

TRAFFORD COUNCIL

Report to: Planning and Development Management Committee
Date: 9 February 2017
Report for: Information
Report of: Head of Planning and Development

Report Title

Planning Performance: Criteria for designation to special measures.

Summary

This report is to update the Planning and Development Management Committee on the changes to the planning system which came into force in January 2017 in respect of the criteria for designations to special measures for Local Planning Authorities.

Recommendation

That Planning and Development Management Committee note the contents of this report.

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1.0 Introduction and Background

- 1.1 This report sets out, for Members information, the most recent changes in respect of planning application performance and designation to special measures following the publication of a document for consultation '*Improving planning performance Criteria for designation (revised 2016)*' by the government in November 2016.
- 1.2 The document published in November is subject to a 40 day period laid before Parliament without challenge before it becomes approved. This period ended on 1 January 2017 and the criteria are now in force.

Background

- 1.3 In 2013 the government introduced legislation (The Growth and Infrastructure Act 2013) to enable it to designate as being in 'special measures' those local planning authorities which did not meet centrally set targets for their performance

in regard to the speed and quality of decision making for major planning applications.

- 1.4 A local authority would be designated if it failed to determine 30% of 'major applications' 'in time' i.e. either within the 13 week target set down by government, or subject to an extension of time agreed in writing between the local authority and the applicant; since increased to 40% in 2014. The performance of authorities in dealing with 'county matter' (minerals and waste) and 'district matter' (all other) applications is assessed separately. All county matter applications are deemed as major applications for this purpose, irrespective of actual development size. Authorities were also assessed on the quality of their decision making, with designations being made if more than 20% of a Council's decisions on major applications are overturned at appeal.
- 1.5 In January 2014 the government consulted on increasing the threshold for special measures designation from 40% to 50% of major applications being determined in time. Following consultation it was decided to bring forward these changes to the designation criteria and following a 40 day period laid before Parliament, they came into effect in July 2015.
- 1.6 The implication of any special measures designation is that, with the exception of householder applications, an applicant for planning permission may elect to bypass the Council as Local Planning Authority and apply directly to the Secretary of State through the Planning Inspectorate. However, on doing this, an applicant would effectively forfeit its right of appeal as it ordinarily would in the situation whereby a LPA refuses the application and it would appeal that decision to the Planning Inspectorate.
- 1.7 Where an applicant chooses to bypass the Council and apply directly to the Planning Inspectorate, a Council is still required to engage with the application, but not receive the appropriate planning application fee. The Council would be required to undertake the administration and publicity of the planning application at cost. The Council would have no (or only very limited) ability to influence the process. Local hearings take place to allow the Inspector to hear local views. The Council could submit representations but would not make the final decision. Pre application discussions on the development could take place either with the Council or the Planning Inspectorate.
- 1.8 The Council was previously, in 2014, designated and in special measures for county matters (minerals and waste) applications only, however were de-designated at the first available opportunity due to improved performance.

2.0 Key proposed changes

- 2.1 In November 2016 the government consulted on a further document '*Improving Planning Performance: Criteria for Designation (Revised 2016)*' to change this regime.
- 2.2 This would see criteria for designation broken down into two assessment tools speed and quality as before however this would now include a threshold for non-major planning applications in addition to major applications.

- 2.3 For the speed of decisions, the assessment is taken on the percentage of decisions made with the statutory determination period (8 weeks for non majors, 13 weeks for major and 16 weeks for Environmental Impact Assessment development) or within such an extended period which has been agreed in writing between the applicant and the local planning authority.
- 2.4 The threshold for special measures designation would remain at less than 50% for major applications for the 2017 assessment period increasing to less than 60% for the 2018 period.
- 2.5 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. For example a two year assessment period between October 2014 and September 2016 will be used for designation decisions in Quarter 1 2017 (January – March). The average percentage figure for the assessment period as a whole is used.
- 2.6 This consultation documents also now includes a threshold for non major applications. This includes all planning applications which are not recorded as major applications, i.e. all minor, change of use and householder applications. For clarity this does not include advertisement consent, listed building consents, lawful development certificates, minerals processing applications or prior approvals.
- 2.7 The threshold for special measure designation for non-majors is less than 65% for the 2017 assessment period and less than 70% for the 2018 assessment period
- 2.8 The quality of decision making by authority would be assessed on the percentage of the total number of decisions made by the authority on applications that are then subsequently overturned at appeal, once nine months have elapsed following the end of the assessment period. This figure is calculated as a percentage of all applications determined, not just those which were refused or where an appeal has been lodged against planning conditions or non-determination.
- 2.9 The quality of decision making is not to be assessed in the 2017 assessment period but will be within the 2018 period for both majors and non-majors and is set at 10% of an authority's total number of decisions on applications made during the assessment period overturned at appeal.
- 2.10 Table 1 below taken from the consultation document '*Improving Planning Performance: Criteria for Designation (Revised 2016)*' which sets out the designation criteria in a quick reference table.

Table 1: Designation threshold criteria and assessment period.

Measure and type of Application	2017 Threshold and assessment period	2018 Threshold and assessment period
Speed of major Development (District and County)	50% (October 2014 to September 2016)	60% (October 2015 to September 2017)
Quality of major Development (District and County)	N/A – we are not assessing quality in this designation round	10% (April 2015 to March 2017 ¹²)
Speed of non-major Development	65% (October 2014 to September 2016)	70% (October 2015 to September 2017)
Quality of non-major Development	N/A – we are not assessing quality in this designation round	10% (April 2015 to March 2017 ¹³)

Exceptional circumstances

- 2.11 The consultation documents sets out that exceptional circumstances can be considered before any designations are confirmed. Where a local planning authority is performing below one of the thresholds there will be an opportunity to provide clear evidence to correct any data errors and any exceptional circumstances supported by evidence which in their opinion would make the designation unreasonable.

Trafford's current position

- 2.12 This Council's current performance for the first Q1 of the 2017 assessment period (October 2014-September 2016) is as follows:-

- 1) Speed of decision making on major applications (county matters) (must be above 50% to avoid special measures designation): **100%** (7/7 applications determined within timescale, including where an extension of time has been agreed)
- 2) Speed of decision making on major applications (district matters) (must be above 50% to avoid special measures designation): **91.6%** (109/119 applications determined within timescale, including where an extension of time has been agreed)
- 3) Speed of decision making on non-major applications (must be above 65% to avoid special measures designation): **86.3%** (2592/3002 applications determined within timescale, including where an extension of time has been agreed)
- 4) Quality of decisions on major applications (must be above 10% to avoid special measures designation) whilst this will not be assessed within 2017 the current position is: **0.7%**

5) Quality of decisions on non-major applications (must be above 10% to avoid special measures designation) whilst this will not be assessed within 2017 the current position is: **1%**

2.13 In terms of speed of decision making for the year 2016-2017 up to and including quarter 3 the Council is performing as below. This shows that performance is on track to ensure that there is no risk of designation going forward.

Table 2: Performance figures to date for 2016/2017

Measure	Q3 2016-17	Q2 2016-17	Q1 2016-2017	2016-17 to date	2015-16
Majors with extensions of time	100%	92%	100%	97.3%	92%
Non-majors with extensions of time	82%	88%	91%	87%	82%

2.14 It is clear that currently the Council is not at risk of a special measures designation. The target for determining major applications is however very sensitive and is monitored closely as are applications for county matters. It should also be noted that these figures include applications where the statutory time period has expired but extensions of time have been agreed with the applicant. If these extensions of time applications were not taken into account, then the Council would not have achieved targets set out above to avoid a special measures designation. This is however common with many other local authorities and certainly others in the Greater Manchester area who are also reliant on extensions of time to improve performance figures. There is a small risk that the government removes extensions of time from the calculations which, as the designations are applied retrospectively, could lead to a special measures designation although there has been no suggestion of this at the current time.

2.15 Effective performance monitoring systems are in place to monitor speed of decision making on a monthly basis to ensure that the Service can react to any changes in the performance criteria. Appeal decisions are also reviewed to ensure a consistent approach to decision making.

3.0 Conclusion

3.1 The Government in a recent consultation document amended the criteria for the designation to special measures of planning authority basis on their performance with regards to the speed and quality of decision making. The Councils performance indicates that it is not presently at risk of designation. Regular monitoring and reviews of performance are on-going within the Planning and Development Service in order to maintain this level of performance.

4.0 Recommendation

4.1 That the Planning and Development Management Committee Members note the contents of this report.