

## The Council's Decision-Making Performance

1. The Statistical Information Report for Planning (Development Management) Committee on 17<sup>th</sup> October is attached as Appendix 1 (3 parts). The Report is headed:

*“Statistical Information Reported as per DoE Circular 22/80 - Development Management Policy and Practice”*

However, any reassurance the Councillors and public may feel as a result of the Report and its references to Government publications and *“government and Council targets”* is misplaced.

2. This is because the DoE Circular 22/80 only applies in Wales. In England, it was replaced in 2014 by the Planning Practice Guidance. Please see Appendix 2, titled: *“List of guidance documents cancelled by the planning practice guidance suite”*<sup>1</sup> Third on the list, under Existing Guidance Documents, is: *“Circular 22/80 - Development Control Policy and Practice (1980)”*. Under Future Status, the List confirms: *“To be cancelled for England (retained for Wales) when Planning Practice Guidance Suite launched”*.
3. The Planning Practice Guidance was launched in March 2014, with updates since. Appendix 3 sets out how the Government actually measures performance. This approach separates Major applications from Non-Major applications and, for each, distinguishes between the speed of decision-making and its quality.
4. For the purposes of this document, please see the section on quality of decision-making, i.e. *“... the quality of decisions made by local planning authorities for applications for major and non-major development, measured by the proportion of decisions on applications that are subsequently overturned at appeal (including those arising from a ‘deemed refusal’ where an application has not been determined within the statutory period)”*
5. The PPG Guidance refers to Section 62a and 62b of the Town and Country Planning Act 1990 (as amended), and makes clear that the Secretary of State may *“... designate local planning authorities that “are not adequately performing their function of determining applications”, when assessed against published criteria.”*
6. That *“published criteria”* is set out in: *“Improving planning performance – Criteria for designation (updated December 2020)”*<sup>2</sup>. The relevant extract of which is attached as Appendix 4. Paragraphs 18-21 set out how the Quality of Decisions is measured. In summary, this measures how many Major and Non-major decisions made in a 2-year period are subsequently overturned at Appeal. If more than 10 percent of decisions are overturned, the SoS is able to place the LPA into Special Measures.
7. As can be seen in an extract from the Agenda for its meeting on 17<sup>th</sup> November 2022 (Appendix 5), the wrong information is reported to the Policy Committee, which is explicitly responsible for, amongst other things, *“Performance Reporting”*.

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<sup>1</sup> [Local Planning WMS Deposited paper.pdf \(publishing.service.gov.uk\)](#)

<sup>2</sup> The Criteria was updated again in October 2022. However, as this occurred after the Agenda for the 17<sup>th</sup> October meeting was published then, unlike the Dec. 2020 update, the Council couldn't have been expected to have applied it.

## **Conclusion**

8. Councillors have been, and are being, misled by the Officers' reliance on invalid evidence and inaccurate data in respect of its decision-making. It is reasonable to conclude that the main cause for the Council's poor performance is unsustainable Recommendations to Refuse. There is no reasonable explanation for why it's still using performance measures that were revoked in England 8 years ago.

## Appendices

Appendix 1 – Statistical Information report 17<sup>th</sup> October 2022

Appendix 2 – Documents to be cancelled by the PPG

Appendix 3 – PPG criteria for measuring decision-making

Appendix 4 – Extract from “Improving Planning Performance”

Appendix 5 – Extract from “Council Performance and Budget Summary” 17<sup>th</sup> November 2022

## Appendix 1 – Statistical Information report 17<sup>th</sup> October 2022

### STATISTICAL INFORMATION REPORTED AS PER DoE CIRCULAR 22/80

#### DEVELOPMENT MANAGEMENT – POLICY AND PRACTICE

1. The most recent information available on performance in speed of determining planning applications to meet the government and Council targets of:

<b>Largescale Major Applications</b> 60% in 13 weeks	<b>Minor Applications</b> 65% in 8 Weeks
<b>Smallscale Major Applications</b> 60% in 13 weeks	<b>Other Applications</b> 80% in 8 weeks

2. Previous Quarter July 2022 to September 2022 was:

<b>Largescale Major Applications</b> 100% in Time 1 applications 1 within time Average time to determine = 50.2 weeks	<b>Minor Applications</b> 70.7% in Time 82 applications 58 within time Average time to determine = 16.1 weeks
<b>Smallscale Major Applications</b> 50% in Time 4 applications 2 within time Average time to determine = 26.9 weeks	<b>Other Applications</b> 76.4% in Time 487 applications 372 within time Average time to determine = 9.8 weeks

3. Most recent figures available between 01.09.2022 and 30.09.2022 are:

<b>Largescale Major Applications</b> 0 applications	<b>Minor Applications</b> 62.5% in Time 24 applications 15 within time Average time to determine = 17.4 weeks
<b>Smallscale Major Applications</b> 0 applications	<b>Other Applications</b> 74.7% in Time 158 applications 118 within time Average time to determine = 9.2 weeks

4. Decisions

2021-22 April – March 2022

Number of delegated decisions: 3273  
 % of decisions that are delegated: 94.7%  
 Number of refusals: 621  
 % refusals: 18%

2022-23 - April – September 2022

Number of delegated decisions: 659  
 % of decisions that are delegated: 94.1%  
 Number of refusals: 134  
 % refusals: 19.1%

5. Total Appeals Decided April – September 2022

	Allowed	%	Partially allowed	%	Dismissed	%	Total	Costs Appeals	Costs Allowed
April	4	57.1%	0	0%	3	42.9%	7	2	1
May	1	14.3%	0	0%	6	85.7%	7	0	0
June	1	100%	0	0%	0	0%	1	1	0
July	0	0%	0	0%	2	100%	2	1	1 (partial)
August	1	20%	0	0%	4	80%	5	0	0
September	1	12.5%	0	0%	7	87.5%	8	1	0
TOTAL	8	26.7%	0	0%	22	73.3%	30	4	2

6. Committee Decisions April – September 2022

Committee	Total Apps	Approved	Of Which are Contry to Officer Recommendation	Refused	Of Which are Contry to Officer Recommendation	Deferred	Seek agreement to pre-commencement conditions	Withdrawn	Applications - Consultee only not included in other figures	No. of Committees
Central	29	21 (72.4%)		6 (20.7%)	1			2		4
North	10	5 (50%)		5 (50%)	1					2
South	14	11 (78.6%)		3 (21.4%)	3					3
Referrals	31	25 (80.6%)	1	4 (12.9%)		1		1		5
DM (as of 01/09/22)	5	2 (40%)	1	2 (40%)	1			1		2
TOTAL	89	64 (71.9%)	2	20 (22.5%)	6	1		4		16

7. Appeals Decided on Committee Decisions April – September 2022

Committee	Total appeals	Appeals allowed	Appeals partially allowed	Appeals Allowed / Partially Allowed that were Refusals Contry to Officer Recommendation	Number of Appeals Dismissed	Appeals Dismissed that were Refusals Contry to Officer Recommendation
Central	3	1		1	2	2
North	1				1	1
South	3	1		1	2	2
Referrals	2	1		1	1	
TOTAL	9	3		3	6	5

8. Appeals Decided on Delegated Decisions April – September 2022

Allowed: 5  
Dismissed: 16  
Partially Allowed: 0  
Costs Appeals: 2 (refused)

Appendix 2 – Documents to be cancelled by the PPG

**DEPOSITED PAPER**

**List of guidance documents cancelled by the planning practice guidance suite.**

<b>Date</b>	<b>Existing Guidance Document</b>	<b>Future Status</b>
1978	12/78 Report of the Mobile Homes Review (1978)	To be cancelled when Planning Practice Guidance Suite launched
1978	DoE Circular 36/78 Trees and Forestry (1978)	To be cancelled when Planning Practice Guidance Suite launched
1980	Circular 22/80 - Development Control - Policy and Practice (1980)	To be cancelled for England (retained for Wales) when Planning Practice Guidance Suite launched
1981	Circular 02/81 - Local Government, Planning and Land Act 1980, Health Services Act 1980 - Town and Country Planning: Development Control Functions (1981)	To be cancelled for England (retained for Wales) when Planning Practice Guidance Suite launched
1983	Circular 28/83 - Publication by Local Authorities of Information about the Handling of Planning Applications (1983)	To be cancelled for England (retained for Wales) when Planning Practice Guidance Suite launched
1986	Housing and Planning Act 1986: Planning Provisions (Circular 19/86) (1986)	To be cancelled for England (retained for Wales) when Planning Practice Guidance Suite launched
1991	DOE Circular 14/91 - Planning and Compensation Act 1991 (1991)	To be cancelled for England (retained for Wales) when Planning Practice Guidance Suite launched
1991	MPG 8: Planning and Compensation Act 1991 - Interim development order permissions (IDOS): statutory provisions and procedures (1991) and related annexes	To be cancelled when Planning Practice Guidance Suite launched
1992	Circular 15/92 - Publicity for Planning Applications (1992)	To be cancelled for England (retained for Wales) when Planning Practice Guidance Suite launched
1992	Joint Circular with DCMS 20/1992 - Responsibilities for Conservation Policy and Casework (1992)	To be cancelled when Planning Practice Guidance Suite launched

### **What happens if a planning authority fails repeatedly to decide applications on time?**

[Section 62B of the Town and Country Planning Act 1990 \(as amended\)](#) allows the Secretary of State to designate local planning authorities that “are not adequately performing their function of determining applications”, when assessed against [published criteria](#).

Those criteria relate to:

- the speed of decisions made by local planning authorities for applications for major and non-major development, measured by the percentage of applications that have been determined within the statutory period or such extended time as has been agreed between the local planning authority and the applicant
- the quality of decisions made by local planning authorities for applications for major and non-major development, measured by the proportion of decisions on applications that are subsequently overturned at appeal (including those arising from a ‘deemed refusal’ where an application has not been determined within the statutory period)

If a local planning authority falls below the performance thresholds set out in the criteria it may be designated for its performance in relation to applications for major development, non-major development, or both.

In this case, [section 62A of the Town and Country Planning Act 1990 \(as amended\)](#) allows applications for the category of development for which the authority has been designated (i.e. major development, non-major development or both) to be submitted directly to the Secretary of State (if the applicant wishes) as long as the designation remains in place. This excludes householder and retrospective applications, which must still be made directly to the local planning authority.

Paragraph: 005 Reference ID: 21b-005-20170728

Revision date: 28 07 2017 See [previous version](#)

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## Appendix 4 – Extract from “Improving Planning Performance”

17. The designation thresholds<sup>11</sup>, below which a local planning authority is eligible for designation are:
  - a) For applications for major development: less than 60 per cent of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the applicant;
  - b) For applications for non-major development: less than 70 per cent of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the applicant.

### Quality of decisions

18. The measure to be used is the percentage of the total number of decisions<sup>12</sup> 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, as recorded in Live Table P152a and P152b for major development and in Live Table 154 for non-major development from the data collected by the Ministry of Housing, Communities and Local Government and the Planning Inspectorate.
19. The nine months specified in the measure enables appeals to pass through the system and be decided for the majority of decisions on planning applications made during the assessment period.
20. 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, once the nine months to be allowed for beyond the end of the assessment period is taken into account. For example, a two year assessment period ending March 2020 will be used for designation decisions in Quarter 1 2021, this allows for applications to be decided between April 2018 and March 2020 and a 9 month lag to December 2020 for appeals to be decided. The average percentage figure for the assessment period as a whole is used.
21. The threshold for designation on applications for both major and non-major development, above which a local planning authority is eligible for designation, is 10 per cent of an authority's total number of decisions on applications made during the assessment period being overturned at appeal.

### Exceptional circumstances

22. Before any designations are confirmed, local planning authorities whose performance is below one of the thresholds will be given an opportunity to provide clear evidence to justify corrections to any data errors and to set out any exceptional circumstances (supported by evidence) which, in their opinion, would make a designation unreasonable. A period of at least two weeks (as specified by the department) will be allowed for this, and all such arguments will be taken into account before final decisions are made. Requests that exceptional circumstances should be considered are judged against two general tests:
  - (a) whether the issue affects the reasonableness of the conclusions that can be drawn from the recorded data for the authority, over the assessment period; or

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11 An overview of the designation thresholds and the assessment periods is provided in Table 1 on page 5

12 See Paragraph 40 of Annex A for decisions which are included / excluded.



## Appendix 5 – Extract from “Council Performance and Budget Summary” 17<sup>th</sup> November 2022

### Council Performance & Budget Summary Quarter 2 2022-2023 (July to September)



#### A Note on the Content in the Tables Below

The information presented in the tables below reflects the Quarter 2 data (for the period July to September 2022) and is, by its nature, a look back at the position at the end of that quarter.

#### Performance Information

The performance information colour coding relates to the measure's target or trend. For indicators with a target: Green is where a target is achieved; Amber is up to 10% worse than target; Red is worse than 10% from target.

For indicators with trend analysis: Green highlights an improved performance; Red a worse performance.

#### Quarter 2 2022-23 Performance Summary

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Committee	Directorate	Bigger or Smaller is Better	Quarter 2 2021-22	Quarter 3 2021-22	Quarter 4 2021-22	Quarter 1 2022-23	Quarter 2 2022-23	TARGET	
Policy	Community and Place Delivery	Percentage of invalid planning applications received	Smaller	3.2%	1.1%	1.2%	1.0%	1.5%	Trend
		Percentage of all major planning applications determined within 13 weeks (measured over a 2-year period)	Bigger	83.3%	84.2%	86.3%	84.9%	81.7%	70%
		Planning obligations (Section 106/CIL) monetary contributions secured		£0	£550,029	£55,174	£559,022	£0	
		Planning and Building Control applications received (including pre-app, trees and condition discharge)		1,290	1,308	1,290	1,268	1,156	
		Percentage of Council's planning decisions supported at appeal (cumulative 12 month)	Bigger	68%	66%	66%	65%	68%	66%
		Percentage of planning applications not determined (within time limits or agreed timescale)	Smaller	27.5%	40.6%	32.0%	30.0%	32.0%	25%
		Number of planning applications that have not been determined in time (at end of month)	Smaller	112	192	171	177	242	40