

Title: Development Management and Enforcement Performance Update
Lead Officers: Adrian Harding (07976 206246);
Gary Fisher (01926 456502)
Portfolio Holder: Councillor Grainger
Wards of the District directly affected: All

Summary

The purpose of this report is to update the Committee on the recent performance of the Council's Development Management and Enforcement Services and to set out the ongoing and proposed actions to maintain and improve efficiency and effectiveness.

Recommendation(s)

- (1) It is recommended that the report is noted and that the proposed actions are endorsed by the Committee.
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1 Background/Information

Background

- 1.1 Members may be aware that during the course of the recent pandemic, in line with a national trend, the Development Management service experienced a significant increase in the number of planning applications being submitted.
- 1.2 In particular, over the period October 2020 to June 2021, on average there was a 25% increase in the number being received, amounting to an additional 300 cases, the majority of which comprised householder applications.
- 1.3 During that period, which occurred in the midst of the ongoing pandemic, the service was also carrying several longstanding vacancies and experienced increased levels of sickness whilst also prioritising work on a number of complex major proposals – for example, the Kenilworth Leisure Centre proposals; the Newbold Comwyn scheme; the legal agreement associated with the Kings Hill development along with the Gigafactory proposal at Coventry Airport and the Covid Testing Laboratory in Leamington.
- 1.4 That increase in workload also coincided with the time immediately following a period of adjustment when all staff started working remotely and the despatch of the necessary equipment had been rolled out to facilitate that.
- 1.5 As a result of that unforeseen imbalance of demand relative to resource, over that period and the following few months, a backlog of applications developed, at its greatest amounting to nearly 300 cases.
- 1.6 Our experience in that regard, is not dissimilar to that of many Councils around the country.

- 1.7 Members will also be aware that historically, the service has performed exceptionally well on a consistent basis with regard to the timescales for determining planning applications.
- 1.8 For several years prior to September 2020, over 90% of planning applications were consistently determined within the statutory period (8 or 13 weeks depending on the type of application) or an extended period which had been agreed with the applicant.
- 1.9 However, since that time, for the reasons outlined above, up to the quarter to December 2021 that performance has steadily dropped.
- 1.10 By way of response to the increased workload, during the latter part of 2021, the vacant posts referred to above were filled along with a number of additional temporary posts which were created to assist processing the unexpected increase in applications submitted.
- 1.11 As a consequence, the backlog of work waiting to be allocated to a Planning Officer, steadily reduced throughout the latter part of 2021 until December when the backlog was eliminated.
- 1.12 At present, those additional cases are working their way through the planning application process; being assessed by a Planning Officer and determined either under delegated powers or by Planning Committee.
- 1.13 As members will be aware, our approach to the consideration of planning applications is to work closely with applicants and negotiate revisions to schemes where that is considered necessary to make them acceptable wherever possible. The alternative would be to refuse proposals without doing so which would increase the speed of decision making and assist with performance in that regard, but reduce the quality of the service being offered, increase the number of appeals being received, and extend the overall timescale from the customers perspective.
- 1.14 The period of time over which those cases were waiting to be allocated to an officer in the backlog queue has significantly increased the overall application determination timescale. It is within this context that officers have been experiencing challenges agreeing an extended determination period with applicants, and it is this that is currently being reflected in the lower performance figures for the proportion of applications determined within the statutory or extended timescale.
- 1.15 Nevertheless, Members are asked to note that as that surge in planning applications works its way through the assessment and determination process, and officers continue to work closely with applicants in doing so, the performance in that regard is beginning to improve again. That most recent upturn in performance is reflected in the performance figure for the current quarter to date which is being closely monitored by Officers and which is currently 66% of decisions being made within the statutory or extended timescale.
- 1.16 Members will also be aware that over the last 18 months, the Planning Enforcement team has experienced significant issues with long term sickness, vacant posts (including the Team Manager role) and poor response levels to recruitment resulting in an under resourced team over that period.
- 1.17 That situation, which continues today has contributed to a significant queue of enforcement requests awaiting investigation amounting to some 275 cases over and above the 159 active ongoing investigations.

- 1.18 Nevertheless, over the period of the last financial year to date, the team have closed 191 investigations and there are 23 ongoing cases where formal action has either been, or is proposed to be taken, along with 2 appeals against Enforcement Notices that have been issued, both of which are being handled by way of a Public Inquiry.

Actions

- 1.19 It is considered that the application backlog and uncharacteristic subsequent downturn in planning application performance has been a consequence of a combination of factors, most particularly the increase in the volume and complexity of the team's workload described above; the vacant posts that were being carried at the time; and sickness within the team during the pandemic.
- 1.20 Since that time, the following actions have been undertaken to address the workload situation:-
- i. November 2020 onwards: recruitment to existing vacant posts commenced, following which they were filled over the next few months.
 - ii. January 2021 onwards: ongoing review of processes and protocols within the team to enhance effective working wherever possible.
 - iii. May 2021: recruitment to additional temporary posts commenced to increase capacity within the team, those posts being filled over the next few months.
- 1.21 Those actions are considered to have been key to the elimination of the backlog of unallocated work and the progression of those applications to the consideration stage of the process.
- 1.22 Nevertheless, the recruitment and retention of staff within the team continues to be a concern particularly as there is known to be a shortage of experienced planners available for the public sector. This is being exacerbated by other Councils within the sub-region offering more attractive remuneration packages which has been recently evidenced by low levels of external interest in some roles and the loss of existing staff to nearby Councils.
- 1.23 In addition, the actions that have been taken to seek to address the ongoing imbalance of demand for enforcement investigations relative to resourcing are:-
- June 2021 onwards: Exploration of potential opportunities for joint working with SDC. To date, no immediately available opportunities have been identified.
 - June 2021: Following the departure of the previous Enforcement Manager, the commencement of recruitment to that role. Following their appointment, 1 week before commencement in post, the successful candidate withdrew from the position. This post is currently being readvertised with the intention of filling it on an interim basis via a Recruitment Agency until such time as it has been filled permanently.
 - September 2021: Extension of the Enforcement Project Officer role secured for a further 2 years with the existing postholder remaining in post.
 - November 2021: Commencement of recruitment to 2 additional temporary posts – Senior Enforcement Officer (2 years) and Enforcement Officer (1 year). This recruitment didn't yield any suitable candidates and is intended to be repeated shortly.

- Work is currently ongoing to review the team priorities and streamline processes wherever possible to increase effective working and ensure that those priorities are achieved.

1.24 In addition to the above, the Head of Development in conjunction with the Development Manager and Team Leaders is formulating a Service Improvement Plan to address known issues within the Development Management and Enforcement Services and to address the current suppressed levels of performance.

1.25 That Plan will cover the following areas:-

- Extended performance data reporting and performance management measures.
- A recruitment and retention strategy.
- A succession planning strategy.
- The procurement of a new back office system.
- The digitizing of microfiche records.
- Proactive and robust joint working with the SDC team.
- The increased use of Planning Performance Agreements to fund increased capacity within the Team.
- Proactive on-going coaching and mentoring of team members.
- The completion of the review of enforcement priorities and processes.

2 Alternative Options available to the Overview and Scrutiny Committee

2.1 Other than noting the report and endorsing the proposed actions, there are no other alternative options before the Committee at this time.

3 Consultation and Member's comments

3.1 No comments received.

4 Implications of the proposal

4.1 Legal/Human Rights Implications

4.1.1 There are no specific legal or human rights implications of the proposal.

4.2 Financial

4.2.1 The Service Improvement Plan is anticipated to be funded within the existing budget envelope and increases in income brought about through charging for discretionary services and in particular Planning Performance Agreements and pre-application advice.

4.3 Council Plan

4.3.1 The proposals are directed at improving the current reduced performance of the development management and enforcement services which in turn will contribute to good development being delivered more effectively within the District to the benefit of residents, workers and visitors, and the environment.

4.3.2 The proposals are also intended to ensure that the service operates at an optimum level to ensure a high quality service going forward.

4.4 Environmental/Climate Change Implications

- 4.4.1 Increased effectiveness within the development management and enforcement services which in part will be sustained by ensuring that capacity within the teams is at the right level, in turns supports the quality of decision making and the ability to secure the environmental benefits to address the climate crisis agenda.

4.5 Analysis of the effects on Equality

- 4.5.1 The proposal is not anticipated to impact upon equality.

4.6 Data Protection

- 4.6.1 The Service Improvement Plan referred to above is intended to ensure that the service fulfils its data protection obligations and any issues are addressed quickly and appropriately.

4.7 Health and Wellbeing

- 4.7.1 Increased effectiveness within the development management and enforcement services will contribute to the right development occurring in the right place and at the right time securing outcomes from the Health in All Policies programme through mitigation measures and infrastructure delivered by new development which will benefit the health and well-being of residents, workers and visitors within the District.

5 Risk Assessment

- 5.1 Local Council's performance on the determination of planning applications and appeals is reported to and monitored by the Department for Levelling Up, Housing and Communities.
- 5.2 In the circumstances where Councils are considered to be consistently performing poorly in that regard, there is a risk that they will be designated as a Special Measures Authority.
- 5.3 Such designation would mean that customers could decide whether they wished to have their planning applications determined by the Council or by the Planning Inspectorate, thereby potentially removing local accountability and is therefore to be avoided.
- 5.4 Whilst such designation is infrequent, there are instances where that has occurred and Officers are therefore mindful of this risk.
- 5.5 The current criteria for Councils potentially being considered for Special Measures include failing to determine on aggregate 60 per cent of major and 70 per cent of non-major applications within the statutory or extended period or having more than ten per cent of major or non-major applications overturned on appeal, over a 2 year timeframe. Performance on enforcement matters isn't the subject of potential designation.
- 5.6 Such designation is only likely to be considered where a Council's performance consistently falls below those levels over an extended period. As indicated above, this Council's performance, until recently has been consistently significantly above those levels and whilst that performance has currently dipped, the risk of such designation is considered to be low.
- 5.7 As also set out above, actions are being taken and further actions planned to ensure a return to that high performance to reinstate that level of service for our customers and eliminate any risk of future designation.

6 Conclusion/Reasons for the Recommendation

- 6.1 This reports sets out the background to the Council's current reduced performance on the timescales for determining planning applications and enforcement investigations; the actions that have been taken to date; and those planned to return that performance to pre-existing high levels and sustain that in the longer term.
- 6.2 Members are asked to note the report and endorse the actions that are proposed.

Background papers:

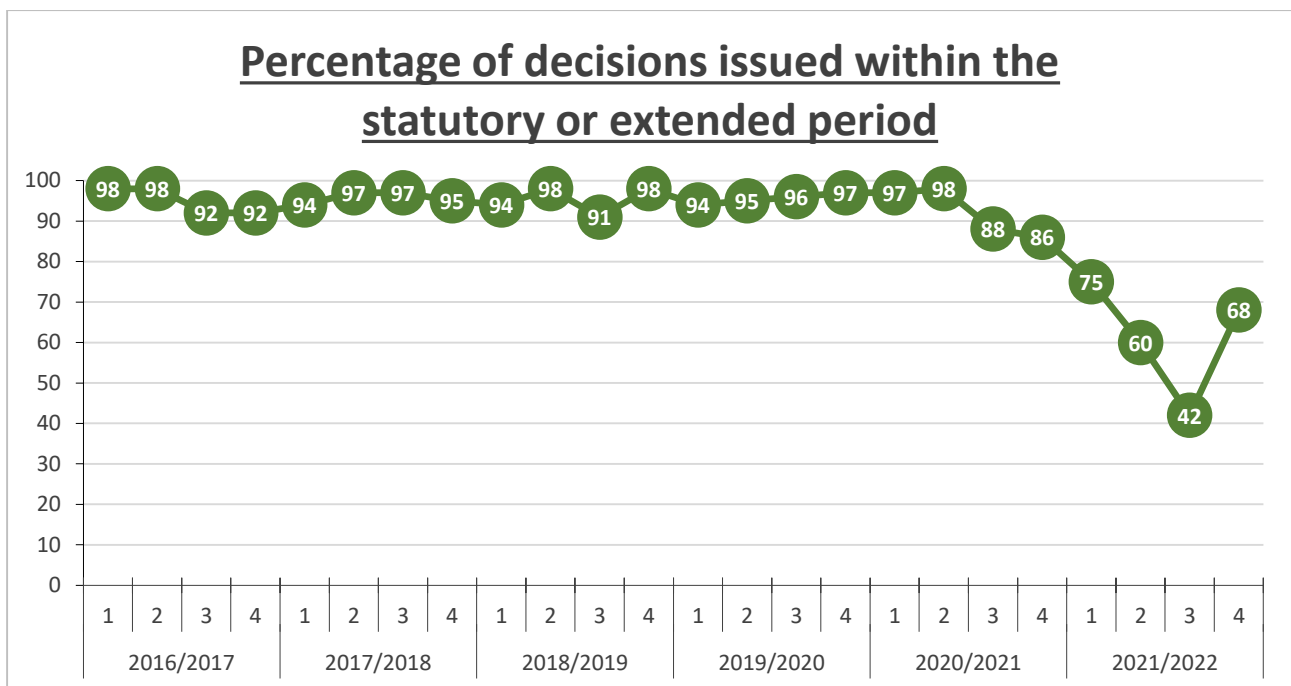
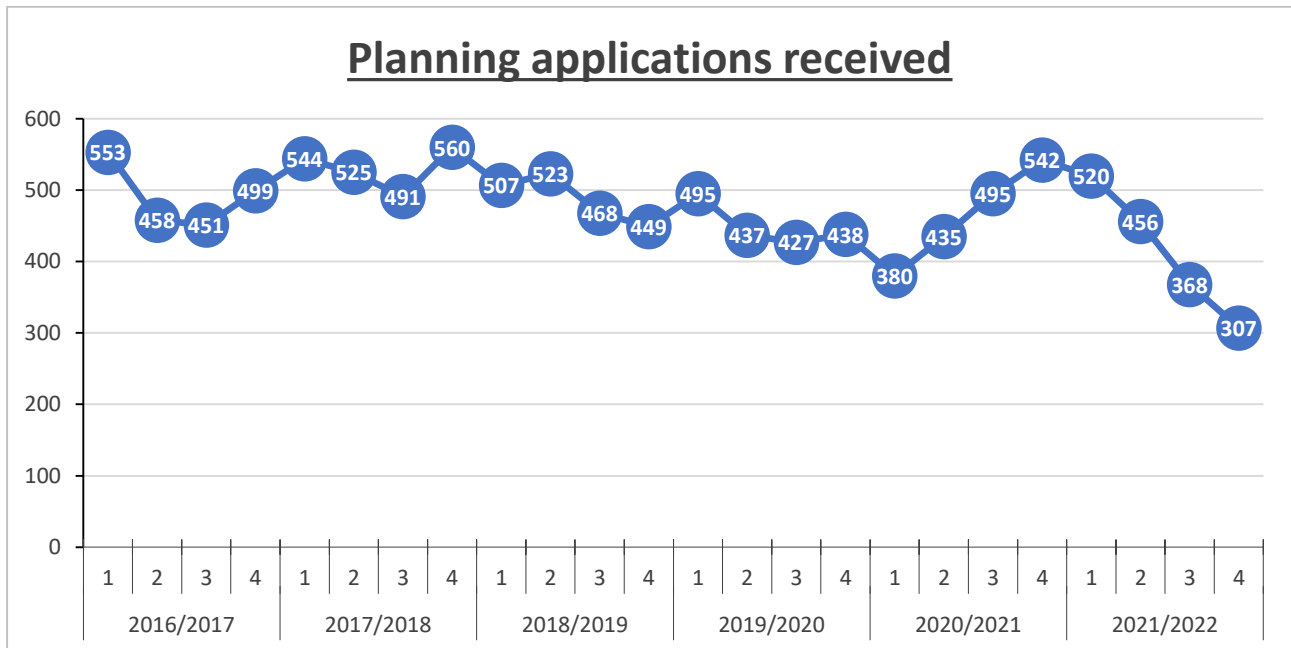
Please provide a list of any papers which you have referred to in compiling this report and are not published documents. This is a legal requirement.

You must also supply these when submitting the report.

Supporting documents:

This is not a legal requirement but may assist others in identifying documents you have referred to in producing the report.

Performance Timeline



Report Information Sheet

Please complete and submit to Democratic Services with draft report

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| Committee/Date | 8 March 2022 | |
| Title of report | Development Management and Enforcement Performance Update | |
| Consultations undertaken | | |
| Consultee *required | Date | Details of consultation /comments received |
| Ward Member(s) | N/A | |
| Portfolio Holder WDC & SDC * | 24/2/22 | |
| Financial Services * | N/A | |
| Legal Services * | N/A | |
| Other Services | N/A | |
| Chief Executive(s) | 24/2/22 | |
| Head of Service(s) | 23 and 24/2/22 | |
| Section 151 Officer | 24/2/22 | |
| Monitoring Officer | 24/2/22 | |
| CMT (WDC) | 24/2/22 | |
| Leadership Co-ordination Group (WDC) | N/A | |
| Other organisations | N/A | |
| Final decision by this Committee or rec to another Ctte/Council? | Y | Recommendation to :Cabinet / Council |
| Contrary to Policy/Budget framework | N | No/Yes |
| Does this report contain exempt info/Confidential? If so, which paragraph(s)? | N | No/Yes, Paragraphs : |
| Does this report relate to a key decision (referred to in the Cabinet Forward Plan)? | N | No/Yes, Forward Plan item – scheduled for (date) |
| Accessibility Checked? | Y | File/Info/Inspect Document/Check Accessibility |