

Report of the Head of Planning and Local Development

IMPROVING AND MONITORING PLANNING PERFORMANCE

1 Purpose of report

The purpose of the report is to inform members about changes to the way in which government monitor performance in determining planning applications, to suggest how performance can be improved, and to align our performance indicators with the revised targets.

2 Executive summary

The government has introduced targets and changes to the planning system to improve planning performance.

This report details proposed changes to footnote 1 of the scheme of delegation to the Head of Planning and Local Development which specifies the conditions or qualifications to which delegation 6.25 is subject. Performance indicators also need to be changed in line with the revised government targets which have become more challenging.

3 Appendices

Appendix A: revised footnote to 6.25 together with suggested amendments.
Appendix B: revised performance indicators

4 Proposed action:

That committee RECOMMEND to adopt the revisions in Appendices A and B of the report to improve and monitor performance in appeals and determining planning applications.

5 Background

5.1 The government introduced planning performance criteria in 2013 which aimed to speed up the determination of applications for development. This focussed on two aspects of performance against which local authorities were monitored:

- the speed with which applications for major development are determined and;
- the extent to which such decisions are overturned at appeal (as an indicator of the quality of the decisions made by local planning authorities).

- 5.2 The 2013 thresholds meant that at least 30% of decisions for major applications should be made within the statutory determination period of 13 weeks, and that no more than 20% of an authority's decisions for major development are overturned at appeal (i.e. allowed on appeal). Subsequent revisions raised this threshold to 40% in 2014 and 50% in 2015. The threshold for the quality of decisions remained at 20 per cent.
- 5.3 However, new criteria are being introduced which will increase the thresholds for 2018, based on data from a two year period in 2016 and 2017. This will have implications for the way in which this local planning authority processes its planning applications and there is a need for a process review as a result. It is important to speed up decision making whilst maintaining quality decisions. This will ensure that applications continue to be processed within government performance targets.
- 5.4 One aspect that delays decisions being processed within statutory time periods relates to the high number of cases which are referred to committee for a decision. Of the total 43 major cases that were decided in the recent 2 year assessment period, 88% of these cases had to be reported to Planning Committee which meets once a month. This is as a result of the conditions and qualifications contained within footnote 1 to the current scheme of delegation, which requires high numbers of cases to be reported in this way. This is seen as a positive element of our planning service given that it maximises the opportunity for the community to take part in decision making, with numerous member site viewings and opportunities for individuals to speak at committee. However it is now considered appropriate to review the overall scheme of delegation for planning to balance the political benefits of providing an open and involved system of decision making with increased attention to performance management. It is thought that not every major case needs to be reported to planning committee which could result in a reduction of processing times for these cases. Changes to the way Section 106 agreements are processed will also be considered.

6 Discussion

- 6.1 The revised criteria document published in November 2016 came into force in January 2017. It set the following new thresholds for dealing with planning applications within the statutory time period of 13 weeks for majors, and 8 weeks for non-majors:
- Speed of major development – 50% for 2017 and 60% in 2018
 - Speed of non-major development – 65% in 2017 and 70% in 2018
- 6.2 This means that at least 50% of all major development now needs to be determined within 13 weeks in 2017, rising to 60% in 2018. The time period for assessment is an 8 quarter period set by government, and is usually the pre-ceeding 8 quarters in that particular assessment period.

6.3 In addition to the revision to the speed targets, the government is tightening its quality threshold in 2018 for both major and non-major applications which are overturned at appeal:

- Quality of major development – 10% in 2018
- Quality of non-major development – 10% in 2018

What this means in practice is that out of the total number of decisions an authority makes, if more than 10% of appeals are allowed, the quality threshold is breached. This will introduce new criteria for designation of special measures as a result. A special measures designation gives the applicant the choice as to whether or not their application is determined by the council or by the Secretary of State. In these circumstances the council will not receive the planning application fee.

6.4 The government are keen to ensure that performance continues to improve which explains why thresholds are gradually but consistently being increased. If designated as being in special measures, local planning authorities are required to prepare an action plan addressing areas of weakness that have contributed to under-performance. Being proactive and carrying out a service review to maximise planning performance is a way to pre-empt potential designation.

6.5 It is important to respond to the increasing thresholds and keep processes under review, as designation could potentially have financial implications for the council. Part of this process is to review which applications are dealt with at committee, and which are dealt with under delegated powers. It is considered that changes to footnote 1 of 6.25 of the scheme of delegation will allow for non-controversial decisions to be determined under delegated powers, leaving the most important decisions to be determined at committee. By allowing non-controversial applications to be dealt with under delegated powers, this will speed up decision making. Appendix A contains the existing wording to footnote 1 to paragraph 6.25 of the scheme of delegation together with suggested changes.

6.6 The main changes have been discussed with planning committee members and are considered to be minor in nature as they do not fundamentally challenge the local democratic process which is inherent in decision making. The changes also do not threaten the democratic right to speak at committee, or alter the number of objections from 4 households that trigger a committee decision. However, it does suggest improvements where there are non-controversial applications, resulting in the decision being issued more quickly.

6.7 It is considered important that planning committee continues to see major applications above 30 dwellings, which are also more likely to result in a section 106 agreement. For minor applications which do not attract objections, even if a standard S106 agreement is required, it is not considered essential that these are routinely presented to planning committee if other triggers are not breached

6.8 Similarly, for external consultations and county applications, only those cases

that have a material planning impact on the borough should be considered by committee. Some county matters are so minor that they do not have a material effect, such as school extensions, and some external cases are so remote from borough as to have no impact whatsoever.

- 6.9 As currently drafted Footnote 1.1©ii requires any application to which a parish council make representation to be presented to planning committee for determination. Under the proposed changes cases where the parish council objects, and officers are also recommending refusal, will not need to be presented to planning committee because there are no conflicts in the consideration of the case. Similarly where the parish council support an application and officers are recommending approval these cases will also not need to be presented to planning committee. As a result, it is proposed to only refer applications to committee for consideration where there is a conflict between the views of the parish council and the officer recommendation. It is also re-stressed that for matters to be considered at committee due to a request from a parish council or a councillor, that sound planning reasons are cited when the request is made.
- 6.10 A planning application which is the subject of a request for a site viewing by either a councillor or parish council is currently automatically presented to planning committee for determination even though the number of requests for site viewing often exceeds the number of site viewings which actually take place. It still remains at the Chairman's complete discretion as to whether or not a request for a site viewing is granted. Under the proposed changes rather than wait until the agenda meeting to decide if a request for a site viewing is to take place is granted it is intended that the decision will be made within 10 days of a request being received thereby allowing those applications which the Chairman declines the request for a site viewing to be determined under delegated powers providing other triggers are not breached. Other changes relate to making the footnote read in plain English.
- 6.11 There has been an increasing trend, particularly where planning permission has been granted on appeal for the conditions and qualifications within footnote 1 to be manipulated at reserved matters stage or when an application for discharge of conditions is received or if a non-material amendment is received to refer this type of application back to committee for determination. Objectors often try to reopen the debate regarding the principle of development. It is proposed that this type of application be determined under delegated powers unless there is a request from a councillor citing sound planning reasons.
- 6.12 In addition to the changes outlined above which should increase the efficiency of determining planning applications more quickly, it is necessary to review the existing performance indicators for the planning service. At present, the current performance targets measure the following:
- The percentage of planning applications determined in line with government targets:-
 - (i) Major commercial within 13 weeks
 - (ii) Minor commercial within 8 weeks

(iii) all other applications within 8 weeks

- Number of decisions on planning applications taken to appeal
- Percentage of planning application appeals that have been dismissed

6.13 These measures were relevant and accurate in the past. However, the guidance underpinning planning performance has now changed. Given that the government is measuring performance for *all* major development, rather than simply major commercial development, it is logical to begin measuring local performance on a quarterly basis using the same definitions, measures and method of calculations employed by the Secretary of State. Major commercial is now measured as part of all major schemes which includes major housing applications. Minor applications also now incorporate smaller householder development below 10 houses, and are combined into the category with householders into a category called 'non-major' development. It is proposed that from April 2017 the following new performance indicators are adopted to align with government performance measures:

- The percentage of planning applications determined in line with the following government targets:
 - (i) major developments within 13 weeks – Target 60%
 - (ii) non-major developments within 8 weeks – Target 70%
- Overturned appeals (% of total number of decisions) - Target 10%

6.10 If the performance indicators are revised in line with new government targets, this will provide an early warning system to ensure those targets are being adhered to.

7. Legal powers

7.1 Section 62B (1) (b) of the 1990 Town and Country Planning Act stipulates that a local planning authority can be designated if the criteria specified by the Secretary of State are not met. This defines them as not performing their functions of determining applications adequately. This can be for different categories of development, such as major applications, non-major applications and appeal overturns as a percentage of overall decisions.

7.2 Where a local authority is designated, a person wishing to obtain planning permission has a choice; they can submit it to the local planning authority in the normal way, or they can submit it to the Secretary of State. Administrative functions still have to be carried out by the local planning authority (who does not receive the fee), but the decision is not made at a local committee.

8 Financial and value for money implications

Where a local authority is designated the income from planning applications which are dealt with by the Secretary of State is transferred to them, rather than the local planning authority. At present it is impossible to predict what financial impact this would potentially have, but not improving performance in line with revised government targets increases the risk of designation, and thereby loss of

income from planning applications that would be determined by the Secretary of State.

9 Risk analysis

Without carrying out a process review of the planning service, to improve efficiencies in dealing with planning applications faster to accord with new government targets, this increases the risk of designation. The targets are becoming increasingly more challenging every year. It is some years since a process review was carried out and it is now considered essential to both set new performance indicators that match government targets, and to ensure that processing times are as efficient as possible whilst balancing the need with public participation in the determination of planning applications.

Nature of risk	Consequences if realised	Likelihood of occurrence	Control measures
Processing of planning applications is too slow to keep up with revised government targets	Failure to adhere to government targets risks designation as an underperforming authority.	Highly likely for those categories of development which fall below target in the prescribed 2 year assessment period.	Carry out service wide improvements to improve planning performance so it is significantly above government targets, and monitor in line with government targets

10 Implications for resources

This aspect of the service improvements to the planning service as a whole has no direct implications for staff resources. It is simply aimed at ensuring that a good balance is struck between processing applications under delegated powers compared with those at committee. This will mean resources are freed up to improve processing times generally and to conform with government targets.

11 Implications for stronger and safer communities

Processing planning applications in an efficient manner reduces costs to developers, increases developer confidence in the local planning system and provides greater certainty for when development is likely to happen, in line with adopted policy. This is likely to promote community cohesion when planned development is delivered. Participation in the planning process, by ensuring that decisions are locally determined, also has public benefits given that local residents will continue to be able to participate in the planning process.

12 Implications for equalities

It is a statutory duty to process planning applications and is generally in line with

good practice for equalities.

13 Author and contact officer

Ms Maxine Simmons, Principal Planning & Building Control Manager

14 Consultees

Julie Thomas, Head of Planning and Local Development
Liz Elliot, Head of Finance
Simon Aley – District Law

15 Background papers

None.

Appendix A

Proposed Changes to the Footnote: Conditions or Qualifications to Which Delegation 6.25 is subject

Existing Wording	Proposed Wording	Comments on Proposed Wording Changes
<p>1 Subject to the interpretation at 2 the following are excepted from the powers delegated under delegation 6.25.</p> <p>1.1</p>	<p>1. The following are not included as delegated powers in 6.25. They should be presented to planning committee for determination.</p> <p>1.1</p>	<p>Suggested re-wording to make it plainer English. No change to the meaning of the sentence</p>
<p>(a) “Full” or “Outline” applications (but not Reserved Matters) for applications classified as ‘major applications’ (excepting the erection of up to 30 dwellings and the erection of agricultural, office, storage, warehouse or light industrial buildings of less than 10,000 square metres)</p>	<p>-Major planning applications (full or outline) for 30 dwellings or more.</p> <p>-agricultural, office, storage, warehouse or light industrial buildings of more than 10,000 square metres</p> <p>This category does not include reserved matters applications.</p>	<p>Suggested re-wording to make it plainer English. No change to the meaning of the sentence</p>
<p>(b) Where the proposal involves the consideration of an outline planning application for residential development, in part or wholly, of land in excess of 1 hectare in area</p>	<p>-Outline planning applications for residential development of land exceeding one hectare in area.</p>	<p>Suggested re-wording to make it plainer English. No change to the meaning of the sentence.</p> <p>The remaining wording is unclear and doesn’t add anything to the sentence</p>
<p>(c) Applications receiving any of the following levels of written objection when the application or petition is made having regard</p>	<p>Planning applications where written objections are made within the consultation period which raise material</p>	<p>Suggested re-wording to make it plainer English. No change to the meaning of the sentence.</p>

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<p>to material planning considerations (as specified in Paragraph 2.2 below) and received within 21 calendar days of the date on the application consultation letter</p>	<p>planning considerations</p> <p>The notes in 2 explain the interpretation.</p>	
<p>(c) (i) Applications which a Member of the Council has requested be referred to the Planning Committee, including a request for site viewing. In this case, such a request must be made within 21 calendar days of the application being advertised on the weekly list of planning applications received; (a standard proforma will record the reasoned request).</p>	<p>(c) (i) A member of the council can ask that a planning application goes to planning committee for determination, or for a site viewing.</p> <p>The decision as to whether or not a site viewing takes place is at the discretion of the chairman and vice chairman.</p> <p>The request needs to be made within the consultation period.</p> <p>The request must be made in writing stating sound planning reasons.</p>	<p>Suggested re-wording to make it plainer English.</p> <p>One slight change to the meaning is that a request must be due to a sound planning reasons, and the chairman and vice chairman of planning committee has to agree to the site viewing, or that the case is referred to planning committee.</p>
<p>(c) (ii) Representations from a relevant Parish Council, including a request for site viewing</p>	<p>(c) (ii) A parish council can ask that a planning application goes to planning committee, or for a site viewing if:</p> <p>-they object and the officer recommends approval</p> <p>The request needs to be made within the consultation period.</p>	<p>This change of wording seeks to avoid the situation where planning applications are referred to planning committee even though the officer recommends refusal and the parish council agrees it should be refused This will mean that non controversial recommendations are</p>

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	The request must be made in writing stating sound planning reasons.	processed more rapidly.
(c) (iii) Petition signed by more than 20 local residents.	(c) (iii) Petition signed by more than 30 local residents. The notes in 2 explain the interpretation.	Since we are now in an age where digital environments make it easier to produce petitions, the threshold is suggested to be increased slightly to increase the efficiency of dealing with planning applications, and that genuinely local concerns are dealt with at planning committee.
(c) (iv) written objections from four or more households local to the applicant	(c) (iv) written objections from four or more households local to the application site. The notes in 2 explain the interpretation.	Some applicants live remotely. It is suggested that it should be local objections to the application site, rather than where the applicant lives.
(d) Applications submitted by the local authority or the County Council within which the area lies.	(c) Planning applications submitted by a local authority or the county council. In respect of county council applications the chairman and vice chairman must agree that the scheme has a material impact to go to planning committee	Some matters reported to committee in this category are very minor and have little or no impact on the borough. It is suggested that only those cases which have a material impact be reported to planning committee.
(e) Applications where the decision would result in granting planning permission on an application which is considered to be contrary to one of more of the Council's planning policies (except in the case	(e) Planning applications with a recommendation to approve which are a departure from the development plan.	Suggested re-wording to make it plainer English. No change to the meaning of the sentence.

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<p>of minor variations from approved planning standards (as described in Paragraph 2.1 below).</p>	<p>Minor variations are not included.</p> <p>The notes in 2 explain the interpretation.</p>	
<p>(f) Applications accompanied by an Environmental Assessment, submitted as a requirement of the EIA Regulations 1999.</p>	<p>(f) Planning applications subject to an Environmental Impact Assessment, as a required by the EIA Regulations 1999 (as amended).</p>	<p>Suggested re-wording to make it plainer English. No change to the meaning of the sentence.</p>
<p>(g) Where the terms of any permission that might be granted are to be subject to an Agreement or planning obligation under Section 106 of the Town and Country Planning Act 1990.</p>	<p>(g) Major planning applications above 30 units with a recommendation to approve which are subject to a Section 106 agreement</p>	<p>Suggested re-wording to make it plainer English. It is suggested that non controversial planning applications below 30 dwellings that do not fall within any of the other categories do not need to go to planning committee. This category should therefore relate to the largest type of major applications in 1 (a).</p>
<p>1.2 Where an application for permanent development (i.e. not temporary buildings or structures) has been submitted by or on behalf of the Council which is recommended for approval and which is:-</p> <p>(a) Subject to a written objection from a consultee or member of the public</p> <p>(b) is either contrary to the development plan or not in conformity with the Council's planning standards</p>	<p>1.2 Planning applications with a recommendation to approve submitted by or on behalf of the council where</p> <p>(a) a written objection from a consultee or member of the public is received.</p> <p>(b) it is a departure or conflicts with Supplementary Planning Documents</p> <p>This does not include temporary uses or structures</p>	<p>Suggested re-wording to make it plainer English. No significant changes to the meaning of the sentence.</p> <p>The departure should be a departure from the development plan. Planning standards should be defined within an adopted supplementary planning document</p>

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	The notes in 2 explain the interpretation.	
<p>1.3 Where an application has been submitted by or on behalf of a Member or officer of the Council which is recommended for approval and which is:-</p> <p>(a) subject to a written objection from a consultee or member of the public; or</p> <p>(b) is either contrary to the development plan or not in conformity with the Council's planning standards.</p>	<p>1.2 Planning applications with a recommendation to approve submitted by or on behalf of a member or officer and which:-</p> <p>(a) has a written objection from a consultee or member of the public;</p> <p>or</p> <p>(b) is a departure or conflicts with supplementary planning documents</p>	<p>Suggested re-wording to make it plainer English. No significant changes to the meaning of the sentence.</p> <p>The departure should be a departure from the development plan. Planning standards should be defined within an adopted supplementary planning document</p>
<p>1.4 Where the decision of the Head of Service would run counter to an earlier decision or condition imposed by the Planning Committee in respect of the same site.</p>	<p>Where a delegated decision conflicts with an earlier decision or condition imposed by planning committee.</p> <p>The application must be a similar scheme.</p>	<p>Suggested re-wording to make it plainer English. No significant changes to the meaning of the sentence.</p> <p>Clarification that the subsequent scheme needs to be for a similar development.</p>
<p>1.5 – no existing wording</p>	<p>New criteria 1.5</p> <p>The Head of Planning and Local Development can request that a planning application goes to planning committee or</p>	<p>There are sometimes controversial cases which are appropriate for a site viewing or be referred to planning committee.</p>

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	<p>for a site viewing.</p> <p>The chairman and vice chairman must agree to the request.</p>	
1.6 - no existing wording	<p>New criteria 1.6</p> <p>Prior Notifications</p> <p>These should be dealt with under delegated powers</p>	<p>These should be dealt with by officers as it is a technical consideration as to whether or not the regulations have automatically granted planning permission or not.</p>
Interpretation of (c) (iii) – no existing wording	<p>2 <u>Interpretation</u></p> <p>Notes on (c) (iii)</p> <p>The petition must have the names and address of all people who have signed the petition.</p> <p>It must include 30 people local to the planning application site</p> <p>Signatures which do not include a clear name and address, or if they are not local, will not count towards the 30 that triggers consideration by planning committee</p>	

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	<p>The objections must relate to planning matters.</p> <p>Objections should relate to planning applications. This category will not apply to non-material amendments, minor amendments, reserved matter applications, discharge of conditions or minor variations of conditions.</p>	
<p>Interpretation of (c) (iv) – no existing wording</p>	<p><u>2 Interpretation</u></p> <p>Notes on (c) (iv)</p> <p>The objections must include the names and address of the objector(s).</p> <p>The objections must relate to planning matters.</p> <p>They must be local to the planning application site.</p> <p>Objections which do not include a clear name and address, or if they are not local, will not count towards the trigger to planning committee</p> <p>Objections should relate to planning applications. This category will not apply</p>	

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	to non-material amendments, minor amendments, reserved matter applications, discharge of conditions or minor variations of conditions	
<p><u>2 Interpretation</u></p> <p>2.1 The minor variations referred to in Paragraph 1.1 (e) above are variations to the Councils standards in respect of driveway lengths, the provision of garaging and parking, minimum garden sizes, distances between buildings etc.</p>	<p><u>2 Interpretation</u></p> <p>2.1 minor variations relate to detailed planning policies of the adopted development plan or adopted supplementary planning documents</p>	<p>This updates how planning applications should be dealt with in accordance with the development plan or details within supplementary planning documents.</p> <p>It does not include standards adopted by other bodies which are not adopted by the local planning authority, and which may not be part of the development plan.</p>
<p>2.2 For the purposes of Paragraph 1.1 (c) above the following shall not be regarded as material planning considerations:-</p> <p>(a) an objection to the principle of development where the proposal is not contrary to the policies of the approved development plan.</p> <p>(b) a trade objection which anticipates competition from the proposed development</p>	<p>2.2 For the purposes of Paragraph 1.1 (c) above the following shall not be regarded as material planning considerations:-</p> <p>(a) an objection to the principle of development if planning permission has been granted previously, or if there is no conflict with the development plan;</p> <p>(b) objections to details, reserved matters, minor amendments, non-material</p>	<p>Most of these changes relate to improved wording. An additional point (b) has been added because objections which challenge the principle of development when permission has already been granted cannot be refused permission.</p>

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<p>(c) objections relating to trespass on to the objector's property;</p> <p>(d) noise and other forms of disturbance arising during and solely as a result of any building operations involved in the development;</p> <p>(e) the question of future maintenance of the objector's property; perceived loss of value to the objector's property, drainage and other issues covered by building control procedures;</p> <p>(f) issues which are covered by other legislation and over which planning controls do not exist;</p> <p>(g) alleged unauthorised activities or works or directly relating to the proposal under consideration and which might be dealt with through other planning investigations;</p> <p>(h) comments of a wholly personal nature, including opinions of morality and comments which are abusive or discriminatory in nature; or</p> <p>(i) the wording or context of proposed advertisements</p>	<p>amendments, if the objection relates to the principle of the development.</p> <p>(c) issues associated with competition;</p> <p>(d) objections relating to trespass;</p> <p>(e) noise and disturbance during construction;</p> <p>(f) property maintenance; loss of value to the objector's property, building control issues;</p> <p>(g) issues covered by other legislation which are not planning matters;</p> <p>(h) alleged unauthorised activities or works which could be dealt with under enforcement;</p> <p>(i) personal, moral, abusive or discriminatory comments; or</p> <p>(j) the wording or context of proposed advertisements</p>	
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Appendix B

Existing Performance Indicator	Target	Proposed New Performance Indicator	Target
<p>The percentage of planning applications determined in line with government targets:-</p> <p>(i)Major commercial within 13 weeks (ii)Minor commercial within 8 weeks (iii)All other applications within 8 weeks</p>	<p>60%</p> <p>65%</p> <p>80%</p>	<p>The percentage of planning applications determined in line with the following government targets:</p> <p>(i)major developments within 13 weeks (ii)non-major developments within 8 weeks</p>	<p>60% per quarter</p> <p>70% per quarter</p>
<p>Number of decisions on planning applications taken to appeal (yearly total)</p>	<p>1 per month</p>	<p>Overtured appeals for majors</p>	<p>No more than 10% of total decisions (measured quarterly)</p>
<p>Percentage of planning application appeals that have been dismissed (yearly total)</p>	<p>50%</p> <p>(No. dismissed/No. taken to appeal x 100)</p>	<p>Overtured appeals for non-majors</p>	<p>No more than 10% of total decisions (measured quarterly)</p>