

Environment and Sustainability Committee



8 March 2022

Title	Planning Development Management Performance Report
Purpose of the report	To note
Report Author	Esmé Spinks, Planning Development Manager
Ward(s) Affected	All Wards
Exempt	No
Exemption Reason	N/A
Corporate Priority	Environment Service delivery
Recommendations	Committee is asked to: 1. Note the report
Reason for Recommendation	N/A

1. Summary of the report

- 1.1 This report reviews the performance of the Planning Development Management (PDM) service over the past year. The report follows on from those produced on an annual basis to the Planning Committee. This report notes that performance against Government targets has been exceeded despite increasing workloads.

2. Key issues

- 2.1 Successive governments have assessed Local Planning Authorities (LPA) performance on the speed with which they determine planning applications and more recently the quality of decision. The Government has introduced tougher measures for LPAs which fail to perform. Over the years, Spelthorne's performance has surpassed the Government's performance targets. However, there is a risk that the Council's performance in respect of the quality of major developments may come under greater scrutiny and could result in Government sanctions.
- 2.2 The LPA could be at risk of 'designation' next year on the 'quality of major applications'. This depends on the outcomes of existing appeals which are

likely to be determined later this year and the decision on other majors determined prior to 31/03/22.

- 2.3 Government policy announcements in recent years have sought to boost the supply of housing, enable homes to be built faster and encourage higher housing densities within urban locations. These have been incorporated in the revised National Planning Policy Framework, issued in July 2021 where a presumption in favour of sustainable development lies at its heart. The presumption in favour of housing schemes applies in Spelthorne because this authority does not have a 5 year housing land supply and our most recent Housing Delivery Test result was 69%.
- 2.4 The PDM Officers are working within a culture of continuous performance improvement. Further investment in IT has been implemented to assist with performance management and work in a paperless way in line with the Council's agile working policy.
- 2.5 In March 2020, following the Covid 19 lockdown, the Planning DM service was transferred into a remote service. 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.
- 2.6 It is proposed to continue providing PDM performance reports in the future.

3. Options analysis and proposal

- 3.1 The first section of the report deals with the Designation Regime. 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 (mainly 10+ dwellings and new floorspace of 1,000 sqm+(16 weeks where subject to Environmental Impact Assessment) and 8 weeks for other planning applications defined as "Minor" and "Other" (non majors).
- 3.2 As part of the Government's 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. Later it was extended to include non-major applications. 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

3.3 The Secretary of State will decide once a year whether any “designation” should be made or lifted. If a LPA is at risk of designation for one or more categories, the Department for Levelling Up, Housing and Communities (DLUHG) will write to the LPA requesting any data corrections or exceptional circumstances that would make a “designation” unreasonable. Where an authority is “designated”, applicants have an option to ask the Planning Inspectorate as opposed to the LPA to determine any applications within the designated category(ies) (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 to the main report contains a flow chart setting out the designation process. The consequences for an LPA to be designated for ‘major’ applications is that developers will be able to by-pass the LPA on large schemes and apply directly to the Planning Inspectorate. There will also be a significant loss for the LPA in income from planning application fees and pre-application advice.

3.4 Table 1 of the main report (reproduced below) provides an overview of the thresholds and assessment periods for 2019, 2020 and 2021 and details of Spelthorne’s performance. The speed of determination is referred to in para. 3.1 and the threshold is expressed as a minimum. The quality measures the total number of decisions overturned at appeal as a % of the total decisions made. The threshold of 10% is expressed as a maximum. The lower the figure, the better the performance.

Table 1

Measure and type of Application	2017-2019 Threshold and assessment period	Spelthorne’s Performance 2019	2018-2020 Threshold and assessment period	Spelthorne’s Performance 2020	2019-2021 Threshold and assessment period	Spelthorne’s Performance 2021
Speed of Major Development	60% (min) (October 2018 to September 2020)	96% N.B. The higher the % the better	60% (min) (October 2018 to September 2020)	100% N.B. The higher the % the better	60% (min) (October 2019 to September 2021)	98% N.B. The higher the % the better
Quality of Major Development	10% (max) (April 2018 to March 2020)*	3.7% N.B. The lower the % the better	10% (max) (April 2018 to March 2020)*	1.8% N.B. The lower the % the better	10% (max) (April 2019 to March 2021)*	4.76% N.B. The lower the % the better

Measure and type of Application	2017-2019 Threshold and assessment period	Spelthorne's Performance 2019	2018-2020 Threshold and assessment period	Spelthorne's Performance 2020	2019-2021 Threshold and assessment period	Spelthorne's Performance 2021
Speed of Non-Major Development	70% (min) (October 2018 to September 2020)	93% N.B. The higher the % the better	70% (min) (October 2018 to September 2020)	93% N.B. The higher the % the better	70% (min) (October 2019 to September 2021)	96% N.B. The higher the % the better
Quality of Non-Major Development	10% (max) (April 2018 to March 2020)*	0.6% N.B. The lower the % the better	10% (max) (April 2018 to March 2020)*	1.4% N.B. The lower the % the better	10% (max) (April 2019 to March 2021)*	1.25% N.B. The lower the % the better

* an additional 9 months is given to 31 December to allow for the receipt of appeal decisions

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

- 3.5 The 'Quality of Major Development' threshold is monitored particularly closely. This is because of the relative few number of majors which Spelthorne receives compared with other applications. In the two years ending in March 2021, two major applications were refused and allowed on appeal out of a total of 42 determined leading to the quality figure of 4.76%.
- 3.6 However, it is important to look forward and consider the quality of majors result in 2022 (which will be known by January 2023). At present, it is not known what the threshold will be although it has been 10% for several years. Assuming this to remain unchanged, there are already two majors allowed on appeal within the 2023 period (Bugle Nurseries) and more recently in January 2022 (Masonic Lodge / Elmsleigh Nightclub site). Because of the number of appeals allowed which will count in 2023 (two) with others either awaiting an appeal decision (currently three) or not yet determined or appealed against, it could bring the performance closer to or over the designation threshold of 10% and the consequences outlined in para 3.3 above.
- 3.7 Where an authority is "designated", applicants have an option to ask the Planning Inspectorate as opposed to the LPA to determine any applications within the designated category (in this case 'major'). 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. Continuous monitoring against this criterion is essential.
- 3.6 The next section of the report deals with performance in terms of numbers of applications. In terms of the 8 week and 13 week speed performance outlined above, Spelthorne performance for decisions made in 2019 – 2021 is set out in table 2 of the main report. Over the past three years, the number of planning applications determined has increased in the 'majors' and 'other'

categories and only reduced slightly in the 'Minor' category from 2019. Overall, there has been an increase in the total received in 2021 compared with both the previous years whilst performance far exceeded the government targets.

- 3.7 During the same three years ending December 2021, PDM also dealt with a large number of other type of applications not included in the statutory returns, i.e., Certificate of Lawfulness applications, Surrey County Council applications and Tree applications, (Table 3 of the main report). The data shows that there has been a significant increase in the total number determined. Over the three years; there was a 23% increase from 2019 to 2021 and 31% increase from 2020 to 2021.
- 3.8 Overall, in 2021 a total of 1515 planning decisions were made by the LPA compared with 1205 in 2020 and 1,352 in 2019. It is clear the increase in the numbers of cases determined grew by 12% in 2021 compared with 2019 and 26% compared with last year.
- 3.9 The LPA also deals with several other matters involving appeals, planning enforcement and enquiries. A summary of the last three years is contained in table 4 of the main report.
- 3.10 The planning appeals and enforcement appeals for the past two years are contained in appendices 2 and 3 of the main report. There were 103 appeal decisions received:
- 10 Enforcement appeals
93 Planning appeals
- Of these appeals:
- 69 Planning appeals were dismissed or had a split decision.
 - 8 Planning Enforcement appeals were dismissed or had a split decision
 - 0 Enforcement notice was quashed on appeal
 - 23 Planning appeals were allowed, and
 - 2 Planning Enforcement appeals were allowed.
 - 1 Planning appeal was withdrawn
- 3.11 The report also assesses 11 planning applications which were recommended for approval by the Planning Officer but overturned and refused by the Planning Committee Planning Committee. Between January 2019 to December 2021, 11 planning applications were recommended for approval by the Planning Officer but overturned and refused by the Planning Committee. This compares with 9 in the previous report last year. The details are contained in table 5.
- 3.12 The final table, no.6 summarises planning enforcement activity. Overall, there has been an increase in planning enforcement complaints by 24% from 2018 to 2021. A detailed report on planning enforcement policy will be reported to the Neighbourhood Services Committee on 3 March 2022.

- 3.13 The report concludes with a summary of government papers and in particular the consequences of the Housing Delivery Test result of 69% and lack of a 5 year housing land supply leading to the 'titled balance' being applied for most residential development planning applications in Spelthorne.

4. Financial implications

- 4.1 Potentially negative financial implications could arise if the planning performance results in the Local Planning Authority (LPA) being 'Designated' for Major developments. This is because not only would the LPA lose control in decision making of important strategic planning proposals, the LPA would also not receive the pre-application advice fee and statutory planning application fee of the larger schemes which can be significant. For example, the planning application fees of some large proposals include Shepperton Studios Reserved Matters £189,839 and £45,491 and Debenhams £50,381. In addition, it should be noted that in 2020/21, Planning DM received over £1,000,000 in income; £875,965 in planning application fees and £194,182 in pre-application and planning performance agreement fees. The majority of this related to the large applications. This year(2021/22) is lower but still significant. Continuous monitoring against this criterion is essential.
- 4.1 An additional potential implication could arise if new dwellings are not approved (if policy compliant). This would lead to a reduction in the New Homes Bonus (NHB) which is secured for every new home completed in the borough. The NHB for 2021/22 was £252,000 and for 2022/23 £1.294m. The figure for 2022/23 was unexpectedly and unusually high due to the large number of housing completions on two sites in March 2021. The Council's budget report (February 2022) estimates that the NHB for 2023/24 will be £140,000 before disappearing thereafter.

5. Other considerations

- 5.1 There are no further considerations to be taken into account.

6. Equality and Diversity

- 6.1 This does not have any direct equality and diversity impacts

7. Sustainability/Climate Change Implications

- 7.1 There are no sustainability/climate change issues.

8. Timetable for implementation

- 8.1 The Planning DM performance is monitored continuously. It is intended to continue to provide an annual performance report to the Committee.

9. Contact

- 9.1 For further details please contact Esmé Spinks at e.spinks@spelthorne.gov.uk

Background papers: There are none

Appendices:

Appendix 1 – Planning Development Management Performance Report

Appendix 2 – Designation process

Appendix 3 - Planning Appeals Received & Decided April 2019 – December 2021
(Decisions made by 31/03/2021)

Appendix 4 - Planning Enforcement Appeals Decided April 2019 – December 2021