



## **REPORT OF CORPORATE DIRECTOR - PLACE**

### **DEVELOPMENT MANAGEMENT PROGRESS REPORT AND END OF YEAR PERFORMANCE**

#### **Purpose of Report**

1. To report on planning applications received and determined (including the decision made) by the Development Management Team between 11<sup>th</sup> May 2022 and 17<sup>th</sup> June 2022. This report also details the end of year performance of the Development Management Team for the financial year 2021/22.

#### **Background**

2. Appendix A highlights applications received between 11<sup>th</sup> May 2022 and 17<sup>th</sup> June 2022, and those determined in the same period. Appendix B sets out the Committee's work programme for forthcoming meetings of the Planning and Rights of Way Committee.

#### **End of year performance**

##### 'County Matter' planning applications

3. County Matter applications relate to proposals for Minerals or Waste development. In the 12 months up to 31<sup>st</sup> March 2022, a total of 43 valid County Matter applications were received. This compares with 29 received in the same period 2020/2021. Four further applications were received which are still currently invalid, and three applications were also received which were never validated and subsequently returned. In the period 2021/2022, no applications were accompanied by environmental statements, compared with two received in 2020/2021. At 1<sup>st</sup> April 2021, 20 applications were outstanding. This gave a total of 63 applications to be processed in the 2021/2022 period, compared to 44 in 2020/2021.
4. A total of 37 County Matter applications were determined throughout the year, compared with 22 in the previous year. Table 1 (overleaf) shows the performance over the year, indicating the time taken to determine applications. In addition to the 37 applications determined, two were withdrawn. As at 1<sup>st</sup> April 2022, 24 applications were in hand.

5. During the timeframe 1<sup>st</sup> April 2021 – 31<sup>st</sup> March 2022, committee resolved to grant planning permission for the following application, subject to the signing of a S106 Legal Agreement:

*Harworth Colliery, an application accompanied by an Environmental Statement, for the importation of 3.6 Million cubic metres of restoration materials (reduction from 6.2 Million cubic metres) to complete the restoration of No 2 spoil heap.*

6. The S106 Agreement has yet to be signed and so the planning permission has not yet been issued.
7. Since 2013 the Government has been monitoring local planning authority performance on the speed and quality of decisions on planning applications for major development. The target to determine major development applications within the statutory period of 13 weeks (or an extended period agreed with the applicant) has gradually increased since being introduced and presently stands at 60%. The target for determining non-major development applications within the statutory period of 8 weeks (or an extended period agreed with the applicant) was originally set at 65%, increasing to 70% in 2018. The Government has now introduced another time frame for the determination of County Council Developments which fall into the major infrastructure project category. These applications should be determined within 10 weeks (or an extended period agreed with the applicant), however there is not a percentage target to work towards. Instead the Government guidelines state the following:

*'In order for the government to monitor the progress of these important developments the Secretary of State intends to issue a direction under article 34(8) of DMPO 2015 to require local planning authorities to notify the Secretary of State when they receive a planning application for "public service infrastructure development" as defined in this Order, and provide information on the timing of the decision'.*

8. This amendment to the Development Management Procedure Order (DMPO) has now been made and officers are now notifying the Government as required.
9. This is the seventh year the performance report will reflect the Government's introduction of targets for measuring the County Council's performance for determining planning applications. All county matter applications are classed as major applications and therefore should be determined within either a 13 week period or a 16 week period for applications accompanied by an Environmental Statement. If the Authority considers that an application is not going to be determined within these timescales, it is allowed to ask applicants for a time extension. If the time extension is agreed, and the application is determined within the agreed time extension, the Authority will meet the required performance criteria. Reasons for seeking time extensions can range from the need to undertake further consultations, the timing of committee cycles, negotiating S106 legal agreements, or competing workload pressures.

10. The figure for county matter applications dealt within 13 weeks for the period 2021/2022 was 16% (see Table 1 below), compared to 53% for 2017/2018 (the last time this end-of-year report was issued). However, with the inclusion of applications dealt within an agreed time extension the figure rises to 97%. This compares to the present Government target of 60% of applications to be dealt within 13 weeks or an agreed time extension. Only one application was not dealt with within 13 weeks or an agreed time extension.

**Table 1 Annual Performance for County Matter applications**

No. of County Matter applications determined	Within 13 weeks		Within agreed time extension		Over 13 weeks, no time extension		Total	
	no	%	no	%	no	%	no	%
April 2021 to March 2022	6	16	30	81	1	3	37	100

11. In terms of how County Matter applications were determined, this can be summarised below:

County Matter applications determined under delegated powers	27
County Matter applications determined by Committee	10
County Matter EIA applications determined by Committee	1
County Matter – Active Mineral Review application - determined by Committee	1
County Matter applications withdrawn	2
County Matter applications returned	4
<b>Total</b>	<b>44</b>

10. The Development Management Team has continued to determine other matters related to county matter permissions granted by the County Council during the past year. These include applications for Non-Material Amendments (seven received within the year) and the discharging of details required by conditions (33 received and 18 determined within the year). The team has also provided two (compared to four in 2020/2021), 'screening opinions' upon receipt of a specific 'screening requests' under the Environmental Impact Assessment (EIA) Regulations, in addition to screening all planning applications received to assess whether they trigger the need for EIA. The Team has not issued any 'scoping opinions' (compared to three 2020/2021), for EIA development. Scoping opinions set out what environmental issues the EIA should assess.
11. The team offers formal pre-application advice, for which a fee applies. In 2021/22, seven requests for pre-application advice were received for county matter development, compared to two in 2020/2021. Advice in respect of permitted development rights is also provided where officers determine whether

proposals can be carried out without the need for formal planning permission. One such enquiry was received for county matter development in 2021/2022, the same number as in 2020/2021. Consultations are also received from other statutory bodies, for example the Environment Agency, which consults the team on waste management licences and environmental permits.

12. Similarly, the district/borough councils consult the County Council on planning applications which may affect mineral or waste sites, for example a wind turbine on a sewage treatment works. Views are also sought on significant proposals outside but close to the county boundary. These matters are dealt with by the Council's Planning Policy Team.

### County Council Development

13. The County Council determines applications for its own development under the procedures laid down in the Town and Country Planning General Regulations 1992 (usually Regulation 3). This is a privileged position afforded to local authorities and it is essential that applications for the County Council's own developments are subject to the same level of scrutiny as that for other applications.
14. In the 12 months up to 31 March 2022, a total of 35 valid County Council development applications had been received. Seven of these applications were accompanied by an Environmental Statement. This compares with 29 valid applications received in total in the same period last year, none of which were accompanied by an Environmental Statement. A further two applications were returned to the applicant for being incomplete and another application was returned as the proposal was determined to be permitted development.
15. Five applications were outstanding as of 1 April 2021 giving a total of 40 to be processed during last year.
16. During 2021/2022 a total of 28 County Council applications were determined, of which two were refused permission and 1 further application was withdrawn. As of 1 April 2022, 13 applications were in hand.

**Table 2 Annual Performance for County Council applications**

No. of County Council Developments applications determined	Within 8 weeks		Agreed Time Extension		Over 8 weeks, No Time Extension		Total	
	no	%	no	%	no	%	no	%
April 2021 to March 2022	11	39	17	61	0	0	28	100

17. In terms of how County Matter applications were determined, this can be summarised below.

County Council Development applications determined under delegated powers	22
County Council Development applications determined by Committee	6
County Council Development applications withdrawn	1
Count Council Development applications returned	3
<b>Total</b>	<b>32</b>

18. The Development Management Team has dealt with other matters relating to the County Council's own development during the year. These include five applications for Non-Material Amendments (three received and determined within the year, and two determined from the preceding year); the discharge of conditions on applications that have been granted planning permission (42 received during the year, and 17 determined during the year); and 19 permitted development proposals.

### **Outstanding applications**

19. At the start of this new financial year 1<sup>st</sup> April 2022, a total of 25 County Matter applications and 13 County Council development applications are outstanding.

### **Monitoring and Enforcement**

20. The determination of planning applications goes hand in hand with the monitoring and enforcement of development. A separate report on Monitoring and Enforcement work over 2017-2018 was presented to Committee in May.

### **Appeals**

21. The County Council has not been involved any appeals for the year 2021/2022.

### **Ombudsman investigations**

22. No complaints have been referred to the Local Government Ombudsman (LGO) in the reporting period.

### **Development Plan progress**

#### Minerals Local Plan

23. The current Nottinghamshire Minerals Local Plan was adopted in March 2021 following Public Examination in October 2020. This Plan will cover the County area (the City's minerals policies are included in its draft Part 2 Local Plan). The

Adopted Nottinghamshire Minerals Local Plan will run until 2036.

### Waste Local Plan

24. The County and City Councils agreed in 2017 to prepare a single Joint Waste Local Plan to replace the Nottingham and Nottinghamshire Waste Core Strategy (2013) and the saved policies within the Nottingham and Nottinghamshire Local Plan (2002). The proposed Plan will provide updated strategic planning policies for the development of future waste management facilities, set out detailed development management policies and where necessary, identify specific sites appropriate for waste treatment and disposal. The timetable for the new Local Plan is set out in the County Council's Local Development Scheme (February 2021) and will also be reflected in the City Council's Local Development Scheme. Consultation on Issues and Options ended in May 2020 and a further consultation on a Draft Plan concluded in April 2022. The next stage of the Nottinghamshire and Nottingham Waste Local Plan will be to prepare a Publication (Reg 19) Document and following consultation, Submission Document in early 2023, followed by Public Examination and Adoption.

### **Other Issues**

25. The Government published an updated National Planning Policy Framework (NPPF) in July 2021. This latest version is the relevant one for the consideration of all planning matters including development management and plan making. The Housing Secretary has announced that a further updated NPPF will be published in July.
26. In November 2021, the Environment Act came into force. One of the key pieces of the Act which relates to the County Council's planning function is the requirement for most development to deliver biodiversity net gains (BNG). This is going to become mandatory in November 2023 but some applications submitted to the County Council for determination already include BNG submissions.
27. The Government introduced the Levelling Up and Regeneration Bill on 11<sup>th</sup> May 2022 and it will now progress through the various legislative stages. Once enacted the changes that are set out in legislation will be accompanied by updates to regulations and policies. The proposals set out within and alongside the Bill will have wide ranging and significant impact on the planning system. Some of the key measures which relate to development management work include the proposal to include National development management policies within new local plans, an increase in planning fees for all applications including a doubling of fees for retrospective applications, as well as the introduction of new digital engagement tools for consultations on planning applications. Members will be kept informed of these changes when relevant to do so.
28. Following a review of the previous Validation document and a period of consultation the County Council approved its latest Validation Guidance at the

Planning and Rights of Way Committee in March this year. This forms the basis on which the Council validates all incoming planning applications. This document is on the County website and is expected to be reviewed in two years' time in accordance with Government requirements.

### **Statutory and Policy Implications**

29. This report has been compiled after consideration of implications in respect of crime and disorder, data protection and information governance, finance, human resources, human rights, the NHS Constitution (public health services), the public sector equality duty, the safeguarding of children and adults at risk, service users, smarter working, and sustainability and the environment, and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

### **RECOMMENDATIONS**

That Committee considers whether there are any actions they require in relation to the contents of the report.

**ADRIAN SMITH**

**Corporate Director – Place**

### **Constitutional Comments [RHC 14/06/2022]**

Planning & Rights of Way Committee is the appropriate body to consider the contents of this report by virtue of its terms of reference.

### **Financial Comments [RWK 13/06/2022]**

There are no specific financial implications arising directly from the report.