

Section 62A Town Planning Designation – Councillor and Officer Briefing

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Lewes Local Planning Authority put into ‘special measures’ under section 62A of the Town and Country Planning Act 1990 on 8th May 2024.

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1. Special Measures for Major Planning Applications Only

On 7th May 2024, the Government informed Lewes District Council that it was being designated in respect of applications for planning permission for major development under Section 62A of the Town and Country Planning Act 1990.

This designation takes effect from 9:00am, Wednesday 8th May 2024.

The special measures penalty only applies to major planning applications. Major planning applications are:

- (a) the winning and working of minerals or the use of land for mineral-working deposits;
- (b) waste development;
- (c) the provision of dwellinghouses where—
 - (i) the number of dwellinghouses to be provided is 10 or more; or
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
- (e) development carried out on a site having an area of 1 hectare or more;

2. The Special Measures Penalty

The special measures penalty would mean that applicants for major developments can choose to continue to allow Lewes District Council to process applications as normal, or, they can ask for the Planning Inspectorate (PINs) to deal with and fully determine their application, taking comments from Lewes Council and local people into account.

3. Special Measures Impact

If applicants choose the “PINs path” for the determination of their application, then:

- All the planning fee goes to PINs only.
- Lewes Council must still organise local public consultation and publicity on the application – but would receive no fee.
- Comments by local residents and businesses can still be made as normal but must also be sent to PINs. PINs will then consider the planning merits of these local views.
- Local Authority and Council consultation responses, including comments from statutory consultees (e.g. East Sussex County Highways; Ecology and Flood Risk) must all be submitted to PINs with 21 days for PINs to consider comments, before it alone decides on the application.
- Choosing the “PINs path” means that if the application is approved, there would be no planning right of challenge by Lewes Council, and there would be no right of appeal by the applicant if PINs refuses the major application.
- In dealing with a Lewes major planning application, PINs must consider Neighbourhood Plans and the Lewes Local Plan as well as national planning policies. PINs must also consider that overall, Lewes has not, in recent years, granted permission for sufficient new homes and affordable homes. The government standard target is for of around 600 new homes per annum.
- Special Measures designation is likely to last a year from 8-5-24.

4. Special Measures because Lewes has lost too many major planning appeals

Lewes is being put into special measures because it has lost too many appeals where the Council refused a major application and subsequently, on appeal, the Planning Inspectorate found that the Council should have approved the application. The threshold for designation is 10% of appeals lost compared to the number of major applications decided over a recent 24 month period. Lewes’s threshold is 32%, in fact the highest across the whole country. (Over the period April 2021 to March 2023 Lewes determined 40 major applications and there were 18 appeals against Lewes refusals. 13 appeals were lost – this equals 32%).

5. Lewes is disappointed with the Special Measures Designation

Lewes has provided Central Government (Dept of Levelling Up Housing and Communities - DLUHC) with reasons why it should not be designated. The Council has explained that Lewes:

- Is getting on with its Local Plan without any intervention by DLUHC
- has not been criticised by DLUHC for the low level of housing being built in the District every year
- has a robust planning committee and councillor training and support programme
- supports the development of proper local and neighbourhood plans.

Notwithstanding this, the Council is set to be designated. The Council will continue to improve its service and make positive planning decisions based on policy and planning related comments from local residents and businesses.

6. Lewes Council Reaction to the Special Measures Designation

Officers and the Planning Committee are confident that major applicants will continue to choose to use the Lewes Planning Application Service and Committee.

Lewes will look to improve its major application service with an Improvement Plan, which will be submitted to Government after scrutiny by the independent National Planning Advisory Service.

Lewes will continue to positively assess planning applications for major housing schemes and look to approve, well designed and well-located schemes, supporting in particular, developments that come forward with affordable homes, and that support biodiversity net gain and climate mitigation.

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