

Decision maker: Planning Committee

Subject: Planning Performance - Special Measures Designation

Report by: Claire Upton-Brown, City Development Manager

Ward affected: All

Key decision (over £250k):

1. Purpose of report

To advise the committee of the criteria for 'special measures' designation that can be made by the Secretary of State on any local planning authority. Such a designation would allow applicants for 'major developments' to apply directly to the Secretary of State for planning permission.

2. Recommendations

That the report is noted.

3. Background

As a way of making the planning system work more efficiency and effectively the government has introduced a 'special measures' designation whereby applicants for certain planning applications can bypass the local planning authority and apply directly to the Secretary of State for Communities and Local Government (Secretary of State) for planning permission. This is set out in Section 62A of the Town and Country Planning Act 1990, as introduced by the Growth and Infrastructure Act 2013.

A local planning authority can be designated only if the Secretary of State considers that the authority is not adequately performing their function of determining 'major development' applications¹.

The performance of local planning authorities will be assessed in two ways:

- the speed with which applications for major developments are dealt with (**speed of decision**), and
- the extent to which such decisions are overturned at appeal (the **quality of the decision**).

¹ A major development is defined 10 or more housing units or work on residential development on a site of 0.5 hectares or more; or the creation or change of use of 1000m² or more of gross floor space (does not include housing) or work on non-residential development on a site of 1 hectare or more.

The specific criteria to be used in assessing performance are set out below.

3.1 Speed of decision

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

- within the statutory determination period²; or
- within such extended period as has been agreed in writing between the applicant and the local planning authority³;

as recorded in the data collected by the Department for Communities and Local Government.

The average percentage figure for the assessment period as a whole will be used.

The **assessment period** for this measure is the two years up to and including the most recent quarter for which data on planning application decisions are available at the time of designation.

The **threshold** for designation is 30% or fewer of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the applicant.

3.2 Quality of decision

The **measure** to be used is the average 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 period; as recorded in the data collected by the Department for Communities and Local Government.

The average percentage figure for the assessment period as a whole will be used.

The nine months specified in the measure are to enable the majority of decisions on planning applications made during the assessment period to be followed through to subsequent appeals that may be lodged, and for the outcome of those appeals to be known.

The **assessment period** for this measure is the two years up to and including the most recent quarter for which data on planning application decisions are available at the time of designation, taking into account the nine months to be allowed for beyond the end of the assessment period.

The **threshold** for designation is 20% or more of an authority's decisions on applications for major development made during the assessment period being overturned at appeal.

² The statutory period is 13 weeks, unless an application is subject to Environmental Impact Assessment, in which case a 16 week period applies.

³ This could be through a planning performance agreement or an agreed extension of time (provided this is in writing and sets out a timescale for the decision).

3.3 Designation and De-designation

The Secretary of State will decide approximately once each year whether any designations are to be made and whether any should be lifted.

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. The authority will need to agree the action plan with the Department of Communities and Local Government. The Department will make a formal assessment of progress against the action plan no later than eleven months following the date on which the local planning authority was designated.

In assessing whether a designation should be lifted, consideration will be given to:

- the potential capability of the designated local planning authority to deal effectively with applications for major development in future, and
- the effectiveness of the designated local planning authority in dealing with such applications during the period of its designation.

There are limited **exemptions** from being designated. Local planning authorities will not be liable for designation if they decided ten or fewer major development applications during the assessment period as a whole.

3.4 Current designations and how Portsmouth compares

At the time of writing this report, only one local planning authority (Blaby District Council in Leicestershire) has been designated as being in 'special measures'.

Using the criteria set out above, the tables below show Portsmouth's performance in terms of 'speed' and 'quality' of decisions on major development applications. This data is published on the government website as being the most up-to-date.

Speed of decision

24 months to the end of September 2013					
Total of Major Decisions	Total of Major Decisions within 13 weeks	Total of PPA ¹ Decisions	Total PPA, EoT or EIA ² Decisions within agreed time	% within 13 weeks or within agreed time without penalty for missing data	% within 13 weeks or within agreed time with penalty for missing data
54	23	0	0	42.6%	42.6%

¹Planning Performance Agreements

²Planning Performance Agreements, agreed extension of time (EoT) or applications with an Environmental Impact Assessment (EIA)

Quality of decision

24 months to the end of December 2012					
Total of Major Decisions	Major applications not decided ¹	Total of Major decisions and non-determined cases	Total Major appeal decisions	Major decisions overturned at appeal	Quality of decisions (% overturned at appeal)
54	0	54	8	4	7%

¹ Includes only non-decided applications that are appealed

4. Reasons for recommendations

For information to the planning committee.

5. Equality impact assessment (EIA)

None.

6. Head of legal services' comments

The report is for information only.

7. Head of finance's comments

The report is for information only.

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 Signed by:

Appendices:
Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Improving Planning Performance - Criteria for Designation, Department of Communities and Local Government, June 2013	https://www.gov.uk/government/publications/improving-planning-performance-criteria-for-designation
Live Tables on Planning Application Statistics	https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics