

## Appendix 1

<b>Title</b>	Development Management Performance
<b>Purpose of the report</b>	The purpose of this report is to advise the Members of the Planning Development Management (PDM) performance over the past year.
<b>Report Author</b>	Esmé Spinks, Planning Development Manager
<b>Recommendations</b>	It is recommended that the Environment and Sustainability Committee notes the report.
<b>Executive Summary</b>	<p>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. .</p> <p>Government policy announcements in recent years have 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 in the revised National Planning Policy Framework, issued in July 2021 where a presumption in favour of sustainable development lies at its heart.</p> <p>At present the LPA does not have the required five year supply of housing which has triggered a presumption in favour of sustainable development. In addition, the Housing Delivery Test, which compares the number of new homes delivered over the previous three years with the authority's housing requirement, is currently now 69%. As this is less than the required 75%, the NPPF's presumption in favour of sustainable development is also triggered for Spelthorne.</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 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 the Planning Committee should only be made if there is a ‘material planning concern’ as set out in the Council’s Planning Code, 2021.</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 implemented to assist with performance management and the Council’s agile working policy and this is a necessary continuing process.</p> <p>In March 2020, following the Covid 19 lockdown, the Planning DM service was transferred remotely. 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>Following the Covid 19 lockdown, some planning training sessions have taken place and further training is planned. In addition, presentations have been undertaken by developers prior to the submission of their 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.</p> <p>Given all the circumstances over which the LPA has no direct control and an increase in workload, the PDM service has continue to perform to a high standard.</p>
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## 1. Purpose

- 1.1 To advise Members on Planning Development Management (PDM) 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 Borough. The plan looks at the reasons for under delivery and the steps to be taken to drive up housing delivery. In Spelthorne's case, this is set against of increasing workloads.

### **3. Designation Regime**

3.1 Local Planning Authorities are provided with statutory time limits within which planning applications should be determined. These time limits are a way to evaluate a LPA'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 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.

3.3 As part of the Government's Growth Agenda, the Growth and Infrastructure Act 2013 saw an introduction of the "designation regime" by measuring performance based on the speed and quality of decisions for major development over a rolling 2-year period. The former 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.

3.4 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.

3.5 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

3.6 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.

3.7 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 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.

3.8 The following table 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	2017-2018 Threshold and assessment period	Spelthorne Performance 2019	2018-2020 Threshold and assessment period	Spelthorne’s Performance 2020	2019-2021 Threshold and assessment period	Spelthorne’s Performance 2021
<b>Speed of Major Development</b>	<b>60% (min)</b> (October 2018 to September 2020)	<b>96%</b> N.B. The higher the % the better	<b>60% (min)</b> (October 2018 to September 2020)	<b>100%</b> N.B. The higher the % the better	<b>60% (min)</b> (October 2019 to September 2021)	<b>98%</b> N.B. The higher the % the better
<b>Quality of Major Development</b>	<b>10% (max)</b> (April 2018 to March 2020)*	<b>3.7%</b> N.B. The lower the % the better	<b>10% (max)</b> (April 2018 to March 2020)*	<b>1.8%</b> N.B. The lower the % the better	<b>10% (max)</b> (April 2019 to March 2021)*	<b>4.76%</b> N.B. The lower the % the better
<b>Speed of Non-Major Development</b>	<b>70% (min)</b> (October 2018 to September 2020)	<b>93%</b> N.B. The higher the % the better	<b>70% (min)</b> (October 2018 to September 2020)	<b>93%</b> N.B. The higher the % the better	<b>70% (min)</b> (October 2019 to September 2021)	<b>96%</b> N.B. The higher the % the better
<b>Quality of Non-Major Development</b>	<b>10% (max)</b> (April 2018 to March 2020)*	<b>0.6%</b> N.B. The lower the % the better	<b>10%(max)</b> (April 2018 to March 2020)*	<b>1.4%</b> N.B. The lower the % the better	<b>10%</b> (April 2019 to March 2021)*	<b>1.25%</b> N.B. The lower the % the better

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

Spelthorne has met and exceeded all four targets for the threshold periods.

3.9 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. The quality of majors for 2021 was 4.76%, this covers the period of decision making between April 2019 and March 2021. There were 42 applications determined in the assessment period and 2 appeals were allowed: 18/01426/RVC, Halliford Studios and 20/00123/FUL – Bugle Nurseries.

- 3.10 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. If this was to continue, it would relate to applications determined between April 2020 to March 2022 with an additional 9 months given to allow for the receipt of appeal decisions. In terms of majors, one of the two above appeal decisions allowed in the 2021 period will be brought forward to the 2022 period. In addition, one further major application has been allowed on appeal (21/01199/FUL – Masonic Lodge and Exchange Nightclub site, Elmsleigh Road, Staines). Furthermore, there is currently three additional major applications which are the subject of current appeals; 21/00010/FUL - Renshaw Industrial Estate, Mill Mead, Staines, 20/01112/FUL - Phase 1C Charter Square, High Street, Staines and 21/01506/FUL - Ex Serviceman's Club, Sunbury.
- 3.11 The total number of 'major' applications to be determined by 31/03/22, the decision to approve or refuse and whether they will be appealed if refused is currently unknown. In addition, the outcome of the three remaining appeals, 21/00010/FUL, 20/01112 and 21/01506/FUL) is outstanding. However, assuming the number of major applications remains constant for 2022, the outstanding appeals are allowed and more are refused and/or appealed by 31/03/22, there is a risk of performance, in terms of the 'quality of major applications', exceeding the 'Designation' threshold of 10% in 2022 and the consequences outlined in para 3.7 above.

## Annual Performance

3.12 In terms of the 8 week and 13 week speed performance outlined in para. 3.2 above, Spelthorne performance for decisions made in 2019 – 2021 is set out in table 2 below:

Table 2

	<u>Majors</u>			<u>Minors</u>			<u>Others</u>			<u>Total Nos.</u>
	<b>Total</b>	<b>On Target (13 weeks)</b>	<b>% on Target</b>	<b>Total</b>	<b>On Target (8 weeks)</b>	<b>% on Target</b>	<b>Total</b>	<b>On Target (8 weeks)</b>	<b>% on Target</b>	
2019	25	25	100%	199	175	88%	562	530	94%	786
2020	14	14	100%	148	126	85%	514	478	93%	676
2021	28	27	96%	189	174	92%	603	592	98%	820

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 has far exceeded the government targets.

3.13 During the three years; 2019 - 2021, the following decisions (table 3 below) were made on other types of applications which are not included in statutory performance targets but, nonetheless, represent a significant workload for the PDM service.

Table 3

Application Type	Total No. Determined		
	2019	2020	2021
Certificate of Lawful Development (Proposed)	157	153	237
Certificate of Lawful Development (Existing)	14	6	11
Prior Notifications	98	93	152
Discharge of Conditions	115	80	91
Amended Applications	34	37	42
Consultations from adjoining Boroughs	22	29	14
SCC Applications	12	19	13
SCC Discharge of Conditions	5	2	4
TPO Applications	79	66	78
TCA Applications (Trees in Conservation Areas)	27	37	37
Telecom applications	3	7	16
<b>TOTAL</b>	<b>566</b>	<b>529</b>	<b>695</b>

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.

3.14 A combination of the data in table 2 and 3 provides the total number of planning decisions for the last three years. The figures are:

2019 – 1352  
 2020 – 1205  
 2021 – 1515

Therefore 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.



3.15 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 below.

Table 4

	2019	2020	2021
Planning Appeals	35	32	36
Enforcement Appeals	8	6	1
Planning Enquiries (meetings/written response)	351	288	365
No. of representations on planning applications received	1809	2404	1791
Planning Enforcement Cases	365	345	396

3.16 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 2021 is based on planning applications decided between April 2019 to March 2021. A period of 9 months is given following the end of the assessment period (31 March) to allow time for an appeal to be lodged and decided.

3.17 The appeals relating to Spelthorne for the period in question are attached as Appendix 3. Also attached as Appendix 4, 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 2019 to December 2021. In summary:

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

3.18 The appeal performance overall for these latest stats in 2021 show that 75% of appeals were dismissed or split decisions which compares with 80%, 75% and 69% for the three previous years. It should be noted, however, that the latest set of statistics were measured in a slightly different way to previous years. Nonetheless, it represents a consistent pattern of decision making.

#### Planning Committee Overturns

3.19 Between January 2019 to December 2021, 11 planning applications were recommended for approval by Planning Officers but overturned and refused by the Planning Committee. This compares with 9 in the previous report last year. Of these 11:

- Two were allowed on appeal,
- One appeal was dismissed
- Five have appeals lodged but no decision
- One application was not appealed
- One application may still be appealed
- One proposal cannot be appealed as it was a Council application.

These are summarised in the following table:

Table 5

<b>Planning Application no.</b>	<b>Site</b>	<b>Proposal</b>	<b>Officer Rec</b>	<b>Committee Decision</b>	<b>Appeal Decision and Date</b>
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
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	Approve	Refused 28/08/19	No appeal

<b>Planning Applicati on no.</b>	<b>Site</b>	<b>Proposal</b>	<b>Officer Rec</b>	<b>Committee Decision</b>	<b>Appeal Decision and Date</b>
		front, demolition of chimney stacks.			
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 2 bedroom unit with associated parking and amenity space.	Approve	Refused 18/09/20	Dismissed 02/07/21
20/00736/ FUL	96 Cavendish Road, Sunbury on Thames, TW16 7PL	Erection of a two storey detached building comprising 2 x 1 bedroom flats	Approve	Refused 03/03/21	Appeal Decision awaited
21/00134 /FUL	115 Feltham Hill Road & Land at the rear of 113-127 Feltham Hill Road, Ashford.	Proposed redevelopment of site for the erection of 5 no residential units, following demolition of existing buildings.	Approve	Refused 26/05/21	Appeal Decision Awaited
21/00010 /FUL	Renshaw Industrial Estate, Mill Mead, Staines-upon-Thames,	Demolition of existing industrial buildings and redevelopment to provide 2 new buildings (5-13 storeys) comprising 397 build-to-rent residential apartments (Use Class C3) including affordable housing, ancillary residential areas (flexible gym, activity space, concierge and residents lounge), landscaping, children's play area and car and cycle parking.	Approve	Refused 27/07/21	Appeal decision awaited
20/01112 /FUL	Phase 1C Charter	Redevelopment of the site to provide 64 new	Approve	Refused 27/07/21	Appeal decision awaited

<b>Planning Application no.</b>	<b>Site</b>	<b>Proposal</b>	<b>Officer Rec</b>	<b>Committee Decision</b>	<b>Appeal Decision and Date</b>
	Square, High Street, Staines-upon-Thames	residential units (Use Class C3) with flexible commercial, business and service floorspace (Use Class E) and drinking establishment floorspace (Sui Generis) at ground floor, rooftop amenity space; landscaping and enhancements to the central public square, associated highway works, and other ancillary and enabling works.			
19/01211 /FUL	Benwell House, Green Street, Sunbury on Thames	Erection of 5 storey residential block to provide 39 units, with a mix of 12 x 1-bed, 24 x 2-bed and 3 x 3-bed units together with associated parking, landscape and access.	Approve	Refused 13/10/21	N/A Council application
20/00119 9/FUL	Old Telephone Exchange, Masonic Lodge and adjoining land, Elmsleigh Road, Staines-upon-Thames.	Demolition of the former Masonic Hall and redevelopment of site to provide 206 dwellings together with car and cycle parking, hard and soft landscaping and other associated works.	Approve	Refused 23/06/21	Allowed on appeal 17/01/21
19/01567 /FUL	Florida Court Station Approach Staines-upon-Thames	Erection of an additional floor to create 7 x 1 bedroom units and 2 x 2 bedroom units and the creation of 2 additional car parking spaces.	Approve	Refused 10/11/21	Have 6 months from decision to lodge an appeal
21/00614 /OUT	36 - 38 Minsterley Avenue	Outline planning permission with appearance and	Approve	Refused 10/11/21	Appeal decision awaited

Planning Application no.	Site	Proposal	Officer Rec	Committee Decision	Appeal Decision and Date
	Shepperton	landscaping reserved for the erection of 5 detached dwellings, comprising 4 x 4 bedroom dwellings and 1 x 5 bedroom dwelling, with associated parking and amenity space following the demolition of 36 Minsterley Avenue.			

3.20 The Planning Enforcement function falls under the Planning DM service. The table below (no. 6) sets out statistics of workload for the last four years.

Table 6

<b>Enforcement Case Types &amp; Notices</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
BCN - Breach of Condition Notices	0	2	0	1
PLNCON - Breach of Planning Conditions	41	53	38	41
COURTB & BUSRES - Change of Use from Residential to Business	22	18	15	24
COU - Change of Use (Other)	36	41	34	35
CONSRV - Conservation Area	0	1	0	1
ENF - Enforcement Notices	9	7	3	1
HMO - Houses in Multiple Occupancy	N/A <sup>1</sup>	30	18	24
LBCOM - Listed Buildings	3	5	2	2
MISC - Miscellaneous	45 <sup>2</sup>	27	29	40
HIGHH – High Hedges	N/A <sup>3</sup>	N/A	N/A	1
PCN - Planning Contravention Notice	13	9	4	5
S215 – Untidy Land	0	5	3	7
STOP - Stop Notices	0	1	0	0
TCAEN - Unauthorised Work to Trees in a Conservation Area	0	1	2	0
TEMP - Temporary Stop Notices	2	3	2	0
TPO - Tree Preservation Orders	5	8	7	16
UNADV - Unauthorised Adverts	7	15	6	10
UNDEV - Unauthorised Development	136	153	172	188
UNOUT - Unauthorised Residential Use of Outbuilding	N/A <sup>4</sup>	N/A	N/A	N/A
Uncategorised	10	13	6	0
<b>Totals</b>	<b>319</b>	<b>379</b>	<b>335</b>	<b>396</b>

<sup>1</sup> No stats available for this type of breach (HMO) in 2018 as the type did not exist in our database and has only recently been added to give more granularity. Prior to this new breach type HMO breaches were recorded as MISC.

<sup>1</sup> 2018 MISC cases higher as this included HMO cases prior to the creation of a HMO breach type in 2019.

<sup>1</sup> No stats available for this type of breach (HIGHH) pre 2021 as the type did not exist in our database and has only recently been added to give more granularity. Prior to this new breach type HIGHH breaches were recorded as MISC.

<sup>1</sup> No stats available for this type of breach (UNOUT) pre 2022 as the type did not exist in our database and has only recently been added to give more granularity. Prior to this new breach type UNOUT breaches were recorded as COUOTH.

<sup>2</sup> 2018 MISC cases higher as this included HMO cases prior to the creation of a HMO breach type in 2019.

<sup>3</sup> No stats available for this type of breach (HIGHH) pre 2021 as the type did not exist in our database and has only recently been added to give more granularity. Prior to this new breach type HIGHH breaches were recorded as MISC.

<sup>4</sup> No stats available for this type of breach (UNOUT) pre 2022 as the type did not exist in our database and has only recently been added to give more granularity. Prior to this new breach type UNOUT breaches were recorded as COUOTH.

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.

## **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
- to limit the ability of people to object to individual planning applications
- 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 The government set an ambitious timetable for the Planning White Paper, but it is not clear at this stage when and if this will be delivered. In September 2021, the government restructured the Ministry of Housing, Communities and Local Government to the new Department for Levelling Up, Housing and Communities, thereby dropping 'local government' from its title. The government announced a Levelling Up White Paper on 2 February 2022 which referred to some planning changes. The announcements in relation to planning include:

- "Plans to empower local leaders and communities to reimagine their urban green space and improve access for communities who lack it. This includes enhancing and maintaining protection of the green belt."
- To develop plans "for "further greening the green belt in England," and to see "improved green belts around towns and cities."
- Plans in the Planning White Paper to limit the ability of people to object to individual planning applications have been removed.
- "The ability to have a meaningful say on individual planning applications will be retained and improved through new digital technologies."
- The government will "look to pilot greater empowerment of communities to shape regeneration and development plans".
- The government's "improvements to the planning system will help level up left-behind places".
- "The UK Government will enhance compulsory purchase powers to support town centre regeneration; provide further support for re-using brownfield land for development; set a more positive approach to employment land in national policy to support the provision of jobs; and increase engagement with infrastructure providers in plan making to bolster productivity."

- The government will be "encouraging more accessible hybrid models for planning committees in England".
- The government is looking at some form of land value capture as part of its [reform of the developer contributions system](#). "The UK Government is developing models for a new infrastructure levy which will enable local authorities to capture value from development more efficiently, securing the affordable housing and infrastructure communities need."

It is expected that further legislation will follow to set out the details of the key statements above.

- 4.3 Nevertheless, the Government's focus on the importance of housing delivery and growth remains. On a local scale, the Council's Housing Delivery Test Action Plan was updated in 2021. 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 (HDT) result for 2021 has recently been issued and Spelthorne's result was 69% which is an increase on previous years. The Action Plan will be updated this year to reflect this. This means that 69% of its identified housing needs was delivered in the last three years and 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 there is not a 5-year housing land supply, the current figure is 4.5 years. The consequences of the HDT and lack of a 5 year housing land supply is that the 'tilted balance' (which changes the 'balancing exercise' in favour of approve) is applied to most residential development planning applications in Spelthorne.
- 4.4 In 2020 and 2021, 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 LPA**

- 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 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. The Planning DM officers have continued to successfully meet this



huge challenge which has been exacerbated by an increased workload as highlighted above 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 has been undertaken to improve the application process and management system and this is a continuous process. This work has enabled officers to work remotely in a paperless way of working. Enterprise was crucial in providing an efficient virtual way of working from March 2020. More Enterprise improvements are underway as a continuing process to further enhance the process and improve efficiency.
- 5.3 Officers have attended several on-line training courses as part of their continuous professional development. This is an on-going requirement. In addition, it is planned to provide more training for Members.
- 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 risk of performance, in terms of major applications, coming close to or possibly exceeding the 10% threshold next year. In the two-year period April 2019 to March 2021, the Council determined 42 major planning applications, two of which were appealed against and both were allowed on appeal. This equates to a quality performance of 4.76%. However for the next year, April 2020 to March 2022, in addition to the current two applications allowed on appeal, three further appeals are currently with the Planning Inspectorate and there could possibly be more. If the appeals are allowed, it would bring the performance over the designation threshold of 10%. Continuous monitoring against this criterion is essential.
- 5.5 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”. Where an authority is “designated”, applicants may apply directly to the Planning Inspectorate for the category of applications, for which the authority has been “designated (in this case ‘major’)”. If this was to occur, not only could the LPA lose control in decision making of major 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 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.
- 5.6 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.

- 5.7 An up to date development 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 and it is expected that consultation on the Publication Local Plan (Regulation 19) will be take place in Spring this year. 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.
- 5.8 DM Officers will continue to closely monitor committee overturns. The number of these has been relatively small but increased in 2021. All Members have been advised of the requirements of the Planning Code which was revised in 2021 and in particular, the “call in” procedure. The guiding principle of a “call-in” is that there is a “material planning concern” in the application being considered by the Committee. The Planning Code was updated in 2021.
- 5.9 The PDM Officers are working within a culture of continuous performance improvement throughout the planning development management process. Planning Development Management underwent a two-week audit on its processes and procedures and the overall outcome was judged as “Effective”, the highest level.
- 5.10 It is proposed to continue providing PDM performance reports in the future.

## **6 Recommendation**

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