

THE EXECUTIVE

14 JUNE 2005

REPORT FROM THE DIRECTOR OF REGENERATION AND ENVIRONMENT

PERFORMANCE INDICATORS FOR DEVELOPMENT CONTROL: EVALUATION OF PLANNING PERFORMANCE BY THE OFFICE OF THE DEPUTY PRIME MINISTER 2004/05	FOR DECISION
<i>To report back to the Executive in accordance with an undertaking given by Officers at the Executive held on 18 November 2003.</i>	
Summary	
<p>As the Council did not achieve the required standard set by the Government with regard to time taken to deal with minor town planning applications, the Council was designated (in 2003) as a Planning Standards Authority and has been closely monitored in how it intended to both improve and its actual performance since 2003. To effect change the Council instigated an Action Plan for Development Control which was agreed by the Executive on 18 November 2003 (Minute 194).</p>	
<p>The Council has now received its assessment report from the ODPM on the 2004/05 Applications which indicates that the Council has now met the national targets and has been given a 'Green' rating, which means that the Council is no longer designated as a Planning Standards Authority.</p>	
<p>However, there are still some areas which need to be addressed as part of the ongoing process and this report expands on those issues and presents proposals for further improvement and changes to the Action Plan.</p>	
Recommendation	
<p>The Executive is asked to:</p>	
<ol style="list-style-type: none">1. Note the success of the Council in achieving removal from the list of 'Planning Standards Authorities'; and2. Agree changes to procedures (identified in paragraphs 2.1 to 2.6) for inclusion in the Development Control Action Plan.	
Reason	
<p>To ensure compliance with the Best Value Performance Indicators and to assist with the Council's Community Priority of "Regenerating the Local Economy" and customer first initiatives.</p>	

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1. Background

- 1.1 On 7 April 2005, Keith Hill MP wrote to the Leader of the Council with the assessment of the Council's Planning Performance with regard to the Government's Best Value Performance Indicators (PIs) relating to the time taken to determine Town Planning Applications. The original investigation resulted from the failure of the Council to meet the Interim Standards for 'Minor Planning Applications' in 2003/04. As a result we were designated as a Planning Standards Authority for 2004/05 and our performance was closely monitored. After analysis of the 2004/05 figures submitted by the Council we have been designated as 'Green' and Keith Hill stated that the Council is making 'excellent progress' he went on to state that *"Your Authority has already achieved not only your specific performance standards for 2004/5 but also the national performance targets"*. As a result of the report we are now no longer a Planning Standards Authority for this PI.
- 1.2 The report is based on discussions and submissions to a consortium of Consultants headed by Addison and Associates (contracted by the ODPM). This showed an improvement in 'Minor Applications' approved within the timescale set by Government from 43% in 2002/03 to 83% in 2004/05. This is both above the 52% standard set by the ODPM as the standard to be achieved by the Council (the national target is 65%). 'Other Applications' improved from 69% in 2002/03 to 94%, which is fourteen percentage points above the national target. In respect of 'Major Applications', these also improved from 42% to 60% within the same time frame, in line with national targets. It was noted however that this performance had been erratic and the reasons for this will be dealt with later in the report. As yet there are no comparative figures for the full year of 2004/05, but in September 2004 the figures were the fifth best in London for 'Minor Application' decisions, the highest for 'Other Application' decisions and the tenth highest for 'Major Applications' decisions.
- 1.3 Whilst the assessment report by ODPM was generally very good, it also picked up on a number of matters which still need to be addressed. This includes a delegation rate of 87% which is below the target of 90% set by the Government and an appeal success rate of 56% which is below the national average of 65%.
- 1.4 As a result of the original poor performance figures an Action Plan was devised by Development Control and there is no doubt that this has had a significant positive effect on performance. This included an increase in delegation and the Development Control Board being split into two to allow for bi-weekly meetings. Other internal changes were also implemented to improve performance.

2. Proposal

2.1 Whilst the assessment report is complimentary regarding the increased delegation to the Development Control Board and the Regeneration Best Value Improvement Plan, it does identify gaps in processes where there is still work to be done. These are identified below together with the proposed action to remedy.

2.2 a) Production of guidance on the validation of applications

2.2.1 Following the issuing of guidelines from the ODPM an Officers' working group has been set up to produce Guidance Notes for Applicants. This will inform applicants as to exactly what documentation is required to make a valid application. It is anticipated that this will encourage pre application discussion and reduce the amount of invalid applications received. It will also act as a guide for staff by informing them what is expected by reference to a checklist against types of applications. The Guidance Notes for Applicants are expected to be ready in approximately early July 2005.

2.3 b) Introduction of target dates for consultations

2.3.1 Whilst the Council has target dates for most actions relating to the processing of applications, this one was missing. It is proposed to introduce a five working day target between validation and consultation. This will also give external consultees more time to respond, which was another matter identified by the consultants.

2.3.2 This matter will be covered by the formalising of planning processes during the proposed ISO9000 accreditation currently being worked on and identified in the Planning and Transportation Division's Balanced Scorecard.

2.4 c) Review of delegation levels

2.4.1 It was noted that the current level of delegation for the year was 3% below the 90% recommended level. It should be noted that this is no longer a Performance Indicator. It has been noted in the past that Councillors have concerns about increasing Officers Delegated Authority in this area. At present it is not proposed to alter or increase the Delegated Authority to Officers further, but the percentage rate will be monitored for future reference.

2.5 d) Section 106 legal agreements and unilateral undertakings

2.5.1 The negotiation period on Section 106 Agreement is noted as a major impediment to achieving the targets relating to Best Value Performance Indicator (BVPI) 109 (a) in respect of the determination of 'Major Applications' within the 13 week timescale allowed. The Council's performance was described as 'erratic' over the full year period, although the targets set by ODPM overall were achieved. This is due, in part, to the numbers received, which are relatively low. The Major Applications carry a higher percentage value in the calculations than Minor or Other Applications. For example, one application could be valued at between 15% and 20%. As a result the failure to achieve the 13 week target on one or two Major Applications will result in the quarter's figures dropping dramatically. Whilst it is difficult to achieve the 13 week

target on complex applications, it is virtually impossible to achieve if a legal agreement is involved. This matter has been raised on several occasions with the ODPM but as yet they have been unresponsive.

- 2.5.2 Several actions have been taken to try and remedy this situation within the agreed Action Plan. These have included the instructions to Solicitors at the beginning of the Town Planning Application process. However, current research being undertaken indicates that this has not had a significant effect on performance and 'Major Applications' that involve Section 106 Agreements are almost guaranteed to be out of time. It is anticipated that the production of the Local Development Framework (LDF) will assist as it will contain a Section 106 Agreement matrix which will inform applicants at pre-application stage what the required contributions will be. This will provide more certainty and decrease the negotiation time. Given that the Section 106 Agreement within the LDF has a solid policy base will also strengthen the Council's negotiating powers. The timescale for the LDF is lengthy and as a result will not impact on the figures within the timescale of the ODPM report for 2005/06.
- 2.5.3 This means that in the interim period other options have to be investigated. The one currently favored by the ODPM is the use of 'Unilateral Undertakings'. These are similar to Section 106 Agreements but are different in that in them the developer(s) lays out in advance what benefits they will provide, if Town Planning consent is granted. The benefit is that this can be submitted with the application as a signed document and takes much of the time consuming negotiation out of the process. It remains to be seen if this is sufficient to keep the 'Major Applications' on target.
- 2.5.4 It is also proposed to appoint a Section 106 Officer (to be funded from Section 106 Agreement receipts) whose job will be to monitor and programme manage the legal process. This will help standardise the process, in accordance with the advice received, and allow for the introduction of standard model agreements to speed up the process. (Legal justification for recovering the costs of managing and monitoring Section 106 Agreements is outlined in paragraph 36 of the revision (issued November 2004) to Department of Environment's Circular 1/97 which clearly states that the costs of monitoring officers, as well as legal fees, can be recovered through contributions.) The details associated with this proposal will be the subject of a further report in due course.

2.6 **e) Appeals**

- 2.6.1 The ODPM have introduced a new Performance Indicator (BVPI 204) in relation to appeals performance. This is an attempt to impose a quality control on Local Authority decisions. The ODPM has suggested that the Council reviews the reasons for a perceived poor performance for appeals against the refusal of Town Planning consent. In this respect the national average is 67% of appeals won. The Council's year end figure was 62.6%. The appeal decisions have been investigated and no underlying trend can be determined. It is not due to overturned decision by Councillors, against Officers' recommendation. Last year seven decisions were refused contrary to Officers' recommendation. None were appealed. It is not considered that the Council's decision making is flawed, but in some instances the Planning Inspectorate decisions are contradictory with, in one instance, two almost

identical appeals having different results. In general it is considered that our appeals record will meet the BVPI standard and has shown improvement since the report has been produced.

3. Financial Implications

- 3.1 The funding of an officer in DRE who will monitor and programme manage the legal process of Section 106 Agreements will be met from Section 106 Agreement receipts.
- 3.2 There are no other financial implications for the Council as funding has already been set aside / agreed from existing resources to cover the procedural changes

4. Consultation

The following have seen this report and are happy with the report as it stands.

Lead Members

Deputy Leader's Portfolio (Performance Management), Councillor Wade.
Regeneration, Councillor Kallar

DRE

Peter Wright, Head of Planning and Transportation
Nick Kingham, Head of Strategy and Support

Finance

Alex Anderson, Head of Finance (DRE)

Corporate Strategy

Muhammad Saleem, Solicitor to the Council and Monitoring Officer.
Robin Hanton, Corporate Legal Services Manager.

Background Papers

- ODPM Assessment Report - Best Value Standards Authorities 2004/5 – Evaluation of Barking and Dagenham London Borough Council 1/04/04
- Executive report and Minute 397, 18 May 2004. Re: Development Control Performance Indicators.
- Executive report and Minute 194, 18 November 2003.
Re: Development Control Performance Indicators and Action Plan.
- Executive Minute 111; 9 September 2003 re: Restructuring Regeneration - Preparing for the Future.
- The Governments Performance Indicators for Development Control. www.odpm.gov.uk.
- Department of Environment Circular 1/97 and revisions.

Planning: Delivering a Fundamental Change. www.odpm.gov.uk.