

Report of	Meeting	Date
Director (Planning and Property) Introduced by (Executive Member (Planning and Development))	Council	Tuesday, 16 July 2024

## Designation Action Plan

Is this report confidential?	No
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Is this decision key?	No
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### Purpose of the report

1. The purpose of this report is to:
  - a. outline the Council's performance in the determination of planning applications, both as delegated decisions and those decided by Planning Committee;
  - b. explain the Council's designation by the Department for Levelling Up, Housing and Communities (DLUHC) for underperforming in the quality of decisions on Major applications; and
  - c. seek approval of an Action Plan aimed at having the designation removed.

### Recommendations

2. It is recommended that the Council approve the Action Plan for formal adoption.

### Reasons for recommendations

3. The Action Plan is a requirement of de-designation by the Department for Levelling Up, Housing and Communities (DLUHC).

### Other options considered and rejected

4. No other options were considered as the Action Plan is a requirement of the designation, and necessary for de-designation.

### Corporate priorities

5. The report relates to the following corporate priorities:

<b>Housing where residents can live well</b>	A green and sustainable borough
<b>An enterprising economy with vibrant local centres in urban and rural areas</b>	Healthy, safe and engaged communities

## Background to the report

6. There are four criteria where a Local Planning Authority may be designated and an assessment of the Council's performance against each of these is provided below:
  - i) The quality of Major decisions
  - ii) The quality of non-Major decisions
  - iii) The speed of Major decisions
  - iv) The speed of non-Major decisions

### The quality of major decisions

7. On 6 July 2023, the Chief Planner at the DLUHC informed the Council it was at risk of designation for poor quality of decision-making for major applications (the first of the above criteria) based on the data for the two years up to the end of March 2022, where 17.9% of decisions on Major applications had decisions allowed at appeal. The target set by the Government is for no more than 10% of decisions to be overturned. The league table for this period is provided below.

	Total major decisions and non-determined cases	<b>Quality of decisions (% overturned at appeal)</b>
East Northamptonshire	37	<b>8.1</b>
Gosport	12	<b>8.3</b>
Uttlesford	69	<b>8.7</b>
Three Rivers	46	<b>8.7</b>
Mole Valley	34	<b>8.8</b>
Basingstoke and Deane	49	<b>12.2</b>
Welwyn Hatfield	32	<b>12.5</b>
<b>Chorley</b>	<b>39</b>	<b>17.9</b>
Bromsgrove	27	<b>18.5</b>
Fareham	45	<b>20</b>

8. The Council responded in a letter on 1 August 2023 to set out why a designation would be unreasonable.
9. The Secretary of State announced on 19 December 2023 the decision to designate Chorley for poor performance in decision making on Major planning applications, see Appendix A.
10. Between January 2021 and November 2023, the Council and Chorley's MP corresponded and met with the Planning Inspectorate, Government officials and Ministers to explain the issues that Chorley was experiencing following the introduction of the standard housing method.
11. The table below sets out a timeline of correspondence and meetings since the beginning of 2021.

<b>Date</b>	<b>Type</b>	<b>Main points</b>
7 January 2021	Letter to Katherine Fletcher (MP for South Ribble)	Outlining impact of decisions of the planning inspectorate and standard housing method
18 March 2021	Letter to MHCLG	Response to consultation on NPPF, highlighting concerns of the standard housing method
14 July 2021	Letter to the Planning Inspectorate	Highlighting complexity of interrelation of planning appeal decisions across central Lancashire
16 July 2021	Letter to Robert Jenrick (Secretary of State)	Flagging concerns of planning appeals across central Lancashire, a changing landscape of appeal decisions and the standard housing method
5 August 2021	Letter to the Planning Inspectorate	Requesting postponement of planning inquiry because of challenges to other appeal decisions across central Lancashire
12 October 2021	Letter to Michael Gove (Secretary of State)	Highlighting concerns of the standard housing method and impact to Secretary of State
27 July 2022	Letter to Greg Clark (Secretary of State)	Highlighting the challenges faced in Chorley and requesting a review of the situation
11 October 2023	Letter to DLUHC	Responding to consultation on plan making reforms. Supporting a plan led approach and reiterating the challenges faced by Chorley
27 November 2023	Letter to Joanna Key, Director General, DLUHC	Jointly with South Ribble and Preston to set out progress on Local Plan and ask for support in expediting adoption

12. Despite the above, the designation is in-place and means that applicants of some Major development proposals have the choice to apply either to the Council or to bypass the Council and apply directly to the Planning Inspectorate for planning permission. It was initially thought that this may result in a substantial reduction in fee income for the Planning department, as well as taking the decision on such applications out of the Council's hands. However, since the designation came into force, the Government has changed its guidance in relation to planning applications which are chargeable developments for the purposes of the Community Infrastructure Levy (CIL). The new guidance is clear that any planning application that involves CIL chargeable development should be made to the Local Planning Authority, rather than the Planning Inspectorate. This relates to proposals involving new dwellings, convenience retail, retail warehouse, retail parks and neighbourhood convenience stores. Therefore, there are not many development types that can be submitted directly to PINS for determination.
  
13. More recent data reviewed [March 2024] by the DLUHC showed that performance in the two-year period to September 2022 was 15.6% and to March 2023 was 14.6%. The table below is an extract from the performance tables on the DLUHC's website for the latter period, i.e. April 2021 to March 2023, showing Chorley's performance alongside others. Over the past five recorded years the Council has determined an average of 23 Major planning applications per year, meaning only three appeals need to be lost per year to be classed as underperforming (albeit as an average over a 2-year period).

	Total major decisions and non-determined cases	Major decisions overturned at appeal	<b>Quality of decisions (% overturned at appeal)</b>
Castle Point	10	1	<b>10.0</b>
Cheltenham	37	4	<b>10.8</b>
Basingstoke and Deane	63	7	<b>11.1</b>
Charnwood	59	7	<b>11.9</b>
Hinckley and Bosworth	91	11	<b>12.1</b>
Basildon	49	6	<b>12.2</b>
Tandridge	39	5	<b>12.8</b>
Chorley	48	7	<b>14.6</b>
Three Rivers	29	5	<b>17.2</b>
Lewes	40	10	<b>25.0</b>

14. As of the 8 May, Lewes was designated. Three Rivers Council has not been designated.

#### How we become de-designated

15. 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. We understand that on exception, de-designations may be made at other times, and presume that these would be linked to the quarterly release of data.
16. In assessing whether a designation should be lifted, consideration is given to:
- (a) the potential capability of the designated local planning authority to deal effectively with applications for major or non-major development, as appropriate, in the future; and
  - (b) the effectiveness of the designated local planning authority in dealing with the relevant category of applications during the period of its designation.
17. Soon after a designation is made the local planning authority is 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 should draw upon sector support, particularly any support that is available through programmes funded by the DLUHC. The authority will need to agree the action plan with the DLUHC.
18. The DLUHC 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. This is set out at Paragraph 27 of National Planning Practice Guidance – Improving Planning Performance: Criteria for Designation (updated 2022), ref. ISBN 978-1-5286-3749-7.
19. An action plan has, therefore, been drafted, see Appendix B, which identifies areas of weakness which have contributed to the Council's designation and associated actions for improving these areas. It is recommended that the Council approve the action plan so it can be sent to DLUHC for approval and then implemented.

20. The figures assessed by the government lag behind current performance. As stated above, performance in the two year period to September 2022 was 15.6% and to March 2023 was 14.6%. Further, the current figure for the rolling two year period to March 2024 is estimated to be 7.9% (not yet published). It is clear that performance is improving since the period of designation, returning to previous levels below 10%. It is, therefore, hoped that the designation will be removed during the government's next review of figures (likely to be in Autumn 2024) and with the implementation of the Council's Action Plan. It is not possible to make any projections further into the future as we cannot predict the number of applications the Council will determine nor the outcome of those applications.
21. It is also worth noting that the Council is awaiting the outcome of an appeal decision for a proposed new prison at HMP Wymott in Ulnes Walton. Should the appeal be allowed the Council do not consider that this decision should be counted as an overturned decision as the Planning Inspector concluded that the appeal should be dismissed. However, the appeal had been recovered by the Secretary of State who was of the opinion the Inquiry should be re-opened and the appellant and other parties should be given the opportunity to provide further evidence on highway safety, and that parties should be able to make representations on this further evidence before the Secretary of State reaches a final decision on this appeal.

#### The quality of non-Major decisions

22. The government target for non-major decisions is the same as that of Major decisions, i.e. for no more than 10% of decisions to be lost on appeal. As can be seen from the table of these figures provided at Appendix C, the Council has consistently performed well below the government target of 10%, achieving figures of below 1% since April 2018.

#### The speed of Major decisions

23. The government target for the speed of Major decisions is to have no less than 60% of Major applications determined within the statutory period. As can be seen from the table of these figures provided at Appendix C, the Council has consistently performed well above the government target of 60%, achieving figures above 85% since October 2019.

#### The speed of non-Major decisions

24. The government target for the speed of Major decisions is to have no less than 70% of non-major applications determined within the statutory period. As can be seen from the table of these figures provided at Appendix C, the Council has consistently performed well above the government target of 70%, achieving figures above 99% since October 2019.

#### **Climate change and air quality**

25. The work noted in this report has no impact on the Councils Carbon emissions and the wider Climate Emergency and sustainability targets of the Council.

## **Equality and diversity**

26. There are no equality implications or considerations to be documented.

## **Risk**

27. The risk of not implementing an action plan is that the Council will remain in designation for a longer period.

## **Comments of the statutory finance officer**

28. There are no direct financial implications arising from this report.

## **Comments of the monitoring officer**

29. As set out in the body of the report, the adoption of an action plan demonstrates the council's commitment to improve the performance issues relating to decision making for planning applications. The plan has been carefully prepared to provide clear actions, timescales for their delivery and a nominated action owner which ensures that improvements are measurable and timely and will enable accountability for implementation.

## **Appendices**

Appendix A – Designation Letter

Appendix B – Action Plan

Appendix C – Monitoring figures

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