

# AGENDA ITEM

## PLANNING COMMITTEE

13<sup>th</sup> JUNE 2013

### REPORT OF APPLICATIONS AND ADVICE MANAGERS

#### DEVELOPMENT CONTROL PERFORMANCE: 2012/13 QUARTER 4 AND REVIEW OF 2012/13

#### 1. PURPOSE OF THE REPORT

- 1.1 To advise the Committee, of the Performance Indicator outcomes related to the determination of planning applications for Q4 (January to March 2013), the workload trends currently present and the general performance of the team.

#### 2. RECOMMENDATION

- 2.1 The Committee notes the current performance data.

#### 3. DEVELOPMENT CONTROL PERFORMANCE

##### 3.1 BACKGROUND

- 3.1.1 The Performance Management Framework includes the following elements:

- The performance criteria we wish to meet, which are laid down as aims and objectives. These are an integral part of the Corporate Plan, which includes both corporate level objectives, and Local Priority Action Plans. Each Service also draws up its own Service Plan, which includes aims, objectives and targets. Our Community Strategy illustrates our shared vision with partner organisations, and details what we want to achieve together.
- Measures of performance against the above criteria. These include National Performance Indicators and Local Performance Indicators, which together measure our performance against both the promises we make to the local community, and the roles which Government expects us to perform.

##### 3.2 BVPI MEASURES OF PERFORMANCE OUTCOMES AND CURRENT POSITION

- 3.2.1 The table below shows the Council's recent and current performance against national and local measures and targets. BVPI measures focus on efficiency and speed rather than the development of the service, the quality of the decisions made and the outcomes secured.

Indicator	2009/ 10	2010/1 1	2011/ 12	TAR GET 12/13	Q1 April – June 12	Q2 July – Sept 12	Q3 Oct – Dec 12	Q4 Jan - Mar 13	2012/13 outturn
157 (a): % 'major' applications determined in 13 wks	64.28 %	53.33 %	83.33 %	60%	50%	66.66%	0%	50%	45.45%
157 (b): % 'minor' applications determined in 8 wks	83.5 %	73%	65.59 %	65%	64.81%	70.21%	65.9%	70.37%	67.84%
157 (c) : % 'other' applications determined in 8 wks	90.23 %	88.86 %	80.71 %	80%	86.56%	83.33%	77.77%	82.86%	83%

LOCAL: % <b>all applications</b> determined in 8 weeks	86.65 %	81%	73.63 %	<b>80%</b>	77.78%	75.86%	71%	<b>72.04%</b>	<b>74.51%</b>
LOCAL: % <b>householder</b> applications determined in 8 weeks	91.98 %	91.49 %	80.77 %	<b>90%</b>	85.48%	82.22%	79.31%	<b>57.14%</b>	<b>81.82%</b>

**3.2.2** Planning application performance for quarter four has shown an improvement in performance figures for the quarter, with the exception of householder applications.

**3.2.3** Included in the quarter 4 report are the overall outturn figures for 2012/13. Overall performance for the year is considered to be satisfactory, however, there is some decline in performance in a few areas. It should be noted that the outturn for 2012/13 is an improvement on that for 2011/12 with the exception of major developments.

### **3.3 QUALITATIVE MEASURES**

**3.3.1** The outcome of appeals is regarded as a principal measure of decision making quality, being the means by which decisions are individually scrutinised and reviewed.

<b>Indicator</b>	2009/10	2010/11	2011/12	<b>TARGET 12/13</b>	Q1 Apr – June 12	Q2 July – Sept 12	Q3 Oct – Dec 12	<b>Q4 Jan – Mar 13</b>	<b>2012/13 outturn</b>
188: % of decisions <b>delegated</b> to officers	92.89%	89.52%	<b>91.37%</b>	<b>90%</b>	88.89%	87.07%	88%	<b>90.32%</b>	<b>88.55%</b>
204 : %age of <b>appeals</b> against refused applications dismissed	62.5%	71.43%	<b>58.82%</b>	<b>66.66%</b>	0% (0/0)	71.43%	50%	<b>80%</b>	<b>71.43%</b>
219a: no of Conservation Areas in Borough	44	44	<b>44</b>	<b>44</b>	44	44	44	<b>44</b>	<b>44</b>
219b: % of Conservation Areas with character appraisal	30 (68%)	30 (68%)	<b>38 (86%)</b>	<b>36 (82%)</b>	38 (86%)	38 (86%)	44 (100%)	<b>44 (100%)</b>	<b>44 (100%)</b>
219c: % of Conservation Areas with published management proposals	30 (68%)	30 (68%)	<b>38 (86%)</b>	<b>36 (82%)</b>	38 (86%)	38 (86%)	44 (100%)	<b>44 (100%)</b>	<b>44 (100)</b>
205 : quality of Planning Service checklist	94.44%	94.44%	<b>94.44%</b>	<b>94%</b>	94.44%	94.44%	94.44%	<b>94.44%</b>	<b>94.44%</b>

### 3.3.2 Planning appeal performance

The table below indicates the Council's appeal record for Quarter 4, with key information associated with a selection of the appeals detailed in Appendix 1 below.

#### Appeals by decision background (quarter 4):

Decision type	No. of appeals dismissed	No. of appeals allowed
Delegated	3	1
Committee, in accordance with recommendation	0	0
Committee, departure from recommendation	1	0

#### Appeals by decision background (annual):

Decision type	No. of appeals dismissed	No. of appeals allowed
Delegated	4	3
Committee, in accordance with recommendation	3	1
Committee, departure from recommendation	3	0

## 3.4 DEVELOPMENT OF THE SERVICE

3.4.1 The 2012/13 Service Plan identifies the long term vision for service delivery within Regulatory Services. The long term vision is;

- Accessibility
- Engagement and Inclusiveness
- Outcome driven
- Customer Focus and Response
- Transparency
- Pro-activeness
- Efficient
- Learning and self-awareness

3.4.2 The initiatives for 2012/13 are set out within the service plan and are broken down into Development Control, Conservation and Enforcement.

- Development Control included maintaining levels of Performance against PI measures, review of statutory requirements to enable streamlining/efficiencies and investigate implementation of post-decision information pack. These on a whole have been achieved except some of the performance has dropped slightly below the PI measures.
- Conservation included competing Conservation Area Appraisals/Management Plans for **all** Conservation Areas. Undertake negotiations to extend PSiCA into Year 6 and continue to target town centre properties and start a joined up review of TPO's. **All of these have been achieved.**

- Enforcement included seeking to increase the number Parish Councils participating in the planning enforcement investigations partnership. This has been undertaken and liaison continues.

### **3.5 OUTCOMES**

**3.5.1** There are no well developed techniques to measure the quality of the outcomes of Development Control activity. However, it is helpful to consider it in terms of both 'service delivery' and 'results on the ground' and the following indicators are considered to offer insight as to the delivery of the service.

#### **3.5.2 Impact of Development Control process on outcomes**

It is estimated that approximately 30% of planning applications are the subject of improvements to design, layout and/or content as a result of negotiations carried out through the planning process. Each of these 'add value' to the development, in terms of the quality of the outcome (the final form of the development) and its impact on the surrounding environment and meeting planning objectives. This approach is furthered by the use of conditions and s106 agreements and these have been deployed to secure affordable housing and infrastructure contributions.

**3.5.3** The NPPF facilitated progress in terms of addressing housing mix and sustainability issues. The evidence base behind the Core Strategy has enabled decision making to require house sizes to meet local need, including examples of the refusal of applications where they have presented the wrong type or mix of houses. The Council has been successful in defending their position on housing need and sustainable locations at recent appeals.

#### **3.5.4 Decision making**

The central purpose of decision making is to determine planning applications in accordance with decision making responsibilities defined by s38(6) of the Act : in accordance with the development plan unless material considerations indicate otherwise. This encompasses the identification of all material considerations and their balancing with the Development Plan. Measures of the robustness of this process are considered to be appeal results (particularly any awards of costs which illustrate unreasonable decision making), complaints to the ombudsman regarding misapplication of policy or failure to take into account material considerations and departures from the development plan. The following examples have taken place in 2011/12:

- 2 complaints to the Ombudsman: both dismissed. Culfers Hey, Long Clawson : 13 allegations of impropriety all dismissed by the Ombudsman concluding he 'find no fault' with the Council's handling of the application, and an enforcement investigation at Asfordby where again 'no fault' to the Councils approach and decision to take no action was found.
- 2 applications for costs have been made against the Council in 2012/13; One was refused by the Inspector and the Council not considered to have behaved unreasonably, in this case, The Council was considered to have shown reasonable planning grounds for its decision on both grounds and gave due consideration to the highway authority's advice (case in Nether Broughton). The second a partial award of cost was granted as it was concluded that unreasonable behaviour had not been demonstrated in respect of the first reason for refusal, but it has been in respect of the second one as while the appeal statement refers to the elevated position of the proposed dwellings it does not address the extent to which this would be mitigated by the separation distance both in its own right and against the standards mentioned in the officer's report (case in Wymondham).

### 3.5.5 Contribution to Council Priorities and objectives

In common with all other services, the Development Control team seek to contribute to corporate priorities and objectives and, in terms of development, the service delivers the implementation of these ambitions, together with the content of the Local Plan. The objectives and priorities are embedded within the day to day service delivery and the teams positive approach to development (e.g. seeking solutions to problems rather than a direct refusal) has enabled development to make its contribution. Members will be aware of numerous examples of permissions being granted that contribute to these objectives:

#### 9. Help provide a stock of housing accommodation that meets the needs of the community, including the need for affordable housing

- Securing 40% affordable housing contributions in Bottesford.
- Ensuring a mix of house types and sizes within new developments: rejection of applications which do not address identified housing needs or do not provide adequate affordable housing. Successfully pursuing such arguments through the appeal process.

#### 5. Meeting the Economic Needs of the Borough and:

#### 7. Improve quality of life for people living in the most disadvantaged neighbourhoods

- Approving rural employment development in Old Dalby and Somerby,
- Approving Hotel development in the town.

#### 11. Enhance the vitality and viability of Melton Mowbray Town centre

- Secured shop front improvements in the Town Centre

## 4 ENFORCEMENT SERVICE PERFORMANCE

4.1 The service plan requires a number of local performance indicators for enforcement. This is the second year that the figures have been collated and it is intended that in future figures will be monitored against past performance. Below are the indicators (and targets) used to assess the performance of the service;

- Planning Enforcement : % cases resolved per month against annual total of all cases (TARGET: 8.3%/month 100%/year)
- Planning Enforcement : cases reaching 'course of action' decision within 8 weeks (TARGET: 70% of cases)
- Planning Enforcement: % appeals against enforcement notices dismissed (TARGET: 100% of appeals)

### 4.2 Table of performance

Indicator	2009/10 Overall	2010/11 Overall	2011/12 Overall	2012/13 Q1	2012/13 Q2	2012/13 Q3	2012/13 Q4	2012/13 Overall
No. of Cases Received	231	196	158	60	51	29	52	<b>192</b>
No. of Cases Closed	238	206	117	34	41	87	90	<b>252</b>
% Resolved per month against annual total ( <b>target 8.3% per month = 100% per year</b> )	8.6% 103% total for the year	8.75% 105% total for the year	7.4% (74% total for the year)	5.7%	6.7%	12.8%	15.6%	<b>12.8%</b>
Cases reaching a course of action	71.5%	78%	79.25%	85%	80.5%	79.3%	77%	<b>79.3%</b>

decision within 8 weeks <b>(target 70% of cases)</b>								
Appeals against enforcement notices dismissed <b>(target 100% of appeals)</b>	N/A	N/A	100%	N/A	N/A	N/A	N/A	<b>N/A</b>

- 4.3 For the year, the figures above are encouraging taking into account the increase in the numbers of complaints that have been received over the previous year. Due to some serious licensing matters, a considerable amount of officer's time has been focussed on those limiting the planning activity further.
- 4.4 During the year, the enforcement service served a total of 3 notices in respect of breaches of planning control. No planning appeals have been decided within the period.
- 4.5 The enforcement service now includes the use of a number of the Parish Councils although there have not been complaints in all of these parishes for them to engage with. One of the outcomes of the work with the Parishes that is encouraging is the dialogue that the project has offered and the relationships that have been forged in order that the enforcement service can continue to build upon to be more resilient.

## 5. SUMMARY AND CONCLUSION: HOW ARE WE PERFORMING?

- 5.1 This report has shown that in Development Control quarter four standards of performance have improved from the previous quarter and the team should be commended for their work and efforts.
- 5.2 The annual figures expressed within the report show that throughout the year on the whole national targets have been met but the local targets set are below target. This needs to be monitored and measures taken to ensure that performance is improved going into 2013/14.
- 5.3 The Enforcement Team's figures for quarter 4 are above target.
- 5.4 This year has seen the completion of all character appraisals and published management proposal for Conservation Areas. This is an area of good performance and should be noted.
- 5.5 A further area of good performance and worthy of note is in the defence of appeals. Defence of appeals has been strong throughout the year, particularly in this last quarter and the overall outturn for 2012/13.
- 5.5 For the year it is considered that the levels of performance are satisfactory. It is also notable that there has been no contraction or failure in the 'breadth' of service provided (i.e. we continue to deliver a wide range of non statutory elements of the service, such as advice to prospective developers, extensive neighbour notification and Parish Consultation, participation of the public in Committee meetings etc ). It is considered that performance needs to be monitored going into the next year and measures taken if there is no increase in performance levels.**

## **APPENDIX 1 : APPEAL DECISIONS**

### **Proposal: 10/00279/TPO Cutting down 1 Lime Tree at 1 Faldo Drive, Melton Mowbray**

**Level of decision:** Delegated

**Reasons for refusal:**

- The Lime tree which is the subject of this application is in a healthy condition and has a significant amenity value in this location as part of a linear group of trees. The proposal would result in the loss of a tree which is protected by a tree preservation order. The tree is considered to be healthy and make a significant contribution to the amenity of the area and there are no circumstances which have altered since the Order was originally served that justify its removal. The removal of the tree would disrupt the linear feature linking the limes on either side and justification is not considered sufficient to warrant its removal. Insufficient information has been submitted with the application in order to justify its removal.

**Inspector's conclusions: Dismissed** – The Inspector concluded that the tree affords an appreciable degree of public amenity and make a significant and important contribution to the character and appearance of the development. The removal of the central lime would diminish the collective public amenity afforded and is of the opinion that the lime should only be removed if an overriding justification has been demonstrated. The Inspector considered that the case made for the removal of the lime tree is insufficiently conclusive to warrant this course of action and the associated negative impacts and therefore dismissed the appeal.

### **Proposal: 12/00775/FULHH Rear single storey extension and two storey side extension to include demolition of existing garage and new build garage at 2 Gloucester Crescent, Melton Mowbray**

**Level of decision:** Delegated

**Reasons for refusal:**

- The proposals would have a detrimental impact upon the character and appearance of Gloucester Avenue. Both Gloucester Avenue and Gloucester Crescent have distinctive linear patterns to the properties and the size, scale and mass of the proposal would be overbearing and not in keeping with the Avenue being contrary to policies OS1 and BE1 of the Melton Local Plan and the NPPF.

**Inspector's conclusions: Allowed** – The Inspector concluded that that the proposal would not adversely affect the form, character or appearance of the settlement. To the contrary, in accordance with policies OS1 and BE1 of the Melton Local Plan, it would be in keeping with the character of the locality and would harmonise with its surroundings.

### **Proposal: 12/00409/FUL Change of use of part industrial land and erection of one bungalow for a charity worker at Sprite Manufacturing Services, Training Centre, Canal Lane, Stathern**

**Level of decision:** Delegated

**Reasons for refusal:**

- The proposal would result in the creation of a new dwelling on a site which stands in open countryside where the evidence submitted fails to demonstrate that there is an essential need for the proposed dwelling in an unsustainable location. The proposal is

therefore contrary to policies OS2 of the adopted Melton Local Plan and the Melton Local Development Framework, and also the provisions of the NPPF which seek to resist new dwellings in open countryside unless essential to meet a rural need.

**Inspector's conclusions: Dismissed** – The Inspector concluded that the proposed development would be unacceptably harmful as it would not comply with national and local policies which aim to protect the countryside.

**Proposal: 12/00253/FUL Change of use of part of farm to a touring caravan / motorhome site with temporary structures and related works at Barlows Lodge, Colston Lane, Harby**

**Level of decision:** Delegated

**Reasons for refusal:**

- The proposed development would result in the erection of a range of portable buildings which would be detrimental to the open rural character of the area. The location and impact upon the landscape of the Vale of Belvoir are not considered to be outweighed by any benefits arising from the development, such as farm diversification or benefits to the local economy.
- The applicant has failed to demonstrate that an appropriate and safe vehicular access would be provided to the proposed development and the proposal, if permitted would consequently result in an unacceptable form of development and could lead to dangers for road users.

**Inspector's conclusions: Dismissed** – The Inspector concluded that that the proposed development would cause unacceptable harm to the character and appearance of the appeal site and surrounding countryside. As such, it is contrary to Policy OS1 of the Melton Local Plan, as described above, and to Policy BE1 of the same Plan.

**Proposal: 12/00043/FUL Erection of 4 two-bedroom semi-detached dwellings, car parking, landscaping, fencing and associated works at Land Between 12 And 23 Old Manor Gardens, Wymondham**

**Level of decision:** Committee

**Reasons for refusal:**

- The development of two pairs of semi detached two storey dwellings on an open area of land would not preserve or enhance the character and appearance of the Conservation Area and would also detract from the setting and views of the adjacent Grade I listed church.
- The proposed development, by virtue of their height and positioning on land at a higher level, would result in an overbearing impact on the houses opposite on Nurse's Lane, to the detriment of the amenity of the occupants of these properties.

**Inspector's conclusions: Dismissed** – The Inspector concluded that the proposed development would cause unacceptable harm to Wymondham Conservation Area and so would not preserve its character or appearance; and would also cause unacceptable harm to the setting of the listed St Peter's Church, which it would not preserve. In relation to the impact on the adjoining properties the Inspector concluded that the proposal would not cause unacceptable harm to the living conditions of occupiers of properties on Nurses Lane, with regard to outlook.

This application was also the subject of a **cost application** on the grounds that the Local Planning Authority acted unreasonably by not providing relevant, realistic and specific evidence to support its decision. In relation to the first ground for refusal, the impact on the listed church and Conservation Area the inspector concluded that the Council has met the requirement in



paragraph B16 of Circular 03/2009 to produce evidence to show clearly why the development cannot be permitted. As such, there is no unreasonable behaviour on its part. With regard to the second reason for refusal the Inspector concluded that there was unreasonable behaviour as the Council did not address the extent to which the levels to adjoining properties would be mitigated by the separation distance both in its own right and against the standards mentioned in the officer's report. This will have resulted in the appellant incurring unnecessary expense in addressing this matter at appeal. Consequently, **a partial award of costs was awarded.**