

## **Planning Committee**

**4 February 2020**

### **Report on Development Management Performance (1 January 2019 – 31 December 2019)**

#### **Report by Head of Planning Services**

##### **Executive Summary**

This report reviews the work undertaken by the County Planning Team in relation to the determination of planning applications over the period 1 January to 31 December 2019.

It outlines the measures against which performance is measured, confirming that the Team is exceeding the Government's thresholds by determining 81% of minerals and waste applications on time over the past two years (where a 60% threshold is set). This figure has dropped slightly over previous years, for known reasons that the team are working to rectify.

The team determined 84% of 51 applications in 2019 on time, six of which were determined by the Planning Committee.

Monitoring visits were undertaken to all mineral/landfill sites, as well as some waste sites in response to complaints, with formal enforcement action taken on two occasions.

It is considered that the Team's performance in the past 12 months has shown a continued commitment to taking a positive and proactive approach to development, as set out in the National Planning Policy Framework.

##### **Recommendation**

That the report on development management performance is noted.

## **1. Introduction**

- 1.1 The purpose of this report is to review the performance of the County Planning Team in relation to the management of development, including the determination of planning applications, over the calendar year from 1 January 2019 to 31 December 2019.

## **2. Background**

- 2.1 The County Planning Team determines applications for planning permission relating to 'County Matters' (minerals and waste development) and 'Regulation 3' developments - that is, development to be carried out by West Sussex County Council or where the Council has a significant interest. The team is also responsible for ensuring minerals and waste

development across the county is compliant in planning terms, and for taking enforcement action where it is not.

- 2.2 Each application for planning permission has a target period for determination<sup>1</sup>, measured from the date the application is made valid, depending on whether it is defined as an Environmental Impact Assessment (EIA), major, or minor.
- 2.3 EIA development is the larger scale schemes that are considered to have the potential to result in significant environmental effects, as set out in Schedules 1 and 2 of the EIA Regulations 2017. The target for determination of EIA applications is 16 weeks.
- 2.4 Major development includes all minerals and waste applications, as well as applications involving sites of more than 1 hectare in area, or where more than 1,000 square metres of floor space will be created. The target for determination of major applications is 13 weeks.
- 2.5 Minor development includes all other applications. The target for the determination of minor applications is 8 weeks.
- 2.6 If a decision is not made by the target date, the applicant can submit an appeal to the Planning Inspectorate on the basis of the non-determination of the application. In addition, if a decision is not made within six months of the application being registered, the applicant can ask for a refund of the planning fee.
- 2.7 Missing target dates for determination also runs the risk of the planning authority being 'designated' for poor performance whereby applications can be made directly to the Secretary of State rather than the planning authority (known as being put into 'special measures').
- 2.8 The current 'criteria for designation' (November 2018)<sup>2</sup> are:
  - Speed of Decisions: percentage of decisions over the previous two years made on time (i.e. within the 8/13/16 week statutory determination period) or, crucially, an extended period agreed with applicant. The threshold for this measure is 60%.

Performance was previously only measured in relation to the determination of major applications, but was extended in 2016 to include minor applications, though this excludes Regulation 3 applications. All minerals and waste applications are, by definition, 'major', which means that the County Council's performance in relation to determining 'minor' applications is not measured.

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<sup>1</sup> Defined in Section 34 of the Town and Country Planning (Development Management Procedure)(England) Order 2015).

<sup>2</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/760040/Improving\\_planning\\_performance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760040/Improving_planning_performance.pdf)

Local authorities are also separately measured in relation to oil and gas applications<sup>3</sup>. Where authorities have decided more than two such applications in the previous two years, they will be designated if less than 50% are determined on time – i.e. the measure will also be applied separately to oil/gas applications.

- Quality of Decisions: average percentage of decisions on applications overturned on appeal. The threshold for this measure is 10%.

### **3. Performance**

#### *Government Figures*

- 3.1 The thresholds for determining performance are set by the government with the intention of targeting the poorest performing authorities in the country. Over time, the government has increased the targets to ensure they capture those authorities that are genuinely underperforming.
- 3.2 The remainder of this report presents how the County Planning Team has performed in terms of meeting the above targets, measured over the period 1 January 2019 to 31 December 2019, as well as over the prior two year periods set by government.
- 3.3 Table 1 below sets out the performance measures and assessment period set by the Ministry of Housing, Communities and Local Government and the County Planning Team's performance against them. The table includes both the statistics measured by the Government, and figures including Regulation 3 applications.
- 3.4 There is an additional measure relating to the 'quality of non-major development' but for the County Council, this would only apply to appeals against the refusal of minor Regulation 3 applications, which are non-existent.
- 3.5 The figures for the speed of decisions take into account where extensions of time have been agreed. These are frequently used for more complicated and/or controversial applications, particularly those that need to be determined by the Planning Committee, which can extend the decision-making period.

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<sup>3</sup> <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2015-09-16/HCWS201/>

**Table 1: Government Figures - Designation Thresholds and WSCC Performance<sup>4</sup>**

<b>Measure</b>	<b>Threshold</b>	<b>WSCC Performance</b>
<b>Speed of Major Development</b> % of applications decided on time (13/16 weeks or agreed extension).	<b>2019: 60%</b> (Oct 2018 – Sept 2019)	<b>81%</b> of 41 County Matter applications.
	<b>2018: 60%</b> (Oct 2016 – Sept 2018)	<b>94%</b> of 38 County Matter applications.
	<b>2017: 60%</b> (Oct 2015 - Sept 2017)	<b>98%</b> of 40 County Matter applications
	<b>2016: 50%</b> (Oct 2014 - Sept 2016)	<b>93%</b> of 46 County Matter applications
<b>Speed of Non-Major Development *</b> % of applications decided on time (8 weeks or agreed extension).	<b>2019: 70%</b> (Oct 2017 – Sept 2019)	<b>90%</b> of 58 applications
	<b>2018: 70%</b> (Oct 2016 – Sept 2018)	<b>75%</b> of 44 applications.
	<b>2017: 70%</b> (Oct 2015 - Sept 2017)	<b>69%</b> of 67 applications.
	<b>2016: 65%</b> (Oct 2014 - Sept 2016)	<b>84%</b> of 93 applications.
<b>Quality of Major Development</b> % of LPA decisions upheld on appeal.	<b>2019: 10%</b> (Oct 2017 – Sept 2019)	<b>50%</b> (Crouchland refusal upheld; Firsland (liaison group condition) refusal overturned).
	<b>2018: 10%</b> (Oct 2016 – Sept 2018)	<b>100%</b> (Crouchland).
	<b>2017: 10%</b> (April 2015 - March 2017)	<b>100%</b> 2 appeals; both upheld (Burlands; Crouchland CLU).
	[ <b>2016:</b> Not assessed.]	
<b>Speed of Oil/Gas Applications</b> % of applications decided on time (13/16 weeks or agreed extension).	<b>2019: 60%</b> (Oct 2017 – Sept 2019)	<b>100%</b> of 5 applications.
	<b>2018: 60%</b> (Oct 2016 – Sept 2018)	<b>100%</b> of 6 applications.
	<b>2017: 60%</b> (Oct 2015 - Sept 2017)	<b>Not applicable</b> – only 1 application determined (only measured if more than two determined).
	<b>2016: 50%</b> (Oct 2014 - Sept 2016)	<b>Not applicable</b> – no applications determined.

\* Not a government target for County Authorities.

<sup>4</sup> Source:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/571144/Improving\\_Planning\\_Performance\\_-\\_Criteria\\_for\\_Designation\\_revised\\_2016\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/571144/Improving_Planning_Performance_-_Criteria_for_Designation_revised_2016_.pdf)

- 3.6 The above figures show that the County Planning Team has continued to perform well above any of the thresholds for designation. The key target is the speed at which major applications are determined, with the Team achieving 81% (33 out of 41) on time. This is a decrease over previous years, but four of the eight late decisions were refusals (applicants rarely agree an extension of time where there is a recommendation of refusal), and two were administrative error (extensions having been agreed but not recorded); the team are working to rectify such errors in the future.
- 3.7 This being the case, improving on these figures should be relatively straightforward, so the team will focus on that in the coming year.
- 3.8 In comparison with adjacent counties: Hampshire County Council determined 61 major applications, all of them on time (100% - with the caveat that HCC includes discharge of condition applications in this figure); East Sussex County Council determined 27 major applications, 26 of them on time (96.3%); and Surrey County Council determined 53 applications, 47 of them on time (88.7%).
- 3.9 In the same two year period, the Team has determined slightly more non-major applications than in the previous period (58 applications compared to 44), and more of them on time (90% compared to 75%). This means that 90% of minor applications, typically relating to schools, were determined within the eight week target date, without any extensions of time having been agreed, which is considered to be a good achievement for the team.

*County Planning Statistics*

- 3.10 Table 3 below, considers the applications determined between 1 January and 31 December 2019, with previous years' statistics for comparison.

**Table 3: County Planning Statistics (January – December 2019)**

- 3.11 Table 3 shows that compared with the previous year, the team dealt with around the same number of applications, but took fewer items to committee.

	2011	2012	2013	2014	2015	2016	2017	2018	2019
<b>Applications Determined</b>	68	79	102	78	72	70	42	50	51
<b>% on time</b>	71%	69%	67%	85%	74%	72%	69%	86%	84%
<b>Minor % on time</b>	87%	82%	77%	84%	90%	88%	58%	87%	83%
<b>Major (incl. EIA) % on time</b>	50%	45%	51%	86%	88%	82%	88%	86%	76%
<b>Number of EIAs</b>	2	2	1	4	5	2	1	6	2
<b>Number to Committee</b>	6	11	14	13	18	17	9	18	6

- 3.12 It is of note this year that while 51 applications were determined, a further six were withdrawn before a decision was made. Two further

applications are awaiting a S106 legal agreement before a decision can be issued, namely TJ Waste in Yapton (ref. WSCC/037/19), and Marlpit Lane (ref. WSCC/053/19).

3.13 Just two applications were refused, namely:

- Erection of replacement dwelling, including acoustic bunds along east, west and side boundaries. at Dan Tree Farm, London Road, Bolney, Haywards Heath, RH17 5QD (WSCC/050/18); and
- Deposit of soils from adjacent housing development at Land west of London Road, Hassocks (WSCC/051/18).

#### *Other Matters*

3.14 The team's Principal Planner (James Neave) has continued to work on the Rampion offshore windfarm project, a Nationally Significant Infrastructure Project granted a Development Consent Order (DCO) by the Secretary of State. The project is near completion, focusing primarily on the new substation at Twineham. The Crown Estate has agreed that Rampion can extend the windfarm, so a new DCO application is likely to be forthcoming, but the timing is unclear at this early stage and it is also unclear whether the cable route will be through West Sussex or Hampshire (or both).

3.15 The Team has also been leading on responding to the Gatwick Airport DCO, relating to the proposed routine use of their standby runway. The County Council is a statutory consultee in the DCO process. Officers are providing technical advice to Gatwick Airport Limited as they develop their proposal. Formal pre-application consultation on the draft submission is anticipated later in 2020.

3.16 Significant staff resource was put towards defending the appeal against the refusal of the Wealden Energy from Waste application (ref. WSCC/015/18/NH), the public inquiry for which was held in October/November 2019, with the decision expected in February 2020.

3.17 The Team also provided fifteen EIA screening/scoping opinions (compared with five in 2018, and 10 in 2017), and 11 formal pre-application responses (compared to three in 2018, and seven in 2017). It has therefore been a busy year in terms of pre-application, which may indicate that 2020 will be a busy year for applications.

#### *Review of Committee Decisions*

3.18 Over the past year, six applications have been put before the Planning Committee, at three meetings. Of these, two were Regulation 3 developments (a school and a road), and four were waste developments. There were no deferrals, and members followed officer recommendations on all but one application (approval of the infill of land north of Rudgwick Brickworks).

#### **4. Monitoring and Compliance**

- 4.1 The Monitoring and Compliance Officer has carried out 59 chargeable (fees) monitoring visits to minerals sites and landfills over the 12 month period. This is in addition to regular monitoring of waste sites and responding to complaints of breaches of planning control (either breaches of condition or operating without planning permission).
- 4.2 Eight Planning Compliance Notices were issued, along with two Enforcement Notices, with the latter resulting in waste being removed from land it had been deposited on without permission. In addition, a number of planning applications have been received, in an attempt to retrospectively regularise activity we have been made aware of. In a number of other cases, operations have been brought back into compliance to avoid formal enforcement action being taken.

#### **5. Conclusion**

- 5.1 The team has exceeded government targets for determining County Matter applications within statutory time periods, but performance in this regard has dropped slightly.
- 5.2 The team determined 84% of 51 applications in 2019 on time, six of which were considered by Committee.
- 5.3 Monitoring visits were undertaken to all mineral/landfill sites, as well as some waste sites in response to complaints, with formal enforcement action taken on two occasions, and far more frequently, informal enforcement action resolving issues without formal action being required.
- 5.4 It is considered that the Team's performance in the past 12 months has shown a continued commitment to taking a positive and proactive approach to development, as set out in the National Planning Policy Framework.

#### **6. Resource Implications and Value for Money**

- 6.1 There are no resource implications as this report is for information only.

#### **7. Equality Duty**

- 7.1 An Equality Impact Report is not required as the report only deals with internal and procedural matters.

#### **8. Risk Management Implications**

- 8.1 There are no risks associated with the recommended action of noting this report, which is for information only.

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**Background Papers**

None