

Bassetlaw District Council

Planning Committee

24th May 2023

Report of Head of Regeneration

Development Management Performance Report 2022/2023 Full Year

Cabinet Member: Regeneration

Contact: John Krawczyk

1. Public Interest Test

- 1.1 The author of this report, John Krawczyk has determined that this report is not confidential.

2. Purpose of the Report

- 2.1 To provide Members with a quarterly performance report recorded for the Development Management function for the whole year of 2022/2023

3. Background and Discussion

- 3.1 Following agreement at Planning Committee in June 2014 that performance reporting would be presented to Members on a regular basis, this paper provides details of the planning application performance for the full year.

4. Matters for Consideration

- 4.1 Once a planning application has been validated, the Local Planning Authority should make a decision on the proposal as quickly as possible after the consultation period has ended. The statutory time limit is set nationally and applications should be determined in this time unless a longer period is agreed in writing by the applicant.
- 4.2 Statutory time limits are usually 13 weeks for applications for major development, and 8 weeks for all other types of development (unless an application is subject to Environmental Impact Assessment, in which case a 16 week time limit applies). These times can be agreed to be extended with the applicant and this must be confirmed in writing.
- 4.3 Amendments to the Town and Country Planning Act 1990 introduced another measure of performance for major applications. If Local Planning Authorities are not meeting the standards then they will become a 'designated planning authority', which means applicants are able to submit planning applications directly to Secretary of State. Two criteria are used for measuring the performance of Local Planning Authorities. These are:-

- Timeliness – Local Planning Authorities are deemed to be underperforming if they determine less than 60% of major developments and 70% of non-major developments within the statutory timescales; or
- Quality – Where more than 10% of major and non-major planning application decisions are overturned at appeal.

| Measure and type of application | Threshold and assessment period Nov 21 to Dec 22 | Threshold and assessment period Nov 20 to Dec 22 | Live Table |
|--|---|---|------------------------------------|
| Speed of Major Development (District and County) | 60% | 60% | District - P151a County - P151B |
| Speed of non-major Development | 70% | 70% | P153 |
| Quality of major Development (District and County) | 10% | 10% | District - P152a County - P152B |
| Quality of non-major Development | 10% | 10% | P154 |

Source - Improving planning performance - Criteria for designation (revised 2018)

4.4 Major applications are defined as those where 10 or more dwellings are to be constructed (or where the number is not given, the site area is more than 0.5ha), or where the commercial floorspace proposed is 1000sqm or the commercial site area is 1000sqm or more.

4.5 The local targets are set 10% above the National planning performance targets and are 70% within time for Majors and 80% for other applications.

Year 2022/2023 Performance; Speed of Determination

| Indicator | Achievement 2021/2022 | Local Target | 2022/2023 |
|---|--------------------------|--------------|-----------------------------------|
| % of “major” applications determined in 13/16 weeks (or authorised extended period) | 97.5% | 70% | 97.87% (46/47) |
| % of “non-major” applications determined in 8 weeks | 87.6% | 80% | 93.55% (667/713) |

- 4.6 Officers are continuing to take a robust approach to decision-making and are being encouraged to work positively and proactively with applicants. Whilst there have been some staffing changes, with an Officer leaving the Authority and a new Planning Officer joining the team, the annual application determination performance has exceeded local or national targets for both major and non-major applications with only one major application being determined out of time in the entire year and only 46 non-major applications from the 713 determined went over the target determination date. This has resulted in both the majors and non-majors returns significantly exceeding both the national and local targets.

Number of Applications Received

- 4.7 The Council's Scheme of Delegation for Determining Applications, which is currently under review, requires certain applications to be determined by the Planning Committee. These applications are generally the most controversial and large scale proposals. More than 95% of planning applications are determined under delegated powers.
- 4.8 The table below sets out the numbers of planning applications received by the Local Planning Authority each month from March 2019.

| | 2019 | 2020 | 2021 | 2022 | 2023 |
|------------------|-------------|-------------|-------------|-------------|-------------|
| January | | 91 | 114 | 120 | 133 |
| February | | 148 | 128 | 126 | 149 |
| March | 158 | 129 | 190 | 138 | 135 |
| April | 136 | 100 | 140 | 114 | 130 |
| May | 118 | 101 | 116 | 129 | |
| June | 121 | 128 | 154 | 114 | |
| July | 129 | 115 | 150 | 124 | |
| August | 100 | 99 | 103 | 160 | |
| September | 102 | 133 | 108 | 150 | |
| October | 126 | 121 | 83 | 136 | |
| November | 113 | 142 | 102 | 120 | |
| December | 97 | 125 | 108 | 109 | |

- 4.9 Since the easing of the COVID 19 Pandemic, economic factors, such as an increase in build costs and a reduced availability of materials have applied additional pressure to the development industry. The table shows that this hasn't had a demonstrable impact upon the numbers of applications with the total number of applications for 2022 / 2023 totalling 1573 compared to 1496 in 2020/2021 and 1568 in 2019/2020.

Pre-Application Advice

- 4.10 In addition to the applications described above, the Local Planning Authority offers a pre-application service which offers clear, impartial and professional advice on a range of proposals from house extensions to major residential and commercial developments.
- 4.11 In the 2022/2023 year the Council received a total of 297 requests for pre-application and this generated an income of approximately £31k.

Qualitative Measures – Appeals

- 4.12 During 2021 / 2022 a total of 21 appeal determinations were made. Out of these, 4 were allowed and 17 were dismissed by the Planning Inspectorate, equating to 19% of appeals being allowed during the year.
- 4.13 This percentage of appeals allowed achieves the local target of 20%. However, it must be borne in mind that given the relatively low number of appeal decisions, any allowed will have a significant impact on the percentage returns. In addition to this, the current figure is well below the 33% (as outlined within the Planning Inspectorate's Appeal Statistics 2020) as the national average of appeals allowed.

Costs Appeals

- 4.14 There were 5 applications for costs to the Planning Inspectorate (PINS) and 2 of these were allowed. This demonstrates a robust and defensible approach to decision-making.
- 4.15 The costs awards by the Planning Inspectorate due to the Local Planning Authority having been considered to be have behaved unreasonably. The Local Planning Authority is required to pay the costs reasonably associated with the appellant preparing the appeal and the costs awards amounted to £4969.95 and £916.35.

Quality of Decision Making: Appeal performance for July 2019 – June 2021

- 4.15 With regard to the new national target of 10% for all majors decided which are overturned at appeal, the Government is currently reviewing appeals for applications submitted between July 2019 and June 2021. As set out above. For both Major and Non-Major decisions overturned on appeal, the threshold for overturned appeals is 10%.
- 4.16 There were 7 major application appeals decided in this period and 1 of these was allowed at appeal. This is out of a total of 113 major applications. The percentage of appeals allowed in this period determined 0.9%, far below the 10% threshold of overturned appeals set by the Government.
- 4.17 For non-major decisions, during the period of July 2019 to June 2021, 36 appeals were determined and 5 were allowed from a total of 1392 determined applications. This gives a return of 0.3% which is again far below the 10% threshold set by the Government.
- 4.18 Decisions must be based on the relevant planning policy and the Planning Inspectorate is now determining appeals based on recent decisions of the Secretary of State and the High Court, which placed more importance on Paragraph 11 of the National Planning Policy Framework.

“Plans and decision should apply a presumption in favour of sustainable development.

For decision-taking this means:

- approving development proposals that accord with an up-to-date development plan without delay; or

- where there are no relevant plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposal;
- or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

The implication of this for decision making is that includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or where there are no up-to-date development plan policies, the 'titled balance' is engaged the balance is tilted in favour of sustainable development and granting planning permission except where the benefits are 'significantly and demonstrably' outweighed by the adverse impacts of the development.

Planning Enforcement

- 4.19 Whilst investigating alleged breaches of planning control is a statutory function for Local Planning Authorities taking action is discretionary. Planning Practice Guidance states 'Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations'
- 4.20 2022 / 2023 has again proved to be another very busy year for the Planning Enforcement Team. Notwithstanding this the service has largely succeeded in managing the caseload.
- 4.21 For the entire year, 336 service requests were received and investigated and 553 were closed. However, it should be made clear that there are still approximately 165 enforcement cases that are ongoing or awaiting investigation.
- 4.22 The Planning Enforcement have worked effectively to manage the team's caseload without taking formal action with only 1 Planning Contravention Notice being served. The Government's Planning Practice Guidance sets out that addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy. For example, a breach of control may be the result of a genuine mistake where, once the breach is identified, the owner or occupier takes immediate action to remedy it. Furthermore in some instances formal enforcement action may not be appropriate.

5. Summary : How are we performing?

- 5.1 This report has shown that during the year 2022 / 2023, the standard of performance far exceeded the local and national targets for both Majors and Non Major applications.
- 5.2 In terms of the national picture of Local Authority planning performance, across all Council's that deal with 'District Matters' planning applications, the latest figures from the Ministry of Housing, Communities and Local Government show from January 2021 to December 2022, 86.5 per cent of major applications were decided within 13 weeks or within the agreed time. In the same period 85.2 per cent of non-major applications were decided within eight weeks or the agreed time. The performance of

the Development Team has been consistently exceeded the national average performance of Local Planning Authorities despite changes in staffing over the year.

- 5.3 The latest performance figures published by the Ministry of Housing, Communities and Local Government show that 13 Local Authorities have fallen below the government's special measures threshold. By way of comparison, there are 14 Authorities that fall below the threshold for non-major decisions made in 8 weeks with performance of 46.4% - 69.3%. In respect of major applications, the bottom 3 Authorities have returned performance of 56.1% - 59.1% Bassetlaw District Council compares very favourably to these with performance of 97.87% and 93.55% respectively.
- 5.4 It is considered that with the sustained focus on caseload management that the current returns should be sustained throughout 2023 / 2024.
- 5.5 Overall during 2022 / 2023 32% of appeals were allowed. Whilst this falls below the local target of 20% Appeal returns and it does align with 33% national performance average.
- 5.6 The Planning Enforcement service has managed the caseload well and has had good results without a significant degree of formal enforcement action. That the figures do not reflect is the high degree of resolution of alleged planning breaches through negotiation rather than formal action. Response times in respect of complaints regarding non-priority matters has improved and introduction of the Planning Enforcement Protocol has set performance standards which ensures the expectations of members of the public are met. In addition, the Development Team has provided assistance to the Enforcement Team with the management of ongoing cases with the most pressing and expedient matters having been given priority.
- 5.7 Planning Practice Guidance states that 'Addressing breaches of planning control without formal enforcement action can often be the quickest and most cost effective way of achieving a satisfactory and lasting remedy' and makes it clear that formal enforcement action should be the last option to resolve a breach of planning control. Land owners and interested parties have the right of appeal against enforcement notices which can be extremely lengthy and often results in the breach remaining or continuing during the appeal process. It is therefore often preferable to resolve breaches informally through negotiation than seeking formal action.

6. Implications

- a) For service users

Efficient and effective regular monitoring enables a consistent approach to ensuring a good quality of service delivery which benefits service users.

- b) Strategic & Policy

The reporting of the Development Team performance meets with the Council Plan (2019-2023) ambition of Investing in Place through ensuring that the Service provides an efficient processing of applications to deliver sustainable growth. There are no strategic and policy implications arising from this report.

c) Financial - Ref: 24/87

No financial implications arising from this report

d) Legal – Ref: 019/05/2023

e) Human Resources

There are no human resources implications arising from this report.

f) Climate change, Environmental

There are no environmental implications arising from this report

g) Community Safety, Equality and Diversity

There are no Community Safety, Equalities or Environmental implications arising from this report.

h) GDPR

There are no data protection implications arising from this report.

i) Whether this is a key decision, and if so the reference number.

This is not a key decision.

7. Options, Risks and Reasons for Recommendations

7.1 To ensure that appropriate monitoring and performance management procedures are in place and that the Council continues with its focus on achieving high performance, facilitating development and providing good service to all who use the Planning Service.

8. Recommendations

8.1 That the report be received and the Committee notes the current performance data.

| Background Papers | Location |
|--|-------------------|
| Development Management returns to the Ministry of Housing, Communities and Local Government PS1 and PS2 for 2022 / 2023 | Planning Services |