

Report of Chief Planning Officer**Report to Joint Plans Panel****Date: 26 February 2015****Subject: Performance management report-quarters 1-3**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	☐ Yes	☒ No
Are there implications for equality and diversity and cohesion and integration?	☐ Yes	☒ No
Is the decision eligible for Call-In?	☐ Yes	☒ No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	☐ Yes	☒ No

Summary of main issues

1. There continues to be a steady increase in the numbers of planning applications received by the service in the first nine months of 2014-15, up overall by 6% compared with the same period last year. Major applications also have increased in number by 10% compared with last year. Performance on majors shows that 89.8% of decisions made this year were determined in the 13 week time period where an extension of time had not been agreed with the applicant.
2. Our performance on appeals has decreased with a higher number of appeals being allowed by The Planning Inspectorate. Whilst this is disappointing it suggests that The Inspectorate are taking a more “relaxed “ approach following changes made to permitted development rights. Officers are reviewing any common issues arising from decisions and whether we should be adopting a different approach on certain types of schemes to avoid losing appeals in future. Whilst this might mean that the high quality which the Council has strived for might be diluted it also means that the Council does not place itself at risk of becoming a “special measures” authority.
3. There are many changes both at a national and local level taking place over the coming months which will present a challenge for the service. This coupled with the changes being introduced to implement the actions from the planning review and progressing the Site Allocations Plan means it is a busy time for the service overall.

Recommendations

4. Members are asked to note the report and comment as they feel appropriate and receive a further report in 6 months time.

1 Purpose of this report

- 1.1 At the last Joint Plans Panel meeting on 11 September 2014, members received and noted a performance report for planning services for the year end 2014-15 and for quarter 1, 2015-16.
- 1.2 The September meeting had been rescheduled from the usual summer meeting in June/ July and because of this the reporting periods are now slightly out of step; usually reports cover quarters 1 and 2 and then report the year end position. Consequently, to provide the most up to date position, this report covers quarters 1-3, April to December 2014.
- 1.3 This report is presented for information and comment.

2 Background information

- 2.1 Across all categories of applications, the number of planning applications received in the first three quarters was up compared to the same period last year. The number of major applications increased for the second year running. Coupled with the rise in numbers has been the improvement in the determination rate for all application types although the basis for measurement has changed from last year.
- 2.2 The service uses several measures to determine the quality of decision making: lost appeals, number of complaints and upheld complaints. Performance in most of these areas compares favourably with 2013-14 with the number of stage 1 and stage 2 complaints and Ombudsman complaints decreasing. However, our performance on appeals has fallen somewhat.
- 2.3 The service has an ongoing commitment to service improvement and a number of activities have taken place throughout the year to ensure the decision making process is robust and accountable and customer service is integral to the organisation. This includes the start of the implementation of the planning review and significant changes to the ICT systems to streamline processes.

3 Main issues

3.1 Planning performance and workload

- 3.1.1 A total of 3,383 planning applications were made to the Local Planning Authority in the first three quarters of 2014-15, up by 6% on the same period the previous year. Major applications saw the greatest increase in numbers up by 10% to 184. The Government changes to permitted development, allowing larger single storey rear house extensions without the need for formal planning permission seems not to have made much impact on the numbers of household applications still being made, with 2,402 submitted in the reporting period, similar to previous years. Additionally, 797 minor applications have been made.
- 3.1.2 The government sets national performance targets for decision making on planning applications as follows:

- 60% of major applications determined within 13 weeks
- 65% of minor applications determined within 8 weeks
- 80% of other applications determined within 8 weeks

3.1.3 A total of 3,178 decisions were made in quarters 1 to 3, compared with 3,057 in the same period in 2013-14. The majority of decisions were taken by officers under the delegation scheme which ran at 96%, the same as last year.

3.1.4 Leeds performance is shown below in comparison with the last three years and the position at the end of quarter 3. It should be noted that for 2014-15 there is a change in the way that the information is collected as the figures now exclude applications determined in > 8 or 13 weeks where there is an extension of time agreement in place with the applicants so the figures are not strictly comparable to previous years :

	% Majors in time (target 60%)	% Minors in time (target 65%)	% Other in time (target 80%)
2011-12	56.3	76.9	85.1
2012-13	61.3	77.4	88.9
2013-14	73.3	70.3	83.3
2014-15 (quarter 1-3)	89.8	85.1	91.3

3.1.5 Performance particularly on major applications has continued to improve year on year and this has been the result of better project management, but also the use of extension of time agreements which allow the applicant to agree to an additional period of time, in which their application will be determined. The Government's latest planning performance statistical release covering the period July to September 2014, shows that nationally, 78% of major applications were being determined in time¹, Leeds' performance is significantly above the national average determination rate.

3.1.6 At the end of quarter 3, there were some 850 applications under consideration of which 130 were majors, 270 householders and 450 others. Of these 7 have Planning Performance Agreements (PPAs), 585 were in time, 120 had agreed extensions of time and about 140 were out of time. This represents a step forwards in dealing with applications in a timely way compared to previous years - officers continue to work proactively with applicants to agree extensions of time agreements across all application categories, where applications are unable to be determined within the statutory timeframe. It is recognised though that some categories of applications take too long to determine including major housing schemes and work continues to improve performance in this area in consultation with the housing developers and their agents. The Planning Guarantee is now operational affecting any application over 6 months old on or after 1 April 2014 where there is no agreement to extend the time to determine the application. About £6,000 in planning fees has so far been returned under the guarantee and whilst this is a relatively small amount and amounts to a handful of applications ,

¹ Department Communities and Local Government Planning applications July to September 2014 Statistical Release 18 December 2014

officers have been instructed to negotiate extension of time agreements wherever possible for all out of time applications and for those applications approaching six months, to minimise the risk of returning further fees.

- 3.1.7 There have been 748 pre-application enquires across all categories of applications, which has generated £44,250 in income.
- 3.1.8 Overall planning fees at the end of quarter 3 are in line with the budget for 2014-15, with £2.5 million taken in the first nine months.

3.1.9 **Comparison with the Core Cities**

- 3.1.10 The table below shows the most up to date comparative data, for quarters 1 and 2 of 2014-15, with the Core Cities for determination rates. Leeds performance, across all categories of applications in comparison with the Core Cities has improved significantly and for the first time in a number of years, Leeds determination speed performance is in the upper quartile for majors and minors.

	Major		Minor		Other	
	Quarter 1 and 2 14-15		Quarter 1 and 2 14-15		Quarter 1 and 2 14-15	
	No decided	% in time	No decided	% in time	No decided	% in time
Birmingham	89	84%	522	80.00%	1617	92.00%
Bristol	52	67.3%	529	67.10%	808	75.06%
Leeds	37	89.19%	365	83.29%	1401	90.29%
Liverpool	60	65.00%	259	63.00%	622	66.00%
Manchester	No data available					
Newcastle	25	88.00%	176	80.00%	589	87.00%
Nottingham	35	94.29%	201	92.04%	659	95.45%
Sheffield	36	72.22%	312	75.64%	922	84.82%

- 3.1.11 As described in paragraph 3.1.6 above, Leeds has returned approximately £6,000 in planning fees under the planning guarantee in the first nine months of the year. This compares with over £67,000 in Bristol and £60,000 in Nottingham. So whilst Leeds has not returned as much in fees as other Core Cities, there is no complacency and still the need for us to actively seek extension of time agreements to prevent any further fee return.

3.1.12 **Permitted development**

3.1.13 **Office to residential**

- 3.1.14 On 30 May 2013 the Government amended legislation to allow conversion of offices to residential use. In the reporting period, we received 60 submissions for prior approval for office to residential. Whilst this creates new dwellings, the new permitted development process does not require developers to enter into S106 agreements and the Council has “lost” a range of contributions which would have been payable had a formal application been made. This includes 57.5 affordable housing units; £1.5m in green space and £170K in transport contributions. Additionally, £272,995 in planning fees would have been paid for these applications. This represents a significant loss in terms of planning obligations and in planning fees.

3.1.15 The biggest schemes approved in recent months are 124 flats in three blocks on Headingley Office Park, 84 flats at Brunswick Point, Wade Lane, 71 dwellings at 25 Queen Street and 38 flats at the Arndale Centre Headingley.

3.1.16 **Large house extensions**

3.1.17 In the reporting period the LPA has received 156 notifications of large house extensions. Only eight notifications received neighbour comments or objections, triggering the prior approval process. Of the eight coming to the LPA for determination, two were approved and six refused.

3.1.18 The Government's Technical *Consultation on Planning, July 2014* proposes that the temporary permitted development rights increasing the size limits allowed for single storey rear extensions are made permanent.

3.1.19 **Agricultural to dwellings**

3.1.20 This new permitted development change allows the change of use of an agricultural building to a dwelling. It allows for changes to floor space of up to 450 square metres per agricultural holding, for up to 3 dwellings and came into force on 6 April 2014. The only matters that can be considered by the LPA through the prior approval process are transport and highways impacts, noise impacts, contamination risks at the site, flooding risks on the site, whether the location or siting of the building is practical and desirable for a dwelling and design and external appearance.

3.1.21 So far we have received eight applications under these new PD rules, six have been refused, one approved and one returned as invalid. Nationally a significant number of these prior approvals are being refused.

3.2 **Panel decision making**

	Number of meetings	Decisions	Pre-app'n presentations	Position statements	Major schemes	Overturns
City Panel	12	35	9	9	46	0
North and East	8	45	1	1	15	7
South and West	9	46	2	5	33	5

3.2.1 In the 9 month period there have been a total of 29 Plans Panels (City Plans Panel is now operating on a 3 weekly cycle and the two area Panels are generally every 4 to 5 weeks). A total of 126 decisions on planning applications have been made and of these 12 have been contrary to officer recommendation (about 9.5%). Of the 12 decisions which have been made contrary to officer recommendation 10 have been refusals which so far have resulted in 5 appeals – 2 of which have been dismissed, one allowed and two where a decision has not yet been made. One of the appeals which was dismissed (Devonshire Lodge,

Roundhay – viability case) has resulted in a full award of costs being made against the Council – this is being challenged through the courts. On more significant schemes pre application presentations and position statements are being encouraged and these are embedded as good practice in City Panel and are being used in appropriate cases in the two area Plans Panels.

3.3 Appeals

3.3.1 The table below shows that performance on the number of appeals has dropped significantly in the first three quarters of the year. Since the NPPF and relaxation of permitted development on large house extension it appears from an analysis of the Planning Inspectorate's (PINS) decisions that PINS is allowing more house extensions which are "marginal". There is a careful balance between refusing an application and the risk of an appeal and maintaining design quality without being unreasonable. Some analysis work is ongoing to find the reasons why our appeals performance has worsened and if there are common themes emerging.

3.3.2 It is important that our appeal performance does not drop any further, as allowed appeals is one of the performance measures which triggers the Government placing authorities into special measures.

Year	Appealed Decisions	Dismissed	Costs awarded against Council	Costs awarded to Council
2014-15 to q 3	161	61%	1	0
2013-14	251	71%	4	0
2012-13	187	67%	3	0
2011-12	254	69%	7	2

3.3.3 The Secretary of State's decision on Green Lane Boston Spa, a PAS site and Kirklees Knoll, also a PAS site are expected in mid-June and the end of March 2015 respectively, following call in and Inquiries. The decision on the call in Inquiry for the Green Belt expansion of the Cottingley Springs Traveller site is expected by the end of February 2015.

3.3.4 There are currently a number of Public Inquiries in the pipeline for the coming year following recent appeals;

- 5A Bentley Parade, Meanwood - March 15
- Bridgewater Road, Clean Power - end of June 15
- PAS housing appeals at Leeds Road, Collingham; East of Scholes ; Bradford Road, East Ardsley and Breary Lane, Bramhope - to be arranged
- Housing appeal for 10 houses at Haigh Moor Road, West Ardsley – to be arranged

3.4 Major projects

3.4.1 Within this reporting period there have been a number of significant submissions and applications made, particularly residential schemes:

- Pre-application presentation to City Panel for 321 dwellings at Low Fold, East Street (application now submitted)
- Outline for 300 dwellings at Thorpe Park
- Reserved matters for 76 dwellings at Queen Street, Great Preston and 133 dwellings at Riverside Mills, Horsforth
- 77 dwellings at the former High Royds Hospital site, Menston
- 283 dwellings at Tyersal Lane, Tyersal (on employment land allocation)
- Outline application for c 415 dwellings at Woodside Quarry, West Park
- Outline for housing on Low Moor Farm, Morley- PAS site
- Student housing, 228 rooms at Leeds Trinity, Horsforth
- Retail units to vacant industrial site on Armley Road
- Large factory extension for Britvic at Swinnow Industrial Estate
- Outline application for mixed use scheme at the former Yorkshire Post site, Wellington Street- pre-application and position statement to City Panel (Members recently resolved to grant permission at City Plans Panel)
- Reserved matters application for B2 General Industrial /B8 Storage and Distribution at phase 2, Thornes Farm Way
- Change of use for visitor attraction at Emmerdale Village, Harewood Estate

3.4.2 Additionally, there is substantial activity on site:

- Housing sites - Royds Lane, Wortley; Cookridge and Otley Hospital sites; Daisy Hill, Morley; Grimes Dyke, Whinmoor all on site and PAS sites in Morley, Rothwell and Oulton have all received detailed approval and are about to start on site.
- Retail- Victoria Gate Phase 1 for John Lewis is under construction and a number of smaller Aldi and Lidl stores across the city are progressing.
- Offices- Sovereign Street and Queen Street in the City Centre are substantially complete, the second building at MEPC and offices at Park Place and Lumiere site on Wellington Street are all under construction.
- Work is progressing on sites in the Enterprise Zone and the Park and Ride site on the East Leeds Link Road

3.5 Compliance activity

3.5.1 The number of enforcement cases received in the first three quarters of 2014/15 has slightly reduced from the similar period last year, particularly in quarter 3. Notwithstanding this, the workload through the service is significant, the rate of case resolution has been high in the first two quarters of the year and the number of overall open cases has been reduced to in the region of 1100 which has been a long standing service plan objective. However, due to reduced staff resources individual caseloads still remain high at around 130 – 140 cases per full time equivalent with consequent impact on the responsiveness to complainants and progressing cases. The total number of open cases is currently 1109 compared with 1568 in 2010-11.

3.5.2 **Cases received and resolved and performance in undertaking initial site visits**

	Q1	Q2	Q3	Total
No of cases received	358	363	270	991
No of cases resolved	310	436	244	990
Initial site visits				
Category 1: Site visit same day/within 1 day. Target 100%	100%(3)	100%(5)	80%(5)	93%
Category 2: Site visit within 2 working days. Target 95%	93%(14/15)	100%(14)	93%(14)	95%
Category 3: Site visit within 10 working days Target 90%	72%(339) 96%*	85%(355) 97%*	84%(275) 96%*	80% 96%*

*Figures for site visits undertaken within 20 working days in accordance with temporary amended target. See below.

3.5.3 Performance in undertaking initial site visits has been maintained with a revised target of 20 days for category 3 visits. This revised target has been in place throughout the reporting period due to the resource and staff absence experienced by the service. This continues to be an issue which is hoped will be addressed by the completion of a restructure in the near future.

3.5.4 In relation to the Category 1 and 2 cases the figures relate to a relatively small number of cases. For example there were 13 category 1 cases during the reporting period and only 1 of those cases missed the 1 day target and this is reflected in the figures.

3.5.5 The overall number of open cases on hand has been reduced and has achieved the service plan target which is positive.

3.5.6 Outcomes of case resolved

	Q1	Q 2	Q3
No Breach*	48%	42%	38%
Resolved by negotiation	35%	30%	32%
Breach but de minimis/ not expedient	7%	11%	11%
Planning permission/ CLU granted/ appeal allowed	7%	12%	12%
Enforcement/other Notices complied with/resolved by prosecution action	3%	5%	7%

*Includes matters that are "permitted development"; where no development or material change of use is involved; matters that were time exempt from enforcement action on investigation; or where approved plans and conditions have been found to have been complied with.

3.5.7 The number of complaints investigated that that are found to either involve no breach of planning control or are minor infringements averages out over the

period to approximately 53% . This has reduced from a figure of 60% in 2010/11. This can possibly be accounted for by the increased rigour in examining cases as they come into the service, which may also explain the reduced overall number of cases resolved. Where there is clearly no breach of planning control, cases have not been opened and complainants advised that the matter will not be investigated and the reason why. The remaining 47% of cases which have been closed involve significant breaches which have been resolved to the satisfaction of the Council. Ward Member meetings have continued throughout the year. Invitations are sent out with the bi monthly key cases list which continues to be sent to both ward members and parish councils with updates on priority cases within each ward.

3.5.8 Enforcement and other Notices

3.5.9 The number of Enforcement and other formal notices served has increased significantly during the reporting period. In the first 3 quarters a total of 73 enforcement and other notices have been served. This is compared to 66 for the whole of the 2013/14 period and indicates (coupled with a reduction in the number of no breach cases) an increasingly complex workload for the service moving forward. There have been 4 temporary stop notices served during the period and injunctive action also taken in relation to one of the sites to prevent significant breaches occurring.

3.5.10 The compliance service continues to draft and issue its own notices with input from legal officers only on the more complex cases. This is continually monitored and whilst it does carry an increase risk, the resource savings in doing this have been significant . It does however place increased pressure on case officers in progressing cases within the service and additional training needs have been highlighted.

3.5.11 Prosecutions / Court Action

3.5.12 A number of cases have been brought before the courts for non-compliance with enforcement and other notices. There has been some frustration with a number of requests for adjournments by defendants normally being accepted however this has resulted in some cases being resolved in advance of the adjourned date due to the pressure exerted through potential court action. This has been notable in relation to the city centre long stay car parking initiative where the commencement of court proceedings has been sufficient to address the long standing non compliances without the need to attend court as the defendants have agreed to cease the use and meet the Councils costs in a number of these cases. The To Let Board initiative has resulted in a number of successful prosecutions for the display of adverts within the Article 4 area. Work continues with legal services pursuing a number of prosecutions to secure positive outcomes.

3.5.13 Proactive Initiatives

3.5.14 City Centre Long Stay Car Parks

3.5.15 Work continues to monitor and control unauthorised long stay car parks within the city centre. All appeals submitted in relation to both enforcement notices and

planning applications have been dismissed and a significant number of car parks have ceased operating. Court action has been taken against car parks that have continued to operate in breach of their enforcement notices and this has resulted in them closing. Regular monitoring is undertaken of all car parks collaboratively with officers in parking services.

3.5.16 Headingley/ Hyde Park To Let Boards

3.5.17 Proactive monitoring and enforcement of the Direction and the adopted code of practice to control the display of To Let Boards in parts of Headingley /Hyde Park has resulted in a number of actions some of which have progressed through the courts to successful prosecution. Bi monthly survey are undertaken as well as a number of survey days in the November Board free month. Active dialogue is maintained with many key letting agencies in the area to achieve the intended outcome. This initiative is successful in controlling the excessive display of boards within the area and continues to be a priority for the service.

3.5.18 Derelict and Nuisance Sites

3.5.19 The compliance service continues to play a key role on the Derelict and Nuisance site initiative which is a cross department initiative to help secure improvements to sites in a poor state which have proved difficult to bring forward by one single action. A number of notices have been served together with actions from Building Control and other services. Improvements have been secured, in many cases without a large capital spend through coordinated action. A regular working group agrees actions and work continues with a rolling budget to secure improvements to the most problematic sites.

3.5.20 **Customer Service**

3.5.21 Work continues to drive forward service improvements and a move to complete electronic working for the service is programmed for the spring. The system will ensure timely triggers are in place for customer updates and feedback to ensure that service improvements are on going. Work continues to reduce the number of old cases that will not progress to reduce officer caseloads and ensure that there is capacity to focus on current priorities.

4 Service quality

4.1 Complaints

4.2 Since April 2014 the Planning Service has received a total of 97 formal complaints under the Councils Compliments and Complaints procedure. This compares very favourably with the same period last year where 116 complaints were received. 79 complaints were dealt with at Stage 1. The main improvement from last year is in the number of complaints being resolved at Stage 1 and not going forward to Stage 2; in the first three quarters of this year 18 were dealt with at Stage 2 in comparison with 30 the previous year.

4.3 There were 11 upheld complaints, six of which related to delay in either providing a service or in the determination of an application.

- 4.4 Ombudsman complaints have also reduced in number from 11 in quarters 1 to 3, 2013-14 to 5 for the same period in 2014-15. Just one of the cases required a formal response from the service. This case was subsequently closed finding no maladministration. One case recommended that payment of £250 be made to the complainant for time and trouble in pursuing an Enforcement matter where a delay in bringing a case before the Courts was identified.

5 Service improvements

5.1 E-planning

- 5.1.1 The programme of rolling out dual screens to all planning officers has now been completed. This assists officers greatly in the consideration of applications and is a step change towards electronic working, which will be moved on in the coming months.
- 5.1.2 Given the importance of monitoring workloads and timescales for decision making, new performance reports have been developed for planning teams on Enterprise. This assists in the allocation of new work and ensures officers have the capacity to take on new cases. Monitoring reports for the Head of Planning Services on applications over six months old or approaching six months are also being produced. This ensures we have the most up to date information to mitigate applications going out of time, which means the return of planning fees.
- 5.1.3 The changes to the new permitted development categories have meant significant changes to the system to comply with legislation. There have been service improvements to the extension of time process which will make it easier for officers to use.
- 5.1.4 As part of SHLAA monitoring and information gathering, a system on Enterprise has been developed to record housing data from 1 January 2014 on applications and decisions.
- 5.1.5 New layers and prompts have been developed for Enterprise Zones, Sand and Gravel and Minerals/Waste Safeguarding so staff are aware when an application comes in which is affected by the constraints to improve decision making.
- 5.1.6 A significant service improvement has been the inclusion of all Sustainable Development Unit and Highway consultations on Enterprise, which allows the consultations to be managed in a more effective way.

5.2 Review of the Parish and Town Council Charter

- 5.2.1 As part of the annual review of the Parish and Town Council Charter, it was agreed that Parish and Town Councils will increasingly move to full electronic working, utilising *Public Access*. Many Parish and Town Councils are already working this way, but the changes mean that the current practice of sending hard copy plans will eventually cease, instead, all Parish and Town Councils will receive regular emails containing electronic links to new applications in their area and Councils will use this information as part of their consideration of the application. The use of *Public Access* ensures that Parish and Town Councils will

have immediate and swift access to any new applications received by the Local Planning Authority. Additionally, each time an application is updated, that is, new information is received about an application, an automatic email is generated providing notification of any changes, for example changes to plans, consultee responses and non-material amendments and so on. Therefore, Parish and Town Councils will always have the most up to date information on the applications they are interested in.

- 5.2.2 However, it is recognised that the changes do represent for some a significant change in current arrangements. A working group will be set up shortly with Town and Parish Councils to try and manage the transition and ensure the move towards electronic working is as smooth as possible.

5.3 Planning Review

- 5.3.1 As part of the Arup review of planning services in 2014, the consultants produced an action plan which described over 45 recommendations, some operational and others strategic in their scope. This action plan has formed the basis of a planning services implementation plan, which is now being progressed. Five priority areas have been identified in the first instance and these work areas will help to create capacity or meet operational or financial efficiencies:

- Validation and registration
- Pre-application
- Site notices
- ICT working group
- Workload and resourcing

- 5.3.2 Progress has been good in meeting the targets set in the implementation plan; the new pre-application enquiry service was launched on 1 February 2015, development of a revised streamlined validation and registration process which saves time at the beginning of the process getting valid applications on officers desks and saving money in printing costs, review of the site notice process with officers now placing notices up as part of their site visit, ICT work plan to underpin systems and processes which help deliver operational and financial efficiencies and a review of the area planning team composition and workloads in light of the 2.6 full time equivalent staff who are leaving at the end of March 2015. A full report is on the agenda of this meeting describing the progress of the review.

6 Challenges Ahead

6.1 Government reforms

- 6.1.1 In recent years, major reforms to the planning system have taken place with the introduction of the *Localism Act 2011* and the *National Planning Policy Framework*. Changes have also been made in the *Growth and Infrastructure Act 2013*, aimed at speeding up the planning system.
- 6.1.2 The *Infrastructure Act 2015* has now completed its consideration through Parliament and been enacted and proposes a new system for deemed discharge of planning conditions. Outside of this Act a number of other announcements on

planning reform have also been made, most recently in *Budget 2014*, the *Technical Consultation on Planning July 2014*, *Consultation: planning and travellers*, September 2014, *National Infrastructure Plan 2014* and *Autumn Statement 2014*, December 2014. The Government has recently announced that the regulation of Sustainable Urban Drainage Systems will be through the planning process and regulations are expected for implementation in April 2015. The pace of change continues relentlessly. Below are a number of the key challenges facing the service in responding to the reform agenda.

6.1.3 **Permitted development**

6.1.4 The Government's *Technical Consultation on Planning, July 2014* includes plans to further broaden permitted development rights. The government proposes introducing an amended permitted development right for change of use from office to residential from May 2016. The current permitted development right is subject to prior approval to consider the impact of the proposed development in relation to highways and transport, flooding and contamination. Under the plans the prior approval will continue to consider the impact of the proposed development in relation to highways and transport, flooding and contamination but would also consider the potential impact of the "significant loss of the most strategically important office accommodation". The document also says that the government will be making an amendment to the existing permitted development right to "extend the time for completion for developments with prior approval from 30 May 2016 to 30 May 2019".

6.1.5 The consultation also proposes that temporary permitted development rights increasing the size limits allowed for single storey rear extensions to houses are made permanent. It proposes that the deadline to complete an extension using the existing temporary permitted developments by May 2016 would be removed.

6.1.6 The outcome and response to the Consultation on extending permitted development rights, including the introduction of a right to change from industrial / warehousing to housing, are awaited.

6.1.7 **Discharge of conditions**

6.1.8 In the *National Infrastructure Plan 2013* the Government expressed concern about delays with local planning authorities discharging planning condition and committed to making changes to the system. The *Infrastructure Act 2015* has now been enacted and would allow for certain types of planning conditions to be regarded as discharged if a LPA has not notified the applicant of their decision within a set time period. "Deemed discharge" of a condition would mean that the LPA's consent, agreement or approval to any matter as required by the condition would be deemed to have been given. It would mean that the LPA would not be able to take enforcement action and stop development on site on the basis that the scheme did not have its actual written approval but would be able to enforce if works are not carried out in accordance with the details submitted to the LPA.

6.1.9 The applicant for deemed discharge must first serve a notice, stating their intention to rely on the deemed discharge provisions, after a certain number of weeks have elapsed from the date of the original application for approval to

discharge a condition. It is understood there are also provisions in the Infrastructure Act to allow for these time periods to be varied by agreement, obviously of great importance in a complex development.

- 6.1.10 The regulations will be brought into force by April 2015. We await to see if these changes generate additional applications that must be dealt with by the LPA, but for which there is little or no fee.

6.2 **Brownfield Local Development Orders**

- 6.2.1 The Department for Communities and Local Government (DCLG) has proposed that the existing special measures regime which penalises councils for failing to decide major applications on time could be extended to ensure that councils plan "positively for brownfield land".
- 6.2.2 The January 2015 consultation sets out further details on the government's commitment last year that it expects to see Local Development Orders (LDOs) being used to get permissions in place for new homes on more than 90% of suitable brownfield land by 2020. The consultation document defines brownfield land as being suitable for housing if it is deliverable, free of constraint, capable of development and capable of supporting five or more dwellings.
- 6.2.3 The consultation proposes that councils which do not have LDOs in place on at least 90 per cent of brownfield land suitable for new housing by 2020, where the land does not already benefit from planning permission, should be placed in special measures. It also proposes an intermediate target, suggesting that councils should be placed in special measures if they fail to have LDOs in place on 50 per cent of brownfield land suitable for housing in 2017.
- 6.2.4 An alternative sanction set out in the consultation proposes to amend the National Planning Policy Framework so that councils "that had failed to make sufficient progress against the brownfield objective would be unable to claim the existence of an up-to-date five year housing land supply when considering applications for brownfield development, and therefore the presumption in favour of sustainable development would apply".
- 6.2.5 The challenge for the Council is in terms of lack of resources and capacity to undertake the necessary work involved in implementing this policy, but without the LDOs in place the Council risks being placed in special measures and opens up the 5 year housing land supply issue. The Council is preparing a response to the consultation highlighting the challenges and issues for a city such as Leeds and pointing out that having planning permissions in place does not mean that sites will come forward for housing on brownfield sites as there are other factors which are of importance to delivering development on the ground including viability and development financing.
- 6.2.6 **Implementation of Community Infrastructure Levy**
- 6.2.7 In Leeds the Community Infrastructure Levy (CIL) comes into force on 6 April 2015. CIL replaces many of the elements of S106, although such obligations will still be necessary to deal with any site specific issues which cannot be addressed

by condition and which fall outside of the CIL regime and affordable housing requirements. There are many challenges facing Planning and Sustainable Development as a whole in the governance and implementation of the CIL regime, but there are some immediate impacts on planning services. We are anticipating the pressure for applications to be determined before CIL is implemented. Discussions and negotiations continue to be held with applicants on the likelihood of particular schemes being determined before 6 April and officers have been instructed to take a pragmatic and realistic approach in terms of what is likely to be achievable in this timeframe. This nonetheless places the service under pressure in the weeks leading up to the CIL implementation date and also affects the supporting services including highways and legal. There are a significant number of Section 106 agreements where the timescale is to complete them before the end of March.

- 6.2.8 Officers have received training and information on the operation of CIL, but as with any new major change, it will take some time for the process to bed down and this may have an effect on performance in the short term. Presentations have also been given to developers and agents, Parish and Town Councils and Panel members are also due to receive a presentation at this Joint Plans Panel meeting regarding the operation of CIL and the relationship with Section 106.

7 Corporate Considerations

7.1 Consultation and Engagement

- 7.1.1 This report is presented for information and there has not been the need for wide consultation.

7.2 Equality and Diversity / Cohesion and Integration

- 7.2.1 There are no specific equality considerations arising from this report.

7.3 Council policies and City Priorities

- 7.3.1 The effective and expedient determination of planning applications contributes to the overall prosperity of the City and plays a key part in the regeneration and growth agenda. The service makes a key contribution to the delivery of housing growth, a priority in the City Priority Plan 2011-15.

7.4 Resources and value for money

- 7.4.1 There are no specific implications arising from this report. However, measures are being taken to ensure that the service is delivered within the financial constraints affecting the Council and provides value for money as well as the levels of service required of a statutory function.

7.5 Legal Implications, Access to Information and Call In

- 7.5.1 There are no specific legal implications and this report does not relate to a key or major decision.

7.6 Risk Management

- 7.6.1 There are a number of risks associated with the decision making process which are both financial and reputational. Measures, processes and future service improvements outlined in the report seek to minimise the risk of challenge.

8 Conclusions

- 8.1 There has been significant progress on performance in quarters 1 to 3, with an increase in the number of applications determined in time. In the first three quarters this stood at 89.8%, for majors, 85.1% for minors and 91.3% for others. The use of extension of time agreements is ensuring applications remain in time and provide some certainty of timescale for applicants.
- 8.2 There is continuing evidence in the upturn in the economy with applications up by 6%, with major applications up by 10% on the same period last year. This is good for planning fees, but has an impact on resourcing and performance. Continual monitoring of performance is necessary to ensure that this level of determination can be maintained. The planning guarantee provisions for returning fee income on those applications not determined within 26 weeks has had some impact on the service, with so far a return of £6,000 in fees. The service recognises the imperative of determining applications within this timeframe and is proactively seeking extension of time agreements wherever possible to ensure that applications do not go out of time.
- 8.3 Progress continues to be made on complaints, evidenced through the reduction in overall numbers, and in those upheld.
- 8.4 There will be significant pressure on the service in the next few months with the proposed government changes- discharge of conditions, further PD changes as well as the Council's implementation of the Community Infrastructure Levy in April 2015. Additionally, the service strives to make the efficiency and operational efficiencies identified through the planning review, therefore a very challenging period ahead is anticipated. However, the direction of travel and objectives are clear in terms of transforming how we work, maintaining and improving performance levels and continuing to improve services to customers.

9 Recommendations

- 9.1 Members are asked to note the report and comment as they feel appropriate and to receive a further performance report in six months' time.