



**PLANNING COMMITTEE:  
18 May 2017**

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**Report of: Director Development and Regeneration**

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**SUBJECT: DESIGNATION REGIME FOR LOCAL PLANNING AUTHORITIES**

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Wards affected: Borough wide

## **1.0 PURPOSE OF THE REPORT**

- 1.1 To inform Members that the Secretary of State for Communities and Local Government has laid a document before Parliament setting out the criteria that the Government intend to use for designating a Local Planning Authority as underperforming and the thresholds that Authorities will be assessed against in the next designation round in the first quarter of 2017.

## **2.0 RECOMMENDATIONS TO PLANNING COMMITTEE**

- 2.1 That the contents of the report be noted.
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## **3.0 BACKGROUND**

- 3.1 The Growth and Infrastructure Act 2013 introduced measures relating to the performance of Local Planning Authorities in relation to the speed of determining major planning applications.
- 3.2 Section 1 of the Growth and Infrastructure Act inserted sections 62A and 62B into the Town and Country Planning Act 1990. Section 62A allows certain applications to be made directly to the Secretary of State if a Local Planning Authority fails to meet performance targets for the speed of determining major planning applications. Local Planning Authorities who fail to meet performance targets may be designated as poorly performing.
- 3.3 At present Local Planning Authorities must determine over 50% of major planning applications within the specified 13 week period (or 16 week period if the development requires an Environmental Impact Assessment) or within any written extension of time period agreed with the applicant.

3.4 If a Local Planning Authority fails to determine 50% of major applications within the specified time period, Authorities may be designated as underperforming, placed in “special measures” and applicants may bypass the Council and submit applications directly to the Planning Inspectorate for determination. Underperforming Authorities are also required to prepare and implement an improvement plan.

#### **4.0 FURTHER MEASURES PROPOSED TO IMPROVE PERFORMANCE**

4.1 The Government now proposes that the performance of Local Planning Authorities in determining both major and non-major development will be assessed separately, meaning that an Authority could be designated on the basis of its performance in determining applications for major development, non-major development or both. The assessment for each of these two categories of development will be against two separate measures of performance:

- the speed with which applications are dealt with measured by the proportion of applications that are dealt with within the statutory time or an agreed extended period; and,
- the quality of decisions made by Local Planning Authorities measured by the proportion of decisions on applications that are subsequently overturned at appeal

4.2 Therefore, the performance of Local Planning Authorities will be assessed separately against:

- the speed of determining applications for major development
- The quality of decisions made by the Authority on applications for major development.
- the speed of determining applications for non-major development;
- The quality of decisions made by the Authority on applications for non-major development

4.3 In order to designate LPA's as poorly performing, the Government propose to use the quarterly statistical returns made to DCLG. For the measure relating to the quality of decisions, this will be based on the numbers of appeals that are overturned during a particular quarter. The threshold for designation for both major and non-major development, above which a Local Planning Authority is eligible for designation, is 10% of the Authority's total number of decisions on applications made during the assessment period being overturned at appeal.

4.4 Where a Local Planning Authority is designated, applicants may apply for planning permission directly to the Planning Inspectorate (on behalf of the Secretary of State) for the category of applications (major, non-major or both) for which the authority has been designated, subject to limited exceptions. Thus removing control from the Local Planning Authority in terms of the decision, conditions applied to any approval and fee income.

- 4.5 Soon after a designation is made the Local Planning Authority will be expected to prepare an action plan addressing areas of weakness that it identifies as having contributed to its under-performance. Where necessary, this action plan will directly address weaknesses in the processing of these types of applications.
- 4.6 Data showing the performance of Local Planning Authorities against the speed and quality measures is published by the Department for Communities and Local Government on a quarterly basis. The Government indicates that a Local Authority's performance will be assessed using figures which have already been provided to DCLG. The following table shows the designation thresholds and initial assessment periods.

Measure and type of Application	2017 Threshold and assessment period	2018 Threshold and assessment period
Speed of major Development	50% (October 2014 to September 2016)	60% (October 2015 to September 2017)
Quality of major Development	Not being assessed in the designation round	10% (April 2015 to March 2017)
Speed of non-major Development	65% (October 2014 to September 2016)	70% (October 2015 to September 2017)
Quality of non-major Development	Not being assessed in the designation round	10% (April 2015 to March 2017)

## 5.0 IMPLICATIONS FOR WEST LANCASHIRE BOROUGH COUNCIL

- 5.1 Since the performance threshold was introduced for the speed of determining major applications, officers have sought to work with applicants to either ensure that applications are determined within the statutory period or that an extension of time can be agreed. Major developments often throw up complex issues which take a considerable length of time to resolve and they are rarely dealt within the prescribed 13 or 16 week period (for development requiring Environmental Impact Assessment). In many cases applicants are keen to work with officers and will agree an extension of time to formally extend the determination period. However officers have found that where major applications are particularly contentious or not clearly compliant with Council planning policies, applicants have been less willing to agree formal extensions of time. This is because by agreeing an extension of time applicants will forego their right to lodge a non-determination appeal. Despite this, since the introduction of the current monitoring regime, the Council has been able to meet the thresholds relating to the speed of determining major applications.
- 5.2 In the light of the proposed performance measure relating to the speed of determination of non-major developments, planning officers have already been instructed to try and agree a formal extension of time if the decision is not able to be made within the statutory 8 week target period. This target is often challenging given the workload of the development management section not only in terms of the determination of planning applications but also pre-application advice, enforcement and appeals. However at the current time the Council meets the proposed performance target.

- 5.3 Turning to the performance measure regarding the quality of major decisions, the Council receives on average approximately 40 major planning applications each year. Based on this figure as an example, the proposed measure would equate to the LPA having fewer than 4 major applications allowed on appeal during each year of the recording period. Whilst the Council has few major applications which are refused and progress to appeal, nevertheless there have been several applications in the last couple of years, with 2 solar farm appeals (Hoscar Moss and Gerard Hall), and the Parrs Lane appeals. It is anticipated that the Council will receive appeals in relation to Alty's and the Lower Alt wind farm. Therefore as the number of major applications received by the LPA is relatively low the Council must be mindful that the 10% figure is also relatively low so a small number of appeal overturns could have a significant impact on the Council. However at the current time, the Council meets the performance target for the quality of decisions in relation to major applications.
- 5.4 In relation to the quality measure relating to non- major development I consider compliance with the threshold to be less challenging than with major development proposals. This is because the number of applications for non-major development received by the Council is significantly higher than applications for major developments. The proposed threshold for designation is 10% of the total number of decisions made on non-major applications, being allowed on appeal. In 2015, the Council dealt with over 1000 non major applications therefore to use that figure as an example, over 100 applications would have to be allowed on appeal. Given recent performance in defending planning appeals I consider that this threshold should not prove challenging for the Council. In 2015 the Council received 38 appeal decisions of which 14 were allowed and thus in 2016 the Council received 46 decisions of which 15 were allowed. At the current time, the Council's meets the performance target for the quality of decisions in relation to non-major applications.
- 5.5 Whilst the Council is currently meeting the Government's thresholds we must always remain mindful of performance targets as failure to meet the thresholds will see the Local Planning Authority being categorised as underperforming. If the Council were to be designated for poor performance, not only would there be reputational damage and a loss of confidence in the Local Planning Authority but applicants would be able to by-pass the Council and submit applications directly to the Planning Inspectorate for determination. This would be detrimental to the interests of local democracy. Therefore is important that the Council retains sufficient resources to enable the targets to be met and exercises caution in the refusal of major planning applications, ensuring that reasons for refusal can be robustly defended in any subsequent planning appeal.

## **6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY**

- 6.1 There are no significant sustainability impacts associated with this report and, in particular, no significant impact on crime and disorder. The report has no significant links with the Sustainable Community Strategy.

## **7.0 FINANCIAL AND RESOURCE IMPLICATIONS**

- 7.1 There are some financial/ resource implications arising from this report should the Council fail to meet its performance targets. In this case there would be the potential for applicants to submit planning applications directly to the Planning Inspectorate with consequent impact on the planning fee income received by the Council.

## **8.0 RISK ASSESSMENT**

- 8.1 This item is for information only and makes no recommendations. It therefore does not require a formal risk assessment and no changes have been made to risk registers.

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### **Background Documents**

The following background documents (as defined in Section 100D (5) of the Local Government Act 1972) have been relied on to a material extent in preparing this Report.

Department of Communities and Local Government – Improving Planning Performance. Criteria for designation (revised 2016). November 2016.

Available at:

[:https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/571144/Improving\\_Planning\\_Performance - Criteria for Designation revise](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/571144/Improving_Planning_Performance_-_Criteria_for_Designation_revised)

### **Equality Impact Assessment**

The report is for information only and does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore no Equality Impact Assessment is required.

### **Appendix**

None