

WYRE FOREST DISTRICT COUNCIL

PLANNING (DEVELOPMENT CONTROL) COMMITTEE
11TH APRIL 2006

Recovery Plan to meet BV109 targets for
determining planning applications

OPEN	
RESPONSIBLE OFFICER:	Head of Planning, Health and Environment
CONTACT OFFICER:	Clare Eynon – Extension 2515 : Duke House, Clensmore Street, Kidderminster
APPENDICES:	Appendices 1-10 Practice/Guidance Notes, Scheme of Delegation to Officers and related documents. Recovery Plan

1. PURPOSE OF REPORT

- 1.1 To consider changes to the way in which planning applications are handled, in order to improve performance against national best value performance indicators (BV 109).

2. RECOMMENDATION

- 2.1 **The Committee is asked to RECOMMEND to Cabinet that the following are recommended to Council for adoption:**
- a) **Revised Scheme of Delegation and consequential review of Planning (Development Control) Committee agenda**
 - b) **Practice Note 17 (including Checklist for planning applications) and leaflet for developers submitting major planning applications**
 - c) **Revised Practice Notes 4, 7 and 15**
 - d) **The revised Practice Note 8 on Departures**
 - e) **Delegated authority be given to amend other Practice Notes (including Nos. 10 and 13) and withdrawing Practice Note 14, as a result of operational/procedural changes arising from the above**

3. BACKGROUND

3.1 The Office of the Deputy Prime Minister's (ODPM) Public Service Agreement 6 (PSA6) set in 2002, requires all Local Planning Authorities inter alia to achieve BVPI 109 targets for handling planning applications by March 2007. These are:

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

3.2 Major applications are defined as

- Residential development of 10 or more dwellings
- the provision of a building or buildings where the floor space to be created is 1,000 sqm or more
- where site area is 1.0 hectare or more

The National target for determining major planning applications is 60% within 13 weeks.

3.3 Minor applications include:

- minor dwellings
- minor offices
- minor heavy industry
- minor retail

The National target for determining minor planning applications is 65% within 8 weeks. The Local target however for determining minor planning applications is 70% within 8 weeks.

3.4 Other applications include:

- Change of use,
- householder,
- advertisement consent,
- listed building consent; and
- conservation area consent

The National target for determining other planning applications is 80% within 8 weeks. The Local target however for determining other planning applications is 85% within 8 weeks.

3.5 A revised PSA6 target announced in July 2004 requires all Local Planning Authorities to sustain this level of performance to 2008/09.

- 3.6 Each year those poorly performing Councils falling below a particular threshold of performance are designated as Best Value Planning Standards Authorities under the Best Value provisions of the Local Government Act 1999. Where their performance falls below specified thresholds for the annual period ending in June each year, they are asked to achieve specific performance standards in the following year. Help and support in this process is made available through the Planning Advisory Service (part of the IDEA).
- 3.7 The ODPM have advised the Council, along with 80 other local planning authorities, that it will be a 'Standards Authority' for the year 2006/2007 due to the performance on major applications between 1 April 2004 and 31 March 2005 (36% in 13 weeks) falling below the threshold for designating planning standards authorities for the 2006/07 financial year. Becoming a Standards Authority requires the Council to meet the target of determining 60% of major applications within 13 weeks by March 2007 and maintain the target level of performance for the duration of the spending review period, up to March 2008. It will also be necessary for the Local Planning Authority to continue to meet the national targets with respect to minor and other applications.
- 3.8 Once designated as a Standards Authority, ODPM has used consultants to undertake an evaluation to assess the Council's current development control performance and likelihood of meeting and sustaining the BVPI 109 targets by March 2007. This includes assembling key public and internal information through a questionnaire and datasheet for each Authority. This used to make a judgement about the likelihood of achieving the targets considering such matters as rate of improvement, caseloads, backlog, quality of the improvement strategy and commitment. An assessment is then made to determine if further action is required to support performance improvements. Authorities are judged to be Green if making the standards or targets, Red if there is concern that they will not achieve them by March 2007 and Amber if it is unclear. This assessment has yet to be undertaken for Wyre Forest.
- 3.9 Engagement with an Authority is reviewed at the end of the year for which it has been designated as a Standards Authority. ODPM remain engaged until confident that a sustainable level of improvement has been achieved with the level of engagement proportionate to the risk of failure. This is assessed on a quarterly basis and Authorities are disengaged only when it is clear that all targets will be met.
- 3.10 When an Authority's performance is causing serious concerns they are asked to self assess performance against trajectories and draw up improvement plans and submit quarterly reports to the Government Offices. Being named as a Standards Authority is the first step in a legal process which, if performance does not improve, can result in more direct intervention by the Secretary of State.

- 3.11 Performance on major planning applications has also attracted the attention of the Audit Commission who plan to inspect the Council in May 2006, focusing, inter alia, on major planning applications.

4. KEY ISSUES IN WYRE FOREST

- 4.1 It is recognised that where major applications are recommended for approval they are often the subject of a Section 106 obligation. This has historically caused such applications to go beyond the 13 week target as a result of the complicated negotiations and sometimes protracted process of obtaining approval of the agreement by a number of different parties.
- 4.2 A report was taken to the Planning (Development Control) Committee in March 2005 advising Members of changes in the way applications requiring a Section 106 obligation are handled in order to improve performance. Although the report was aimed at improving performance on major applications, it was also envisaged that the proposed changes would improve performance on minor residential schemes where a Section 106 obligation was required to secure an education contribution.
- 4.3 As part of the proposed changes, Officers would need to begin negotiations early on Section 106 clauses in parallel with the determination of the planning application rather than waiting until the application is considered by the Planning (Development Control) Committee.
- 4.4 At the meeting in March 2005, Members resolved to recommend to Council that delegated powers be given to the Head of Planning, Health and Environment in consultation with the Head of Legal and Democratic Services to refuse applications where the Section 106 obligation is not completed within a specified time period. This was adopted by Full Council in April 2005.
- 4.5 These changes have now been implemented, but there has not been long enough for this to have a significant impact on performance. As the Council has now been named as a Standards Authority it is clear that further significant changes need to be made to improve performance on major applications but also for the Council to continue to meet national targets for minor and other applications. This report therefore sets out a Recovery Plan to improve the performance on major applications whilst continuing to ensure that other and minor applications are also determined within the national targets.

5. **PAST PERFORMANCE**

5.1 In order to develop a Recovery Plan and Improvement Strategy it is necessary to observe the Council's previous performance. The period suggested by the Planning Advisory Service (PAS) is from 2000/2001. In accordance with advice provided by the PAS by plotting the previous performance using a Performance Trajectory it is also possible to identify how much improvement is necessary to meet the national targets by March 2007. Performance Trajectories for major, minor and other applications are attached to the end of this report as *Appendices 1-3*. The solid line shows performance to date and the broken line shows the performance necessary to meet the national target for the period ending March 2007.

Major applications

5.2 The trajectory in *Appendix 1* shows that whilst performance increased for major applications from the 3rd Quarter of 2002/2003 until the 4th Quarter of 2003/2004 (where it reached a maximum of 79%), it has since fallen steadily. The drop in performance relating to major applications is not easily explained, but it is most likely attributable to the adoption of the Education Contributions SPG in 2003 which requires education contributions to be secured through a Section 106 agreement, a fall in the number of 'major' applications dealt with, and more complicated negotiation and complex sites.

5.3 The lowest recorded performance figure for major applications was in the 1st Quarter of 2005/2006 where only 29% were determined within 13 weeks.

5.4 It is clear from these figures that significant changes are still required to improve performance on major applications, in addition to the changes agreed last year to S106 obligation procedures. The proposed changes which form part of the Recovery Plan are set out later in this report.

Minor applications

5.5 The trajectory in *Appendix 2* shows that whilst performance decreased from 81% in the 1st Quarter of 2002/2003 to 62% in the 2nd Quarter of 2003/2004, it then improved gradually until the 2nd Quarter of 2004/2005. Since then however, performance has fallen again within this category, although not below the national target of 65%, but below the local target of 70% in 8 weeks.

- 5.6 Under the existing scheme of delegation, most minor applications (apart from creation of 3 or more residential units) can be determined under delegated powers, unless the recommendation is to refuse planning permission. In addition, for minor applications which are recommended for approval they must be first reported to Committee where:
- there are more than 5 objections
 - an objector has registered to speak at Committee
 - there is an objection from a statutory consultee
 - there has been a request by a Ward Member for the application to be determined by Committee
 - the proposal involves a departure from the Development Plan

Other applications

- 5.7 The trajectory in *Appendix 3* shows that performance fell from 90% in the 4th Quarter of 2001/2002 to 76% in the 2nd Quarter of 2003/2004, but then improved gradually to 84% by the 2nd Quarter of 2004/2005. Since then however, performance has started to fall again within this category, although not below the national target of 80%, but below this local target of 85% in 8 weeks.
- 5.8 As for minor applications, under the existing scheme of delegation, most 'other' applications can be determined under delegated powers. The same exceptions apply as for minor applications

6. ANALYSIS OF DECISIONS WHERE APPLICATIONS FAILED TO MEET TARGETS

- 6.1 The decision dates for applications falling within the three different categories described above, over the last 12 months (Calendar year 2005) have been analysed. The results are summarised as follows:

Refusals which went over target period during the calendar year of 2005 (total 41 over target)

- 1 of 41 (2%) was 'major' application
 - 11 of 41 (27%) were 'minor' applications
 - 29 of 41 (70%) were 'other' applications
- 6.2 These figures show that there is not a significant problem with refusing major applications within the target period of 13 weeks. The reasons why decisions to refuse minor/other applications go over the statutory period are mainly due to :
- no delegated powers to refuse applications. 23 of these minor and other applications (over 50%) were solely reported to committee because the recommendation was to refuse and as such the applications needed to be reported to the Planning (Development Control) Committee.

- Due to the timing of the receipt of an application and how it fits within the committee cycle there are occasions where it is not possible to report the application to a committee within the target period. This is particularly relevant to those applications where the reason for refusal is due to an objection from a consultee.

6.3 Only two of the committee refusals which went over the statutory period were a result of a request of deferral for a committee site visit.

Committee Approvals which went over target period during the Calendar Year 2005 (total 112 over target)

- 15 of 112 (13%) were 'major' application (13 subject to a Section 106 agreement)
- 46 of 112 (41%) were 'minor' applications (3 subject to a Section 106 agreement)
- 51 of 112 (45%) were 'other' applications

6.4 This clearly shows that for major applications, if the recommendation is to approve and the application needs to be subject to a Section 106 agreement, historically they have gone over the 13 week period. In the Calendar year of 2005 none of the major applications which were approved within the 13 week period, were the subject to a Section 106 agreement.

6.5 For the 97 minor and other applications approved outside the target the key reasons why they have gone over the statutory 8 week period are illustrated in the following table:

Reason for delay	Total No applications
Objection from Parish Council/Town Council or generalised comments	19
Timing of expiry date and Committee cycle	17
Referral to Secretary of State (works to listed buildings, Council property etc)	11
Application subject to Section 106 agreement (or related application)	11
Delay in receiving revised plans or further information after committee decision	7
Complex application	6
Speaker at Committee	6
Committee Site Visit	5
Objections received	5
Deferral by Committee	1
Technical assessment	1

Other reasons	8
---------------	---

6.6 In addition to these categories, having looked through the relevant committee reports, 8 of the minor and other applications may have been determined within the statutory period if the Case Officer had consulted the Ward Member under the existing scheme of delegation rather than reporting the application to Committee.

6.7 Analysis of the above concludes that :

- there is a pressing need to review this Council's current scheme of delegation
- there is a need for wider use by Officers of the Ward Member consultation process
- need for planning training of Parish and Town Councils particularly on how they comment on individual applications.
- For applications which need to be referred to the Secretary of State, Officers should consider whether the application needs to be first reported to the Planning (Development Control) Committee. Unfortunately for applications relating to Council land or property, or those where the applicant is the Council the application will need to be reported to the Committee before being referred to the Secretary of State.
- Few applications are delayed as a result of speakers at committee and it is not therefore necessary to make any changes to the existing arrangements for public speaking at Committee
- As only 5 applications went over the 8 week period due to a Committee request for a site visit, this shows that the existing protocol for requesting site visits is working well and that site visits are not being taken unless there are good planning reasons
- It may be opportune to consider whether this size of the Planning (Development Control) Committee is the optimum to effectively discharge the Council's duties
- It may be opportune to review the format of the Committee agenda if fewer items are to be considered

7. **RECOVERY PLAN**

- 7.1 In addition to the increased delegation powers to speed up major applications requiring a Section 106 obligation, new guidance is proposed for developers to ensure that the Council has all the relevant supporting information to consider the application when it is first submitted. This guidance will be in the form of a new Practice Note and a leaflet. The guidance will require Heads of Terms for Section 106 obligations to be agreed with the applicant at pre-application stage to avoid delays in completing the agreement. Upon receipt of the application, the applicant/agent will also be given a timetable to show the key milestones within the 13 week target period and a deadline setting out when the S106 agreement needs to be completed. A copy of the new Practice Note and leaflet providing guidance to developers submitting major planning applications are attached as *Appendix 4* and *5*, respectively.
- 7.2 As part of the Recovery Plan, and in accordance with the ODPM 'Best Practice Guidance on the Validation of Planning Applications' a checklist is also proposed for applicants submitting planning applications to ensure that all the necessary supporting information is submitted with the application, rather than during the determination of the application. This checklist is within *Appendix 1* of the new Practice Note referred to above. To assist officers in considering what information is needed, meetings with Officers and developers in accordance with the existing Development Team Approach will be strongly encouraged.
- 7.3 In addition to the new Practice Note and leaflet for developers submitting major applications, some of the existing Development Control Practice Notes will need to be amended to reflect the new procedures for dealing with applications. Those Practice Notes affected are No's 4, 7 and 15. A copy of the revised Practice Notes are attached as *Appendices 6-8*.
- 7.4 To assist developers in agreeing Heads of Terms for Section 106 obligations at an early stage with the Council, a new Supplementary Planning Document (SPD) on Planning Obligations is proposed. This has already been identified in the Local Development Scheme. However to have SPD status it will need to go through a specific consultation procedure before being capable of being adopted under the new Local Development Framework and as such the details of this SPD will be reported to Members separately. It is anticipated that the SPD will be adopted by February 2007.
- 7.5 Whilst this report is aimed at improving performance on major applications, as the Local Planning Authority will also be required to continue to meet the national targets for minor and other applications, as part of this Recovery Plan it is also proposed to amend the Scheme of Delegation to officers for determining applications.

- 7.6 Schemes of delegation for local planning authorities tend to fall within one of two types:
- all applications may be deemed as being determined under delegated powers with specified exceptions (exception approach)
 - prescribed delegated powers which lists all application types where delegated powers apply

At Wyre Forest, the existing scheme of delegation falls within the latter type.

- 7.7 The ODPM paper on 'Delivering Delegation' advises that the 'Exception Approach' provides greater flexibility and clarity of understanding. The Local Government Association recommends that all councils should review their arrangement in the light of the benefits offered by the Exception model.
- 7.8 The Audit Commission has also identified the best possible use of delegated powers as one of a number of ways to reduce delays in making decisions on planning applications without compromising the quality of those decisions.
- 7.9 Delegation is not:
- a process designed to transfer power from elected members to officers
 - a method to dilute the transparency of the Development Control process
- 7.10 Delegation has benefits for all stakeholders in terms of:
- simplifying procedures
 - minimising costs
 - freeing up Committee members to concentrate on major or controversial cases.
- 7.11 Where there is no need to await a committee decision, up to four weeks can be saved in dealing with a planning application.
- 7.12 Not all applications with objections need to go automatically to committee but it is important that a balance is struck between the need to achieve speedy delivery of decisions and effective process and the public's desire to see significant applications aired at Committee. However, where a Member insists that an application should be discussed at committee, where there is a fine balance to be struck between competing interests or a contentious case local people would expect to see representation of their views and discussion at committee and the delegation system needs to be adequately sensitive to this and be adequately flexible to adapt to circumstances.

- 7.13 Members are able to exercise proper control over the Scheme of Delegation. They are able to ensure that officers deal only with those applications which do not run counter to the view of councillors, and to any other consultee bodies. They are able to ensure that officers deal with only those applications which the committee would be content to delegate to them for decision and only then, in accordance with the approved plans and policies of the authority. Elected members also remain in complete control of the delegation process – they decide the council’s development plan policies within which all applications are judged.
- 7.14 Many systems operate on the basis that no delegated decision can be taken contrary to views expressed by parish councils and amenity societies. This achieves their confidence but at the cost of uncertainty as to timing and other inefficiencies.
- 7.15 It is proposed that the Scheme of Delegation be amended as per the Exception Approach, which is recommended by the ODPM and the Local Government Association. By adopting this new Scheme of Delegation, Officers can spend more time concentrating on the major applications. The amended Scheme of Delegation is attached as *Appendix 9*.
- 7.16 It is also clear from the analysis of recent performance that the Council’s existing Departure Procedure prevents some applications from being determined within the statutory period. Under the existing process, where a proposal constitutes a departure from the Development Plan but Officers are satisfied that there are material considerations which outweigh the policy, and it is recommended for approval, the application must still complete the internal departure process (ie defer one cycle) before being referred to the Secretary of State after the first consideration by the Planning (Development Control) Committee. It is therefore proposed to amend Development Control Practice Note 8 to enable departure applications, which are recommended for approval by the Case Officer and agreed by the Planning (Development Control) Committee, to be referred direct to the Secretary of State after Committee approval without the need to be deferred for a committee cycle. A copy of the draft revised Practice Note 8 is attached as *Appendix 10*. Departure applications recommended for refusal but which Planning (Development Control) Committee Members wish to approve will remain unaffected (i.e. will be deferred one cycle) to enable consultation will all Council Members.
- 7.17 In addition to the proposed changes set out above, Wyre Forest District Council has signed up to participating in a Pilot Scheme being run by the Planning Advisory Service (PAS) to assess the effectiveness of Planning Delivery Agreements (PDA’s) in determining major planning applications. PDA’s are voluntary agreements which can be signed between local authorities and developers, detailing project plans for handling large planning applications.

- 7.18 PDA's are designed to provide a project management tool for local authorities and applicants, ensure that local communities are properly engaged early on in the process and give greater certainty to developers over the handling of their applications. It is hoped that they will improve and speed up the process for determining large applications, but they will not alter the outcome of decisions as each case will continue to be determined on its merits and all of the safeguards in the planning system will remain in place.
- 7.19 The two development proposals which have selected for the Pilot Scheme are the proposed new Tesco store in Stourport and the redevelopment of the Health Centre site in Bewdley. The Pilot scheme will run until October 2006.
- 7.20 With the new planning database which has been developed for Wyre Forest District Council, it is possible to develop management reports which enable the performance on applications to be monitored on a regular basis. This will help identify where future improvements are required and to monitor the effectiveness of the Recovery Plan.
- 7.21 Performance will be reported to Planning (Development Control) Committee on a monthly basis. The trajectories in *Appendices 1-3* will also be reported as part of the performance reports to Committee, as a visual aid to show how performance varies over the three different groups of applications.
- 7.22 The Recovery Plan in a SMART tabular form is appended to this report and shows the key elements which will improve performance on major applications whilst continuing to ensure that minor and other applications are determined with the national targets.

8. FINANCIAL IMPLICATIONS

- 8.1 There are no financial implications arising from the Recovery Plan.

9. LEGAL AND POLICY IMPLICATIONS

- 9.1 It is not considered that there are any legal obstacles to changing the practices of the Council in this way.
- 9.2 This matter needs to be reported to Cabinet and ultimately to Council for decision as it involves changes to Council policy and a change to the Scheme of Delegation to Officers.

10. RISK MANAGEMENT

- 10.1 Failure to meet the BV109 a-c targets has a number of consequential risks:
- The Council delivers a lower quality of service to its customers and fails to adopt best practice methods of service delivery.
 - The Council will remain a Standards Authority until such time as the ODPM are satisfied that appropriate standards have been met which may at its worst involve external intervention
 - The Council will achieve a poorer CPA rating
 - The Council will be penalised financially by a reduced Planning Delivery Grant allocation.

11. CONCLUSION

- 11.1 It is considered that the proposed Recovery Plan is an effective way of ensuring that applications are determined speedily, in line with Government targets and will enable the Council to meet the target for major planning application by March 2007 and disengage from the ODPM as a Standards Authority.

12. CONSULTEES

- 12.1 Head of Legal and Democratic Services.

13. BACKGROUND PAPERS

Office of the Deputy Prime Minister (ODPM) – Planning Performance Statistics : Quarterly Reports.

Delivering Delegation , March 2004 (ODPM)

Planning Advisory Service – Good Practice for processing major applications

Planning Advisory Service – Improvement strategy guidance for planning authorities (July 2004)

PAS – Developing a Development Control Improvement Strategy

ODPM – An overview of the Evaluation of Planning Standards Authorities 2004/05

ODPM – Best Practice Guidance on the Validation of Planning Applications

03.4.06

**PLANNING, HEALTH AND ENVIRONMENT DIVISION
PLANNING APPLICATION PERFORMANCE RECOVERY PLAN**

<i>Proposed Actions</i>	<i>Resources</i>	<i>Responsible Officer(s)</i>	<i>Timescale</i>	<i>Measures (How will we monitor it)</i>	<i>Progress Made (Performance against measures)</i>
Practice Note (including Checklist for submitting planning applications) and Leaflet to provide guidance to developers submitting major planning applications	No additional resources required	CE	Adopt May 2006 after Full Council	Practice notes published and available by 1 st June 2006	
Revised Practice Notes 4, 7 & 15	No additional resources required	CE	Adopt May 2006 after Full Council	Practice notes published and available by 1 st June 2006	
Amend Scheme of Delegation	No additional resources required	CE	Adopt May 2006 after Full Council	Monitor performance of major, minor and other applications against BV109a,b & c and report monthly to the Planning (Development Control) Committee and DMT until disengagement	

Revised Practice Note 8 on Departure Process be adopted	No additional resources required	CE	Adopt May 2006 after Full Council	DC Manager to monitor performance of major, minor and other applications against BV109a-c	
Supplementary Planning Document on Planning Obligations	To be met from existing Forward Plans budget	CE/ NH	Adopt by February 2007	Reported to Council and adopted by Feb 2007	
PAS – Pilot Scheme	No additional resources required	CE	Feb- October 2006	Findings/outcome of Pilot Scheme and success of 2 pilot projects to be reported to Cabinet and DMT	
Monitoring of performance	No additional resources required	CE	Ongoing. Monthly reports to DC Committee and DMT	Performance monitored and reported monthly to Planning (Development Control) Committee and DMT	