

REPORT FOR INFORMATION



Agenda

DECISION OF:	PLANNING CONTROL COMMITTEE
DATE:	24TH MAY 2016
SUBJECT:	DEVELOPMENT MANAGEMENT UPDATE
REPORT FROM:	DEVELOPMENT MANAGER
CONTACT OFFICER:	DAVID MARNO
TYPE OF DECISION:	COUNCIL <i>OR</i> EXECUTIVE (NON KEY DECISION)
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain
SUMMARY:	ANNUAL SUMMARY OF APPLICATION PROCESSING / PERFORMANCE UPDATE AND PLANNING LEGISLATION CHANGES

OPTIONS & RECOMMENDED OPTION	TO NOTE THE REPORT
IMPLICATIONS:	
Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? Yes
Statement by the S151 Officer: Financial Implications and Risk Considerations:	Executive Director of Resources to advise regarding risk management N/A
Statement by Executive Director of Resources:	n/a
Equality/Diversity implications:	No (see paragraph below)
Considered by Monitoring Officer:	n/a
Wards Affected:	All
Scrutiny Interest:	NO

TRACKING/PROCESS**DIRECTOR:**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee	Committee	Council	

1.0 BACKGROUND

- 1.1 This is the annual update report to the Members of the Planning Control Committee, which sets out key matters and changes that affect the Development Management Team and processes and therefore by default, the Planning Control Committee.

2.0 PERSONNEL

- 2.1 The section has seen a change in personnel with the introduction of a graduate planner post, which was part of the business plan for the reduction of staffing retiring under VER. The reduction of one Development Manager meant that funding savings could be made whilst increasing capacity at case level and provides an opportunity to broaden the skills of a graduate by becoming a case worker. There were 45 applicants for the post and the post was taken up by Helen Goldsbrough, who has now been with the section since August 2015.
- 2.2 A further opportunity has been the ability for the section to contribute to the employment of an apprentice within the Technical Support Team. There were five applicants for the post and this post was taken up by Chris Gale.
- 2.3 Both staff members have settled in and are currently part of the functioning team.
- 2.4 The final change within the last year is that Helen Longworth became the Principal Planning Officer within Development Management and has presented to the Planning Control Committee in response to her position to stand in for the Development Manager when required.

3.0 WORKLOAD

- 3.1 The table below sets out some highlights comparing the years 2014/15 to 2015/16. It shows an increase in workload and a maintenance of a high level of decision issuing. Bury remains in the top 10 performing LPA's in the country and frequently second in the England (one statistic quarter return excepted).
- 3.2 The increase in numbers of applications and the pressure to maintain quick turnarounds has meant that the use of Planning Performance Agreements (PPA) has also increased. A PPA is an agreement between the LPA and the applicant to ensure that each party meets their own respective deadlines within the planning process to deliver a planning decision within the agreed timeframe. PPA's formalise each particular step of the planning process from validation, consultation replies, meetings, report writing and decision issuing. There are charges that the LPA will charge for this process, which covers costs associated with the process and guarantees each step of the process by the given date. Usually, applications for major development use this process but increasingly minor housing developments have used this process, usually because the applicant needs to hit deadlines. It is perhaps important to note that a PPA in no way fetters the decision making powers of the authority. In no way does and PPA guarantee a recommendation to approve an application or that the scheme will be approved. It is more simply put in place to manage applications by outlining information and actions required by all parties.
- 3.3 The table below takes a snapshot of application processing statistics from 1st May 2015 to 1st May 2016 unless otherwise stated.

The figures in brackets are for same period in 2014 to 2015

Received	Minors/other Granted %	Minors determined <8 weeks	Majors <13 weeks	PPA's
PS1 All – 1536 (1299)	93% (93%)	92% - 795 (93% - 710)	100% 33 (100% 26)	13 (10)
Delegated	Larger House Extensions	No. Of PCC items Mar-Apr	Appeals Mar-Apr	
89% (92%)	50 (48)	99 (65)	16 - 11 dismissed (16 – 12 dismissed)	

The section has remained extremely busy through the past twelve months and has seen a number of changes and increases in workload. However, the dedication of the

team must be applauded as Bury Council remains a top performing LPA in the country.

- 3.4 To evidence this, Bury Council has taken part in a number of workshops with the government's Planning Advisory Service (PAS) to set out how our processes and team work to ensure that decisions are delivered in a timely fashion, so much so, that the Council remains a top performing authority. More recently, the Council has been approached by other English Councils including Preston City Council and the Scottish Government's Planning Improvement Service that represents 34 Scottish LPA's.

4.0 Fees and Reform

- 4.1 The annual fee income is dependent upon the numbers and in particular type of application that the Local Planning Authority receives. More complex larger applications attract greater fees than smaller developments. Unsurprisingly, more complex applications are more difficult to deal with and require more time and more experienced staff to process them.
- 4.2 Fees are payable not only for planning applications but also for the discharge of planning conditions, applications for prior approvals, pre-application enquires and planning performance agreements.
- 4.3 The budget is set through reflections upon past years and also using projections to determine likely fee income. The fee income for 2014/2015 was £526,787.00 and for 2015/2016 £640,058.00. This reflects an improvement in the economy, with schemes advancing where previously they had perhaps stalled or were otherwise held in abeyance.
- 4.4 The Government has issued a consultation on the 'Technical Consultation on Implementation of Planning Changes' that is seeking to review, amongst other things planning fees. The consultation is part of the implementation of respective parts of the Housing and Planning Bill. A joint response has been issued on behalf of the ten Greater Manchester Authorities (AGMA) and the main salient points are set out below.
- 4.5 In the first instance, the Government state planning fees are to be increased in line with inflation, for the first time in three years. However, the Government are considering whether the fees regime could be amended to link fee setting to performance. How this would actually work is not clear at the moment. However, AGMA consider that it is appropriate to consider performance but to use a threshold or bar so that each authority can still compare itself to its peers by using a standard baseline to work from, rather than disaggregating entirely to each specific authority.
- 4.6 'Testing the Competition' - In respect of the proposals to 'test the competition' it is understood that this is, in part, a response to the loss of resource in planning departments as a result of the budget reductions over recent years. Whilst it is considered that LPAs will not be forced to outsource their service, they will be in

competition with an 'approved provider', defined as someone who has the expertise to manage the processing of a planning application to process their planning application. This scheme is to be piloted. AGMA consider that the pilot, if run, should run for a significant period to fully understand the benefits/pitfalls. Additionally, there may be unintended outcomes, for example authorities may simply abandon their schemes of delegation when faced with competition and insist on all items being considered directly by Members. This would place a huge drain on resources; potentially slow the process even further and potentially further increase appeal workload for the Planning Inspectorate as well as the LPA. As such, there needs to be proper evaluation of the pilots and further engagement with LPA's and the development community before any permanent proposals are implemented.

- 4.7 The model that the government is potentially promoting seems to be nearer to the approved inspector model that operates in the world of building control. It is considered that there are dangers in extending this sort of model into the planning arena. In effect the LPA could have no involvement in dealing with a planning application until such time as it is brought to a decision, either to a planning committee or (where it is delegated) to a council officer. Public perceptions could be that private sector interests now control the planning process, whilst the LPA would have no involvement in negotiating with an applicant until a report is submitted with a recommendation for decision. The "added value" that is achieved through the planning process is one of its real strengths, whilst an "approved planner" might seek to achieve an acceptable rather than good or excellent outcome in order to minimise the work on an application and thus maximise income.
- 4.8 Fundamentally, the proposals risk undermining a key tenet of the current system. A planning application is not simply a transaction between an applicant and a determining body. It is not only the applicant's interests that need to be considered. Currently, local authority planning officers will take into account the communities they serve when making their recommendations to elected councillors. Any new approach would need to safeguard that relationship. Failure to do this is contrary to the Government's drive to incentivise communities to accept/welcome new development. The proposals outlined currently fail to properly outline how the democratic process would be protected and where accountability lies with Approved Providers.

5.0 Permission in Principle

- 5.1 The Housing & Planning Bill is apparently looking to introduce a new regime, 'Permission in Principle' (PiP) – designed to separate 'in principle' issues (land use, location and amount of development) from technical detail (what buildings look like, etc.). The Bill provides for PiP for housing led development to be granted on sites in plans and registers and for minor sites on application to the LPA.
- 5.2 From a Greater Manchester perspective, the lack of planning permission is not perceived to be a particular issue holding back our brownfield sites. Greater Manchester has over 47,000 units with full or outline permission for housing already

identified in the housing supply, yet the delivery rate has stubbornly remained around the 5000 mark for several years.

- 5.3 It is not clear what benefit the new approach delivers over the current outline/reserved matter process and there are concerns that another form of planning permission (Permission in Principle/Technical Details Consent) would add an unnecessary layer of complication (following the introduction of 'Prior approval' for example) to the system.
- 5.4 Whilst measures to strengthen the plan-led system of development are positive, it is important to recognise that there can quickly be diminishing returns if the approach is too prescriptive. Developers want certainty that the principle of their proposals are acceptable, but will want to shape them and respond to market signals accordingly; the more detail that is included in the 'permission in principle', the more inflexible – and consequently less effective - it becomes. Even relatively minor changes would not be capable of amendment and would require a fresh application, thereby not saving time or resources. Therefore AGMA consider that this proposal would not create certainty and ensure delivery as developers and lenders would require the certainty of a technical details consent before proceeding.
- 5.5 The Housing & Planning Bill will act as primary legislation with a substantial amount of detail to come forward in secondary legislation falling from it. As such, it is important to note that any details of the likely effects of the Housing & Planning Bill are not yet known and therefore its implications cannot yet be fully understood.

6.0 Brownfield registers

- 6.1 Government has committed that 90% of suitable brownfield land will have permission for housing by 2020 and to the introduction of statutory brownfield land registers. Brownfield registers will be the vehicle for granting PiP. The expectation is that LAs will take a proactive approach to their registers and only reject sites when there is no realistic prospect of housing development. Government also expect that the large majority of sites which do not already have planning permission will be granted PiP. Exceptions to this are likely to be where the development raises environmental/habitat issues.
- 6.2 There is a danger that the overwhelming focus on delivering new housing, albeit in a piecemeal fashion and without adequate consideration of the supporting development requirements, may mean that insufficient land is available for alternative uses that may be to the broader good, e.g. land for employment, schools, health centres, shops, parks, transport or other infrastructure essential to the functioning of towns and cities.
- 6.3 GM authorities have bid to pilot the development of the brownfield registers and have successfully secured £100k for the 10 authorities. There are several issues relating to both the preparation of the registers and their intended use, which AGMA has concerns about, which will explore during the pilot phase and until this work is

completed, it is difficult to respond to many of the questions raised in the consultation.

- 6.4 Similarly the need to consult on the brownfield land registers (as well as other procedures) seems to be creating a level of bureaucracy around the process which is both time consuming and open to legal challenge which is contrary to the stated intention. It appears that the brownfield register is becoming a 'development plan lite' process which will add to confusion, workload and in a GM context, will probably not deliver any more houses.
- 6.5 There is concern that that the burden to prepare the register falls on the LPA, which has to undertake a lot of the work that a developer commonly would (in relation to infrastructure requirements for example) do, without the ability to generate fee income.

7.0 Complaints/FOI's

7.1 The Local Planning Authority receive a number of complaints that must be split into

- Service complaints – which are handled by the Directorate
- Complaints post decision – which are handled by the Directorate
- Enforcement Complaints – which are handled by the Directorate

It should be noted that objections to an application, which are normal representations to be taken into account as part of the determination process, are not formal complaints. These are duly considered and are reported to PCC as part of any officer reporting in relation to an application.

7.2 The section does not monitor the numbers of complaints in relation to the above except for how they relate to enforcement matters, which are separately reported to the PCC.

7.3 In relation to the other remaining complaints, the Council currently has a three stage complaints procedure and each respective step considers individual complaints at increasing managerial levels. However, increasingly people are using the three-step process in relation to decisions already made and issued. This is proving to be highly problematic in terms of time taken to respond to these complaints in this way, for which there are pre-defined legal alternatives. Essentially, once a decision has been issued, the options are that revocation/modification could be undertaken or a judicial review challenge made.

7.4 As far as revocation and modification are concerned, this process is a more extreme option, fraught with significant financial costs and across the country is relatively infrequently used. Where it is considered that the process for determining an application was correctly made and reflects having a strong conviction in correctly assessing a scheme and where appropriate consideration by the Planning Control Committee (which is different to third parties not agreeing to the decision), then this

option would not be entertained without very good and substantial planning reason. The remaining option open to third parties with sufficient 'standing' therefore would be a judicial review, which remains the most appropriate means of challenging an issued decision granting planning permission.

- 7.5 To explain the burden of responding to complaints put through to the Local Planning Authority in the Council's three step complaints procedure, the man hours associated can be extremely high. For example, were ten (10) people to write and complain that they did not like an issued decision and would then go on to try to argue against a response, using the tree step process, thirty (30) separate letters would need to be issued. Following this, the Local Government Ombudsman would be the last port of call, which itself would impose demands upon time in cumulating the information for and appropriately responding to the LGO. However, a successful judicial review by third parties is the only way to quash a planning permission, save for exceptional circumstances of revocation.
- 7.6 By way of more recent example, the Council currently has over twenty stage one complaints before it in relation to just one matter that was before the PCC for decision in April 2016. Where all persons were to exhaust all three stages of the complaint process, this is going to result in over sixty pieces of considered and separate correspondence, which is before any complainant may elect to escalate matter to the LGO. This is an example of the considerable burden on resources from dealing with complaint matters.
- 7.7 These impacts are being considered by the Directorate and in close working relationship with Legal Services, on whether the Development Management function should remain subject to existing procedures or whether an alternative process would work better. It is perhaps also important to note that the vast majority of complaints are, following due investigation, found to be not upheld.

8.0 Conclusion

- 8.1 Planning still remains a topic area that generates significant interest both from the public and the Government's perspective. It is evident that the legislative approaches remain committed to the reduction of intervention by LPAs, with the main intention to facilitate sustainable development. However, whether the role of the public in this process is secured will yet to be revealed as legislation evolves and the implementation of the Housing and Planning Bill becomes more apparent.
- 8.2 Planning in Bury evidences increased development activity and therefore a buoyant economy and in response to this Bury Council are one of the leading authorities in delivering decisions that maintain it at the top of the authorities in the country.

List of Background Papers:-

Housing and Planning Bill

AGMA response to Technical Consultation on Implementation of Planning Changes

PS1/2 Returns

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