



Planning Committee

Date:	Thursday, 10 February 2022
Time:	6.00 p.m.
Venue:	Palace Suite - Floral Pavilion

Contact Officer: Katy Brown
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AGENDA

1. MINUTES (Pages 1 - 6)

To approve the accuracy of the minutes of the meeting held on 16 December 2021.

2. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the committee are asked whether they have any personal or prejudicial interests in connection with any application on the agenda and, if so, to declare them and state the nature of the interest.

3. **APP/21/01773; 35 MACDONA DRIVE, WEST KIRBY, CH48 3JH. LOFT EXTENSION TO INCORPORATE A REAR DORMER, FRONT AND REAR BALCONIES. INSTALLATION OF TWO, LARGER FIRST-FLOOR SOUTH FACING WINDOWS, ALTERATIONS TO EXISTING WINDOWS AND INTERNAL ALTERATIONS. (Pages 7 - 12)**
4. **DEVELOPMENT MANAGAEMENT PERFORMANCE UPDATE- ENFORCMENT ACTIVITY BETWEEN 1 OCTOBER 2021 AND 31 DECEMBER 2021. (Pages 13 - 18)**
5. **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE - PLANNING APPLICATIONS (Pages 19 - 24)**
6. **DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE- PLANNING APPEALS (Pages 25 - 28)**

Planning Committee Terms of Reference

The principal role of the Planning Committee is to act as the administrative committee responsible for making decisions as local planning authority on planning applications, development control and similar regulatory matters, which are more particularly described as *Functions relating to town and country planning and development control* and related matters as set out at Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

The Committee is charged by full Council to fulfil those functions:

- (a) to consider and determine applications submitted under the Planning Acts for planning permission, listed building consent, and reserved matters pursuant to major planning applications;
- (b) to consider and determine applications for the display of advertisements submitted under the Town and Country Planning (Control of Advertisements) (England) Regulations;
- (c) to determine whether prior approval applications for the construction, installation, alteration or replacement of telecommunications masts submitted under Part 24 Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 should be granted or refused;
- (d) related matters including but not limited to:
 - (i) applications for 'hedgerow removal' (Hedgerow Regulations 1997, as amended);
 - (ii) applications to undertake works to trees subject to a Tree Preservation Order or within a Conservation Area (Town and Country Planning Trees Regulations 1999, as amended);
 - (iii) applications for remedial notices in respect of high hedges (Anti Social Behaviour Act 2003, as amended);
 - (iv) applications for Hazardous Substances Consent (Planning Hazardous Substances Act, 1990, as amended);
 - (v) the obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976;
 - (vi) powers related to Commons Registration;
 - (vii) functions relating to public rights of way;
 - (viii) the licensing and registration functions relating to the New Roads and Street Works Act 1991 and the Highways Act 1980; and
 - (ix) functions relating to Town and Village Greens;
- (e) to exercise any other function of the Council under the Planning Acts and related legislation, whether as a local planning authority,

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PLANNING COMMITTEE

Thursday, 16 December 2021

Present:

Councillor S Kelly (Chair)

Councillors	S Foulkes	P Stuart
	K Hodson	M Jordan
	AER Jones	A Gardner
	B Kenny	B Berry
		H Gorman

39 MINUTES

The Director of Law and Governance submitted the minutes of the meeting held on 11 November 2021 for approval.

On a motion by the Chair and seconded by Cllr Foulkes it was –

Resolved – That the minutes of the meeting held on 11 November 2021 be approved.

40 MINUTES OF THE STRATEGIC APPLICATIONS SUB COMMITTEE

The Director of Governance and Assurance submitted the minutes of the Strategic Applications Sub Committee meetings held on 2 November 2021 for approval.

On a motion by the Chair and seconded by Cllr Foulkes it was –

Resolved – That the minutes of the Strategic Applications Sub Committee meeting held on 2 November 2021 be approved.

41 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members of the Committee were asked whether they had any personal or prejudicial interests in connection with any application on the agenda and if so to declare them and state the nature of the interest. No such declarations were made.

42 APP/21/00963; SANDIWAYS, 46 HOYLE ROAD, HOYLAKE, CH47 3AQ PROPOSAL: FULL PLANNING APPLICATION FOR DEMOLITION OF EXISTING BUILDING AND THE ERECTION OF A RESIDENTIAL DEVELOPMENT WITH ASSOCIATED MEANS OF ACCESS, SITE INFRASTRUCTURE, CAR PARKING AND LANDSCAPING AT 46 HOYLE ROAD, HOYLAKE CH47 3AQ.

The Director of Regeneration and Place submitted the above application for consideration.

The Lead Petitioner addressed the Committee.

The Ward Councillor addressed the Committee.

The Lead Principal Lawyer (Regeneration, Planning and Property), read out a statement submitted by the applicant.

On a motion by the Chair and seconded by Cllr Foulkes it was –

Resolved (9:1) – that the application be approved subject to a section 106 agreement pursuant to the Town and County Planning Act 1990 securing a financial contribution for Off-Site Highway Works and biodiversity credits for offsite compensation works relating to dune grassland and also subject to the following conditions.

The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 14/05/2021 and 30/11/2021 (unless otherwise stated) and listed as follows:

**Design and Access Statement: Blueoak
Preliminary Ecological Appraisal: Tyred Ecological Consultants Limited
Desk Survey Results (Bats): Tyres Ecological Consultants Limited
Habitats Regulations Assessment: Tyred Ecological Consultants Limited
Arboricultural Impact Assessment: Tree Solutions**

20-HOYLE-LOC-01

8677/01

20-HOYLE-PL-01 Rev A

20-HOYLE-PL-02 Rev A

20-HOYLE-PL-03 Rev C

20-HOYLE-PL-04 Rev B

20-HOYLE-PL-05 Rev A

20-HOYLE-PL-06

20-HOYLE-PL-07 Rev B

20-HOYLE-PL-08 Rev A

20-HOYLE-PL-101

20-HOYLE-PL-102

LDS491-01

LDS491-LS

The facing materials to be used in the external construction of this development hereby approved and set out in the Design and Access Statement shall then be used in the construction of the development unless agreed otherwise in writing with the Local Planning Authority.

The accommodation hereby permitted shall not be occupied until a detailed scheme for landscaping (including replacement trees and boundary treatment) has been submitted to and agreed in writing with the Local Planning Authority. The approved landscaping provisions shall be completed in full before the apartments are occupied and retained in situ in perpetuity.

Prior to first occupation of the development hereby approved arrangements for the storage and disposal of refuse including recycling facilities, and vehicle access thereto, shall be made within the approved residential curtilage and be retained in situ in perpetuity.

No development hereby approved shall take place (including ground works and vegetation clearance) until a Construction Ecological Management Plan (CEcMP) has been submitted to and approved in writing by the local planning authority. The CEcMP shall include, but not limited to the following:

a) Risk assessment of potentially damaging construction activities
b) A pre-commencement check for hedgehogs.
c) Identification of “biodiversity protection works” / Reason Avoidance Measures (RAMs) including but not limited to:

i. The working area, together with any storage areas, being kept clear of debris, and any stored materials being kept off the ground on pallets to prevent amphibians from seeking shelter or protection within them;

ii. Any open excavations (e.g. foundations / footings / service trenches etc) being covered with plywood sheeting (or similar) at the end of each working day. The edges of these sheets being covered with a thick layer of topsoil or similar) to prevent amphibians from seeking shelter beneath them.

iii. Any excavation being in-filled and made good to ground level with compacted stone or similar at the earliest opportunity, so as to remove any hazard to amphibians.

iv. Any open pipes being temporarily capped at the end of each working day to prevent any animals gaining access.

v. Any holes or trenches left open overnight being either be covered at the end of each working day and/or include a means of escape (sloped banks or ramps) in case any hedgehog should fall in.

vi. All building materials being stored so that hedgehogs cannot access them.

vii. The use of chemicals (such as herbicides & fertilisers) being avoided wherever possible. Should any chemicals be used and stored on site these should be kept in secure compounds away from access by animals. Any obvious hedgehog paths to be left clear of obstruction.

viii. All the property boundaries allow for the free movement of wildlife both during & after construction.

ix. Protective fencing being erected surrounding the construction site during the building work to prevent badgers from entering the site

d) A precautionary working method statement requiring removal of invasive species and excavation by hand tools. Corms/root systems and cuttings to be disposed of at a licenced waste management facility.

e) The locations and timing of sensitive works to avoid harm to biodiversity features (e.g. should only take place between 8am and 6pm daylight working hours and starting one hour after sunrise and ceasing one hour after sunset)

f) Responsible persons and lines of communication

g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similar person

h) Use of protective fences, exclusion barriers and warning signs

- i) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works**
- J) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)**

The approved CEcMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

The development hereby permitted shall not be occupied until details of bat boxes to include number, type and location on an appropriately scaled plan as well as timing of installation, has been provided for approval and implemented in accordance with those details.

Prior to the occupation of the development hereby approved, a lighting scheme designed to protect ecology and does not result in excessive light spill onto the habitats in line shall be submitted for approval and implemented in accordance with those details.

Further guidance is available at the Bat Conservation Trust website <https://www.bats.org.uk/news/2018/09/new-guidance-on-bats-and-lighting>

The development hereby permitted shall not be occupied until details of bird boxes to include number, type and location on an appropriately scaled plan as well as timing of installation, has been provided for approval and implemented in accordance with those details.

Prior to the occupation of the development hereby approved the series of enhancements listed within PEA (section 9) installation of bat and bird boxes, insect hotels and a green roof on bin/bike store shall be completed.

The tree works methodology hereby approved and set out in Tree Protection Plan in accordance with the Arboricultural Impact Assessment (AIA) shall be adopted and complied with in full unless agreed otherwise in writing with the Local Planning Authority.

Prior to occupation of the development hereby approved, provision of an awareness raising information leaflet in householder information packs for residents promoting the use of suitable alternative natural greenspace and highlighting the sensitivity of national and international sites shall be provided in accordance with the requirements of Natural England.

The side window(s) on plan PL/03 Rev B and PL/03 Rev B marked as obscure glazed shall not be glazed otherwise than with obscured glass. The windows shall be fixed shut up to a height of 1.7m above the floor level of the area they serve and thereafter be permanently retained as such unless actuated by the smoke / fire alarm system in the case of an emergency.

Prior to first occupation of the development hereby approved arrangements for the car and cycle parking, shall be made within the approved residential curtilage and be retained in situ in perpetuity.

43 **APP/21/01371; 11 CALDY ROAD, WEST KIRBY, CH48 2HE PROPOSAL: DEMOLITION OF THE EXISTING DWELLING AND OUTBUILDINGS AND THE ERECTION OF A DETACHED BUILDING CONTAINING 6 APARTMENTS WITH ASSOCIATED ACCESS, PARKING AND LANDSCAPING.**

The Director of Regeneration and Place submitted the above application for consideration.

The Lead Petitioner addressed the Committee.

The Ward Councillor addressed the Committee.

The Lead Principal Lawyer (Regeneration, Planning and Property), read out a statement submitted by the applicant.

On motion by Councillor Andrew Gardner, seconded by Councillor Kathy Hodson it was –

Resolved (7:3) – that the application be refused on the following grounds.

The proposed development, due to its scale, height and siting within the plot, will result in an overbearing form of development and create a poor outlook for the occupiers of the adjacent dwelling at number 9 Caldby Road. For these reasons, the Local Planning Authority considers that the proposal is detrimental to the residential amenities that these occupiers could reasonably expect to enjoy.

The proposal is contrary to the advice contained within HS4 of Wirral Unitary Development Plan and the principles of the national planning policy framework

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Agenda Item 3

Planning Committee

10th February 2022

Reference:
APP/21/01773

Area Team:
Development
Management Team

Case Officer:
Mrs S Williams

Ward:
West Kirby and
Thurstaston

Location: 35 MACDONA DRIVE, WEST KIRBY, CH48 3JH
Proposal: Loft extension to incorporate a rear dormer, front and rear balconies.
Installation of two, larger first-floor south facing windows, alterations to
existing windows and internal alterations

Applicant: D Roberts
Agent :

Qualifying Petition: No

Site Plan:



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Development Plan designation:

Primarily Residential Area

Planning History:

No planning history

Summary Of Representations and Consultations Received:

1.0 WARD MEMBER COMMENTS

1.1 No comments received.

2.0 SUMMARY OF REPRESENTATIONS

REPRESENTATIONS

Having regard to the Council's Guidance for Publicity on Planning Applications, 9 notifications were sent to adjoining neighbouring properties. At the time of writing this report 16 objections have been received, which raised the following concerns;

1. No notification being sent out (1 Wordsworth Walk);
2. Height of the dormer - Out of character;
3. Loss of privacy to habitable rooms and gardens;
4. Balconies to rear dormer causing loss of privacy;
5. Balcony to the front out of character/loss of privacy;
6. Vague mention of external materials;
7. Work has commenced;
8. Overbearing;
9. Out of scale;
10. Size of dormer windows should be reduced to be consistent with first-floor windows;
11. Dormer extension fails to meet the required separation distance of 21m;
12. Lack of consideration to neighbouring properties;
13. Front extension of the porch and a further extension/protrusion of a balcony is so close to the pavement, likely causing residents to cross the road to socially distance from the occupiers.

CONSULTATIONS

Highways - Raised no objection.

3.1 Reason for referral to Planning Committee

3.1.1 16 objections have been received and therefore under the scheme of delegation, the planning application must be determined at Planning Committee.

3.2 Site and Surroundings

3.2.1 35 Macdona Drive is a detached, two-storey dwellinghouse. The property is located within a primarily residential area of mixed design comprising of detached two-storey dwellings and bungalows. It is finished with brick at ground floor and render at first floor.

3.2.2 The property contains an open plan frontage which accommodates off-street parking. There is a flat roofed, detached garage projecting along the northern rear boundary of the site which adjoins the garage at 33 Macdona Drive.

3.2.3 The rear garden measures approximately 13.6m in length and is enclosed by wooden fencing and sporadic vegetation. The rear elevation of No.35 is orientated towards the rear garden of 7 Heath Close.

3.3 Proposed Development

3.3.1 The proposal is for a loft extension to incorporate a rear dormer, which includes a Juliet balcony. An additional Juliet balcony is proposed at first-floor level on the rear elevation. The proposal also includes a balcony to the front elevation, together with the installation of two, larger first-floor south facing windows, alterations to existing windows and internal alterations.

- 3.3.2 The applicant has submitted amended plans to try to resolve their neighbours' concerns and these were received on 11th January 2022. The overall depth of the balcony to the front of the property has been reduced and the dormer has been reduced in scale. The lower panes of glass on both Juliet balconies to the rear and the balcony to the front will consist of obscure glass.
- 3.3.3 The proposed balcony to the front would project approximately 1.31m forward of the principal elevation. This part of the proposal would measure approximately 5.94m in width.
- 3.3.4 The rear dormer extension would be set in approximately 0.78m from both gable ends of the roof, its ridge height is set significantly lower than the original roofline of the dwelling and is set back from the original rear wall.
- 3.3.5 New windows would be installed throughout the dwelling, some of which would be larger in scale than original windows
- 3.3.6 It is acknowledged that much of the rear dormer has already been constructed.

3.4 Development Plan

- 3.4.1 The application property is located within land designated as a Primarily Residential Area in Wirral's Unitary Development Plan, and the property falls under the use class C3 as it is a dwelling house. Wirral UDP Policy HS11 – House Extensions, and Supplementary Planning Guidance 11 – House Extensions (SPG) are directly relevant in this instance.
- 3.4.2 With regards to Policy HS11, it is considered that extensions should be designed in such a way as to have no significant adverse effect on the appearance of the original property, the amenities of neighbouring properties, through overlooking, or an adverse effect on the area in general. SPG11: House Extensions acts as a supporting document in relation to HS11.

3.5 Other Material Planning Considerations

- 3.5.1 The National Planning Policy Framework states that the Government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

3.6 Assessment

- 3.6.1 The main issues pertinent in the assessment of the proposal are;

- Principle of development;
- Design;
- Highways; and
- Amenity

3.7 Principle of Development:

- 3.7.1 The principle of extensions to residential properties within a primarily residential area is considered acceptable, subject to the policies listed above.

3.8 Design:

- 3.8.1 The proposal would incorporate several alterations and new additions to modernise the property as a whole. A rear dormer is proposed, with two Juliet balconies to the rear and a new balcony to the front.
- 3.8.2 The external materials used within the construction and alterations throughout the proposal would consist of brick and render, with new windows being black framed. The rear dormer will incorporate zinc cladding.
- 3.8.3 In terms of the dormer's appearance, although the modern use of zinc cladding is not widely used within the immediate surrounding area it is deemed an acceptable domestic

construction material that will add some modern visual interest to the property's rear elevation. Given that the dormer is to the rear, it will have minimal impact on the character of the wider street scene.

- 3.8.4 In relation to the scale of the dormer extension, revised plans were submitted which reduced its overall scale. Wirral's SPG11 requires dormer extensions to be set in 0.5m from the gable end of the roof. Additionally, a 0.5m set back from the original rear wall of the dwelling is required along with the ridge height being set significantly lower than the original roofline of the property. The proposed dormer complies with these requirements.
- 3.8.5 With regards to the front facing balcony, the overall size and scale has also been significantly reduced from the original proposal. Its presence is not considered to overly dominate the dwellinghouse or the garden area to the front. The addition of a balcony adds some interest and depth to the character and appearance of the property. It is considered to be in keeping with the modern approach proposed. The street scene of the area contains a variety of different property types - both in terms of scale and design. Given this, it is considered that the introduction of a relatively small balcony to the front of this property, together with the window alterations to the front elevation, will not harm the overall character of the street scene.
- 3.8.6 Overall, the design, size and scale of the dormer extension and front balcony are considered acceptable. These features are not considered inappropriate within the property and do not detract from the dwellings original size, scale, character or appearance. This aspect of the proposal is therefore considered to comply with Wirral UDP Policy HS11, SPG11 and the NPPF.
- 3.9 Highways:
- 3.9.1 The property currently benefits from a front driveway providing off-road parking for at least two vehicles, and garage accommodation to the rear. The locality does provide opportunity for on-street parking. The proposal is not considered to pose sufficient harm to the highway.
- 3.10 Amenity:
- 3.10.1 Several concerns have been raised relating to the rear dormer extension, first-floor windows and front balcony. The rear garden of 35 Macdona Drive measures approximately 13.6m in length. The outlook from the dormer extension and the first floor (floor to ceiling window) would offer views straight down the rear garden of the site, and are a sufficient distance from the rear boundary, where it adjoins the rear garden of 7 Heath Close. The windows will only offer angled views of neighbouring gardens which is common with most first/second floor windows in residential areas throughout the country. The revised plans incorporate frosted glass within the Juliet balconies. A separation distance of 21m (window to window) is normally required - however, the windows to the rear do not directly face any other properties due to the layout of the area and this is therefore acceptable.
- 3.10.2 Concerns have also been raised relating to the front balcony causing loss of privacy. This part of the proposal has been reduced, with the glass balustrade incorporating frosted glass. The balcony will be set back approximately 5.62m from the highway and an approximate 25.7m separation distance would be achieved to the residential property directly opposite, 36 Macdona Drive. Additionally, due to the natural curve of Macdona Drive, the application property is angled away from neighbouring properties 33 and 37 Macdona Drive. Any immediate views provided from the balcony would be of the road itself, with only limited views of the front garden areas of neighbouring properties - limited privacy are already provided within these front gardens, as would be expected, and therefore the introduction of the balcony would not result in any unacceptable levels of overlooking of neighbouring properties.
- 3.10.3 Larger windows will be installed within the southern elevation of the property, facing towards 37 Macdona Drive. These windows would be secondary windows to Bedroom 1, which has large primary windows to the front and rear elevations. Due to the close proximity of these windows to the boundary with No.37 (less than 2m away) it is deemed necessary to attach a condition to fix and obscurely glaze these windows to protect the

residential amenity of the neighbouring property.

3.10.5 Overall, it is considered that the proposal would not cause any harm to the character and appearance of the area. The proposal is not considered to have a harmful visual impact on its surroundings or an adverse impact to the amenities that the occupiers of neighbouring properties expect to enjoy. The proposed development complies with relevant Council policies and is therefore considered acceptable.

3.11 Other:

3.11.1 In relation to other objections, it should be noted that all statutory publicity requirements have been met, including the direct notification of all properties which share a boundary with the site.

Summary of Decision:

Having regards to the individual merits of this application the decision to grant planning permission has been taken having regards to the relevant Policies and Proposals in the Wirral Unitary Development Plan (Adopted February 2000) and all relevant material considerations including national policy advice. In reaching this decision the Local Planning Authority has considered the following:-

The proposal is not considered to have a harmful visual impact on its surroundings or an adverse impact to the amenities that the occupiers of neighbouring properties expect to enjoy. The proposal complies with NPPF- Requiring Good Design, Policy HS11 - House Extensions and SPG11 and is therefore considered acceptable.

Recommended Decision: **Approve**

Recommended Conditions and Reasons:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved plans received by the local planning authority on 11th January 2022 and listed as follows: PLANOPT 2 Revision F.

Reason: For the avoidance of doubt and to define the permission.

3. Prior to the first use of the room labelled Bedroom 1 on plan PLANOPT2 Revision F, the first-floor (south) windows facing towards 37 Macdona Drive shall be glazed with obscured glass and fixed shut up to 1.7m above the finished floor level of the room and thereafter be permanently retained as such.

Reason: To safeguard the amenities of occupiers of neighbouring properties and to comply with Policy HS11 of the Wirral Unitary Development Plan.

4. Prior to the first use of the rooms labelled Bedroom 2, Bedroom (within the new dormer extension) and the front balcony, all glass balustrades on plan labelled PLANOPT2 Revision F, shall be glazed with obscured glass and thereafter be permanently retained as such.

Reason: To safeguard the amenities of occupiers of neighbouring properties and to comply with Policy HS11 of the Wirral Unitary Development Plan.

Last Comments By: 05/11/2021 16:45:48

Expiry Date: 22/11/2021

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PLANNING COMMITTEE

10 February 2022

REPORT TITLE:	DEVELOPMENT MANAGAEMENT PERFORMANCE UPDATE- ENFORCMENT ACTIVITY BETWEEN 1 OCTOBER 2021 and 31 DECEMBER 2021.
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

The purpose of this report is to update Members on the performance of the Development Management Service with regard to its planning enforcement activity for the period of 1st October 2021 to 31st December 2021.

The performance of the enforcement service will be reported to Planning Committee on a quarterly basis.

This matter affects all Wards within the Borough.

The matter is not a Key Decision.

RECOMMENDATIONS

It is recommended that the report be noted.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATION

- 1.1 To enable Members to be updated on the performance of the Development Management Service with regard to its enforcement activity.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 As the Council's enforcement activity is being undertaken in accordance with the Council's Planning Enforcement Policy, no alternative options are recommended.

3.0 BACKGROUND INFORMATION

Performance and Workloads

- 3.1 The Council's Planning Enforcement Policy sets out how the enforcement service will be delivered and defines the standards to be met. The Council aims to send an acknowledgement letter to the complainant within 5 working days of receipt of the enquiry and to conduct a first site visit within 15 working days.
- 3.2 The Council also aims for 80% of cases to reach a 'key milestone' within 13 weeks of receipt of the initial enquiry. A key milestone is one of the following dates on which:
- it is established that there has been no breach of planning control;
 - a retrospective planning application is submitted;
 - a breach of planning control is remedied through negotiation;
 - it is deemed not to be expedient to take formal enforcement action;
 - formal action (such as the service of an enforcement notice) is taken; and
 - it is established that the time limit has passed for the Council to take enforcement action.
- 3.3 Between 1st October 2021 and 31st December 2021 a total of 77 new cases were opened.
- 3.4 During that same period, 96 cases reached a key milestone. 62% of these key milestones were reached within 13 weeks.
- 3.5 Between 1st October 2021 and 31st December 2021, 111 cases were closed.
- 3.6 The majority of the Planning Enforcement team's work remains reactive, responding to reports about possible breaches of planning control.

Formal Enforcement Action

- 3.7 Paragraph 59 of the National Planning Policy Framework states 'Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control....'
- 3.8 Formal action should only be taken as a last resort when all attempts to resolve the matter informally have been exhausted. Formal notices (being enforcement notices or breach of condition notices) are therefore, only served in cases where negotiation has not proven successful, and it is expedient to do so. The majority of cases are resolved through negotiation.
- 3.9 Between 1st October 2021 and 31st December 2021, one enforcement notice was issued.
- 3.10 Two Planning Contravention Notices (being requisitions for information about site ownership and activity on the land) were issued between 1st October 2021 and 31st December 2021.

Key Successes

- 3.11 Examples of some of the key successes achieved during this last quarter are set out below.
- (i) **Land at Slackwood, Riverview Road, Bromborough.** On 4th January 2021 the Council issued an enforcement notice in relation to the unauthorised use of the land as a civil engineering contactor's depot and associated storage, unauthorised alteration of land levels, erection of enclosures, and siting of shipping containers and caravans on the land. An appeal was made against that notice and on 8th October 2021 we received confirmation of the Planning Inspector's decision to dismiss the appeal and uphold the notice. Compliance with the notice is due in March 2022.
 - (ii) **Thornton Manor.** Between 19th October 2021 and 27th October 2021 officers attended a Public Inquiry in relation to appeals made against the enforcement notices issued by the Council against the unauthorised marquees sited on the Land. On 21st January 2021 the Council received confirmation of the Planning Inspectorate's decision to dismiss the appeals and uphold the enforcement notices. The owners of the land now have a period of 6months to comply with the requirements of the enforcement notices.
 - (iii) **Tree Preservation.** On 10th November 2021 officers attended a very productive meeting with representatives of the Tree Council and local amenity groups to discuss the Council's approach to tree preservation in Wirral. We received positive comments from the Tree Council and were able to share in a

constructive discussion with local amenity groups over the challenges to tree preservation and how we can work together in our common objective.

(iv) **17 retrospective planning applications** have been submitted between 1st October 2021 and 31st December 2021, prompted by enforcement investigations.

4.0 FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from this report.

5.0 LEGAL IMPLICATIONS

5.1 Section 172 (1) of the Town and Country Planning Act 1990 provides that the Council may issue an enforcement notice where it appears to the Council that

‘(a) ...there has been a breach of planning control; and

(b) ... it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.’

5.2 The above provision is reflected in Paragraph 59 of the National Planning Policy Framework which confirms the statutory position that planning enforcement action is discretionary.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 The number of enforcement complaints (new cases) received by the Council has increased significantly over the last 18 months. During the previous 10 years, the Council received on average 351 new cases per year. Over the course of 2021 the Council received 476 new cases.

6.2 This increase in volume of work has placed the service under considerable pressure with workloads in the team increasing as a result. We have recruited an Assistant Enforcement Officer for a fixed term of 12 months to assist with investigating the increased volume of cases received. However, an existing member of the team recently left the authority, leaving a vacant post within the team that we are actively trying to fill. The demand for enforcement action and the resources available will be closely monitored.

7.0 RELEVANT RISKS

7.1 There are risks that:

(a) Enforcement Notices are subject to challenge by way of appeal to the Planning Inspectorate; or

(b) Any Breach of Condition Notice is successfully judicially reviewed by the recipient (there being no appeal against such notice).

7.2 The above risks can be mitigated by ensuring that:

- (a) enforcement activity is carried out having regard to the provisions of the development plan and other material considerations; and
- (b) the justification for issuing an enforcement notice or serving a breach of condition notice is set out in a clearly reasoned report.

8.0 ENGAGEMENT/CONSULTATION

8.1 This report is factual so there has been no consultation on its contents.

9.0 EQUALITY IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. There are no equality implications arising from the proposals within this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The recommendations contained within this report are expected to have no impact on emissions of Greenhouse Gases.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 The aim of planning enforcement is to secure the lawful use of land that is the subject of suspected breaches of planning control.

REPORT AUTHOR: Steven Lacey
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APPENDICES

Appendix 1- List of formal notices served

Enforcement notices

Register number	Address	Date issued	Breach of planning control
673	Land at corner of Townshend Avenue and Irby Road, Irby	8/12/2021	Unauthorised siting of a caravan and construction of earth bunds

BACKGROUND PAPERS

Council Enforcement Policy

Planning Enforcement Policy

SUBJECT HISTORY (last 3 years)

Council Meeting	Date



PLANNING COMMITTEE

10 FEBRUARY 2022

REPORT TITLE	DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE - PLANNING APPLICATIONS
REPORT OF	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

The purpose of this report is to update Members on the performance of the Development Management Service with regard to determining planning applications. The report outlines performance against government targets in terms of the speed of processing all applications.

This matter affects all Wards within the Borough.

The matter is not a Key Decision.

RECOMMENDATION

It is recommended that the report be noted.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATION

- 1.1 To enable Members to be updated on the performance of the Development Management Service with regard to determining planning applications.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 As this report is for information no alternative options are recommended.

3.0 BACKGROUND INFORMATION

Development Management Performance Indicators

- 3.1 The Government's Performance Indicator in relation to Development Management performance is NI157. The indicator has 3 subdivisions as set out below.

(a) NI157 (a) – Major Applications

The Government's target is for 60% of major applications to be determined in 13 weeks. Major applications are defined as residential development of 10 or more units or retail/ commercial development of 1,000 square metres or more of additional floor area.

(b) NI157 (b) – Minor Applications

The Government's target is for 65% of minor applications to be determined in 8 weeks. Minor applications are defined as residential development of less than 10 units or retail/commercial development of less than 1,000 square metres of additional floor area.

(c) NI157(c) – Other Applications

The Government's target is for 80% of other applications to be determined in 8 weeks. Other applications include advertisements, conservation area, listed building and householder proposals. Householder applications are not included as a separate National Indicator. However, they comprise about 60% of all applications submitted to the Council and their handling is therefore a key issue in performance terms.

Additional measures introduced to address issues with underperforming Authorities

- 3.2 Section 62A of the Town and Country Planning Act 1990 allows certain applications to be made directly to the Secretary of State for Levelling Up, Housing and Communities where the local planning authority is deemed to be underperforming. The two criteria used to assess whether Local Authorities are performing to the required standard are Speed of Decisions and Quality of Decisions.

Speed of Decisions

- 3.3 The measure to be used is the percentage of decisions on applications for major development made:

- (i) within the statutory determination period; or

(ii) within such extended period as has been agreed in writing between the applicant and the local planning authority.

Currently 60% of Major applications must be determined either within 13 weeks or within the extended period agreed with the applicant.

- 3.4 In addition, the Secretary of State also monitors performance for Minor and some other category applications. In these cases, 70% of applications must be determined either within 8 weeks or within the extended period agreed with the applicant.

Quality of Decisions

- 3.5 The measure to be used is the percentage of decisions on applications for Major development that have been overturned at appeal, once nine months have elapsed following the end of the assessment periods recorded in the data collected by the Department for Levelling Up, Housing and Communities.
- 3.6 Currently the threshold for designation is 10% or more of an authority's decisions on applications for Major and Non-Major applications being overturned on appeal.

Commentary on Annual Performance – National and Local Targets

- 3.7 The table below includes overall figures for 2019/20 and 2020/21, together with figures for the first three quarters of 2021/22. The only information not included in the previous report presented to Planning Committee on 14th October 2021 are the figures for Quarter 3 of 2021/22. The yearly figure for 2021/22 has also subsequently changed.

For clarity, the quarters are broken down as follows:

Q1 relates to the period 1 April to 30 June

Q2 relates to the period 1 July to 30 September

Q3 relates to the period 1 October to 31 December

Q4 relates to the period 1 January to 31 March

Table 1 Performance

Planning Applications	2019/20 Year	2020/21 Year	Q1 2021/22	Q2 2021/22	Q3 2021/22	2021/22 Year
Majors (applications determined within 13 weeks)	87% (41/47)	85% (34/40)	100% (4/4)	100% (3/3)	90% (9/10)	94% (16/17)
Minors (applications determined within 8 weeks)	87% (238/274)	85% (212/250)	85% (47/55)	78% (56/72)	74% (48/65)	79% (151/192)
Others	93%	93%	89%	86%	89%	88%

(applications determined within 8 weeks)	(897/960)	(854/922)	(234/263)	(275/319)	(266/299)	(775/881)
All (all application types determined within designated timescales)	92% (1176/1281)	91% (1100/1212)	89% (285/322)	85% (334/394)	86% (323/374)	86% (942/1090)
Householders (Householder applications determined within 8 weeks)	95% (705/743)	95% (730/770)	90% (209/233)	87% (249/287)	92% (234/254)	89% (692/774)

3.8 The Service again surpassed the requirements for all targets in the Major, Minor and Other categories of applications for Quarter 3 of 2021/22.

3.9 The percentage of Major applications which were determined within 13 weeks or within the extended period agreed between the Council and the applicant was 90% (9 from 10) for the third quarter of 2021/22.

3.10 The percentage of Minor applications which were determined within 8 weeks or within the extended period agreed between the Council and the applicant was 74% (48 from 65) for the third quarter of 2021/22.

3.11 The percentage of Other applications determined within 8 weeks or within the extended period agreed between the Council and the applicant was 89% (266 from 299) for the third quarter of 2021/22.

3.12 Performance on Householder applications (which are included in the Other category and which form the largest single type of applications submitted to the Council for determination) was 92% (234 from 254) for the third quarter of 2021/22.

Performance against Criteria for Designation – Speed of Decisions

3.13 Over a rolling two-year assessment period covering the period from 1st January 2020 to 31st December 2021, the Council's performance for Major applications comfortably exceeded the 60% threshold for designation in terms of the percentage of applications being determined within the required timescales at 91% (60 from 66 applications).

3.14 Over a rolling two-year assessment period covering the period from 1st January 2020 to 31st December 2021, the Authority's performance for Non-Major applications was also far exceeding the 70% threshold for designation in terms of the percentage of applications being determined within the required timescales at 89% (2,219 from 2,493 applications).

Performance against Criteria for Designation – Quality of Decisions

3.15 For a two-year assessment period from 1st January 2020 to 31st December 2021, 3% of decisions on Major applications were overturned on Appeal (2 appeals allowed, out of 66 applications determined).

3.16 For Non-Major applications during the same period, 0.8% decisions were overturned on Appeal (19 appeals allowed, out of 2,493 applications determined).

4.0 FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from this report.

5.0 LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from this report.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are no resource implications arising from this report.

7.0 RELEVANT RISKS

7.1 There is a risk of government intervention if performance falls below the Department for Levelling Up, Housing and Communities' targets. This report seeks to monitor performance and manage the risk

8.0 ENGAGEMENT/CONSULTATION

8.1 This report is factual so there has been no consultation on its contents.

9.0 EQUALITY IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. There are no equality implications arising from the proposals within this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The recommendations contained within this report are expected to have no impact on emissions of Greenhouse Gases.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no direct community wealth implications arising from this report.

REPORT AUTHOR: Neil Williams
Principal Planning Officer
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APPENDICES

None

BACKGROUND PAPERS

None

SUBJECT HISTORY (last 3 years) Council

Council Meeting	Date
Planning Committee	11th February 2021
Planning Committee	15th July 2021
Planning Committee	14th October 2021



PLANNING COMMITTEE

10 FEBRUARY 2022

REPORT TITLE	DEVELOPMENT MANAGEMENT PERFORMANCE UPDATE- PLANNING APPEALS
REPORT OF	DIRECTOR OF REGENERATION AND PLACE

REPORT SUMMARY

The purpose of this report is to update Members on the performance of the Development Management Service regarding planning appeals, including the percentage of the Council's decisions overturned (on appeal) by the Planning Inspectorate.

This matter affects all Wards within the Borough.

The matter is not a Key Decision.

RECOMENDATION

It is recommended that the report be noted.

SUPPORTING INFORMATION

1.0 REASONS FOR RECOMMENDATION

1.1 To enable Members to be updated on the performance of the Development Management Service regarding planning appeals, including the percentage of Council decisions overturned on appeal by the Planning Inspectorate.

2.0 OTHER OPTIONS CONSIDERED

2.1 As this report is for information no alternative options are recommended.

3.0 BACKGROUND INFORMATION

3.1 The Government has prescribed a Performance Indicator relating to appeals arising from the Council's refusal of planning permission. The Performance Indicator measures the Council's appeals performance in the form of the percentage of appeals allowed.

3.2 This indicator is concerned only with planning applications where the Council has refused planning permission. It does not include planning appeals against conditions and non-determinations. Target setting for this indicator is at a local level and there is no prescribed national target. As a general comparison the national average for the number of appeals allowed is around 33% per year.

Commentary on Performance

3.3 Performance is reported for Members on a quarterly basis. These will be reported as follows:

- Q1 relates to the period 1 April to 30 June
- Q2 relates to the period 1 July to 30 September
- Q3 relates to the period 1 October to 31 December
- Q4 relates to the period 1 January to 31 March

3.4 The following table shows the data for the last two full performance years (01/04/2019 – 31/03/2020, and 01/04/2020 – 31/03/2021), together with the performance data for the first three quarters of the current reporting year (1 April 2021 to 31 March 2022). Only the information relating to the third quarter is new, with the overall total for the period also changing:

Planning Appeals	2019/20 Year	2020/21 Year	Q1 2021/22	Q2 2021/22	Q3 2021/22	2021/22 Year to date
Planning Appeals allowed as a percentage of appeals determined	25%	31%	0%	25%	40%	21%
	9 appeals allowed out of 36 Appeals	11 appeals allowed out of 35 appeals	0 appeals allowed out of 11 appeals	3 appeals allowed out of 12 appeals	4 appeals allowed out of 10 appeals	7 appeals allowed out of 33 appeals

3.5 Thus far within 2021/22, there have been 7 appeals allowed from a total of 33 appeal decisions. The appeals allowed in the third quarter were:

- ANT/21/00711 – Price Street, Birkenhead – Proposed 18m telecommunications mast;
- APP/21/00435 – 8 St James Road, New Brighton – Three storey extension to side elevation
- APP/20/00519 – 83 Martins Lane, Liscard – Change of use from 6-bed HMO to 7-bed HMO; and
- ANT/20/01569 – Rowson Street, New Brighton – Telecommunications mast

3.6 The appeals dismissed in the third quarter were:

- APP/21/00121 – 26 Balls Road, Oxton – Change of use from launderette to hot food takeaway;
- APP/19/01334 – Riverview Business Park, Bromborough – Retrospective application for change of use of land to form civil engineers contractors depot including raising of land and fencing
- APP/21/00340 – 16 Archers Way, Woodchurch – Retention of fencing
- APP/21/00106 – 30 Oldfield Way, Heswall – Porch, first-floor extension, dormers and other alterations
- APP/21/00815 – 32 Grange Road, Heswall – Front dormer extension
- APP/21/00670 – 5 Chorlton Grove, Wallasey Village – Loft conversion including dormers to front and rear

4.0 FINANCIAL IMPLICATIONS

4.1 There are no direct financial implications arising from this report.

5.0 LEGAL IMPLICATIONS

5.1 There are no direct legal implications arising from this report.

6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

6.1 There are no resource implications arising from this report.

7.0 RELEVANT RISKS

7.1 There is a risk of government intervention if performance falls below what is considered acceptable. This report seeks to monitor performance and manage the risk.

8.0 ENGAGEMENT/CONSULTATION

8.1 This report is factual so there has been no consultation on its contents.

9.0 EQUALITY IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. There are no equality implications arising from the proposals within this report.

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 The recommendations contained within this report are expected to have no impact on emissions of Greenhouse Gases.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no direct community wealth implications arising from this report.

REPORT AUTHOR: Neil Williams
Principal Planning Officer
Email: neilwilliams@wirral.gov.uk

APPENDICES

None

BACKGROUND PAPERS

None

SUBJECT HISTORY (last 3 years) Council

Council Meeting	Date
Planning Committee	11th February 2021
Planning Committee	15th July 2021
Planning Committee	14th October 2021