

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Planning Committee

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**WARD(S):** All

### **PART I**

#### **FOR INFORMATION**

#### **DESIGNATION OF LOCAL PLANNING AUTHORITIES**

1. **Purpose of Report**

To inform Members of changes to the Town and Country Planning Act, 1990, that enables the 'designation' of poor performing Local Planning Authorities.

2. **Recommendation**

This report is for information only and to make members aware of the changes to the Town and Country Planning Act, 1990, and the actions that the Planning Section will take to deal with these changes.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Corporate Plan**

3a. **Slough Joint Wellbeing Strategy Priorities**

When a Local Planning Authority (LPA) is 'designated', it will give the option to developers to submit their planning applications directly to the Secretary of State for Communities and Local Government ("Secretary of State"), in stead of the LPA. This means that the Council will loose the opportunity to influence and determine the application. It does however not mean that the LPA or residents will not have any input.

The decision process will be similar than the current process for determining Major Applications, but in stead of the Planning Committee making the decision, a Planning Inspector, appointed by the Secretary of State will chair a meeting, after which he/she will make the decision. Residents will retain the opportunity to comment on applications and will also have the opportunity to address the Inspector in the same manner as permitted by the current Planning Committee procedures.

In terms of the Council's priorities, the designation of the LPA could in theory have an impact on the Council's regeneration aspirations and ability to provide housing. However it is important to note that designation of the LPA does not result in applications automatically being determined by the Secretary of State. It is the option that developers have, but in taking this option, developers will also loose the right to appeal to the Secretary of State. The Planning Inspector will therefore make the final decision. The Planning Inspectorate has prepared a

team to deal with these applications, but do not expect that many applications will be submitted directly to them.

#### 4. **Other Implications**

##### (a) **Financial**

The Council could experience a loss in planning fee income if developers decide to submit applications directly to the Secretary of State, instead of the Local Planning Authority. During the previous assessment period for designation (June 2011 to July 2013), the Planning Section dealt with 53 major applications. Although this represents a small percentage of all the applications that have been determined, it does make the largest contribution to the section's planning fee income.

##### (b) **Risk Management**

There are no significant risks.

##### (c) **Human Rights Act and Other Legal Implications**

None

##### (d) **Equalities Impact Assessment**

None

##### (e) **Workforce**

Major applications are dealt with by a small number of planning officers. These officers undertake the work as part of the normal case-load and it is therefore not anticipated that it will have a significant impact on the overall workforce of the LPA. As stated above, even if 'designated', developers will still have the option to submit application directly to the LPA. It is anticipated that in the unlikely event that LPA is 'designated', that the majority of developers will proceed to submit applications to the LPA, due to positive approach to the development in town.

#### 5. **Supporting Information**

5.1 The Government has introduced Sections 62A, B and C to the Town and Country Planning Act 1990, by means of the Growth and Infrastructure Act 2013. Section 62A allows that applications for major developments to be made directly to the Secretary of State where the local planning authority has been 'designated'. Section 62B requires that the criteria for any such designation or for revoking a designation should be set out and published by the Secretary of State. The attached document has been published in response to Section 62B.

5.2 In accordance with Section 62B a local planning authority can be designated only if "the Secretary of State considers that there are respects in which the authority are not adequately performing their function of determining applications" in accordance with the attached document. The

DCLG document states that performance of local planning authorities will be assessed in two ways:

- (1) On the basis of the **speed** with which applications for major developments are dealt with and
- (2) The extent to which such decisions are overturned at appeal (as an indicator of the **quality** of the decisions made by LPA's).

- 5.3 The document also states that the performance of authorities in dealing with 'district matter' applications (i.e. major applications) and 'county matter' applications (i.e. minerals and waste applications) will be assessed separately. This means that an authority with responsibility for both district and county matters, which is the case for Slough Borough Council, could be designated on the basis of its handling of either category (or both). It does however mean that 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.
- 5.4 In terms of the "speed" performance measurement, this will be calculated over a two year period and by using the average percentage of decisions on applications for major development made within the 13-week period. The Government has made provision for an option to agree an extended determination period with the applicant. The threshold for designation is **30%** or less of an authority's decisions made within the statutory determination period of 13-weeks or such extended period that has been agreed in writing with the applicant.
- 5.5 The measurement of performance in terms of "quality" is the average percentage of decisions on applications for major development that have been overturned at appeal. 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.
- 5.6 Once every year the Secretary of State will decide whether any designations should be made and the initial designations were made in October this year. The Secretary of State will also 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. A designation will be revoked if the Secretary of State is satisfied that the designated LPA has provided adequate evidence of sufficient improvement against areas of weakness identified in an initial assessment, is not eligible for further designation at the time of making the decision on de-designation and has worked with Secretary of State during the time of designation.
- 5.7 Slough Borough Council has not been designated and achieved **43.6%** for 'district' matters applications and **50%** for 'county' matters applications. For last-mentioned category Slough Borough Council dealt with only two applications during the two year period. In order to ensure that Slough Borough Council does not get designated in future, it is has been decided to take the following approach:
  - I. Undertake deemed withdrawals of very old applications, where there has been no progress,
  - II. Extension of Time Agreements with applicants where Section S106's are required,

- III. Work with the Highway and Transports Engineers to meet statutory consultation deadline;
- IV. Work with Legal Services to improve the speed of completion of Section 106 agreements;
- V. Accept that a small number of difficult applications will not be done in 13 weeks or with an Extension of Time agreement, which means that these should be refused within the 13 week deadline.

5.8 The above strategy will only be successful if officers ensure that Planning Committee Members are fully aware of the 13-week deadlines and have all the information to make informed decisions when applications are presented to Committee. Officers will also provide regular updates at Committee in terms of the LPA's performance in terms of criteria for designation.

5.9 In a related development, the Government has also amended the fee regulations in line with the 'Planning Guarantee', in order to improve performance of LPA's. This amendment requires a refund of the planning application fee if a planning application has not been decided within 26 weeks. This could potentially have further financial implications for the Council, if applications are not determined within the 26 week period. The above mentioned strategy will also be applied in order to avoid this from taking place.

6. **Comments of Other Committees**

None

7. **Conclusion**

It is concluded that current performance figures for determining major applications are satisfactory at the moment, in that Slough Borough Council has not been designated. The LPA will proceed with the strategy outlined above in order to avoid being designated in future and also to avoid the loss of income, which would be associated with designation.

8. **Appendices Attached**

None

9. **Background Papers**

Department of Communities and Local Government: Improving planning performance - Criteria for designation