



Department for  
Communities and  
Local Government

# Improving planning performance

Criteria for designation





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## Criteria for designation

Presented to Parliament pursuant to section 62B of the Town and Country Planning Act 1990; draft to lie for forty days, during which period either House of Parliament may resolve that the criteria for designation not be approved.

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# Introduction

## About this document

1. Section 62A of the Town and Country Planning Act 1990<sup>1</sup> (“the 1990 Act”) allows certain applications to be made directly to the Secretary of State for Communities and Local Government (“the Secretary of State”), where the local planning authority for the area has been designated for this purpose.
2. Section 62B of the 1990 Act 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. This document sets out the criteria that the Secretary of State intends to use for this purpose.
3. The Government consulted on the criteria to be used for designation and for de-designation at the end of 2012<sup>2</sup>. The response to that consultation, which has been published separately<sup>3</sup>, provides the background to the criteria set out in this document.
4. 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 it<sup>4</sup>.
5. The criteria will be kept under review, with any changes brought forward through a revised document that will be published by the Secretary of State and laid before Parliament.

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<sup>1</sup> Inserted by section 1 of the Growth and Infrastructure Act 2013.

<sup>2</sup> Planning Performance and the Planning Guarantee: Consultation (November 2012): <https://www.gov.uk/government/consultations/planning-performance-and-the-planning-guarantee>

<sup>3</sup> Planning Performance and the Planning Guarantee: Government Response to Consultation (June 2013)

<sup>4</sup> The calculation of the 40 day period is specified in Section 62B of the 1990 Act.

# Criteria for designation

## Overall approach

6. 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”<sup>5</sup>.
7. For this purpose the performance of local planning authorities will be assessed in two ways: on the basis of the speed with which applications for major development<sup>6</sup> are dealt with; 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).
8. The specific criteria to be employed in assessing performance in this way are set out below. As the criteria deal with two different aspects of performance, local planning authorities will be assessed against each aspect independently, and so could be designated on the basis of either aspect or both.
9. The performance of authorities in dealing with ‘district matter’ applications and ‘county matter’ applications will be assessed separately<sup>7</sup>. This means that an authority with responsibility for both district and county matters could be designated on the basis of its handling of either category (or both); although the ability for applicants to apply directly to the Secretary of State would apply only to the category of applications (district, county or both) for which the authority had been designated<sup>8</sup>.
10. Data showing the performance of local planning authorities against these measures will be published by the Department for Communities and Local Government (“the Department”) on a quarterly basis. The data will be 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.

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<sup>5</sup> Section 62B(1)(b) of the 1990 Act.

<sup>6</sup> ‘Major development’ for this purpose is as defined in the notes for completing the Department’s PS1/PS2 and CPS1/CPS2 planning statistics returns.

<sup>7</sup> What constitutes a ‘county matter’ application is set out in Schedule 1(1) to the 1990 Act and the Town and Country Planning (Prescription of County Matters) (England) Regulations 2003.

<sup>8</sup> For example if a unitary authority were to be designated solely on the basis of its speed in determining ‘county matter’ applications, the ability to apply directly to the Secretary of State would extend only to applications for major development involving ‘county matters’ in that area during the designation period.

11. The Secretary of State will decide whether any designations should be made once a year – with the intention being to make any initial designations in October 2013.

## Speed of decisions

12. The **measure** to be used is the average percentage of decisions on applications for major development made:
  - (a) within the statutory determination period<sup>9</sup>; or
  - (b) within such extended period as has been agreed in writing between the applicant and the local planning authority<sup>10</sup>;as recorded in the data collected by the Department for Communities and Local Government.
13. The average percentage figure for the assessment period as a whole will be used.
14. 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<sup>11</sup>.
15. The **threshold** for designation is 30% or fewer of an authority's decisions made within the statutory determination period or such extended period as has been agreed in writing with the applicant.

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<sup>9</sup> The statutory period is 13 weeks, unless an application is subject to Environmental Impact Assessment, in which case a 16 week period applies. See Annex A for the methodology where an application is subject to Environmental Impact Assessment.

<sup>10</sup> The extended period could be through a planning performance agreement or an agreed extension of time (provided this is in writing and sets out a timescale for the decision), where these are recorded in the statistics collected by the Department – see Annex A for details.

<sup>11</sup> For example, for any initial designations in October 2013, a two year assessment period ending on 30 June 2013 would be used (data for the last quarter of this two year period become available in September 2013). The quarterly reporting schedule is set out in Annex A.



## Quality of decisions

16. The **measure** to be used is the average percentage of decisions<sup>12</sup> on applications for major development that have been overturned at appeal, once nine months have elapsed following the end of the assessment period; as recorded in the data collected by the Department for Communities and Local Government.
17. The average percentage figure for the assessment period as a whole will be used.
18. The nine months specified in the measure are to enable the majority of decisions on planning applications made during the assessment period to be followed through to subsequent appeals that may be lodged, and for the outcome of those appeals to be known.
19. 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, taking into account the nine months to be allowed for beyond the end of the assessment period<sup>13</sup>.
20. The **threshold** for designation is 20% or more of an authority's decisions on applications for major development made during the assessment period being overturned at appeal.
21. There are limited **exemptions** from this measure: local planning authorities will not be liable for designation if they decided ten or fewer applications for major development during the assessment period as a whole.

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<sup>12</sup> See Annex A for list of decisions which are included / excluded.

<sup>13</sup> For example, it is intended to make any initial designations in October 2013, for which a two year assessment period ending on 31 December 2012 would be used.

# Criteria for de-designation

## Overall approach

22. 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.
23. In assessing whether a designation should be lifted, consideration will be given to:
  - (a) the potential capability of the designated local planning authority to deal effectively with applications for major development in future; and
  - (b) the effectiveness of the designated local planning authority in dealing with such applications during the period of its designation.
24. Soon after a designation is made 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. In doing so the authority will be able to draw upon support from the Planning Advisory Service, which is funded by the Department for Communities and Local Government. The authority will need to agree the action plan with the Department. 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

25. 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 criteria (including the relevant assessment periods) set out in this document;
  - (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% of cases during the designation period<sup>14</sup>;

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

- (d) has not, in the view of the Secretary of State, caused unreasonable delay in signing any section 106 agreements associated with applications submitted directly to him during the designation period.

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(inserted by paragraph 5 of Schedule 1 to the Growth and Infrastructure Act 2013). The order will specify the timescale within which these tasks need to be completed.

## Data sources and adjustments

### Planning applications

26. 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, will be collected through the statistical returns supplied quarterly to the Department for Communities and Local Government<sup>15</sup>.
27. Data on the speed with which applications for major development are determined, reflecting the approach set out in this document, will be published by the Department in March, June, September and December each year, commencing with the publication of the April to June 2013 data which are due to be published in September 2013. 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)<sup>16</sup>.
28. The data reported by local planning authorities to the Department already record the extent to which planning applications are subject to bespoke timetables set through Planning Performance Agreements, and whether such applications are determined within the time specified in the agreement. Beginning with the data recorded for the first quarter of 2013-14, the Department will also collect information on post-application extension of time agreements (provided these are in writing and specify a timescale for the decision), and the extent to which applications subject to them have been determined within the period specified in the agreement.

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

<sup>16</sup> It follows that the assessment of the speed of local planning authority decisions will not take into account decisions that have gone to appeal against non-determination, or which have been called-in (apart from applications called-in by the mayor of London prior to 1 April 2013, as data on applications which the Mayor has called-in will be collected from the first quarter of 2013-14).

## **Adjusting for missing data**

29. The Department uses a system of imputing values to provide estimates for quarters for which data are missing for particular authorities<sup>17</sup>. 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.
30. 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.
31. 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 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.

## **Penalties for missing data**

32. To encourage data reporting by local planning authorities, a penalty will be applied where more than two quarters of data are missing in any two year assessment period. The penalties will be applied once any missing values have been imputed<sup>18</sup>, and will be reflected in the performance statistics published by the Department on which decisions about any designations are based.
33. The penalties to be applied will be as follows:
  - One or two missing quarters will be 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 will be applied to the authority's average figure for the speed of determining applications over the assessment period.

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<sup>17</sup> 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.

<sup>18</sup> In the case of 'county matter' authorities, the penalties will be applied without any prior imputation for missing values.

- If data for five or six quarters are missing, a fifteen percentage point reduction will be 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**

34. Local Planning authorities at risk of designation in the first year of applying this policy (i.e. in October 2013) will be 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 – will be recalculated to reflect the additional data that have been supplied). The local planning authority will have 2 weeks to provide the missing data once the statistics up to and including the end of the assessment period are available.
35. Special arrangements will be made for applications subject to Environmental Impact Assessment, for which the statutory determination period is 16 weeks (rather than 13 weeks for applications for major development generally). Although local planning authorities are required to supply information on all applications, the 16 week period is not currently taken into account in the data collected by the Department.
36. The way that application data are supplied and recorded will be amended for returns from the first quarter of 2013-14 onwards, so that the extended determination period for applications subject to Environmental Impact Assessment is taken into account. In the meantime any authorities at risk of designation, on the basis of information that in part pre-dates the first quarter of 2013-14, will be given an opportunity to notify the Department of the number of applications for major development subject to Environmental Impact Assessment which were determined during the assessment period and how long they took to decide. A recalculation will then be made to account for this before any designations are confirmed.

### **Planning appeals**

37. Information on the number and outcome of planning appeals involving major development is collected by the Planning Inspectorate. This will be combined with the data on planning applications collected by the Department to allow the proportion of decisions on applications for major development that are overturned on appeal to be calculated. This will be done on a quarterly basis and the results published by the Department, alongside the data on the speed of determining applications.

38. For the purpose of these calculations all appeals against a refusal of planning permission (or against planning conditions) during the assessment period will be 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.



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