

Appendix 1

Title	Annual Development Management Performance Report 2023
Purpose of the report	The purpose of this report is to advise the Members of the Planning Development Management (PDM) performance over the past year.
Report Author	Esmé Spinks, Planning Development Manager
Recommendations	It is recommended that the Environment and Sustainability Committee notes the report.
Executive Summary	<p>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.</p> <p>Government policy announcements 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 National Planning Policy Framework, 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 (it currently stands at 3.8 years) 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 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>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.</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</p>

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.

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.

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 from the former DLUCH (now MHCLG) in April and work is on-going to further improve the ICT experience for officers and all users.

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.

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.

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.

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 and have been subject to consultation. A further report will be presented to the Committee early in 2025.

Following a resolution by the Corporate Policy and Resources Committee (CP&RC) 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

	<p>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 CP&R on 09/12/2024.</p> <p>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 although it is not yet known whether this will be proceeded with following the change of National Government.</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. LPAs are required to work to the national “designation regime” which measures performance based on the speed and quality of decisions for major and non-major development over a rolling 2-year period. 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 Test 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 “Non- Major.

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.

3.3 The Government introduced a ‘Designation’ regime in 2013 which has since been expanded. This measures the performance of LPAs over a rolling two year continuous period. The performance of LPAs is 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.

3.4 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 (DLUHC) 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 bypass 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.

3.5 The following table provides an overview of the thresholds and assessment periods for 2021 - 2023 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	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)	x100% N.B. The higher the % the better
Quality of Major Development	10% (max) (April 2020 to March 2022)*	3.44% N.B. The lower the % the better	10% (max) (April 2021 to March 2023)*	0% 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% (max) (April 2021 to March 2023)*	0.84% N.B. The lower the % the better

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

- 3.6 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 assessment for 2023 is based on planning applications decided between April 2021 to March 2023. 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. The 'Quality of Major Development' threshold is monitored particularly closely. This is because of the relative few major applications which Spelthorne receives compared with other applications. The details of these for the last two years are set out in tables 2 a, b and c below:

Table 2 a - 2022

Total no of majors determined	Nos of appeals allowed	Details of appeals allowed	Quality of Majors*
29	1	Ref 22/00483/OUT Land at Manor Farm, Charlton Road, Shepperton Outline permission for residential development of up to 30 residential units (with all matters reserved for future consideration except for means of access)	3.44%

*The lower the figure, the better

Table 2 b - 2023

Total no of majors determined	Nos of appeals allowed	Details of appeals allowed	Quality of Majors*
21	0	N/A	0%

*The lower the figure, the better

It is clear from the above information that the performance on the quality of majors is sound. However, in view of the relatively low number of majors, continuous monitoring is essential.

- 3.7 In terms of the 8 week and 13 week speed performance outlined in para. 3.2 above, Spelthorne performance for decisions made in 2020 – 2023 is set out in table 3 below:

Table 3

	<u>Majors</u>			<u>Non-Majors</u>			<u>Total Nos.</u>
	Total	On Target (13 weeks)	% on Target	Total	On Target (8 weeks)	% on Target	
2020	14	14	100%	662	604	91%	676
2021	28	27	96%	792	766	97%	820
2022	29	29	100%	728	706	97%	757
2023	21	21	100%	610	605	99%	631

- 3.8 During the four years; 2020 - 2023, the following decisions (table 4 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 4

Application Type	Total No. Determined			
	2020	2021	2022	2023
Certificate of Lawful Development (Proposed)	153	237	172	145
Certificate of Lawful Development (Existing)	6	11	7	8
Prior Notifications	93	152	112	88
Discharge of Conditions	80	91	153	133
Amended Applications	37	42	33	35
Consultations from adjoining Boroughs	29	14	28	13
SCC Applications	19	13	9	13
SCC Discharge of Conditions	2	4	7	2
TPO Applications	66	78	68	67
TCA Applications (Trees in Conservation Areas)	37	37	42	42
Telecom applications	7	16	18	9
New TPOs*	4	6	8	13
TOTAL	529	695	649	568

Note: TPO making moved from Strategic Planning to Planning Development Management.

The data shows that there has been an increase in the total number determined since 2020 and then a fall back in 2022 and again in 2023.

- 3.9 A combination of the data in tables 3 and 4 provides the total number of planning decisions for the last four years. The figures are:

2020 – 1205

2021 – 1515

2022 - 1406
2023 - 1270

Therefore, in 2023 a total of 1270 planning decisions were made by the LPA compared with 1406 in 2022, 1515 in 2021 and 1205 in 2020.

3.10 The LPA also deals with several other matters involving appeals, planning enforcement and enquiries. A summary of the last five years is contained in table 5 below. The most noticeable change is the increase in the number of representations received in 2023 which was a 64% increase on 2022 which itself had been an increase on the previous year. This demonstrates a growing interest of participation in planning across the borough.

Table 5

	2019	2020	2021	2022	2023
Planning Appeals	35	32	36	66	38
Enforcement Appeals	8	6	0	1	1
Planning Enquiries (meetings/written response)	351	288	365	310	296
No. of representations on planning applications received	1809	2404	1791	2366	3886
Planning Enforcement Cases	365	345	396	246	368

3.11 The planning appeals relating to Spelthorne for the three-year period to December 2023 are attached as Appendix 3. Also attached as Appendix 4, are the appeal decisions relating to enforcement cases for the three year period to Dec 2023. It should be noted that the latter are not currently used by Government to measure the Council's performance. In summary:

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.

3.12 The appeal performance overall for these latest stats in 2023 show that 73% of appeals were dismissed which compares with 75%, 75.8% 80%, 75% and 69% for each of the previous four years. This data represents a consistent pattern of sound decision making.

Planning Committee Overturns

3.13 Between January 2022 to December 2023, two planning applications and proposals were overturned by the Planning Committee. This compares with 9, 9 and 11 in the previous three years report last year. Of these neither were the subject of an appeal.

These are summarised in the following table:

Table 6

Planning Application no.	Site	Proposal	Officer Rec	Committee Decision	Appeal Decision and Date
22/01707/FUL	31 Worpel Road, Staines-upon-Thames	Erection of a single storey rear infill extension and change of use of existing dwelling (C3) to 7 bedroom House of Multiple Occupancy (HMO) (Sui Generis) with shared kitchen and dining room, associated parking and amenity space.	Approve	Refused 19/10/22	No appeal
23/00185/FUL	10 Chestnut Grove, Staines-upon-Thames	Demolition of converted garage and erection of new build part single storey, part two storey dwelling house with integral garage, including single storey rear extension to existing dwelling	Approve	Refused 01/06/2023	No appeal

3.14 The Planning Enforcement function falls under the Planning DM service. The table below (no. 7) sets out statistics of workload for the last four years.

Table 7

Enforcement Case Types & Notices	2020	2021	2022	2023
BCN - Breach of Condition Notices	0	1	0	2
PLNCON - Breach of Planning Conditions	38	41	47	71
COURTB & BUSRES - Change of Use from Residential to Business	15	24	14	28
COUOTH - Change of Use (Other)	34	35	28	39
CONSRV - Conservation Area	0	1	1	1
ENF - Enforcement Notices	3	1	4	17
HMO - Houses in Multiple Occupancy	18	24	6	26
LBCOM - Listed Building Complaint	2	2	0	2
MISCOM - Miscellaneous	29	40	13	21
HIGH – High Hedges	n/a	1	0	1
PCN - Planning Contravention Notice	4	5	5	3
S215 – Untidy Land	3	7	4	3
STOP - Stop Notices	0	0	1	0
TCAEN - Unauthorised Work to Trees in a Conservation Area	2	0	0	0
TEMP - Temporary Stop Notices	2	0	1	1
TPO - Tree Preservation Orders	7	16	8	5
UNADV - Unauthorised Adverts	6	10	6	14
UNDEV - Unauthorised Development	172	188	111	125
UNOUT - Unauthorised Residential Use of Outbuilding	n/a	n/a	3	15
Uncategorised	6	0	3	0
Totals	335	396	246	368

- 3.15 Overall there has been an increase in planning enforcement complaints by 24% from 2018 to 2021 and a drop in 2022. However, in 2023 there was a rise again by nearly 50%--The enforcement team has dealt with a number of complex enforcement cases and was, until recently, operating with just two full time members of staff due to a vacancy in the team. A detailed report on planning enforcement policy was reported to the former Neighbourhood Services and Enforcement Committee on 21 March 2024. Recently new planning enforcement legislation has been introduced and a further updated report on planning enforcement policy appears on the same agenda.
- 3.16 Below show the number of prosecution cases over the last five years and this shows an increase in activity during 2022.

Table 8

Prosecutions/Court Cases	2019	2020	2021	2022	2023
Non-Compliance with Enforcement Notice	1	1	0	1	1
Non-Compliance with a Breach of Condition notice	0	0	0	1	0
Non-Compliance with a TPO – Tree Protection order	0	0	0	1	0
Non-Compliance with a TSN – Temporary Stop Notice	0	0	0	0	0
Non-Compliance with an injunction order	0	0	0	1	0
Judicial Review	0	0	0	1	0
Totals	1	1	0	5	1

Other Issues affecting Planning Development Management

National Policy

- 4.1 In December 2023, the Levelling Up and Regeneration Act came into effect which proposed reforms to national planning policy. The Act is wide ranging and has undergone many changes since the first publication of the changes were published. There will be a number of implications for PDM including:
- changes to reflect the role of National Development Management Policies in decision-making (final details are awaited),
 - enhanced enforcement powers (as referred to above) which came into effect early in 2024.
 - The introduction of a ‘Street Votes’ system which will allow residents to propose development on their street and hold a vote on whether planning permission should be given (final details on how this will operate are awaited).

- Local Planning Authorities will be required to have a design code in place covering their entire areas. The area-wide codes will act as a framework for subsequent detailed design codes to be prepared for specific sites or areas. (Spelthorne is in the process of preparing a design code for the borough).
- 4.2 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. It is too early to assess the implications of this as there have been very few applications received with BNG so far. This will be updated in next year's annual report.
- 4.3 In July 2024, the new Government (following the General Election), issued a draft NPPF and other proposed changes, all for public consultation. Consultation concluded on 24 September 2024 and the Council's response was considered by the Environment and Sustainability Committee on 17 September. The proposals comprise a combination of proposals that either accept or reverse changes made to the December 2023 version of the NPPF and an introduction of new policies. The key changes are ultimately focused on a strengthening of the drive to meet housing and other development needs, based around the following:
- Updating the presumption in favour of sustainable development
 - Strengthening obligations on cross-boundary working and hence strategic planning in national policy.
 - Changes to housing need including proposing a new Standard Method and changes to housing mix.
 - Housing land supply - restores at para 76 the requirements for LPAs to demonstrate a five year housing land supply.
 - Green Belt - the biggest policy initiative is reform of Green Belt policy and the introduction of the 'Grey Belt', first mooted in October 2023 as a description of land use and landscape quality. There is also the introduction of 'Golden Rules and changes to proposals on previously developed land.
 - Changes to planning application fees.
- 4.4 Given that the matter has already been discussed previously by the E&S Committee it is not intended to narrate further here, but the proposals are referenced to set the context for decision making in planning.
- 4.5 The Government's focus on the importance of housing delivery and growth remains and has strengthened following the General Election. On a local scale, the Council's Housing Delivery Test Action Plan was updated in 2023. This measures the housing delivered in Spelthorne compare with the number

of homes that are required. The housing test results for the last five years are set out in the following table:

Table 9

Measurement Year	Total Homes Required	Total Homes Delivered	HDT score (%)	Consequence
2023	1,566	1,072	68%	Presumption + Action Plan + 20% buffer
2022	1,554	1,073	69%	Presumption + Action Plan + 20% buffer
2021	1,574	785	50%	Action Plan + 20% buffer
2020	1,509	904	60%	Action Plan + 20% buffer
2019	1,394	876	63%	Action Plan + 20% buffer

- 4.6 Spelthorne was required to produce a HDT Action Plan because the HDT score of 68% fell below the requirement of 95%. This means that 68% of its identified housing needs were delivered in the last three years and places 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 3.8 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 in many parts of the borough) is applied to the majority of residential development planning applications in Spelthorne. The Action Plan was the Council’s response to the challenge set out in the NPPF to significantly boost the supply of homes.

Spelthorne Policy

- 4.7 Following a resolution by the Corporate Policy and Resources Committee in April 2024 the PDM service (in conjunction with Legal Services) made an Article 4 Direction in August which covers three wards. The Article 4 Direction relates to Houses of Multiple Occupation (HMOs) and its effect is planning permission is required for a conversion of a dwelling to 3 – 6 occupants which, without the Direction, would be ‘permitted development’ and could be undertaken without any planning controls. The Direction will come into effect a year later, August 2025. A further updated report on HMOs will
- 4.8 In addition, 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. The results and final recommendations are also being reported to this same Committee meeting.

- 4.9 The Enforcement Policy has been updated following agreement by the former Neighbourhood Services and Enforcement Committee. An updated report, which sets out the recent legislation changes, is included on the agenda for this E&S Committee.
- 4.10 The E&S Committee has recently considered and agreed an updated protocol on the consultation of major applications.

5 Implications, Risks and Actions for Spelthorne LPA

- 5.1 The Planning DM officers have continued to successfully meet and exceed the statutory government targets when measuring the quality and quantity of planning applications. 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 because of the relatively low number of major applications received.
- 5.2 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 sums. In 2023/24, Planning DM received over £600,000 in income from planning application fees and pre-application advice given by officers. 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 2023/24 is £101,000. Continuous monitoring against this criterion to avoid a risk of designation and therefore LPA control is essential. The Government proposals to change the performance regime are still awaited following the General Election and Members will be updated on this in due course.
- 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 (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 to further enhance the process and improve efficiency. Following the

award of a government grant in April, the service is working on further improving the IT for its officers and the community.

- 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 training has taken place for Members during 2024.
- 5.4 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.
- 5.5 An up-to-date development plan gives greater certainty to all those involved in the development process and the local community. The local plan is currently at the Examination stage which has been paused. However, on 24/11/24, Council agreed to write to the Planning Inspectorate to request modifications to the local plan and a resumption of the examination. 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.
- 5.6 DM Officers will continue to closely monitor committee overturns. The number of these has been relatively small and although the figure increased 2021, it slipped back slightly the following year. 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 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.