

Environment and Sustainability Committee



3 December 2024

Title	Annual Planning Development Management Performance Report 2023
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	Addressing housing need Environment Services
Recommendations	Committee is asked to: 1. Note the report
Reason for Recommendation	N/A

1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"> This is the annual a review of the performance of the Planning Development (PDM) Management service over the past year. 	<ul style="list-style-type: none"> In order for Members to be informed of the processes, targets performance and risks.
This is what we want to do about it	These are the next steps
<ul style="list-style-type: none"> The PDM review will assist Members in understanding the complex work of the service and the effectiveness of the Council's planning service. 	<ul style="list-style-type: none"> For the Planning Committee to note the Planning Development Management service over the past year.

1.1 This report seeks to provide a review of the performance of the Planning Development (PDM) Management service over the past year. The report follows on from those produced on an annual basis to the Environment and Sustainability Committee.

2. Key issues

2.1 Successive governments have assessed Local Planning Authorities (LPA) performance on the speed and quality with which they determine planning applications. The Government has introduced tough 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 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". The speed and quality of non-major applications are targets which are less problematic to meet due to the significantly higher numbers received overall, but nonetheless are still closely monitored.

2.3 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.

2.4 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 in the Constitution.

2.5 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 an essential continuing process. The Service was awarded a financial grant of £100,000 from the former DLUHC (now MHCLG) in April and work is on-going to further improve the ICT experience for officers and all users.

2.6 The Planning DM service was transferred remotely following the Covid 19 lockdown, it successfully met this huge challenge and has continued to do so. Officers continue to work on a hybrid basis. The Service has also exceeded all government performance targets.

2.7 Planning training for Members has taken place on decision making, appeals and costs, tree protection, permitted development, Green Belt, county planning matters, Transportation, the Planning Code and Planning Enforcement.

2.8 The E&S Committee has recently considered and agreed an updated protocol on the consultation of major applications. Presentations have been undertaken by developers prior to the submission of their planning

applications and will continue to do so. 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.

- 2.9 Officers in PDM have, with the assistance of specialist Heritage advisors, worked on the re-appraisal of all remaining seven conservation areas (excluding Staines which was undertaken two years ago) and these have been agreed by the E&S Committee and have been subject to consultation. A further report will be presented to the Committee early in 2025.
- 2.10 The service (in conjunction with Legal Services) made an Article 4 Direction in August covering three wards. The Article 4 Direction relates to Houses of Multiple Occupation (HMOs) and its effect is that planning permission is required for a conversion of a dwelling to 3 – 6 occupants which, without the Direction, would not be required. A further report on HMOs will be considered by the Planning Committee on 11 December 2024..
- 2.11 The Government has introduced a raft of planning changes relating to planning enforcement legislation which came into effect earlier this year. It also consulted on an amended performance regime which proposed to introduce a new Accelerated Planning Service for major commercial applications with a decision time in 10 weeks (rather than the current 13 weeks) and a refund of the planning application fee if this is not met. It also proposed to change the use of extensions of time, including ending their use for householder applications and only allowing one extension of time for other developments, which links to a proposed new performance measure for local planning authority speed of decision-making against statutory time limits. It is not yet known whether these proposals will be proceeded with following the change of National Government.
- 2.12 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.

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-major proposals).
- 3.2 As part of the Growth Agenda, the Growth and Infrastructure Act 2013 saw an introduction to the "designation regime" which has since been refined and expanded. It measures performance based on the speed and quality of

decisions for major and non-major development over a rolling 2-year period as follows:

- 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

The performance of LPAs can be “designated” on the basis of its speed and/or quality performance on major development, on non-major development, or both.

- 3.3 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 2** contains a flow chart setting out the designation process.
- 3.4 Table 1 of the main report (reproduced below) provides an overview of the thresholds and assessment period for 2022 and 2023 and details of Spelthorne’s performance.

Table 1

Measure and type of Application	2020-2022 Threshold and assessment period	Spelthorne's Performance 2022	2021-2023 Threshold and assessment period	Spelthorne's Performance 2023
Speed of Major Development	60% (min) (October 2020 to September 2022)	60% N.B. The higher the % the better	60% (min) (October 2021 to September 2023)	100% N.B. The higher the % the better
Quality of Major Development	10% (max) (April 2020 to March 2022)*	4.65% N.B. The lower the % the better	10% (max) (April 2021 to March 2023)*	3.77% N.B. The lower the % the better
Speed of Non-Major Development	70% (min) (October 2020 to September 2022)	96% N.B. The higher the % the better	70% (min) (October 2021 to September 2023)	97% N.B. The higher the % the better
Quality of Non-Major Development	10% (April 2020 to March 2022)*	1.13% N.B. The lower the % the better	10% (min) (April 2021 to March 2023)*	0.84% 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 Borough Council 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 we receive compared with other applications. It would only take four or five majors to be allowed on appeal over a two year period (based on 40-50 majors determined in the last few years) to bring the performance over the designation threshold of 10% and the consequences outlined in above. 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')". 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 Borough Council's performance for decisions made in 2020 – 2023 is set out in table 3 of the main report. Over the past four years, the number of planning applications determined has remained relatively constant, although they did drop in 2023, whilst performance has far exceeded the government targets.

- 3.7 During the same three years ending December 2022, 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 4 of the main report). The data shows that there has been an increase in the total number determined since 2020 with the number dropping in 2023, although it was higher than in 2020.
- 3.8 Overall, in 2023 a total of 1270 planning decisions were made by the LPA compared with 1406 in 2022, 1515 in 2021, 1205 in 2020. All planning applications are submitted to PDM and the fluctuation in numbers received each year is normally a reflection of outside factors, e.g., Covid 19 in 2020. Whilst there has been a recent drop in the number of applications received, this mainly related to the straightforward cases, whilst at the same time, officers are having to deal with more complex issues including; Biodiversity Net Gain (BNG), the growing climate change agenda, an increasing number of various 'prior approval' applications, complex flooding issues including surface and fluvial flooding and new planning enforcement legislation and an increase in complaints and enforcement action.
- 3.9 The LPA also deals with several other matters involving appeals, planning enforcement and enquiries. A summary of the last four years is contained in table 5 of the main report.
- 3.10 The planning appeals and enforcement appeals for the past two years are contained in appendices 3 and 4 of the main report. There were 84 appeal decisions received:

- 2 Enforcement appeals
- 83 Planning appeals

Of these appeals:

- 60 Planning appeals were dismissed.
- 23 planning appeals were allowed
- 1 Planning Enforcement appeal was dismissed
- 1 Planning Enforcement appeal was withdrawn.

- 3.11 The report also assesses planning applications which were recommended for approval by the Planning Officer but overturned and refused by the Planning Committee. Between January 2022 to December 2023, two 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 6.
- 3.12 Table nos. 5, 7 and 8 summarise planning enforcement activity. There has been an increase in planning enforcement complaints by nearly 50% from in 2023 compared with 2022. The enforcement team served 17 enforcement notices in 2023 which is more than twice the total served in the three years before this. Whilst the number of enforcement appeals have been low in recent years (table 5), there has been an increase in 2024 (at present six), which no doubt is related to the number of notices serves. The officers are

also currently dealing with a number of complex enforcement cases, some of which have been the subject of appeals. A detailed report on planning enforcement policy was presented to the Neighbourhood Services and Enforcement Committee in March 2024. Recently new planning enforcement legislation has been introduced and a further updated report on planning enforcement policy appears on this current committee agenda.

3.13 Details relating to the Housing Delivery Test are included at table 9. The report concludes with a summary of government papers including consequences of the Housing Delivery Test result of 68% and lack of a 5 year housing land supply leading to the 'titled balance' being applied for most residential development planning applications in Spelthorne. An Action Plan was prepared because the HDT score of 68% fell below the requirement of 95% as the Council's response to the delivery test challenge set out in the NPPF.

3.14 The Government has recently announced a raft of proposed planning changes.

- In December 2023, the Levelling Up and Regeneration Act came into effect which proposed reforms to national planning policy.
- The Environment Act 2021 introduced Biodiversity Net Gain for many planning applications. This has applied for major developments from February 2024 and for minor proposals from April 2024.
- In July 2024, the new Government (following the General Election), issued a draft NPPF and other proposed changes, all for public consultation. None of these have yet to come into effect.

In terms of Spelthorne Policy, PDM has:

- Submitted a report to the E&S Committee for an updated protocol on the consultation of major applications.
- Served an Article 4 Direction on three wards in the borough relating to HMOs
- Worked with heritage advisors to re-appraise seven conservation areas
- Updated the council's Enforcement Policy

4. Financial implications

4.1 Potentially negative financial implications could arise if the planning performance is amended by the new national government resulting 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.

- 4.2 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 2024/245 is £ 101,530.
- 4.3 The statutory planning application fees increased in April 2024 (between 25% and 35%) and there will be an annual increase from April 2025. This should bring resilience to the Planning Development Management service, although there has been a decrease in the high fee earners in recent times. The new government has undertaken consultation of further planning fee increases, although the final outcome is awaited.

5. Risk management comments

- 5.1 The Local Planning Authority is required to meet statutory targets. Failure to do so could result in the Local Planning Authority being 'Designated' for major applications. This would have serious implications for the LPA as it would 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.

6. Procurement Comments

- 6.1 There are no procurement comments.

7. Legal Comments

- 7.1 There are no direct legal implications arising from this report.

8. Other considerations

- 8.1 There are no further considerations to be taken into account other than those in this report and the attached documents.

9. Equality and Diversity

- 9.1 This does not have any direct equality and diversity impacts.

10. Sustainability/Climate Change Implications

- 10.1 There are no sustainability/climate change issues although these issues are a material planning consideration in decision making.

11. Timetable for implementation

- 11.1 The Planning DM performance is monitored on a constant basis. It is intended to continue to provide an annual performance report to the Committee.

12. Contact

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

Background papers: There are none.

Appendices:

Appendix 1 – Main Report

Appendix 2 – Designation process

Appendix 3 - Planning Appeals Received & Decided January 2022 – December 2023

Appendix 4 - Planning Enforcement Appeals Decided January 2022 – December 2023