

DEVELOPMENT CONTROL: HALF ANNUAL REPORT FOR 2008/09

Report By: Head of Planning Services

Wards Affected

County-wide

Purpose

1. To inform members about Development Control performance for the first 6 months of 2008/09

Financial Implications

2. None.

Background

- 3 The purpose of this report is to set out a summary of the Development Control Team's achievements so far in 2008/09. This report is intended for use as a reference document to inform Members of current trends in Development Control and continues the sequence of 6-monthly reports to the Planning Committee.

This 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 four headings:

- A. Pre-application Enquiries
- B. Planning Decisions made
- C. Appeals
- D. Enforcement

A. Pre-application Enquiries

4. The Team continues to deal with over 2,000 pre-application enquiries annually. Some of the enquiries are relatively trivial but some took nearly as long as a planning application itself to deal with. Where there has been a formal exchange of correspondence the details are recorded on the MVM database. Additionally, over 1000 e-mail enquiries have been made to the planningenquiries@herefordshire.gov.uk e-mail address. These were previously dealt with by the Planning Receptionists at Blueschool House, but they are now dealt with by planning officers in the "Back office". Pre-application enquiries will be an increasing area of work following the introduction of Planning Application Requirements (Local) and the new 1-APP application form and

related processes as reported to the Committee on 29th February 2008. Active consideration is being given to schemes for charging for pre-application advice.

B. Planning Decisions Made

5. National Indicator 157 (which replaced the former Best Value performance indicator 109 in April) is the most widely reported statistic directly related to planning applications. The out-turn for the first 6 months of 2008/09 is as follows:.
6. The out-turn figures for the past three years and the first 6 months of 2007/08 are as follows:

Table 1 – National Indicator 157 – determination of planning applications					
NI 157 figures	Target	2005/06	2006/07	2007/08	2008/09 (first six months)
Major applications %age determined in 13 weeks	60%	61%	75%	68%	60%
Minor applications %age determined in 8 weeks	65%	74%	83%	80%	71%
Other applications %age determined in 8 weeks	80%	82%	91%	89%	86%

7. Difficulties in maintaining performance against these indicators have arisen as a result of the introduction of the 1-APP standard application form, the Planning Application Requirements (Local), the new Planning Obligations SPD and the fee increases in April which all put significant strain on the ability to deal efficiently with planning applications especially at pre-application and registration stages. The slump in building activity over the summer (which continues) has also had the effect of reducing the overall number of planning applications, especially major applications, which has had the further effect of reduced fee income and reduced performance against the “Major applications” target – because the majority of major applications still on hand are the ones subject to delays anyway. However, notwithstanding those difficulties, performance has been maintained against the national minimum targets.
8. The Planning Delivery Grant has now stopped and is being replaced by a Planning and Housing Delivery Grant. Development Control performance is no longer rewarded financially for meeting targets. However, failure to meet the minimum national targets may result in other grant money available being abated. It is therefore important that at least the minimum national targets continue to be achieved.
9. The introduction of the Planning Obligations SPD has had the effect of increasing significantly the number of planning permissions granted which are associated with such agreements. Since the policy came into effect in April a total of 22 planning permissions have been issued which are linked to Section 106 agreements. Those agreements, in turn, have a cumulative total of nearly £2 million of income. However, none of that income has been received yet because payments are triggered at commencement of development and one effect of the current economic downturn is that building commencements have reduced significantly.

Delegation

- 10. The percentage of applications determined under delegated powers has remained constant for the past four years at around 88%. The delegation rate has remained the same for the first six months of 2008/09.

Recommendations

- 11. Planning Committees do not always follow recommendations. 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.

- 12. The trend over the past three years is summarised in the table below:

2005/06	1.2%
2006/07	2.1%
2007/08	2.4%
2008/09 (first 6 months)	1.3%

C. Appeals

- 13. The Authority's success rate with planning appeals was a national Best Value Performance Indicator and does not feature in the new National Indicator Set or in the Herefordshire Partnership's LAA. However it is maintained as a local indicator as it effectively serves as an external validation of the Council's decisions on planning applications.

Year	Appeals allowed	Total Appeals determined	% allowed
2005/06	28	104	27%
2006/07	22	102	22%
2007/08	32	88	36%
2008/09 (first 6 months)	17	43	40%

- 14. The national Average performance against this BVPI has remained steady at around 33%.
- 15. The out-turn shown in the above table is a very serious drop in performance compared with previous years. The Council had an exemplary appeal success rate in 2005/06 and 2006/07 but performance started to drop in 2007/08 when there was an increase in the number of appeals against refusals which were contrary to officers' recommendation. Of the 32 upheld appeals in 2007/08 seventeen of them concerned

refusals in this category. In the first 6 months of 2008/09 nine out of the seventeen upheld appeals also arose from refusals contrary to recommendation. Where such appeals are dealt with by public inquiries consultants are used to give the Council's case the best possible support, but it remains difficult to defend decisions which appear on their merits to be weak cases. Where such appeals have been dealt with by written representations or hearings planning officers normally defend the council's decision themselves, sometimes with local member support, but such appeals normally have a much lower success rate.

- 16. In accordance with BV 204 the above data concerns only appeals against refusals of planning permission. There have been fourteen other appeals decisions in the first 6 months of 2008/09, and only four of those have been upheld – giving an average of 29%.
- 17. Eight other appeals have been determined in 2008/09 so far as follows

Table 4 - Other appeal types determined 2008/09		
Type	Number	Upheld/Dismissed
Enforcement	10	2 upheld, 8 dismissed
Conservation Area Consent	2	1 upheld, 1 dismissed
Listed Building Consent	1	1 dismissed
Appeals Against Non-determination	1	1 upheld

- 18. The rate of success in enforcement appeals is particularly welcome – the “upheld rate” of only 20% is exemplary.
- 19. If all appeal types are considered together the overall success rate is 21 appeals upheld out of 58 in total, i.e. a figure of 36% which is around 3% worse than the national average.

D. Enforcement

- 21. There are no national Best Value Performance Indicators for planning enforcement. A new Planning Enforcement Policy was brought into operation in March 2007 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 the first six months of 2008/09.
- 22. In the first six months of 2008/09 a total of 359 new enforcement enquiries have been received and 364 cases have been closed.

Table 5: Enforcement Outcomes: first 6 months of 2008/09	
No apparent breach (not development)	74
No apparent breach (permitted development)	72
Not expedient to enforce	58
Compliance achieved through negotiation	107
Planning permission granted	49
Passed on to other Service Areas	4
Total cases closed	364

Planning Contravention Notices	46
Breach of Condition Notices	7
Enforcement Notices	8
Listed Building Enforcement Notice	0
Section 215 Notices	0
Stop Notices	0
Prosecutions	2
Default Action	0
Total Number of Formal Actions	63

- 15 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 the period April 2008 to September 2008 a total of 77 retrospective planning applications have been received as a result of enforcement action. These applications have, between them, generated £24,800 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.

RECOMMENDATION

THAT;

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