

<b>Agenda Item</b>	A9
<b>Purpose of report</b>	To update members on the Planning Enforcement and Applications Team performance.
<b>Report Author:</b>	Service Manager – Development Management
<b>Summary of Recommendation</b>	That the report be noted

## 1.0 Purpose of report

1.1 The purpose of the report is to share with members the performance of the City Councils Development Management function since April 2024. It is the intention moving forwards that each quarter a report will be presented to members setting out the team's performance, and how it compares with government timescales. The report will also provide information on planning and enforcement appeals. Quarter 2 performance will be shared with Committee on 28 October.

## 2.0 Planning Applications

2.1.1 The planning applications team comprises of a Planning Applications Manager, 3 Principal Planning Officers, 1 Senior Planning Officer, 2 Planning Officers, 3 Planning Assistants, 1 Graduate Planning Officer and a Section 106 Monitoring Officer. The team determines in the region of 1500 applications a year (amongst the applications noted below, this also includes the likes of discharge of planning conditions, non-material amendments and the Councils pre-application offering).

2.1.2 There are different types of applications for which government assess local authorities on in terms of performance, these are broken down below. The majority of the schemes that come before members at Committee are major applications.

### 2.1.3 Major

Major applications are applications which fall into the following categories:

- Dwellings - 10+ dwellings or cover a site area of 0.5ha+
- Offices/Retail & Distribution/Light Industry -cover over 1,000m<sup>2</sup> or floor space or a site area of 1ha+
- General Retail Distribution and Servicing – 1,000m<sup>2</sup>+ or floor space or site area of 1ha+
- Gypsy and Traveller sites – 10+ pitches
- All other major developments – all other uses, whether in a use class or sui generis uses – 1,000m<sup>2</sup>

### 2.1.4 Minor applications

These are applications which fall into the following categories:

- Dwellings – 1-9 dwellings. Or site area of less than 0.5ha
- Offices/Retail & Distribution/Light Industry – less than 1,000m<sup>2</sup> floor space or less than 1 ha site area
- General Industry and Distribution and Servicing – less than 1,000m<sup>2</sup> floor space or less than 1ha site area
- Gypsy and Traveller sites – 1-9 pitches
- All other minor developments – less than 1,000m<sup>2</sup> floor space or less than 1ha site area

## 2.1.5 Other Developments

These applications include the below.

- Change of Use – going from one class use to another
- Householder developments - extensions, conservatories, garages etc within the domestic curtilage of the property
- Advertisements
- Listed Building Consent

## 2.2 Performance

2.2.1 Performance has traditionally been measured in terms of time taken to determine a planning application. The target is 13 weeks for major applications, and 8 weeks for householder and other applications. This is calculated from the date of validation to the date of the decision notice being issued. There is also an opportunity to negotiate an extension of time for applications where it is clear that the statutory target cannot be met.

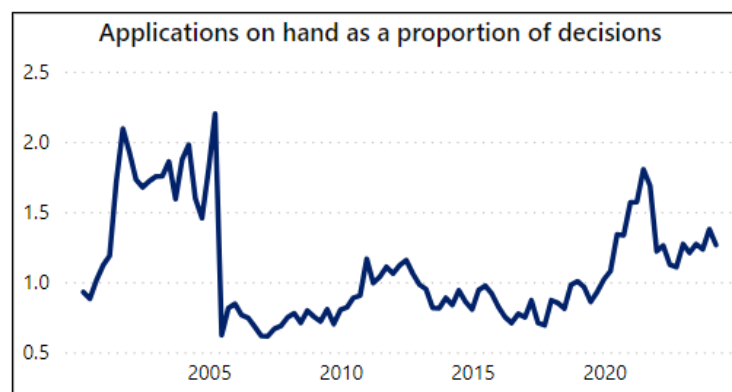
2.2.2 Currently the Government has set Local Planning Authority performance targets (Improving Planning Performance: Criteria for Designation Updated 2020) as follows:- 60% of Major Applications to be determined within 13 weeks or the agreed time extension 70% of Minor Applications and Others to be determined within 8 weeks or the agreed time extension. As can be seen from the statistics below the service is exceeding the timescales imposed by government.

2.2.3 Quarter 1 – 2024/2025 (1 April – 30 June 2024)

- Majors 92% within 13 weeks or within agreed time extension
- Minors 93.90% within 8 weeks or within agreed time extensions
- Others 94.89% within 8 weeks or within agreed time extensions

2.2.4 The table below shows the number of applications received for the first two quarters of 2024, and those determined. Members will note the vast majority of decisions are delegated, and historically the figure is around 93% of applications are delegated to officers to determine. As of 31 March the Councils applications on hand/decisions figure is 1.26, which bodes well when compared against the North-West Average of 1.84. The spike in 2021 was due to the significant planning application backlog the council faced.

	January – March 2024	April -June 2024
<b>Applications received</b>	215	206
<b>Applications determined</b>	219	231
<b>Percentage of decisions delegated</b>	93%	90%



## 2.3 Planning Appeals

There are three main types of planning/enforcement appeals.

These are written representations, Hearings and Inquiries.

### 2.3.1 Written Representation

Most planning appeals are decided by the written representations route. With this procedure the Planning Inspector will consider written evidence from the appellant, the local planning authority (LPA) and anyone else who has an interest in the appeal. The written evidence usually takes the form of a statement of case by the main parties (the appellant and the LPA), and there is also the opportunity to comment on each other's statements.

For householder appeals there is a slightly different process, There are no opportunities to submit further information once the original appeal form has been submitted and the Local Authority will provide a copy of either the officers delegated/ committee report rather than a separate statement.

### 2.3.2 Hearing

A planning hearing is an appeal in which there is normally no legal representation. Statements are submitted by both parties and there is an open, informal discussion on the key issues. A hearing is usually a day event.

### 2.3.3 Public Inquiry

An Inquiry is a more formal process and there is normally legal representation who cross examine witnesses. Public Inquiries will last more than a couple of days.

2.3.4 The following planning appeal decisions were issued between 1 April to 30 June 2024. A separate list is appended to this report detailing the schemes that have been subject of the appeal and the outcomes.

<b>Planning Appeals</b>	<b>Number</b>	<b>Allowed</b>	<b>Dismissed</b>
<b>Determined</b>			
Written Representations	11	1	10
Hearings	1	0	1
Inquiry	1	0	1
Householder	1	1	0
<b>Total</b>	14	2	12

The percentage of allowed appeals is 15% and therefore slightly above the quality indicator of Major and Non-Major Development which stands at 10%.

## 4.0 Planning Enforcement

4.0.1 The Planning Enforcement Team (comprising of 1 Senior Planning Enforcement Officer, 3 Planning Enforcement Officers and 1 Graduate Planning Enforcement Officer (role currently vacant) are

responsible for investigating alleged breaches of planning control, and taking action to remedy breaches of planning control and harm arising.

4.0.2 The team receive on average 350 complaints per year, and until 2021 the Council only employed 2 Planning Enforcement Officers, and 1 Graduate Planning Enforcement Officer. As part of the Development Management Review in 2021, two additional Planning Enforcement Officers posts were created employed to assist in managing caseloads and to help reduce the backlog of cases that had built up over time.

#### 4.1 Historic Case Review and Management of the Backlog

4.1.1 Over the past 18 months one of the key priorities has been to work on the review and clearance of historic enforcement cases. Some of these cases date back to 2010. A large number of these cases have been reviewed, and a large number of those cases have been closed, either that it is not proportionate to take action, action has been taken, the breach is de minimis or that through the passage of time the breach is immune from enforcement action. The table below shows the progress in terms of clearing historic cases. The team have worked hard to resolve and close active files. In January 2023 we had 342 active cases from the past decade still active, the figure in August 2024 is 152. The work has been undertaken in addition to ongoing investigations/appeals and prosecutions.

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Live Cases August 2024	1	1	0	3	3	3	8	19	27	31	56
Live Cases January 2023	1	1	2	6	5	7	22	53	61	64	120

4.1.2 A review of cases has also occurred for the recent years of 2021-2024. These are higher in terms of open cases, but closed cases are also much higher, these take into closure of cases from previous years.

	2021	2022	2023	2024
Overall number of cases received	384	355	310	266
Closed Cases	299	176	439	296
Open Cases August 2024	96	88	116	173
Review of ongoing enforcement cases – The review shows figures for the years 2021-2024. The table illustrates the change in the number of live cases received.				

4.1.4 For the year to date (January to the end of August 2024) a total of 266 cases have been received, and 93 cases have been closed. This is illustrated below. 173 cases are currently active for the year of 2024. We expect given the current trends for complaints to reach circa 355 by the end of the year. A slight increase than in 2023.

	2024
Open Cases	173
Closed Cases	93
Cases received January 2024-August 2024	266

4.1.5 The Local Authority currently have 642 live planning enforcement cases. Between 1 January to 31 August we received 266 new complaints. The Local Planning Enforcement Plan sets out a case management system as set out below. The local planning authority have committed to monitoring the performance against the action targets. The new plan adopted by the Planning and Regulatory Committee in 2024 set out a new expediency test aimed at assessing the breach, remedying breach, resolving the breach and formal action to resolve the breach if this is indeed required. The new system is designed to be more focussed and allow time for others to pursue the breaches of planning control that require action to be taken.

<b>'Red' Cases</b>	Cases that involve significant or irreparable harm. These include unauthorised works to a listed building, the felling of a protected tree, development likely to adversely impact public safety, or development likely to cause adverse impacts to sensitive habitats (e.g. Sites of Special Scientific Interest and similar designations).	The Planning Enforcement Officer will aim to visit these cases, or otherwise pursue appropriate action within <b>1 working day</b> of receipt of the case.
<b>'Amber' Cases</b>	All other cases where there is a breach of planning control.	The Planning Enforcement Officer will aim to visit these cases, or otherwise pursue appropriate action within <b>15 working days</b> of receipt of the case.
<b>'Green' Cases</b>	Cases where there is no breach of planning control, or where it is proven at Stage 1 and 2 of the Expediency Test that the breach does not warrant enforcement action.	These cases will <b>not be investigated further</b> .

4.1.6 It can be seen from the figures below that whilst red cases have been visited within the timescales committed to in the plan the amber cases are taking more time. Since the new monitoring came into place in April, we have faced recruitment issues with one of our officers leaving for another role within the authority. This is why the number is lower than expected. We would hope if fully resourced to visit 90% of amber sites within the 15 working days.

	Received	Initial visit within target	Percentage in time
<b>Red Case</b>	4	4	100%
<b>Amber</b>	89	54	60%
<b>Green</b>	3	N/A	NA

4.1.7 For the first quarter of 2024/2025 there has been two enforcement notice appeals decisions from the Planning Inspectorate. One was allowed which was for the use of a garage as a gym and one dismissed for the erection of fencing. The details can be seen on the appended list. In terms of action taken in Quarter 1, there have been 23 notices served in the last quarter. The table below breaks this down into the type of action.

Action	Number of Actions
<b>Breach of condition notice</b>	0
<b>Enforcement injunctions</b>	0
<b>Enforcement Notice</b>	11
<b>Injunctive Applications refused</b>	0
<b>Planning Contravention Notice</b>	9
<b>Stop Notice</b>	0
<b>Section 215</b>	1
<b>Listed Building Enforcement Notice</b>	2

## 5.0 Conclusion

5.1 The Development Management team are working above expected government targets in terms of timescales. Whilst quality of decision making (i.e. schemes allowed on appeal) is slightly higher than the 10% endorsed by government there are no concerns on the quality of decision making. The Planning Enforcement Team are reducing the significant backlog that peaked in December 2022. At that point there were 797 open cases whereas the figure now is 642 (20% reduction). Given the backdrop of recruitment challenges and planning appeals, significant progress has been made with respect to Councils planning enforcement function.

