

**COMMITTEE**                                 **PLANNING**

**DATE**   **30 August 2016**

**SUBJECT**                                 **SUMMARY OF PERFORMANCE OF THE PLANNING SERVICE FOR 2<sup>nd</sup> QUARTER (Apr - Jun) OF 2016**

**REPORT OF**                                 **Leigh Palmer Senior Specialist Advisor (Planning)**

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**WARDS**   **All**

**PURPOSE**                                 **This report provides a summary of performance in relation to key areas of the Development Management Services for the relevant period**

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**RECOMMENDATION**                       **That Members note the content of this report**

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## **1 Background**

Members will be aware that together we deal with a whole host of planning applications covering a range of differing forms of development.

Given the many varied types of planning application received Central Government require that all Councils report the performance in a consistent and coherent manner. To this end and for reasons the many varied applications are clumped together into three broad categories Major, Minor and Others.

In broad terms the types of application falling into these categories are outline below.

MAJOR DEVELOPMENT	MINOR DEVELOPMENT	OTHER DEVELOPMENT
10+ Dwellings / Greater .5Ha	1-9 Dwellings/ greater .5Ha	Householder applications
Office/light industrial greater 1000sqm/ 1Ha	Office /light industrial up to 999sqm under 1Ha	Change of use
General industrial greater 1000sqm / 1Ha	General Industrial up to 999sqm under 1 Ha	Adverts
Retail greater 1000sqm / 1Ha	Retail up to 999sqm under 1 Ha	Listed Building
Gypsy & Traveller 10+ Pitches	Gypsy & Traveller 0-9 Pitches	Conservation Area Applications
		Certificates of Lawfulness
		Notifications

In analysing the performance for the processing of these differing types of application the Government do allow 13 weeks for the processing major applications

and 8 weeks for processing the Minor and Other categories.

The figures below give the development management performance figures against these categories and starting with the calendar year 2013 on going annual and quarterly.

In addition this report also includes information about the recent appeal decisions and Members should note that any decision made to refuse an application opens the potential for an appeal by the applicant to the Planning Inspectorate.

As Members will be aware the majority of the applications received are granted planning permission, however for those that are refused and challenged through to an appeal it is considered important to analyse the appeal decisions in order to determine and evaluate whether lessons need to be learnt, or interpretations need to be given different weight at the decision making stage.

In addition the evaluation of the appeal decisions will also go some way to indicate the robustness and the correct application of the current and emerging policy context at both a local and national level.

## **2 Special Measures**

Members will be aware that along with all Councils our performance has to be reported to Central Government and where authorities are deemed to be underperforming then they will be placed in 'special measures'.

As from June 2014 the Government have imposed two criteria against which Councils will be assessed, these are:-

- Where Councils have received more than 10 major applications over a rolling two year period then no more than 40% should take longer than 13 weeks to deal with.
- Where Councils have received more than 10 major applications over a rolling two year period 20% of decisions on major applications are overturned at appeal.

Members please note that the Government are consulting on additional/revised measures. At the time of writing it is suggested that the Major applications overturned at appeal should be reduced from 20% - 10% and that the number of major application determined in time should increase from 40% - 50%.

The Government are also now looking to roll out special measures criteria to 'non-major' applications and they are consulting on what these thresholds should be. At the time of writing the special measure thresholds are:-

- Where authorities fail to determine at least 60-70% of non-major application in time
- Where authorities have had more than 10-20% of their applications for non-major development overturned at appeal.

Members will note therefore that it is important to keep abreast of all decisions with regard to maintaining performance above the 'special measure' thresholds. This report will highlight when/where we may be at risk.

## 2 All Decisions

It is clear therefore that with the regular (quarterly) reporting of this this report to Planning Committee issues, trends and pressures could readily be identified. The figures in Tables 1-3 below include the data from the Government return (currently excludes 'Notifications Prior Approvals and Certificates of Lawful development, trees and pre application submission)

TABLE 1

Decisions	2013	2014	2015	2106
All determined	574	596	545	301
Delegated	510 (89%)	521 (87%)	472 (87%)	256 (85%)
Granted	521 (91%)	546 (92%)	488 (90%)	270 (90%)
Refused	49 (9%)	50 (8%)	57 (10%)	31 (10%)

TABLE 2

	TYPE	NUMBER
2013 Whole Year	All determined	574
2014 Whole Year	All determined	596
2015 Whole Year	All determined	545
2016	All determined	301
2016 Q1 (Jan - Mar)	All determined	133
	Delegated	113
	Granted	120 (90%)
	Refused	13 (9%)
2016 Q2 (Apr - Jun)	All determined	168
	Delegated	143
	Granted	150 (89%)
	Refused	18 (11%)
2016 Q3 (Jul - Sep)	All determined	0
	Delegated	0
	Granted	0
	Refused	0
2016 Q4 (Oct - Dec)	All determined	0
	Delegated	0
	Granted	0
	Refused	0

It is clear from the tables above that the volume of the cases determined during the survey period (Tables above) have percentage levels consistent with the whole year (2013 -15) percentages.

It is considered that in granting planning permission for 90% of all applications received that the planning services of Eastbourne Borough Council have supported/stimulated the local economy and also helped to meet the aspirations of the applicants and only where there are substantive material planning considerations is an application refused.

The table below highlights the speed of decision against the three Government categories (Major Minor and Other).

It is clear from the table below that the team are performing on/over the National PI threshold and that there are, at this time, **no special measure risks**.

TABLE 3

TITLE	Q1 (Jan – Mar) %	Q2 (Apr – Jun) %	Q3 (Jul – Sep) %	Q4 (Oct – Dec) %	Year in total (Rolling Performance as a %)	National/local TARGET PI %	SPECIAL MEASURES PI %
MAJOR	2/2 (100%)	4/3 (75%)				60	20
MINOR	52/39 (75%)	82/73 (89%)				65	0
OTHER	79/70 (89%)	82/76 (93%)				80	0

#### PRE-APPLICATION ADVICE

In addition to the formal applications received the Council offer a free pre application advice service. The table below indicates the numbers of pre-application enquiries received by the Council for the years 2014-5 and a rolling number for the current year.

TABLE 4

PROCESS NAME	NUMBER 2016	NUMBER 2015	NUMBER 2014
PRE APP (Old Process)	0	0	53
PRE APP HOUSEHOLDER	141	163	126
PRE APP MEDIUM	75	159	108
PRE APP MAJOR	14	10	16
TOTAL	230	332	303

This information is considered to be relevant given that it is a barometer as to the additional workload of the team. Members should note a significant spike being reported at this time and if this level continues throughout the remaining part year there may well be a staffing/resource issue.

In addition Members should note that our returns to central government are based a prescribed application categories and they do not necessary highlight the volume of work going through the Planning section of the Council.

Members should note that the Table 4a & 4b includes further application data by ward.

Table 4a & 4b

Rolling number for the Calendar Year 2016 and the full calendar year 2015.

Applications Received (Including All Planning Applications - Pre application Schemes - Tree application & Invalid submissions). This table gives the full account of the workload coming through the section.

Table 4a & 4b  
2015

Row Labels	Count of ward
DV	
Devonshire	164
HP Hampden Park	46
LG Langney	50
MD Meads	386
OT Old Town	126
RN Ratton	138
SA St Anthony's	120
SV Sovereign	91
UP Upperton	198
(blank)	
<b>Grand Total</b>	<b>1319</b>

2016

Row Labels	Count of ward
DV Devonshire	134
HP Hampden Park	37
LG Langney	38
MD Meads	162
OT Old Town	73
RN Ratton	74
SA St Anthony's	67
SV Sovereign	67
UP Upperton	96
(blank)	
<b>Grand Total</b>	<b>748</b>

#### 4 Refusals

Members requested further information on the number and break down of the refusal issued for the calendar year 2016 (to date). This information is highlighted within tables 5 & 6 below.

Member should be aware that in common with other years we refuse fewer than 10% of the applications received.

TABLE 5  
REFUSALS BY WARD

Row Labels	Count of ward
DV Devonshire	9
LG Langney	3
MD Meads	6
OT Old Town	1
RN Ratton	2
SA St Anthony's	4
SV Sovereign	2
UP Upperton	7
(blank)	
<b>Grand Total</b>	<b>34</b>

TABLE 6  
REFUSAL BY DECISION LEVEL (see below)

#### COMMITTEE REFUSAL

150965	CCC Planning Committee	Retention of existing UPVC windows to front (south east) and side	23-25 Royal Parade	DV Devonshire
151006	CCC Planning Committee	Retrospective application for the retention of a biomass boiler, flue	14 Maple Road	SA St Anthony's
151007	CCC Planning Committee	Erection of a detached dwelling with integral garage.	4 Walnut Tree Walk	RN Ratton
151295	CCC Planning Committee	Demolition of existing building and erection of a three storey block	29 Bedfordwell Road	UP Upperton
151314	CCC Planning Committee	Erection of a two and a half storey building containing 10 two bedroom	2 Upland Road	OT Old Town
151334	CCC Planning Committee	Proposed change of use from a single dwelling into a 7 roomed HMO	9 Willowfield Road	DV Devonshire
151369	CCC Planning Committee	Change of use from light industrial unit, to single residential unit.	4 St James Road	DV Devonshire
160152	CCC Planning Committee	retention of 3m x 4.05 m x 2.75 m brick outbuilding build in rear	5 Gilbert Road	DV Devonshire
160316	CCC Planning Committee	Proposed two storey dwelling with parking space.	33 Meadowlands Avenue	RN Ratton
160398	CCC Planning Committee	Extension to the front of the existing dwelling and a roof raise loft	21 Granville Road	MD Meads

#### DELEGATED REFUSALS

2E+05	DDD Delegated List	To replace existing balcony door and side light, at first floor level	8 Eversfield Road	UP Upperton
2E+05	DDD Delegated List	Erection of additional extension at second floor rear.	24 Meads Street	MD Meads
2E+05	DDD Delegated List	Use of 26-28 Elms Avenue as a house of multiple occupation (sui	26-28 Elms Avenue	DV Devonshire
2E+05	DDD Delegated List	Partial Demolition of boundary wall facing Jevington Gardens. Creation	26 Jevington Gardens	MD Meads
2E+05	DDD Delegated List	Erection of a detached dwelling with parking at the front, involving	7 Carew Road	UP Upperton
2E+05	DDD Delegated List	Ground floor single storey rear extension.	2 Princes Road	SV Sovereign
2E+05	DDD Delegated List	Two storey side extension with integral garage at ground floor, single	108 Ringwood Road	SA St Anthony's
2E+05	DDD Delegated List	Erection of two storey rear extension.	5 Queens Road	SV Sovereign
2E+05	DDD Delegated List	Installation of 2x internally illuminated projecting signs	70 Arndale Centre	DV Devonshire
2E+05	DDD Delegated List	Demolition of garage at rear of site (accessed from Sorrel Drive) and	55 Friday Street	LG Langney
2E+05	DDD Delegated List	Retrospective application under s73a for the erection of two balconies	25 Compton Place Road	UP Upperton
2E+05	DDD Delegated List	erection of detached 5 no. bed dwelling on land to the rear of 15	15 Hartfield Road	UP Upperton
2E+05	DDD Delegated List	To replace the ground floor front bay timber windows with new white	37 Enys Road	UP Upperton
2E+05	DDD Delegated List	Erection of an attached dwelling at side.	2 Snowdon Close	LG Langney
2E+05	DDD Delegated List	Part two storey, part single storey rear extension and erection	71 Ringwood Road	SA St Anthony's
2E+05	DDD Delegated List	Proposed change of use from garage to single private dwelling together	4 Enys Road	UP Upperton
2E+05	DDD Delegated List	Proposed change of use from retail to residential.	182-184 Seaside	DV Devonshire
2E+05	DDD Delegated List	Four storey extension to North-west elevation and conversion of retail	21 Susans Road	DV Devonshire
2E+05	DDD Delegated List	Converting lower ground floor area into a self contained flat at 56A	56a Grove Road	MD Meads
2E+05	DDD Delegated List	Single storey flat roof side extension.	12 Honeysuckle Close	LG Langney
2E+05	DDD Delegated List	Single storey flat roof extension	11 Meads Road	
2E+05	DDD Delegated List	Prior approval for erection a single storey rear extension for which	23 Astaire Avenue	SA St Anthony's
2E+05	DDD Delegated List	Alterations and extensions to roof of building to provide additional	31-41 Carlisle Road	MD Meads
2E+05	DDD Delegated List	Form parking bay at front for 1 car. Re-submission of planning	26a Jevington Gardens	MD Meads

## 5 Appeals

As commented above all applications that are refused have to the potential to be appealed by the applicant. The Council for the year 2016 have received 5 appeal decisions and the decision letters are reported to planning committee under a separate cover appended to this report (for information purposes)

Appeals received by development type/application

TABLE 7

Row Labels	Count of pacode
HHH Householder	6
PPP Planning Permission	8
TTP Tree Works - Tree Preservation Orders	1
VCO Variation of Condition	1
<b>Grand Total</b>	<b>16</b>

### APPEAL ANALYSIS

Recent appeal decision letters are appended to this report

TABLE 8

	Officer Approve Cttee Refuse Appeal decision- Allowed	Officer Approve Cttee Refuse Appeal decision - Refused	Officer Refuse Cttee Support Refusal Appeal decision Allowed	Officer Refuse Cttee Support Refusal Appeal decision Refused
2013	7 (28%)	4 (16%)	2 (8%)	12 (48%)
2014	0	4 (40%)	2 (20%)	4 (40%)
2015	0 (0%)	3 (21%)	2 (14%)	9 (65%)
2016	4 (25%)	0	1 (6%)	11 (69%)
2017				

The above table 8 identifies the relevant decisions permutations and it is acknowledged that the appeal volume is reducing when compared to 2013. There may be a number of reasons for this; it could be applicants benefiting from the free pre-application advice and thereby improving the quality of the schemes that are being submitted; it could also be the Governments introduction of the 'larger residential extension' scheme that allows for homeowners to extended greater depth than would formerly be allowed without the need for a planning application. The appeal rate/volume will continue to be monitored going forward.

It is accepted that Eastbourne due to the nature and type of the borough statistically receives few major applications and as such we may not get above the survey threshold of more than 10 appeal decisions overturned. Notwithstanding this it is considered important to review and analyse all appeal decisions across all

application types as an indicator that we have applied a sound planning judgement at both delegated and planning committee level. It is considered that reporting the appeal decisions in full to planning committee under a separate cover will assist in understanding trends and common issues.

Appeal Analysis Table 8 Column 1

**Officer recommendation for approval – Member overturned – Appeal Allowed (Officers right Members were wrong)** It is important to keep a watching brief on this column as this is often the scenario where costs are awarded against the Council.

It is accepted that at times there are differences of opinion between officers and Members however for the appeal decisions received to date there has been only four instances this year where this scenario has occurred.

Appeal Analysis Table 8 Column 2

**Officer recommendation for approval – member overturned – appeal dismissed (Officers were wrong and Members were right)** This is also a category where appeal costs can be awarded. This shows that officers are not always right, there are no cases falling into this bracket in this survey period.

Appeal Analysis Table 8 Column 3

**Officer recommendation for refusal – Member support for refusal (committee or delegated) – Appeal allowed – Officers and Member were wrong.** This shows that officers and Members are in tune but the officers have been overzealous with their recommendation and it has not been supported by the Planning Inspectorate.

It is acknowledged that there is only one appeal falling into this category within the survey period however it is important to continue to monitor as it is an indication that Officers may not follow planning policy/advice and skewing recommendations following neighbour concerns or trying to second guess the outcome of planning committee.

In essence it is important that officers do not shy away from making difficult recommendations if the recommendation is in accordance with national and local advice/policies.

Appeal Analysis Table 8 Column 4

**Officer recommendation for refusal – Member support for recommendation (committee or delegated decisions) – appeal dismissed (officers and Members were right).** This column shows when Officers and Members are in tune and supported by the Planning Inspectorate. The Higher the % the better, Members will note that this category is usually by far the largest, this is a reflection that the decision that were taken were consistent with National and Local advice.

### **Appeal Costs**

As members will be aware the appeal process can award costs to any party involved in the appeal process where it can be demonstrated that any party has acted unreasonably. During the survey period the Council received one award of costs:-



One appeal for costs has been submitted within the survey period; this claims that the Council acted unreasonably in their handling of the application for the Biomass Boiler at 14 Maple Road. The agent for this appeal has supplied details justifying their costs claim of under £3,000.

Members should note that this is not an insignificant sum of money that is taken from the public purse and as such collectively we should strive to secure that wherever possible costs claims are avoided. Legal and Planning Officers will advise members where there is the likelihood of a cost claim being successful.

At the time of writing there are no risks of special measures in relation to overturned appeals.

## **6 Planning Enforcement**

### **Planning Enforcement**

As outlined in the Planning Enforcement Policy Statement regular reporting of the enforcement function to Planning Committee is considered important as it keeps members aware of the cases and issues that are live in their area and it assists in:-

- Tackling breaches in planning control which would otherwise have an unacceptable impact on the amenity of the area;
- Maintaining the integrity of the decision-making process;
- Helping to ensure that the public acceptance of the decision making process is maintained.

Going forward these statistics are reported to Planning Committee on a quarterly basis with an annual review.

Members will note some of the data places high volumes in the Devonshire ward, this reflects the focus given with/by the Difficult Property Group through S215 (Untidy Sites) legislation and also emphasises the support for the 'Driving Devonshire Forward' policy document.

TABLE 9  
Enforcement Live Case on Hand

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Row Labels	Count of WardDescription
Devonshire	19
Hampden Park	10
Langney	5
Meads	20
Old Town	7
Ratton	17
Sovereign	5
St Anthony's	10
Upperton	13
(blank)	
<b>Grand Total</b>	<b>106</b>

Cases Closed/Received

TABLE 10 Closed/Received Annual

YEAR	CLOSED	RECEIVED
2014	253	363
2015	347	332
2016	189	172

TABLE 11 Closed/Received Quarterly

YEAR/Q	CQ1	RQ1	CQ2	RQ2	CQ3	RQ3	CQ4	RQ4
2014	33	107	38	72	95	92	87	92
2015	74	73	61	92	117	91	95	76
2016	79	73	110	99	0	0	0	0

It is important to note that the closure rate is now exceeding the volume of received cases and as such there should not be an expanding backlog of live cases. On this issue Members should note that the volume of cases on the over 6 months old list has been reduced to 19 cases around 18% of all live cases.

TABLE 12 Cases on hand over 6 months old

Year	Q1	Q2	Q3	Q4
2015	Not recorded	Not recorded	Not recorded	31
2016	29	19		

Below is a list of those live cases that have been on the books for more than 6 months. Members will note that this has reduced by ten cases from the end of Q1 report.

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Reference No.	Officer	Breach	Address	Ward
118737	Thea Petts	Amenity Issue - all floors and balcony	41 Cavendish Place	Devonshire
118739	Thea Petts	Amenity Issue - All Floors, Windowframes and Balcony	33 Cavendish Place	Devonshire
118741	Thea Petts	Amenity Issue - All Floors and Visible Elevations	Senlac House 53-59 Seaside	Devonshire
119232	Thea Petts	Unightly derelict property	1b Carlton Road	Devonshire
116864	Toby Balcikonis	PARADE OF SHOPS IN POOR STATE OF REPAIR	Brassey Parade	Hampden Park
119817	Toby Balcikonis	Land and property of poor appearance	93 Pevensey Bay Road	St Anthony's
117429	Anna Clare	Poor appearance of building affecting amenity of land	10-12 St Leonards Road	Upperton
119458 (R)	Sally Simpson	Satellite dish on front elevation	18a Cornfield Terrace	Meads
119480 (R)	Sally Simpson	Satellite dish on front elevation.	17a Cornfield Terrace	Meads
118187	Thea Petts	Unauthorised decking	2 Jephson Close	Meads
119452	Anna Clare	unauthorised structure in rear garden duplicate of 119215	5 Belvedere	Sovereign
115327	Toby Balcikonis	Large Shed/ huts for breeding pigeons in back garden	Suehalywen 4 Nuthatch Road	Langney
116258	Toby Balcikonis	Large decking area to the rear of property up to 2m in height	8 The Circus	St Anthony's
118162	Toby Balcikonis	Fence erected enclosing land to the side of the property.	258 Sevenoaks Road	Langney
118830	Anna Clare	Unauthorised erection of new boundary fence	24 Sevenoaks Road	St Anthony's
117824	Thea Petts	Reported garage conversion into self-contained flat (plus	24 Coastguard Square	Devonshire
119558	Neil Holdsworth	Erection of large outbuilding in rear garden.	5 Gilbert Road	Devonshire
119433	Thea Petts	Installation of satellite dish to LB for flat 3 without PP	14 Cornfield Terrace	Meads
119757	Thea Petts	Unauthorised metal structure in front car park	Elstree Court	Meads

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## Enforcement Notices served in 2015

As members may know there are many differing types of enforcement notices the main ones being:-

- Enforcement Notice
- Stop Notice
- Temporary Stop Notice
- Planning Contravention Notices
- Breach of Condition Notices
- Injunctions

The following 21 addresses were served one of the above notices during 2015:-

- 24 Coastguard Sq
- East Beach Hotel
- 21 Susans Road
- 41 Cavendish Road
- 33 Cavendish Road
- Senlac House, Seaside
- 60 Susans Road
- 54 Bridgemere Road
- 50 Meadowlands Avenue
- 25 Harding Avenue
- 1 Windermere Grove
- 8 The Circus
- 258 Seven Oaks Road
- 2 Jephson Close
- 18a Cornfield Road
- 17a Cornfield Road
- 69 Bourne Street
- Regency Mews, Silverdale Road
- 22 Vine Sq.

- 7 Framfield Way
- 1 Spring Close.

In terms of proactive monitoring of planning cases the following has been adopted:-

- **Monthly Site Meetings.** In relation to the Major development sites at Sovereign Harbour and Eastbourne College this will ensure early warning of potential breaches of planning control and given this early warning officer can advise on the best ways forward.
  - **Planning Condition Monitoring.** Using our back office system we are now regularly monitoring conditions of key decisions/cases, these are primarily planning committee cases.
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## **7 Legal & Human Resources**

Save for the potential costs claim that could follow an appeal there are no other legal issues arising from this report.

It is considered that the current workload/capacity and the current level of performance can be sustained with/by the current establishment. However some scrutiny over the volume of pre-application submissions is required in order to ensure that the resource levels match the extent of work being submitted.