



**23 April 2019**

**Agenda Item:9**

## **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 1<sup>st</sup> March 2019 and 31<sup>st</sup> March 2019 since the last report to Members on 12 March 2019, and to confirm those applications that remain outstanding for more than 17 weeks at 31<sup>st</sup> March 2019. The report also covers end-of-year performance.

#### **Background**

2. Appendix A highlights applications received between 1 March 2019 and 31 March 2019, and those determined in the same period. Appendix B highlights applications outstanding for over 17 weeks as at 31<sup>st</sup> March 2019. Appendix C details the County Council's performance in determining 'County Matter' planning applications within the statutory timeframe or an agreed extension and provides a comparison to other Minerals and Waste Planning Authorities, for the year ending June 2018 (more up-to-date data, which is published by the Government, is not available at the time of the report being published). Appendix D details the Team's quarterly performance tables. Appendix E sets out the Committee's work programme for forthcoming meetings of the Planning and Licensing Committee.

#### **'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 2019, a total of 48 County Matter applications were received. This compares with 47 received in the same period 2017/2018. In the period 2018/2019, six applications were accompanied by environmental statements, the same as in 2017/2018. At 1<sup>st</sup> April 2018 31

applications were outstanding. This gave a total of 79 applications to be processed in the 2018/2019 period, compared to 72 in 2017/2018.

4. A total of 41 County Matter applications were determined throughout the year, compared with 43 in the previous year. Table 1 (overleaf) shows the performance over the year, detailing the number and percentage of applications determined within the statutory timeframe or an agreed extension. In addition to the 41 applications determined, 7 were withdrawn and 1 was returned. As at 1 April 2019, 29 applications were on hand.
5. Committee has resolved to grant planning permission in the 2018/2019 period for a further three applications, subject to the signing of S106 Legal Agreements with the decisions notices yet to be issued. These are:
  - (i) Variation of Conditions 3 and 4 of Planning Permission Ref: 1/13/01390/CDM to allow a further 5 years for the placement of material and restoration of the site, Welbeck Colliery, Elkesley Road, Meden Vale.
  - (ii) Proposed variations to the soil management areas, the internal linking access road and the installation of welfare and office portacabins and toilet block unit. Welbeck Colliery, Elkesley Road, Meden Vale.
  - (iii) Planning application to vary Condition 4 of Planning Permission Ref: 1/13/00475/CDM to allow waste deposit at the site to continue until 31st December 2023 and restoration to be completed by 31st December 2025. Styrrup Quarry, Main Street, Styrrup.
6. 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 from 40% to 60%. Non-major development applications within the statutory period of 13 weeks (or an extended period agreed with the applicant) has been set at 70%.
7. This is the third 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. Appendix C shows the performance of the Authority against other county councils in the country up to June 2018 (the latest national data available).

8. The figure for applications dealt within 13 weeks for the period 2018/2019 was 37% (see Table 1 below), compared to 53% for 2017/2018 (see Table 1 below). However, with the inclusion of applications dealt within an agreed time extension the figure rises to 92%. This compares to the present Government target of 70% of applications to be dealt within 13 weeks or an agreed time extension. Appendix D shows the breakdown of performance for quarter 4 of 2018/2019.

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

No. of County Matter applications determined	Within 8 weeks*		Within 13 weeks*		Within Agreed Time Extension*		Over 17 weeks No Time Extension		Total	
	no	%	no	%	no	%	no	%	no	%
April 2016 to March 2017	5	14	13	35	32	86	5	14	37	100
April 2017 to March 2018	7	16	16	53	43	100	0	0	43	100
April 2018 to March 2019	4	10	15	37	38	93	3	7	41	100

\*The figures are cumulative

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

County Matter applications determined under delegated powers:	21
County Matter applications determined by Committee:	16
County Matter – Active Mineral Review application - determined by Committee	0
County Matter applications withdrawn:	4
County Matter applications returned:	7
County Matter EIA applications determined by Committee:	1
<b>Total</b>	<b>49</b>

10. The Development Management Team has continued to determine other matters related to permissions granted by the County Council during the past year. These include applications for Non-Material Amendments (19 the same as in 2017/2018) and the discharging of details required by conditions (57 compared to 88 in 2017/2018). The team has also provided 1 (compared to 5 in 2017/2018), '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. In cases where it has been determined that EIA is required, the team has also issued 1 'scoping opinion' (compared to 5

2017/2018, liaising with statutory bodies and other consultees to obtain their views on what environmental issues the EIA should assess. The team offers formal pre-application advice, for which a fee can apply, (20 compared to 14 in 2017/2018) and advice in respect of permitted development rights (22 compared to 20 in 2017/2018) where officers determine whether proposals can be carried out without the need for formal planning permission. Consultations are also received from other statutory bodies, for example the Environment Agency, which consults the team on waste management licences and environmental permits.

11. 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**

12. 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. In the 12 months up to 31 March 2019, a total of 29 County Council development applications had been received. This compares with 42 in the same period last year.
13. Nine applications were outstanding as at 1 April 2018 giving a total of 38 to be processed during last year, compared to 49 in 2017/2018. As at 1 April 2019, 9 applications were on hand.

During 2018/2019 a total of 26 County Council applications were determined, all of which were granted permission. A further 3 applications were returned for being incomplete. Appendix D shows the breakdown of performance for quarter 4 of 2018/2019.

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

<b>No. of County Council Developments applications determined</b>	<b>Within 8 weeks*</b>	<b>Within 13 weeks*</b>	<b>Agreed Time Extension*</b>	<b>Over 17 weeks</b>	<b>Total</b>

	no	%	no	%	no	%	no	%	no	%
April 2016 to March 2017	12	34	28	80	31	89	4	11	35	100
April 2017 to March 2018	23	66	31	91	35	100	0	0	35	100
April 2018 to March 2019	13	50	19	73	26	100	0		26	100

\*The figures are cumulative

15. In terms of how County Council applications were determined, this can be summarised below.

County Council Development applications determined under delegated powers:	22
County Council Development applications determined by Committee:	4
County Council Development applications withdrawn	0
County Council Development applications returned:	3
<b>Total</b>	<b>29</b>

16. The Development Management Team has dealt with other matters relating to the County Council's own development during the year. These include applications for Non-Material Amendments (3, compared to 6 in 2017/2018); the discharge of conditions on applications that have been granted planning permission (99, compared to 107 2017/2018); and permitted development proposals (19, the same as 2017/2018).

### Outstanding applications

17. At the start of this new financial year 1<sup>st</sup> April 2019, a total of 29 County Matter applications and 9 County Council development applications are outstanding. A list of those applications outstanding for longer than 17 weeks is attached as Appendix B.

### National performance

18. The Department for Communities and Local Government produces statistical information on planning applications received and determined by County Planning Authorities. The latest available table includes performance for the year ending June 2018 and is attached as Appendix C.
19. In that period, Nottinghamshire received 59 County Matter applications (i.e. minerals and waste applications), the highest amongst County Councils in England, and determined 41, equal fourth highest in the country. This compared to 48 received (third highest) and 46 determined (sixth highest) in the year ending June 2018, (the latest national data available).
20. In terms of County Council developments (Regulation 3 applications), as listed in Appendix C, Nottinghamshire determined 36 (sixth highest) applications in

the year ending June 2018, compared to 41 during the same period ending December 2017, (the latest national data available).

### **Monitoring and Enforcement**

21. 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 2018-2019 will be presented to the next available Committee.

### **Appeals**

22. The Development Management Team has dealt with an Enforcement Appeal. An enforcement notice for 293 Bowbridge Road, Balderton, Newark was issued in May 2018 alleging the unauthorised change of use of land to a use for the deposit and storage of waste on land at 293 Bowbridge Road. The waste was originally deposited in 2015. The case was taken forward at that time by the Environment Agency as part of a wider national investigation. Unfortunately this case did not proceed to prosecution and was dropped by the EA in late 2017. The landowner was contacted after this and in the absence of any progress to remove the waste from the site the Council issued an enforcement notice in May 2018 which required the use to cease and for the waste to be removed. The enforcement notice was subsequently appealed on the grounds that planning permission should be granted for the development and that the timescales given to comply were too short. The appeal decision has recently been received and the appeal has been dismissed and the enforcement notice upheld. The landowner now has 3 months in which to remove the waste materials from the land.

### **Ombudsman investigations**

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

### **Development Plan progress**

#### Nottinghamshire Minerals Local Plan

24. The Council is currently in the process of preparing a new Minerals Local Plan which will cover the period up to 2036. It will cover the County area excluding the Nottingham City administrative area. (Nottingham City's minerals policies are included in its draft Part 2 Local Plan). The informal stages of public consultation on the plan have now been completed. The next stage in the development of the plan will be formal consultation on the publication version of the plan. Approval to go out to consultation will be sought from both Communities and Place committee in June and then Full Council in July. If approved a six week formal consultation will take place in early September.

Submission of the Minerals Local Plan to the Secretary of State is expected in early 2020.

### Nottinghamshire and Nottingham Waste Local Plan

25. Work on preparing a new Waste Local Plan to replace the existing Nottinghamshire and Nottingham Waste Core Strategy (2013) and the saved policies within the Nottingham and Nottinghamshire Local Plan (2002) is expected to start in late 2019. The first stage of public consultation will be on the Issues and Options document which is expected to be published in November 2019. This will be followed by consultation on the Draft plan consultation in June 2020.

### **Other Issues**

26. Following approval at Communities and Place Committee and Policy Committee the County Council has introduced a Planning Performance Agreement Charter. This is a project management tool which will allow the Council and applicants to agree timescales, actions and resources for handling planning applications. These can be used for all types of planning applications but are most effective for major and complex applications. So far the Council has signed one PPA in connection with an application for an extension to a quarry. PPAs will form part of an enhanced planning service offered by the County Council and will sit alongside the existing pre-application advice service. Details of the PPA Charter have been sent to a range of applicants and agents who have previously engaged with the Council's planning service and relevant information put onto the Council's website.
27. Last year the County Council responded to three Government consultations relating to shale gas development. One sought views on whether non-hydraulic fracturing shale gas development should be permitted development and the second on whether shale gas production projects should be included in the Nationally Significant Infrastructure Projects regime. The Council responded that shale gas development should not be permitted development and should not be included within the NSIP regime but should retain decision making at a local level. The third consultation related to compulsory community pre-application consultation and the Council welcomed this proposal. The Government's response on these consultations is awaited.
28. Following the introduction of the General Data Protection Regulations, which came into force in May last year, the Development Management Team introduced a number of changes to its processes to ensure compliance with Regulations. A Development Management Privacy Notice was made available on the Council website and the Retention Schedule was reviewed and drawn up to confirm how long personal data relating to planning applications will be retained.
29. In July last year the Government published the revised NPPF, the first revision since its introduction in 2012. This implemented a number of reforms

announced previously through the Housing White paper and several Government Consultations. Following a technical consultation further very minor changes were made to the NPPF text in February this year. The associated Planning Practice Guidance was similarly updated.

### **Statutory and Policy Implications**

30. 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**

"The report is for noting only. There are no immediate legal issues arising. Planning and Licensing Committee is empowered to receive and consider the report." [HD – 08/04/2019]

### **Comments of the Service Director - Finance**

There are no specific financial implications arising directly from the report. [RWK 10/04/2019]