



Report of Chief Planning Officer

Report to Joint Plans Panel

Date: 30 November 2017

Subject: Planning Services performance report- quarters 1 and 2, 2017-18

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. In quarters 1 and 2 there has been a small increase in the number of applications submitted to the authority; this continues the trend seen over the last five years.
2. Performance on determining applications within the statutory or agreed timescale has slipped a little since the position reported at the end of 2016-17, but is still above the thresholds for designating an authority as poorly performing. Nonetheless, the service is under some pressure to determine applications in time, given the current resources.
3. The rate of appeals dismissed is 1% higher than the 2016-17 year end position, but is significantly lower than the rate of seen over the last few years. The service has noticed a trend for the Planning Inspectorate to take a more pragmatic view on applications which are "marginal" given the permitted development fall-back position. A close watch is required to ensure that the service maintains appeals performance above the designation thresholds.
4. A number of service improvement activities have taken place in the first two quarters of 2017-18 with opportunities for working more effectively with partners to deliver good growth in Leeds.

Recommendations

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.

1 Purpose of this report

- 1.1 At the last Joint Plans Panel meeting on 31 January 2017 members received and noted a year end performance report for planning services for 2016-17. It was resolved that the Joint Plans Panel would receive a report covering quarters 1 and 2 of 2017-18 at its next meeting. This report is presented for information and comment.

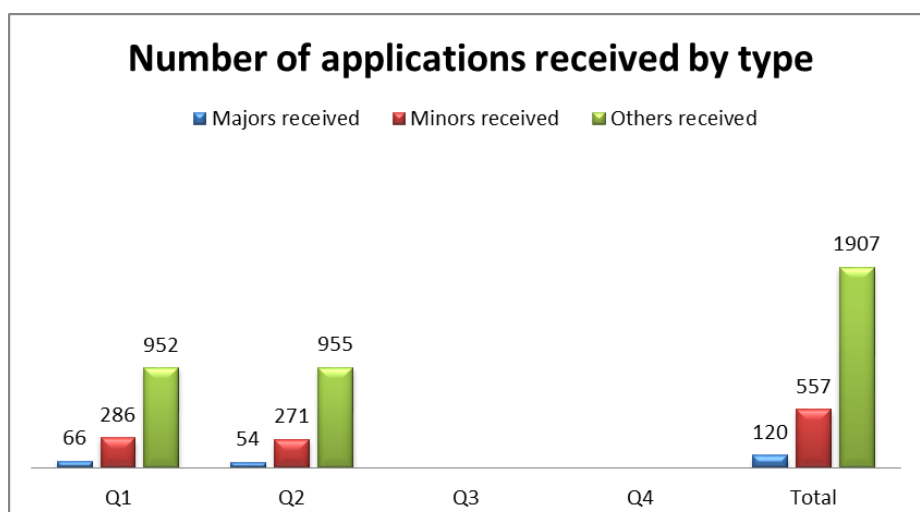
2 Background information

- 2.1 The number of planning applications received in quarters 1 and 2, 2017-18 continue to rise, albeit at a low rate; however this is the fifth successive year that numbers have been slowly rising. Although this is nothing like the numbers received pre economic crash, neither is the level of staff resource.
- 2.2 Applications determined in time have decreased in these two quarters, but performance is still above the threshold set by the Government and the service currently is not at risk of being designated a poorly performing planning authority, but, it continues to be a challenge for the service to maintain performance within resource constraints. The Government has now laid a draft order before parliament for the 20% fee increase; local authorities who committed to investing additional resources for their planning service will be able to retain the extra fee generated. The additional resources will greatly assist in boosting staffing levels in delivering planning services.
- 2.3 The service uses several measures to determine the quality of decision making including lost appeals, number of complaints and upheld complaints. There has been a drop in the number of complaints received in the reporting period, compared with the same time last year and just one more Ombudsman case has been received than in q1 and 2, 2016-17. Appeals performance in terms of numbers dismissed stands at 64%, better than the position at the end of 2016-17, but short of previous years.
- 2.4 The service has an ongoing commitment to service improvement and a number of activities have taken place in quarters 1 and 2 to improve processes and deliver expeditious decisions to support growth in Leeds.

3 Main issues

3.1 Planning performance and workload

- 3.1.1 In the reporting period there have been 2,584 applications submitted, a 1% increase compared with the same period last year. Whilst this is only a small increase, it represents the continuous trend of applications rising in number over the last five consecutive years. The chart below shows the workload breakdown.



- 3.1.2 There were 2,586 decision made, with 97.5% of decisions made by officers under the delegation scheme. The delegation rate has remained steadily around this mark for a number of years.
- 3.1.3 There have been 120 major applications submitted in quarters 1 and 2, representing 4.6% of the total workload of the service. The national average for major applications as a proportion of the total workload is around 3%; therefore Leeds continues to receive a greater number of major schemes than the national average.
- 3.1.4 Household applications account for around half of the workload with 1,359 submitted. The anticipated reduction in numbers of household applications due to the permitted development changes has not occurred in Leeds, with numbers remaining steadily around 50% of the total workload.
- 3.1.5 The table below shows that performance on determination of applications has slipped a little from the 2016-17 year end position. However, the latest national figures for the period April to June 2017 show that LPAs decided 87% of major applications within 13 weeks or within the agreed time, up from 84% a year earlier¹, therefore Leeds' performance is above the national average determination rate.

	% Majors in time	% Minors in time	% Other in time
Q1 and 2 2017-18	89.9%	85.2%	87.5%
2016-17	93.1%	89.4%	93%
2015-16	96.6%	90.6%	93.5%
2014-15	93.6	87.2	92.7
2013-14	73.3	70.3	83.3
2012-13	61.3	77.4	88.9

- 3.1.6 It is crucial for the service to maintain its good performance as the government extended in 2016 the designation regime to applications in time for non-major development as well as major development. The threshold had initially been set at

¹ Department Communities and Local Government Planning applications April- June 2017 Statistical Release 14 September 2017

65% but will increase to 70% for the following designation round in 2018. The threshold for majors determined in time will be raised from 50% to 60%, again taking effect at the next round of designations in early 2018.

- 3.1.7 After six months a total of £2.9 million has been received in planning fees, £91k above the quarter end target.

3.2 Pre-application enquiries

- 3.2.8 In the reporting period, the service received 339 pre application enquiries including 84 enquiries for major proposals, many of these were for residential schemes. However there has been a resourcing issue in delivering the pre-application service, with responses taking longer than the published timescales. This has been due to officer capacity to deal with increasing application caseloads. This has implications going forward on the income generated from pre-application enquiries and a risk of a loss of confidence in the service.

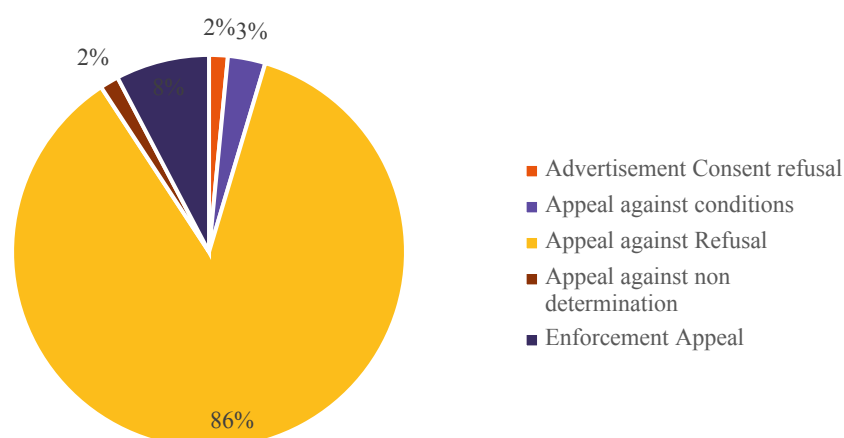
3.3 Panel decision making and decisions not in accordance with the officer recommendation

- 3.3.1 In the first two quarters of 2016-17, 66 decisions have been made by the three Plans Panels. Three decisions were contrary to officer recommendation; one was at the North and East Panel for 71 Hill Top Mount for dormer windows, which was recommended for refusal but Members granted permission and two at South and West Panel. Both of these at South and West Panel were for change of use to House of Multiple Occupation (HMO): The Omnibus, Throstle Road North and 20 Conference Road. Both were recommended for approval but Members refused them.

3.4 Appeals

- 3.4.1 In the reporting period, the service has received 130 new appeals, this is the same as quarter 1 and 2 of 2016-17. The profile and type of appeals are shown in the chart below.

Profile of appeals received



- 3.4.2 In the reporting period the Planning Inspectorate made 75 decisions; 64% of appeals were dismissed. The table below shows that performance on the number of appeals dismissed is holding steady in comparison with the reported year end position for 2016-17. However, this was significantly down on the previous year. There are no clear themes emerging from the analysis of the appeal decisions, except perhaps in relation to HMO, where the Inspectorate has largely upheld these types of appeals and more household extension appeals are being upheld which are “marginal”, given the Permitted Development fall-back position.

Year	Appealed Decisions	Dismissed	Costs awarded against Council	Costs awarded to Council
Q1 and 2	75	64%	0	0
2016-17	260	63%	0	0
2015-16	177	73.4%	1 full, 3 partial	1 partial
2014-15	237	66%	5	0
2013-14	251	71%	4	0
2012-13	187	67%	3	0
2011-12	254	69%	7	2

- 3.4.3 Appeals is a key area where the service needs to maintain its performance; DCLG also revised the criteria to extend the designation regime for the quality of decision making for major developments to 10% of decisions being over turn at appeal and introduce a threshold of 10 % for non-major development decisions being over turned at appeal. However, the new thresholds do not come into effect until the designation round in early 2018.
- 3.4.4 There is just one cost claim in progress for £15,726 which is not yet settled for 84 Kirkstall Road.

3.5 Community Infrastructure Levy

- 3.5.1 Executive Board, in February 2015, made key decisions around spending of the future Community Infrastructure Levy (CIL) income, directing it into two main funding streams; a strategic fund and a neighbourhood fund, plus up to 5% for administrative costs. Executive Board agreed that the Strategic CIL Fund will be 70-80% of the total CIL received, and that priorities for its spending will be decided on an annual basis as part of the Council’s budget setting process, in line with the Regulation 123 List, and taking into account the impact of specific and cumulative infrastructure needs arising from new developments. The total monies paid to the Strategic Fund is currently £2.8million.
- 3.5.2 In relation to the Neighbourhood CIL Fund, Executive Board agreed that this is to be 15% in an area without a Neighbourhood Plan, and 25% in an area with an adopted Neighbourhood Plan. In town and parish council areas the CIL neighbourhood fund is to be passed directly to those local councils, as required by

national CIL regulations. In non-parished areas the decisions about spending are delegated to the relevant Community Committee (as the lowest democratic representative), and the CIL neighbourhood fund ring-fenced by the City Council for that purpose.

- 3.5.3 A breakdown of the total CIL monies paid is described in the table below. In the first two quarters of 2016-17, £881k has been paid, taking the total CIL paid to almost £3.6m.

	Total CIL paid to date	Total admin fee paid to date	Total neighbourhood fund paid to date	Total strategic fund paid to date
2015/2016	£126,878.21	£6,343.90	£19,031.73	£101,502.58
2016/2017	£2,570,674.83	£126,033.74	£385,566.42	£2,056,574.66
Q1 and 2 2017/2018	£881,060.02	£44,053.00	£132,159.00	£704,848.02
Total	£3,578,613	£176,430.64	£536,757.15	£2,862,925.26

3.6 Compliance activity

- 3.6.1 The number of enforcement cases received in the first two quarters of 2017/18 has remained at a consistent high level with 625 cases received. As such the workload through the service remains substantial with a significant number of complex cases being investigated. However, the number of cases on hand has maintained overall to around 1000 which has been a long standing service objective. This is a key step in improving the overall handling of cases as it will ultimately assist in reducing officer caseloads.

	Q1	Q2	Total
No of cases received	300	325	625
No of cases resolved	365	303	668
Initial site visits			
Category 1: Site visit same day/within 1 day. Target 100%	100% (3)	100%(6)	100%
Category 2: Site visit within 2 working days. Target 95%	100%(5)	100%(10)	100%
Category 3: Site visit within 10 working days Target 90%	92% 268/292	93% 286/309	92.5%

3.6.2 Cases received and resolved and performance in undertaking initial site visits

3.6.3 Performance in undertaking initial site visits has been maintained with an improvement in Category 3 visits taking place within 10 days. The revised target of 20 days for category 3 visits continues to be reviewed and considered as a means of managing less urgent cases through the service.

3.6.4 In relation to the Category 1 and 2 cases the figures relate to a relatively small number of cases and these were all visited within the target. The overall number of open cases on hand has been maintained and currently stands at 1020.

3.6.5 Outcomes of case resolved

3.6.6 The number of complaints investigated that are found to either involve no breach of planning control or are minor infringements over the period sits at approximately 41 %. This has gradually 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. 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. A further 10- to 15 percent of cases are closed following investigation as not expedient to pursue as the breaches identified are either minor or action to regularise has failed and it is not considered justified to pursue formal action. The remaining 45% of cases which have been closed involve significant breaches which have been resolved to the satisfaction of the Council through negotiations, granting planning permission or formal enforcement action.

3.6.7 Ward Member meetings have continued during the year. Invitations are sent out with the bi monthly key cases list which continues to be sent to both ward

	Q1	Q2	AvTotal
No Breach*	36%	46%	41%
Resolved by negotiation	28%	31%	29%
Breach but de minimis/ not expedient	16%	11%	13%
Planning permission/ CLU granted/ appeal allowed	9%	8%	9%
Enforcement /other notices complied with	11%	4%	8%

members and parish councils with updates on priority cases within each ward.

**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.*

- 3.6.8 **Enforcement and other Notices** A total of 64 enforcement and other notices have been served during the quarters 1 and 2. This is a continuation of activity levels of previous years. There has been one temporary stop notices served during the period in relation to the development of a car wash which was located within the green belt and also raised significant highway safety concerns. We continue to take more formal action than all the other core cities by some distance reflecting the importance Members place in Leeds on the service. Within the first three quarters the following numbers of notices have been served:

	Q1	Q2	Total
Planning Contravention Notices / Section 330 notices	21	11	32
Breach of Condition Notice	3	1	4
Enforcement Notice	15	12	26
S215 Untidy Land Notice	0	0	0
Temporary Stop Notice	0	1	1
Stop Notice	0	0	0

- 3.6.11 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 some risk, the resource savings in doing this are significant. It does however place increased pressure on case officers in progressing cases within the service and requires additional on-going training.

3.6.12 **Prosecution Outcomes and outstanding cases**

- 3.6.13 A small number of cases have been brought or are being brought before the courts for non-compliance with enforcement and other notices. 13 prosecution cases were prepared for court in relation to the illegal display of to let board signs in the Headingley area. This action is successful in limiting the spread of excessive advertising of properties in the area. This proactive initiative continues with regular monitoring and follow up. A number of cases have been sent letters before action and this threat of court action can be effective in securing compliance with notices and remedying the breach in advance of preparing formal papers for the courts.

3.7 **Service quality**

3.7.1 **Complaints**

- 3.7.2 Since April 2017 the service has received a total of 64 formal complaints under the Councils Compliments and Complaints procedure. These are broken down by quarter and Stage 1, Stage 2 and Ombudsman complaints in the table below, compared with the same period last year. Overall the number of complaints received has decreased, which is a positive sign. In terms of numbers being upheld, 13% of complaints at stage 1 were upheld as were 11% of stage 2 complaints.

Quarter	Total	Stage 1	Stage 2	Ombudsman
---------	-------	---------	---------	-----------

	Complaints			Cases
Q1 Q2 17-18	64	36	16	11
Q1 & Q2 16-17	70	50	20	11

- 3.7.3 In terms of Ombudsman cases, three cases were closed on arrival, a further one closed after initial Ombudsman investigation and one case was not upheld. Two cases are currently being investigated and the Ombudsman has upheld four cases.

4 Staffing and resourcing

- 4.1 Applications numbers received continue to rise as they have done for the previous five years. However the staffing structure has remained in terms of FTEs at the same level as directly after the service down sized at the beginning of the economic downturn of eight years ago. In addition at the beginning of the year the service continued to be affected by the absence of 6.6 FTEs and in addition two colleagues on long term sick leave. Compliance in particular has continued with significant staffing difficulties, the source of which has varied over the reporting period but has nonetheless resulted in the team not being fully staffed.
- 4.2 With regards to the current position, it is complex. Two vacant planner posts were filled in September 2017. This has helped ease some of the pressure in the North East Team. To release further pressure, a temporary principal planner and compliance officer have been appointed and have now had their contracts extended to the end of the financial year 2017-18. A further temporary planner was sought but this exercise has been unsuccessful. A principal planner has been seconded to the Policy and Plans team for a 12 month period and it is the intention to start to backfill this post via an internal recruitment process. As it is likely that the successful candidate will be a senior planner from Development Management, it is then intended to backfill that post by seconding a senior planner from Plans and Policy team. In addition, a further senior planner has recently tendered their resignation to pursue a career opportunity elsewhere. The release of this post to external advert will also be sought. A senior planner and planner are also due to commence maternity leave in February.
- 4.3 Two members of the compliance team have returned to work following long term absences; one full time the other on phased return. Another post in compliance has been advertised internally recently as a result of another compliance officer leaving the service.
- 4.4 The 20% increase in planning fees to fund additional staffing resource equates to approximately £550k. The original intention was to use this funding to increase staffing at a senior planner level in Development Management to deal with the increase in major applications and to further develop the planning performance agreement service which ultimately should enhance income. Combined with this would be a dedicated senior highways officer. A further additional planner is proposed to help with the increase in activity in the householder and "other" application categories and an additional compliance

officer. The member of staff who previously dealt with complaints retired in 2017, so the funding will also cover a complaints officer post.

- 4.5 However, this may require a re-think following the recruitment of an external candidate to the post of Head of Development Management meaning that an additional group manager post would also need to be created and funded from the proposed 20% uplift in fees. A further pressure on this potential increase in income is the effect of the introduction of *Planning in Principle* (PiP) which will mean that there will be a loss of some fee income as a result of a reduction in outline planning applications.
- 4.6 Finally to implement one of the recommendations in the Community Infrastructure Levy Audit it is also intended to appoint a dedicated CIL officer. This post has just completed the job evaluation process and is about to go to advert. It should be noted that this post is not dependent on the 20% anticipated uplift in fees proposed by Government.

5 Service improvements

5.1 Implementing actions from CIL internal Audit

- 5.1.1 In early 2017, Internal Audit conducted an audit of the Community Infrastructure Levy (CIL). The scope of the audit was to gain assurance over the arrangements in place to ensure income is identified and collected and that the monies are used in line with the intended purpose. After discussions it was agreed to undertake the audit in two stages due to the volumes and values currently involved; the first stage of the audit carried out in February 2017 involved the testing of a sample of schemes liable for CIL to ensure that all CIL income had been fully and accurately accounted for on FMS and the second stage of the audit will be undertaken during either 2017-18 or 2018-19 depending upon volumes and value of CIL income at the time. The report arising from stage 1 was produced in June 2017.
- 5.1.2 Internal Audit's opinion was *limited assurance* for the control environment and *acceptable assurance* for compliance with actual controls. *Minor Organisational Impact* was assigned as the weaknesses identified during the audit left the council open to low risk. If the risk materialised it would have a minor impact on the organisation as a whole.
- 5.1.3 One of the main areas of concern was the number of officers involved in the process from beginning to end and Audit recommended that a dedicated officer had overall responsibility for maintaining the CIL process. This recommendation was agreed and as mentioned above the service is going through the start of the recruitment process to appoint a CIL officer. This officer will be responsible for developing and reporting CIL and implementing the other recommendations identified in the audit. The post will be funded from the 5% charge top sliced from CIL payments, which local authorities can use to administer CIL. This is a very positive step forward for the service.

5.2 Online payments

- 5.2.1 It has long been the aspiration of the service to implement a system via the Leeds.gov.uk website where customers have the ability to pay for their applications online. After lengthy work, a new system was implemented on 3 August 2017. Customers are now able to pay planning application and building regulations fees online and also for street naming and numbering services. This is a huge step forward in making the back office system more efficient; considerable staff time was previously spent dealing with customer calls taking payments. Currently, approximately half the planning fees are paid online and is now the preferred method of payment for the service, although other channels of payment remain available. However, moving forward this places the service in a strong position to be able to deal with customer payments in the transitional period in the early New Year as the service prepares to move to Merrion House.

5.3 Working with partners

- 5.3.1 The first six months of 2017-18 has seen a developing relationship with the Leeds Chamber of Commerce to support good growth in Leeds. A session was held in June 2017 with the Chamber and members of the Plans Panels to discuss ways to make planning work more efficiently in the city. The session was quite informal and generated much robust discussion, with challenges for all parties to consider. Whilst the Chamber fielded developers from all sectors, discussion inevitably focussed on housing and the challenges that brings but also the opportunities for moving forward. Feedback from members and the Chamber of Commerce was that the session was a positive first step in an evolving partnership.
- 5.3.2 An action from the session was to produce a “planning charter”; the charter is to be a series of promises adhered to by both the development industry and the local authority, which all parties sign up to. This is currently in development and a draft will come before the Joint Member Officer Working Group in the first instance for consultation.

5.4 Private Rental Sector Workshop

- 5.4.1 A useful and informative session with representatives from the private rental sector (PRS) Colliers and Legal & General was held in September 2017. The PRS has undergone a rapid period of growth and nationally now forms around 20% of the housing market and the session was to explore with the development industry some of the community and local pressures Members have to balance in supporting good growth in Leeds. The industry representatives spoke about the changing views of PRS, future growth of the PRS, how the PRS is regulated and the quality and management of the PRS homes.
- 5.4.2 There was much discussion about affordable and sub market rents, and the representatives outlined schemes in other parts of England where schemes were ring fenced to keyworkers where rents could be lower. It was also recognised that there are poor quality PRS housing and this perception could shape members views of the whole sector.

6 Challenges ahead

6.1 Planning reform

- 6.1.1 It is clear that the service is under some pressure with the amount of available resources and the volume and complexity of planning applications it receives. However, the Government has moved a step closer to delivering one of the Housing White Paper commitments to increase nationally-set planning application fees by 20% by laying before parliament draft regulations to bring this proposal forward. The *Housing White Paper* made clear that the 20% uplift in application fees would be conditional on local planning authorities (LPAs) committing to invest the additional fee income into planning services. DCLG invited LPAs to make this commitment and requested budget information to demonstrate how the additional fee income would be spent on planning services. All of the LPAs elected to make the commitment.
- 6.1.2 The challenge will be to ensure that the additional income is not off-set by cuts in existing funding, which undermine the resources for dealing with planning applications. DCLG's letter made clear that "the additional revenue should be retained by planning departments and that existing baseline and income assumptions will not be adjusted down as a result during this Parliament." Where LPAs fail to comply with these additionality assurances, the letter confirmed that the Government would consider reducing the fee level for that authority back to the original fee level through a change in regulations.
- 6.1.3 The other concern is that given that the proposed planning reforms set out in the *Housing White Paper* place increasing demands on LPAs, there is no guarantee that a 20% increase will be sufficient to maintain 'business as usual' never mind a more effective, efficient planning service. In Leeds, the current staffing levels reflect the workloads established during the economic collapse and are therefore low based on current higher workloads. Planning fees were last increased back in 2012 and the call for LPAs to be allowed to set their own local fees has not been picked up, meaning on some types of applications the service is still not recovering the full cost for processing applications. The Local Government Association recently warned that tax payers will be subsidising the cost of processing planning applications to the tune of £1 billion by 2022².
- 6.1.4 In addition to providing for an increase of 20% for all existing fees, the Regulations also introduce fees for applications for permission in principle and enable fees to be charged where an LPA has made a direction withdrawing permitted development rights under article 4 of the GDPO or where permitted development rights have been withdrawn due to a condition imposed on a planning permission.
- 6.1.5 Once the Regulations are approved by both House of Parliament, they will come into force on the 28th day after they are made. Running concurrently, the consultation *Planning for the right homes in the right places* has sought views on when LPAs who are delivering homes should be allowed to increase fees by a further 20%. The consultation closed on 9 November 2017 and we await the consultation response from Government in due course.

7 Corporate Considerations

² Local Government Association Taxpayers to subsidise planning application costs by £1bn over next five years 31 August 2017

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 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.

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.

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 Performance in terms of applications determined in time is down on the same period last year, but remains above the national average and above the thresholds for designation. The service however is under pressure with increasing workloads and complex and significant applications with finite resources. Whilst the promised 20% fee increase will go towards alleviating the situation in part, there is need to have regard to the adequate funding of the service if the Council is to deliver the good growth it aspires to.
- 8.2 Emphasis will continue to be placed on the efficient and expeditious determination of applications through the promotion of the pre-application service; however this service too is under pressure to deliver within stated timescales due to the volume of work and again this work stream needs adequately resourcing to ensure there is continued customer confidence.
- 8.3 Performance on appeals remains in line with the year-end position, but down on previous years, demonstrating the Planning Inspectorates stance particularly on household appeals. It is important that the service strikes a

balance, maintaining design quality and safeguarding amenity, whilst at the same time not being unreasonable.

- 8.4 The service anticipates a further challenging time ahead, 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 within the resources available to deliver the service.

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.