We also undertake strategic monitoring of consents and these may trigger an enforcement file to be opened and investigated. Given the number of planning consents and geographic size of Argyll and Bute we cannot strategically monitor or review all consents. We give priority to major applications, controversial developments or those in sensitive locations
- 2.7 This Charter explains how the enforcement process works, the role of the Council and the service standards it sets itself. It also explains what happens at each stage of what can be a lengthy process.

- 2.8 The Charter has been subject to a minimal update in order to reflect increased levels of fines as introduced by s42 of the Planning (Scotland) Act 2019 and having taken effect from 20<sup>th</sup> December 2019.
- 2.9 It is noted that the provisions of s43 and s44 of the 2019 Act will respectively introduce additional powers to utilise Charging Orders and a requirements relating to the monitoring and reporting relating to 'Major' developments. The detail of what this will entail is not yet known however the Scottish Government has advised that further work will be undertaken with the intention of bringing these new provisions into effect during late 2020/early 2021. It is considered that it would be appropriate to undertake a more comprehensive review and update of the Enforcement and Monitoring Charter at that time if necessary rather than wait for the two year review period in March 2020.
- 2.10 It is recommended that the Committee:-
- Approve and endorse the updated Enforcement and Monitoring Charter

### **3.0 IMPLICATIONS**

3.1 **Policy:** None

3.2 **Financial:** None

3.3 **Legal:** None

3.4 **HR :** None

3.5 **Fairer Scotland Duty:**

3.5.1 **Equalities – Protected Characteristics:** None

3.5.2 **Socio-economic Duty:** A consistent and proportionate approach to planning enforcement is essential for natural justice.

3.5.3 **Islands:** None

3.6 **Risk:** Reputational risk if planning enforcement is not adequately resourced or intervention taken. Development Plan and spatial vision for the Council would be undermined.

3.7 **Customer Service:** Charter defines expected service standards for planning enforcement customers.

**Interim Executive Director with responsibility for Development and Economic Growth: Kirsty Flanagan**

**Policy Lead:- David Kinniburgh**

3<sup>rd</sup> March 2020

**For further information contact:** Peter Bain – 01546 604204

## **APPENDICES**

Appendix A – Enforcement and Monitoring Charter