



Walsall Council

Planning Committee

1st December 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 during the 2nd quarter of 2016/17 (1st July and 30th September 2016) regarding development management matters and in particular to: -

- i) The performance figures for applications determined in Q2.
- ii) The decisions made by the Planning Inspectorate on appeals made to the Secretary of State in Q2.
- iii) An update of Planning Applications 'called-in' by Councillors in Q2. Please note, this information was presented to committee in the previous performance paper but has been represented to ensure consistency with the performance and appeals data.
- iv) A progress report of enforcement proceedings.

Details of previous performance in Q1 (April to June) 2016/17 can be found in the report to Planning Committee of 1st September 2016.

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

Development Management Performance Update Report

i) **Speed of planning applications determined in Q2 (between 1st July and 30th September 2016)**

(2015/16 equivalent figures in brackets)

Application type	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter	Performance for 2016- 17 to date
a) Major applications Within 13 weeks (Gov't target = 60%)	85.71%	83.33%	%	%	84.52%
Walsall Performance 2015/16	(69.23%)	(100%)	(100%)	(100%)	(90.91%)
National Average (2015/16 = 81%)					
b) Minor applications Within 8 weeks (Gov't target = 65%)	50.00%	60.00%	%	%	55.00%
Walsall Performance 2015/16	(84.05%)	(87.60%)	(82.89%)	(89.58%)	(84.31%)
National Average (2015/16 = 75%)					
c) Other applications Within 8 weeks (Gov't target = 80%)	18.11%	52.85%	%	%	35.48%
Walsall Performance 2015/16	(83.52%)	(55.10%)	(77.55%)	(69.66%)	(71.47%)
National Average (2015/16 = 84%)					

12.1 During 2015/16 the overall performance for Major applications determined in 13 weeks or within timescales agreed with the applicants came in at 90.91% by end of year. This significantly exceeded the government's target (60%) and the national average. The first two quarters performance for 2016/17 maintain this level of performance with the Council exceeding the Government's target and the national average for or 81% of decisions in time. This continued performance is therefore welcomed particularly given the governments introduction of a league table to assess poorly performing authorities' as part of the governments assessment as to whether a local planning authority should be placed in special measures. In this

quarter, one county matter application was determined. As this was in time, 100% performance was achieved.

12.2 The previous report noted drops in the performance for the Minors and Others categories. Substantive efforts have been put in place in the intervening three months to focus not just on the decision making aspect but also the processing of the applications from receipt in the planning department through consultation and on to the decision.

12.3 For the Minor applications, performance has risen to 60.00% up from 50.00%. This is welcome news and begins to bring the Council close to the national average and the Government's target of 65% of Minor applications to be determined in time. Efforts continue to be focused on closing this gap to restore performance back to 2015/16 levels which at their lowest were 82.89% and averaged 84.31% for the year.

12.4 The Others category has seen a substantial improvement delivered in Q2. There remains a number of applications in the system which have still exceed the target decision time of 8 weeks and when determined, these results will impact on future performance levels. It is expected though that this will be a diminishing number of cases as the improvements to the system allow for new cases to be determined in line with targets.

12.5 Since the previous report, a transition is now in place between the use of agency staff to support the team to a permanent staffing. At the time of writing, a new Planning Assistant has joined the team and a send post is being recruited to.

ii) Decisions made by the Planning Inspectorate in Q2 (between 1st July and 30th September 2016)

App No.	Address	Proposal	Decision	Officer Rec	Comments
6. 16/0613	Jubilee Academy Mossley, Tintern Crescent, Bloxwich, WS3 2SQ	Window & door replacement scheme with demolition and erection of external fire escape.	Appeal Withdrawn	Grant Permission Subject to Conditions	The appeal was lodged against no determination however officers negotiated a decision prior to the appeal becoming live. The appeal was subsequently withdrawn following the issuing of the decision.

7. 15/1845	250, Stroud Avenue, Willenhall, WV12 4EG	Retrospective: Change of Use from Doctor's surgery (Class D1) to house in multiple occupation for 12 people (sui generis).	Appeal Allowed	Refuse Permission	Officers refused this retrospective application under delegated powers on the grounds of fear of crime. The Inspector noted that the courts have held that there must be some reasonable evidential basis for the fear of crime and adverse effects to be justified. Whilst the Inspector recognised the concerns and anxiety of residents who refer to incidents of crime and anti-social behaviour, it was considered the allegations were not supported by evidence and therefore the weight given to them in the overall considerations of the appeal were limited. Comments from the police were not supported by evidence. The Inspector gave weight to the existence of existing House Rules and a copy of the Licence Agreement which were used by the management company to control anti-social behaviour.
8. 16/0159	150 , Hundred Acre Road, Streetly, Walsall, B74 2BH	Single storey front and side extensions	Appeal Allowed	Refuse Permission	The application was refused due to impact on neighbours privacy and outlook to the rear at 53 Brabham Court from a proposed side extension. The Inspector gave weight to the fall back position available through Permitted Development rights (PD)
9. 16/0251	1, Whitehouse Way, Aldridge, Walsall,, WS9 0BB	Two storey side and rear extensions	Appeal Allowed	Refuse Permission	This application was refused on the basis of the effect of the extension on the character and appearance of the house and the surrounding area which was considered to be a contrived design. These views were not supported by the Inspector.

10. 15/1634	22, Sunnybank Close, Aldridge, Walsall, WS9 0YR	To remove one Rowan to ground level.	Appeal Dismissed	Tree: Appeal Dismissed	The proposal to fell a TPO Rowan tree at the front of the dwelling was refused under delegated powers. The Inspector did not accept the applicants arguments with respect to detriment to the security of the property and damage to the building and dismissed the appeal.
11. 15/1652	78, Argyle Road, Walsall, WS4 2EU	Sycamore tree - Reduce height and spread by 50% and reduce middle stem to a height of 5m.	Appeal Dismissed	Tree: Appeal Dismissed	The proposal was to reduce the height and spread of a Sycamore by 50% and reduce middle stem to a height of 5.0m. The Inspector considered the works to be drastic and lead to substantial wounds to the tree. No evidence was provided to support a claim that the tree caused damage to drains.
Target = 30%			3 appeals not decided in accordance with Councils decision = 60%	3 appeal not decided with officer recommen dation = 60%	Total number of qualifying appeals = 5 (Appeals against non determination, conservation / listed building consent, adverts and those withdrawn are not included).

12.6 The above outcomes show that 60% of the appeal decisions were determined differently to the councils' decisions in Q2. Whilst the results are disappointing two points are becoming more firmly established.

12.7 Firstly, refusal decisions based simply on the adopted Design SPD may not necessarily be supported by the Inspectorate as evidenced by the decision at 1 Whitehouse Way. Whilst officers still give substantive weight to the issue of design and the appearance of development particularly in the street scene, these concerns do not appear to be supported to the same extent by the Inspectorate.

12.8 The decision to allow the HMO at Stroud Avenue is disappointing particularly as this was for a retrospective use. The Inspectorate continues to place great emphasis on the need for evidence to support refusals on the fear of crime. Officers continue to work with the Police and other partners in securing evidence and this will be reflected in the decision making process.

12.9 The role of Permitted Development as a fall-back position has been highlighted in the 150 Hunderd Acre Wood decision. In this instance, officers took a view on the character of the extension with regard to the Technical Guidance to the PD Regulations. This view was not supported by the Inspectorate. In this instance, officers have reflected on the decision and noted the outcome for future cases.

12.10 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.

iii) Called in Applications

12.11 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 6 applications have been called in during the second quarter of July to September. For details of applications previously called in please refer to the previous performance report of 9th June 2016.

Date of Planning Committee	Called in by Councillor	The Electoral Ward that the planning application was within	Planning Application number	Called in using
7 July	Councillor Hussain	Pleck	16/0056	Pro forma
	Councillor Martin	Paddock	16/0334	Pro forma
4 August	Councillor Sears	Aldridge North And Walsall Wood	16/0527	Pro forma
	Former Councillor Arif	St Matthews	15/1884	Pro forma
1 September	Councillor Andrew	Bentley and Darlaston North	16/0416	pro forma
	Councillor Hughes	Streetly	16/0622	pro forma

iv) Progress on Enforcement Proceedings

12.12 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. The cases are being addressed by the Planning department.

PLANNING COMMITTEE - 1st December 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.. Last site visit undertaken on 13 th April 2016.The site remains in a condition that is not currently expedient to pursue a prosecution and will be continue to be monitored.
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. Currently awaiting an update from the Building Conservation Officer. A site visit was undertaken on 10 th May 2016 and further discussions have taken place. Planning application 16/0120 which is still invalid as the Council is waiting for block plan.
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 planning application

				15/1883 for the redevelopment of the site to a mixed retail and residential development. The aim is to conclude the current application towards the end of July 2016.
4 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. Site visit undertaken on 13 th April 2016. Site was locked up and secured with nobody on site. Sign on wall outside states that the facility will be opening soon. Contact is to be made with the current owners to ascertain their intentions. A further monitoring visit is proposed at end of June 2016 to assess the situation.
5 DM	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</p>

				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. Case was reallocated to a new case officer in March 2016 for progression.
6 DM	The Manse, 100 and 101 Union Street, Willenhall	31/3/2009	Section 215 Notices	<p>Initially, the owner for 101 Union St was contacted, prompting Officers 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-slate the damaged areas of roof, and add boarding to some windows.</p> <p>Planning application (15/1450) granted subject to conditions and Planning Obligation 13-06-16 for conversion of the buildings with a two storey rear extension to create 11 apartments. Non-Material Amendment application submitted 03-08-16 for minor changes to the windows and doors.</p>
7 MB	Land rear of Tempus Drive, Walsall	2/5/2013	Enforcement Notice	<p>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 8th 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.</p>
8 PH	12-14 Lower Lichfield Street,	2/5/2013	Prosecution in respect of S215	Unightly void properties. Letter received in July 2013 sets out intention to paint, replace glass and repair the roof within a

	Willenhall		Notice.	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. Site visit undertaken on 13 th April 2016. Officers proposed to meet to discuss the way forward. Following advice from Legal Services, the owners were contacted by letter dated 24 th May 2016 and a response has been requested within 7 days.
9 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. Legal services have asked for further land ownership details which is currently being investigated
10 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.
11 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 9-3-15 – Owners of the site have been in contact with the LPA to discuss future the enforcement action and the future of the site. Site inspection proposed to be undertaken as soon as practicable to assess the current situation.
12	Land Adjacent 26	June 2014	Enforcement Notice	The carrying out of engineering works to alter land levels and

SC	Bradley Lane			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. Meeting taking place to explore changes on site which may be secured through a planning application. Application for Certificate of Lawful Use received 26 July 2016 not yet valid.
13 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>
14 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.

				Meeting to be proposed with planning case officer to ascertain the current situation.
15 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. A monitoring site visit is proposed to be undertaken as soon as practicable following discussions with case officer.
16 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 to confirming partial compliance and that they are liable for prosecution. Further visit has been undertaken to inspect final works and compliance is under review. Officers will write to the owners separately regarding the shipping containers.
17 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 remainder of the material is expedient to pursue a prosecution.
18 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. Owner was

				required by the Environment Agency to remove all wastes by November 2015. The site is almost cleared of all stockpiles and use for importation of waste has ceased. It is recommended that monitoring continues until the site is fully cleared.
19 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. The measures put forward are being considered by officers. Officers are preparing a report to update Members on the current situation.
20 PH	34 Laneside Avenue	5/11/15	Enforcement Notice	Appeal against the retrospective planning refusal of the fence was dismissed. Works were undertaken to reduce the height of the fence. While parts exceed 2m this is minimal and is viewed in the context of a change in ground levels. In addition the neighbour has also erected an adjacent boundary fence. It would not be expedient to pursue the matter further. RESOLVED
21 SC	51-53 Wolverhampton Street		Enforcement action authorised by 31/3/16 planning committee	Change of Use from Factory/Offices to HMO. A planning application has been received and further details are required. A meeting has taken place with planning agents and the agent to address any shortcoming with the scheme and amendments are expected. Stroud Avenue planning inspectorate decision will inform how this case is progressed. Enforcement action currently on hold pending the outcome of the current planning application.
22 MB	16 Butts Road	31/03/16	Enforcement action authorised by 31/3/16 planning committee	A planning application has been received and further details are required. A meeting has taken place with planning agents and the agent to address any shortcoming with the scheme and amendments are expected. Stroud Avenue planning inspectorate decision will inform how this case is progressed. Enforcement action currently on hold pending the outcome of the current live planning application.
23	4 Nursery View		Enforcement action	Following resolution to take enforcement action, the operator of

BT/SE	Close		authorised by 07/07/16 planning committee	the commercial vehicles has ceased parking of the vehicles at the property. RESOLVED
-------	-------	--	---	--