



Improving planning performance

Criteria for designation (revised 2018)

Presented to Parliament pursuant to section 62B of the Town and Country Planning Act 1990.

November 2018



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Introduction

Improving performance

1. Planning departments play a crucial role in enabling development to deliver home ownership, building homes people can afford to buy and supporting economic growth. An efficient and effective planning system facilitated by skilled and experienced planners is essential to support this. We want to support and work with local authorities to make sure that the planning system is valued, resilient and capable of providing the service that local people and planning applicants expect, and delivering on the increasing challenges being asked of it.
2. The performance of local authorities in deciding applications for planning permission is crucial to achieving this objective. Our existing approach to measuring the performance of authorities was introduced by the Growth and Infrastructure Act 2013 and is based on assessing local planning authorities' performance on the speed and quality of their decisions on applications for major and non-major development. Where an authority is designated as underperforming, applicants have had the option of submitting their applications for major and non-major development (and connected applications) directly to the Planning Inspectorate (who act on behalf of the Secretary of State) for determination.

Legislation

3. Section 1 of the Growth and Infrastructure Act 2013 inserted sections 62A and 62B into the Town and Country Planning Act 1990 ("the 1990 Act"). Section 62A allows certain applications to be made directly to the Secretary of State, where the local planning authority for the area has been designated for this purpose. Section 62B requires that the criteria for any such designation, or for revoking a designation, must be set out in a document published by the Secretary of State and laid before Parliament.
4. Section 153 of the Housing and Planning Act 2016 amended sections 62A and 62B of the 1990 Act to allow the Secretary of State to prescribe the descriptions of applications in respect of which an authority may be designated. The Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013 have been amended by the Town and Country Planning (Section 62A Applications) (Amendment) Regulations 2016 to prescribe and define applications for "non-major development" alongside applications for "major development".
5. This document sets out the criteria that the Secretary of State intends to use for making or revoking a designation in respect of a local planning authority's performance in determining applications for major development and, separately, its performance in determining applications for non-major development. The criteria have effect from the day following the end of the statutory 40 day period during which Parliament may consider this document, provided neither House has resolved not to approve it¹.
6. The criteria will be kept under review, with any further changes brought forward through a revised document that will be published by the Secretary of State and laid before Parliament.

¹ The calculation of the 40 day period is specified in section 62B of the 1990 Act.

Criteria for designation

Overall approach

7. A local planning authority can be designated only if, by reference to the criteria in this document, “the Secretary of State considers that there are respects in which the authority are not adequately performing their function of determining applications”².
8. The performance of local planning authorities in determining major³ and non-major development⁴ will be assessed separately, meaning that an authority could be designated on the basis of its performance in determining applications for major development, applications for non-major development, or both. The assessment for each of these two categories of development will be against two separate measures of performance:
 - the speed with which applications are dealt with measured by the proportion of applications that are dealt with within the statutory time or an agreed extended period; and,
 - the quality of decisions made by local planning authorities measured by the proportion of decisions on applications that are subsequently overturned at appeal.
9. Therefore, the performance of local planning authorities will be assessed separately against:
 - The speed of determining applications for major development⁵
 - The quality of decisions made by the authority on applications for major development⁶;
 - The speed of determining applications for non-major development;
 - The quality of decisions made by the authority on applications for non-major development.
10. Where an authority is designated, applicants may apply directly to the Planning Inspectorate (on behalf of the Secretary of State) for the category of applications (major, non-major or both) for which the authority has been designated, subject to the exceptions set out in paragraph 13. For example, where an authority has been designated as underperforming (either on the speed or quality measure) in relation to its performance in determining non-major applications, applicants for non-major development will have the option of being able to apply directly to the Planning Inspectorate (subject to paragraph 13), but applicants for major development will continue to apply directly to the local planning authority. Where a unitary authority is designated for either district or county matter applications, an applicant would only be able to apply direct to the Planning Inspectorate for the type of application for which the authority has been designated.
11. Where an authority is designated for their performance in determining applications for non-major development, applicants for householder applications⁷ and retrospective applications⁸ will not be able to submit their applications to the Planning Inspectorate as it is considered these applications are best dealt with locally. However, soon after a designation is made

2 Section 62B(1)(b) of the 1990 Act.

3 ‘Major development’ for this purpose is as defined in Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

4 “Non-major development” is defined as development that does not come within the ambit of the definition for “Major development” (see Regulation 3 of the Town and Country Planning (Section 62A Applications) (Written Representations and Miscellaneous Provisions) Regulations 2013.

5 For unitary authorities, both district and county matter applications will be assessed separately.

6 For unitary authorities, both district and county matter applications will be assessed separately.

7 “Householder applications” is defined in article 2 of the Town and Country Planning (Development Management Procedure) Order 2015.

8 As described in section 73A of the 1990 Act.

the local planning authority will be expected to prepare an action plan addressing areas of weakness that it identifies as having contributed to its under-performance. Where necessary, this action plan will directly address weaknesses in the processing of householder applications, providing the appropriate protection to applicants and the best access to a timely decision.

12. Data showing the performance of local planning authorities against the speed and quality measures are published by the Ministry of Housing, Communities and Local Government on a quarterly basis. The table below sets out the relevant Live Table for each measure of performance. The data are adjusted prior to publication (and prior to decisions about designations being made) to account for any gaps in the data provided to the Department. The adjustments are detailed in Annex A to this document.
13. The Secretary of State will aim to decide whether any designations should be made in the first quarter of each calendar year, based on the assessment periods for each measure set out in the table below. Exceptionally, designations or de-designations may be made at other times. Annex B provides a flowchart illustrating the designation process and expected timeframe for reaching decisions.
14. The remainder of this document sets out specific information on the speed and quality measures, exceptional circumstances and the de-designation process. The table below provides an overview of the thresholds and assessment periods for designation including the relevant Live Table for each performance measure.

Table 1 – Designation thresholds and assessment period overview

Measure and type of Application	Threshold and assessment period October 2016 to September 2018	Threshold and assessment period October 2017 to September 2019	Live Table
Speed of major Development (District and County)	60%	60%	District - P151a County - P151b
Speed of non-major Development	70%	70%	P153

Measure and type of Application	Threshold and assessment period April 2016 to March 2018	Threshold and assessment period April 2017 to March 2019	Live Table
Quality of major Development (District and County)	10%	10%	District - P152a County - P152b
Quality of non-major Development	10%	10%	P154

Speed of decisions

15. The measure to be used is the percentage of decisions on applications made:

- a. within the statutory determination period⁹; or
- b. within such extended period as has been agreed in writing between the applicant and the local planning authority¹⁰;

as recorded for major development in Live Tables P151a and 151b, and for non-major development in Live Table 153 from the data collected by the Ministry of Housing, Communities and Local Government.

16. 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 2016 and September 2018 will be used for designation decisions in Quarter 1 2019. The average percentage figure for the assessment period as a whole is used.

17. The designation thresholds¹¹, 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.

9 The statutory period is 8 weeks for applications for non-major development and 13 weeks for applications for major development, unless an application is subject to Environmental Impact Assessment, in which case a 16 week period applies.

10 The extended period could be through a planning performance agreement or an agreed extension of time (which should be in writing, be agreed before the end of the statutory determination period, and set out a timescale for the decision).

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

Quality of decisions

18. The measure to be used is the percentage of the total number of decisions¹² 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 2018 will be used for designation decisions in Q1 2019, this allows for applications to be decided between April 2016 and March 2018 and a 9 month lag to December 2018 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.

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

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
- b. whether the issue had a significant impact on the authority's performance, for reasons that were beyond its control.

23. The Secretary of State may also consider any exceptional circumstances which in his opinion would make a designation unreasonable. For example, the Secretary of State will take into account before confirming any designation whether he or she has made directions relating to, or intervened in the local authority's local plan¹³ during the 24 month assessment period, and considers that the intervention is likely to lead to an improvement in the speed and/or quality of the authority's decision making in the year following the assessment period.

¹³ The Secretary of State has powers under Part 2 of the Planning and Compulsory Purchase Act 2004 to direct a local planning authority to amend their local development scheme, or a local development document that the authority is preparing. The Secretary of State has further powers to intervene in the preparation of a development plan document (the local development documents which comprise the local plan), or to prepare a document (or invite another body to do so) where the local planning authority is failing to do so.

Criteria for de-designation

Overall approach

24. The Secretary of State will decide once each year whether any designations should be lifted, at around the same time as deciding whether any new designations are to be made. Exceptionally de-designations may be made at other times.
25. In assessing whether a designation should be lifted, consideration is given to:
 - (a) the potential capability of the designated local planning authority to deal effectively with applications for major or non-major development, as appropriate, in the future; and
 - (b) the effectiveness of the designated local planning authority in dealing with the relevant category of applications during the period of its designation.
26. Soon after a designation is made the local planning authority is expected to prepare an action plan addressing areas of weakness that it identifies as having contributed to its under-performance. In doing so the authority should draw upon sector support, particularly any support that is available through programmes funded by the Ministry of Housing, Communities and Local Government. The authority will need to agree the action plan with the Department.
27. Where an authority has been designated as under performing in respect of their performance in determining non-major applications, they are expected to provide specific detail on their approach to improving their performance on the determination of householder planning applications as these applications cannot be submitted directly to the Planning Inspectorate. The Department will make a formal assessment of progress against the action plan no later than eleven months following the date on which the local planning authority was designated.

The criteria that will be taken into account

28. A designation will be revoked if the Secretary of State is satisfied that:
 - (a) the designated local planning authority has provided adequate evidence of sufficient improvement against areas of weakness identified in an initial assessment of its performance;and provided that the designated local planning authority,
 - (b) would not, at the time that decisions about de-designation are made, remain eligible for designation on the basis of the data available at the time;
 - (c) has completed, within the timescale specified, any administrative tasks required of the authority in association with applications made directly to the Secretary of State in the area, in at least 80 per cent of cases during the designation period¹⁴; and
 - (d) has not, in the view of the Secretary of State, caused unreasonable delay in progressing and signing any section 106 agreements associated with applications submitted directly to him during the designation period.
29. If, having considered these criteria, the Secretary of State concludes that the designation should remain in place, the local planning authority will be given at least two weeks to set out any exceptional circumstances (supported by evidence) which, in its opinion, would make a continued designation unreasonable. Any decision on whether to lift the designation will be made on the basis of the factors set out in paragraphs 25-26.

¹⁴ "Designation period" means the period since the local planning authority was designated under section 62B of the 1990 Act. The administrative tasks are those requirements set out in a development order made under the powers in section 76C(2) of the 1990 Act.

Annex A

Data sources and adjustments

Planning applications

30. Information on planning applications, including the numbers decided in each period, the use of planning performance agreements and agreed extensions of time, and the speed of determination, is collected through the statistical returns supplied quarterly to the Ministry of Housing, Communities and Local Government¹⁵.
31. Data on the speed with which applications for major and non-major development are determined, reflecting the approach set out in this document, are published separately by the Department in March, June, September and December each year. This data will not take into account situations where a decision has been taken out of the local planning authority's hands, either through an appeal being made against non-determination within the statutory period, or where the application has been called-in by the Secretary of State (or, in London, by the Mayor of London).
32. The data reported by local planning authorities to the Department record the extent to which planning applications are subject to bespoke timetables set through Planning Performance Agreements and/or extension of time agreements, and whether such applications are determined within the time specified in the agreement.

Adjusting for missing data

33. The Department uses a system of imputing values to provide estimates for quarters for which data are missing for particular authorities¹⁶. This is used to provide a complete set of data on which to calculate the associated statistics. The methodology for imputation has been considered and assessed by the UK Statistics Authority as following the Code of Practice for Official Statistics.
34. To calculate imputed values, local planning authorities are grouped geographically into 'grossing groups', so that any estimates can reflect the pattern of decisions in the same part of the country. To impute the total number of decisions in each category for non-responding authorities we use the proportion of decisions in the current quarter (for responding authorities in the appropriate grossing group), compared to the total for corresponding authorities in the previous quarter, and apply that to the number reported (or imputed) for each of the non-responding authorities in the previous quarter.
35. Once the total number of decisions has been imputed for a missing quarter, it is then proportioned across the remaining variables (such as the number granted, or number of decisions made in 8 or 13 weeks). Looking at the current quarter, the sum of each variable for the responding authorities in the grossing group is compared to the total number of decisions for the same authorities to form a factor. This factor is then applied to the total number of decisions that were imputed for each non-responding authority in the group to estimate the value for each variable.

¹⁵ Through the PS1 and PS2 returns for district matter authorities, and the CPS1 and CPS2 returns for county matter authorities.

¹⁶ Imputing is not carried out for 'county matter' data, as the relatively small number of county matter applications, and the degree of quarterly fluctuation in the pattern of county matter applications received, makes the process insufficiently robust from a statistical point of view.

Penalties for missing data

36. To encourage data reporting by local planning authorities, a penalty is applied where more than two quarters of data are missing in any two year assessment period. The penalties are applied once any missing values have been imputed¹⁷, and are reflected in the performance statistics published by the Department on which decisions about any designations are based.
37. The penalties applied are as follows:
- One or two missing quarters are disregarded and no penalty applied (but the missing values will be imputed as described above).
 - If three or four quarters of data are missing, a ten percentage point reduction is applied to the authority's average figure for the speed of determining applications over the assessment period.
 - If data for five or six quarters are missing, a fifteen percentage point reduction is applied to the authority's average figure for the speed of determining applications over the assessment period.
 - If data for seven or eight quarters are missing, the authority will be designated automatically, notwithstanding the specific criteria set out elsewhere in this document.

Opportunities to correct or supply additional data

38. Local Planning authorities at risk of designation are given an opportunity to fill any gaps in the data reported to the Department before any designations are confirmed (in which case the statistics – including any imputed values and penalties that have already been applied – are recalculated to reflect the additional data that have been supplied). The local planning authority has at least two weeks to provide the missing data once the statistics up to and including the end of the assessment period are available.

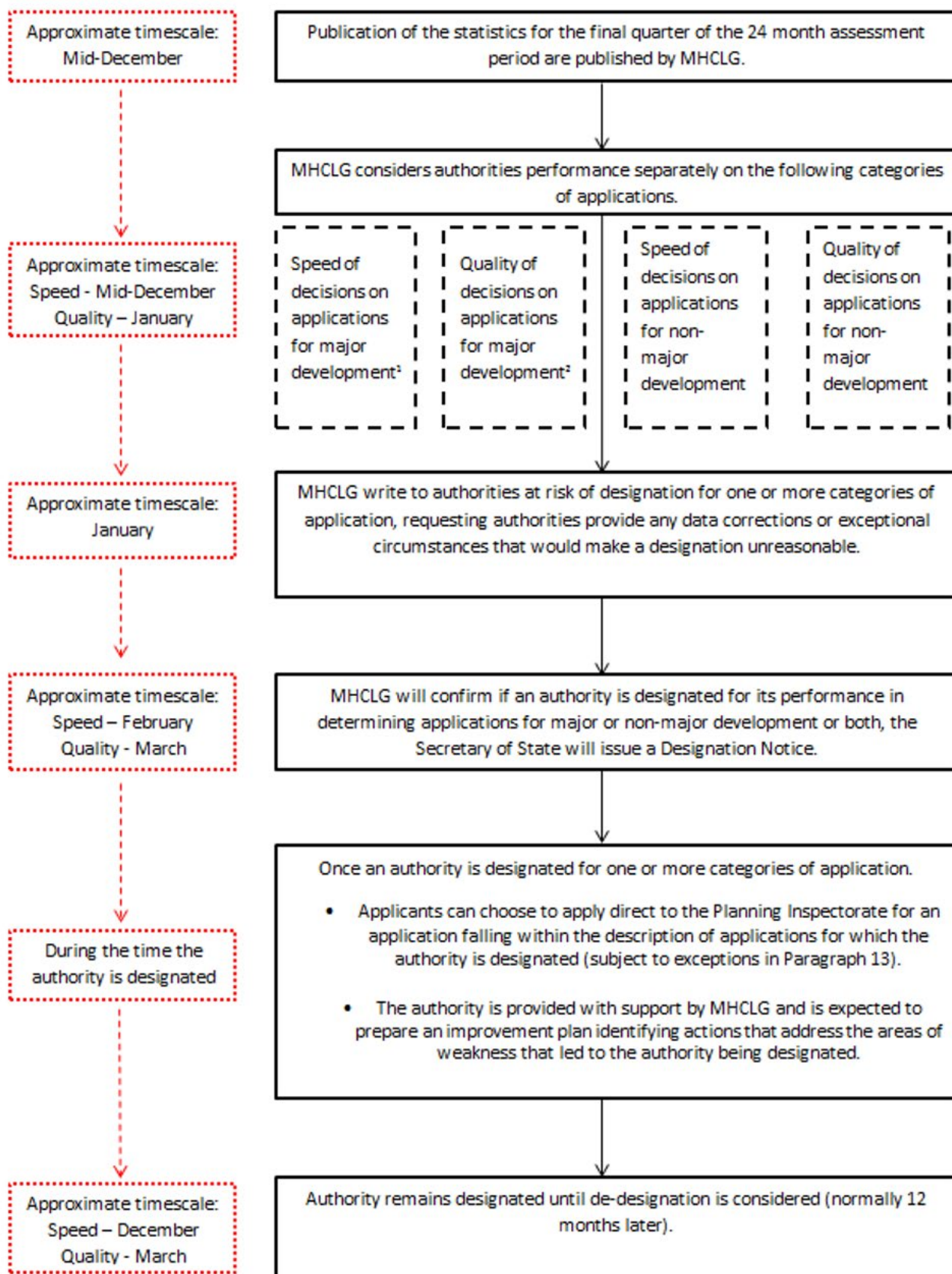
Planning appeals

39. Information on the number and outcome of planning appeals involving applications for major and non-major development is collected by the Planning Inspectorate. This is combined with the data on planning applications collected by the Department to allow the proportion of decisions on applications for both major and non-major development that are overturned on appeal to be calculated separately. This is done on a quarterly basis and the results published by the Department, shortly after the data on the speed of determining applications.
40. For the purpose of these calculations all appeals against a refusal of planning permission (or against planning conditions) during the assessment period are taken into account, including those arising from a 'deemed refusal' where an application has not been determined within the statutory period. Where a 'split decision' is issued on an appeal (i.e. part of the appeal is dismissed and part allowed), the appeal will be treated as if the local planning authority's decision has not been overturned. Similarly, appeals against conditions will not be treated as having gone against the local planning authority, bearing in mind that the authority will have approved the original application and it is only conditions that are being challenged.

¹⁷ In the case of 'county matter' authorities, the penalties are applied without any prior imputation for missing values.

Annex B

Designation Process



1 For unitary authorities, both district and county matter applications will be assessed separately.

2 For unitary authorities, both district and county matter applications will be assessed separately.