

Planning Committee

5 February 2020



Title	Development Management Performance
Purpose of the report	The purpose of this report is to advise the Planning Committee Members on the Development Management (DM) performance over the past year.
Report Author	Esmé Spinks, Planning Development Manager
Recommendations	It is recommended that the Planning Committee notes the report.
Executive Summary	<p>Successive governments have assessed Local Planning Authorities (LPA) performance on the speed with which they determine planning applications. The “designation regime” (introduced in 2013) is based on the speed and quality of decisions for major development over a rolling 2 year period. The threshold for speed was initially 30% and for quality, 20%. The speed threshold progressively increased and stood at 50% in 2015 whilst the quality target remained unchanged. Spelthorne has consistently exceeded these targets. More recently in 2016, the threshold for speed increased to 60% for majors and a new 70% threshold for non-majors was introduced. The quality threshold for majors and non-majors (the latter being a new measure) is 10%. With the quality assessment, the 10% target should not be exceeded. Over the years, Spelthorne has met and surpassed these targets.</p> <p>Government policy announcements in recent years has aimed to boost the supply of housing, enable homes to be built faster and encourage higher housing densities within urban locations. These have been encapsulated into the revised National Planning Policy Framework, issued in February 2019 where a presumption in favour of sustainable development lies at its heart.</p> <p>The quality of major development is a target which is, and will continue to be, monitored closely due to the relatively few number of major applications received. There is a real risk, in terms of major applications, of exceeding the new 10% threshold. It is imperative the Council has sound reasons to refuse an application, and that these are capable of being defended successfully at appeal. Failure to do so could expose the Council to the real risk of “designation”.</p>

	<p>An up to date development plan gives greater certainty to all those involved in the development process and the local community. Decisions based on an up to date plan and supplementary guidance which are consistent with the NPPF are more easily defended at appeal. It is important to ensure that reasons for refusal can be defended on appeal without the risk of an award of costs against the Council. Robust decision making helps to ensure that the risk of the Council being “designated” based on appeals is minimised.</p> <p>Any request for an application to be called into Committee should only be if there is a <i>wider public interest</i> as set out in the Council's Planning Code. The Planning Code is presently being updated and is due to be considered again by the Members' Code of Conduct Committee on 30 January 2020.</p> <p>DM Officers are working within a culture of continuous performance throughout the DM process. Further investment in IT software and hardware has been put forward to assist with performance management and the Council's agile working policy.</p> <p>There were a number of training sessions for Councillors in 2019 and further training can be arranged as and when required. This will assist with the quality of decision making. Officers have also attended a number of training courses as part of their continuous professional development. This is an on-going requirement.</p> <p>It is proposed to continue providing planning application performance statistics in future Planning Committee papers.</p>
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1. Purpose

- 1.1 To advise the Committee Members on Development Management (DM) performance over the past two years.

2. Background

- 2.1 Successive governments have sought to streamline the planning process by setting targets nationally for the speed that Local Planning Authorities (LPAs) determine planning applications. In the late 1990s and 2000s, financial incentives were paid to LPAs who met targets. More recently, the emphasis has been on identifying persistent poor performers, designating them as under performers and then intervening. The Government recently increased the performance targets and introduced a housing delivery test last year which required Spelthorne to produce an action plan.

3. The Designation Criteria and Performance

3.1 As part of the Growth Agenda, the Growth and Infrastructure Act 2013 saw an introduction to the “designation regime” by measuring performance based on the speed and quality of decisions for major development over a rolling 2 year period. The Department for Communities and Local Government (DCLG) introduced two separate measures to assess the performance of LPAs:

- Speed of determining major planning applications; and
- The extent to which such decisions are overturned on appeal as an indicator of the quality of decisions made by LPAs.

3.2 Under the designation regime, no account was taken of the performance in respect of other types of planning applications. Where an LPA was designated as underperforming, applicants *could* submit applications for major applications directly to the Planning Inspectorate to determine, thereby removing the LPA from that decision making process.

Major development is defined as:

Major – 10 or more residential units, dwellings on a site with an area of 0.5 hectares or more, 1,000 sq. m or more of new commercial floorspace or sites with an area of more than 1 hectare.

The other two categories where LPAs are assessed on performance but which did not form part of the designation regime until recently are:

Minor – Up to 9 residential units, up to 999 sq. m of new floorspace, and changes of use, and

Others – mainly householder schemes.

LPAs have a requirement to deal with majors within 13 weeks from the date of receipt and 8 weeks for all other planning applications, unless an extension of time is agreed with the applicant.

3.3 The initial designation regime stated that LPAs achieving a determination of 30% or under of major planning applications within 13 weeks are at risk of being designated as under-performing. This has increased over the years to 40% in 2014 and 50% in 2015. The threshold for the quality of major decisions was 20%. Spelthorne has consistently exceeded these targets.

3.4 In addition to the designation regime, LPAs are measured on their performance based on the % of planning applications they determine within 8 or 13 weeks (or within an extension of time agreed with the applicant) as follows:

Majors – 60% within 13 weeks

Minors – 65% within 8 weeks

Others – 80% within 8 weeks

- 3.5 In the year ending December 2019, Spelthorne met all three performance measures as follows:

Table 1

<u>Majors</u>			<u>Minors</u>			<u>Others</u>		
Total	On Target	% on Target (i.e. 60%)	Total	On Target	% on Target (i.e. 65%)	Total	On Target	% on Target (i.e. 80%)
25	25	100%	199	175	88%	562	530	94%

- 3.6 In addition to the above, Spelthorne LPA dealt with 566 other applications making a total of 1352 decisions.

- 3.7 During the same year ending December 2019, the following decisions were made on other types of applications.

Table 2

Application Type	Total No Determined
Certificate of Lawful Development (Proposed)	157
Certificate of Lawful Development (Existing)	14
Prior Notifications	98
Discharge of Conditions	115
Amended Applications	34
Consultations from adjoining Boroughs	22
SCC Applications	12
SCC Discharge of Conditions	5
TPO Applications	79
TCA Applications (Trees in Conservation Areas)	27
Telecom applications	3
TOTAL	566

3.8 In addition, the LPA dealt with:

- 35 Planning appeals,
- 8 Enforcement appeals,
- 351 Planning enquiries involving a written response and / or meetings
- 365 Planning enforcement cases
- 36 FOI Cases

Current Designation Regime

4.1 The Housing and Planning Act 2016 changed the designation regime to widen the definition of the applications to be included and to raise the bar on the thresholds LPAs would be required to meet with effect from 2017. A paper detailing the implementation of this; Improving Planning Performance: Criteria for Designation, was issued in 2016.

4.2 The performance of LPAs in determining major and non-major development are now assessed separately, meaning that an authority could be “designated” on the basis of its performance on major development, on non-major development, or both. These two categories are assessed against two separate measures of performance:

- The speed applications are dealt with measured by the proportion of applications that are determined within the statutory time or an agreed extended period; and,
- The quality of decisions measured by the proportion of decisions on applications that are subsequently overturned at appeal

4.3 Consequently, the performance of LPA's are now assessed separately against:

- The **speed** of determining applications for **major** development
- The **quality** of decisions made by the authority on applications for **major** development;
- The **speed** of determining applications for **non-major** development;
- The **quality** of decisions made by the authority on applications for **non-major** development.

4.4 The Secretary of State will decide once a year whether any “designation” should be made or lifted. If an LPA is at risk of designation for one or more categories, the DCLG will write to the LPAs requesting any data corrections or exceptional circumstances that would make a “designation” unreasonable. Where an authority is “designated”, applicants may apply directly to the Planning Inspectorate for the category of applications (major, non-major or both) for which the authority has been “designated”. The exception is where an authority is designated for non-major development, householder

applications and retrospective applications. Applicants will not be able to submit these applications to the Planning Inspectorate as these are best dealt with locally. Soon after a designation is made the LPA is expected to prepare an “action plan” addressing areas of weakness that contributed to its under-performance. Appendix 1 contains a flow chart setting out the designation process.

4.5 The following table provides an overview of the thresholds and assessment period for 2018 and 2019 and Spelthorne’s performance.

Table 3

Measure and type of Application	2016-2018 Threshold and assessment period	Spelthorne’s Performance	2017-2019 Threshold and assessment period	Spelthorne’s Performance
Speed of major Development	60% (October 2016 to September 2018)	89%	60% (October 2017 to September 2019)	96%
Quality of major Development	10% (April 2016 to March 2018)	5.3%	10% (April 2017 to March 2019)	3.7%
Speed of non-major Development	70% (October 2016 to September 2018)	88%	70% (October 2017 to September 2019)	93%
Quality of non-major Development	10% (April 2016 to March 2018)	1.07%	10% (April 2016 to March 2018)	0.6%

It can be seen that Spelthorne has met and exceeded all four targets for the threshold periods.

Planning Appeals Decisions

4.6 The assessment of the quality of decision making by LPA’s is measured by the proportion of decisions on applications that are subsequently overturned at appeal. The current assessment for 2019 is based on planning applications decided between April 2017 to March 2019. The statistics allow for a period of 9 months elapsing following the end of the assessment period to allow time for an appeal to be lodged and decided.

4.7 The appeals relating to Spelthorne for the period in question are attached as Appendix 2. Also attached as Appendix 3, are the appeal decisions relating to enforcement cases although it should be noted that these are not currently used to measure the Council's performance. In summary:

There were 72 appeal decisions
64 planning appeals and
8 enforcement appeals.

Of these appeals:

- 48 planning appeals were dismissed or had a split decision
- Planning Enforcement were dismissed or had a split decision
- 16 planning appeals were allowed, and
- 2 Planning Enforcement appeals were allowed.

The appeal performance overall for 2019 is 75% dismissed or split which represents a small improvement on 2018 when the figure was 69%.

Planning Committee Overturns

4.8 Between November 2016 to December 2019 nine planning applications were overturned by the Planning Committee. Of these nine:

- Six were allowed on appeal,
- Two appeals had costs awarded against the Council
- One was appealed against and subsequently withdrawn following the approval of a revised scheme
- One appeal was dismissed (but partial award of costs against the Council)
- One application was approved (based on a decision that very special circumstances existed to justify development within the Green Belt).

These are summarised in the following table:

Table 4

Planning Application no.	Site	Proposal	Officer Rec	Committee Decision	Appeal Decision and Date
16/01593/HOU	19 Clifford Grove Ashford	Erection of an outbuilding (retrospective)	Approve	Refused 17/11/16	Allowed on appeal 13/02/19
16/00972/FUL	Former Brooklands College Church Road Ashford	366 dwellings, Commercial and D1 floorspace, open space, parking	Approve	Refused 13/02/17	Appeal withdrawn 17/01274/FUL approved on 20/12/17

Planning Application no.	Site	Proposal	Officer Rec	Committee Decision	Appeal Decision and Date
16/01349/ FUL	Land to west of 26/28 Peregrine Road & 181 Nursery Road Sunbury	Erection of a detached two-storey building for the purposes of special needs housing (Use Class C2) together with associated entrance gates, access, parking and landscaping.	Refuse	Approved	N/A
17/00130/ HOU	104 Avondale Avenue Staines-upon-Thames	Erection of an outbuilding (retrospective)	Approve	Refused 08/03/17	Allowed on appeal 23/06/17
16/01357/ FUL	Former London Irish Rugby Football Club The Avenue Sunbury On Thames	Replacement of 4 no. detached 5 bedroom dwellings (approved) with 24 flats	Approve	Refused 05/04/18	Appeal allowed. Partial award of costs against the Council given.
18/00432/ T56	Grass Verge opposite the Parade at Junction of Vicarage Road Sunbury On Thames	Installation of a 17.5m Shrouded High Jupiter Street Pole and associated equipment	Approve	Refused 18/05/18	Allowed on appeal 28/05/19
18/01426/ RVC	Halliford Studios Limited Manygate Lane Shepperton	Variation of planning permission 17/01065/FUL for 24 dwellings, to allow a fence in lieu of a wall on two boundaries.	Approve	Refused 17/12/18	Allowed on appeal 22/03/19
17/01938/ FUL	20 Bridge Street Staines	Erection of a five storey building of 9 flats	Approve	Refused 01/06/18	Appeal dismissed 31/05/19 Partial award of costs against the Council –.
19/00444/ ADV	Charlton Lane Ecopark Charlton Lane Shepperton	Retention of freestanding 6.52m tall non-illuminated sign at entrance (retrospective)	Grant	Refused 30/05/19	Allowed on appeal 15/11/19

Government Papers and Ministerial Statements

- 4.9 In the Planning DM performance report to Committee in December 2017, reference was made to three DCLG documents which had been recently published and which may have a bearing on the way DM performance is assessed. In addition, Planning DM was referenced in the budget statement on 22 November 2017. The first of the documents, Improving Planning Performance: Criteria for Designation (Revised 2016) is referenced above.
- 4.10 The other two papers referred to in the previous Planning DM report; the White Paper, Fixing our Broken Housing Market (February 2017) and Planning for the Right Homes in the Right Places (Consultation Proposals (September 2017), aimed at boosting housing supply by increasing densities in urban areas and increasing the speed of delivery. These documents have been encapsulated within the revised NPPF which was re-issued in February 2019. At the heart of the NPPF is a presumption in favour of sustainable development.
- 4.11 In the Planning DM performance report last year, reference was made to the 2018-19 Local Government Finance Settlement Technical Consultation Paper (September 2017) which placed a greater emphasis on linking housing delivery with financial rewards or penalties. This matter has not been finalised in the 2019-20 consultation paper and Members will be updated on this in due course.

5 Implications, Risks and Actions for Spelthorne

- 5.1 The LPA has met and exceeded the speed targets for both major and non-major developments in the 2019 assessment period. Officers will continue to work hard to ensure these targets are met in the future.
- 5.2 The LPA has also met the quality targets for both major and non-major developments. However, the quality of major development is a target which officers are monitoring very closely because of the relatively few number of major applications the Council receives. There is a real risk of performance, in terms of major applications, exceeding the new 10% threshold. In the two year period April 2017 to March 2019, the Council determined 54 major planning applications, four of which were appealed against and two were allowed. Two appeals allowed out of 54 applications equates to a quality performance of 3.7%. However, a further three appeals dismissed would bring the performance closer to the designation threshold of 10% at 9.3%. Continuous monitoring against this criterion is essential.
- 5.3 When refusing a planning application, it is imperative that the Council has sound reasons that are capable of being defended successfully at appeal. Failure to do so could expose the Council to the real risk of "designation". The rigorous defence of appeals will continue to require appropriate resources.

- 5.4 An up to date plan gives greater certainty to all those involved in the development process and the local community. The consultation period on the preferred options (Regulation 18) has recently closed on the revised local plan. The consultation on the publication of the local plan (Regulation 19) is presently scheduled for later this year. Planning decisions based on an up to date plan and supplementary guidance which is consistent with the NPPF, are more easily defended at appeal. This in turn ensures that the risk of designation based on appeal decisions is minimised.
- 5.5 DM Officers will continue to closely monitoring committee overturns, although the number of these has been relatively small. As indicated in table 4 above, there have been nine applications overturned and refused by the Planning Committee in the last 2+years, six of these were allowed on appeal, and costs were awarded against the Council on two of these. All Members have been reminded of the requirements of the Planning Code and in particular the “call in” procedure. The guiding principle of a “call-in” is that there is a “*wider public interest*” in the application being considered by the Committee. The Planning Code is currently in the process of being updated and has recently been discussed by the Members’ Code of Conduct Committee on 27 November 2019. An updated report is due to be considered by the same committee on 30th January 2020. Members will be updated on this matter.
- 5.6 The DM Officers are working within a culture of continuous performance throughout the Development Management process. Planning Development Management underwent a two week audit on its processes and procedures in May 2019 and the overall outcome was judged as “Effective”, the highest level.
- 5.7 The DM Service uses Idox Uniform for its computer software to manage the planning application process. It has invested in a software management package known as Idox Enterprise to act as a management tool for planning officers. A large amount of work has been undertaken by Idox in the latter part of 2019. This work has enabled officers to work towards an agile way of working, to reduce paper and better manage the application process. More work is planned for the start of 2020 to further enhance the process and improve efficiency.
- 5.8 It has always been essential for officers and members to undergo regular planning training, including legislative changes and this is on-going requirement. At the time of writing this report, members will have undertaken twelve different training sessions since the May local elections. Officers too have attended various training course as and when they arise as part of their continuous professional development.

6 Recommendation

6.1 It is recommended that the Committee notes the contents of this report.

List of Appendices

1. The Designation Process
2. Planning Appeal Decisions for applications determined April 2017 – March 2018
3. Planning Enforcement Appeal Decisions for appeals determined to end December 2019.