

Report Title:	<b>Planning Performance</b>
Contains Confidential or Exempt Information?	NO - Part I
Member reporting:	Councillor Airey, Deputy Lead Member for Planning
Meeting and Date:	Planning and Housing Overview and Scrutiny, 18 April 2018
Responsible Officer(s):	Russell O'Keefe, Executive Director Place & Jenifer Jackson, Head of Planning
Wards affected:	All

## REPORT SUMMARY

- 1 The report is to update the Panel on planning performance since the implementation of an improvement plan within the service and as a follow up from the last report to this Panel in November 2017. The aim of the improvement plan was to consistently meet the national targets for the determination of planning applications.

## 1 DETAILS OF RECOMMENDATION(S)

### **RECOMMENDATION: That Planning and Housing Overview & Scrutiny Panel**

- (i)* notes the report and the continued improved performance in the determination of planning applications; and
- (ii)* Requests the Task & Finish Group to review the operation of delegated authority in relation to enforcement and other notices.

## 2 REASON(S) FOR RECOMMENDATION(S)

- 2.1 The Chair of the Panel requested a report on planning performance, this was presented to the Panel in November 2017. At that meeting the Panel requested a further update on performance from the Head of Planning for the meeting scheduled for 18 April 2018. Previously the Panel was provided with the statutory basis on which the Government criteria for assessment and designation is set.
- 2.2 The Council is required to make statutory returns to Government each quarter; this data is then used by Government to publish performance tables. These are called PS1 and 2 returns. PS1 returns relate to major, minor and other planning applications; minerals and waste applications are captured separately as County Matters and then PS2 captures the rest of the applications which a planning authority would determine.
- 2.3 The Council's Performance Monitoring Framework captures the major, minor and other applications categories and also performance on planning appeals.

2.4 The following tables show the performance in each of these categories over the years 2015-16, 2016-17 and 2017-18. This updates the November 2017 report.

		2015-2016				
		Q1	Q2	Q3	Q4	YEAR
Major Planning applications - in target (60%)		5	4	10	14	33
Total Major Planning Applications		8	8	15	18	49
Performance		62.50%	50.00%	66.67%	77.78%	67.35%
Minor Planning applications - in target (65%)		44	49	47	83	223
Total Minor Planning Applications		104	116	102	121	443
Performance		42.31%	42.24%	46.08%	68.60%	50.34%
"Other" Planning applications - in target (80%)		241	194	187	327	949
Total "Other" Planning Applications		376	377	319	409	1,481
Performance		64.10%	51.46%	58.62%	79.95%	64.08%

		2016-2017				
		Q1	Q2	Q3	Q4	YEAR
Major Planning applications - in target (60%)		14	16	10	15	55
Total Major Planning Applications		17	23	13	19	72
Performance		82.35%	69.57%	76.92%	78.95%	76.39%
Minor Planning applications - in target (65%)		73	69	53	45	240
Total Minor Planning Applications		98	103	73	72	346
Performance		74.49%	66.99%	72.60%	62.50%	69.36%
"Other" Planning applications - in target (80%)		322	326	255	229	1,132

Total "Other" Planning Applications	398	382	310	309	1,399
Performance	80.90%	85.34%	82.26%	74.11%	80.91%

	2017-2018				
	Q1	Q2	Q3	Q4	YEAR
Major Planning applications - in target (60%)	7	11	18	11	47
Total Major Planning Applications	10	12	20	12	54
Performance	70.00%	91.67%	90%	100%	87.04%
Minor Planning applications - in target (65%)	69	79	72	101	321
Total Minor Planning Applications	105	114	91	138	448
Performance	65.71%	69.30%	79.12%	71.43%	71.65%
"Other" Planning applications - in target (80%)	283	343	256	305	1187
Total "Other" Planning Applications	384	412	289	375	1459
Performance	73.70%	83.25%	88.58%	78.40%	81.36%

- 2.5 As explained to the Panel in November 2017 through the current year 2017-18 the focus has been on consolidating improved performance and system improvements. The service has ended the year above target for all of the Key performance indicators related to planning application decisions. Over the course of 2018/19 the service plan is focused on further improvements to achieve higher performance which is more in line with the national average for a unitary authority of applications in time for majors 86%, minors 82% and other applications 89%.
- 2.6 Since January 2018 the development management side of the service has been, with the exception of two posts, staffed with permanent team members. Those two posts are currently backfilled and out to recruitment, interviews have taken place and verbal offers accepted. It is proposed the additional funding for the capacity contract will come from the 20% increase in planning application fees enacted in January 2018 and legally required to be ringfenced to fund improvements in the planning service.

#### Planning Enforcement

- 2.7 The Deputy Lead Member for Planning has been engaged in discussions with the Planning Enforcement & Conservation Team Manager and the Deputy Head

- of Planning in relation to ongoing improvement work in planning enforcement. This is in response to a number of complaints about the timeliness of the responses provided to those making allegations of breaches of planning control.
- 2.8 The outcome of those discussions is for the enforcement team to focus on three areas: communication with third parties including engagement with Parish Councils, a review of the local enforcement plan which was adopted in 2016 and a review of delegated authority through the planning task and finish group.
- 2.9 The Enforcement Team has also been asked to consider whether to issue more press releases when the council is successful in prosecuting breaches of planning control; it is considered that this could act as a deterrent to others which would be of assistance.

### Planning Appeals

- 2.10 As reported previously the performance indicator for planning appeals is that less than 20% of planning appeals should be allowed. This has been a target which has challenged the Council for the last 3 years. The published improvement plan last year required that a programme of Member training be conducted alongside more detailed Part 2 reports to Members on the consequences of decisions taken by Planning Panels. These actions have been completed.
- 2.11 In the year to date there has been 116 appeal decisions. 99 of these have been based on decisions made at delegated level and 17 based on panel decisions. Out of the 116 decisions 41 have been allowed at appeal, 69 dismissed, 4 part allowed and 3 appeals withdrawn. This gives 35% of appeals allowed against a target of 20%. Looking at the delegated and Panel decisions the percentage split is the same irrespective of the decision level. Previously Members have requested to see the decisions split by Panel, this is set out below:

Panel	Appeals allowed	Appeals dismissed	Withdrawn	Percentage of appeals allowed against Panel total
Maidenhead	3	6	2	27%
Windsor Rural	2	2	0	50%
Windsor Urban	1	2	0	33%

- 2.12 As an authority the number of applications appealed is low, only 5.9% of decisions appealed in 2017/18. The decisions are reviewed on receipt in order for officers to understand whether there is a basis for seeking to challenge a decisions; whether a policy is being misapplied or badly interpreted by officers and any change required or any other issue that is consistently resulting in appeals being allowed. There is no pattern other than decisions being taken against an out of date plan base and the absence of basic guidance around assessing planning applications, for example, lack of guidance on separation distances between properties. The Council is looking to progress a Borough Design Guide SPD to pick up on this issue.
- 2.13 Government has introduced a new 'experimental' statistic based on the performance of local planning authorities against the published criteria for assessing under-performance under section 62B of the Town and Country

Planning Act 1990. For the quality of decisions, the statistics show the overall figure for planning applications determined in the assessment period of 24 months to the end of March 2017 (and subsequent appeal decisions to the end of December 2017). The 2018 threshold for designation is 10% or more of an authority's decisions on applications for major development made during the assessment period, including those arising from a 'deemed refusal', being overturned at appeal. For RBWM the rolling two year performance figure for district matter major applications is 4.8% as at January 2018; for county matter applications (minerals and waste) is 0%. This is one of the live data sets for planning published by Government and compiled from the data returns made by Councils across England.

- 2.14 A number of appeals have also been subject to costs decisions over this financial year. Costs can be sought on any appeal if the appellant considers that the Council has acted unreasonably or has failed to substantiate the refusal reasons applied to a decision. Costs have been awarded against the Council in a number of cases over the financial year, due to the process involved in reaching agreement over costs incurred it can take some time to settle these claims. To date this year the Council has paid out around £25,000 in costs awarded at appeal.

#### Legal Challenges

- 2.15 The Council has had one legal challenge to a decision made in this year. This related to an application which was approved and residents were given leave by the High Court to challenge that decision. Officers sought advice from Counsel and, based on that advice, the Head of Law & Governance agreed to a Consent Order which resulted in the decision being quashed. The Council therefore reconsidered the planning application. Costs were incurred in that process amount to around £15,000.

#### Formal Complaints

- 2.16 In the last reporting year for corporate complaints there were 99 complaints in relation to the planning service; this is reported annually. It would be fair to say that the number of complaints was high due to a combination of factors which included, but is not limited to, resource of the development management and enforcement teams and the speed in processing planning applications and complaints relating to alleged breaches of planning control. Those majority of those complaints which have been upheld in the last 12 months related to the timeliness of actions in accordance with published procedure.
- 2.17 In 2017/18 additional resource was added to the enforcement team and the service was also permitted to recruit a deputy head of service; the deputy head of planning leads on stage 1 complaints. Currently the service has 3 outstanding stage 1 complaints and one complaint which is with the Local Government Ombudsman to which information has to be provided. This represents a much improved position and a reduction in the number of complaints received by the service.

### **3 KEY IMPLICATIONS**

- 3.1 Planning performance is measured corporately against the national indicators for planning performance set by Government through the Department for

Communities and Local Government. Failure to meet the national targets can result in being designated as a standards authority.

#### **4 FINANCIAL DETAILS / VALUE FOR MONEY**

4.1 None.

#### **5 LEGAL IMPLICATIONS**

5.1 None.

#### **6 RISK MANAGEMENT**

6.1 An internal process is in place to manage the risk around planning decision making. This is covered in the corporate risk register.

#### **7 POTENTIAL IMPACTS**

7.1 None arising from this report.

#### **8 CONSULTATION**

- None.

#### **9 APPENDICES**

None.

#### **10 BACKGROUND DOCUMENTS**

<https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics#local-planning-authority-performance-tables>

#### **11 CONSULTATION (MANDATORY)**

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Commented &amp; returned</b>
Cllr Coppinger	Lead Member	29.03.18	3.4.18
Cllr M Airey	Deputy Lead Member	29.03.18	6.4.18
Alison Alexander	Managing Director	29.03.18	3.4.18
Russell O'Keefe	Executive Director	26.03.18	29.03.18

#### **REPORT HISTORY**

<b>Decision type:</b> For information	<b>Urgency item?</b> No
Report Author: Jenifer Jackson, Head of Planning, 01628 796042	

