



Walsall Council

Planning Committee

4th February 2016

REPORT OF HEAD OF PLANNING, ENGINEERING & TRANSPORTATION

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 performance figures for applications determined between 1st October and 31st December 2015.
- ii) The decisions made by the Planning Inspectorate on appeals made to the Secretary of State between 1st October and 31st December 2015.
- iii) A progress report of enforcement proceedings.
- iv) An update of Planning Applications 'called-in' by Councillors

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 and guidance.

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 and all planning applications are required to consider environmental issues where material to the proposed development.

8. **WARD(S) AFFECTED**

All.

9. **CONSULTEES**

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

10. **CONTACT OFFICER**

Shawn Fleet: Extension 0453

11. **BACKGROUND PAPERS**

All published.

Steve Pretty
Head of Planning, Engineering and Transportation

PLANNING COMMITTEE

4th February 2016

Development Management Performance Update Report

i) Speed of planning applications determined between 1st October and 31st December 2015

(2014/15 equivalent figures in brackets)

Application type	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Out Turn for 2015- 16 to date
a) Major applications Within 13 weeks (Gov't target = 60%) National Average (Qrt 1, 2015) = 78%)	69.23% (75%)	100% (100%)	100% (78.5%)	 (100%)	89.74% (92.22%)
b) Minor applications Within 8 weeks (Gov't target = 65%) National Average (Qrt 1, 2015) = 72%)	84.05% (60%)	87.60% (62.07%)	82.89% (68.06%)	 (75.0%)	84.85% (65.56%)
c) Other applications Within 8 weeks (Gov't target = 80%) National Average (Qrt 1, 2015) = 83%)	83.52% (86.73%)	55.10% (89.79%)	77.55% (86.3%)	 (87.03%)	72.06% (88.26%)

12.1 At 89.74% to date, the number of major applications determined in 13 weeks or timescales agreed with the applicants for the year significantly exceeds the government's national target (60%) and average performance for planning authorities (78.5% in the 3rd quarter 2014-15). This performance is therefore excellent and welcomed particularly given the governments introduction of a league table to assess poorly performing authorities' which has seen the threshold raised for major applications from 40% to 50% as part of the governments assessment as to whether a local planning authority should be placed in special measures. This also includes 100% of 'County Matters' determined within 13 weeks or agreed time

scales with the applicants as part of the overall major application performance, which is a separate performance measure (same target) introduced last year by government.

- 12.2 84.85% of applications were determined in 8 weeks in the first three quarters of 2015/16 in the 'minor' category which significantly exceeds the government set target of 65% and the national average of 68.06% in the 3rd quarter 2015 by other authorities. At 77.55% performance for the 'others' category in the third quarter represents a major improvement compared to performance last quarter and approaches the government set target of 80% and the national average of 88.26% for the 2015-16 period.
- 12.3 Overall the performance for the third quarter represents an excellent set of outcomes which I hope will be sustained particularly as the service is working collaboratively with applicants and their agents in order to achieve quality decisions and outputs using the extension of time facility that was introduced last year by government.
- 12.4 The continued high level of performance and further customer service development will rely heavily on the retention 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. 919 planning applications were received over the first three quarters (which no longer include certificates of lawful use) compared to 1223 over the 2014/15 period, 1135 applications received in 2013/14 and 1235 planning applications in 2012/13. It is difficult to forward project the total number of applications that can be expected over the 2015/16 period but based on current data it is expected there will be a comparable level of applications to the 2014/15 assessment.
- 12.5 This needs to be considered against the fact that 96 Prior Approval applications have been received to date. If this level of activity continues, it is expected the full year figures will be slightly lower than the 151 Prior Approval applications were also received in 2014/15 and the 121 received in 2013/14 and which are not included in the planning application figures. This reflects the government's changes in legislation by the introduction of more permitted development (subject to prior approval applications) and removing the need to submit a planning application. The majority of prior notifications are for large rear extensions to houses which attract no planning fee but officers still need to administer, check, notify neighbours and determine accordingly. This takes up a considerable amount of officer's time which is compounded if an appeal is received against a decision made. With the new legislation coming out during 2014/15, there would have been an initial wave of activity particularly from applicants with schemes on hold and would historically been difficult to approve if submitted as a planning application. It is considered that this initial batch of applications has now passed and the levels of applications currently being dealt with will be sustained into the future subject to market pressures remaining constant. If confidence increases in the property market then there may be a shift from alterations which can be dealt with through the Prior Notification process to new build projects however current indicators do not suggest this change will be forthcoming soon.

ii) ***Decisions made by the Planning Inspectorate between 1st October and 31st December 2015***

12.6 Details of previous decisions can be found in the performance reports of 5th November, 30th April and 5th February 2015. The list below is a continuation of the schedule of 22 appeal decisions presented in the 5th November report.

App No.	Address	Proposal	Decision	Officer Rec	Comments
23. 15/0311/FL	18 Wolverhampton Road, Pelsall	Side and rear single storey extensions	Dismissed	Refuse	By way of its design and relationship to 20 Wolverhampton Road, the development would detrimentally affect the light and outlook from that property thereby harming the living conditions of its occupants.
24.	26 Bradley Lane, Wednesbury	Retention of storage barn, two caravans, stabling blocks, fencing, hard surfacing and alteration of levels	Enforcement noticed quashed	To take enforcement action.	The notice does not specify with sufficient clarity the alleged breach of planning control and the steps required for compliance. The notice is invalid and it has been quashed as a consequence.
25. 14/1717/FL	17 Knights Hill, Walsall	Proposed dwelling house and associated works	Dismissed	Refuse	The development would contribute to the supply of housing, it would represent inappropriate development in the Green Belt and it would reduce openness without very special circumstances being established.
26. 15/02017/AD	11 Portland Road, Aldridge	1.2m x 1.0m sign for Chiropodists	Allowed	Refuse	The advertisement would sit relatively comfortably within the street scene. Although other signs have been permitted, the frontage of the property would not appear cluttered.
27. 15/0076/FL	39 Shire Ridge, Walsall Wood	Retention of a boundary wall	Dismissed	Refuse	The development adversely affects the character and appearance of the area. Consideration has been given to the upper level of the rear garden of the appeal property, however the level of privacy the wall provides to this part of the garden does not justify the harm to the character of the area.
Target = 30%			1 appeals not decided in accordance with Councils decision = 25%	1 appeal not decided with officer recommendation = 25%	Total number of qualifying appeals = 4 (Appeals against non determination, conservation / listed building consent, adverts and those withdrawn are not included).

- 12.6 The above outcomes show that 40% (2 out of 5) of the appeal decisions were determined differently to the councils' decisions in Q3 between 1st October 2015 and 31st December 2015 with the majority of decisions going in accordance with officer recommendation. In the previous quarter 6 of the 22 decisions were decided against officer recommendation. Cumulatively this represents only 8 out of 27 appeal decisions going against the Council. This represents a positive outcome which matches our challenging locally set target of 30% and exceeds the national outcome figure of 37.0% for all appeal types in 2014.
- 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 included this performance measure for major applications (based on 80%) as part of its assessment of poorly performing planning

iii) Progress on Enforcement Proceedings

- 12.8 Members will see from the attached table at Appendix A that progress is being made on some cases since the last update report. Inevitably some delay is experienced on some cases due to the nature of the work and legal and other complexities. However, a significant effort is being made to increase enforcement performance in Development Management with all officers now responsible for enforcement as part of their general casework following the departure of the two planning enforcement officers at the end of 2015.

iv) Called in Applications

- 12.9 Planning Committee requested information regarding the number of applications that have been called in and agreed that this should appear in this performance report as a regular item. The table below shows that a further 7 applications have been called in as part of a total of 21 for the financial year to date. For details of applications previously called in please refer to the previous performance report of 5th November 2015.

<i>Date of Planning Committee</i>	<i>Called in by Councillor</i>	<i>The Electoral Ward that the planning application was within</i>	<i>Planning Application number</i>	<i>Called in using</i>
5/11/15	Councillor S Coughlan	Willenhall South	15/0684/FL	Proforma
5/11/15	Councillor Russell	St Matthews	15/1183	Proforma
5/11/15	Councillor Martin	Paddock	15/1246	Proforma
3/12/15	Councillor Sears	Aldridge North And Walsall Wood	15/0910/OUTL	Proforma

3/12/15	Councillor Bennett	Pelsall	14/1923/FL	Proforma
7/1/16	Councillor Martin	Paddock	15/1650	Proforma
7/1/16	Councillor Wilson	Aldridge North And Walsall Wood	15/1358	Proforma

PLANNING COMMITTEE - 4th February 2016 : Progress of formal enforcement actions.

Case Number & Case Officer(s)	Address	Date of committee authorisation for Enforcement Action	Type of action and date of issue	Current position
1 AT	Site of Mellish Road Church, Lichfield Road, Walsall	Latest resolution 10/3/2011	Section 215 Notice – issued 18/4/2011	The demolition has taken place. The site remains in a condition that is not currently expedient to pursue a prosecution. Officers will continue to monitor
2 KP	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 has been reviewed. Consolidated report being prepared with intention to report to committee in the near future. An invalid planning application has been submitted in an attempt to regularise the listed building breaches. Should this not become valid in the short term, the enforcement report will come forward to the next planning committee.
3 DM	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. The first compliance period expired on 6 th September; the second compliance period expired on 6 th December 2012. Requirements of the first two parts of the notice were not met. Prosecution was progressed with each Defendant being fined. A planning application for the conversion of the building to one retail unit and five flats has been approved. Following the planning consent the applicants have established that the quality of the existing building may not be suitable for refurbishment/redevelopment. A current invalid planning application 15/1883 has been submitted for the redevelopment of the site to a mixed retail and residential development. Should the application not become valid in the near future or works on site to resolve the amenity harm, officers will pursue a further prosecution.
4 DM	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 approved in April 2013, for external refurbishment works, (including shop-front, gates and staircase); and residential use of first floor. All works have been satisfactorily completed and the relevant planning and listed building conditions complied with. RESOLVED
5 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 subject to time limit actions. Actions not complied with. Discussions about new tenant and advice sought from officers in regard to a new planning application to address the issues.
6 PH	80 Noose Lane, Willenhall	28/10/2008	Enforcement Notice	<p>Planning Contravention Notice issued 7/1/2011 to clarify fluctuating vehicle repair/sales/recovery and later partially completed by occupier during Pace interview. Use appears to be mainly vehicle storage but also includes change of use of neighbouring garden also in the same ownership for storage of vehicles. Additional kerb side fencing has been erected over the 1.0m PD allowance taking the fence to over 2.0m in height.</p> <p>9-3-15 Update – Although the stored vehicles are to the rear of the properties, they are visible from neighbouring properties and unsightly. Officers will therefore be pursuing enforcement action through a s215 notice and separate action to restore the garden to the neighbouring property.</p> <p>Following further investigations vehicle repairs are now infrequent and car storage predominately non-commercial. However storage of vehicles has spilled over onto rear of adjacent property, issue will be pursued. New issue has arisen regarding storage of reclamation items.</p>
7	The Manse, 100 and	31/3/2009	Section 215 Notices	Initially, the owner for 101 Union St was contacted, prompting Officers

DM/AI	101 Union Street, Willenhall			<p>to write 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-late the damaged areas of roof, and add boarding to some windows.</p> <p>The Manse is currently on offer for sale. The sale is connected to the restoration of the Church next door and its sale will assist with the restoration of the Church.</p> <p>Planning application (15/1450) has been received which proposes conversion of the buildings with a two storey rear extension to create 11 apartments. This will be reported to a future planning committee.</p> <p>Conversion to cr</p>
8 TP	Sites of former Junction Works and Railway Tavern Public House	2/02/2012	<p>Enforcement Notices, 21/9/2012</p> <p>-in respect of former Railway Tavern 23/10/2012</p>	<p>At Junction Works: Change of use to waste transfer and crushing/processing rubble to make secondary aggregates. Compliance due – (i) cease importing materials 05/09/13, (ii) cease all operations and clear the site 05/02/14. Appeal dismissed on the 5th August and notice was upheld. Prosecution of owners had taken place.</p> <p>At Railway Tavern: Change of use to storage of skips, containers, wastes, machinery, and the parking of vehicles. Compliance due 05/11/2013. Appeal dismissed on the 5th August and notice was upheld. Both cases presented at Walsall Magistrates' Court on Monday 1 December 2014. Tenant AB Waste Management Ltd pleaded guilty to all five summonses laid against them. Magistrates Court fined AB Waste a total of £52365.00 including costs on the 16/3/15. RESOLVED</p> <p>Owners of sites Serve Firm Ltd and St Francis Properties LLP entered not guilty pleas. The case against them was held at Walsall Magistrates Court on the 8th June 2015. Both defendants were convicted of all charges with Servefirm Ltd fined a total of £16310.87 including costs and St Francis Properties LLP being fined a total of £11757.43 including costs. RESOLVED</p>

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9 BT	65 Bloxwich Road South, Willenhall	20/9/12	Re –issue separate s.215 notice to changed owner.	Unightly void property. The amenity issues at no 65 have been resolved. No.63 is secure and the windows have been replaced. It does not warrant any further action at this time. RESOLVED
10 KP	Land rear of Tempus Drive, Walsall	2/5/2013	Enforcement Notice	Change of use to deposition of waste material. Enforcement Notice issued. Appeal lodged but subsequently withdrawn. Enforcement notice compliance period expired April 2014. New EIA Screening Opinion issued 11/12/14 confirming Environmental Statement not required. Planning permission 15/0333/FL was granted on 8 th January 2016 for earthworks comprising the redistribution of spoil from the south of the site (the Opal site) to the north (the Onyx site), including on-site remediation of material as necessary, to provide a level platform for future development. The permission requires commencement of the works within 12 months of the grant of permission to remedy the issue of unauthorised waste on site.
11 PH	12-14 Lower Lichfield Street, Willenhall	2/5/2013	Prosecution in respect of S215 Notice.	Unightly void properties. Letter received in July 2013 sets out intention to paint, replace glass and repair the roof within a month. No works carried out. Difficulty demonstrating legal owner of the land, legal advice to be sought on likelihood of securing a prosecution or whether direction action would be the only way to bring improvements.
12 SC	3 Walsall Road	September 2013	Enforcement notice	Unauthorised change of use, signage, fencing and building works. Authorisation to prosecute was approved by September planning committee. Planning applications for the retention of the works have now been refused. Enforcement notice served on 23 rd June 2015 for compliance on the 24 th September 2015. Requirements of the notice have not been met. Prosecution with legal services.
13 DM	24 Larkspur Way	16/01/14	Enforcement Notice	Enforcement Notice served, with the compliance period expiring at the beginning of October. Officer inspection confirms requirements of Enforcement Notice not complied with – With Legal Services for prosecution proceedings to be prepared.
14 SF	Ravenscourt Shopping Precinct	March 2014	Section 215 Notice	Awaiting return of Section.16, this is required to establish all parties responsible for the land before serving Section 215 Notice. Notice being prepared.

				Update 27 January – Owners of the site have been in contact with the LPA to inform the Council that contractors are being appointed to address the matters in the S215 Notice. In addition they are taking active steps to bring forward a future occupier of the site. It is anticipated a scheme will be forthcoming in the next quarter subject to the outcome of discussions with potential clients.
15 SC	Land Adjacent 26 Bradley Lane	June 2014	Enforcement Notice	The carrying out of engineering works to alter land levels and create access onto the highway, laying down of hard-surfacing, the erection of boundary gates and fencing, the erection of two stabling blocks and the partial construction of a storage barn. Applicant contests that the access has lawful use rights and there is a current certificate of lawfulness to be determined. Appeal decision concluded requiring the serving of a revised notice.
16 JF	1 Halford Crescent	May 2014	Enforcement Notice	<p>Enforcement Notice served 24th October 2014 regarding the change of use from residential to car repairs, storage and valeting, plus additional fencing and hard surfacing. Compliance period ends 24th December 2014. PACE interview conducted on 25th Feb to establish further grounds for prosecution. Prosecution proceedings being prepared by officers.</p> <p>Continued monitoring confirms compliance with the requirements of enforcement notice. It was considered the original harm to the neighbouring properties had subsided to a degree whereby it would not currently be in the public interest or meet the standards of the Councils prosecution policies to pursue the matter further.</p> <p>Officers have recently been advised of a number of vehicles returning to the property and this is currently being investigated. The requirements of the notice remain on the land in perpetuity so if the breach returns officers will re-evaluate the current position.</p>
17 JF	84 Fairburn Crescent	September 2014	Enforcement Notice	Enforcement Notice served 6 th November 2014 regarding the use of the land as a business for the storage and sale of motor vehicles. Appeal dismissed 18 th March 2015. One month compliance period expired on 18 th April. Site monitored following expiry of compliance period, confirms compliance with the requirements of the enforcement notice.

				It is considered the original harm to the neighbouring properties has subsided to a degree whereby it would not currently be in the public interest or meet the standards of the Councils prosecution policies to pursue the matter further. RESOLVED
18 SF	Middlemore Lane West – Former GKN	September 2014	Enforcement Notice	Owners have removed the unauthorised embankment and are in discussions with officers for the submission of a planning application to landscape the front of the site. Update 27 January 2016– In the absence of an application being submitted, officers are proactively seeking the submission of an application to resolve outstanding engineering works on the site.
19 DM	55 Shire Ridge	5-03-15	Enforcement Notice	5/3/15 Planning Committee authorised to pursue enforcement action against a business being operated from home. Retrospective planning application refused. Planning Appeal upheld 6 th August 2015 – Planning permission approved – RESOLVED For information, the neighbour commenced a High Court challenge to the Inspectors decision but during the processing of the claim decided not to pursue the matter through the courts.
20 KH	Three Crowns Public House	2 nd April 2015	Enforcement notice	The 2 nd April 2015 Planning Committee authorised the pursuance of enforcement action for unauthorised excavations at the pub site and the dumping of spoil on the adjacent SINC field. Notice served on 29 th September 2015 with compliance due on 28 th January 2016.
21 MB	105 Skip Lane	August 2014	Enforcement Notice	Enforcement Notice Served on 7 th January 2015 regarding the Change of Use from Agricultural to Garden Land and erection of Lighting/Camera Column. The land owner has not appealed the enforcement notice. Compliance was required by 6 th March 2015. A certificate of lawfulness was subsequently submitted and refused. Partial compliance with notice confirmed, with the materials being removed and now stored adjacent to two shipping containers. The owner has been written too confirming partial compliance and that they are liable for prosecution Further visit to be arranged to inspect final works. Officers will write to the owners separately regarding the shipping containers
22	72 Whitehall Road	11/12/14	Enforcement Notice	ENF14/0215- Enforcement notice served on the 3/3/15 to remove an

HS				unauthorised rear extension, built without the benefit of building regulations. A planning application for a single storey rear extension was approved on the 25 th June 2015 to replace the demolished extension which is now near to completion. Following a visit to the property on 4 th November officers confirm that the requirements of the notice have been satisfactorily met. RESOLVED.
23 PH	Unit 1A, Alvar Business Park, Straight Road	3/9/15	Enforcement Notice	Retrospective planning permission refused. Car wash operations ceased. RESOLVED.
24 MB	Land between River Tame and Railway, Darlaston Road, Walsall	09/07/15	Enforcement Notice	Enforcement Notice served on 30/09/15 which took effect on 02/11/15. Requires removal of all materials, packaging and waste from the land and cessation of the use of the land for the storage of commercial building materials. Initial visit noted the majority of the materials removed. Currently assessing whether the remained of the material is expedient to pursue a prosecution.
25 SF	Former Jack Allen Holdings, Middlemore Road	6 /8/15	Enforcement Notice	The operator has now vacated the site and the importation of soil and timber has ceased. The owners have secured possession of the site and agreed measures with the Environment Agency and the Councils Pollution Officers to clear the site by April 2016.
26 SF	Hawthorns, Former Baytree House, Erdington Road, Aldridge	3/9/15	Enforcement Notice	The operators of the site have begun proceedings with officers of the Council to look at improving the provision of care available to residents including registration with the Care Quality Commission (CQC) to operate as a care home and ensure compliance with planning application 12/1400/FL. To date, no evidence has been submitted to the LPA of the registration of the property through the CQC. Now the Christmas period has giving residents a period of grace from the enforcement action, officers will be pursuing the enforcement of the planning consent.
27 PH	34 Laneside Avenue	5/11/15	Enforcement Notice	Appeal against the retrospective planning refusal of the fence is currently under consideration. Enforcement action to be held in abeyance until appeal concluded.