



**Report of the Cabinet Member for Delivery**  
**Service Improvement and Finance Performance Panel**  
**9<sup>th</sup> December 2019**

**Wales Audit Office report on the Effectiveness of  
Local Planning Authorities in Wales**

Purpose:	The report presents a draft action plan that responds to the proposals for improvement identified in the Wales Audit Office following their review of the effectiveness of Local Planning Authorities in Wales.
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**For Information**

**1. Background**

- 1.1 The Wales Audit Office carried out a review of the effectiveness of Local Planning Authorities in Wales in 2018/19 reporting on 6<sup>th</sup> June 2019. A copy of the report can be accessed online via the following link: <https://www.audit.wales/publication/effectiveness-local-planning-authorities-wales>
- 1.2 In summary the report draws 4 main conclusions as follows:
- Planning Authorities find it challenging to balance competing demands because of the complexities of the planning system,
  - Insufficient capacity and reducing capacity are eroding planning authorities resilience,
  - Timeliness and quality of decision making varies widely and performance on managing applications is poor,
  - Further work is required to deliver the wellbeing aspects of the Planning (Wales) Act and Planning Policy Wales.
- 1.3 A review of each of the conclusions and associated recommendations is provided below.

## **2. Planning authorities find it challenging to balance competing demands because of the complexities of the planning system**

2.1 Part 1 of the report sets out the complexities of the planning system showing how challenging it is for local planning authorities to effectively engage with and involve stakeholders in choices and decisions.

To improve involvement with stakeholders and ownership of decisions the report recommends that local planning authorities:

- test current engagement and involvement practices and consider the full range of other options available to ensure involvement activities are fit for purpose;
- use 'Place Plans' as a vehicle to engage and involve communities and citizens in planning choices and decision making; and
- improve transparency and accountability by holding planning meetings at appropriate times, rotating meetings to take place in areas which are subject to proposed development, webcasting meetings and providing opportunities for stakeholders to address committee meetings.

2.2 The report also recommends that Welsh Government review the Development Management Procedure Order 2012 and update the engagement and involvement standards for local planning authorities.

2.3 In this respect it should be recognised that Local Planning Authorities work within the legislative and regulatory framework prescribed by Welsh Government and the prescribed consultation and engagement requirements.

2.4 The Authority has recently adopted the Swansea Local Development Plan (LDP) having undertaken extensive and wide ranging consultation and engagement processes over several years, involving workshops, community events, roadshows and other exercises. These were carried out in accordance with the Community Involvement Scheme set out in the statutory Delivery Agreement, which was agreed with Welsh Government in accordance with the requirements of the Town and Country Planning (Local Development Plan) (Wales) Regulations 2005. The consultation and engagement work undertaken in the production of the LDP were confirmed as being entirely appropriate and sound by the independent planning inspectors appointed to examine the Plan, and in fact included various non-statutory stages of consultation (such as an extended 'Candidate Sites' process and the invitation of comments on a 'pre-Deposit' version of the Plan), undertaken to maximise the amount of community awareness and involvement.

2.5 As an indication of the scale of the consultation and engagement involved in the production of the LDP, during the consultation on 'Candidate Sites', 41,746 comments were received and responded to by the Authority. Following consultation on the Deposit Plan, the Council received a total of 2,505 representations from 1,027 individuals, organisations, and various other interested parties. All those who duly made representations to the Authority in relation to the LDP also had a further opportunity to put their views to the independent inspectors, during the Examination in Public stage of the process.

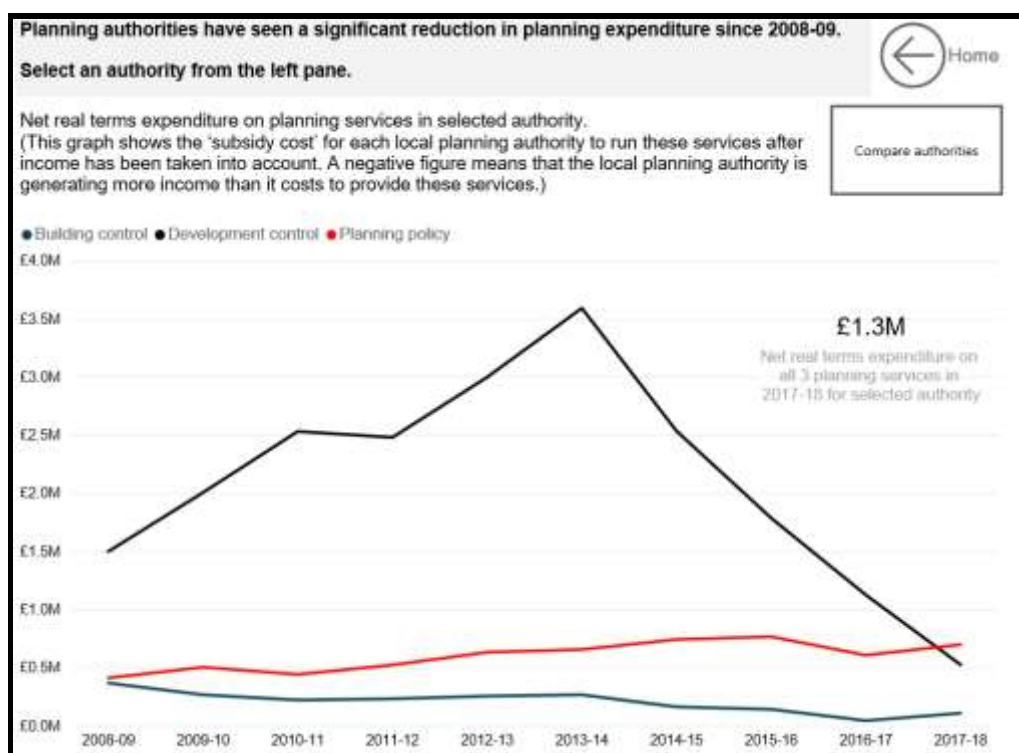
- 2.6 With regard development management all planning applications are subject to a process of consultation with neighbours and/or the community, through direct notification by letter, through the erection of site and/or press notices in accordance with the requirements of the Development Management Procedure Order 2012. The Authority receives thousands of comments in response to such consultation processes each year.
- 2.7 There are few decision making processes which undergo such rigorous consultation for each and every decision the Council or any other public body takes.
- 2.8 The Authority recognises, however, the benefit of social media and new forms of consultation, and has invested heavily in new technology to provide paperless working, online submission of planning applications via the planning portal and online access, automated consultation, notification and tracking on the status of planning applications for both the public and consultees. It is acknowledged, however, that there remain, as in most cases, hard to reach groups and the need for further promotion in this respect is recognised. The Authority must, however, work within the legislative framework currently prescribed for consultation purposes.
- 2.9 Having only recently adopted the Swansea LDP (which involved numerous opportunities for communities to engage at the local level on specific proposals for development areas), there are no Place Plans currently being prepared. However the Authority will be continually reviewing the opportunities for such Place Plans to add the fine grain detail to key proposals within the adopted LDP, as per the guidelines in the draft Development Plan Manual issued by Welsh Government. It is envisaged that any such Place Plan would be adopted as Supplementary Planning Guidance. It must be recognised that Place Plans are not permitted to introduce new policy and are not part of the statutory development plan. As the Welsh Government Manual emphasises, it is about elaborating further on the detail contained in the statutory development plan, such as development briefs and master plans for allocated sites to utilise local knowledge and engagement to deliver on the detail of the plan. The Authority is aware of the Planning Aid Wales published guidance on the use and preparation of Place Plans, which will be reviewed when considering whether to progress a Place Plan (<http://www.placeplans.org.uk/>).
- 2.10 Planning Committee meetings are normally held on the 1<sup>st</sup> Tuesday of every month at 2pm in the Guildhall, which is sustainably located and accessible by a range of transport modes. Public speaking is already permitted and promoted and the Authority is currently in the process of introducing webcasting. Attendance by the public is normally good and speaking rights are exercised frequently by interested parties and Ward members.

- 2.11 Alternative venues and times have previously been considered by the Authority, however, it is not considered logistically feasible to rotate venues to areas which are subject to proposed development. Planning Committee agendas are published a minimum of 3 working days in advance of meetings and prepared at short notice to ensure timely decision making. The Authority has one Planning Committee to meet the requirements of the Wales Planning Act 2015 and agendas normally include applications for developments across the Council area. A central accessible venue is therefore considered to be the more appropriate option with developments in technology and web casting facilitating transparency in the current environment.
- 2.12 The Authority welcomes the recommended review of the Development Management Procedure Order 2012 by Welsh Government and has for a number of years sought, via the Planning Officers Society Wales (POSW), to lobby Welsh Government to change the current statutory requirement which require planning applications to be advertised in the press in favour of more accessible media platforms. It is hoped that Welsh Government will take the opportunity to update such requirements as part of the current Law Commission review of planning legislation in Wales.

### **3. Insufficient capacity and reducing capacity are eroding planning authorities resilience**

- 3.1 Part 2 of the report highlights that local planning authorities have been subject to significant reductions in funding and struggle to deliver their statutory responsibilities.
- 3.2 To improve resilience, the report recommends that local planning authorities:
- review their building control fee regimes to ensure the levels set, better reflect the actual cost of providing these services and make the service self-funding; and
  - improve capacity by working regionally to:
    - integrate services to address specialism gaps;
    - develop joint supplementary planning guidance; and
    - develop future local development plans regionally and in partnership with other local planning authorities.
- 3.3 Part 2 of the report also highlights that the cost of development control services is not reflected in the charges set for these services and progress in developing regional responses to strengthen resilience has been slow. The report therefore recommends that the Welsh Government:
- reviews development control fees to ensure the levels set, better reflect the actual cost of providing these services; and
  - consider how to use the powers in the Planning (Wales) Act to support and improve local planning authority capacity and resilience.

- 3.4 The report makes the assumption that building control is a statutory function of a Local Planning Authority. This is not, however, the case and although within some Authorities building control falls within the same Department as planning services it does not represent a function of a Local Planning Authority under the Town & Country Planning Act.
- 3.5 There also appears to be some confusion in terms of Building Control Fees and costs to be recovered to achieve self-financing status. There is prescribed legislation and guidance which governs the way in which Building Control fees are determined, namely The Building (Local Authority Charges) Regulations 2010 and CIPFA Local Authority / Building Control Accounting guidance, second edition 2010.
- 3.6 Chargeable functions to be considered under the above legislation to achieve full cost recovery are :-
- the passing or rejection of plans of proposed building work which have been deposited
  - the inspection of building work for which plans have been deposited
  - the consideration of a building notice which has been submitted
  - the consideration of building work reverting to local authority control under the Approved Inspectors Regulations
  - The consideration and inspection of an application or any building work in association with a Regularisation application (retrospective works)
- 3.7 The costs incurred in delivering service activities such as dangerous structures, processing demolition notices and works in association with the safety at sports grounds are excluded from the methodology to determine fees charged. The costs for the above services are met by the revenue support grant.
- 3.8 In view of the above fee legislation and the methodology contained within, it is not possible to make any meaningful comparison of fees between Authorities which has been the case in this Audit report, as the costs to be recovered by fees in each Authority will be different.
- 3.9 Notwithstanding the above, published figures presented in the Audit report recognise that the planning function of Authority has undergone a significant reduction in funding and is now heavily reliant upon fee income, which now represents circa 70% of its current expenditure on all planning services. In this respect it should be recognised that the vast majority of fee income is derived from one element of the service, namely development management.



Source: Revenue outturn (RO) data, Stats Wales. Analysis by Wales Audit Office

- 3.10 As a consequence the funding of statutory planning services is far more exposed to the volatility of the economy and vulnerable to disruption unless alternative funding mechanisms are put in place in the event of a further economic downturn. In this respect it should be recognised that a significant proportion of planning application fee income is derived from a relatively small number of major planning applications, including large housing schemes, which are more likely to be disrupted during a period of economic decline than householder, minor and other related applications which represented 98% of all applications determined in 2018/19.
- 3.11 A review by Welsh Government of current planning application fees is therefore welcomed, however, this may be “ring fenced” as appropriate controls would be needed if any increase in fee income is to be retained to improve the resilience of the service rather than be eroded by future rounds of budgetary cuts.
- 3.12 In addition budgetary pressures and recruitment policies have generated clear resilience issues, with a contracting, ageing workforce and reliance on a small number individual officers in key specialist fields. The Authority is increasingly having to “buy in” services to address specialism gaps.
- 3.13 In this respect POSW currently has a number of ongoing work streams dedicated to address such resilience issues on a regional basis. Whilst collaboration and integration with other Authorities on specialist areas like financial viability analysis, minerals planning and marine ecology has facilitated service delivery in key areas, such skills are at a premium and all Authorities in Wales are experiencing similar capacity and resilience issues as the Audit report concludes.

- 3.14 Where opportunities have arisen to advertise professional posts externally there has been a reducing pool of candidates, particularly at entry level, with the desirable planning qualifications. The Authority has, therefore, sought to retrain existing or new staff members with a view to addressing capacity issues in specialist professional fields. However, in the absence of a structured, funded graduate training or apprenticeship programme the success of this approach has its limitations and the development of such staff to obtain recognised professional chartered status would take a minimum of 10 years to meet the requirements of the Royal Town Planning Institute.
- 3.15 The Authority fully supports the need for partnership working and collaboration, and in fact has been actively undertaking such work for some time. The Audit report, however, does not appear to fully acknowledge the work Authorities are currently undertaking at a regional level in this respect, specifically through collaboration with other Authorities and Regional POSW groups. All Mid and West Wales Authorities have in recent years been collaborating on the preparation of the evidence base to underpin a future Strategic Development Plan. Most recently, this includes producing a new Housing Market Needs Assessment using a standardised approach on a regional basis, and undertaking a Welsh Government funded project to produce a viability model for the region capable of achieving significant savings and building greater resilience within this Authority (and others across the region) over time.
- 3.16 The Authority is also jointly working with Neath Port Talbot Council on an SPG for the Fabian Way Corridor. It has introduced the Uniform development management back office system in partnership with Neath Port Talbot Council, and utilises the minerals planning expertise of Carmarthenshire County Council.
- 3.17 A key action from its recent Planning & City Regeneration Commissioning Review was the promotion of its in-house heritage and place making skills and in this respect heritage advice has been provided to neighbouring Authorities including assistance with the preparation of Conservation Area Reviews.

#### **4. Timeliness and quality of decision making varies widely and performance on managing applications is poor**

##### 4.1

Part 3 of the report summarises the effectiveness and impact of local planning authorities decision making and how well they are performing against national measures. The Audit report recommends that local planning authorities improve the effectiveness of planning committees by:

- reviewing their scheme of delegation to ensure planning committees are focussed on the most important strategic issues relevant to their authority;

- revising reporting templates to ensure they are clear and unambiguous to help guide decision making and reduce the level of officer recommendations overturned; and
- enforcing the local planning authorities' standards of conduct for meetings.

- 4.2 The Audit report concludes that the performance of Local Planning Authorities in Wales in determining planning applications is poor. This conclusion appears to be based upon a single measure namely the time taken to determine major planning applications only and is not considered to represent an in depth or balanced assessment of performance for a number of reasons.
- 4.3 Firstly, Local Planning Authority performance in Wales is based upon a range of qualitative and quantitative measures set in place by Welsh Government in the form of the Planning Performance Framework, which was designed to reflect the qualities of a good Local Planning Authority <https://gov.wales/planning-performance-framework-table-april-2018-march-2019>. Local Planning Authorities report annually to Welsh Government on their performance set against the requirements of this Performance Framework as part of an Annual Performance Report (APR). A copy of the Council's latest APR for 2018/19 can be accessed via the following link: <http://democracy.swansea.gov.uk/ieListDocuments.aspx?CId=493&MId=8656&Ver=4&LLL=-1>. In turn Welsh Government publish an all Wales Annual Report. In this context successive APR's have shown that the performance of Local Planning Authorities in Wales is improving and that there has been a stepped change and significant improvement in the performance of the planning services of Swansea Council since the APR's were introduced in 2014/15. A copy of the 2017/18 all Wales APR can be accessed via the following link: <https://gov.wales/sites/default/files/publications/2018-12/planning-services-annual-performance-report-2017-to-2018.pdf>
- 4.4 Secondly, there is no target set by Welsh Government in the Planning Performance Framework for the time taken to determine major applications and no detailed analysis of the reasons why timescales may have increased has been carried out.
- 4.4 Significantly, for the delivery of the Council's regeneration agenda, the percentage of all major planning applications determined within required timescales has consistently increased year on year from 6% in 2014-15, which was the lowest performance in Wales, to 88% in 2018-19. A performance which is now significantly above the Welsh average of 68%.
- 4.5 The Authority has, however, also adopted a local target which has been recognised in the Audit report as good practice namely the percentage of applications with an economic imperative (major applications) which are approved.
- 4.6 In the context of the Planning Performance Framework, which sets no timescales for the determination of major applications, this internal performance indicator recognises the benefit of investing time, through negotiation rather than relying on unrealistic timescales to deliver



complex or strategically significant projects which have the potential to make a significant contribution to the economic fortunes and wellbeing of Swansea and the wider region. Indeed the timescales for determination in such cases are often agreed with the applicant/developer via a Planning Performance Agreement which sets out the expectations of both parties and puts in place resources to facilitate positive delivery.

- 4.7 This approach has facilitated the delivery of a wide range of strategically significant projects through the planning process including the redevelopment of the City Centre, a range of strategic housing and affordable housing sites.
- 4.8 On the quality of decision making the Audit report focuses on the percentage of appeals dismissed and the percentage of member made decisions against officer advice and identifies a wide range of performance by Local Planning Authorities in Wales.
- 4.9 With regard appeal performance again this Authority currently has a good performance at 72% dismissed when assessed against the Planning Performance Framework. Only 5 Authorities in Wales are identified in this respect as having poor performance.
- 4.10 It is acknowledged that enforcement performance across Authorities in Wales is variable and has been since new performance indicators were introduced by Welsh Government. Anecdotally it is recognised that some Authorities have had some issues accurately reporting against these new measures, however, this Authority was involved in designing these measures in partnership with Welsh Government and has shown a consistent improvement in performance since they were introduced.
- 4.12 With regard the percentage of Member made decisions made against officer advice only 6 Authorities in Wales are identified in the Planning Performance Framework as having performance in need of improvement. For this Authority only 5 decisions were made against officer advice representing just 0.3% of all decisions made by the Authority in 2018/19.
- 4.12 In this respect the Authority's Committee structures and scheme of delegation were revised in January 2015 to align with the recommendations of Welsh Government contained within its consultation document entitled 'Planning Committees, Delegation and Joint Planning Boards (October 2014)'.
- 4.13 Only applications which are strategically significant or have a community wide impact or interest , together those which are a departure from the provisions of the development plan, are waste development or are submitted by an officer or Member of the Authority are reported to Committee. The Authority, therefore, already has a sound scheme of delegation which focusses on the most important strategic issues relevant to the Council.
- 4.14 A large proportion of applications are therefore currently dealt with under delegated powers by officers of this Authority. To assess the percentage

of applications overturned by Members against the number of applications determined at Committee as opposed to the total number of applications determined by the Authority would appear to prejudice those Authorities with high levels of delegation.

- 4.15 In addition Committee report templates follow guidance provided by Welsh Government in the Development Management Manual but are subject to ongoing review.
- 4.16 Finally, issues raised in the Audit report regarding the conduct of Members of Planning Committee are not recognised. All Planning Committee Members are provided with relevant training and the code of conduct is considered to be applied with mutual respect.
- 4.17 In view of the above it is not considered that a balanced assessment of Local Planning Authority performance has been undertaken in light of the Planning Performance Framework put in place by Welsh Government. In this respect there was significant debate between Local Planning Authorities and Welsh Government at the time this Performance Framework was drafted as to whether the measures accurately reflected the qualities of a good Local Planning Authority. As has been discussed above most Authorities in Wales have worked positively towards improving performance when measured in this respect and should this not now be providing outcomes which reflect public or political expectations then a review of the Planning Performance Framework itself may well have represented a more positive recommendation.

## **5. Further work is required to deliver the wellbeing aspects of the Planning (Wales) Act and Planning Policy Wales**

- 5.1 Part 4 of the report identifies the central role of planning to delivering the ambitions of the Wellbeing of Future Generations Act. The Audit report recommends that local planning authorities:
- set a clear ambitious vision that shows how planning contributes to improving wellbeing;
  - provide planning committee members with regular and appropriate wellbeing training and support to help deliver their wider responsibilities;
  - set appropriate measures for their administration of the planning system and the impact of their planning decisions on wellbeing; and
  - annually publish these performance measures to judge planning authorities impact on wellbeing.
- 5.2 The Council adopted the Swansea LDP in February 2019. The overarching vision, strategy and policies of the plan are underpinned by the ambitions of the Wellbeing of Future Generations Act, which is described in detail in Chapter 1 of the LDP. The placemaking objectives of Planning Policy Wales are also firmly embedded within the policies of the plan which are set within the context of a clear and ambitious vision to deliver key strategic sites throughout the Authority.
- 5.3 Planning Committee Members have recently been provided with training on the LDP and the underlying wellbeing and place making objectives

and receive regular feedback on the outcome of Planning Committee decisions at appeal.

- 5.4 As is the requirement for all LDPs in Wales, the Swansea LDP will be closely monitored to review the effectiveness of Plan policies and highlight whether the Strategy and Key Objectives are being delivered. The Monitoring Framework for the Swansea LDP is detailed in Chapter 4 of the Plan. It is a statutory requirement to produce Annual Monitoring Reports that quantify the effectiveness of delivery against key indicators, which will highlight the extent to which well-being goals are being met.
- 5.5 As acknowledged in the Audit report the Authority already has internal wellbeing measures which are published on a quarterly and annual basis, however, a further review will be undertaken prior to setting performance measures for 2020/21.

## **6. Equality and Engagement Implications**

**Please use the following as an introductory paragraph for this section:**

- 6.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
  - Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - Foster good relations between people who share a protected characteristic and those who do not.
- Our Equality Impact Assessment process ensures that we have paid due regard to the above.

- 6.2 An Equality Impact Assessment (EIA) screening has been carried out and this indicates that a full EIA is not necessary.

## **7. Legal Implications**

- 7.1 There are no legal implications.

## **8. Financial Implications**

- 8.1 There are no financial implications.

### **For Information**

#### **Background papers:**

Wales Audit Office Report on the Effectiveness of Local Planning Authorities in Wales: <https://www.audit.wales/publication/effectiveness-local-planning-authorities-wales>

Planning Performance Framework Table: <https://gov.wales/planning-performance-framework-table-april-2018-march-2019>.

Swansea Planning Annual Performance Report 2018/19:  
[http://democracy.swansea.gov.uk/ieListDocuments.aspx?CId=493&MId=8656  
&Ver=4&LLL=-1](http://democracy.swansea.gov.uk/ieListDocuments.aspx?CId=493&MId=8656&Ver=4&LLL=-1).

All Wales Annual Performance Report 2017/18:  
[https://gov.wales/sites/default/files/publications/2018-12/planning-services-  
annual-performance-report-2017-to-2018.pdf](https://gov.wales/sites/default/files/publications/2018-12/planning-services-annual-performance-report-2017-to-2018.pdf)

**Appendices:** None