

Planning Committee

3 February 2021

Title	Development Management Performance
Purpose of the report	The purpose of this report is to advise the Planning Committee Members on the Development Management (DM) performance over the past year.
Report Author	Esmé Spinks, Planning Development Manager
Recommendations	It is recommended that the Planning Committee notes the report.
Executive Summary	<p>Successive governments have assessed Local Planning Authorities (LPA) performance on the speed with which they determine planning applications. The “designation regime” (introduced in 2013 and amended in 2016) is based on the speed and quality of decisions for major and non-major development over a rolling 2-year period. Over the years, Spelthorne has met and surpassed these targets.</p> <p>The quality of major development is a target which is, and will continue to be, monitored closely due to the relatively few major applications received. There is a real risk, in terms of major applications, of exceeding the new 10% threshold. It is imperative the Council has sound reasons to refuse an application, and that these are capable of being defended successfully at appeal. Failure to do so could expose the Council to the real risk of “designation”.</p> <p>Government policy announcements in recent years has aimed to boost the supply of housing, enable homes to be built faster and encourage higher housing densities within urban locations. These have been encapsulated into the revised National Planning Policy Framework, issued in February 2019 where a presumption in favour of sustainable development lies at its heart.</p> <p>An up to date development plan gives greater certainty to all those involved in the development process and the local community. Decisions based on an up to date plan and supplementary guidance which are consistent with the NPPF are more easily defended at appeal. It is important to ensure that reasons for refusal can be defended on appeal without the risk of an award of costs against the Council. Robust decision making</p>

	<p>helps to ensure that the risk of the Council being “designated” based on appeals is minimised.</p> <p>Any request for an application to be called into Committee should only be if there is a <i>wider public interest</i> as set out in the Council's Planning Code. The Planning Code will be updated in due course.</p> <p>DM Officers are working within a culture of continuous performance throughout the DM process. Further investment in IT software and hardware has been put forward to assist with performance management and the Council’s agile working policy.</p> <p>In March 2020, following the Covid 19 lockdown, the Planning DM service was transferred remotely. This included processing all planning applications and appeals, enforcement action including two high court cases, leading on virtual planning committee meetings and undertaking pre-application advice remotely. In addition, there was a flurry of legislation changes which officers had to learn and implement, particularly relating to permitted development rights and the use classes order and temporary legislation necessitated by the Covid 19 pandemic. In the early days of lockdown, several of the Planning DM staff volunteered to assist with work to help the community including delivering food parcels and working on the call centre whilst at the same time managing their workloads. The Planning DM officers successfully met this huge challenge and have also exceeded all government performance targets.</p> <p>Some training sessions for Councillors took place in 2020 by external providers and planning officers and further training will be arranged. In addition, presentations were undertaken by two developers prior to the submission of planning applications. These measures will assist with the quality of decision making. Officers have also attended some on-line training courses as part of their continuous professional development. This is an on-going requirement.</p> <p>It is proposed to continue providing planning application performance statistics in future Planning Committee papers.</p>
--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

1. Purpose

- 1.1 To advise the Committee Members on Development Management (DM) performance over the past year.

2. Background

- 2.1 Successive governments have sought to streamline the planning process by setting targets nationally for the speed that Local Planning Authorities (LPAs) determine planning applications. In the late 1990s and 2000s, financial incentives were paid to LPAs who met targets. More recently, the government introduced a “designation regime” by measuring performance based on the speed and quality of decisions for major development over a rolling 2-year period. This was subsequently expanded to also include non-major developments. The emphasis is on identifying persistent poor performers, designating them as under performers and then intervening. The Government recently increased the performance targets and introduced a housing delivery test in 2018 which required Spelthorne to produce an action plan. The housing delivery action plan identifies actions to address under delivery against the housing requirement in the area. The plan looks at the reasons for under delivery and the steps to be taken to drive up housing delivery in the area.

3. Performance

- 3.1 Local Planning Authorities are provided with statutory time limits to determine planning applications within a set period of time. These time limits are a way to evaluate a local planning authority’s performance and can lead to a Council losing its power to determine planning applications within its jurisdiction if too many applications are determined outside these statutory time limits. The time limits are known as determination periods and are set at 13 weeks for Major Planning applications (16 weeks where subject to Environmental Impact Assessment) and 8 weeks for other planning applications defined as “Minor” and “Other”.
- 3.2 LPAs have a requirement to deal with major applications within 13 weeks from the date of receipt and 8 weeks for all other planning applications unless an extension of time is agreed with the applicant.

Major development is defined as:

Major – 10 or more residential units, dwellings on a site with an area of 0.5 hectares or more, 1,000 sq. m or more of new commercial floorspace or sites with an area of more than 1 hectare.

Minor – Up to 9 residential units, up to 999 sq. m of new floorspace, and changes of use, and

Others – mainly householder schemes.

LPAs are measured on their performance based on the % of planning applications they determine within 8 or 13 weeks (or within an extension of time agreed with the applicant) as follows:

Majors – 60% within 13 weeks

Minors – 65% within 8 weeks

Others – 80% within 8 weeks

Annual Performance

- 3.3 In the year ending December 2020, Spelthorne met all three performance measures as follows:

Table 1

<u>Majors</u>			<u>Minors</u>			<u>Others</u>		
Total	On Target	% on Target (i.e. 60%)	Total	On Target	% on Target (i.e. 65%)	Total	On Target	% on Target (i.e. 80%)
14	14	100%	148	126	85%	514	478	93%

- 3.4 During the same year ending December 2020, the following decisions (table 2 below) were made on other types of applications. This makes a total of 1205 decisions in 2020.

Table 2

Application Type	Total No Determined
Certificate of Lawful Development (Proposed)	153
Certificate of Lawful Development (Existing)	6
Prior Notifications	93
Discharge of Conditions	80
Amended Applications	37
Consultations from adjoining Boroughs	29
SCC Applications	19
SCC Discharge of Conditions	2
TPO Applications	66
TCA Applications (Trees in Conservation Areas)	37
Telecom applications	7
TOTAL	529

3.5 In addition, the LPA dealt with:

- 32 Planning appeals,
- 6 Enforcement appeals,
- 288 Planning enquiries involving a written response and / or meetings
- 345 Planning enforcement cases
- 21 FOI Cases

Designation Regime

3.6 As part of the Growth Agenda, the Growth and Infrastructure Act 2013 saw an introduction to the “designation regime” by measuring performance based on the speed and quality of decisions for major development over a rolling 2-year period. The Department for Communities and Local Government (DCLG) introduced two separate measures to assess the performance of LPAs:

- Speed of determining major planning applications; and
- The extent to which such decisions are overturned on appeal as an indicator of the quality of decisions made by LPAs.

3.7 The Housing and Planning Act 2016 changed the designation regime to widen the definition of the applications to be included and to raise the bar on the thresholds LPAs would be required to meet with effect from 2017. A paper detailing the implementation of this; Improving Planning Performance: Criteria for Designation, was issued in 2016.

3.8 The performance of LPAs in determining major and non-major development are now assessed separately, meaning that an authority could be “designated” on the basis of its performance on major development, on non-major development, or both. These two categories are assessed against two separate measures of performance:

- The speed applications are dealt with measured by the proportion of applications that are determined within the statutory time or an agreed extended period; and,
- The quality of decisions measured by the proportion of decisions on applications that are subsequently overturned at appeal

3.9 Consequently, the performance of LPAs is now assessed separately against:

- The **speed** of determining applications for **major** development
- The **quality** of decisions made by the authority on applications for **major** development;
- The **speed** of determining applications for **non-major** development;

- The **quality** of decisions made by the authority on applications for **non-major** development.

3.10 The Secretary of State will decide once a year whether any “designation” should be made or lifted. If an LPA is at risk of designation for one or more categories, the DCLG will write to the LPAs requesting any data corrections or exceptional circumstances that would make a “designation” unreasonable. Where an authority is “designated”, applicants may apply directly to the Planning Inspectorate for the category of applications (major, non-major or both) for which the authority has been “designated”. The exception is where an authority is designated for non-major development, householder applications and retrospective applications. Applicants will not be able to submit these applications to the Planning Inspectorate as these are best dealt with locally. Soon after a designation is made the LPA is expected to prepare an “action plan” addressing areas of weakness that contributed to its under-performance. Appendix 1 contains a flow chart setting out the designation process.

3.11 The following table provides an overview of the thresholds and assessment period for 2019 and 2020 and Spelthorne’s performance.

Table 3

Measure and type of Application	2017-2019 Threshold and assessment period	Spelthorne’s Performance 2019	2018-2020 Threshold and assessment period	Spelthorne’ Performance 2020
Speed of major Development	60% (October 2017 to September 2019)	96%	60% (October 2018 to September 2020)	100%
Quality of major Development	10% (April 2017 to March 2019)	3.7%	10% (April 2018 to March 2020)	1.8%
Speed of non-major Development	70% (October 2017 to September 2019)	93%	70% (October 2018 to September 2020)	93%
Quality of non-major Development	10% (April 2017 to March 2019)	0.6%	10% (April 2018 to March 2020)	1.4%

--	--	--	--	--

It can be seen that Spelthorne has met and exceeded all four targets for the threshold periods.

Planning Appeals Decisions

- 3.12 The assessment of the quality of decision making by LPA's is measured by the proportion of decisions on applications that are subsequently overturned at appeal. The current assessment for 2020 is based on planning applications decided between April 2018 to March 2020. The statistics allow for a period of 9 months elapsing following the end of the assessment period to allow time for an appeal to be lodged and decided.
- 3.13 The appeals relating to Spelthorne for the period in question are attached as Appendix 2. Also attached as Appendix 3, are the appeal decisions relating to enforcement cases. It should be noted that these are not currently used by Government to measure the Council's performance and the data covers appeals received April 2018 to March 2020. In summary:

There were 85 appeal decisions
73 planning appeals and
12 enforcement appeals.

Of these appeals:

- 58 planning appeals were dismissed or had a split decision.
- 9 Planning Enforcement were dismissed or had a split decision
- 1 Enforcement notice was quashed on appeal
- 15 planning appeals were allowed, and
- 2 Planning Enforcement appeals were allowed.

The appeal performance overall for 2020 is 80% dismissed or split which represents a small improvement on 2019 and 2018 when the figures were 75% and 69% respectively.

Planning Committee Overturns

- 3.14 Between January 2018 to December 2020 nine planning applications were overturned by the Planning Committee. Of these nine:
- Four were allowed on appeal,
 - Two appeals had costs awarded against the Council (including one which was dismissed on appeal)
 - One appeal was dismissed (but as referred to above) had partial award of costs against the Council

- One was appealed against and subsequently withdrawn following the approval of a revised scheme

These are summarised in the following table:

Table 4

Plannin g Applicat ion no.	Site	Proposal	Officer Rec	Committe e Decision	Appeal Decision and Date
16/01357 /FUL	Former London Irish Rugby Football Club The Avenue Sunbury On Thames	Replacement of 4 no. detached 5-bedroom dwellings (approved) with 24 flats	Approve	Refused 05/04/18	Appeal allowed. Partial award of costs against the Council given.
18/00432 /T56	Grass Verge opposite the Parade at Junction of Vicarage Road Sunbury On Thames	Installation of a 17.5m Shrouded High Jupiter Street Pole and associated equipment	Approve	Refused 18/05/18	Allowed on appeal 28/05/19
18/01426 /RVC	Halliford Studios Limited Manygate Lane Shepperton	Variation of planning permission 17/01065/FUL for 24 dwellings, to allow a fence in lieu of a wall on two boundaries.	Approve	Refused 17/12/18	Allowed on appeal 22/03/19
17/01938 /FUL	20 Bridge Street Staines	Erection of a five-storey building of 9 flats	Approve	Refused 01/06/18	Appeal dismissed 31/05/19 Partial award of costs against the Council –.
19/00444 /ADV	Charlton Lane Ecopark Charlton Lane Shepperton	Retention of freestanding 6.52m tall non- illuminated sign at entrance (retrospective)	Grant	Refused 30/05/19	Allowed on appeal 15/11/19

Plannin g Applicat ion no.	Site	Proposal	Officer Rec	Committe e Decision	Appeal Decision and Date
18/01101 /FUL:	17-51 London Road, Staines-upon-Thames, TW18 4EX	Erection of six buildings to provide 474 residential homes (Class C3) and flexible commercial space at ground and first floors (Class A1, A2, A3, B1, D1 or D2) car parking, pedestrian and vehicular access, landscaping and associated works.	Approve	Refused 20/11/18	Appeal lodged 15/01/19 Withdrawn 28/09/19
18/01332 /FUL	40 Glenfield Road, Ashford, TW15 1JL	Erection of part single storey, part two storey side extension and single storey rear extension following demolition of existing garage, outbuildings and rear extension and conversion of existing dwelling into a House of Multiple Occupation for 7 persons.	Approve	Refused 17/12/18	N/A
19/00884 /FUL	42 High Street Shepperton TW17 9AU	Change of use from offices/bank to a mixed use of commercial units at ground floor level and to 3 no. residential flats above on first floor with balconies, erection of new second floor with 3 no. flats with balconies, erection of part single storey, part two storey rear extension and new windows and doors including new access to front, demolition of chimney stacks.	Approve	Refused 28/08/19	N/A
20/00565 /FUL	Ruxbury Court, Cumberland Road, Ashford	Alterations and extensions to Blocks B and C of Ruxbury Court, including alterations and extensions to the roof, to enable the creation of 3 x 1-bedroom units and 1 x	Approve	Refused 18/09/20	

Planning Application no.	Site	Proposal	Officer Rec	Committee Decision	Appeal Decision and Date
		2 bedroom unit with associated parking and amenity space.			

Government Papers

4.1 In August 2020, the Government issued the White Paper, “Planning for the Future”. A wide range of proposals were put forward, including, in relation to Planning DM, “for all types of planning applications” the government wants to see “a much more streamlined” planning process “which is proportionate to the scale and nature of the development proposed, to ensure decisions are made faster”. The broad proposals were to:

- Streamline the planning process
- Provide a digital-first planning process
- Provide a new focus on design and sustainability
- Improve infrastructure delivery
- Make more land available for the homes and development people and communities need

4.2 In addition other consultations were introduced relating to other matters including:

- Changes to the standard method for assessing local housing need (recently reversed)
- Temporarily lifting the small sites threshold, below which developers do not need to contribute to affordable housing, to up to 40 or 50 units.
- Extending the current Permission in Principle to major schemes

4.3 The government set an ambitious timetable for the Planning White Paper, but it is not clear at this stage when this will be delivered. Nevertheless, the focus on the importance of housing delivery and growth by the government remains. On a local scale, the Council’s Housing Delivery Test Action Plan was updated in 2020. Spelthorne was required to produce the plan due to a consistent under delivery of housing when assessed against identified needs. The Action Plan was the Council’s response to the challenge set out in the NPPF to significantly boost the supply of homes. The Council’s Housing Delivery Test Action Plan will be updated this year following the test results issued on 19th January 2021 which put the Council at 50%. This means that only 50% of its identified housing needs was delivered in the last three years and this puts the Local Planning Authority (LPA) into the “Presumption” in favour of development category. It should be noted, however, that the LPA is already in this category as we do not have a 5-year housing land supply, the current figure is 4.8 years.

- 4.4 In 2020, the government issued seven new prior approval permitted development rights in relation to additional (upward) extensions mainly to provide new dwellings. Also introduced was a substantially revised Use Classes Order. Classes A, B1 and D1, applicable to retail, office and non-residential institutions and assembly and leisure uses respectively, were removed and new use classes introduced in their place. The new Class E encompassed commercial, business and service, while the new F.1 and F.2 apply to learning and non-residential institutions and local community use respectively. The new class E is significantly wider in its scope than the previous classes resulting in less changes of use requiring planning permission.

5 Implications, Risks and Actions for Spelthorne

- 5.1 In March 2020, following the Covid 19 lockdown, the Planning DM service was transferred remotely. This included processing all planning applications and appeals, enforcement action including two high court cases, leading on virtual Planning Committee meetings and undertaking pre-application advice remotely. In addition, there was a flurry of legislation changes which officers had to learn and implement, particularly relating to permitted development rights and the use classes order and temporary arrangements necessitated by the Covid 19 pandemic. In the early days of lockdown, several of the Planning DM staff volunteered to assist with work to help the community including delivering food parcels and working on the call centre whilst at the same time managing their workloads. The Planning DM officers successfully met this huge challenge and have also exceeded all government performance targets.
- 5.2 The DM Service uses Idox Uniform for its computer software to manage the planning application process. It has invested in a software management package known as Idox Enterprise to act as a processing and management tool for officers. A large amount of technical work was undertaken in the latter part of 2019 to improve the application process and management system. This work has enabled officers to work towards an agile way of working, to reduce paper and better manage the application process. Enterprise was crucial in providing an efficient virtual way of working from March 2020. More Enterprise improvements are underway to further enhance the process and improve efficiency.
- 5.3 There were a number of training sessions for Councillors in 2020 by external providers and planning officers and further training will be arranged. This will assist with the quality of decision making. Officers have also attended several on-line training courses as part of their continuous professional development. This is an on-going requirement.
- 5.4 The LPA has also met the quality targets for both major and non-major developments. However, the quality of major development is a target which officers are monitoring very closely because of the relatively few numbers of major applications the Council receives. There is a real risk of performance, in

terms of major applications, exceeding the new 10% threshold. In the two-year period April 2018 to March 2020, the Council determined 54 major planning applications, two of which were appealed against and one was allowed on appeal (Halliford Studios Limited Manygate Lane Shepperton). One appeal allowed out of 54 applications equates to a quality performance of 1.8%. However, a further four appeals allowed would bring the performance closer to the designation threshold of 10% at 9%. Continuous monitoring against this criterion is essential.

- 5.5 When refusing a planning application, it is imperative that the Council has sound reasons that are capable of being defended successfully at appeal. Failure to do so could expose the Council to an award of costs at appeal and the real risk of “designation”. The rigorous defence of appeals will continue to require appropriate resources.
- 5.6 An up to date plan gives greater certainty to all those involved in the development process and the local community. Work is taking place on the replacement of the 2009 Local Plan. Planning decisions based on an up to date plan and supplementary guidance which is consistent with the NPPF, are more easily defended at appeal. This in turn ensures that the risk of designation based on appeal decisions is minimised.
- 5.7 DM Officers will continue to closely monitor committee overturns, although the number of these has been relatively small. As indicated in table 4 above, there have been nine applications overturned and refused by the Planning Committee in the last few years, four of these were allowed on appeal, and costs were awarded against the Council on two of these. All Members have been advised of the requirements of the Planning Code and in particular, the “call in” procedure. The guiding principle of a “call-in” is that there is a “*wider public interest*” in the application being considered by the Committee. The Planning Code will be updated in due course
- 5.8 The DM Officers are working within a culture of continuous performance throughout the Development Management process. Planning Development Management underwent a two-week audit on its processes and procedures in May 2019 and the overall outcome was judged as “Effective”, the highest level.

6 Recommendation

- 6.1 It is recommended that the Committee notes the contents of this report.

List of Appendices

- The Designation Process
- Planning Appeal Decisions for applications determined April 2018 – March 2020
- Planning Enforcement Appeal Decisions for appeals determined to end December 2020.

