PLANNING PERFORMANCE AND THE PLANNING GUARANTEE

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Assessing performance

Our approach

Q1: Do you agree that local planning authority performance should be assessed on the basis of the speed and quality of decisions on planning applications?

Agree in principle. Whilst the speed of decisions is easy to monitor, on its own this would be relatively meaningless. Conversely whilst the quality of decisions is far more difficult to assess, it is a far better indication of a local authority's performance. The quality of the decision should, however, be given greater weight than the speed of a decision. Whilst both are important, the pressure to make a timely decision can in many instances result in a refusal, when a little extra time would have allowed further negotiation and resulted a positive decision.

Speed of decisions

Q2: Do you agree that speed should be assessed on the extent to which applications for major development are determined within the statutory time limits, over a two year period?

Agree. If speed is to be considered a suitable basis for assessing performance then it would be sensible to look at the 13 week performance over a two year period, as this would generally allow for reasonable variations in amounts and type of applications received.

The role of planning performance agreements

Q3: Do you agree that extensions to timescales, made with the written consent of the applicant following submission, should be treated as a form of planning performance agreement (and therefore excluded from the data on which performance will be assessed)?

Agree. If an applicant acknowledges that an application is of a complex nature such that it cannot be determined within the statutory time limits, it would be unreasonable for this to count against the council's performance figures. There is, however, a danger that LPAs will simply use planning performance agreements and agreements to extend timescales wherever possible to take difficult cases out of the statistics, thereby rendering them meaningless. Moreover there also needs to be considerations of the cost for this as times when PPAs have been used have resulted in vastly differing fees to be charged by LPAs for what are similar developments within differing boroughs.

In this regard there could also be a danger that Council's seek to force developers down this route, when such an approach may not be necessary. This would have the effect of manipulating the performance figures and potential increasing Council revenues.

Q4: Do you agree that there is scope for a more proportionate approach to the form and content of planning performance agreements?

Agree. It is wholly appropriate for planning performance agreements dealing with relatively simple planning applications to include timescales and key trigger dates. The existing guidance for planning performance agreements promotes the basis of an agreement which is unnecessarily complex in many instances. As a consequence they can be very difficult for all parties to agree and thereby result in delays themselves. As mentioned above the issues of the amount and cost of such agreements also need careful consideration.

Quality of decisions

Q5: Do you agree that quality should be assessed on the proportion of major decisions that are overturned at appeal, over a two year period?

Agree. However, it should be noted that where a local planning authority only deals with a relatively small number of applications for major development, the percentage calculation could be significantly skewed, giving an unrepresentative indication of its performance.

Consideration could also be given to the results of customer/developer satisfaction surveys, which are now undertaken by most LPAs. Clearly such a proposal would require the standardisation of the form and method of survey.

This does also somewhat presuppose an entirely considered and consistent approach from PINs, which is not always the case.

Having the right information

Q6: Do you agree with the proposed approach to ensuring that sufficient information is available to implement the policy?

Disagree. A local planning authority could have one good quarter followed by three quarters where the performance was exceptionally bad. A local planning authority could undertake its own a comparative assessment of its performance against the estimated and penalised position, before deciding whether to provide or withhold data for these quarters. In such circumstances, one good quarter could significantly skew any penalised estimates for the following quarters. Accordingly, it is considered that either the penalties for missing data should be increased, or missing data for any quarter should automatically result in designation. Without such changes, achieving a good performance in the first quarter could arguably remove any incentive to perform well in the following quarters.

Furthermore PPAs could be used to skew the above data sets for a quarter where LPA's consider they may not perform. Furthermore any application which could be considered as being controversial could end up being tied to a PPA just so the LPA's statistics do not suffer, even though the application maybe perfectly acceptable in planning terms.

Setting the bar

Q7: Do you agree that the threshold for designations should be set initially at 30% or fewer of major decisions made on time or more than 20% of major decisions overturned at appeal?

Agree. However it is considered that designation should be made of the basis of a combination of the two measures. For example, where 35% or fewer of major decisions made on time and more than 18% of major decisions overturned at appeal.

Q8: Do you agree that the threshold for designation on the basis of processing speeds should be raised over time? And, if so, by how much should they increase after the first year?

Agree. After the first year the speed threshold should be increased to 35%. LPAs would, however, need to be adequately resourced to deal with any increased pressures; otherwise there is a risk that such a measure will simply result in an increase in the number of cases where the LPA seeks a planning performance agreement. For this to work not only will LPA's need to be properly resourced, but elected members must understand the ramifications.

Making a designation

Q9: Do you agree that designations should be made once a year, solely on the basis of the published statistics, as a way to ensure fairness and transparency?

Disagree. To ensure fairness, in such circumstance where a local planning authority is only marginally caught within the designation thresholds (particularly in terms of speed of decision), then it should be given the opportunity to present a case for extenuating circumstances e.g. significant staff illness or turnover.

There also appears to be limited reason why once a LPA is designated that it would want to remove itself.

Effects of designation

Application process

Q10: Do you agree that the option to apply directly to the Secretary of State should be limited to applications for major development?

Agree. The focus of the performance measures and the justification for designation is based on those proposals which are most important for driving economic growth, and which have the greatest impact on local on communities. It would therefore be counterproductive for minor or householder planning applications to be submitted to the PINS for determination.

There would however be significant concerns as to the resource of the Planning Inspectorate.

Q11: Do you agree with the proposed approaches to pre-application engagement and the determination of applications submitted directly to the Secretary of State?

Disagree. In cases where a pre-application enquiry is made to both PINS and the LPA a proportion of the fee should go to the LPA. Furthermore representatives from both parties should be available, no matter how good the Inspector it is unlikely that they would possess the professional local knowledge of the LPA

In addition, further consideration will need to be given to the splitting of responsibilities between PINS and the LPA. For example, the LPA will still be responsible for many of the existing administrative duties (including notices and neighbour notification), providing notification of any cumulative impact considerations and negotiating S106 agreements, but it won't receive any application fee. As previously suggested for pre-application enquiries, an element of the fee should go to the LPA. Either that or PINS should take full responsibility, for all elements.

It is also unclear how PINS will be able to issue a decision notice if it would not enter into any discussions with the applicant about the nature and scope of any S106 agreement. It further brings into question how the timing of PINS decisions would be monitored i.e. would the determination date exclude the negotiation and signing of the S106, which would continue to be dealt with by the LPA? The spilt of responsibilities also raises an issue in respect of a legal challenge or judicial review. Would PINS deal with any such challenge even if it related to an element of the process that had been dealt with by the LPA? Clearly the PINS will need to be adequately resourced to ensure that it can make timely decisions. As things currently stand, PINS is struggling to deal with existing appeals in a timely manner.

Finally it also appears that maybe little reason for LPAs to want to be removed from designation. There seem to be no penalties, from a political point of view this would be even easier for members as they can simply claim they had no democratic hand in the decision making process and simply blame PINS for what their electorate may consider to be a poor decision.

PINS and the LPA need to work effectively together to ensure that the LPA is removed as quickly as possible from designation of to suffer really penalties, such as the removal of a percentage of the new homes bonus which increases with every quarter that the LPA is within "designation".

Supporting and assessing improvement

Q12: Do you agree with the proposed approach to supporting and assessing improvement in designated authorities? Are there specific criteria or thresholds that you would propose?

Disagree. It seems odd to suggest that authorities designated by reason of their failure to adequately deal with major developments should then be assessed on their ability to determine those applications to which they remain responsible. In any event, without having to deal with any major developments the designated authority will have greater resources to deal with minor developments and householder applications. It is similarly odd that designated authorities should be assessed on their performance in carrying out any administrative tasks associated with application submitted to the SoS; particularly if this element of the planning process did not contribute to the reason for them being designated in the first instance. As such, it is questionable whether either of these will be a meaningful methods of assessment.

Therefore, it is considered that assessment should be based solely on a review of the steps taken by the LPA to improve how it will deals with major developments. It will therefore be crucial for any designated authority to be carefully tailored support to address the specific reason(s) why it is failing to perform.

The planning guarantee

Principles and scope

Q13: Do you agree with the proposed scope of the planning guarantee?

Agree.

Delivering the guarantee

Q14: Do you agree that the planning application fee should be refunded if no decision has been made within 26 weeks?

Agree.