

Bath & North East Somerset Council

MEETING	Climate Emergency and Sustainability Policy Development and Scrutiny Panel
MEETING DATE:	14th November 2022
TITLE:	Planning Performance
WARD:	All
AN OPEN PUBLIC ITEM	
List of attachments to this report: None	

1 THE ISSUE

1.1 This report provides an overview on the performance of the Planning Service in relation to the speed and quality of decision-making.

2 RECOMMENDATION

2.1 The Panel is asked to;

- a) Note the report
- b) Make suggestions on where performance can be improved

3 THE REPORT

Introduction

3.1 One of the key roles of the Council is to fulfil its role as a statutory Planning Authority. These statutory functions relate to the determination of planning applications, the preparation of planning policies, undertaking the enforcement function and duties with respect of heritage and the environment. Decisions are taken by Council, Cabinet, Planning Committee or delegated to officers depending on the statutory requirements and the Council's Constitution.

3.2 It is the Government's view that the planning system plays a vital role in delivering the economic growth of this country and therefore critically important that planning

departments have the capacity, skills and tools to support economic growth and development now and into the future.

- 3.3 The Service consists of around 60 people in 6 teams (see structure Chart in Appendix 1) organised around the functions listed above. The planning service plays a pivotal role in delivering many of the council’s corporate objectives, particularly in delivering on the Climate and ecological emergencies

Development Management

- 3.4 Planning applications are dealt with by the 2 Development Management teams but also by the Enforcement & Planning & Conservation Teams. The number of applications received has been volatile in the last few years, largely as a result of the Covid pandemic. Having increased by around 8% in 2021 (reflecting a similar increase nationally), the number of applications received has now dropped by 8% this year (10% nationally) – see Table 1. However, individual case officer workloads remain high – add stats This year’s Staff survey – planning more concerned about high workloads than other parts of the council.

Table 1 – Planning Application Performance

Application nos.	2020-2021				2021-2022			
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Received	695	768	774	621	643	710	610	618
Refused %	10%	5%	6%	6%	8%	8%	7%	6%

- 3.5 Notwithstanding the pressures and volatile workloads, overall performance has remained good. National performance targets require that local planning authorities who determine fewer than 70% for minor applications and fewer than 60% of major applications in time would face special measures (qv). Table 2 below demonstrates that B&NES performs well against the national targets. It also performs well compared with its West of England neighbours, despite receiving the highest average applications per resident, see Table 3.

Table 2 – Applications Determined Within Target Times

% of planning applications in time	2020-2021				2021-2022			
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Majors	82%	80%	100%	100%	89%	100%	100%	100%
Minors	88%	93%	90%	83%	86%	83%	90%	90%
Others	94%	91%	92%	89%	88%	88%	89%	87%

Note:

Major – 10+ dwellings/0.5 hectares and over, 1000+ sqm/1 hectare and over

Minor – 1-10 dwellings/less than 0.5 hectares, Up to 999 sqm/under 1 hectare

Other – changes of use, householder development, adverts, listed building consents, lawful development certificates, notifications, etc

Table 3 – Applications Determined Within Target Times – West of England

<i>Planning authority</i>	<i>Total applications received 2022-21</i>	<i>Total applications permitted</i>	<i>% of applications permitted</i>	<i>% of major applications granted in time</i>	<i>% of non-major applications granted in time</i>
England	459,331	373,433	88	86.0	72.2
<i>B&NES</i>	2,486	2,118	93	92.1	91.2
<i>Bristol,</i>	3,165	2,491	89	79.7	90.8
<i>North Som</i>	1,515	1,572	94	91.8	79.1
<i>South Glos</i>	1,905	1,752	87	69.8	69.7

- 3.6 The national target timescales for applications are 13 weeks for Major applications and 8 weeks for minor and other applications which includes Listed Buildings and Householder. (This excludes some Prior Approvals which have a 6-week timescale and some Notifications have a 4 week timescale and these will be deemed consent unless we refuse within that timescale). Where negotiations on Major, Minor and Other applications are making the timescale impossible to achieve, officers negotiate an Extension of Time with the applicant which sets a new deadline and allows the applications to meet the ‘in time’ targets as set by the national performance reporting framework.
- 3.7 The quality of decision making is measured by the number of appeals which are dismissed. If most appeals are dismissed by the inspectorate, then officers and Planning Committee made the correct decision to refuse the application. B&NES appeals performance has been very good recently, as shown in Table 4

Table 4 - Planning Appeals

	Oct – Dec 2021	Jan – Mar 2022	Apr – Jun 2022	Jul – Sep 2022
Appeals lodged	14	24	20	8
Appeals decided	21	21	19	5
Appeals allowed	42%	21%	21%	0%
Appeals dismissed	58%	79%	79%	100%

- 3.8 The Government is starting to scrutinize planning performance more closely and more Local Authorities are now being put into special measures on the basis of poor performance in both speed and quality. Going into special measures means that developers can choose to submit their applications to the Inspectorate (PINS) rather than the Local Authority.
- 3.9 However, it is important to note that the Development Management is more than just ensuring efficient processes and that it makes a major contribution to the quality of our places and delivering the Council’s and local aspirations. Annex 1 provides illustrates this with specific examples

Enforcement

- 3.10 This Planning and Enforcement Team takes a proactive approach to planning breaches by working with those in breach to find a planning solution through pre application advice and submission of a planning application rather than strictly policing. This approach results in better outcomes for communities and supports

income generation through application fees. Table 5 shows that the Enforcement Team's performance is good despite the recent increase in workload.

Table 5 – Enforcement

	Oct – Dec 2021	Jan – Mar 2022	Apr – Jun 2022	Jul – Sep 2022
Investigations launched	61	118	113	140
Investigations in hand	263	298	356	407
Investigations closed	70	86	58	84
Enforcement Notices issued	2	0	0	2
Planning Contravention Notices served	3	1	4	1

Planning and Conservation

3.11 The **Planning and Conservation Team** deal with dual listed building and planning applications as well as works to tree notices, TPOs. The team also supports the rest of Planning and other departments by providing specialist advice on Heritage, Ecology, Landscape, Urban Design and Archaeology. It is worth noting that there is no fee for listed building applications and works to trees both of which are relatively high in B&NES due to the World Heritage Site and rural areas.

Table 6 - Works to Trees

	Oct – Dec 2021	Jan – Mar 2022	Apr – Jun 2022	Jul – Sep 2022
Number of applications for works to trees subject to a Tree Preservation Order (TPO)	27	28	23	18
Percentage of applications for works to trees subject to a TPO determined within 8 weeks	89%	86%	96%	100%
Number of notifications for works to trees within a Conservation Area (CA)	250	177	148	173
Percentage of notifications for works to trees within a Conservation Area (CA) determined within 6 weeks	97%	98%	96%	93%

Scheme of Delegation

3.12 The [Scheme of Delegation](#) sets out the role of officers and the planning committee in relation to planning matters and decision making. The good performance in terms of speed of decision-making is facilitated by the high proportion of applications being delegated to officers and this is the approach taken by most authorities and is encouraged nationally.

Table 7 – Number of Delegated Applications

% delegated	2020-2021				2021-2022			
	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Application	96%	97%	97%	95%	95%	98%	95%	96%

3.13 There are some applications which have to be decided by Committee such as those from councillors or officers or applications with a viability assessment for affordable housing for example. And there are circumstances where, based on planning matters alone, parish councils and ward members can submit a Chair Referral to request an application is decided by Planning Committee. The Chair and Vice Chair decide if the application will be determined by committee or whether it will remain delegated to officers. The committee process allows members of the public to speak about the application and is web cast. All people who have commented on an application are notified when an application is going to be determined by committee and see pages 3 and 4 of the [Scheme of Delegation](#) for information about how applications go to committee

Table 8 Chair referrals

	Oct – Dec 2021	Jan – Mar 2022	Apr – Jun 2022	Jul – Sep 2022
Chair referral delegated	24	19	11	16
Chair referral to Planning Committee	11	11	10	14

Planning Policy Performance

- 3.14 The Council has also performed well in terms of Planning Policy. The Council will have an up-to-date Local Plan once the Local Plan Partial Update is adopted. This means the Local Plan will now more closely reflect the Council’s objectives allowing it to refuse development which does not accord with the Corporate Strategy. In addition, the Local Plan Partial Update will ensure the Council continues to have a robust housing land supply enabling it to resist inappropriate speculative planning applications.
- 3.15 Currently the published five-year land supply is 5.2 years. However, the Local Plan Partial Update has allocated additional sites and once adopted the five year land supply will rise to 7.21 years. Without adequate 5-year land supply council are vulnerable predatory planning applications
- 3.16 The Housing Delivery Test looks at the delivery of homes over the past three years against the Council’s annual requirement. The current housing delivery test result is 184%. If the council fails the housing delivery test then they will lose control of their housing policies and are vulnerable to predatory planning applications. Therefore, it is important to retain a housing delivery test result of over 100%.
- 3.17 Central to the successful preparation of planning policies is the steer and co-ordination provided by cross-party Local Development Framework Group.

4 STATUTORY CONSIDERATIONS

- 4.1 Section 62A of the Town and Country Planning Act 1990 enables the Secretary of State to intervene where speed & quality of decision making is poor. Those authorities that consistently perform poorly are placed in ‘special measures’ which allow for planning applications to be made directly to the Secretary of State without recourse for appeal.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 The Service generates c.£2m p/a income from planning application fees and discretionary charges (eg Development Team, pre-apps, PPAs). This funds around 2/3rds of the Service's operating costs. The total amount of planning s.106 financial obligations received in 2021/2022 was £3.1m (excluding in-kind provision). Note that national fees are set by central government and the last fee increase was 5 years ago. There are proposals in the Levelling Up Bill that the government may increase planning fees in 2023/4 by 25% to 30% but fees would need to rise by about at least 40% to cover the cost of delivering the whole service.
- 5.2 Some Planning Policy work is covered by grant income such as Planning Delivery Grant and Neighbourhood Planning grant from the Government and other funding has come from the WECA Investment Fund.
- 5.3 The Council also has a Community Infrastructure Levy (CIL) and a Supplementary Planning Document on s/106. The CIL has been very successful in generating income to pay for infrastructure as evidenced in table 8 below.

Table 8 – CIL Income

2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	Total
£90,542	£1,538,504	£5,159,963	£4,305,939	£4,516,793	£1,619,168	£4,494,692	£21,725,601

6 RISK MANAGEMENT

- 6.1 Some of the risks in operating the Development Management Service include;
- Local Authorities are not in control of number or size of planning applications they receive which is dependent on the economic situation both nationally and locally. This presents difficulties managing workloads for individual officers and when caseloads are high as they are currently there will always be a detrimental effect on customer service which increases correspondence and complaints
 - Nationally the recommendation is that officers should carry caseloads of around 30-40, with less for Senior and Principal officers. Planning Officer caseloads are currently an average of 50 despite the fact that some of these staff are part-time. There are 4 officers with caseloads of 68-69 (highest). We have a number of officers who have taken stress sick leave this year which they have attributed to workloads
 - B&NES has high staff turnover which reflects the national picture. Attracting good quality staff is hampered by a national shortage of qualified Planning Officers and the fact that the Council cannot compete with the private sector on pay.
 - Previously, the Service converted planning officer posts to create apprentice posts as a way to facilitate succession.

- The planning process has become ever more complex, especially over the last few years with successive governments adding layer upon layer of legislation and the creation and modification of local plans and Supplementary Planning Documents. Recent changes have been 20+ new Prior Approval applications, Permission in Principle applications, CIL, Sustainable Construction, Ecology considerations, Biodiversity Net Gain, plus numerous changes to caselaw.
- The planning service deals with appeals from applicants whose applications have been refused. These costs are met within the Planning department, irrespective of whether the decision was made by Planning Committee or an officer. Sometimes the Planning Inspectorate (PINS) will allow the appeal and also award costs against the council which are paid for from the Planning Service. Thankfully costs awards against councils by PINS seem to be reducing.
- Occasionally some decisions are considered for Judicial Review where the complainant considers the council has made a mistake in some aspect of decision making. These cases can end up in court and the costs of employing the legal team will fall to Planning and if costs are awarded against the council they can be significant.
- The council is also required to pay for other legal advice (costly where barristers are concerned) in order to refute complaints, challenges or theoretical arguments on high profile sites made before, during and after cases are determined. There is no way to quantify how much future legal costs may be per year.

7 EQUALITIES

- 7.1 We try to make information fully accessible to members of the public. The formulation of planning policies entails working with those groups and communities who normally find it difficult engaging in such processes

8 CLIMATE CHANGE

- 8.1 Planning has a critical role in helping to deliver the Council's objectives on Climate Change. This is one of the main reasons why the Local Plan has recently been updated is to enable planning decisions to be made in line with the Council objectives. Planning will also play a pivotal role in securing Biodiversity Net Gain.

9 OTHER OPTIONS CONSIDERED

- 9.1 NA for this report

10 CONSULTATION

- 10.1 The way all council's consult with the local community on both planning applications and changes to policies are clearly set out in legislation and supplemented in the [Statement Of Community Involvement](#)

Contact person	<i>Simon de Beer (Head of Planning) 01225 477616</i>
Background papers	<p>Planning Scheme of Delegation</p> <p>Planning Committee Terms of Reference with the Constitution – see 2.26.2</p> <p>B&NES Annual monitoring Report 2022</p> <p>B&NES Infrastructure Funding Statement 2021</p> <p>Copy of Notification of Committee</p>
Please contact the report author if you need to access this report in an alternative format	

Annex 1 – Development Management Case Studies

The Local Plan is the way in which the council's objectives and wider corporate priorities can be delivered. It is responsive to both national but also local policy objectives (as can be seen by the recent Local Plan Partial Update).

Development Management has a critical role in realising those priorities and objectives. Alongside this it must engage the community and local representatives positively and proactively to achieve acceptance and satisfaction at local level.

Development Management is an iterative, problem-solving exercise and officers on a daily basis make decisions of varied type and scale that affect peoples lives very significantly. This ranges from the focussed considerations of balancing the rights of one property owner over their neighbour to achieve a fair outcome, to the very large scale applications. These inevitably have complex and competing planning objectives requiring highly skilled professional officers to undertake a difficult process of balancing harms and benefits. Robust officer negotiation delivers the optimum level of benefits per development that can be secured. To do this successfully requires a very strong competence in many specialist areas alongside an ability to communicate with high levels of effectiveness. The department has worked diligently to establish a strong culture of developing relationships with colleagues and external clients and working with developers proactively. This is evidenced by the feedback from our customers in the development industry.

There are many examples of where the t positive and proactive approach by Development Management has successfully secured development that delivers on the council's objectives and importantly has added value through securing affordable housing, Section 106 contributions, all types of infrastructure and huge amounts of CIL income. All of this contributes very significantly towards the council's wider priorities.

The following are some specific examples of the Development Management team's successes :

- **The Council's new waste facility at Pixash Lane (App Ref: 21/00435/ERE03).** A complex council application which, raised a number of technical issues including highways, environmental matters and residential amenity. The case officer was pragmatic in dealing with the issues as they arose to enable permission.
- **Nempnett Thrubwell Solar Farm (App Ref: 22/03786/FUL).** The formation of a 9.1MW solar farm on land between Nempnett Thrubwell and Winford. The site is within the Bristol Green Belt where such development is inappropriate by definition but nonetheless allowable in 'very special circumstances'. Officers gave great weight to the council's climate emergency declaration, the scale of the proposals' contribution to the council's renewable energy targets (8%) and the historic under provision of renewable energy generation in B&NES (and some other factors) to enable outweighing the harm to the green belt and grant permission.
- **New Town Centre Quarter at Radco, Radstock (App Ref: 18/05623/OUT).** The officer worked closely with the site owners to enable the demolition of the existing Radco supermarket in Radstock. This long regarded rather ugly building in the town centre will be replaced with a number of new shops, offices, a public square and housing. The outcome will improve the relationship of the built form with the public realm have a high quality appearance that is in keeping with the local area , The long term management and protection of important on site ecological woodland and riverside habitat and the delivery of much needed new housing as well as securing a substantial financial contribution to local infrastructure are amongst the achievements that the officer secured.
- **Dyson Cancer Centre at the RUH (App Ref: 19/05201/FUL).** This development, will deliver substantial public benefits. Despite the significant scale and complexity of the scheme full planning permission was delivered under delegated powers in 12 weeks which

was made possible by proactive and positive negotiations by officers at both the pre-application and application stages as well as a pragmatic approach to the use of planning conditions.

Planning has always played a key role in regeneration. For example central Radstock where the Town centre and adjoining contaminated wasteland suffered years of dereliction officers worked to find a path through to successful delivery. We continue to actively engage to deliver significant regeneration projects throughout the district such as the Quays where at times creative solutions have been needed to enable development objectives to be met in cases where solutions are not black and white. We support our partners and key industries for example in our longstanding and ongoing relationship with Bath Rugby and the Rec we have enabled their objectives to be met acceptably so that the important facility can occupy its centrally located ground. Officers weave their way through a range of complexities all the while operating within a highly technical and judicial framework and where each decision made is subject to high levels of scrutiny and potential challenge. It uses pre-application discussions very effectively and in addition uses those to provide an income which is not a national standard and it is a highly regarded offer.

At each stage of the process officers look to add value and maximise the benefits from developers through relationship we have built and get added income by selling bolt on services to our statutory offer. In advance of policies being in place development management officers have and do look to secure corporate objectives. For example officers started negotiating on car charging points delivering these on new developments well in advance of formal policies to require this similarly incorporating bird and bat boxes and improved wildlife features which can be secured on a goodwill basis if sought early on. We extend our assistance to our internal partners as well providing an internal preapplication service free of charge where we can identify and unpick collaboratively a way forward on Council led projects and this a much appreciated and successful approach. We also invite our internal stakeholders to team meetings to present to us and advise how we can help meet the objectives of others so we can support the wider perspective of the Council. These examples illustrate the ways in which Development Management underpins much of the Councils wider delivery and community aspirations.