



Walsall Council

Planning Committee

9th June 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

9th June 2016

Development Management Performance Update Report

i) **Speed of planning applications determined between 1st January and 31st March 2016**

(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% (100%)	90.91% (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%)	89.58% (75.0%)	84.31% (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%)	69.66% (87.03%)	71.47% (88.26%)

12.1 At 90.91% at end of year, the number of major applications determined in 13 weeks or within timescales agreed with the applicants for the year significantly exceeds the government's national target (60%). 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 84.31% of minor applications were determined in 8 weeks or within an agreed timescale with the applicants in 2015/16 which again significantly exceeds the government set target of 65%. At 71.47%, the performance for the 'others' category in the third quarter falls below the government target of 80%. Whilst this is disappointing, this performance needs to be seen in the context of a year of significant change within the Development Management service with the introduction of a new ICT service and the departure of the former Head of Planning and Building Control and other members of staff. The restructuring of the service in terms of staffing and work patterns is making progress.
- 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. 1251 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. This represents a continued increase in the number of applications determined by the Council year on year.
- 12.5 This needs to be considered against the fact that 124 Prior Approval applications have been received to date. This is slightly lower than the 151 Prior Approval applications were also received in 2014/15 but up on 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 was 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 report of 4th February 2016.

App No.	Address	Proposal	Decision	Officer Rec	Comments
28. 15/0568/FL	59A Wood Lane, Sutton Coldfield	Proposed double storey rear extension	Dismissed	Refuse	The proposed development would have a detrimental impact on the living conditions on adjoining neighbours due to overbearance and loss of sunlight.
29. 14/1278/FL	1 Millcroft Road, Sutton Coldfield	Pair of two storey side extensions on left and right	Dismissed	Refuse	Detrimental to the character and appearance of the area. The design was deemed to be wholly unusual within its immediate surroundings.
30. 15/0736/FL	248 Walsall Road, Darlaston	Change of use of public house to HMO for 15 bedsits.	Allowed	Refuse	Fear of crime argument not accepted by Inspector. Recognition given to existing levels of crime in vicinity of site but Inspector noted "...there is no firm evidence that such occurrences ... would be attributed to future occupiers of the property at issue or multi-occupied properties in general." Officers have discussed how evidence can best be presented at appeal with the aim of providing more specific information of crime and fear of crime associated with a development.
31. 15/0570/FL	54 Cartbridge Crescent, Walsall	Proposed new dwelling	Dismissed	Refuse	The proposed development would result in a cramped appearance to the development with insufficient parking provision.
32. 14/1968/FL	32 Laneside Avenue, Sutton Coldfield	Rear garden fences and patio	Dismissed	Refuse	Due to its height over 2.0m the fence has a detrimental impact on the neighbours at no. 36.
33. 15/0919/FULL	23 Blue Cedar Drive, Streetly	First floor front extension and single storey rear extension	Dismissed for front extension but allowed for rear extension	Refuse	The front extension would have a detrimental impact on the character and appearance of the street scene. The rear extension though would not have a harmful effect on the living conditions of the neighbours at number 25.
34. 15/1059/FULL	58 Edinburgh Avenue, Bentley	Replacement of 1.8m fence with 2.4m fence	Dismissed	Refuse	Despite improving the applicants living standards, the new fence would have a significant detrimental impact on the character and appearance of the area.

Target = 30%			2 appeals not decided in accordance with Councils decision = 35% NB The Blue Cedar Drive appeal counts as allowed	2 appeal not decided with officer recommendation = 35%	Total number of qualifying appeals = 7 (Appeals against non determination, conservation / listed building consent, adverts and those withdrawn are not included).
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12.6 The above outcomes show that 35% of the appeal decisions were determined differently to the councils' decisions in Q4 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 10 out of 34 appeal decisions going against the Council or 24%. 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 2015.

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</i>	<i>Planning Application number</i>	<i>Called in using</i>
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		<i>within</i>		
4/2/16	Councillor S Coughlan	Willenhall South	15/1014/FULL & 15/1015/LBAE	Pro forma
	Councillor Nazir	Palfrey	15/1378	Pro forma
	Councillor Hussain	St Matthews	15/1627	Pro forma
	Councillor C Bott	Darlaston South	15/1090/FULL	Pro forma
	Councillor Martin	Paddock	15/1547	Pro forma
	Councillor Martin	Paddock	15/1560	Pro forma
	Councillor Worrall	Rushall- Shelfield	15/0257/FL	Pro forma
3/3/16	Councillor Chris Bott	Moxley	15/1826	Pro forma
31/3/16	Councillor Ditta	Palfrey	15/1859	Pro forma
	Councillor Andrew	Aldridge Central and South	15/1725	Pro forma
	Councillor S Coughlan	Willenhall South	15/1597	Pro forma
28/4/16	Councillor Wilson	Aldridge central and South	15/1858	Pro forma
	Councillor Wilson	Aldridge central and South	15/1897	Pro forma
9/6/16	Councillor Sears	Aldridge North & W Wood	16-0438	pro forma
	Councillor Martin	Paddock	16/0334	pro forma
	Councillor Hussain	Pleck	16/0056	Pro forma
	Councillor Murray	Aldridge Central and South	15/1923	Pro forma

PLANNING COMMITTEE - 9th June 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 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.</p>
6 DM	The Manse, 100 and 101 Union Street, Willenhall	31/3/2009	Section 215 Notices	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.

				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. The planning case officer has recommended approval subject to conditions and a planning obligation.
7 MB	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.
8 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. 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	<p>Awaiting return of Section.16, this is required to establish all parties responsible for the land before serving Section 215 Notice. Notice being prepared.</p> <p>In March, the owners of the site were in contact with the LPA to discuss future the enforcement action and the future of the site. Whilst progress was made in respect of scoping for a retail assessment, no firm proposals have been forthcoming. Officers are therefore looking again at the suitability of enforcement action to tidy up the site and act as a catalyst for development.</p>
12 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. Meeting taking place to explore changes on site which may be secured through a planning application.
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>

				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.
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	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

	Road			<p>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.</p> <p>Work has been progressing on site to clear the timber waste from the site and remove the risk from fire.</p>
19 SF	Hawthorns, Former Baytree House, Erdington Road, Aldridge	3/9/15	Enforcement Notice	Subsequent to the Council meeting of 28 April, the owners have presented officers with a draft s106 agreement to secure the provision of a mini-bus and control occupancy within the property. They are also commencing work on the submission of an application to regularise the lighting around the building.
20 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. On 12 th April 2016, the owner stated that the fence had been reduced in height in order to comply with the notice. Meeting proposed to take place to consider the expediency of any further action.
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 KH	Alisha supermarket, 231 Stafford Street, Walsall	28/4/16	Enforcement action authorised by 28/04/16 planning committee	Unauthorised ATM No further action required, the ATM has been removed and the shop window reinstated. RESOLVED