

PLANNING COMMITTEE

29th January 2015

REPORT OF APPLICATIONS AND ADVICE MANAGERS

DEVELOPMENT CONTROL PERFORMANCE 2014/15 QUARTER 3

1. PURPOSE OF THE REPORT

- 1.1 To advise the Committee, of the Performance Indicator outcomes related to the determination of planning applications for Q3 (October- December 2014), 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 GROWTH AND INFRASTRUCTURE ACT

- 3.2.1 The Growth and Infrastructure Bill received Royal Assent on 25 April. The Bill has amended existing legislation and introduces a number of reforms that will affect the planning application process and performance issues.
- 3.2.2 The Bill has put in place Performance Standard, known as the 'Planning Guarantee', relates to reform which is designed to ensure that no planning application should take longer than one year to reach a decision. This implies a maximum of 26 weeks both for an initial decision by a Local Planning Authority and (should there be an appeal against refusal of permission) the Planning Inspectorate. The 'Guarantee' document has yet to be published by the Department for Communities and Local Government (DCLG) in its final form. However, a public consultation has taken place, with two criteria proposed to measure whether a Local Planning Authority is performing poorly.. These are:
- timeliness, where Local Planning Authorities are deemed to be underperforming if they determine less than 30% of applications they receive for large scale, 'major' development within 26 weeks; **or**
 - quality, where more than 20% of the Authority's decisions on major development are being overturned at appeal.

- Changes to the fee regulations came into force on 1st October which requires LPA's to refund fees in relation to planning applications not determined within 26 weeks.

Failure to meet these standards will render the LPA designated by the Secretary of State as one that is 'performing poorly' and allows applications for major development, and other connected applications, to be made directly to the Secretary of State rather than to the Local Planning Authority.

3.3 MEASURES OF PERFORMANCE OUTCOMES AND CURRENT POSITION

3.3.1 The table below shows the Council's recent and current performance against local measures and targets. PI's measure 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	2012/ 13	2013/1 4	TARGET 2014/15	Q1 April – June 14	Q2 July – Sept 14	Q3 Oct – December 14
% 'major' applications determined in 13 wks	64.28 %	53.33 %	83.33 %	45.45 %	62.5%	60%	80%	N/A (0/0)	0%
% 'minor' applications determined in 8 wks	83.5 %	73%	65.59 %	67.84 %	63.44%	65%	66.67%	69%	56%
% 'other' applications determined in 8 wks	90.23 %	88.86 %	80.71 %	83%	84.72%	80%	77.88%	75%	65%
% all applications determined in 8 weeks	86.65 %	81%	73.63 %	74.51 %	75.53%	80%	71.35%	72%	59.72%
% householder applications determined in 8 weeks	91.98 %	91.49 %	80.77 %	81.82 %	87.71%	90%	75.68%	72%	74%

3.3.2 Planning application performance for the third quarter has seen performance fall below target in all areas.

3.4 QUALITATIVE MEASURES

3.4.1 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.

Indicator	2009/10	2010/11	2011/12	2012/13	2013/14	TARGET 2014/15	Q1 April – June 2014	Q2 July – Sept 14	Q3 Oct – Decem ber
% of decisions delegated to officers	92.89%	89.52%	91.37%	88.55%	91%	90%	94%	90%	87%
%age of appeals against refused applications dismissed	62.5%	71.43%	58.82%	71.43%	68.42%	66.66%	100%	40%	43%

3.4.2 Planning appeal performance

The table below indicates the Council's appeal record for quarter 3, with key information associated with a selection of the appeals detailed in Appendix 1 below.

Appeals by decision background:

Decision type	No. of appeals dismissed	No. of appeals allowed
Delegated	2	1
Committee, in accordance with recommendation	1	
Committee, departure from recommendation		3

3.4 DEVELOPMENT OF THE SERVICE

3.4.1 The 2013/14 Service Plan has been agreed, reports on progress will feature in future versions of this report.

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 There has been no enforcement appeals decided in the last quarter.

4.3 Table of performance:

Indicator	2009 /2010 Overall	2010/ 11 Overall	2011/ 12 Overall	2012/ 2013 Overall	2013/ 2014 Overall	2014/15 Q1	2014/15 Q2	2014/15 Q3
No. of Cases Received	231	196	158	192	184	60	30	13
No. of Cases Closed	238	206	117	252	244	38	36	16
% Resolved per month against annual total (target 8.3% per month = 100% per year)	8.6% 103% total for the year	8.75% 105% total for the year	7.4% (74% total for the year)	10.9% 131.25% total for the year	11%	6.4%	10%	10%
Cases reaching a course of action decision within 8 weeks (target 70% of cases)	71.5%	78%	79.25%	80.45%	79.6%	75%	90%	85%

Appeals against enforcement notices dismissed (target 100% of appeals)	N/A	N/A	100%	N/A	N/A	N/A	N/A	N/A
---	-----	-----	------	-----	-----	-----	-----	------------

4.8 Quarter 3 has seen a sustained improvement in performance in Enforcement and all performance indicators have been met. There was been a drop in the number of complaints of breaches of planning control in this quarter, however, the number of complaints resolved has remained high.

5 WORKLOAD CONTEXT

5.1 The number of applications received in the third quarter has again increased when compared to the third quarter last year (2013/2014). The nature and size of the applications received has also changed placing different demands on the team.

6. SUMMARY AND CONCLUSION: HOW ARE WE PERFORMING?

6.1 This report has shown that in quarter three standards of performance are falling below target levels in all areas of performance. The service has seen an increase in the number of applications and an increase in more complex and major applications. This is being monitored closely and the service has taken on additional staff to try and cope with the increase demands on the service. As well as additional staff, staff are being flexible with their roles to undertake additional workload outside of their normal core business.

6.2 In the third quarter the performance for the appeals is below target, this will need to be monitored into the next quarter as targets for appeals is significantly below target

6.3 The Enforcement Team’s figures for quarter 3 are good and performance is satisfactory.

Appendix 1 : Appeal decisions for Quarter 3

Proposal: 13/00540/FUL Erection of a 35 m to hub height (61 m to tip) single wind turbine generator with associated transformer, foundations, crane hard standing and upgraded access tracks at Southfields, 10 Church Lane, Somerby

Level of decision: Committee

Reasons for refusal:

- The impact of the proposed development on the character and visual qualities of the surrounding area;
- The impact of the proposed development on the amenities enjoyed by users of public rights of way;
- The proposal would have an unacceptably adverse impact upon the health of a nearby resident;
- The impact of the proposed development on heritage assets.

Inspector's conclusions: Dismissed – The Inspector concluded that the wind turbine would be situated on a ridge within a mixed farming area. There are no major examples of communications or other infrastructure in the vicinity. In this context the turbine would stand out as an alien and obtrusive feature. It would significantly change the character of the immediate surroundings from its current rural nature to a character in which the turbine dominated. The degree of change within the distance parameters would be major, resulting in an overall impact on character which would be adverse and of major magnitude. The proposed wind turbine would introduce a strident and jarring note in the visual appreciation of the landscape.

On the second issue he concluded that the proposed development would be a prominent feature from the Leicestershire Round. However, this stretch is a relatively short part of a long walk, and the harm to the amenities of the walkers of that route, or indeed other local routes would not be of greater than limited significance. Therefore the proposal would not be of such adverse impact on the amenities of the majority of users of public rights of way that it can carry more than limited weight in the planning balance.

On the third issue he concluded that any development which has the significant risk of exacerbating an existing medical condition in the way described in evidence should not be encouraged. There is already evidence of adverse impact even in advance of any development, and the effects of the development if implemented are likely to induce a worsening reaction. Whilst there cannot be certainty of the effect at this stage, on the balance of probabilities, the impact on health of that resident would be likely to be sufficiently severe to militate against the proposal. This is a matter of significant weight.

On the fourth issue he concluded that there would be less than substantial harm to the setting of heritage assets, but the harm identified carries substantial importance and weight.

Taking these matters overall it was considered that the benefits of the proposal are not sufficient to outweigh the significant and demonstrable adverse impacts identified. The weight of negative impacts amounts to a clear indication that the proposal should not succeed.

Proposal: 14/00127/FUL Conversion of dwelling house into 2 dwellings including rear and side extensions also demolition of existing store and garage at 2 School Lane, Scalford

Level of decision: Committee

Reasons for refusal:

- The proposal, if permitted, is likely to result in an increase in dangers to pedestrians from additional vehicles accessing and egressing the site on to School Lane which is narrow in design and width, having no pedestrian footpath

on the eastern side of the highway.

Inspector's conclusions: Allowed – The Inspector concluded that there would be additional vehicle movements arising from the proposed additional dwelling. The National Planning Policy Framework (the Framework) says that development should only be refused on transport grounds where the impacts are severe. As there would be one additional dwelling the Inspector did not consider the proposals would be likely to result in such significant harm to highway safety so as to justify refusal in the context of the Framework.

This application was also the subject of a **cost** application on the grounds that the Council behaved unreasonably as the Committee ignored officer advice and the comments of the Highways Authority and refused permission for a vague and generalised reason, unsupported by objective analysis. The Inspector concluded that the appeal site is located on a relatively narrow lane with one relatively narrow footpath. There is a school opposite the proposed access/parking spaces. The Highway Authority judges that there would be some betterment compared to the existing parking arrangements and that the amended proposal would not create severe harm to road safety. The members of the Committee visited the site before determining the application and saw the width of School Lane, its footway, and the relationship of the proposed access/parking spaces to the school. The members of the Committee were entitled to exercise their own judgement in respect of the effect of the proposed development on the safety of pedestrians, including school children, using School Lane. The advice from the Highway Authority was qualified as at least providing some betterment compared to the existing parking arrangements and the members of the Committee were entitled to take into account the observation of the Highway Authority that “..... the proposal is not ideal”. Although the Inspector come to a different conclusion in the appeal decision it was not considered that this amounts to unreasonable behaviour. Moreover, it was not considered that the reason for refusal was vague or generalised. It was clear that the members of Committee were concerned about the likely traffic movements arising from the proposals in relation to users of School Lane and the school opposite. The Inspector therefore found that unreasonable behaviour resulting in unnecessary or wasted expense has not been demonstrated and the application for an award of costs was refused.

Proposal: 13/00722/REM Erection of 56 dwellings including 22 affordable 2 and 3 bedroom dwellings together with site access and entrance road, service utilities, infrastructure including pumping stations and associated open space on land to the rear (east) of 33-51 Belvoir Road Bottesford at Land Adjoining Belvoir Road And Green Lane, Belvoir Road Bottesford

Level of decision: Committee

Reasons for refusal:

- the levels of the site would result in a form of development that fails to harmonise with its surroundings and would be out of keeping with the neighbouring development;
- the layout was considered to be of regimented urban form, inappropriate to and out of character with its village surroundings;
- and the proposed type of houses do not reflect the housing needs of the area.

Inspector's conclusions: Allowed – The Inspector concluded on the issue of ground levels that the resultant height of the development's ridgelines would not be inconsistent with others found in Bottesford and the elevated ground levels proposed would not add to any harm to the character and appearance of the village implicit in the already accepted principle of developing this site. On the issue of layout he concluded that the layout provides a considerable quantity of open space consolidated into one area open to the public and so the part of the site which is to be built up would be intensively developed and parts would appear dominated by predominantly hard surfaces. However, there is considerable variety of house type and height and progression and recession in the street scene and its external faces have been carefully contrived to harmonise

with the character of Bottesford. It would therefore comply with policies OS1 and BE1 of the Melton Local Plan. On the issue of housing the Inspector concluded that the housing provided would make a limited contribution to the supply of smaller properties in the market sector and would contribute more to existing surpluses of larger properties. However, on the other hand, the proposal would deliver much-needed affordable housing which would meet local needs. Overall therefore the adverse impacts of this development would not significantly and demonstrably outweigh its benefits.

This application was also the subject of a **cost** application on the grounds that there were no reasonable grounds to refuse the application and little justification was put forward to support the refusals. The Inspector concluded that for two out of the three reasons for refusal, the Council's behaviour was not unreasonable. However, the first ground for refusal relating to levels was manifestly unreasonable as it is clear that this part of the proposal and any harm resulting from it results directly from the various parts of condition 10 of the outline consent which the Council had previously given. It is clearly unreasonable for the Council to impose a condition on a development requiring ground raising and then to refuse to approve details because they would raise the ground. Unnecessary costs have obviously been incurred in responding to this reason for refusal. Therefore unreasonable behaviour resulting in unnecessary or wasted expense, as described in Guidance, has been demonstrated and a partial award of costs is justified, limited to the costs incurred in responding to the first reason for refusal.

Proposal: 14/00345/FUL New dwelling house and garage at Land To The Rear Of Wallis Close, Wallis Close, Melton Mowbray

Level of decision: Delegated

Reasons for refusal:

- The effect of the proposal on the character and appearance of the area, with regard to the appeal site's location within a Protected Open Area (POA) and the setting of Craven Lodge, a Grade II listed building.

Inspector's conclusions: Dismissed –The Inspector concluded that the proposed development would reduce the openness of the appeal site. Given the importance of the land as an open area, this in itself would be detrimental to the character of the area. The proposed development, although fairly modest in size, would also interrupt views of Craven Lodge from Baldocks Lane and, as such, would reduce the dominance of the building. Together the loss of openness and reduced dominance of Craven Lodge would erode the historic significance of Craven Lodge. The proposed development would therefore materially harm the character of the area by eroding the openness the area, which is a POA, and would fail to preserve the setting of Craven Lodge, a Grade II listed buildings. Consequently the proposed development would conflict with Policies BE12, OS1 and BE1 of the adopted Melton Local Plan.

Proposal: 14/00354/VAC Removal of Condition 15 relating to Planning Approval 13/00293/EXT at Land off Main Street, Main Street, Eaton

Level of decision: Committee

Reasons for refusal:

- The condition was required as a control barrier at the pedestrian entrance to the community playing field to the north-west of the application site is necessary to restrict egress from that area on to the public highway in the interest of public safety of the users of the community playing field.

Inspector's conclusions: Allowed – The Inspector concluded that there is already a barrier in place, in the form of a substantial field gate and kissing gate and the rest of the road frontage is secured with a hedge. Even if such a barrier were desirable, this is an existing situation, and it is

not considered that a development of just 4 holiday units changes matters to the extent that a barrier would become necessary as a result of the development. Therefore the road safety and public safety aims expressed within the NPPF would not be compromised by the removal of the condition. The Framework makes clear that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In this case, the condition is not necessary or relevant to the development to be permitted.

This application was also the subject of a cost application on the grounds that there were no reasonable grounds to refuse the application and little justification was put forward to support the refusal. The Inspector concluded that there was no adequate attempt to address the points made by the appellant in favour of the removal of the condition or to explain why the Highway Authority was wrong in its view that the condition was not necessary. Overall, the Council failed to give any clear justification for a decision to refuse planning permission when the case to grant appears overwhelming. Unreasonable behaviour can include imposing (and, by implication, not allowing the removal of) a condition that is not necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Other examples of unreasonable behaviour include failure to produce evidence to substantiate each reason for refusal on appeal and vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis. All of these examples are applicable in this case. Consequently the Council acted unreasonably and this has caused the appellant to incur unnecessary expense in pursuing the appeal. Accordingly a full award of costs is justified and the application for an award of costs is allowed.

Proposal: 13/00809/FUL Replacement dwelling at Crowthorne, Landyke Lane, Scalford

Level of decision: Delegated

Reasons for refusal: of the removal of a condition

- The condition relates to an agricultural tie and was imposed as the erection of dwellings in the countryside is contrary to policy for the protection of the open appearance and character of the countryside and were it not for the special agricultural justification the development would not be permitted.

Inspector's conclusions: Dismissed – The Inspector concluded that the disputed condition continues to serve a purpose, and that it sufficiently justifies the appeal dwelling as an exception to planning policy through meeting the accommodation needs of persons whose occupation of the dwelling would comply with the condition. For the purposes of the tests at paragraph 206 of the NPPF, the condition is necessary, relevant to planning and the development, and reasonable in all other respects, there being no substantive grounds to consider that the condition is unenforceable or imprecise. The condition is required to justify the dwelling in the context of Policy OS2 of the Local Plan and paragraph 55 of the Framework, and therefore the condition is reasonable and necessary in the context of local and national policies that seek to restrict development in the countryside.

Proposal: 14/00516/VAC Variation of Condition 3 relating to Planning Approval 13/00678/REM to increase part of the wall from 1.5m to 2m with the lower part at 1.4m as indicated on Drawing Number 6562P - 21H at 23A Middle Lane, Nether Broughton, Melton Mowbray

Level of decision: Committee

Reasons for refusal:

- The proposed wall, by virtue of its height and absence of architectural interest, would represent a harsh urban feature in a prominent location in the streetscene. It would therefore be out of character with and unsympathetic to its surroundings.

Inspector's conclusions: Allowed – The Inspector concluded that the wall is a prominent feature within the local street scene as a result of its position on the corner, being particularly visible as on the approach from Middle Lane, when travelling in a north-easterly direction. However, the fact that the wall is prominent is not, of itself, an indication of harm to the character or appearance of the area. It is a well-built structure. Furthermore, the height and prominence of the wall is not substantially greater than the 1.8 metre enclosure that was in place prior to the erection of the dwelling. The 2 metre enclosure at the front of the house appears somewhat incongruous. However, the layout of the dwelling and the size of the plot dictate that the level of private amenity space is limited. The area to the front forms an important component of that space, being linked to the dining area and kitchen via a pair of French doors opening onto a patio. The space is also directly adjacent to the village green, with the notice-board and informative sign close to the boundary. This is a relationship that is individual to the site. It is not unreasonable in this context for the occupants and/or owners of the dwelling to seek a higher front wall to avoid overlooking from those using the adjacent public amenity space. Equally, the presence of the wall provides a quiet backdrop for those using the seating or reading the village notices. Consequently, whilst the height of the wall does not respond to the general pattern the Inspector is satisfied that it represents a sensible design response to its particular context. Leads them to conclude that the structure does not cause harm to the character and appearance of the surrounding area.

