

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 18 March 2024

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| Portfolio: | Planning and Development |
| Subject: | Planning Performance Monitoring Update |
| Report of: | Director of Planning and Regeneration |
| Corporate Priorities: | Provide Housing Choices, Respond to Climate Change and Protect the Environment, Strong, Safe & Healthy Communities, Promote Economic Development, Leisure Opportunities for wellbeing and Fun Responsive, Inclusive and Innovative Council |

Purpose:

To present an update on the Council's planning application performance and to seek the Executive's approval on an Action Plan which will sustain the Council's present high level of performance on Quality of planning decision making.

Executive summary:

The planning performance of all Councils in England is assessed by the Department for Levelling Up, Housing and Communities (DLUHC). The focus of the performance monitoring is on the speed of decision making and the quality of decision making (the latter being linked to the number of appeals allowed against the Council's decisions). The briefing paper attached to this report provides an update on this Council's latest performance in respect of speed and quality of decision making.

In December 2023, the Council's planning service was designated by DLUHC due to the number of appeals allowed against the decisions of this Council on major planning applications. The majority of these allowed appeals related to applications decided between April 2020 and March 2021. The number of major planning applications allowed on appeal since March 2021 has significantly reduced.

The Council is required to prepare and agree an Action Plan with DLUHC which addresses the reasons that led to the number of major applications being allowed at appeal. The Executive is invited to agree a Planning Designation Action Plan.

Recommendation:

It is recommended that the Executive:

- (a) notes the progress made in respect of the quality of decision making on planning applications;
- (b) approves the Action Plan, having regard for any comments received from Members of the Planning Committee following their consideration of the draft Action Plan on the 13 March;
- (c) requests that Officers submit the Action Plan to the Department for Levelling Up, Housing and Communities for approval;
- (d) delegates authority to the Director of Planning and Regeneration, following consultation with the Executive Member for Planning and Development and the Chairman of the Planning Committee, to make amendments to the Action Plan in response to any comments made by the Department for Levelling Up, Housing and Communities on the Action Plan.

Reason:

To set out the progress made in respect of the quality of decision making on planning applications and to approve the relevant aspects of the Action Plan which will sustain, and endeavour to further improve, the Council's current high level of performance.

Cost of proposals:

The cost of implementing the Actions set out within the draft Action Plan can be met from within existing budgets.

Appendices: A: Planning Designation Action Plan December 2022 onwards

Background papers: Improving planning performance: Criteria for designation (updated 2022)
Letter from the Department for Levelling Up, Housing and Communities dated 19 December 2023

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Executive Briefing Paper

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| Date: | 18 March 2024 |
| Subject: | Planning Performance Monitoring Update |
| Briefing by: | Director of Planning and Regeneration |
| Portfolio: | Planning and Development |

INTRODUCTION

1. All local planning authorities in England are required to submit information relating to their Development Management function to the Government on a quarterly basis. The type of information local planning authorities are required to submit includes the following:
 - Number of planning and related applications on hand at the beginning of each quarter, received, withdrawn, called in or turned away during the quarter;
 - The number of decisions and delegated decisions;
 - Number of consents Council's grant to themselves for development which either they will undertake themselves or will be implemented by others
 - Number of decisions on applications for prior approval
 - Development types
 - Whether permission/consent was granted or refused; and
 - The time taken from application submission to decision.
2. All of the information received from local planning authorities is collated into tables and published on the Government's website.

MEASURING PLANNING PERFORMANCE

3. The Government separately measures the planning performance of each local planning authority in England. The Government measures the performance in four main areas:
 - The speed of decision making for major planning applications
 - The speed of decision making for non-major planning applications

- The Quality of decision making for major planning applications
 - The Quality of decision making for non-major planning applications
4. The following section of the report looks firstly at the speed of decision making at Fareham Borough Council followed by the quality of decision making.

Speed of decision making

5. The Government specifies the period of time within which decisions should be made on planning and related applications. If the Council and an applicant agree, the period of time for deciding a planning application can be extended beyond the period specified by the Government.
6. For major applications, the time specified by the Government within which decisions should be made is 13 weeks from the date of receipt of a valid application. (Major applications include those which propose 10 or more dwellings; where a site is 0.5 hectares or more and it is not known how many houses are proposed; the provision of a building or buildings where the floor space to be created is 1,000 square metres or more; or a development carried out on a site having an area of 1 hectare or more).
7. For non-major applications, the time specified by the Government within which decisions should be made is 8 weeks from the date of receipt of a valid application.
8. The Government's assessment of speed of decision making is undertaken over a two-year period from the beginning of October to the end of September. The last assessment completed by the Government looked at 1st October 2021 to 30th September 2023.
9. The Government sets out the criteria as to how it assesses the performance of local planning authorities in terms of speed of decision making. The Government's current criteria is that:
 - at least 60% of major applications must be decided either within the time period specified by the Government or within an extended period agreed between the Council and the applicant;
 - at least 70% of non-major applications must be decided either within the time period specified by the Government or within an extended period agreed between the Council and the applicant;
10. For the period of 1st October 2021 – 30th September 2023, Fareham Borough Council was assessed as follows:
 - **Major applications:** 97.6% decided either within the time period specified by the Government or within an extended period agreed between the Council and the applicant.
 - **Non-major applications:** 97.3% decided either within the time period specified by the Government or within an extended period agreed between the Council and the applicant.

For both major and non-major applications, the Council's speed of decision making

substantially exceeded the Government's minimum requirements.

Quality of decision making

11. The Government measures the quality of decision making by looking at the percentage of the total number of decisions made by the authority on applications that are subsequently overturned at appeal. Major and non-major applications are assessed separately.
12. The Government's assessment of quality of decision making is undertaken over a two-year period from the beginning of April to the end of March.
13. The Government sets out the criteria as to how it assesses the performance of local planning authorities in terms of quality of decision making. The Government's current criteria is that:
 - No more than 10% of an authority's total number of decisions on major applications made during the assessment period should be overturned at appeal;
 - No more than 10% of an authority's total number of decisions on non-major applications made during the assessment period should be overturned at appeal;
14. The most recent assessment period for quality of decision making is 1st April 2021 – 31st March 2023. Following the end of the assessment period the Government allows a further 9 months for any planning appeals in the system to be decided before completing the assessment.
15. The 9 month 'lag' period runs up to 31st December 2023. The Department for Levelling Up, Housing and Communities have advised that the next set of statistics on the quality of decision making will be published by the Department in March 2024. Based upon the data available, Officers forecast that the quality of decision-making statistics will show the following:
 - **Major applications:** Two of the total number of major applications dealt with by this Council between 1 April 2021 and 31 March 2023 have been subject to appeals which were allowed. This means that 4.2% of this Council's total number of decisions on major applications made during the assessment period have been overturned at appeal, which is substantially below the Government's threshold.
 - **Non-major applications:** In the assessment period from 1st October 2020 to 30th September 2022, this Council made approximately 1,900 non-major decisions, of which 25 were appealed with 6 appeals being allowed. This resulted in 0.3% of this Council's total number of decisions on non-major applications made during the period being overturned at appeal.
 - For the current assessment period of 1st April 2021 – 31st March 2023 a very similar number of appeals have been allowed in respect of non-major applications. Whilst there has been a slight reduction nationally in the number of planning applications received over the assessment period, Officers do not anticipate any material change in the total number of decisions on non-major applications made during the assessment period being overturned at appeal. The Council's total number of decisions on non-major applications made during the period being overturned at appeal, will be substantially below the Government's threshold.

Designation in respect of major applications under Section 62A of the Town and Country Planning Act 1990

16. In December 2022, Fareham Borough Council was contacted by the Planning Advisory Service (PAS) (on behalf of the Department for Levelling Up, Housing and Communities (DLUHC)). PAS advised this Council that it was at risk of designation in light of the amount of major planning applications which had been subsequently granted planning permission on appeal (referred to as 'Quality' of decision making by the Government) between 1 April 2020 and 31 March 2022.
17. In early 2023, an independent review was undertaken of the Council's Planning Committee by the Planning Advisory Service. The Planning Advisory Service found that the Council's Planning Committee and associated procedures were sound, the Planning Committee was well run, and decisions were taken appropriately.
18. In July 2023, DLUHC formally wrote to this Council and advised that the Council was at risk of designation as 9 appeals had been allowed in respect of major applications considered by the Council between 1 April 2020 and 31 March 2022. The Council dealt with 45 major applications during the assessment period- this means that 20% of this Council's total number of decisions on major applications made during the assessment period had been overturned at appeal. The Council was invited to set out any exceptional circumstances that had affected the authority's performance which would make a designation under section 62A unreasonable.
19. The Council submitted an extensive response to DLUHC later in July which set out the exceptional circumstances which had affected the Council's performance during the assessment period. The Council highlighted that all the appeals allowed, related to housing developments on greenfield sites at a time when the Council did not have an up-to-date Local Plan, a five-year housing land supply and was endeavouring to address the issue of nitrate mitigation. Since that time the Council has adopted a Local Plan, established a five-year housing land supply and secured nitrate mitigation measures to enable housing development to take place across the Borough. The Council also highlighted that Planning Inspectors had not found the Council's decisions 'unreasonable' in 7 of the 9 appeals, with one full award of costs against the Council and one partial award of costs. The Council further drew attention to the fact that the number of major planning applications decided by this Council since April 2021 which were subsequently granted planning permission on appeal had substantially reduced.
20. On the 19 December 2023, Fareham Borough Council was advised by the Government that it was being designated in respect of applications for planning permission for major developments. There had been no contact from DLUHC between the Council submitting its exceptional circumstances to DLUHC in July and the Designation in late December 2023.
21. The effect of the designation means that applications for major development can continue to be submitted to Fareham Borough Council or submitted directly to the Planning Inspectorate. At the time of preparing this report no major applications have been submitted directly to the Planning Inspectorate.

Current performance on 'Quality of decision making' and the preparation of a Designation Action Plan

22. Since the period between April 2020 and March 2021, there has been a substantial and sustained reduction in the number of major planning applications which have been granted planning permission on appeal. The following tables sets out the number of major applications dealt with by year and the number of applications granted permission on appeal:

| Time period | Number of major applications considered by the Council | Number of major applications decided during that period subsequently allowed on appeal |
|-------------------------------|--|--|
| 1 April 2020 - 31 March 2021 | 20 | 7 |
| 1 April 2021 - 31 March 2022 | 25 | 2 |
| 1 April 2022 - 31 March 2023 | 25 | 1 |
| 1 April 2023 - 31 March 2024* | 20 | 0 |

*Position as at 4 March 2024. There are currently no major planning appeals before the Planning Inspectorate.

23. As part of the designation of the planning service made by DLUHC, this Council is required to prepare an Action Plan, 'identifying actions that address the areas of weakness that led to the Council being designated.'
24. Following contact by the Planning Advisory Service in December 2022, the Council commenced work on an Action Plan which was further supplemented by the independent review of the Council's Planning Committee in early 2023. A detailed Action Plan is set out at Appendix A which incorporates the actions undertaken since December 2022 and adds to these where appropriate.
25. The Planning Committee is being invited to comment on the Action Plan at their meeting on the 13 March in so far as it relates to the matters within their remit. Any comments on the Action Plan by the Planning Committee will be brought to the Executive's attention.
26. The Executive is invited to approve the draft Action Plan in respect of those matters which fall within its remit. Following approval of the draft Action Plan, this Council will need to approve the Action Plan with DLUHC. Should DLUHC request any amendments to the Action Plan, delegated authority is sought for the Director of Planning and Regeneration to make amendments, following consultation with the Executive Member for Planning and Development and the Chairman of the Planning Committee.

RISK ASSESSMENT

27. If the Council does not achieve the Government's minimum thresholds in respect of speed of decision making or exceeds the Government's maximum thresholds for quality of decision making, the Government can consider continuing to designate the Council as 'underperforming'.
28. If the Council were to remain designated as underperforming, applicants would continue having the choice of submitting applications directly to the Planning Inspectorate rather than to the Council for the type of applications for which the Council had been designated (major or non-major).
29. When applicants submit applications directly to the Planning Inspectorate the planning application fee is also paid to the Planning Inspectorate. This will result in a reduced planning income to this Council.

CONCLUSION

30. This Council has strong measures in place to ensure that applications are determined within the Government's specified time periods or within periods agreed with applicants.
31. The Council seeks amendments to many planning applications which are not acceptable at first submission. This approach ensures that the Council deals with applications once where possible and reduces the number of planning appeals which are submitted.
32. As a result of the Council's approach to deciding planning applications, the number of planning appeals the Council receives each year as a percentage of the total number of non-major applications it decides is very small (less than 2%).
33. The total number of major planning applications the Council decides each year typically varies between 20 and 25 in number. Because the total number of major applications is modest, a relatively small number of appeals being allowed can result in the Government's 10% threshold being exceeded.
34. A number of exceptional circumstances lead to a much higher number of major planning applications received between April 2020 and March 2021 being allowed on appeal. Since those exceptional circumstances have been addressed the number of appeals allowed in subsequent years has substantially reduced. A detailed Action Plan puts measures and monitoring in place which cumulatively will significantly reduce the risk of the Council's performance on the 'Quality of decision making' failing to meet the Government's minimum requirements.
35. Based on the data available, this Council's performance on Quality of decision making for the period April 2021 – March 2023, is projected to be substantially below the Government's threshold for designation.

ENVIRONMENTAL CONSIDERATIONS/CARBON IMPACT ASSESSMENT

36. The subject matter of this report is not anticipated to have an impact on the Council's carbon footprint, nor is it expected to have a detrimental or beneficial impact to the wider environment.

Enquiries:

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