

Planning and Economic Growth

Mr Conrad Smewing
Department of Levelling Up, Housing and
Communities
BY EMAIL

Civic Offices
Guildhall Square
Portsmouth
PO1 2AU

2 February 2023

Dear Sir

Re: Local planning authorities that may be liable for designation under section 62A of the Town and Country Planning Act 1990

I am writing in response to your letter of 17 January 2023 wherein you advised Portsmouth City Council that they may be liable for designation for the speed of its decisions on applications for non-major development under section 62A of the Town and Country Planning Act 1990. Within this response I am taking the opportunity to lay out the exceptional circumstances that have affected the Council's performance and that would make a designation under s62A inappropriate.

The Council has identified that some data returns may not fully reflect the Council's performance and since receipt of your letter is taking steps to interrogate the Council's IT systems to improve this reporting. However at this time the Council does not intend to suggest any adjustments to the published data and acknowledges, irrespective of any minor corrections that might be able to be identified, that the planning performance giving rise to your letter requires substantive improvement and has committed to doing so.

The acknowledgment of underperformance in respect of the speed to determination is a key circumstance that we would ask to be considered in respect of any decisions regarding designation. The delay in determinations was identified in 2020 and steps have been and continue to be taken to understand and improve processes within the service to remedy this. More details regarding this matter are explained below.

During the period over which performance is being assessed the Council has also been particularly effected by restrictions associated with Covid-19 which effected both efficiency and workloads. Again more details regarding this circumstance are discussed below.

Within this period the Council has also suffered from significant staffing challenges. This has included the departure of key staff, including the Head of Development Management and senior and principal planning officers. Recruitment to these vacancies has been largely unsuccessful leading to associated departmental capacity issues. This is discussed in more detail below.

Acknowledgement of underperformance and introduction of process improvement

In January 2021 Portsmouth City Council itself identified concerns regarding the performance of planning services in respect of the speed of determination. While performance remained above the relevant thresholds a key element of this concern was a backlog of applications, with over 650 cases at that time open within the council's planning register. This backlog was partly caused by a near moratorium of permissions arising from a need to mitigate the production of nitrates resulting in eutrophication in the protected Solent Waters. The Council was one of first to actively acknowledge and seek to resolve the issue through local adopted mitigation strategies following complex discussions exacerbated in Portsmouth as compared to other effected LPAs as the geography of the local authority area, being the UK's only island city, meant that mitigation routes available to other authorities that included agricultural and rural land were not available to the City Council. The need to create a bespoke mitigation solution within an urban area required significant resources and delayed all new residential developments in the city due to a need to engage, explain and negotiation on a case by case basis.

Due to this backlog the Council's internal interventionist team was commissioned to undertake a business process review of the development management function focussed on planning application determination. This review was unfortunately delayed in 2021 as the 'Check' process to study the existing systems and process could not be delivered remotely during the periods where staff could not safely work within the Civic Offices due to Covid-19 restrictions. In accordance with national guidance and local risk assessment staff were however able to return to the Civic Office to enable the review team to observe and question them about the existing processes during 2021 and this led to a series of suggested interventions identified through the 'redesign' process that were then trialed on a small cohort of cases at the end of 2021. Following a review of these interventions by the Council's Cabinet at a meeting in February 2022 a new, more efficient system was rolled out as the new process later that year.

This new process has demonstrated a methodology that is capable of delivering significantly faster determination without any diminution of quality of decision making or customer service. The trail cohort of cases, 49 in total, were able to be determined in a median determination period of just 23 days. This more efficient approach was also measured with customer feedback from the effected Applicants, with positive comments received from all respondents and failure demand associated with the applications reduced to a single occurrence. These results are not replicable across the full service area, with larger complex cases requiring significantly more time, but demonstrate that Portsmouth City Council is capable of operating at a level of performance significantly improved to that identified in the current returns. Since the assessment period covered by the letter of 17 January 2023 the Council has also amended its Scheme of Delegation to reduce the number of applications that require consideration by the planning committee. This produces a sustained improvement in the speed of delivery for a significant number of cases which were being delayed to enable the more complex committee-decision process to be undertaken.

As well as introducing an improved process the Council also undertook a 'Decision Delivery Drive' in April and May 2022 in advance of rolling out the new processes. This Drive, which was publicised by the Council prior to implementation and is a process that has since been replicated by other authorities saw a hiatus in dealing with new customer enquiries to focus on clearing the backlog of applications. This two week initiative enabled the Council to process 250 applications, a 500% increase

in productivity. The impact on determination is evident in the reported returns in table P153 with the period April to June 2022 determining 304 non-major decisions compared to an average of 155 in the quarters preceding it. This work was considered to be worthwhile, not only to deliver planning decisions to applicants, but also to reduce the backlog of applications that were generating additional work through the associated failure demand within the Council as customers had to engage with the planning service to seek updates regarding their proposals. The focus in this period on determination of older applications within the backlog however resulted in a consequential drop in performance against the 'speed' threshold as applications that were past their statutory determination date were prioritised and decided. This is evident by the performance data that shows only 38.5% of non-major applications were determined in time in that quarter compared to the average of 73.9% of non-majors that were in time in the preceding quarters. Not all older applications were capable of resolution in this 'Drive' however as some had identified complexities that meant determination could not occur until the following quarter or beyond.

The Decision Delivery Drive, as noted above primarily focussed on reducing the backlog of applications awaiting decision. The use of the newly introduced more efficient processes in this targeted way was able to reduce the 'backlog' of cases by over half, from around 330 to closer to 150 excess open cases, see 'backlog' graph appended to this letter which covers all application types not just non-majors.

The embedding of process improvements already identified has also been effective at reducing the median time for determination across all application types. While applications are being determined outside of the statutory time limits and extension of time agreements are being made with the applicants and partners to manage the delivery of decisions the efficiencies already introduced have meant that the median time for determinations has been reduced from a peak of 135 days to 55/56 days in August to October 2022. This assessment covers all application types including Major and EIA developments. See timeliness graph appended to this letter which shows median determination period per month above 56 days. However as the historic backlog of cases is reduced and the new more efficient processes rolled out the Council is positive that this will see marked improvement in performance in 2023 and an enhanced performance can now be sustained as these new processes are embedded in the operation of the Council.

Continuous process improvements are continuing at the Council, alongside discussions with PAS, and the Council wish to continue working with the Planning Advisory Service to further improve performance.

Covid-19

All local authorities were impacted by restrictions and illness caused by Covid-19 over the past years. During the period that the letter of 17th January is concerned England was under the restrictions of the 'Second Lockdown' the 'Third Lockdown' and other restrictions. The majority of the period being examined suffered from a variety of 'stay at home' guidance and other restrictions associated with public health. These restrictions had a significant impact on the efficiency of operation of planning application determination. While processes were streamlined as discussed above, during and before this period the ability to undertake some parts of the process, such as site visits and collaborative meetings, was significantly curtailed. This contributed to the backlog noted above and had further impacts on efficiencies as additional processes, such as site risk assessment and review of video submissions, had to be accommodated within the application determination.

These impacts of backlog and inefficiencies were of course exacerbated by staff illness and absence during this unique time.

The planning development management function within the council was particularly challenged in this period as, as a unitary authority Portsmouth City Council has additional responsibilities for public health and social care that some other Local Planning Authorities did not need to prioritise. Capacity to support service improvement or delivery was therefore not available throughout 2021, delaying interventions that might otherwise have improved performance.

Departmental Capacity

It is well documented that all Local Planning Authorities have had challenges with the retention and recruitment of qualified planning staff with a reduction in those taking up the profession as well as a loss of staff to the private sector and early retirement. These challenges are exceptionally acute at Portsmouth due to the coastal location. This effectively reduces the area wherein staff can be recruited by half compared to other urban centres.

During the relevant period covered by the letter of 17th January 2023 Portsmouth City Council has seen the departure of the Head of Development Management, 3 Principal Planning Officers and 3 Senior Planning Officers, as well as the reduction in working hours from staff adjusting to new working patterns or moving towards retirement. Attempts to recruit to replace these posts have been largely unsuccessful leading to ongoing capacity challenges. While temporary staff have been recruited to support the Council this turnover has delayed the embedding of new ways of working introduced through process review and is intrinsically less efficient due to the need to train and support new, temporary staff.

The Council has also attempted to support capacity through outsourcing of applications, to a company called Terraquest, but has not resulted in the outcomes sought within the contract. The contractor's performance, despite being a large and well established consultancy, has been consistently below the expectations of the contract in respect of quality, productivity and customer service.

A focus on recruitment is therefore being corporately supported within the Council to ensure qualified permanent staff can be secured and retained.

Conclusion

Portsmouth City Council recognise and acknowledge, despite notable improvements in median determination times and significant reduction in the backlog of cases open within the service, that improvement is needed in respect of the speed of determination of planning applications, however the Council consider that it is unreasonable and unnecessary to consider designation at this time due to its past underperformance. Key drivers of that underperformance, specifically a historic backlog of applications and restrictions associated with Covid-19, will not have similar impacts in the future and the work for continuous process improvement is already improving the speed of determination and will continue to do so supported staffing capacity being fulfilled. Following the significant reduction of the backlog through the Decision Delivery Drive the amount of time needed to deal with the failure demand arising from having excess cases open has been dramatically reduced allowing more time to be focussed on delivering quality decision making. The lessons learnt from those processes have also been embedded into day to day business with specific management time reserved each week to support decision making and the removal of bottlenecks in those process. The existing service

improvements are therefore considered to result in a sustainable improvement to performance and further improvements to delivery, working with PAS, are being explored.

The corporate focus on recruitment to fulfil this capacity and retain and develop existing staff is a key element to this and designation at this time would have a significant adverse implication for confidence in the service and motivation for qualified planners to remain or come to Portsmouth to deliver this essential function for growth. Furthermore a decision to designate Portsmouth at this time would have a likely reputational impact on the City Council harming the delivery of key growth projects with partners. The challenging development viability within the city has resulted in the City Council playing a significant direct role in the delivery of growth. This is exemplified by a current live significant application for 2,300 homes and 10,000sqm of commercial floor space in the city centre made and supported by the City Council. Development partners are being sought to enable delivery of this scheme once planning permission has been granted later this year and a designation would harm the current positive engagement with partners and funders for this key regeneration project. Similar active engagement with potential partners is occurring for a scheme of similar scale, also promoted by the Council, on a brownfield site at Tipner within the north of Portsea Island. Other projects, including the development of a significant Listed former hospital and 1,000 homes on brownfield land partly owned by Homes England are also being considered under live planning applications and a decision to designate the City Council would have a significant negative effect in the confidence of the delivery agents for those schemes, which rely on partnership working with the Council, resulting in likely delay or prevention of this growth.

The Council intends to complete the final public engagement of its Local Plan, under Regulation 19, in 2023. This will provide clear support and guidance for strategic allocations within the local authority area as well as the framework for encouraging small scale development across the densely populated city. The Plan will focus on removing ambiguity over matters such as nitrate eutrophication, biodiversity and design quality to ensure development can be brought forward more quickly and at a higher quality. During this time of key public engagement and policy change it is considered inappropriate to designate the Council as this is likely to adversely affect community and stakeholder participation in plan making.

Portsmouth City Council believes that the ongoing work to create and embed service improvement and secure staff to deliver good performance mean designation is unnecessary. Past, specific challenges such as a historic backlog of case work created in part by restrictions on approvals associated with nitrate eutrophication and Covid-19 are also exceptional circumstances that suggest that such designation would be unreasonable at this time.

Yours sincerely

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Chief Planner and Assistant Director for Planning and Economic Growth
Portsmouth City Council

Performance Graphs

