



Walsall Council

Planning Committee

1st September 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 April and 30th June 2016.
- ii) The decisions made by the Planning Inspectorate on appeals made to the Secretary of State between 1st April and 30th June 2016.
- 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

1st September 2016

Development Management Performance Update Report

i) Speed of planning applications determined between 1st April and 30th June 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%	%	%	%	85.71%
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%	%	%	%	50.00%
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%	%	%	%	18.11%
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. Going into 2016/17, this performance has been maintained with the out turn of the first quarter exceeding both of these targets. 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, no county matter applications were determined.

- 12.2 For the Minor applications, performance has dropped to 50.00%. This is disappointing as it brings the Council below both the national average and the Government's target of 65% of Minor applications to be determined in time. As the majority of the applications determined outside the target 8 week period were determined within 5 weeks of the target, efforts will be focused on closing this gap to restore performance back to 2015/16 levels which at their lowest were 82.89% and cumulatively 84.31% for the year.
- 12.3 The Others category has delivered variable figures over a period of time with a peaks of 86.71% in Q4 2014/15 through to 55.10% in Q2 2015/16. The current figure of 18.11% represents a notable step outside of this range though. The core reason for this figure relates to delays in the processing of the applications during their initial stages in the registration and validation process which in turn held up the commencement of the statutory 21 day consultation process with neighbours and consultees. This delay is reflected in the number of decisions which were determined over 13 weeks compared to the target of 8 weeks which was 66.14% which reflects the ability of the service to determine applications in a timely manner once the applications have been validated and are open for consultation.
- 12.4 The causes of this delay can be traced back to a combination of staffing changes at the beginning of the year. These changes necessitated members of the technical support team being brought in to provide cover for the planning reception duty service whilst it was being delivered during the mornings and afternoons and also officers being diverted to providing the planning enforcement service following the departure of the two previous enforcement officers. Combined with a rise in the number of prior notification applications, the technical support service experienced a period of increased workload combined with reduced capacity. These problems have been identified and steps put in place to tackle them.
- 12.5 Looking forward, three key measures have been put in place to rapidly turn these figures around. Firstly, the planning duty service is now delivered in the mornings only from 8:45am to 1:00pm supported by a telephone service. After the first month, when the new service was bedding in, there have been very few comments about the reduced hours and no complaints have been received by Development Management. The duty work is now provided from the main reception area in the Civic Centre and delivers a more focused service to the public and acts as the first element of the pre-application service offer by the Council on a no cost basis to the public and prospective developers. The amended hours also mean the technical support officers are not required to back fill this service allowing them to focus back on the planning applications.
- 12.6 A dedicated Enforcement Officer has been brought in on an temporary basis to fill the gap left by the two previous officers. This has enabled the priority and more harmful cases to be dealt with more efficiently and also provide some monitoring of the older cases. This aspect of the service is being reviewed with the aim of delivering a robust service to the public not just on the priority cases but across the board for all enforcement matters using permanent staff.

12.7 Thirdly, three temporary case officers have been brought in for three months with the targeted role of dealing with applications in the Others category and driving performance upwards. The delays in the registration and validation of applications are already being cutback allowing officers time to assesses and determine applications within the target of 8 weeks allowing also for the 21 days statutory consultation. The additional capacity brought in by the three officers will also allow attention to be given to some of the older, more complex cases that have been steadily progressing through the system to be accelerated and decisions issued on these as well.

12.8 It is expected the first benefits of these changes should be noted in the figures for the end of Quarter 2, i.e. July to end of September. However, due to the lead-in time taken to consult and determine applications especially if changes are needed, it is not expected that the Q2 figures will show an dramatic and immediate turnaround to achieve the government target of 80% but a positive trend should begin to emerge providing the basis for performance levels comparable to the national average and in excess of the governments targets to be achieved in Q3 and Q4.

ii) ***Decisions made by the Planning Inspectorate between 1st April and 30th June 2016***

12.9 Details of previous decisions can be found in the performance report of 9th June 2016.

App No.	Address	Proposal	Decision	Officer Rec	Comments
1. 15/1059/FULL	68 Edinburgh Avenue, Bentley	Demolition of existing 1.8m fence and replacement with 2.4m fence	Dismissed	Refuse	The fence was considered to be a significant and prominent feature in views from Princess Anne Road resulting in it appearing out of place and obtrusive in the street scene significantly harming the character and appearance of the area.
2. 15/1487	181 Brindle Lane, Sutton Coldfield	Erection of 3 storey extension with single storey garage/ porch extension to front	Allowed	Refuse	Although not in compliance with the 0.9m separation distance sought by the Design SPD for two storey extensions, the design of the proposed development was considered to provide a sufficient visual break with the neighbouring properties to avoid the appearance of a terracing effect.
3. 15/1587	40 Park Road, Walsall	Rear single storey lounge extension and balcony flat roof over existing dining room	Allowed	Refuse	The proposed balcony would be 7.0m from the boundary with the neighbouring property number 38 and due to existing planting and extensions, views gained would only be slightly worse than currently obtained from existing first floor windows resulting in no material harm arising to the living conditions of the neighbours.

4. 14/0893/OL	9 Baslow Road, Walsall	Development of 4 dwelling houses	Dismissed	Officer Approve – Committee Refusal	The proposal included the demolition of number 9 and the provision of a replacement dwelling, The frontage of the replacement house would be dominated by hardstanding and the intensification of traffic would be emerging from the development would be out of character with the existing form. Furthermore, the resulting replacement dwelling would be out of character with other plots due to it being narrower in form than the neighbouring plots.
5. 15/0684/FL	Car Park, Union Street, Willenhall	Redevelopment of existing car park for 24hr taxi rank and car wash	Allowed	Officer Approve – Committee Refusal	The main issue was the safe and efficient operation of the highway. The proposed car wash and taxi business would be manage the flow of customers arriving and using the site which was considered to be an improvement over the current arrangements where there are 21 spaces in the car park but they are unmanaged. Accordingly the development would not result in severe harm on transport grounds and therefore no conflict with para.32 of the NPPF arises. Consideration was given to a proposal by the Council for a temporary consent but this was dismissed by the Inspector.
Target = 30%			3 appeals not decided in accordance with Councils decision = 60%	3 appeal not decided with officer recommendation = 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 Q1. Whilst the results are disappointing three trends are becoming 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 181 Brindle Lane and the assessment of garden sizes in the dismissed appeal at 54 Cartbridge Crescent. Where reasons for refusal on design grounds are pursued, proof of harm is required to show how the shortfall from the target figure in the design guidance causes detriment to amenity. Secondly, there is an onus on the Council to evidence the degree of harm arising from development. The NPPF in paragraph 32 for example sets the criteria of severe harm in the context of assessing the impact on the highway from development. Unless it can be proven any impact would be severe, it can be difficult to defend the reason.

12.8 The third point shows though that not all decisions are just decided on evidence alone. Design and the understanding of the characteristics of what defines the local area in which a development sits are important in sustaining any reasons for refusal. This was apparent in the Edinburgh Avenue and Balsow Road decisions which were both dismissed on the basis that the development was out of character to its surroundings. In the case of the Edinburgh Avenue appeal, the applicant sought to provide examples of similar developments to that matched the proposal but the detailed circumstances of each scheme was not provided so the Inspector gave these examples little weight in the determination of the appeal.

12.9 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) Progress on Enforcement Proceedings

12.10 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 primarily being addressed by the Enforcement Officer with assistance from the Planning case officers.

iv) 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 for the financial year to date. For details of applications previously called in please refer to the previous performance report of 9th June 2016.

<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>
7/7/ 16	Councillor Hussain	Pleck	16/0056	Pro forma
	Councillor Martin	Paddock	16/0334	Pro forma
4/8/16	Councillor Sears	Aldridge North And Walsall Wood	16/0527	Pro forma
	Former Councillor Arif	St Matthews	15/1884	Pro forma
1/9/16	Councillor Andrew	Bentley and Darlaston North	16/0416	pro forma
	Councillor Hughes	Streetly	16/0622	pro forma

PLANNING COMMITTEE - 1st September 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. Planning applications have been submitted in an attempt to regularise the listed building breaches. Currently awaiting an update from the Building Conservation Officer. These applications will be presented to a future 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 planning application 15/1883 for the redevelopment of the site to a mixed retail and residential development has been submitted and is under consideration. Application due to be brought to committee for October 2016 (August 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>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. (March 2016)</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) 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.
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>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. (March 2015)</p> <p>Owner of the site now in pre-application negotiations with the LPA for a possible redevelopment of the site. Application expected near end 2015 (August 2016)</p>
12 SC	Land Adjacent 26 Bradley Lane	June 2014	Enforcement Notice	<p>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.</p> <p>Application for Certificate of Lawful Use received 26 July 2016 not yet valid. (August 2016)</p>
13 JF	1 Halford Crescent	May 2014	Enforcement Notice	Enforcement Notice served 24 th October 2014 regarding the change of use from residential to car repairs, storage and valeting, plus additional fencing and hard surfacing. Compliance period ends 24 th December 2014. PACE interview conducted on 25 th Feb to establish further grounds for prosecution. Prosecution proceedings being prepared by officers. Continued monitoring confirms compliance with the requirements of enforcement notice. It was considered the original

				<p>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	<p>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.</p> <p>Meeting to be proposed with planning case officer to ascertain the current situation. (August 2016)</p>
15 KH	Three Crowns Public House	2 nd April 2015	Enforcement notice	<p>The 2nd 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 29th September 2015 with compliance due on 28th January 2016. A monitoring site visit is proposed to be undertaken as soon as practicable following discussions with case officer.</p>
16 MB	105 Skip Lane	August 2014	Enforcement Notice	<p>Enforcement Notice Served on 7th 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 6th 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.</p>
17 MB	Land between River Tame and Railway, Darlaston Road, Walsall	09/07/15	Enforcement Notice	<p>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</p>

				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	<p>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.</p> <p>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. (August 2016)</p>
19 SF	Hawthorns, Former Baytree House, Erdington Road, Aldridge	3/9/15	Enforcement Notice	<p>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.</p> <p>Officers are preparing a separate report to update Members on the current situation as part of 1st September Agenda. (August 2016)</p>
20 PH	34 Laneside Avenue	5/11/15	Enforcement Notice	<p>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</p>
21 SC	51-53 Wolverhampton Street		Enforcement action authorised by 31/3/16 planning committee	<p>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.</p>

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 BT/SE	4 Nursery View Close	07/07/16	Enforcement action authorised by 07/07/16 planning committee	<p>Notice served on 26 July following committee resolution to proceed with enforcement action. The Notice requires the owner to permanently cease using the property for the storage of materials, goods and equipment along with the parking of commercial vehicles associated with the Fish Distribution business and the magazine/comics selling business.</p> <p>Since serving the notice, complaints about odour and disturbance have fallen away. The notice remains in place in perpetuity and monitoring of the site will be on-going subject to neighbour comments. (August 2016)</p>