



17 January 2017

Agenda Item:6

REPORT OF CORPORATE DIRECTOR – PLACE

GOVERNMENT PROPOSAL TO EXTEND THE DESIGNATION REGIME FOR UNDER PERFORMING LOCAL AUTHORITIES

Purpose of Report

1. To advise Members of the Government's proposal to extend the existing regime for managing underperforming local planning authorities to include planning applications for non-major development and to increase the existing threshold for decisions on major applications being made within the statutory time period from 50% to 60%.

Information and Advice

2. Since 2013 there has been a system in place which assesses the performance on the speed and quality of decisions on planning applications for major development. These powers were introduced by the Growth and Infrastructure Act in 2013 (inserting new sections 62A to 62C into the Town and Country Planning Act, 1990). If local authorities fail to meet prescribed criteria they may be "designated" by the Secretary of State. Where this happens applicants may submit their planning applications directly to the Secretary of State for Communities and Local Government for determination rather than the local planning authority. Only one Authority, Blaby District Council, has been designated under this regime so far.
3. The criteria when first introduced in 2013 included two measures, the speed with which applications for major development are dealt with and secondly "for quality"; the extent to which decisions are overturned at appeal. Initially the threshold for local authorities' decisions being made within the statutory period (13 weeks for major applications) was set at 30%, this was later raised to 40% and it currently stands at 50%.
4. The Government recognises that planning departments have a vital role to play in securing new homes and development to support economic growth. The most recent statistics published by the Government show that national performance on the speed of decisions on applications for major development has continued to improve and is the highest since the designation regime was introduced. For the latest quarter it currently stands at 83%.

5. The Government is keen to treat all applicants the same and intends to extend the designation regime to include non-major applications, such as minor Regulation 3 (Council's own) development. The Housing and Planning Act 2016 provides the legal powers to achieve this. "Major" development is all minerals and waste development, development creating more than 1,000sqm floor space or development carried out on a site of 1 hectare or more. "Non-major" is defined in the legislation as any development which is not "major", which, for the County Council, would mainly comprise school applications of less than 1,000sqm.
6. On 22nd November 2016 DCLG laid before Parliament the document "Improving Planning Performance: Criteria for designation (revised 2016)", which sets out the revised criteria that the Secretary of State intends to use for designating a local planning authority as underperforming and the thresholds that authorities will be assessed against during the first quarter of 2017. This draft will come into effect 40 days from the 22nd November, ie 1st January 2017, unless either House of Parliament resolves that the criteria for designation should not be approved.

Designation criteria and assessment period

7. The following criteria will be used;

For speed of decisions:

- For applications for **major** development, the present threshold requires at least **50%** of an authority's decisions to be made within the statutory determination period or such extended period as agreed in writing with the applicant. The threshold will rise to **60%** early in 2018.
- For applications for **non-major** development, less than **65%** of an authority's decisions made within the statutory determination period or such extended period as agreed in writing with the applicant. This threshold will be introduced from 1st January 2017 and will rise to **70%** early in 2018.

For quality of decisions:

- DCLG will not assess local authorities' performance on the quality of their decisions on either major or non-major applications in 2017 but for applications for both major and non-major development in the 2018 designation round, the threshold will be 10% of an authority's total number of decisions on applications made during the assessment period being overturned at appeal.

Assessment period

- The assessment period for assessing speed of decisions is the two years up to and including the most recent quarter for which data on planning decisions are available at the time of designation. For example, a two

year period between October 2014 and September 2016 will be used for designation decisions in the first quarter of 2017.

Local context and implications for Nottinghamshire County Council

8. From the latest data available, year ending September 2016, of the 49 major planning applications determined by Nottinghamshire County Council 42 (86%) were decided within the statutory period or within an extended period agreed with the applicant. This clearly exceeds the current threshold of 50% as well as the proposed threshold of 60% to be introduced in 2018. These figures only relate to decisions made on major applications, however the Government's proposal extends this performance monitoring to decisions made on non-major planning applications.
9. If the County Council fails to meet the requisite threshold for **major** applications (i.e. 50%, increasing to 60%) it could be "designated". The implications of this would be applicants could submit their applications directly to the Planning Inspectorate for determination. If this were the case the County Council would not receive the associated planning fees, which can be up to £65,000 for a new minerals development. If the County Council became "designated" for underperforming in the determination of **non-major** development (initially 65%, increasing to 70%) applicants will not be able to submit their applications to the Planning Inspectorate as it is considered by the Government that these applications are best deal with locally. However, soon after designation local planning authorities are expected to prepare an action plan addressing areas of weakness that it identifies as having contributed to its under-performance.
10. This proposal to extend the performance management of local authorities in respect of their determination of planning applications has significant implications for Nottinghamshire County Council particularly in terms of its income generation from planning fees. It is imperative therefore that existing measures in place, including staffing levels, are maintained to enable the Development Management Team to continue to meet the increasingly demanding performance thresholds.

Other Options Considered

11. As this report is for information only no alternative options have been considered.

Statutory and Policy Implications

12. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment, and those using the service and where such implications are material they are described below.

Implications for Service Users

13. In terms of service users, i.e. applicants, agents, consultees and all other parties involved in the planning application process, the County Council is continuously reviewing and adapting its working practices in order to provide a planning service which can meet the higher thresholds whilst at the same provide a fair and professional development management service.

Human Rights Implications

14. Relevant issues arising out of consideration of the Human Rights Act have been assessed. Rights under Article 8 (Right to Respect for Private and Family Life), Article 1 of the First Protocol (Protection of Property) and Article 6 (Right to a Fair Trial) are those to be considered. In this case, however, there are no impacts of any substance on individuals and therefore no interference with rights safeguarded under these articles.

RECOMMENDATIONS

It is RECOMMENDED that Members note the Government's proposal to extend the existing regime for managing underperforming local planning authorities and the potential implications for this Authority.

ADRIAN SMITH

Corporate Director – Place

Constitutional Comments

Planning and Licensing Committee is the appropriate body to consider the content of this report.

[SLB 19/12/2016]

Comments of the Service Director - Finance

There are no specific financial implications arising from this report.

[RWK 19/12/2016]

Background Papers Available for Inspection

The application file available for public inspection by virtue of the Local Government (Access to Information) Act 1985.

Electoral Divisions and Members Affected

All

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