

<b>REPORT OF:</b>	<b>THE STRATEGIC DIRECTOR OF GROWTH &amp; DEVELOPMENT</b>
<b>TO:</b>	<b>PLANNING AND HIGHWAYS COMMITTEE</b>
<b>ON:</b>	<b>15<sup>th</sup> SEPTEMBER 2022</b>
<b>ORIGINATING SECTION: PLANNING (DEVELOPMENT MANAGEMENT) SERVICE</b>	
<b>WARDS AFFECTED: ALL</b>	
<b>COUNCILLORS: ALL</b>	

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**TITLE OF REPORT:**

**Planning Service Performance (Development Management)**

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**1. PURPOSE OF THE REPORT**

- 1.1 To inform Members of the Planning Service's current performance in processing planning applications, which followed the Secretary of State for Communities and Local Government publishing a document in December 2020 "Improving planning performance Criteria for designation (updated 2020)".
- 1.2 In the Planning for the Future White Paper, published in August 2020, the government set out their plan to transform the planning system, and decision making is a central part of this process. This report provides Blackburn With Darwen Borough Council's (BwDBC) performance for the 2 preceding years ending June 2022.

**2. BACKGROUND**

- 2.1 The Growth and Infrastructure Act 2013 introduced measures relating to the performance of Local Planning Authorities in relation to the speed of determining major planning applications.
- 2.2 Section 1 of the Growth and Infrastructure Act inserted sections 62A and 62B into the Town and Country Planning Act 1990. Section 62A allows certain applications to be made directly to the Secretary of State if a Local Planning Authority fails to meet performance targets for the speed of determining major planning applications. Local Planning Authorities who fail to meet performance targets may be designated as poorly performing.

- 2.3 At present Local Planning Authorities must determine over 50% of major planning applications within the specified 13 week period (or 16 week period if the development requires an Environmental Impact Assessment) or within any written extension of time period agreed with the applicant. If a Local Planning Authority fails to determine 50% of major applications within the specified time period or within the agreed extension of time, Authorities may be designated as underperforming, placed in “special measures” and applicants may bypass the Council and submit applications directly to the Planning Inspectorate for determination. Underperforming Authorities are also required to prepare and implement an improvement plan.
- 2.4 With the publication of the “Improving planning performance Criteria for designation” document, further measures were introduced to improve performance.
- 2.5 The Government propose that the performance of Local Planning Authorities in determining both major and non-major development will be assessed separately, meaning that an Authority could be designated on the basis of its performance in determining applications for major development, 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.
- 2.6 Therefore, the performance of Local Planning Authorities will be 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,
- 2.7 In order to designate LPA's as poorly performing, the Government use the quarterly statistical returns made to Ministry of Housing Communities & Local Government (MHCLG), and Department for Levelling Up, Housing & Communities. For the measure relating to the quality of decisions, this will be based on the numbers of appeals that are overturned during a particular quarter. The threshold for designation for both major and non-major development, above which a Local Planning Authority is eligible for designation, is 10% of the Authority's total number of decisions on applications made during the assessment period being overturned at appeal.
- 2.8 Where a Local Planning Authority is designated, applicants may apply for

planning permission 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 limited exceptions. Thus removing control from the Local Planning Authority in terms of the decision, conditions applied to any approval and fee income.

- 2.9 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. Where necessary, this action plan will directly address weaknesses in the processing of these types of applications. With regards to BwDBC, this action plan (Performance Improvement Plan) was produced in October 2015, and is ongoing in terms of the processes and decision making relating to the Development Management Service.
- 2.10 Data showing the performance of Local Planning Authorities against the speed and quality measures is published by the MHCLG on a quarterly basis. The Government indicates that a Local Authority's performance will be assessed using figures which have already been provided to MHCLG.
- 2.11 The following table shows the designation thresholds and initial assessment periods.

Table 1 – Designation thresholds and assessment period overview

Measure and type of Application	Threshold and assessment period	Threshold and assessment period	Live Table
	October 2018 to September 2020	October 2019 to September 2021	
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	Threshold and assessment period	Live Table
	April 2018 to March 2020	April 2019 to March 2021	
Quality of major Development (District and County)	10%	10%	District - P152a County – P152b
Quality of non-major Development	10%	10%	P154

- 2.12 The last report presented to the Committee on the performance levels, was at the meeting on the 16<sup>th</sup> August 2018. The performance levels based on the latest threshold and assessment period (April 2020 and September March 2022) can be found in the separate report on the agenda “National Planning Performance Tables”.

### 3. RATIONALE

- 3.1 Members will recall in the autumn of 2015, the Council received notification from the Secretary of State that at that time during the initial assessment period i.e. the preceding 2 years, the local planning authority were at serious risk of being placed in “special measures” due to the performance of dealing with majors and non-majors application not meeting the criteria set. As a result of this, the Planning Service immediately produced a “Planning Performance Improvement Plan”, which set out an action plan and monitoring framework to improve the Service’s performance, and reduce any risk of the service being placed in “special measures”. This included setting a local planning performance target to be adopted that is equivalent to the upper quartile performance level nationally; recruitment process for three additional planning posts; scheme of delegation

being revised. With regards to the latter this has been in place now since the 1st October 2015.

Below is the action plan that was put in place, with all the items now fully in place, which is currently subject to an audit review by the Council's Internal Audit Team.

No.	Item
1	Establish local target for processing of Major and Minor applications in line with national Upper Quartile, and include in Management Accountability Framework
2	Resources – recruit to full establishment including additional Principal, Planner & Enforcement roles
3	Scheme of delegation – revise to eliminate objections trigger
4	Quality of submissions – stricter validation process – applications automatically invalid if missing information, not worked upon again or made valid until all missing information submitted
5	Digitisation of service – application boundary polygons, historic records, live records via EDMS
6	Decision making culture – approve unless demonstrable harm; focus on timescales

- 3.2 Since the performance threshold was introduced for the speed of determining major applications and the Action Plan was implemented, officers have sought to work with applicants to either ensure that applications are determined within the statutory period or that an extension of time can be agreed. Major developments often throw up complex issues which take a considerable length of time to resolve and they are rarely dealt within the prescribed 13 or 16 week period (for development requiring Environmental Impact Assessment). Applicants are fully encouraged to submit their schemes through the Council's adopted Pre-Application Advisory Service, so that the issues can be identified and addressed at an early stage of the process. In many cases applicants are keen to work with officers and will agree an extension of time to formally extend the determination period where issues cannot be addressed within the statutory time period. This approach by officers applies to the determination of major and non-major applications where officers negotiate extensions of time with the applicants. Members are advised that the designation thresholds for non-major applications measured by the Government only relates to the "minor category" and in the "other category, just householder and changes of use applications".
- 3.3 Speed of decisions  
The measure to be used is the percentage of decisions on applications made:  
(a) within the statutory determination period  
; or

(b) within such extended period as has been agreed in writing between the applicant and the local planning authority 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.

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 2019 and September 2021 will be used for designation decisions in Quarter 1 2022. The average percentage figure for the assessment period as a whole is used.

- 3.4 The designation thresholds, 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.
- 3.5 As part of the monitoring framework, a Planning Service Dashboard has been produced by Development Management, which allows management information to be monitored relating to the performance of majors and minors planning applications, number of applications approved, and the performance of appeals. This is monitored over a monthly basis for 12 months, together with the quarterly monitoring on majors and minors for the preceding two years. The Dashboard is reported on a bi-monthly basis to the Planning Cross Party Working Group.
- 3.6 Figure 1 below shows the Council's performance for the rolling period of 2 years up to 30<sup>th</sup> June 2022 (measured by the Government).

Blackburn With Darwen		Performance for the rolling period of 2 years up to 30th June 2022									
		published	published	published	published	published	published	published	published	published	target
		July-Sep 2020	Oct - Dec 2020	Jan - March 2021	Apr-June 2021	July-Sept 2021	Oct-Dec 2021	Jan-March 2022	Apr-June 2022	24 months to end of June 2022	
Majors											
Major Decisions	10	7	6	7	9	14	10	7	70		
Major Decisions within 13 weeks	2	1	2	4	1	4	4	0	18		
PPA, EoT or EIA Decisions	8	6	4	3	8	10	6	7	52		
PPA, EoT or EIA Decisions within agree	7	6	4	3	8	10	6	7	51		
performance measure per q	90%	100%	100%	100%	100%	100%	100%	100%	99%		
total decisions	70										
within time	69										
performance measure	99% target is over 60%										
Minors and others											
M&O Decisions	125	135	148	171	172	175	124	143	1193		
M&O Decisions within 8 weeks	87	92	103	111	108	100	84	90	775		
PPA, EoT or EIA Decisions	35	42	36	54	64	71	40	49	391		
PPA, EoT or EIA Decisions within agree	33	38	35	54	64	70	40	49	383		
performance measure per q	96%	96%	93%	96%	100%	97%	100%	97%	97.07%		
total decisions	1193										
within time	1158										
performance measure	97% target going forward is 70%										
Others category only includes Changes of Use & Householder applications.											

Figure 1: Blackburn With Darwen Performance for the rolling period of 2 years up to 30<sup>th</sup> June 2022

3.7 Turning to the performance measure for this period, the Council determined 70 major applications during the 2 year period. 18 applications (26%) were determined within the statutory 13 week period. However, with the agreed extension of time (51 applications) 99% were determined which exceeds the target of 60%. The predominant reason why the majority of the major applications are determined with an agreed extension of time is due to the negotiations between the Council and the applicants relating to the viability of the proposed development and the financial contributions that are sought through the Section 106 Agreements.

- 3.8 With regards to the non-majors performance, 65% of the applications determined (775 out of 1193) during the 2 year period are determined within the 8 week statutory period, which is just below the target. However, with the agreed extensions of time the performance is at 97%. Members will be aware that the Service over the last 12 months has had some resource issues, but this has been resolved since the beginning of the year with a full recruitment process. As a result of this, the Service is now fully resourced with planning case officers. In addition, the Digitisation of the Planning Service is now complete, which assists in the processing of the planning applications at the validation/registration stage. This means from Figure 1 you can see that the number of required extensions of time for non-major applications are now reducing.
- 3.9 At the time of writing the report, performance figures for the Service over a rolling 12 month period are shown in Figures 2 and 3 for the period up to 31<sup>st</sup> July 2022. These reports are produced for the Cross Party Planning Working Group, on a bi-monthly basis.

Date	No. of apps received	No. of apps decided	No. of apps approved	No. of apps refused	No. of apps withdrawn	% apps approved	% apps refused	Major target	% majors within 13 weeks	% of majors 13 wks & agreed EoTs	Number of majors determined	No of Majors determined within 13 wks	Extension of time agreed (ppas etc) - Majors
Aug-21	100	62	57	5	2	92%	8%	50%	50%	100%	2	1	1
Sep-21	96	58	48	10	8	83%	17%	50%	0%	100%	2	0	2
Oct-21	103	70	67	3	11	96%	4%	50%	33%	100%	6	2	4
Nov-21	99	71	55	16	10	77%	23%	50%	20%	100%	5	1	4
Dec-21	100	58	54	4	3	93%	7%	50%	50%	100%	2	1	1
Jan-22	98	43	40	3	8	93%	7%	50%	50%	100%	4	2	2
Feb-22	84	62	60	2	2	97%	3%	50%	0%	100%	2	0	2
Mar-22	95	62	58	4	4	94%	6%	50%	33%	100%	4	1	3
Apr-22	73	48	44	4	4	92%	8%	50%	0%	100%	2	1	2
May-22	111	53	43	10	4	81%	19%	50%	0%	100%	4	0	4
Jun-22	114	58	54	4	2	93%	7%	50%	0%	100%	1	0	1
Jul-22	78	48	42	6	7	88%	13%	50%	80%	100%	5	4	1
Total	1151	693	622	71	65						39	13	27
Average						90%	10%	50%	45%	100%			

Figure 2: Blackburn With Darwen Performance for the period August 2021 to July 2022

Date	Minor/Other target	% minors/other within 8 weeks	% of minors/others 8 wks & agreed EoTs	Number of minors /other determined	No of minors/others determined within 8 wks	Extension of time agreed (ppas etc) - Minors
Aug-21	80%	64%	100%	53	38	21
Sep-21	80%	63%	100%	56	35	21
Oct-21	80%	59%	100%	64	38	26
Nov-21	80%	55%	100%	66	36	30
Dec-21	80%	61%	98%	56	34	21
Jan-22	80%	58%	100%	39	23	16
Feb-22	80%	53%	100%	58	31	27
Mar-22	80%	56%	100%	58	32	26
Apr-22	80%	56%	100%	46	26	18
May-22	80%	73%	100%	49	36	13
Jun-22	80%	60%	100%	57	35	22
Jul-22	80%	70%	100%	43	30	13
Total				651	394	254
Average	80%	61%	100%		33	21

Figure3: Blackburn With Darwen Performance for the period August 2021 to July 2022

- 3.10 From these figures, it can be seen that 90% of the applications determined over the 12 month period are approved, and 10% refused planning permission. The performance measure for majors and non-majors at 100% are meeting the targets set by the Government.
- 3.11 Turning to the appeals threshold criteria, no appeals have been submitted relating to major planning applications. However, as the number of major applications received by the LPA is relatively low the Council must be mindful that the 10% target figure is also relatively low so a small number of appeal overturns could have a significant impact on the Council. However, at the current time, the Council meets the performance target for the quality of decisions in relation to major applications.
- 3.12 With regards to non-majors, the latest performance figures for the 2 year rolling period up to the 30<sup>th</sup> June 2022, show that 23 appeals have been determined against 1,235 applications determined by the LPA. As stated in paragraph 2.7 above, the measure is 10% of the Authority's total number of decisions on applications made during the assessment period being overturned at appeal. Out of the 23 appeals determined by the Planning Inspectorate 2 were allowed, which amounts to 0.16% of the total number of applications determined by the LPA during the same period. As such, at the current time, the Council's meets the performance target for the quality of decisions in relation to non-major applications (minors and householder/changes of use applications). The Planning Dashboard which is reported to the Planning Cross Party Working Group on a bi-monthly basis, also shows the numbers of appeals received and determined over a rolling 12 month period. Figure 4 below shows the latest figures.

Date	No. of appeals received	No. of appeals decided	No. of appeals allowed	No. of appeals dismissed	% of appeals allowed	% of appeals dismissed
Aug-21	0	1	0	1	0%	100%
Sep-21	3	3	1	2	33%	67%
Oct-21	2	0	0	0	0%	0%
Nov-21	1	2	2	0	100%	0%
Dec-21	2	4	0	4	0%	100%
Jan-22	3	1	0	1	0%	100%
Feb-22	1	2	0	2	0%	100%
Mar-22	0	3	0	3	0%	100%
Apr-22	2	2	0	2	0%	100%
May-22	1	1	0	1	0%	100%
Jun-22	3	0	0	0	0%	0%
Jul-22	1	0	0	0	0%	0%
Total	19	19	3	16		
Average					16%	84%

Figure4: Blackburn With Darwen Performance for the period August 2021 to July 2022

- 3.13 On the agenda, is a separate report “Appeals Monitoring”, which includes the Council’s position relating to the appeals decisions against the national performance measures, and benchmarking against other local planning authorities.
- 3.14 Whilst the Council is currently meeting the Government’s thresholds we must always remain mindful of performance targets as failure to meet the thresholds will see the Local Planning Authority being categorised as underperforming. If the Council were to be designated for poor performance, not only would there be reputational damage and a loss of confidence in the Local Planning Authority but applicants would be able to by-pass the Council and submit applications directly to the Planning Inspectorate for determination. This would be detrimental to the interests of local democracy. Therefore, it is important that the Council retains sufficient resources to enable the targets to be met and exercises caution in the refusal of major planning applications, ensuring that reasons for refusal can be robustly defended in any subsequent planning appeal.

#### **4. POLICY IMPLICATIONS**

- 4.1 None

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 There are some financial/resource implications arising from this report should the Council fail to meet its performance targets. In this case there would be the potential for applicants to submit planning applications directly to the Planning Inspectorate with consequent impact on the planning fee income received by the Council.

#### **6. LEGAL IMPLICATIONS**

- 6.1 None

#### **7. RESOURCE IMPLICATIONS**

- 7.1 None

#### **8. EQUALITY IMPLICATIONS**

- 8.1 The report is for information purposes only and does not have any direct impact on members of the public, employees, elected members and / or stakeholders. Therefore, no Equality Impact Assessment is required.

#### **9. CONSULTATIONS**

- 9.1. Planning Cross Party Working Group.

## **10. RECOMMENDATION**

- 10.1 That the Committee note the content of the report

**Contact Officer:** **Gavin Prescott, Planning Manager**  
**Date:** **26<sup>th</sup> August 2022**

Background Papers: Department of Communities and Local Government – Improving planning performance Criteria for designation (updated 2020). December 2020.