



Report to: Cabinet Meeting - 19 December 2023

Portfolio Holder: Councillor Matthew Spoons, Sustainable Economic Development and Councillor Paul Peacock, Strategy, Performance & Finance

Director Lead: Matt Lamb, Director - Growth & Planning

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Report Summary	
Type of Report	Open Report, Non-key Decision
Report Title	Planning Development – Planning Application Budget
Purpose of Report	To provide an update on the Planning Development service and propose an increased budget to assist with ongoing and increased demand.
Recommendation	To increase the staffing budget to £1,023,170 based on forecast planning fee income to £1,031,700 from 2024/25.
Alternative Options Considered	There is an option to do nothing but this is not considered viable given the current pressures on the service.
Reason for Recommendation	To enable the Planning Development business unit to review resources in order to implement some of the many changes resulting from legislation and the actions identified within the Community Plan – both directly for the service as well as actions for other departments that require our resources.

1.0 Background

- 1.1 The Planning Development Business Unit contains the statutory planning and related services for the Authority. In simple terms this is the team which deals with planning and protected tree applications, street naming and numbering, and land charges. The teams are made up of professional officers and technical support staff.
- 1.2 The Business Unit also accommodates several non-statutory services including Planning Enforcement, Built Heritage & Conservation (we have more listed building and Conservation Areas than York) and most recently, ecology and tree/landscape advisers. The Business Unit is also supported by a Technical Support team who deal with a range of activity which sits below that undertaken by qualified professionals, including validating planning applications and dealing with consenting processes.

- 1.3 In recent years the volume and complexity of work the team has done has increased. Some of this has been in line with market conditions, whilst some results from challenges of changing legislation and case law, notably with respect to viability, Biodiversity Net Gain and a number of controversial applications such as housing, battery storage, GRT (Gypsy, Romany, Traveller) and solar farms. Moreover, Nationally Strategic Infrastructure Projects (NSIP) applications are expected, as detailed at paragraph 1.18 below.
- 1.4 The number of appeals varies significantly, but the previous financial year saw an increase, largely due to the work undertaken by the planning enforcement team who have sought to be more pro-active following a previous injection of resources in the form of an Enforcement Trainee. In 2021/22, there were 9 enforcement related appeals and in 2022/23, 21. Whilst the number of appeals has grown significantly, the number that have been dismissed (i.e. in the Council's favour) has 'improved' from 70% in 2021 to 87% in 2022/23, demonstrating sound decision making.
- 1.5 The number of enforcement cases received is significant with many of these resulting in enforcement notices. Some cases received are not planning breaches or have the benefit of being permitted through permitted development rights or via a planning permission. These still require investigating to confirm compliance against plans or legislation. For the majority of cases, negotiation takes place to try and resolve any breach, with notices issued being the last resort. The Council issued more notices in the previous year than all other East Midlands authorities combined and is number 18 across England and Wales in terms of the number issued. This is also reflected in the appeals figures above with a significant number being received last year (July to September) as a result.
- 1.6 In addition to this 'accounted' for work, there have been additional complexities emerging. More residential planning applications than ever now run a 'viability challenge' whereby it is argued that there is insufficient profit to provide for developer contribution. This is a perfectly legitimate, yet unpalatable, policy approach which the LPA must consider. Dealing with the District's GRT challenges, including a number of unauthorised encampments remains a key issue.
- 1.7 There has also been a greater number of applications requiring a screening opinion under the Environmental Impact Assessment Regulations and a greater number of legal challenges (which have all been successfully defended at pre-action stage) due to the detail that Officers include within their reports.
- 1.8 Across the Council there has been, and continues to be, greater ambition in terms of development schemes such as Towns Fund, Newark Levelling Up, Sherwood Levelling Up, and pipeline regenerations proposals (including the development of pipelines) all requiring input from planning officers along with the more day-to-day assistance with housing and HRA-led schemes. More challenges are on the horizon with the impending introduction of biodiversity net gain and changes that will result from the Levelling Up and Regeneration Act 2023, as are explored in greater detail below. It is understood more projects may arise from discussions on Southwell Leisure Centre, Clipstone, Ollerton, Active Travel, and the Long Term Plan for Towns Fund (referred to for ease as Towns Fund 2).

Emerging Challenges (Legislative and Operational)

BNG

- 1.9 Cabinet will be aware of the impending introduction of biodiversity net gain in January, having been delayed from November. The Regulations have recently been published in draft and the Lead Officer for Biodiversity and Ecology will be required to interpret, analyse and train planning officers, Members (of Planning Committee in particular) and staff across the wider Council to advise of what it means and how we are going to implement and manage this requirement. Grant funding has been provided by DEFRA, some of which has been utilised in preparing the post with the remaining proposed to be used for the implementation and monitoring once enacted.

Beautiful Design

- 1.10 One of the Government's aims is for new development to be 'beautiful' with the Levelling Up & Regeneration Act 2023 promoting a need for a "czar" for beauty in each local authority. Alongside beautiful design is a requirement for design-codes which, in simple terms, aim to analyse the character of an area and prescribe the types of development including design, materials, spacing etc. that might be acceptable. With both the size and different characters across the District, this will be a significant piece of work with associated resource required. A New Town Centre Design Code has been commissioned. One District wide will be required, funded as part of the LDF work.

Affordable Housing

- 1.11 There has been changes to affordable housing products with the introduction of first homes. Whilst the Council's housing team provide information on the requirement for affordable housing on schemes, they do not provide the full detail on the mix and need on development sites. This is a negotiation which planning officers take on. The impact of this new housing product, along with changes to the National Planning Policy Framework in terms of what constitutes and affordable dwelling in the context of adopted planning policies (noting the National Planning Policy Framework (NPPF) is more up-to-date and thus takes priority) has needed unpicking to understand what can be sought from developers as well as how this affects viability of schemes. The planning officers have had to ensure they are equipped with the relevant knowledge needed to ensure they can negotiate from a solid position.

Further Permitted Development Rights

- 1.12 The Government has recently consulted on a significant change and increase to developments that can benefit from permitted development rights. Although, such applications are meant to be a 'light touch', in reality they are more often than not significantly more challenging to deal with than if it were development proposed as part of a planning application. Understanding and interpreting the various nuances of legislation, guiding applicants and developers, responding to neighbours can often be more resource intensive than a full planning application.

Viability Continues

- 1.13 The LURA is proposing to remove the need for viability assessments with the introduction of a new charging levy. However, there has been significant commentary from across the planning world (LPAs, developers and barristers) identifying that this is unlikely to be achieved. It is considered it will become more challenging once mandatory BNG is in place, with this resulting in a financial burden upon developments, notwithstanding this burden should be considered when purchasing land. Viability assessments, as well as often resulting in much needed local infrastructure not being affordable, can lead to challenges between the Council and developers, Council and the public and between Officers and Members. Whilst viability and any change to a new levy remains a concern there is little detail currently available. This report therefore does not seek additional resource in this respect.

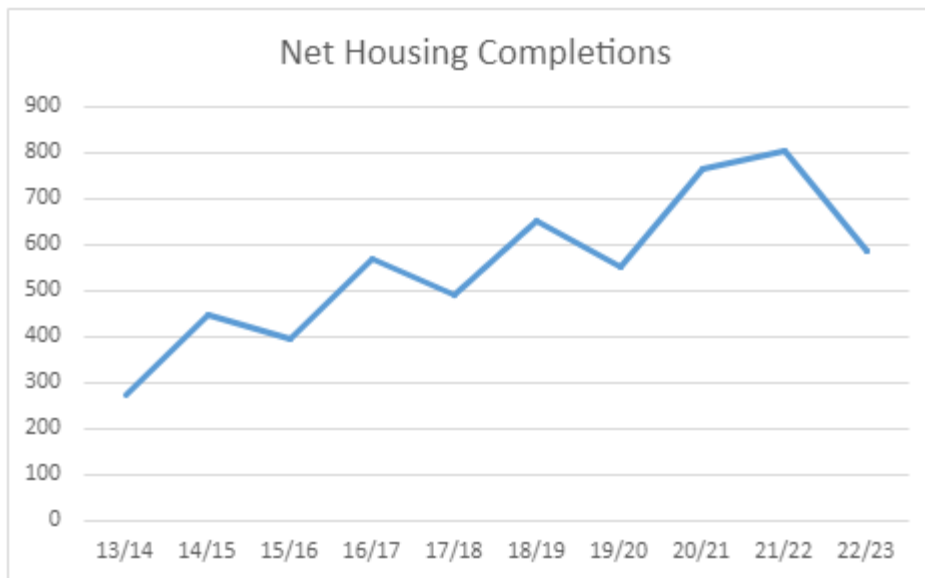
New Software System

- 1.14 The Planning Development and Public Protection teams have just commenced the first stages of publishing procurement information for existing software (in addition to additional requirements such as monitoring of s106 Planning Obligations). The current software (Planning) serves a function in enabling decisions to be made in a timely manner, but as set-up, it is not user-friendly and a number of work-arounds have to be undertaken as well as manual interventions of tasks in order to deliver the service. It is currently not fit for purpose in the 21st century and does not facilitate efficiency. It is expected that once a new system is implemented or the existing significantly adapted to automate tasks and improve functionality that the service will be able to operate more efficiently, effectively and focus more time upon service provision and engagement with customers. The LURA will also result in the need for change, as well as any other legislative or policy changes.
- 1.15 The set-up of planning software is critical to providing an effective customer service and meeting of statutory timescales for decision-making (which the government is looking to strictly enforce). Therefore, it is necessary to ensure all processes are mapped with correct coding, legislation references, letter templates etc., are set-up to provide an excellent service.

Planning Fee Increase

- 1.16 The Government has implemented legislation providing for planning fees to increase from 6 December 2023. This fee increase is 35% for major developments and 25% for non-major. Additionally, fees would increase annually from 1 April 2025 by the lower of:
- (a) The percentage increase in the consumer price index; and
 - (b) 10%
- Rounded up or down to the nearest £1.
- 1.17 Additionally, 'free go's' would no longer be possible, except for those applications which were able to benefit from a free go prior to the Fee Regulations coming into force. Free go's allow an applicant to submit a further application within 12-months of the decision without a charge, subject to meeting a number of criteria.

1.18 The increase in fee income is long overdue insofar as income needing to match the level of resources required to determine an application. That said, it comes at a challenging time for the market given inflationary and cost pressures. Planning is predominantly a reactive service and is only able to respond when an application is submitted or enforcement complaint raised, for example. This lack of ability to control work (and thus income) is reflected in the following net housing completions each financial year. It is noted that housing completions still sit well above the annual target of 454 dwellings per year, albeit they have slowed. There is often a time lag of several years between a planning permission and a house completion.



Nationally Strategic Infrastructure Projects (NSIPs)

1.19 NSIPs are projects of such scale that they are determined centrally by the relevant authority, often the Planning Inspectorate but not exclusively (as some can be promoted by Highways or Energy Acts for example). There are now more than likely going to be 3 NSIPs and a scheme under the Electricity Act being considered at the same time across the NSDC patch. There are 2 imminent solar farm proposals to be submitted (one is the South Clifton locality crossing into Bassetlaw and West Lindsey, the other to the west of the A1/former Great North Road in the Averham /Norwell locality) which will take resource, as well as a carbon capture proposal at Staythorpe. All of these, as well as the A46 will have accompanying Planning Performance Agreements (with a financial payment) in order to recover resources. It is anticipated that the solar farms and carbon capture NSIPs will have a minimum resource requirement of 1 additional full-time officer, based on existing knowledge, up to examination stage.

2.0 Proposal/Details of Options Considered

2.1 The Business Manager - Development continues to face challenges in terms of planning reform, increased volume and complexity and in horizon scanning for change. This is particularly important in view of changes within the Levelling-up & Regeneration Act 2023 in addition to a recent government consultations on [planning fees and performance](#), both of which flag likely reform, some of which is known in terms of needed resource but much of which is not.

- 2.2 Given the challenges now and on the horizon a do-nothing scenario is not sustainable and will leave the Council unable to respond.
- 2.3 Given the increase in planning fees and following a service review, it is considered immediate and ongoing additional resource is required within the team, to be reflected by an increased in-year fee forecast budget. This will include the creation of an Assistant Business Manager to add leadership and management capacity as well as reviews of existing Job Description and Person Specifications. Any changes this year will be built into the base budget setting process and beyond from 2024/25 onwards.

3.0 Implications

In writing this report and in putting forward recommendations, officers have considered the following implications: Data Protection, Digital and Cyber Security, Equality and Diversity, Financial, Human Resources, Human Rights, Legal, Safeguarding, Sustainability, and Crime and Disorder and where appropriate they have made reference to these implications and added suitable expert comment where appropriate.

Financial Implications - FIN23-24/5851

- 3.1 The staffing budget in Planning Development of £1,023,170 is currently in the draft revenue budget to be presented to Cabinet on 20 February 2024. This includes the following post changes:

	2023/24	2024/25
	Jan - Mar	
Senior Planners - anticipated increase following JE	£6,250	£24,950
Assistant Business Manager - New Post	£17,630	£73,140
Additional FTE Planner NSIPs - New Post	£11,760	£51,880
ICT Equipment @ £2000 for 2 new posts	£4,000	£0
Total Costs	£41,020	£157,830

- 3.2 The new planning fee budget of £1,031,700 is an increase from the current year's budget of:

Additional Planning Fee Income	£0	-£176,410
Net Budget Increase/(Decrease)	£41,020	-£18,580

- 3.3 The current year increase of £41,020 can be funded by the Planning Cost Reserve.
- 3.3 The Net Budget Change above shows a positive change to the Revenue Budget due to the increase in the Planning Fees. In the future, there is additional funding from the developers of the three NSIPs.

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

None