

Planning Applications Group Business Plan 2007/08 – Half Year Progress Report

Report by Head of Planning Applications Group to the Planning Applications Committee on 6 November 2007

Summary: Half yearly report on progress against 2007/08 Business Plan

Recommendation: Members are asked to note progress as contained in the report

Local Member: n/a

Unrestricted

Background

1. This report summarises progress for the half year against Business Plan Targets for 2007/08. The report includes progress against national and local performance indicators. The Business Plan for 2007/08 was reported to the 15th May 2007 Planning Applications Committee.
2. The Planning Applications Group undertakes the County Council's statutory development control function. This relates to minerals and waste management development and the County Council's own community development ie. new school facilities. It includes the processing of applications, as well as pre-application advice, enforcement and monitoring. In terms of policy development, the Group is now assisting on the preparation of the emerging Local Development Frameworks for Minerals and Waste and seeks to influence new policy at national, regional and local level. The current Business Plan identifies these as key activities for the Group. It also includes providing advice and training to Members on relevant planning issues and a review of the Group's Planning Applications systems.
3. The Business Plan sets out key performance indicators relating to the development control service.

Development Control

County Matter Development (Minerals and Waste)

4. The national performance indicator BVPI 109 applies to this activity and has a locally set target to determine 70% of County Matter applications (excluding those with an environmental statement (EIA development)) within 13 weeks. For the period April to September 2007, 68.4% of applications were determined within 13 weeks. As a reflection of Government policy to shift the management of waste away from landfill, we continue to receive a higher proportion of waste applications than mineral development. The emphasis is on getting quality decisions in the swiftest time available.
5. In addition to the national performance indicator, there is a locally set County Council indicator relating to County Matter development. This seeks to measure the percentage of applications (including EIA development) determined within 16 weeks. The target is set at 70%. For the first 6 months of the Business Plan period, performance against the 16 week target has been exceeded with 74% of relevant county matter applications determined within 16 weeks
6. This financial year, permission has been granted for a variety of waste management facilities. These have included a recycling station in Snodland, a metals processing

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facility and end of life vehicle recycling facility in Ashford, variations to Shelford Landfill site, Canterbury and a number of improvements to waste water treatment works. The Committee also resolved to grant permission for an extension at Pinden Quarry, Dartford, pending conclusion of a legal agreement.

7. In addition, the County Council was successful in defending an appeal against a composting facility at Little Bayhall Farm, Tunbridge Wells. The Council was also successful in its cost claim against Southern Water Services for acting unreasonably and contrary to appeal guidance in withdrawing its appeal for improvements to the Aylesford Works on the day that the inquiry documents were to be exchanged.

County Council Development (Regulation 3 Applications)

8. This area of the Group's business has a number of locally set performance indicators. Targets seek to determine 65% of applications within 13 weeks of validation and seek an average determination period of less than 12 weeks. To date, the Group's performance has continued to exceed the 65% target with 88% of applications determined within 13 weeks. Average time taken to determine applications is currently at 8 weeks, again exceeding the target of 12 weeks.
9. Since March 2007, planning permission has been granted for improvements to a wide range of community infrastructure. These include a new academy for Maidstone at Oldborough Community School and new teaching accommodation at Castle Hill School, Folkestone, Godinton Primary School, Ashford, Chaucer Technology School, Canterbury, Crockenhill School, St Joseph's School, Gravesend and Sussex Road, School, Tonbridge. Children's Centres, part of the Government's National Sure Start Programme to improve health and emotional support for young children and their parents across the County have been permitted at Hothfield, Gravesend, Maidstone, Folkestone, Faversham and Tunbridge Wells. New nursery accommodation has also been permitted in Gravesend and Tonbridge. Improved sports facilities have been permitted at Hugh Christie, Tonbridge, Whitstable Community College and Harrietsham. In September, the Committee granted permission for the Rushenden Relief Road, Sheppey subject to no direction to the contrary from the Secretary of State and the resolution of an appropriate assessment.

Additional Indicators

10. Two additional indicators relate to both County Matter development and the Council's own development. They seek to acknowledge all applications within 3 working days of receipt and advise the applicant of the case officer within 10 working days. Performance against both these targets is currently at 100%.
11. Pre application advice continues to be a key part of the planning application service and is encouraged on a case by case basis for both county matter development and the County Council's own development proposals. As part of the latter, officers from the Group are represented on a range of working groups.

Planning Enforcement and Monitoring

12. The Group is responsible for the monitoring and enforcement of minerals and waste development and the Council's own development. Details of breaches of planning control and progress on chargeable monitoring for mineral sites are reported to the Council's Regulation Committee that meets three times a year. I reported to the

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September Committee that resources have been focussed on 5 sites where formal enforcement has been taken, 25 cases where investigations are under investigation and a further 12 cases which have been satisfactorily resolved. The Group was successful in defending an enforcement appeal relating to extensive importation, deposit and burning of waste at Raspberry Hill, Iwade.

13. Enforcement resources are targeted in accordance with the Council's Enforcement Protocol to those sites where the activities being carried out have the potential to create the greatest environmental damage. These are investigated as a priority. Where possible we continue to seek to resolve cases without the need for lengthy and expensive formal action. Formal action should only be taken as a last resort and only where it is expedient to do so.
14. In April 2006, Regulations came into force giving Minerals and Waste Planning Authorities the power to charge for the monitoring of minerals and selected waste permissions. Progress has been made in implementing a chargeable monitoring scheme, with 16 chargeable visits this year. However, the Group does not currently have sufficient resources to deliver the required number of monitoring visits to meet best practice and so some element of prioritisation is taking place.

Challenges

15. There have been 2 legal challenges to decisions taken by the Planning Authority - Wrotham Highway Depot and the Lawful Development Certificate for the Borough Green Bypass. As judicial proceedings are currently in hand, I am limited as to what information can be publicly shared at this time.
16. With respect to the highway depot, Members may recall that planning permission was granted for a highways depot at a former industrial estate at Wrotham. The site lies within the green belt and AONB and partially on land identified in the Local Plan for redevelopment. The challenge is being led by CPRE and alleges a review on 4 counts:
 - Bias on the basis that the decision to vote in favour was by one vote and 3 of the Planning Applications Committee who voted also attended the Highways Advisory Board when it considered the proposal as part of the KHS reorganisation;
 - Misapplication of AONB policy – Development should have been considered major in terms of development policy; should have satisfied national interest test, insufficient consideration of alternative sites; and duty to conservation and enhancement considerations;
 - Misapplication of green belt policy – insufficient evidence of very special circumstances; and
 - Misapplication of Environmental Impact Assessment Regulations in considering whether development should have been subject to EIA.

Following Counsel's advice the Council is vigorously contesting the grounds of claim on all 4 points. It submitted its case in July 2007. The Council is currently waiting for judgement from the High Court on whether there is a case to argue.

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17. In relation to the second challenge, I reported to the 11 September meeting.
18. The handling of 2 applications have also been referred to the Ombudsman. These relate to the resource centre at St Edmunds School, Dover and Whitstable Community College.
19. In the case of the resource centre at St Edmunds School, Dover, Members may recall that construction work was not carried out in accordance with planning permission reference DO/05/729. Investigation established that due to a setting out error, the works were some 3m closer to residential properties than permitted. A retrospective planning application to address the breach was submitted and approved by the Committee. Five local residents pursued a complaint to the Ombudsman. Whilst the Ombudsman found no fault with the planning procedures followed on this particular case, he was concerned with the length of time it took for the developers to stop the construction work once the breach was identified and pending the outcome of the planning application seeking to remedy the siting discrepancy. The Ombudsman found in favour of the residents in this respect. He also queried whether the Council could have served a Breach of Condition Notice to halt the works sooner and recommended that the County Council review its procedures for dealing with breaches of planning control when the Council is the applicant and planning authority to prevent similar problems occurring again. Nominal compensation to local residents is to be met by Children, Families and Education.
20. A complaint into the Council's consideration of sports facilities at Whitstable Community College was recently lodged with the Ombudsman. A decision is awaited.

Minerals and Waste Development Frameworks

21. The plan making process is the subject of a third national performance indicator, BVPI 200. It requires the County Council to meet the milestones in the Local Development Scheme (LDS) which has been agreed by the Government Office for the South East (GoSE).
22. Due to staffing changes this year within the Planning Applications Group and difficulties in backfilling the loss of development control experience, the Group has been unable to lead on the Development Frameworks and satisfactorily resource the development control service. A decision was therefore made, post the drafting of this year's Business Plan, that the Group would assist (not lead) in the plan making functions.
23. A consultation on spatial options for the Waste Development Framework was conducted in the autumn of 2006. This focussed on possible locations for large scale recovery plant in East Kent (energy from waste) and broad areas of search for landfill in west and east Kent. Since then the Waste Management Unit has begun an assessment of procurement options, the National Waste Strategy has been published, and the Regional Assembly has published estimates waste capacity and forecast future waste arisings for each Waste Planning Authority in the South East.
24. The forecasts used in the 2006 consultation on the KCC Waste Development Framework were published in 2004. In the light of recent slower growth in municipal waste, and this changing context, it has been decided to update the evidence for the

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Waste Development Framework before proceeding to KCC's "Preferred Options". Consultants are currently working on this, and it is hoped to include waste water and hazardous waste, previously omitted from the evidence and options.

25. Experience of the new planning system under which Development Frameworks are to replace Local Plans has prompted the Government Office for the South East to advise KCC to reduce the number of documents originally intended for submission. Changes to the timetable are required, and these have yet to be formally agreed by GOSE. However the aim is to publish Preferred Options for consultation in summer 2008, subject to Cabinet agreement.
26. Minerals Development Plan Documents (Core Strategy, Development Control Policies and Construction Aggregates sites) were submitted to Government in late 2006 in accordance with the Council's approved 2006 Minerals and Waste Development Scheme. These were subject to subsequent public consultation.
27. Practice and guidance on the approach to Development Framework preparation continues to evolve, particularly with regard to expectations of the role and content of Core Strategies. An exploratory meeting held with the Inspectorate, ahead of the expected public Examination of the Mineral DPDs, has underlined this and the Council needs to take stock of how it should now proceed in the interests of securing a set of minerals planning documents that will individually and collectively meet the tests of 'soundness' as they are currently being applied. This may require a review of the number, sequence and scope of documents that are taken forward.

Influencing Emerging Policy and Guidance

28. The Group continues to play a role in influencing emerging policy and guidance. In particular, the Group is working at the regional level with SEERA (South East England Regional Assembly) and SERTAB (South East Region Technical Advisory Body (waste issues) in relation to apportionment guidelines for recycled aggregate and London's waste. Officers from the Group also represent the County Council at various Development Control Working Groups. The Group has prepared a number of responses to Government consultations on emerging guidance, including the development control aspects of the Planning White Paper.

Member Training

29. In November 2006, the Committee agreed the need for a more formalised programme of Member training for Committee Members and regular substitutes. Since April 2007, the Committee has received training on the Planning White Paper and a follow on session on Design and Planning. It has also agreed a future programme which includes a tour of permitted sites, mineral and waste issues, updates on the Waste and Mineral Development Frameworks and heritage and biodiversity issues. From 2008, 6 x ½ day slots are to be secured in the Council calendar for training purposes.

Freedom of Information Requests

30. The Group has responded to 5 requests for information under the Freedom of Information Act 2000.

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Staffing Issues

31. Despite a recruitment campaign, the Group has been unsuccessful in backfilling the 2 principal planning officer vacancies which became available in December 2006. This resulted in a significant loss of development control and case supervisory experience. The issue is compounded by earlier recruitment practices, whereby as a result of previous difficulties in attracting experienced development control staff, the Group appointed candidates with good potential at planning officer grade and is developing the experience 'in-house'. In the longer term this strategy will pay dividends, however in the short term this leaves a serious skills gap. This is being addressed with training and close case supervision, but is having adverse implications on the development control service, potentially resulting in lengthier decision making, particularly for the more complex county matter proposals and major community development.
32. I intend to re-advertise the posts later this year. The difficulty in recruiting experienced planning staff is not unique to the Group. Kent Districts and other parts of the Directorate are experiencing similar recruitment problems. Evidence suggests that there is a shortage of planners across the region.

Review of Development Control Practices

33. Members may recall that the computerised planning application currently used by the Group is no longer supported by its current provider, Northgate. As a consequence, the Group needs to procure a new IT system. As part of this process, the Group needs to ensure that any new system fully addresses the needs of a county planning authority and meets Government and Council aspirations towards greater e-access. Considerable progress has been made towards procurement documents, including demonstrations of 3 possible systems and compilation of a business requirements specification. The next key stage is for Procurement to seek tenders. The timing of this will be influenced by capacity in the Council's Procurement Team. Discussions are also underway to temporarily improve web information as an interim measure, pending the new system. An additional resource to maintain web data has recently been appointed.

Conclusion and Recommendation

34. For the first half of the Business Plan period, the Group has performed well against the key performance indicators, meeting and, in some cases, exceeding the targets set for the speed of planning decisions.
35. I RECOMMEND that MEMBERS
- (i) NOTE the half year progress against the current Business Plan.

Case Officer: S Thompson
Background Documents: see heading

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