

## DEVELOPMENT CONTROL: ANNUAL REPORT

Report By: Director of Environment

### Wards Affected

County-wide

### Purpose

1. To inform members about Development Control performance in 2005/06.

### Financial Implications

2. None.

### Background

3. The purpose of this report is to set out a summary of the Development Control Team's achievements in 2005/06. 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 2006.

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 four headings:

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

#### A. Pre-application Enquiries

4. The Team dealt with over 2,000 pre-application enquiries in 2005/06. 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 (as yet unaudited) out-turn figures for 2005/06 are as follows:

<b>BV 109 figures for 2005/06</b>	<b>Target</b>	<b>Result</b>
Major applications %age determined in 13 weeks	60%	61%
Minor applications %age determined in 8 weeks	65%	74%
Other applications %age determined in 8 weeks	80%	82%

7. All three targets have therefore been achieved.
8. This significance of this achievement cannot be understated. It has come about through a lot of hard work, allied to implementation of the DC Action plan including the filling of key vacancies (although there is still one significant vacancy, the Mineral and Waste Team Leader). It is vital that the turnaround in performance (by comparison with 2004/05) is maintained. This requires maintenance of current good practice and further monitoring of the DC Action Plan.

**Quality Monitoring**

9. There were no specific quality measures collected systematically in 2005/06. There are, however, further areas of work where such measures may be beneficial. In the current Development Control Manual there is a "Quality added" checklist which has fallen out of use in 2005/06 given the emphasis on securing performance against BV 109. This should be revisited and brought up to date, and used on a sample basis as a quality check.

**Delegation**

10. In 2005/06 88% of planning applications were determined under delegated powers. The former indicator (and target of 90%) have now been dropped in favour of BV 109 which was reported above. However, that still leaves 12% to be dealt with by the Area Planning Sub-Committees or the main Planning Committee as appropriate. Planning applications which are reported to Committee are typically determined outside the BV 109 target due to the length of time between the meetings for each area. Three changes in 2005/06 have been made to make Members more aware of this issue and to speed up the completion of Section 106 agreements:
- 1) Officers' presentations include presentation of the plans and site slides before members decide whether deferral for a site visit is necessary
  - 2) BV 109 target dates for all applications are included in reports (hitherto only the 8 week date was included – now the 13 week date for major applications is also explicitly stated)
  - 3) Section 106 Heads of Terms are included in reports.

**Recommendations**

11. 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. There is therefore no cause for concern in this regard – although this could be monitored on, for example, a six-monthly basis.

**C. Appeals**

12. 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.

<b>BV 204 - %age appeals allowed against refusals of permission – 2005/06</b>		
Appeals against refusals determined	Appeals against refusals allowed	%age allowed
104	28	27%

13. 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)

National Average of appeals upheld in 2004/05 = 33%

14. Consequently it can be seen from this quality measure that, compared with the previous year, the amount of work has gone up significantly (by around 20%) and the success rate has also gone up at the same time. Furthermore, that success rate is safely above the national average. This represents a major achievement from a Team that has been under significant pressure in 2005/06.
15. 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.

<b>Enforcement Appeals Determined 2005/06</b>	
<b>Location</b>	<b>Decision/Date</b>
Wheatsheaf Inn, Fromes Hill	Appeal Dismissed - June 2005
Dingle Top, Staunton-on-Arrow	Appeal Dismissed - July 2005
Horners Mill, Whitbourne	Appeal Upheld - July 2005
Brierley Court (three notices)*	Appeals Dismissed - Dec 2005
Upper Common, Lower Mascoed	Appeal Dismissed - January 2006
Cothars Farm, Gorsley	Appeal Dismissed - March 2006
Newton Farm, Welsh Newton	Appeal Dismissed - March 2006

\* note – the appeal decisions at Brierley Court have been the subject of a successful legal challenge and have been referred back to the Secretary of State for re-determination.

16. If the three decisions at Brierley Court are excluded the overall performance is thus only one appeal against an enforcement notice upheld out of a total of six – i.e. 17%. If the three Brierley Court decisions are included the figure drops to 1 upheld out of 9, i.e. 11%. By comparison the most recent published national figures are:

<b>Enforcement Appeals – National Success Rates</b>	
<b>Year</b>	<b>%age appeals upheld</b>
2002/03	24%
2003/04	25%
2004/05	24%

In this context the Enforcement Appeals performance can be seen to be exemplary. Furthermore, the one enforcement appeal which was upheld was accompanied by a planning application which was refused and the planning appeal dismissed as part of the same proceedings. The notice has now been re-served and the case is still in progress.

17. Eight other appeals were determined in 2005/06 as follows

<b>Other appeal types determined 2005/06</b>		
<b>Type</b>	<b>Number</b>	<b>Upheld/Dismissed</b>
Appeal against conditions	1	1 dismissed
Telecoms Prior Approvals	2	2 upheld
Advertisement appeals	4	2 upheld/2 dismissed
Appeal against non-determination	1	1 dismissed

Trying to discern trends amongst such small numbers is not necessarily of much worth. For example, prior approval appeals for telecommunication masts nationally attract an appeal success rate (for the applicants) of around 75%; consequently with only two such decisions it is not surprising that both were upheld.

18. If all appeal types are considered together the overall success rate is 32 appeals upheld out of 121 in total, i.e. a creditable 26%.
19. One further aspect of appeals is to consider whether appeal success rates are significantly different in cases where planning applications were refused contrary to officer recommendation. Of 25 appeals where officers had recommended approval 14 were upheld (56%) and 11 were dismissed (46%).
20. There were no awards of costs made either in favour or against the council in respect of planning appeals in 2005/06.

**D. Enforcement**

21. Enforcement Appeals have been covered in the appeals section above. Enforcement activity is, however, concerned with much more than just appeals. In 2005/06 the Enforcement Officers dealt with over 1,000 enquiries. A proportion of these turned out to be not breaches of planning control or of sufficiently minor nature that it was not

expedient to take formal action. However, many notices did need to be served as the table below shows.

<b>Enforcement Notices Served in 2005/06</b>	
Planning Contravention Notices	93
Breach of Condition Notices	20
Enforcement Notices	29

22. There were no enforcement indicators in use at the start of 2005/06. From 1<sup>st</sup> April 2006 the following indicators (in addition to the number of notices being served) are being monitored on a month-by-month basis:
- Number of enquiries received.
  - Outcomes of action.
  - Number of planning applications received (and resultant fee income) as a result of enforcement action.

## **RECOMMENDATION**

**THAT;**

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