



PLANNING PERFORMANCE REPORT

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to update the Committee on planning applications, planning appeals and reviews, enforcement and planning customer service performance against key outcome indicators for the period 2016/17.

2 BACKGROUND

- 2.1 The Planning Service is a key regulatory Council function delivering an effective customer focussed planning service, responsible for the assessment and processing of planning applications including the provision of pre application and post application information and advice to applicants, developers and other interested parties, the handling of planning reviews and appeals, the enforcement of planning legislation, the preparation of strategic and local development plans, planning policy and guidance; together with the development and implementation of policy and practice in respect of the conservation of natural and heritage resources, biodiversity, environmental sustainability and climate change.
- 2.2 The primary performance measure is the speed with which applications are determined. To monitor this, the Scottish Government has established statutory performance indicators, the terms of which are set out in section 3 of this report.
- 2.3 At its meeting of 11 May 2010 the Planning Committee instructed that it be provided with regular updates with regard to planning application performance. From February 2015 the Development Management and Planning Policy and Environment teams have been conjoined into a single Planning team.

3 DETERMINATION OF PLANNING APPLICATIONS

- 3.1 Table A, '*Planning Performance in the Handling of Planning Applications for the Period 01/04/16 to 31/03/17*' shows Planning performance with regards the processing of planning applications. While it is acknowledged that quality and speed in decision-making are not necessarily synonymous, speed is one measure of efficiency.
- 3.2 The Statutory Performance Indicators (SPI's) for the determination of planning applications are set by the Town and Country Planning (Scotland) Act 1997 (as amended by the 2006 Act). The target is for local planning

authorities to determine 90% of householder applications within 2 months, 80% of other local applications within 2 months and 80% of major applications within 4 months. Overall, the target is to determine 80% of applications within target.

3.3 Overall performance (how many applications have been determined within target) continues to be maintained at a high level. In 2016/17 81% of planning applications have been determined within target. This compares to 81% in 2015/16, 82% in 2014/15, 84% in 2013/14, 73% in 2012/13, 70% in 2011/12, 65% in 2010/11 and 55% in 2009/10.

3.4 A comparison between Midlothian's performance and the Scottish average for 2013/14, 2014/15 and 2015/16 are shown in the following table:

	Midlothian	Scottish Average	Midlothian	Scottish Average	Midlothian	Scottish Average
	2013/14	2013/14	2014/15	2014/15	2015/16	2015/16
Householder Applications determined within target	94%	86%	92%	86%	92%	86%
All Local Development Applications within target	84%	73%	82%	72%	81%	73%

The table shows that Midlothian's performance with regard householder and other local applications is above the Scottish average. The data for 2016/17 has not yet been collated and published by the Scottish Government.

3.5 With regard those applications which are not determined within target there are four main reasons why this is the case. These are:

- a) Planning Officers and the applicants are negotiating improvements/amendments to the proposal;
- b) The Planning Authority is awaiting amended plans/additional information from the applicants;
- c) The Planning Authority is awaiting responses and technical expertise from internal and external consultees; and
- d) Negotiating and concluding a planning obligation to secure developer contributions towards infrastructure.

3.6 Changes to the way planning performance is being measured came into effect in 2012/13. The introduction of a new Planning Performance Framework (PPF) provides a "balanced scorecard" approach to performance with the objective of giving a more rounded view of overall service quality. Performance measures will be both qualitative and quantitative. The qualitative assessment comprises a statement with regard the quality of development, customer service and efficient and effective decision making; and the quantitative assessment measures the average planning application determination times (rather than the percentage of applications determined within a set target time). The Council's PPF for 2015/16 was submitted to Scottish Government in July 2016. Given its size a copy of the document was placed in the Members' Library. Feedback from Scottish Government on the Council's submission was reported to the Committee at its meeting of

January 2017. The 2016/17 PPF is being prepared and will be submitted to the Scottish Government in July 2017.

- 3.7 Planning performance with regards the processing of planning applications is also measured by the average time (weeks) to deal with major and local planning applications. Table B, *'Planning Performance in the Handling of Planning Applications for the Period 2013/14, 2014/15 and 2015/16: The Average Time (weeks) to deal with Major and Local Planning Applications.'* shows Planning performance with regards the processing of planning applications using this new measure.
- 3.8 Table A shows that in 2016/17 912 applications were received, this is compared to 968 in 2015/16, 993 in 2014/15, 883 in 2013/14, 716 in 2012/13 and 619 in 2011/12. The increase in application numbers during this period reflects the increasing construction and development activity taking place in Midlothian.

Table A**Planning Performance in the Handling of Planning Applications for the Period 01/04/16 to 31/03/17**

Performance Indicator	April – June 2016 Q1 2016/17	July – Sept 2016 Q2 2016/17	Oct – Dec 2016 Q3 2016/17	Jan – March 2017 Q4 2016/17	Total for year 2016/17	Total for year 2015/16
% of all local applications determined < 2 months	80% (133 from 166)	83% (106 from 127)	88% (125 from 142)	85% (123 from 145)	84% (487 from 580)	82% (548 from 668)
% of householder applications determined < 2 months	91% (68 from 75)	92% (54 from 59)	89% (48 from 55)	95% (54 from 57)	91% (225 from 246)	92% (243 from 264)
% of other local applications determined < 2 months	71% (50 from 70)	72% (41 from 57)	82% (51 from 62)	73% (48 from 66)	75% (190 from 255)	70% (230 from 328)
% of major applications determined < 4 months ¹	0% (0 from 2)	0% (0 from 2)	0% (0 from 2)	0% (0 from 4)	0% (0 from 10)	0% (0 from 13)
% of non planning applications determined < 2 months ²	71% (15 from 21)	100% (11 from 11)	100% (25 from 25)	95% (21 from 22)	91% (71 from 79)	99% (75 from 76)
Number of Pre Application Consultation applications	2	0	1	0	3	8
Number of recorded pre-application enquiries ³	63	59	52	56	230	223
Number of applications received ⁴	233	198	239	242	912	968

The figures in (*brackets*) are the actual numbers of applications.

¹ A major application can only be submitted after the completion of a Pre Application Consultation (PAC) process.

² Non planning applications comprise; works to trees applications, high hedges applications and prior notification applications.

³ Since June 2010 formal requests for pre application advice have been recorded in the back office database (see paragraphs 6.1 and 6.2 below)

⁴ Figures include planning applications, listed building consents, advert consents, applications under the prior notification procedures, certificates for lawful development, works to trees applications, high hedges applications and formal pre application enquiries.

Table B

Planning Performance in the Handling of Planning Applications for the Periods 2013/14, 2014/15 and 2015/16:

The Average Time (weeks) to deal with Major and Local Planning Applications.

Performance Indicator	Midlothian Total for	Scottish Average	Midlothian Total for	Scottish Average	Midlothian Total for	Scottish Average
	2013/14	2013/14	2014/15	2014/15	2015/16	2015/16
Householder applications. Average weeks for those applications determined within 2 months.	6.6	6.6	6.2	6.5	6.2	6.5
Householder applications. Average weeks for those applications determined over 2 months.	11.3	14.2	11.5	13.6	15.7	13.4
Householder applications overall average	6.9	7.7	6.7	7.5	6.9	7.5
All Local applications. Average weeks for those applications determined within 2 months.	6.7	6.8	6.5	6.7	6.6	6.7
All Local applications. Average weeks for those applications determined over 2 months.*	45.5	23.0	21.4	19.7	18.9	19.3
All Local applications overall average	12.7	11.3	8.4	10.3	8.7	10.0
Major applications. Average weeks for all major applications.*	60.5	53.8	77.4**	46.4	47.8	38.8

* The determination time of applications also includes the time periods to negotiate developer contributions and conclude Section 75 legal agreements.

**This figure includes the time taken to conclude the legal agreement and issue the Shawfair planning permission (4,000 houses, schools, town centre and employment opportunities). If this application was excluded from the measure the average time to deal with a major application would drop to 20.8 weeks, significantly below the Scottish Average.

The data for 2016/17 average time (weeks) to deal with major and local planning applications has not yet been collated and published by the Scottish Government

4 Planning Appeals and Reviews

4.1 For the period April 2016 – March 2017 the Scottish Government Directorate for Planning and Environmental Appeals determined five appeals in Midlothian. The appeal decisions were as follows:

- An appeal against a refusal to grant planning permission (15/00737/DPP) for the formation of a hot food takeaway and installation of a flue at 5 Staiside Court, Bonnyrigg was upheld. The application was refused on grounds of its impact on the vitality of the local centre, its impact on the amenity of nearby local residents and it being contrary to the Council's healthy eating objectives. The Scottish Government Reporter upheld the appeal on the basis that the proposed development did not have a detrimental impact on the vitality of the local centre or on local residents' amenity and that the Council's healthy eating objectives were not a material consideration in the assessment of a planning application. An application for costs, submitted by the applicant, was not awarded. A copy of the appeal decision was presented to the Planning Committee at its meeting of May 2016.
- An appeal against a refusal of a planning permission in principle application (15/00546/PPP) for residential development and associated infrastructure on land west of the Cottage, Hardengreen, Dalkeith was dismissed. The application was refused by the Planning Committee at its meeting of 17 November 2015. The Scottish Government Reporter dismissed the appeal after considering the proposed development would be inappropriate in the green belt/countryside and would lead towards coalescence between settlements. A copy of the appeal decision was presented to the Planning Committee at its meeting of August 2016.
- An appeal against a refusal of advert consent (16/00407/ADV) for display of non-illuminated signage (retrospective) at 21 The Square, Penicuik was upheld and consent granted. The Scottish Government Reporter upheld the appeal after considering the advert preserves the character and appearance of the conservation area, does not detract from the special interest of any nearby listed building and it is not harmful to amenity. A copy of the appeal decision was presented to the Planning Committee at its meeting of January 2017.
- An appeal against a refusal of a Certificate of Lawful Use (16/00368/CL) for the use of outbuilding and adjacent outdoor space as boarding kennels at The Smithy, Mossend, Gorebridge was dismissed and a Certificate of Lawful Use was not issued. The Scottish Government Reporter dismissed the appeal after considering there was not sufficient evidence to support the applicant's assertion that the stated use had been in operation for at least ten years. A copy of the appeal decision was presented to the Planning Committee at its meeting of January 2017.
- An appeal against a refusal of an application to discharge a legal agreement (16/00020/LA) for Borders Rail contributions at Hopefield Farm, Bonnyrigg has been dismissed and the requirements of the legal agreement upheld. The Scottish Government Reporter dismissed the appeal after considering it is appropriate to request developer contributions towards the Borders Rail despite the site's original allocation in 2003 as this plan has been superseded by the adoption of the Midlothian Local Plan 2008 and the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) which sets

out a requirement for sites within the rail corridor to make a contribution. A copy of the appeal decision was presented to the Planning Committee at its meeting of February 2017.

- 4.2 Changes in the planning system introduced by the Scottish Government in 2009 required each local planning authority to establish a local review body (LRB) to review planning decisions made under delegated powers. In the period April 2016 – March 2017 a total of 18 cases were determined, details of which are attached at Appendix A. Prior to the changes introduced by the new planning act all of these ‘appeals’ would have been determined by Scottish Ministers.

5 Planning Enforcement

- 5.1 In addition to the determination of planning applications and appeals, the Planning service is responsible for the enforcement of planning legislation. The Council has an adopted Enforcement Charter which outlines the Council’s approach to investigating and resolving alleged breaches of planning control. The table below outlines the number of formal notices issued and the number of cases which have been/are subject to investigation.

Performance Indicator	Total for year 2014/15	Total for year 2015/16	Total for year 2016/17
Number of notices issued*	4	7	4
Number of enforcement cases lodged**	155	147	177

* The full range of notices which the planning authority could issue is outlined in the Council’s adopted Enforcement Charter.

** Many enforcement enquires are resolved without developing into ‘cases’ and are therefore not counted against this performance measure.

6 Customer Services

6.1 The ‘Duty Officer’ Service

In addition to the handling of planning applications and planning appeals, enforcement of planning control and the preparation of development/design briefs the team responds to a wide range of associated enquiries giving planning advice to the public and others. Such enquiries include giving pre application advice, advising whether planning permission is required for a particular development and giving specialist tree and landscape advice. Each month the Planning duty service receives over 400 phone calls, an estimated 100 written enquiries and 150 visits to the reception (these statistics do not include the contact made directly to planning application case officers).

6.2 Pre Application Advice

In June 2010 a formal pre application advice service was introduced. This service supplemented the more informal advice given on a daily basis by the ‘duty office’. Pre application advice requested in writing is recorded in the Council’s back office database and the responses are monitored. This has

helped to improve the management of this service and the advice given. A total of 230 formal pre application enquiries were submitted in 2016/17, this compares to 223 submitted in 2015/16, 229 submitted in 2014/15, 189 submitted in 2013/14, 153 submitted in 2012/13, 140 submitted in 2011/12 and 91 submitted in 2010/11.

6.3 E-planning

Following the successful implementation of the Council's Online Applications and Appeals (OAA), Online Planning Information Systems (OPIS) and eConsultations (eCONS) work streams the Council's Planning service went live on 29 April 2009 and all planning applications submitted following this date have been made available online. In addition to these applications being available online a programme of back scanning has been undertaken and in total 7,950 (on 1 May 2017) planning applications can be viewed online. The Council's stakeholders are actively engaged with the online services, and the public access terminals located in Fairfield House reception are widely used by members of the public for viewing planning applications. Since 29 April 2009, 2,603 planning applications (representing 37% of the total number received) have been submitted using the online services and some 9,964 comments (45% of all comments) have been received from members of the public via the web; objecting to or supporting planning applications. Since April 2009 (and as at 1 May 2017) 971,185 planning application searches have been performed via the Council's website.

7 Recommendations

7.1 It is recommended that the Committee:

- (i) notes the content of this report; and
- (ii) continues to receive an annual Planning performance report.

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Background Papers

- (a) Planning (Scotland) Act 2006
- (b) Planning Regulations and Circulars
- (c) Previous Planning performance reports

Appendix A

Table of Local Review Body Decisions (April 2016 to March 2017)

	Application Reference	Site Address	Proposed Development	Status of Review
1	15/00794/DPP	Land north of 22 Tipperwell Way, Howgate	Change of use of agricultural land to residential garden	Permission granted at LRB meeting of 26.04.2016
2	15/00948/DPP	Land adjacent Rosebank North Cottage, Roslin	Demolition of outbuilding and erection of new building	Permission granted at LRB meeting of 26.04.2016
3	15/00939/DPP	Gourlaw Farm, Rosewell	Change of use of outbuildings to dog day centre	Permission granted at LRB meeting of 07.06.2016
4	15/00994/DPP	Land west of Springfield House, Lasswade	Erection of 5 dwellinghouses	Permission refused at LRB meeting of 07.06.2016
5	16/00044/DPP	1 Galadale Drive, Newtongrange	Erection of extension to dwellinghouse	Permission granted at LRB meeting of 07.06.2016
6	15/00995/DPP	Cherrytrees, Fala, Pathhead	Erection of dwellinghouse	Permission granted at LRB meeting of 07.06.2016
7	16/00213/DPP	47 Arthur View Terrace, Danderhall	Erection of extension to dwellinghouse	Permission granted at LRB meeting of 06.09.2016
8	16/00193/DPP	Lothian Cottage, Dalkeith	Erection of two storey and single storey extension to dwellinghouse	Permission granted at LRB meeting of 06.09.2016
9	16/00470/DPP	Grange Dell Lodge, Penicuik	Subdivision of single dwellinghouse to form two dwellinghouses and associated extension and alterations.	Permission granted at LRB meeting of 26.10.2016
10	16/00474/DPP	2 Lamb's Pend, Penicuik	Change of use office to residential (5 flats) and associated external alterations	Permission granted at LRB meeting of 26.10.2016
11	16/00429/DPP	Land at Howgate Restaurant, Howgate	Erection of 3 dwellinghouses	Permission granted at LRB meeting of 29.11.2016
12	16/00575/DPP	5 Thornyhall, Dalkeith	Alterations to roof of conservatory	Permission granted at LRB meeting of 29.11.2016
13	16/00568/DPP	7 Cochrina Place, Rosewell	Erection of extension to dwellinghouse	Permission granted at LRB meeting of 29.11.2016
14	16/00508/DPP	66 Newbattle Abbey Crescent, Dalkeith	Erection of timber building and fencing	Permission granted at LRB meeting of 24.01.2017
15	16/00758/DPP	Land at Hardengreen House, Dalhousie Road, Dalkeith	Erection of nursery building and formation of car park	Permission granted at LRB meeting of 07.03.2017

16	16/00762/DPP	1D Dalhousie Avenue, Bonnyrigg	Erection of porch	Permission granted at LRB meeting of 07.03.2017
17	16/00460/PPP	Land south west of Wellington School, Penicuik	Planning permission in principle for the erection of a single dwellinghouse	Permission refused at LRB meeting of 07.03.2017
18	15/00952/DPP	Airybank House, Cousland Kilns Road, Cousland	Erection of 8 dwellinghouses	Permission refused at LRB meeting of 07.03.2017