

DEVELOPMENT CONTROL: ANNUAL REPORT

Report By: Director of Environment

Wards Affected

County-wide

Purpose

1. To inform members about Development Control performance in 2006/07.

Financial Implications

2. Achievement of the Best Value Performance Indicator for determining planning applications (BV 109) is reflected in the Planning Delivery Grant. Conversely, an adverse performance in respect of planning appeals, (BV 204), can result in the Planning Delivery Grant being abated.

Background

3. The purpose of this report is to set out a summary of the Development Control Team's achievements in 2006/07. This report is intended for use as a reference document which will, in due course feed into the preparation work for the next round of Service Planning and Budget Planning which will start in September 2007.

This annual report is quite different from the Annual Monitoring Report which is prepared by the Forward Planning Team as a statutory requirement under the new regulations for the Local Development Framework.

Principal Outputs

These are grouped under five headings:

- A. Pre-application Enquiries
- B. Planning Decisions made
- C. Appeals
- D. Enforcement
- E. Survey of Satisfaction with the Planning Service.

A. Pre-application Enquiries

4. As in 2005/06 the Team dealt with over 2,000 pre-application enquiries in 2006/07. Some of these were relatively trivial, but some took nearly as long as a planning application itself to deal with. The key criterion for being recorded on the MVM database is that there is a formal exchange of correspondence and a permanent record made of the advice which was given.

B. Planning Decisions Made

5. The most important Development Control outputs are the BVPI indicators. These feed directly into the departmental and directorate Service Plans and count towards the Council's CPA rating. The most important of all is BV 109, the speed of processing planning applications.
6. The out-turn figures for 2005/06 and 2006/07 are as follows:

BV 109 figures	Target	2005/06	2006/07
Major applications %age determined in 13 weeks	60%	61%	75%
Minor applications %age determined in 8 weeks	65%	74%	84%
Other applications %age determined in 8 weeks	80%	82%	92%

7. Not only have all three targets been achieved, there is also a clear positive trend.
8. On 2nd April 2007 the Leader of the Council received a letter from the Parliamentary Under Secretary of State for Communities and Local Government congratulating the Council on its achievements against BV109. The letter describes the performance of the Council in the twelve months to December 2006 as "an excellent achievement" and continues, "Please accept my congratulations on the hard work of members and officers involved in your success to date".
9. There is a further significance to these figures; the Development Control element of the Planning Delivery Grant (PDG) depends on them. The PDG award is based on two tranches of performance: the twelve month period to 30th June 2006 and the nine month period to 31st March 2007. Furthermore, the PDG award will be weighted according to "stretch targets" whereby the highest level of award will go to the local planning authorities which meet the highest performance levels. The targets and the results for the two assessment periods are as follows.

BV109 figures used for assessment of PDG	Minimum targets	Stretch targets	Out-turn in 12 months to June 2006	Out-turn in 9 months to March 2007
Major applications %age determined in 13 weeks	60%	70%	63%	75%
Minor applications %age determined in 8 weeks	65%	77%	77%	84%
Other Applications %age determined in 8 weeks	80%	92%	86%	92%

10. It can be seen that the basic targets have all been met and, indeed, the award for the first tranche of Planning Delivery Grant has already been announced. Herefordshire will receive £60,000 in respect of Development Control Performance. A further award

is anticipated given the high level of achievement for the second tranche. A date for this latter award is not yet known.

Delegation

- 11. In 2006/07 88% of planning applications were determined under delegated powers, the same as in 2005/06. The former indicator (and target of 90%) have now been dropped in favour of BV 109 which is reported above.

Recommendations

- 12. Planning Committees do not always follow recommendations, indeed, it can be a sign that they are not performing their proper scrutiny role otherwise. In work with other local planning authorities the Audit Commission has used two thresholds of concern; both measuring the number of applications determined contrary to Officer’s recommendation as a percentage of decisions on all applications (delegated and committee):
 Upper threshold 2%
 Lower threshold 0.5%
 Performance outside these two thresholds would be a matter of concern.
 In 2005/06 the percentage of overturned recommendations for all committees together was 1.2%, i.e. more-or-less midway between the two concern thresholds. In 2006/07 this figure has increased to 2.0%. Further monitoring of this trend is anticipated with the Chairman’s Group.

C. Appeals

- 13. The Authority’s success rate with planning appeals is now a national Best Value Performance Indicator although the target level is set locally and the national BVPI is concerned only with appeals against refusals of planning permission. There are a variety of other appeal types as seen below.

Table 3: BV 204 Appeals Against Refusals of Permission					
2005/06			2006/07		
Determined	Allowed	%age allowed	Determined	Allowed	%age allowed
104	28	27%	103	23	22%

- 14. It is worth putting this into context with two other sets of similar data – the last set of published national data for this BVPI, thus:

Herefordshire: BV 204 result in 2004/05 = 30% (25 appeals upheld out of 82)
 Herefordshire: BV 204 result in 2005/06 = 27% (28 appeals upheld out of 104)
 Herefordshire: BV 204 result in 2006/07 = 22% (22 appeals upheld out of 102)
 National Average of appeals upheld in 2004/05 = 33% and 2005/06 = 32%

- 15. Consequently it can be seen from this quality measure that, compared with the previous year, whilst the number of appeals has remained approximately the same, the success of the Council in defending its decisions has improved with the rate of decisions upheld (against the council) down from 27% to 22%. This is also significantly better than the national average which has stayed steady at around 1/3rd of appeals being upheld. This represents a major achievement from the Team in successfully defending the Council’s policies on appeal.

Further information about this report is available from Peter Yates, Development Control Manager on 1782

- 16. At the time of drafting this report there were 53 current appeals awaiting a decision.
- 17. At the Planning Committee meeting on 2nd March 2007 Members specifically asked about the success rate of appeals where permission had been refused contrary to officers' recommendation. The Inspectorate determined 17 such appeals in 2006/07 and upheld 11 of them – giving a rate of appeals upheld of 65%. In 2005/06 there were decisions on 25 such appeals of which 14 were upheld (56%).
- 18. In accordance with BV 204 the above data concerns only appeals against refusals of planning permission. There are various other types of appeal decisions which are also key Outputs for the Team. One of the most significant is Enforcement Appeals – this too is a very important quality outcome.

Appeals Upheld	3
Appeals Dismissed	8
Appeals Withdrawn	3

- 19. If the three withdrawn appeals are discounted, the upheld rate is 3 out of a total of 11 determinations, i.e. 27%. This is significantly better than the national average, as shown by the following table:

Year	%age appeals upheld
2003/04	35%
2004/05	45%
2005/06	45%

- 20. Fourteen other appeals were determined in 2006/07 as follows

Type	Upheld	Dismissed	Total
Appeal against conditions	6	1	7
Telecoms Prior Approvals	0	1	1
Advertisement appeals	2	1	3
Appeal against non- determination	0	2	2
Appeal against refusal of L.B.C.	0	1	1
Appeal against refusal of C.A.C.	1	0	1
Totals	9	6	15

There was a further 13 appeals which were withdrawn during the year. Trying to discern trends amongst such small numbers is not necessarily of much worth. For example, in the past year there have been 6 determinations of appeals against

conditions and although 6 were upheld in some cases alternative conditions were imposed instead which achieved a similar purpose.

- 21. If all appeal types are considered together the overall number of appeals upheld is 33 out of a total of 119, i.e. 26%, with a further 16 appeals withdrawn. At the time of drafting this report there were 54 outstanding appeals awaiting decision.
- 22. There has been one award of costs in favour of the council and none against in respect of planning appeals in 2006/07.

D. Enforcement

- 23. There are no national Best Value Performance Indicators for planning enforcement. A new Planning Enforcement Policy has been brought into operation which includes a requirement for reporting on Enforcement activity to this Committee. Since April 2006 enforcement activity has been monitored on a monthly basis and the tables below set out the results for 2006/07.
- 24. In 2006/07 a total of 824 new enforcement enquiries have been received and 742 cases have been closed.

No apparent breach (not development)	142
No apparent breach (permitted development)	109
Not expedient to enforce	118
Compliance achieved through negotiation	231
Planning permission granted	122
Passed on to other Service Areas	24
Total cases closed	742

Planning Contravention Notices	84
Breach of Condition Notices	23
Enforcement Notices	28
Section 215 Notices	1
Stop Notices	1
Prosecutions	5
Listed Buildings: Enforcement Notice	0

- 25. All the Area Sub Committees have commented on the number of retrospective planning applications being submitted. Accordingly, since April 2006 a specific check has been kept on these. In 2006/07 a total of 247 retrospective planning applications have been received as a result of enforcement action. These applications have, between them, generated £43,000 in planning application fee income. Whilst the number of applications may seem quite high, it may be of interest to note that the planning system has always allowed for retrospective applications and, indeed, good enforcement practice specifically affords developers the opportunity to remedy a breach of control by applying for permission. It is, perhaps, worth noting that retrospective applications have a lower success rate than other planning applications: only around 72% of retrospective planning applications are approved, compared with 83% for all applications.

Further information about this report is available from Peter Yates, Development Control Manager on 1782

E. Survey of Satisfaction with the Planning Service.

26. Once every three years Best Value Performance Indicator BV 111 requires all local planning authorities to carry out a satisfaction survey in accordance with guidance provided by the government. The people surveyed are, in fact, people who have submitted planning applications during the study period; not consultees, neighbours or other parties interested in the planning service. Thus it is not a general survey. The 2006 survey was carried out during the summer and autumn of 2006 and the results reported in January 2007. The headline results were:

Table 9: BVPI 111			
Percentage of Planning Applicants who are Satisfied with the Planning Service			
2003	2006		
Score	Score	Sample Base	95% Confidence Interval
78%	76%	539	±4%

27. Whilst it appears from the above that the headline score has declined from 78% to 76% in the past three years, the Confidence Interval of plus or minus 4% means that the difference is not statistically significant. The conclusion is that satisfaction with the planning service amongst applicants is remaining at a fairly constant level.

RECOMMENDATION

THAT;

The report be noted, subject to any comments Members may wish to make to the Cabinet Member, Environment.