

BRIEFING NOTE

Agenda Item no. 8

TO: Regeneration Scrutiny & Performance Panel

DATE: 18 July 2013

RE: Development Issues Update

Purpose

The attached report provides guidance in relation to recent development activity.

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6th June 2013

REPORT OF THE HEAD OF PLANNING AND BUILDING CONTROL

Development Management Performance Update Report

1. PURPOSE OF REPORT

To advise Members of the Planning Committee of the latest performance and outcomes regarding development management matters and in particular to: -

- i) The 4th quarter performance figures for applications determined between 1st January and 31st March 2013.
- ii) The decisions made by the Planning Inspectorate on appeals made to the Secretary of State between 1st January and 31st March 2013.
- iii) A progress report of enforcement proceedings.

2. RECOMMENDATIONS

That the Committee notes the report

3. FINANCIAL IMPLICATIONS

None arising from this report

4. POLICY IMPLICATIONS

Within Council policy. All planning applications and enforcement proceedings relate to local and national planning policy.

5. LEGAL IMPLICATIONS

The briefing of members as to the outcome of individual appeals made by the Planning Inspectorate will enable members to keep abreast of planning issues as may be raised within individual cases. Appeal decisions are material considerations and should be considered in the determination of subsequent applications where relevant.

6. **EQUAL OPPORTUNITY IMPLICATIONS**

None arising from the report. The Development Management service is accredited by an Equality Impact Assessment.

7. **ENVIRONMENTAL IMPACT**

The impact of decisions made by the Planning Inspectorate on the environment is included in decision letters.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

Officers in Legal Services have been consulted in the preparation of this report.

10. **CONTACT OFFICER**

David Elsworthy - Extension: 4722

11. **BACKGROUND PAPERS**

All published.

David Elsworthy, Head of Planning and Building Control

PLANNING COMMITTEE

6th June 2013

Development Management Performance Update Report

i) Speed of planning applications determined between 1st January and 31st March 2013. (2011/12 equivalent figures in brackets)

Application type	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Out Turn for 2011- 12 to date
a) Major applications Within 13 weeks (Gov't target = 60%) (Local Target = 72%)	42.86% (45%)	43.75% (66.6%)	60% (41.18%)	38.46% (81.8%)	46% (61.7%)
b) Minor applications Within 8 weeks (Gov't target = 65%) (Local Target = 83%)	81.13% (65.7%)	60.29% (68.57%)	60.34% (83%)	73.68% (92.9%)	67.93% (76.5%)
c) Other applications Within 8 weeks (Gov't target = 80%) (Local Target = 92%)	85.78% (81.2%)	78.6% (79.90%)	83.26% (83%)	84.58% (82.69%)	83.37% (81.69%)

12.1 At 46% the number of major applications determined in 13 weeks in the three quarters represents a disappointing out turn for performance in this category being below the government set target of 60% and the national average of 57% (2011/12). There is no one single reason for this but the following factors will have had some bearing on this:

- We have moved to a 4 week committee cycle from a 3 week cycle.
- Holding vacant 3 planning officer posts due to the down turn in fee income
- The number and type of applications received (see below)
- More rigorous viability testing and pre application / business friendly approach in order to try to bring development forward
- Number of s106 agreements pro rata

- More rigorous approach for flood risk assessments by the EA causing delay
- Slow responses from applicants and agents despite our business friendly approach to meeting customer demand.

12.2 At 67.93% of applications being determined in 8 weeks in the first two quarters performance in the 'minor' category has exceeded the government set target of 65% but is slightly below the national average of 71% (2011/12). Performance for 'others' at 83.37% also exceeded the government set target of 80% and the national average of 82% (2011/12).

12.3 The continued high level of performance and further customer service development will rely heavily on the retention and recruitment of staff and the continued use of the existing development management governance arrangements. It will also be influenced by the proportion of new to older applications being determined and the number of applications received. 1235 planning applications were received in 2012/13 compared with 1143 applications in 2011/12 and 1136 in 2010/11.

ii) *Decisions made by the Planning Inspectorate between 1st January and 31st March 2013.*

12.4 *The following decisions have been made by the Planning Inspectorate between 1st January and 31st March 2013.*

App No.	Address	Proposal	Decision	Officer Rec	Comments
17 12/0908/FL	193 Lord Street	Two storey rear extension	Dismissed	Refuse	Would be detrimental to the amenity of neighbours failing the 45 degree code resulting in loss of outlook.
18 12/0563/AD	Land Adj M6, Darlaston Road	Free standing advert panel	Dismissed	Refuse	Sited on a mega 6 tower 5.5m wide to a maximum height of 14.6m replacing a 96 sheet poster display would be set in a treed area away from other signs and built up area. It would be an obtrusive structure standing above the skyline detracting from the trees that soften the area.
19. 11/0802/FL	College Farm, Bosty Lane	Erection of a EWT 500KW wind Turbine	Dismissed	Refuse	40m high monopole mast with turbines extending to 67m would be a dominant tall feature with the rotational blades drawing attention to it. As such it would have an overwhelming presence from many several points and would harm the established countryside

					character of the area and openness of the Green Belt. As such it would be inappropriate development and there are insufficient special circumstances that outweigh the harm.
20. 12/1159/FL	248 Walstead Road	Demolition of garage and erection of garage with Study room over	Dismissed	Refuse	Would cause harm to the character of the area by virtue of its height and would be overbearing resulting loss of satisfactory outlook being detrimental to the amenity of occupiers of 1 Maple Drive adjacent
Target = 30%			6 appeals not decided in accordance with Councils decision = 30%	6 appeals not decided with officer recommendation = 30%	Total number of qualifying appeals = 20 (Appeals against non determination, conservation / listed building consent, adverts and those withdrawn are not included).

12.6 The above outcomes show that 30% (6 out of 20) of appeals were not determined in accordance with the councils' decisions between 1st April 2012 and 31st March 2013. This represents a very good performance meeting our locally set target of 30% and below the national outcome figure of 35% for all appeals (in 2011/12).

12.7 The ability of the council to defend a high percentage of its decisions is particularly important as a qualitative performance measure because a local planning authority should be able to defend a high proportion of its planning decisions. This measure featured as a Best Value Performance Indicator until 2007/8 when it was dropped by the Government. However given the importance attached to this measure in the past and given that we have many years experience of collating this information it has been continued as a local performance measure. The government has also recently included the performance measure for major applications only as part of their assessment of poorly performing planning authorities included in the Growth and Infrastructure Act 2013.

iii) Progress on Enforcement Proceedings

12.8 Members will see from the attached table at Appendix A that steady progress is being made on many cases since the last update report. Inevitably some delay is experienced on some due to legal and other complexities. Members will also note that there are other matters being dealt with under officer delegation in addition to these matters and the most notable of these are included in part B of the table.

PLANNING COMMITTEE - 6th June 2013

Progress of formal enforcement actions.

Appendix A Enforcement Cases acted upon with Committee authority

Case Number & Case Officer(s)	Address	Date of committee authorisation for Enforcement Action	Type of action and date of issue	Current position
1 PW/NH	Site of Mellish Road Church, Lichfield Road, Walsall	Latest resolution 10/3/2011	Section 215 Notice – issued 18/4/2011	The demolition took place but one condition regarding validation of hazardous materials remains outstanding. An anticipated planning application for a mixed use development has not been received. Officers pursuing the owners to confirm final land treatment and fencing.
2 PW	17 Newport Street, Walsall	26/10/2004	Listed Building Enforcement Notice and Prosecution	Continued non-compliance with Listed Building Enforcement Notices for installation of second floor windows and painting exterior of building. Also other external alterations including first floor windows continue to be an offence. Case to be reviewed with Conservation Officer and Legal Services with view to a future committee report to consolidate issues.
3 KH	74, 75, 76, Stafford Street, Willenhall (Dainty's)	Latest resolution 21/10/2010	Section 215 Notices Issued on 4 th July 2012	Section 215 notice required the repair of numbers 74 and 75. The notice took effect on 6 th August and first compliance period expired on 6 th September. Second compliance period expired on 6 th December 2012. Requirements of the first two parts of the notice were not met. Officers updated committee on 20/09/12, 10/01/13 and 2/5/13. Prosecution process underway. The case was first in court on 20 th May, it has been adjourned until the 3 rd June 2013
4	Green Lane, Walsall,	19/4/2005	Prosecution for	Poster hoarding at junction. Liaising with Property Services,

PW	at Rayboulds Bridge		unlawful adverts	regarding the removal of the hoarding from the verge as part of the wider area contract with the poster company. The poster company have now confirmed they will remove the hoarding..
5 PW	The Bell Inn, Market Place Willenhall	Latest resolution 29/4/2010	Section 215 Notice -not issued, owing to sale to new owners	Willenhall Townscape Heritage Initiative grant scheme commenced in May 2011. Some work carried out to building and preparation of schedules of repair for grant aid application was taking place. Planning and listed building applications were withdrawn, but new applications were approved in April 2013, for external refurbishment works, (including shop-front, gates and staircase); and residential use of first floor. A heritage grant application now expected with a view to commencing the works.
6 PH	Land at Canalside Close, Walsall	9/1/2007	Enforcement Notice – 5/11/2007	Erection of boundary wall, building and gates. Appeal partially upheld on 15/8/08. Planning permission granted subject to conditions for a change of use to motor vehicle salvage and breakers yard including alterations to the boundary wall by September 2012. Wall and gates not amended. Prosecution being prepared.
7 PW	24 Slaney Road, Pleck, Walsall	17/7/2007 & updated 29/5/2008	Enforcement Notice	Change of use of house to HMO. Liaising with Housing and Council tax team. Officers attempting to gain access to confirm that the house meets permitted development allowances.
8 PW	80 Noose Lane, Willenhall	28/10/2008	Enforcement Notice	Planning Contravention Notice issued 7/1/2011 to clarify fluctuating vehicle repair/sales/recovery but not responded to. Use appears to be mainly storage. Additional fencing recently erected. Officers continuing to pursue owner regarding removal of the additional fencing and reviewing the use.
9 PW	100 and 101 Union Street, Willenhall	31/3/2009	Section 215 Notices	A new owner for 101 Union St was contacted, prompting Officers wrote to the owner requesting a timetable for resolving the breaches. Owners intended to carry out works to the building to improve its appearance. Scaffolding was erected and works were carried out to re-slate the damaged areas of roof, and add boarding to some windows. Appearance remains far from ideal, and this to be pursued, with RFI notices to be issued to update

				ownership information.
10 PW	101 Woden Road West, Darlaston	4/3/2010	Prosecution	Breach of Condition Notice on landscaping. Some planting was carried out but additional planting did not follow. Prosecution process was underway. Owners proposed additional planting at rear by mid November 2012, and this has been carried out. Also several more trees added at front. The majority of the required planting has been carried out and officers reviewing the one remaining part.
11 PH	19 High Street, Walsall Wood – (formerly G D Memorials)	Further resolution 17/2/2011	Prosecution	Erection of building without compliance with planning permission. Non-compliance with enforcement notice, second planning application refused. Appeal dismissed. Owner pleaded guilty at court and fined £400 plus costs in February 2013. New planning application for retention of building at a lower height with external cladding is currently under assessment.
12 PH/SC	Land rear of 82-92 Salters Road, Brownhills	31/3/2011	Enforcement Notice – 26/1/2012	Unauthorised car wash - Planning application for the retention of the car wash refused 14/10/2011. Compliance with notice due 27/4/2012. Further retrospective planning application, but this withdrawn on basis of car wash ceasing. Officers monitoring..
13 PH/HS	124 Willenhall Street, Wednesbury	26/5/2011	Enforcement Notice – 6/7/2012	Installation of metal container, roller shutter door and railings – compliance due 8/11/12. 18 th October 2012 Committee approved planning application for brick store and replacement access gate. Metal container and railings have been removed. Officers are discussing the detailed specification for the replacement access gate as part of the requirement of the planning condition.
14 PH/AI	Land at the junction of Waverley Avenue and Beacon Road, Pheasey	21/7/2011	Enforcement Notice – 8/8/2011	Telecommunication mast – Appeals Inspector quashed the Enforcement Notice. Council's application to the High Court to challenge the appeal decision was dismissed on 10/5/12. An application to the Court of Appeal to review the High Court decision was also dismissed. No further action can be taken, the telecommunication mast is considered to be lawful. No further action
15	24 Collins Street,	13/10/2011	Enforcement	Enlargement of rear extension - works recently undertaken to

PH/TP	Palfrey		Notice.	make the extension permitted development. Officers testing the works carried out against current legislation and evolving case law.
16 PH/TP	Haley Street-rear of 32, Short Heath	13/10/2011	Enforcement Notice. - 8/10/12	Siting of static caravan – Planning permission refused September 2011. Caravan removed. Resolved
17 JF	8 Kelway Avenue, Great Barr.	2/02/2012	Enforcement Notice – 23/4/12	Erection of balcony – Planning Inspectorate returned appeal to the applicant for lack of information. Enforcement Notice not complied with. Owner pleaded guilty when prosecuted on 7 th January – Fined £582.09 inc costs. Decision made to allow further 3 months to comply with terms of enforcement notice. Balcony removed early May Resolved
18 PW	Sites of former Junction Works and Railway Tavern Public House	2/02/2012	Enforcement Notices, (deferred to allow the company time to re-locate) – in respect of Junction Works 21/9/2012 -in respect of former Railway Tavern 23/10/2012	At Junction Works: Change of use to waste transfer and crushing/processing rubble to make secondary aggregates. Compliance due – (i) cease importing materials 24/11/12, (ii) cease all operations and clear the site 24/4/13. An Appeal has been made, no further action until the appeal has been determined. Appeal statements have been exchanged and awaiting Inspectors visit, which now expected soon. At Railway Tavern: Change of use to storage of skips, containers, wastes, machinery, and the parking of vehicles. Compliance due 23/02/2013. An Appeal has been made, no further action until the appeal has been determined. Awaiting Inspectors visit, which is also now expected soon.
19 PW	63 and 65, Bloxwich Road South, Willenhall	20/9/2012	Prosecution in respect of S215 Notice.	Unightly void properties. Legal services were instructed to commence prosecution in regard to non-compliance with S215 Notice, subject to viability. Receivers have contacted the Council and have auctioned Number 63 at end of March 2103. New owners very recently identified and intentions to be ascertained.

20 PW	Car wash on land adjacent Talbot Truck, Bilston Lane, Willenhall	20/9/2012	Prosecution in respect of Breach of Condition Notice	Intermittent breach of a condition, which prevents jet washing in the open. Officers monitoring the level of breach and reviewing available evidence with a view to commence prosecution.
21 PW	75, Bridge Street, Walsall	15/11/2012	Enforcement Notice – 22/04/2013	Alteration to traditional shop front, involving installation of UPVC sliding door, in conservation area. No notification of an appeal has been received. Compliance due 22/06/2013.
22 TP/PW	16 Athlone Road, Walsall	7/03/2013	Enforcement Notice – 10/05/2013	Part change of use to park /store van, lorry, plant etc at a house. Notice takes effect 12/06/2013 with compliance due 12/07/2013
23 HS	2 Bradgate Close, Willenhall	7/03/2013	Enforcement Notice – 23/04/2013	Timber building in garden. Enforcement Notice has not taken effect owing to an appeal, which based on a claim of lawfulness. Appeal process to run before any further action
24 AI	Land rear of Tempus Drive, Walsall	2/5/2013	Enforcement Notice	Change of use to deposition of waste material. RFI notices issued to establish ownerships etc. before the issue of the Enforcement Notice.
25 PH	12-14 Lower Lichfield Street, Willenhall	2/5/2013	Prosecution in respect of S215 Notice.	Unsuitably void properties. Advice being sought from Legal Services in regard to viability of prosecution, otherwise will move to direct action.

Appendix B Enforcement Cases acted upon under delegation

	Address	Breach	Type of Action	Date Notice served / Progress	Compliance date / appeal	Complied? Yes/No
26 KH	The Limes, 5 Birmingham Road, Walsall	Breach of condition restricting range of goods sold at	Breach of Condition Notice	3/12/2010	3/1/2011.	No. Certificate of Lawfulness received and refused. A new application received, but this for permission to

	Address	Breach	Type of Action	Date Notice served / Progress	Compliance date / appeal	Complied? Yes/No
		a dispensary.				vary the condition, and is now at a late stage. Officers to review the case when this finally determined.
27 PW	63 and 65, Bloxwich Road South, Willenhall	Unsightly condition of former doctors surgery and adjacent house.	Section 215 Notice.	19/1/2011	Compliance due in 2 stages, by 18/3/2011 and 13/5/2011	Limited compliance. The properties were Auctioned separately on 19/5/2011. (Please see item in Part A above following Committee authority)
28 PW	Car wash on land adjacent Talbot Truck, Bilston Lane, Willenhall	Breach of a condition, which prevents jet washing in the open.	Breach of Condition Notice	Notice served 1/12/11 (owners) and 3/12/11 (operators)	Compliance due 1/1/12	Evidence of non-compliance was discussed with the operator and working practices were changed. However further monitoring shows continued intermittent breaches. (Please see item in Part A above)
29 PH/TP	12-14 Lower Lichfield Street, Willenhall	Unsightly condition of vacant former shops	Section 215 Notice	Notice issued 28/2/12	Compliance due 2/10/12	No. Authorisation for prosecution and/or direct action given at committee on 2/5/13. (Please see item in Part A above)
30 PH	Former Jabez Cliff, Lower Forster Street, Walsall	Unsightly condition due to storage of demolition material	Section 215 Notice	Notice issued 28/2/13	Compliance due 5/5/13 for clearance of rubble, end of May for planting of site boundary	No – Significant clearance has taken place, with bunds created to secure the site and top soil applied to the bunds in preparation for planting. Officer to monitor progress and deadlines.
31 SC	176 Bloxwich Road, Walsall	Breach of condition requiring flue to terminate 1m above the roof.	Breach of Condition Notice	Issued 7/05/2013	Compliance due by 4/06/2013. Application made to vary the condition – being assessed.	

