

Committee/Date:	Planning – 05 th March 2024
Report Title	Planning Performance
Wards affected:	None specifically
Appendices:	None

1. SUMMARY

- 1.1. This report provides an overview of planning performance, timeliness, appeal decisions and monitoring as requested by the Committee.

2. RECOMMENDATION

- 2.1. The Committee is asked to review the information within the report, ask questions of witnesses and make recommendations as required.

3. BACKGROUND

- 3.1. The Council receives around 3,200 planning applications each year. Last financial year the Development Management Team generated c£2.1m of income, of which £1.3m was from planning fees and £740k from pre-application fees and planning performance agreements. As of 30th September 2023 there is a current pipeline of 7,523 new homes to be delivered (i.e., schemes started but not completed, of schemes with consent or a resolution to grant). Of these, 38%, or 2850 new homes, will be affordable, with a split of 40% London Affordable Rent, Affordable Rent and Social Rent and 60% Intermediate.
- 3.2. The Committee has requested information on planning performance. Information is provided on timeliness of decisions, in the context of Government performance targets, an overview of appeal outcomes and performance and measures being taken to improve performance and address resourcing issues.

4. DEVELOPMENT MANAGEMENT PERFORMANCE

Performance indicators

- 4.1. The performance of local planning authorities in determining major and minor development is assessed on a quarterly basis by the Department of Levelling Up, Housing and Communities (DLUHC). The assessment of performance is judged by the DLUHC against two separate measures of performance, which are:

- the speed with which applications are dealt with, measured by the proportion of applications that are dealt with within the statutory time or an agreed extended period; and,
- the quality of decisions made by local planning authorities measured by the proportion of decisions on applications that are subsequently overturned at appeal out of all decisions made.

4.2. Where an authority does not meet the required performance, levels set out in Table 1 (below), it can be 'designated' by the DLUHC on behalf of the Secretary of State. Where a local planning authority is designated, applicants may apply directly to the Planning Inspectorate (on behalf of the Secretary of State) for determination of the category of applications (i.e., major, minor or both) for which the authority has been designated.

Measure & Type of Application	Threshold
Speed of Major Development	60%
Speed of non-Major Development	70%
Quality of Major Development	10%
Quality of non-Major Development	10%

- 4.3. Local planning authorities are required to submit data showing their performance against the speed and quality measures set by the DLUHC on a quarterly basis and this data is published by the DLUHC.
- 4.4. The Government's assessment is made over a rolling two-year period, up to the most recent quarter for which data on planning decisions are available at the time the Government is making decisions on designation.
- 4.5. Major applications are defined as development involving ten or more homes, 1,000sqm floorspace, site area of 1 or more hectare, waste development and minerals development. Minor development is all other applications for development, including householder applications.
- 4.6. The Council's performance for speed of decisions for major applications for the 24-month period October 2021 to September 2023 is 92.3% (24 decisions within 13 weeks or agreed extension of time, out of 26 decisions), the Council ranked 115 out of 328 local planning authorities. The Council is comfortably above the threshold and works proactively with all major applicants to secure development performance agreements which set out an agreed timetable for determination of applications.
- 4.7. The Council's performance for speed of decisions for minor applications is 90.9% (2,419 decisions within 8 weeks or agreed extension of time, out of 2,662 total decisions), the Council ranked 106 out of 328 local planning authorities. The Council is comfortably above the threshold and where necessary works with applicants to agree longer periods for determining applications.

- 4.8. The Council's performance for quality of decision making for Major Applications determined by the Council in the 24 months to September 2022 is 3.1%, (1 appeal allowed, out of 32 applications determined). This relates to the 480 Larkshall Road application was allowed on appeal, following refusal by Planning Committee in March 2022. This demonstrates the impact that individual decisions can have on the performance indicator, given the relatively small number of total decisions on Major applications.
- 4.9. The Council's performance for quality of decision making for Minor Applications in the 24 months to September 2022 is 1.3%, (36 appeals allowed, out of 2,842 applications determined).
- 4.10. Further detail on appeal performance is discussed later in this report, however, the Council's success rate of appeals (i.e., those dismissed) during this period was around 75% which is comparable to the national and regional average.
- 4.11. Planning Managers review appeal decisions when they are issued, to learn from decisions that Inspector's make and to identify whether there are any recurring themes where Inspectors are routinely dismissing appeals.
- 4.12. The Government consulted on proposals to improve the performance management regime, as part of the wider planning fees and capacity consultation in Spring 2023. This included:
- Reducing the time period to trigger the planning guarantee from 26 weeks to 13 weeks (whereby if an application has not been determined by this time and there is no extension of time or performance agreement the applicant can request that the fee is refunded)
 - Measuring speed of decisions determined within the statutory determination period, i.e., excluding extension of time/performance agreements
 - Measuring performance separately for Majors, non-majors, householders, discharge of conditions and 'county' matters
 - Open questions about whether quantitative metrics should be excluded, whether other quantitative metrics and qualitative customer experience metrics should be included
- 4.13. Following the consultation, the Government increased planning fees for minor applications and major applications by 25% and 35% respectively from 6th December 2023. The Government's formal response to the consultation confirmed that the reduced time period for the planning guarantee would be implemented and an expectation that increased planning fees must lead to improved performance, with a new planning performance framework introduced once fees have increased and investment made in supporting capacity and capability. Further consultation would be undertaken on detailed proposals including thresholds, assessment periods and transitional arrangements.

- 4.14. The reduced time for the planning guarantee was introduced on 6th December 2023 and officers are closely tracking applications to ensure refund requests are not triggered.
- 4.15. On 19th December 2023 the Secretary of State for Levelling Up, Housing and Communities issued a Ministerial Statement stating that the Government will publish a new performance dashboard in 2024. As part of this, reporting the use of extensions of time agreements will be stripped out. The Government will also consult on banning their use for householder applications, limiting when in the process they can apply and prohibiting repeat agreements.
- 4.16. More up to date monthly performance data shows that for the 24 months to November 2023 the average for speed of major decisions is 85% within time or agreed extension of time, and 92% for minor applications. The Council determines an average of two major applications and 120 minor/other applications per month.

Appeal Performance

- 4.17. The average approval rate of applications is 75% and around 30% of refusals are appealed against. Analysis of monthly appeal performance for the two years from December 2022 to November 2023 shows that there were 85 decisions, of which 62 (73%) were dismissed. This success rate is in line with the national average.
- 4.18. Of these around a quarter are householder and related prior approvals, half are full minor applications (including changes of use) and the remainder include certificates of lawfulness, adverts, telecommunications masts and upwards extensions.
- 4.19. In respect to Householder Applications, planning inspectors were generally supportive of the policies CS15 of the Waltham Forest Local Plan Core Strategy (2012) and policies DM4, DM29 and DM32 of the Waltham Forest Development Management Policies Local Plan (2013) in terms of character and appearance as well as neighbouring amenity impact. Similar objectives set out in the Council's Residential and Alterations SPD (2010) were often stipulated to inform the Inspector's decision.
- 4.20. Regarding new residential developments and change of use, although it was not consistent in all decisions received, planning inspectors would often agree with the Council decision that proposed developments would cause harm to the general character of the area and the living conditions of neighbouring occupiers, citing the above policies. It is noted that Inspectors afforded significant weight to the quality of housing and living environment for occupants in terms of standard of accommodation, access to amenity space and ensuring good outlook is achieved. Policy DM7 of the of the Waltham Forest Development Management Policies Local Plan (2013) provided a strong position where developments fail to comply with external amenity provision on site.
- 4.21. Appeals of note include:

190 Wood Street E17 (221247) – Conversion of upper to create a 1 bed and a 4-bed flat - Dismissed

- Lack of amenity space for 4-bed flat

35 Old Church Road E4 (220973) – Extension to create 1 bed flat and 1 studio - Dismissed

- Rear access too far for refuse collection and unsafe

31 Ascham End E17 (220131) – New residential unit – Dismissed

- Unsuitable access

270a High Road E11 (212952) – Extension and conversion to create 3-bed flat – Dismissed

- All bedrooms below 9sqm considered acceptable
- Lounge, kitchen, diner for 3 people below standard, found unacceptable

13 Oakhurst Gardens WG (210233) – Conversion to flats - Dismissed

- Inspector assessed each room in detail and internal layout as to how the occupiers would use it, all found to be unacceptable

131a Greenway Avenue E17 (204016) – Backland development of 5 flats – Dismissed

- Access from narrow, unmade service road shared by cars
- Pedestrian conflict
- Refuse storage on public highway for collection unacceptable
- Costs application refused – LA not bound by pre-app advice

Rear of 41 Blackhorse Road E17 (210709) – Construction of studio flat

- No external space provided for refuse and cycle store, details cannot be left to condition
- Poor internal living accommodation, impact on character of the area, refuse and cycle store and no car-free agreement

9 Guildsway E17 (221719) – New 2-bed house – Dismissed

- Within CPZ and provides 1 off street parking space, considered car free agreement not necessary

18 Forest Drive West E11 (223087) – Conversion of large HMO to 5 self-contained flats – Dismissed

- Although existing sui generis use, policy does not specify large family homes of 3-bed plus, should be C3, so policy restricting loss is applicable

249 Chingford Mount Road E4 (203055) – 2- storey building for 5 houses – Dismissed

- Poor access not suitable for servicing
- Shared narrow access not guaranteed to be clear
- Private refuse collection not resisted, but statutory duty lies with the Council, not private

- Costs application refused – Council satisfactory substantiated reasons for refusal and not acted unreasonably in refusing the application

32 Mount Pleasant Road E17 (223351) – Construction of 2-bed house – Dismissed

- Impact on trees on shared boundary that make positive to the character and appearance of the area

109 High Street - additional storey to provide 4 flats - allowed

- Extension was sympathetic to context and had neutral impact on conservation area, single aspect north facing unit found acceptable as shallow and had good outlook

227 Hoe Street – dormer and conversion of upper floor to create two flats - allowed

- Demonstrated flats met minimum space standard, waste collection from street and absence of cycle parking acceptable given location

- 4.22. Inspectors also gave strong support to Policies CS2 and DM6 of the local plans, which seeks to control and restrict the provision of and the sizes of dwelling conversions, and Houses of Multiple Occupation. It was noted that three appeal decisions were dismissed to protect the loss of single dwelling houses to HMOs or self-contained flats during this period.
- 4.23. Two telecommunications prior approval appeal (for 5G masts) were allowed. The matters that can typically be considered are siting and appearance, Inspector's gave weight to the Government's policy of supporting full 5G coverage, generally outweighing concerns about visual appearance of the masts or street clutter/pavement width. In respect to the two appeal decisions, the Inspectors found that the siting and appearance of the development would not harm the character and appearance of the local area as well as the setting of locally listed buildings.
- 4.24. There was one appeal relating to the change of use from a betting shop to adult gaming centre (AGC) in High Street E17. The Council refused this application in respect to the over-concentration of gaming and gambling-related uses within the Walthamstow Major Centre and it resulting in an adverse effect of problems of anti-social behaviour and nuisance that would compromise community safety and increase crime in the area. Planning Inspector disagreed with this position citing that there are a variety of units present along this road and the addition of a further AGC would not lead to a proliferation or over concentration in this instance. Further, due to no substantive evidence presented by the Council, the introduction of an AGC it would not have an adverse effect with regard to crime and anti-social behaviour.
- 4.25. There was one appeal against refusal for change of use to hot food takeaway and shopfront alterations in High Road E10. The appeal was dismissed because of the impact of the shopfront on the conservation

area, however, the Inspector considered that open Class E could provide unhealthy food, so hot food takeaway is acceptable, no evidence to suggest food would be unhealthier. A subsequent application for a hot food take away which addressed the heritage impact has been approved.

- 4.26. Six upward extension applications have been determined by appeal during this period. One, Jassal Court was allowed, and the remainder were dismissed. The matters to be considered for prior approval are set out by the Government and are the only matters that the Council and Inspectorate can take into account. One of these is 'external appearance'; There have been contradictory interpretations of this by the Planning Inspectorate in the past, but a subsequent court case has confirmed that that impact on wider street scene can be considered.
- 4.27. In the case of Jassal Court, the Inspector considered that the external appearance would have an acceptable impact on the character and appearance of the area and the host dwelling. Of the appeal dismissed One was dismissed on technical grounds and 4 were dismissed because of the unacceptable impact on street scene and/or neighbours.
- 4.28. There were three appeals against refusal of planning permission by Planning Committee; two were dismissed and one allowed.

Livingstone Road – 5 houses

- 1 unit failed space standards, some flexibility should be applied to external amenity space for small backland sites, but provision should be high quality, overlooking of neighbours' gardens and refuse store too far from properties

694 High Road Leytonstone, E11 - additional two floors to provide four self-contained units – refused – impact on street scene and setting of, the adjacent Grade II Listed three storey Georgian terrace; absence of outdoor private amenity space

- Inspector concluded design, form and height would be in keeping with the character and appearance of the area but would fail to preserve the setting of the Grade II listed properties. The absence of private amenity space was acceptable given town centre context

480 Larkshall Road – 68 flats, ground floor commercial and station entrance – refused due to character and appearance, transport impact, housing mix, residential quality, station entrance uncertainty and affordable housing (subsequently withdrawn)

- The Inspector concluded that the scheme addressed height sensitively, it optimises the site's development potential and positively enhances local context.
- A new station entrance in this location would be a benefit to the town centre and a meanwhile use would not detract from the viability of the town centre.

- Smaller homes are appropriate in town centre, surrounded by area with large amount of existing family housing.
- Small technical breach in quantity of amenity is outweighed by quality of provision, roof top play space is an accepted and well used solution for flatted schemes in London.
- Scheme would have harmful impact on highway safety and residential amenity because it has no on-site parking (except limited blue badge), there is no CPZ to prevent new residents parking on surrounding streets and those surrounding streets suffer from parking stress. Grampian condition imposed preventing occupation until CPZ in place.

4.29. There was a total of eight applications for the awards of costs, six were refused, one allowed in full, and one allowed in part. The Council made two cost applications, both of which were allowed.

Resources

4.30. In the last year the Council has recruited six planning officers to the Area Teams and two to the Majors Team. This has significantly reduced the reliance on agency staff, providing more stability in the teams as well as reducing expenditure.

4.31. In addition the Council has promoted a number of internal candidates to more senior positions. Providing opportunities for career progression has also helped retain staff.

4.32. As referred to in paragraph 4.13 above the Government has increased minor planning application fees by 25% and 35% for major applications. This will bring additional resources into the Planning Team and is strongly welcomed as the fees were last increased in 2018. The Government has also introduced an annual automatic inflation based increase from April 2024, rather than relying on periodic increases, which will bring greater certainty to income forecasting.

5. CONCLUSION

5.1 The Planning Service is performing well against current national performance criteria. The success rate at appeal is in line with the national average. The Council has successfully appointed new permanent staff, further reducing reliance on agency staff. The increase in planning fees and income from pre-application fees and development performance agreements is being used within the Team to improve capability and capacity and prepare for the new performance regime that the Government is proposing.

Background Information (as defined by Local Government (Access to Information) Act 1985)

None