



Hinckley & Bosworth Borough Council

Forward timetable of consultation and decision making

Finance and Performance Scrutiny 18 December 2023

Wards Affected: All Wards

Planning Service Review

Report of the Head of Planning

1. Purpose of report

1.1 To update members on the performance of the planning service.

2. Recommendation

2.1 That the report be noted.

2.2 That Members acknowledge the increase in planning performance, the improvement in retention and recruitment across the service and the current and forthcoming challenges with regards to planning appeals.

3. Background to the report

3.1 The Planning Service forms part of the Community Services Directorate. It includes the work areas development management, planning enforcement, regeneration/economic development, conservation/heritage and planning policy. This report sets out the key activities carried out by the service, how it is performing against defined indicators and the budget position.

4. Service overview

4.1 Planning Service Action plan

4.2 It is recognised that the past year has been a significant upturn from 2021/22 for the planning service, with 2021/22 a particularly difficult time for the planning service, not least with the recruitment of officers. The reduction in permanent capacity had impacted on the levels of customer service provided and the

speed of processing of planning applications, both of which have since significant upturns as noted below.

- 4.3 There is commitment throughout the service to continue to move forward and to drive this work an action plan is in development which will incorporate service specific areas of work, the Neighbourhood Development Plans Action Plan, the Housing Delivery Test Action Plan and will incorporate any recommendations from the Scrutiny planning review.
- 4.5 Officers from across the service are already working together on specific areas, with the introduction of three working groups with membership from within the service and wider across the council, looking at:
- ICT
 - Communications – both internal and external
 - Customer service
- 4.6 Officers are also looking at a programme of Member training from early 2024.
- 4.7 The service is structured to work as three teams reporting to the Director of Community Services.

Development Management

- 4.8 Development Management continues to receive a good mix of application types. In 2022/23 the service received 1421 (down from 1587 in 2021/22) applications of all types. This included 44 (up from 35 in 2021/22) applications for major developments, including 29 applications for major residential development, reflecting the Council's lack of a 5 year housing land supply.
- 4.9 Planning enforcement continues its proactive approach to enforcement. Complaints about the service have continued to reduce with a more focused timely response on making a decision as to whether to take enforcement action. The enforcement team is operating with a Team Leader part time from another authority, one member of agency staff and one permanent full time staff together with one vacant post.

Regeneration and Economic Development

- 4.10 The Council's Major Project Team supports regeneration and economic regeneration in the borough. We continue to work with planning colleagues to bring forward the Sustainable Urban Extensions (SUEs) at Barwell and Earl Shilton through a pro-active approach. The delivery of infrastructure is a key challenge.
- 4.11 The Hinckley Public Realm Masterplan includes proposals for a Wayfinding Strategy and we are working on the implementation of the Plan using funds available through the UK Shared Prosperity Fund (UKSPF). A Town Centre Strategy for Hinckley was commissioned and is being finalised. It is a high-level document that identifies opportunities for investment and improvement to

deliver physical, social and environmental aspirations for the town centre through a separate masterplan. It will provide a framework for the regeneration of sites within Hinckley by identifying and targeting specific sites. The strategy will have a life of between 5 and 15 years depending on the progress against objectives and will align with the emerging Local Plan and promote regeneration within the town centre as well as supporting the HBBC Economic Regeneration strategy.

- 4.12 The Economic Development Team promotes economic well-being for all local businesses and residents across the whole of the borough by delivering against the aims and objectives of the Council's Economic Regeneration Strategy. To monitor progress the current version which is for 2021 – 2025 includes an action plan. Delivery is done by working in partnership with local businesses, education establishments and forums to encourage networking, joint initiatives and to explore funding and promote apprenticeships and training opportunities. The Council has supported cross-border (North Warwickshire Borough Council and Nuneaton and Bedworth Borough Council) employment and skills initiatives and events such as the Career Speed Networking and Teen Tech live events at Mira Technology Institute. Communication to businesses included emails to our business email database, on social media and through a flyer that went into the business rates demands promoting business support available from both the LLEP Growth Hub and the Councils Twitter and LinkedIn social media profiles.
- 4.13 The Hinckley and Bosworth Business Climate Change Forum is a sub-group of the Councils Employment and Skills Taskforce. It is chaired by Hinckley and Rugby Building Society aiming to work with local businesses to bring best practice together and share knowledge on how businesses are reducing their carbon footprint and limiting the impacts of climate change.
- 4.14 The UKSFP has an allocation of £2,600,011 for the borough. This provides new funding for local investment by March 2025. The fund has three 3 key themes:
- Communities and place
 - Local business
 - People & skills

The Council has drawn up an Investment Plan with projects under these key themes. This has been approved by government and the programme is underway. The Council also received an allocation of £400,000 spread over 2023/24 and 2024/25 under the Rural England Prosperity Fund aimed at boosting the rural economy in the borough. Rural businesses and organisations are being invited to apply for grants to help them to become greener.

- 4.15 The service provides a holistic and joined up approach to the management of the borough's heritage often working in collaboration with other council departments and local stakeholders. The Heritage Strategy 2018-2023 provides the vision and key aims and objectives to guide conservation and

heritage activities in the borough. The High Street Heritage Action Zone which commenced in 2020 has a £1.85m programme which finishes at the end of March 2024. The various strands to the programme include the Building Improvement Scheme where grants were offered for works of repair and restoration of significant historic features including shop fronts. A key project of the programme is the Church Walk public realm scheme which will provide enhancements to the public realm through new surfaces, trees, tubs and planting. Works are also taking place to enhance the yards and jitties and a series of heritage signs have been installed to signpost Hinckley's historic town centre jitties. The hanging and fixed signs have been placed by Lilleys Yard, Varnons Yard, Crown Court and Crown & Anchor Yard.

Strategic Development

- 4.16 The council continue to work in partnership with all the neighbouring authorities across Leicester and Leicestershire, including partners such as Homes England and LLEP through the Strategic Planning Group and Member Advisory Group. The focus of the partnership continues to be on delivering key priorities within the Strategic Growth Plan and preparing strategic evidence to support these priorities. As part of the partnership working, a Statement of Common Ground (SoCG) relating to a proposed housing and employment distribution regarding Leicester City's declared unmet need has been prepared. The purpose of the SoCG is to provide a mechanism to divide any declared unmet need between partner authorities and also to aid compliance with the statutory Duty to Cooperate. Compliance with the Duty to Cooperate is required to be demonstrated at a Local Plan examination. At this time, the SoCG relating to unmet need distribution has been agreed by all of Leicestershire's local planning authorities apart from Harborough and Hinckley and Bosworth but is currently progressing through each council's democratic process. Further statements will be prepared as necessary regarding other strategic matters such as needs for Strategic Distribution and Warehousing.
- 4.17 Since the conclusion of the Local Plan Regulation 19 consultation in spring 2022, work on the borough's new Local Plan is continuing to progress. In December 2022 an update to the Local Development Scheme (LDS: the timetable for local plan production) was necessary as there were several matters impacting on the progress of the plan meaning the council were not in a position to submit the plan in April 2022 as planned at the time. This was due to a lack of certainty from central government with regards to the direction of allocated housing targets for local planning authorities and uncertainty over the extent of Leicester City's unmet need. This level of uncertainty required a re-timetabling of the Local Plan production timetable. It was highlighted in the December 2022 LDS that a further update to the timetable may be required if the emerging evidence suggests changes to the plan may be necessary or if the Government brought in a new planning system. An updated LDS is expected to be presented to Full Council in early 2024 for adoption.
- 4.18 Development of Neighbourhood Development Plans (NDPs) in the borough continues to be a significant area of work within the Policy team. Officers have

been working to implement actions recommended via the Planning Advisory Service (PAS) service improvement project alongside supporting groups with the neighbourhood planning activity. In terms of specific NDP activity, The Witherley Parish NDP went to referendum on Thursday 4 May 2023 but received a majority no vote and therefore was not made. Market Bosworth recently completed a Regulation 14 consultation on their review NDP and Stoke Golding are currently at Regulation 16 (pre-Examination) consultation with a review NDP with Thornton, Bagworth and Stanton under Bardon also at this stage.

Staff Recruitment and Retention

- 4.19 Following the high staff turnover in 2021/22, with all nine members of the Development Management Team leaving the Council between July and November 2021, recruitment and retention has been significantly more stable in 2022/23. Of the previous vacant posts, the Planning Manager, 2.5 Planning Officer and 2x Planning Assistant posts were filled with permanent staff and subsequently in early 2023/24 a Team Leader post was filled with a permanent member of staff. The remaining posts (Team Leader x1 and Senior Planning Officer) are vacant and currently occupied by agency staff and with use of external consultants.
- 4.20 In Planning Policy and Major Projects there has also been a number of vacancies, with two staff leaving from each service in 2021 and into 2022/23. A new Planning Officer within Policy was successfully recruited and joined in June 2022 with the Principal Planning Policy Officer successfully recruited to in December 2022. The Planning Policy Team currently have two members of staff on maternity leave, with these backfilled with agency staff.
- 4.21 Vacant roles across the planning service are currently being covered by interim members of staff, support from a neighbouring local authority and a private firm. This does bring with it cost implications significantly over and above any salary savings from the vacant posts. Recruitment to planning teams is a national issue, not just an issue affecting Hinckley & Bosworth Borough Council. Elsewhere in Leicestershire other Local Planning Authorities are having to use agency interim staff to fill vacancies, particular for higher level senior and team leader posts.
- 4.22 The challenges around recruitment and retention were previously reported to Scrutiny Commission in November 2022 following a review undertaken by a cross party working group of Members of the unprecedented loss of planning staff in 2021.

5. Performance

Planning Applications

- 5.1 In 2022/23 1272 applications of all types were determined, up from 856 in 2021/22. Planning Committee made decisions on 57 applications. Of these 43 were determined in accordance with the officer recommendation.

5.2 The speed of determining planning application continues to be a key performance indicator for the service. Under-performance can lead to government intervention by removing decision-making powers from local planning authorities. The speed measure is monitored on a quarterly basis for a rolling two year period. Performance for the previous two financial years to March 2023 is 63% for major applications (against a target of 60%) and 48.1% for minor applications (against a target of 70%).

Minor application performance

5.3 Performance had decreased, particularly for non-major applications, since January 2021 to March 2022. However, since April 2022 performance for non-major applications has increased significantly. This is not reflected in the rolling two year performance to March 2023, with particularly low performance in late 2021 and early 2022, however performance for non-major applications has been above 70% for 12 months consistently from October 2022 to September 2023. The performance increase since early 2022 is demonstrated on the graph below:

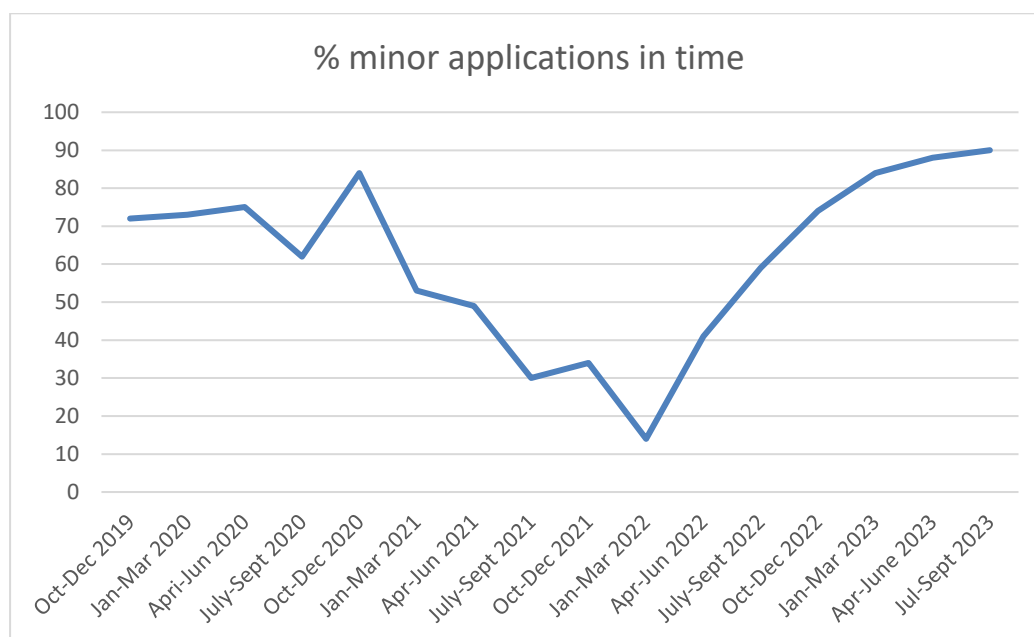


Figure 1: planning application performance – minor applications (October 2019 to September 2023)

5.4 There was a risk that the Council could have been designated due to performance on minor applications. The service is working positively with the Planning Advisory Service (part of The Local Government Association) to explain the measures in place to improve performance and the unprecedented difficulties the service has faced around recruitment.

5.5 The Council received a letter from the Department for Levelling Up, Housing and Communities (DLUHC) in January 2023 asking for the reasons for poor performance for minor applications for the two years to September 2022. The

Council responded in February 2023 and again in July 2023 and due to the upturn in performance has not been designated.

- 5.6 Due to the nature of two year rolling nature of measuring planning performance for applications, the Council is likely to receive a further letter from DLUHC in December 2023/January 2024 threatening designation should the Council not be able to provide sufficient reason as to why performance dropped below Government targets. Given that performance has remained above Government targets for the past 12 months Officers are confident that the Council will not be designated due to the recent upturn in performance.

Planning Appeals

- 5.6 Planning appeal performance remains a key requirement of government. Under-performance can lead to government intervention by removing decision-making powers from local planning authorities. The government measures performance at appeal against all decisions over a rolling 2 year period. No more than 10% of all decisions should be overturned at appeal. It should be noted that at the end of the 2 year period there is a further 9 months to take account of an applications still in the appeal system which for each rolling period is up to the 31st December. The figures set out below in Table 3 therefore have the ability to increase between now and December 2023.

Application Type	National Indicator	Performance
Major Applications	10%	5.7%
Non Major Applications	10%	1.1%

Table 2: Quality of decision making (1 April 2020 to 31 March 2022)

- 5.7 Performance on Majors of 5.7% (up from 4.5%) was on the basis that of the 86 major applications 12 were appealed and of these 5 were allowed.
- 5.8 Performance on non-majors was 1.1% (down from 1.5%) on the basis that of the 1250 applications determined, 45 were appealed and of these only 14 were allowed. The Council is therefore significantly below the 10% which is the level at which the government would intervene in relation to minor and other applications.
- 5.9 It should be noted that these performance measures are likely to change given the number of major appeals that we have awaiting a decision and with the number of major appeals awaiting a start date or an inquiry/hearing date, with recent appeals allowed in Desford and Burbage and with three appeal inquiries and two appeal hearings expected in the first three months of 2024. A separate report on planning appeals is being presented to Scrutiny Commission on 14th December 2023.

Enforcement

- 5.10 Last year (to 31 March 2023), 222 (down from 234 in 2021/22) planning enforcement cases were received. During the year the enforcement team closed 244 (up from 233 in 2021/22) cases.
- 5.11 Where a breach of planning control is identified officer's work to remedy the breach. The serving of an enforcement notice is always the last resort. During 2022/23, 5 notices (all types) were served.

Target Description	Target	Performance %	Performance Nos
Acknowledge complaint within 3 days	98%	90%	159/143
Close case within 14 days if there is no breach	80%	62%	92/57
Close case within 21 days if there is a breach but it is not expedient to take action	80%	65%	26/17
Identify there is a breach and its expedient to take actions within 21 days	80%	29%	14/4

Table 3: Speed of decision making in Enforcement (Year to 31 March 2023)

- 5.12 Planning Enforcement performance has declined, with available resources varying through the year. Where performance is lower, this relates to cases where there is either no breach identified, or it is not expedient to take action. In these cases the Planning Enforcement Team performance is below target with regards to writing up and closing cases, but this is not the case where it is considered expedient to take action.

Strategic Planning

- 5.13 The Council continues to work with other Leicestershire authorities through the Strategic Planning Group and Members Advisory Group on strategic planning matters. It also works with authorities in Warwickshire on planning matters of relevance. The council's planning policy team performance is measured against the Local Development Scheme (LDS). This document sets out the timetable for delivering the various local plan documents. The current version was published in December 2022 and updated the previous version because progress on the Local Plan had not been achieved in line with the published timescales. The current LDS sets out consultation on a draft plan (Regulation 19 version) in May/June 2024 and submission in August 2024. The current LDS highlights that a further revision may be required to the LDS if evidence suggest changes may be necessary or if the Government changes to the new planning system come into effect.

Housing Tests

- 5.14 The Government requires that Councils maintain a 5 year supply of housing sites. The NPPF in February 2019 introduced stricter guidance on what sites could be included in a Council supply requiring Councils to only include sites which were deemed 'deliverable'. Therefore as of 1st April 2022 the Council has 4.89 years' supply of deliverable housing sites. This is currently being updated to March 2023 and September 2023.
- 5.15 In addition to projecting forward and ensuring the Council maintains an adequate supply of housing; the Government has introduced a Housing Delivery Test (HDT). The HDT is an annual measurement of housing delivery in the area and is published annually in November by Department for Levelling Up, Housing and Communities (DLUHC). The HDT is a calculation of the number of houses delivered in an area over the past three years divided by the target number of houses over that same period, expressed as a percentage. Where delivery is 'substantially below' specified percentages at different points in time then the presumption in favour of sustainable development will again be engaged with the result that unallocated and possibly less favourable sites may become vulnerable to speculative applications which will be assessed against the tilted balance with a presumption in favour of granting permission
- 5.16 The HDT will indicate when delivery has fallen below 95%, 85% or 75% of the Local Planning Authority's housing requirement over the previous three years. Regardless of whether the Council is able to demonstrate five years of deliverable housing moving forward, the presumption in favour of sustainable development will be engaged if the Council housing delivery is below 75%.
- 5.17 As of March 2021 the Government assessed that the Council had a delivery rate of 86% which was below the Government's requirement of 95%, thereby failing the Housing Delivery Test. Having an 86% delivery test result required the Council to produce an Action Plan which was published July 2021 and updated in July 2022 detailing how HBBC intends to address the issues surrounding low housing delivery.

6. Future Challenges

- Delivering our major schemes and site allocations particularly the SUEs
- Establish a 5-year housing land supply
- Meeting the Housing Delivery Tests
- Progressing the Local Plan through examination and adoption
- Retention and recruitment of staff
- Continue to improve planning application and significantly improve appeal performance to avoid intervention from government.
- Maintain an efficient and proactive enforcement service.
- Delivering schemes under the Heritage Action Zone

7. Ombudsman decision

- 7.1 In July 2023 the Council received an ombudsman decision (reference 23 000 252) following a complaint against the Council that progressed through the Council's complaint procedure.
- 7.2 The complaint was regarding the Council's delegated decision to permit a development of industrial or storage units. The Council publicised the application by sending notification letters to neighbours, putting up a site notice and placing a notice in a local newspaper. However, the neighbour notification did not include one neighbour to the application site, with a likely reason being that the address was not shown separately on the Council's Uniform mapping system. The neighbour however was made aware of the application and submitted an objection. Whilst a neighbour objection was received, this was not referenced in the delegated officer report and a decision was issued subject to conditions. Further, the decision notice and officer report, whilst produced when the decision was issued, were not uploaded to the Council's website in good time.
- 7.3 The ombudsman found fault with the Council for the above administrative matters. However, in considering the complaint, the ombudsman found that had the administrative errors as above not happened this would not have affected the outcome (that permission was granted).
- 7.4 The ombudsman provided the following remedy to the complaint received:
- apologise to the complainant for any disappointment and confusion caused by the faults found;
 - carry out a review of its planning decision making processes and its record keeping and administrative systems to ensure they are robust and fit for purpose;
 - inform the Ombudsman and the Council's relevant scrutiny committee of the outcome of the review
- 7.5 The Head of Planning has apologised to the complainant following receipt of the ombudsman decision in July and has also sought amendments to the Uniform mapping to update the address details to the neighbours property to show this as two addresses. Further, all administrative officers, validation officers and case officers have been reminded of good practice, including checking neighbours are sufficiently consulted on all relevant applications, ensuring sufficient other consultation is undertaken (e.g. site notices where appropriate) and that all decisions are issued by the planning admin team to ensure continuity and that all relevant documents are then issued and uploaded to the website correctly.
- 7.6 The Planning Service has received two further ombudsman decisions in 2023/24 following complaints made. Both of these decisions do not find fault with the Council and with no remedies suggested.

8. Exemptions in accordance with the Access to Information procedure rules

8.1 Open

9. Financial implications - CS

9.1 In 2022/23, planning application income was £1,098,298 compared to a budget of £1,008,000 which resulted in additional income of £90,298. This compares to the previous year when there was a budgeted income target of £1,008,000 and the actual amount received was £1,219,356.

9.2 In 2022/23, the Council also received additional sources of income through its pre-application advice service. A total of £21,890 was received against a target of £56,820. In addition to pre-application advice, the Council has also introduced Planning Performance Agreements (PPAs) for very large and complex applications. This generated a further £76,110 against a budget of £52,110.

9.3 Legal cost arising from planning appeals in 2022/23 totalled £144,896 with a budget of £43,000 resulting in an overspend of £101,896.

9.4 In 2022/23, Development control spent £659,794 on agency staff & £78,372 on consultants which made an overall staffing overspend of £413,502. Compared to 2021/22, this is additional expenditure of £284,503 as £453,663 was spent on agency and consultants in 2021/22.

9.5 The use of agency interim staff and recruitment to planning teams is a national issue, not just an issue affecting Hinckley & Bosworth Borough Council. Elsewhere in Leicestershire other Local Planning Authorities are having to use agency interim staff to fill vacancies, particular for higher level senior and team leader posts.

10. Legal implications

10.1 Set out in the report.

11. Corporate Plan implications

11.1 The planning service contributes to all three priorities of the Corporate Plan, helping People stay healthy and reducing crime; improving Places through improved quality of homes, affordable housing, urban design and heritage facilities; and by delivering Prosperity by supporting town centre regeneration, tourism and economic growth.

12. Consultation

12.1 None

13. Risk implications

13.1 It is the council's policy to proactively identify and manage significant risks which may prevent delivery of business objectives.

13.2 It is not possible to eliminate or manage all risks all of the time and risks will remain which have not been identified. However, it is the officer's opinion based on the information available, that the significant risks associated with this decision / project have been identified, assessed and that controls are in place to manage them effectively.

13.3 The following significant risks associated with these report / decisions were identified from this assessment:

Management of significant (Net Red) risks		
Risk description	Mitigating actions	Owner
<p>DLS.19 - Recruitment & retention of staff</p> <p>Failure to recruit & retain staff leads to failure to maintain staffing levels within Development Services to deal with works required and increases use of agency staff with associated higher costs</p>	<p>Appointment of recruitment consultants</p> <p>Supporting Officers Careers through training and modern apprenticeships</p> <p>Benchmarking against surrounding authorities to ensure competitiveness.</p>	Chris Brown
<p>DLS.44 - Five year housing land supply</p> <p>Failure leads to speculative unplanned housing developments plus additional costs incurred due to planning appeal process</p>	<p>The council to maintain a 5YHLS. All Members have received training and further briefing to this effect. SLT and officers are working closely with Members to plan a positive way forward to address this.</p>	Chris Brown
<p>DLS.51 Housing Delivery Test</p>	<p>DLUHC published the Housing Delivery Test results in January 2021 and the Council has delivered 86% of it's housing requirement HBBC will continue to work on delivering new homes to ensure it does not continue to fail the HDT</p>	Chris Brown

14. **Knowing your community – equality and rural implications**

- 14.1 The planning services takes account of equality and rural issues as part of all the decisions taken.

15. **Climate implications**

- 15.1 The planning service considers the climate impact of all decisions it takes in accordance with the Council's strategy and Government Policy and Guidance.

16. Corporate implications

16.1 By submitting this report, the report author has taken the following into account:

- Community safety implications
- Environmental implications
- ICT implications
- Asset management implications
- Procurement implications
- Human resources implications
- Planning implications
- Data protection implications
- Voluntary sector

Background papers: None

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