



Department for  
Communities and  
Local Government

# Planning performance

Government response to consultation

© Crown copyright, 2014

*Copyright in the typographical arrangement rests with the Crown.*

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, go to [www.nationalarchives.gov.uk/doc/open-government-licence/](http://www.nationalarchives.gov.uk/doc/open-government-licence/) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

This document/publication is also available on our website at [www.gov.uk/dclg](http://www.gov.uk/dclg)

Any enquiries regarding this publication should be sent to us at:  
[planningperformance@communities.gsi.gov.uk](mailto:planningperformance@communities.gsi.gov.uk)

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

June 2014

ISBN: 978-1-4098-4245-3

# Contents

	<b>Page</b>
<b>Introduction</b>	<b>4</b>
<b>Overview of responses</b>	
<b>Comments received</b>	<b>5</b>
<b>General points</b>	<b>5</b>
<b>Responses to specific questions</b>	
<b>Speed of decisions</b>	<b>7</b>
<b>Exempting small numbers of applications</b>	<b>9</b>
<b>Exceptional circumstances</b>	<b>11</b>

# Introduction

1. In March 2014 the Government published a consultation on “Planning Performance and Planning Contributions”. This report summarises the comments received on planning performance and sets out the Government’s response. A separate summary of the responses received in relation to planning contributions will be published in due course.
2. The consultation supports the implementation of section 1 of the Growth and Infrastructure Act 2013<sup>1</sup> which allows planning applications to be submitted directly to the Secretary of State if a local planning authority is designated on the basis of under-performance. The original criteria used for identifying under-performance were consulted on in 2012 and laid in Parliament in June 2013<sup>2</sup>. The legislation and criteria are supported by secondary legislation and guidance on how to make a planning application to the Secretary of State and the procedures for determining such applications.
3. The consultation published in March this year sought views on changing the criteria for assessing local planning authority performance on the speed of handling planning applications, the scope to increase that threshold further in the future, whether authorities dealing with a minimum number of applications should be exempted from designation, and proposed broad tests to be applied in considering exceptional circumstances which might make a designation unreasonable.
4. The consultation closed on 4 May 2014. Alongside this summary of responses the Government is publishing the revised criteria that it intends to use when considering whether to designate local planning authorities<sup>3</sup>. The criteria have been informed by the response to the consultation.

---

<sup>1</sup> Section 1 inserted new sections 62A-C into the Town and Country Planning Act 1990.

<sup>2</sup> Department for Communities and Local Government (June 2013) Improving Planning Performance: Criteria for Designation <http://tinyurl.com/odqu8v8>

<sup>3</sup> Department for Communities and Local Government (June 2014) Improving Planning Performance: Criteria for Designation

# Overview of responses

## Comments received

5. In total 145 replies were received. Nearly two thirds (66%) were from local authorities (including parish councils), 13% were from developers or those with a development interest, and 11% were from representative organisations (such as the Royal Town Planning Institute or Local Government Association). Just under 10% of replies were from individuals.
6. Some responses were not clear 'yes' or 'no' answers – instead offering further questions or raising wider issues. These answers are classified separately in the summary of responses to each question that follows.
7. Furthermore, responses to some questions raised issues about matters covered elsewhere in the consultation document. In the interests of clarity and to avoid duplication, this report summarises the issues raised in responses under the questions to which they most appropriately relate.
8. Many responses raised broader issues than those covered by the consultation questions; the broader points are summarised below.

## General points

9. While there was general support for most of the proposals in the consultation, some respondents questioned whether the speed of decisions was an appropriate measure of local authority performance, or felt that increasing the threshold for decision times might have a detrimental impact on either the quality of service provided or the quality of the planning decision. Alternative suggestions for measuring performance included whether a local authority had a Local Plan in place, or the quality of their planning service.
10. Others asked whether the Government's approach to local authority planning performance adequately addresses the causes of poor performance, and whether there is enough support provided to tackle it. A number of respondents felt that delays were often caused by factors outside the control of the local planning authority, such as holding directions from highways authorities, delays by statutory consultees, or applicants taking a long time to prepare s106 agreements.

## The Government's response

11. The approach to local authority performance introduced by the Growth and Infrastructure Act 2013 gives applicants the choice of an alternative application route where the local planning service is not being delivered effectively. Local planning authorities are at risk of being designated as under-performing only

where they have a record of failing to decide applications for major development on time, or where a significant proportion of the authority's decisions have been challenged successfully at appeal. These measures reflect the importance of timely and well-considered decisions on planning applications for both the economy and for local communities, and build on the existing ability of applicants to appeal to the Secretary of State where specific applications are not decided on time.

12. As the consultation in 2012 acknowledged, there are other factors that can be considered in assessing the performance of local planning authorities. Nonetheless the speed and quality of decisions are important indicators of the service which is being delivered.
13. However, while we are clear that unnecessary delays in making planning decisions should be avoided, we are equally clear that quality should not be sacrificed for speed, or that every decision must be made within 13 weeks. There may be instances where an application genuinely cannot be determined within statutory timescales, which is why the speed of decision measure takes into account Planning Performance Agreements and agreed extensions of time. This, together with the other safeguards outlined in our response to the 2012 consultation<sup>4</sup>, are designed to minimise any risk of perverse outcomes such as local authorities refusing applications in order to meet statutory timescales.
14. The Government accepts that parties other than the local planning authority can be a cause of delay – but such circumstances again point to the need for bespoke timetables to be agreed between the parties where justified; and, as this consultation response sets out, we will also take into account any exceptional circumstances before designations are confirmed. We have also put in place a package of support through the Planning Advisory Service for both designated authorities and those potentially at risk of designation.

---

<sup>4</sup> Department for Communities and Local Government (June 2013) Planning Performance and the Planning Guarantee: Government Response to Consultation <http://tinyurl.com/opb4y4b>

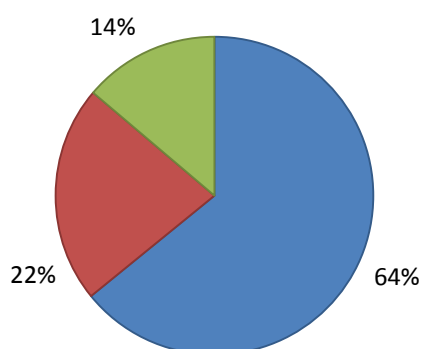
# Responses to specific questions

## Speed of decisions

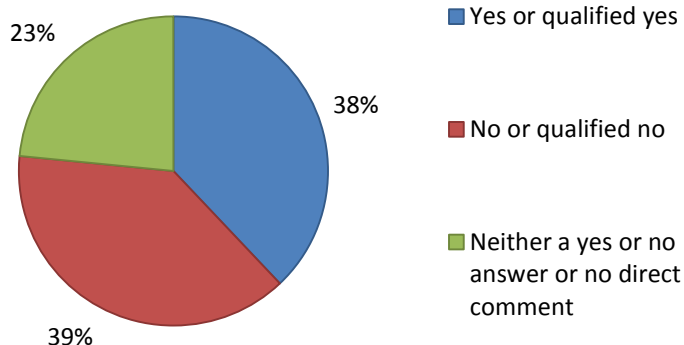
**Question 1: Do you agree that the threshold for designating authorities as under-performing, based on speed, should increase to 40% or fewer of decisions made on time?**

**Question 2: Do you think there is scope to raise the threshold for under-performance above 40% (for example to 45% or 50%); and, if so, by when?**

Question 1



Question 2



15. There was broad support for increasing the threshold to 40%, although for many respondents this support was contingent on continuing to use extension of time agreements or Planning Performance Agreements where appropriate. Those strongly in favour of increasing the threshold thought it would maintain and drive further improvement in performance.
16. Opinions varied on the extent to which the thresholds might be raised above 40%; suggestions ranged from increasing it to a maximum of 45% to raising it to 60% with a commitment to raise it to 70% in due course. While there was no agreement as to when the threshold should be raised, there was consensus that any changes to the threshold should not be introduced immediately and that any changes should be based on a review of the impact of a 40% threshold. Many respondents, including those opposed to any increases, felt that any change should be incremental and with sufficient lead-in time to give local authorities time to adjust.
17. Of those who disagreed with increasing the threshold to 40%, in a number of cases this was due to general misgivings about the speed of decisions being used as a performance measure, or reflected a view that increased thresholds

would have a negative impact on the quality of decisions, overall service or local authority resourcing.

18. Many of the respondents who felt that there is not currently scope to go beyond 40% accepted that moving to 40% this year represented the right balance; or wanted to see a review of how 40% works in practice before the threshold is increased again. Other respondents questioned whether there was sufficient evidence to support increasing the threshold above 40%.
19. A few local authorities suggested that the threshold for county and district matter applications should be changed at different rates to reflect the differing characteristics of minerals and waste applications; or that in the case of unitary authorities, their performance against both county and district matters should be taken into account together.

### **The Government's response**

20. Having considered the responses to the consultation, we have concluded that the threshold for designating local planning authorities on the basis of speed should increase to 40% now, but with scope for further increases in the future.
21. The original threshold of 30% was set at a low level partly to reflect the fact that historic data did not allow local authorities to record extension of time agreements<sup>5</sup>. Since April 2013 local authorities have been able to record extension of time agreements and Planning Performance Agreements in the official statistics on which we base designations. This will continue.
22. In light of the improvements in performance since the threshold was introduced, raising the threshold to 40% will help to encourage continued improvements in performance, but we recognise the desire expressed by many respondents for a longer lead-in time for any increases above this. We will therefore keep the 40% threshold under review with a view to increasing it in future.
23. We believe that it is appropriate to have the same threshold for county matters as for district matters, and for unitary authorities to be assessed against district and county matters separately. County matter applications are subject to the same statutory timeframes as district matters, with the same ability to use extension of time agreements or Planning Performance Agreements where necessary. And as the 2012 consultation paper set out, if single tier authorities were assessed against a combination of county and district matter casework, their average performance would not involve the same mix of application types as those faced by either district authorities or county councils (which would preclude a comparable assessment of performance).

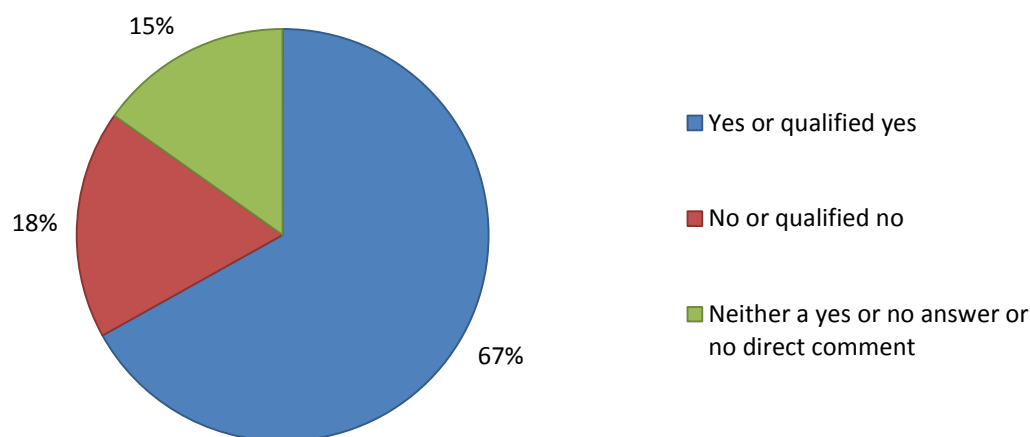
---

<sup>5</sup> In practice, where an authority has been at risk of designation, any applications subject to an extension of time agreement prior to April 2013 have been capable of being taken into account as an exceptional circumstance where appropriate.



## Exempting small numbers of applications

**Question 3: Do you agree that authorities that have dealt with no more than two applications for major development, over the two year assessment period, should be exempt from designation based on their speed of decisions?**



24. There was broad support for an exemption for local authorities that had dealt with no more than two applications for major development in a two year period, although a number of those who supported introducing an exemption favoured a higher level than was proposed. Alternative exemption levels suggested ranged from four applications to ten or more applications.
25. A number of those who disagreed with the proposal felt that every application, irrespective of how many the local authority receives, should be determined within statutory timescales and that the designation process should apply equally to all. Others suggested that instead of automatic exemption, authorities with few applications should be assessed in an alternative way, for instance examining those authorities on a case by case basis to establish whether any delay in determining applications was beyond their control, or taking into account the authority's performance on minor applications. Another suggestion was to have a sliding scale of exemption thresholds so that authorities where applications for major development make up a smaller percentage of the total caseload have a lower threshold for exemption.

### **The Government's response**

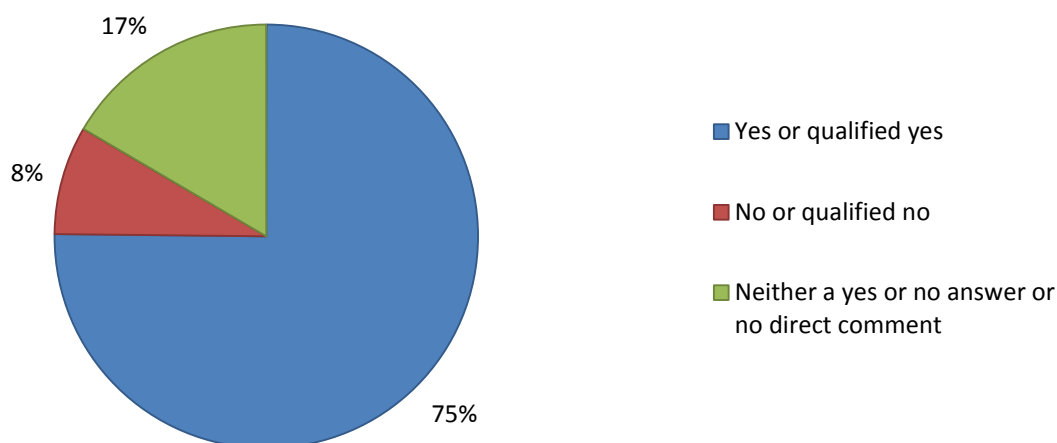
26. Having considered the responses to the consultation, we intend to introduce an exemption from designation based on the speed of decisions, for those authorities which have determined two or fewer applications for major development over the two year assessment period.
27. We believe that exemption on this basis is appropriate as two applications or fewer is insufficient to point to a record of poor performance and does not provide a robust statistical basis for designation. Equally, however, we do not consider that a higher threshold for exemption would be appropriate. Local

authorities, irrespective of how many applications for major development they receive, should be able to determine applications within statutory timescales or such longer period as has been agreed. The quality measure has a higher threshold for exemption, of ten applications, to avoid authorities being designated on the basis of one or two appeal decisions, when individual appeal outcomes can hinge on a small difference of view between the local planning authority and the Planning Inspectorate.

28. We do not think the alternative means of exempting local authorities suggested would be appropriate. An absolute exemption has the advantage of being simple and transparent; more complicated approaches would not give local planning authorities certainty in advance of the standards that apply.

## Exceptional Circumstances

**Question 4: Do you agree that the tests set out at paragraph 21 of this consultation are appropriate for taking exceptional circumstances into account, prior to designations being confirmed?**



29. There was broad support for the exceptional circumstances tests proposed, and in particular it was felt to be important that local authorities were given the opportunity to explain their performance when at risk of designation.
30. While supportive of the proposed tests, some respondents felt they would benefit from further clarification. Suggestions included further defining the term “significant” or providing examples of what might be considered reasonable. A number of respondents also sought reassurance that the tests should not be considered as exhaustive or prescriptive.
31. Some respondents proposed additional elements which they felt could be taken into account in assessing exceptional circumstances, including:
- whether a developer has asked to exclude an application from the timescale;
  - whether the local authority has acted reasonably, for example in prioritising scarce resource;
  - the nature, size and type of the local authority;
  - workloads, complexity of issues and difficulty in recruiting to positions;
  - what local authorities are doing to resolve difficulties, for example with statutory consultees; and
  - whether the authority’s performance has been improving on a quarterly basis.

### The Government’s response

32. Having considered the responses, we have concluded that the proposed tests for exceptional circumstances are appropriate.

33. The tests set out are intended to provide a framework to be used to assess any cases put forward by local planning authorities that exceptional circumstances apply, and which would make a designation unreasonable. The tests do not set out to prescribe or restrict what a local planning authority might choose to put forward as an exceptional circumstance; however, authorities will want to consider how any arguments they wish to propose relate to the tests. Further clarification of these broad tests, or provision of examples, risks attempting to define 'exceptional circumstances', which, by their nature, should be exceptional and therefore hard to define in advance. For this reason, we do not think it would not be appropriate to expand upon these broad principles.