

REPORT TO 29TH MARCH 2016 PLANNING COMMITTEE

TECHNICAL CONSULTATION ON IMPLEMENTATION OF PLANNING CHANGES

Purpose of the Report

To advise members of a consultation by the Government on the implementation of planning changes associated with the Housing and Planning Bill and to provide the Committee with an opportunity to indicate to the Chair and Vice Chair how they consider the Council might respond to this consultation

RECOMMENDATION

That the Head of Planning and Development and the Head of Finance in consultation with the Chairman and Vice Chairman draws up and submits responses to each of the questions posed by the Government taking into account any comments made by the Committee

Summary

1. The Department of Communities and Local Government is conducting a consultation on the proposed approach to implementation of measures in the Planning and Housing Bill, and some other planning measures. Response to the consultation will inform the detail of the secondary legislation which will be prepared once the Bill gains Royal Assent.
2. The Consultation paper is available via the following link
<https://www.gov.uk/government/consultations/implementation-of-planning-changes-technical-consultation>

The document by its very nature does not include a summary of its proposals, given their detailed nature. Members are invited to view the document on the web prior to the meeting of the Planning Committee.

3. The Paper sets out proposals in the following areas in the following areas:
Chapter 1: Changes to planning application fees;

Chapter 2: Enabling planning bodies to grant permission in principle for housing development on sites allocated in plans or identified on brownfield registers, and allowing small builders to apply directly for permission in principle for minor development;

Chapter 3: Introducing a statutory register of brownfield land suitable for housing development;

Chapter 4: Creating a small sites register to support custom build homes;

Chapter 5: Speeding up and simplifying neighbourhood planning and giving more powers to neighbourhood forums;

Chapter 6: Introducing criteria to inform decisions on intervention to deliver our commitment to get local plans in place;

Chapter 7: Extending the existing designation approach to include applications for non-major development;

Chapter 8: Testing competition in the processing of planning applications;

Chapter 9: Information about financial benefits;

Chapter 10: Introducing a Section 106 dispute resolution service;

Chapter 11: Facilitating delivery of new state-funded school places, including free schools, through expanded permitted development rights; and,

Chapter 12: Improving the performance of all statutory consultees

4. To assist members, set out below the Government's broad proposals, together with the commentary that is provided within the Consultation document. There is considerable further detail to be found within the Consultation document itself.
5. With respect to **Changes to Planning application fees** the Government are proposing that national fees are increased by a proportionate amount, in a way which is linked to both inflation **and** performance. The national fee schedule would be revised in line with the rate of inflation since the last adjustment in 2012, with the exact level of increase reflecting when the change comes into effect. They also propose to make future adjustments on an annual basis, if required, to maintain fee levels relative to inflation.

They are clear that any changes in fees should go hand-in-hand with the provision of an effective service. Consequently, they are proposing that any increase in national fees would apply only to those authorities that are performing well. One approach would be to not apply an increase where an authority is designated as under-performing in its handling of applications for major development (or, in future, applications for non-major development). However they are interested in views on other approaches that could be employed, such as limiting increases to those authorities that are in the top 75% of performance for both the speed and quality of their decisions. Whatever approach is taken, they also wish to consider whether this change should be implemented as quickly as possible – so that under-performing authorities do not receive the next available increase – or whether authorities should be given a period of grace before the policy applies, so that there is further time to improve before any fee increases are withheld.

Where an authority is not eligible for a particular national increase, the pre-existing fee would continue to apply until the authority's performance improves to the point at which it becomes eligible for increases again, and the fees regulations are next revised (they expect that this would be on an annual basis, to implement any inflation-related adjustments in national fees). At that time the most recently-revised national fee would apply in that area.

6. With respect to **Permission in Principle** the Consultation document refers to the introduction of a new "permission in principle" route for obtaining planning permission designed to separate decision making on "in principle" issues (such as land use, location and amount of development) from matters of technical detail (such as what the buildings will look like) – the Government's view being that the current system can often require too much information to be produced upfront before there is reliable certainty that the a development can go ahead in principle.
7. With respect to **Brownfield Registers** the Consultation document refers to the Government's commitment to introduce a statutory brownfield register and ensure that 90% of suitable brownfield sites have planning permission for housing by 2020. It is indicated that through Brownfield Registers, a standard set of information will be kept up to date and made publically available to help provide certainty for developers and communities and encourage investment in local areas. The expectation is that brownfield registers should be what is termed a qualifying document to grant planning permission in principle. This consultation seeks views on proposals for preparing brownfield registers and keeping them up to date. This consultation document sets out their proposals for identifying suitable sites, publicity and consultation, the proposed content of the registers and their intended requirements for publishing and updating the data. Brownfield registers will comprise a comprehensive list of brownfield sites that are suitable for housing, including housing led schemes where housing is the predominant use with a subsidiary element of mixed use.

8. With respect to **Small Sites Register** they consider that a published list of small sites will make it easier for developers and individuals interested in self-build and custom housebuilding to identify suitable sites for development, and will also encourage more land owners to come forward and offer their land for development. A small sites register has, they say, particular utility in areas of high demand for self-build and custom housebuilding, as councils will be required to permission sufficient serviced land to match demand. A small sites register will also have a wider utility and support development on small sites more generally. Sites on the register will not necessarily have been subject to an assessment of their suitability for development therefore anyone wishing to develop a site on the register will need to apply for planning permission in the usual way. This will ensure that inappropriate development, for example in back gardens, does not occur. The Housing and Planning Bill contains a power to make regulations requiring local planning authorities in England to keep and publish a register of particular types of land in the authority's area. They are proposing to use this power to require local planning authorities to have a part of their register dedicated to "small sites". They believe that the definition of small sites for this purpose should be sites which are between one and four plots in size.
9. With respect to **Neighbourhood Planning** they are proposing to set the various time periods for local planning authority decisions on neighbourhood planning; to set the procedure to be followed where the Secretary of State chooses to intervene in sending a plan or Order to a referendum; and to introduce a new way for neighbourhood forums to better engage in local planning.
10. With respect to **Local Plans** the Government are proposing to prioritise intervention where:
 - the least progress in plan-making has been made;
 - policies in plans have not been kept up-to-date;
 - there is higher housing pressure;
 - intervention will have the greatest impact in accelerating local plan production.

They propose that decisions will also be informed by the wider planning context of an area. They propose to publish information on each authority which shows the age of the existing local plan, and measures of local plan-making progress, on a six monthly basis.

11. With respect to **Expanding the approach to Planning Performance** through the Housing and Planning Bill, they are extending this approach to include applications for non-major development, to ensure that all applicants can have certainty in the level of service to be provided. The assessment of applications for non-major development would run alongside the existing performance approach to assessing applications for major development. The Autumn Statement published on 25 November also set out a proposal to reduce the threshold for assessing the quality of local planning authorities' decisions to 10 per cent of applications for major development overturned at appeal, subject to considering an authority's appeal decisions prior to confirming designation on the basis of this measure.

They are now consulting on:

- revised thresholds for assessing the quality of performance on applications for major development and new thresholds for non-major development for both speed and quality;
- the approach to designation and de-designation for non-major development; and,
- which applications may be submitted to the Secretary of State in areas that are designated for their handling of non-major development.

They consider 'non-major development' to constitute applications for minor developments, changes of use (where the site area is less than one hectare) and householder developments. This is consistent with the data they have been publishing since March 2015 on the speed and quality of decisions on non-major development.

12. With respect to **Testing competition in the processing of planning applications** the Housing and Planning Bill contains powers to enable the testing of competition in the processing of planning applications. They are proposing that in a number of specific geographic areas across the country, for a limited period of time, a planning applicant would be able to apply to either the local planning authority for the area or an 'approved provider' (a

person who is considered to have the expertise to manage the processing of a planning application) to have their planning application processed. This does not prevent local planning authorities from continuing to process planning applications nor does it force them to outsource their development management service – it means that other approved providers will be able to compete to process planning applications in their area. A number of companies already provide outsourced processing services for local planning authorities. Local planning authorities, in addition to processing planning applications in relation to land in their area, would also be able to apply to process planning applications in other local authorities' areas.

They say that the democratic determination of planning applications by local planning authorities is a fundamental pillar of the planning system. This will remain the case - decisions on applications would remain with the local planning authority. However, an approved provider would be able to process the application, having regard to the relevant statutory requirements for notification, consultation and decision making, and make a recommendation to the local planning authority giving their view on how the application should be decided. But, it would be for the local planning authority to consider the recommendation and make the final decision, ensuring no loss of democratic oversight of local planning decisions.

They are consulting now on the broad principles for how this would operate.

13. With respect to **Information about financial benefits** it is indicated that the Housing and Planning Bill proposes to place a duty on local planning authorities to ensure that planning reports, setting out a recommendation on how an application should be decided, record details of financial benefits that are likely to accrue to the area as a result of the proposed development. It also explicitly requires that planning reports list those benefits that are "local finance considerations"⁶⁹ (sums payable under Community Infrastructure Levy and grants from central government, such as the New Homes Bonus).

The Bill also provides for the Secretary of State to prescribe, through regulations:

- other financial benefits beyond "local finance considerations", that must be listed in planning reports if they are likely to be obtained as a result of the proposed development;
- information about a financial benefit that must be recorded in a planning report; and,
- A financial benefit to be listed in the planning report where it is payable to another person or body other than to the authority making the planning decision.

The Bill proposes a requirement for "local finance considerations" to be listed in planning reports. However, new development can bring a number of other financial benefits beyond "local finance consideration". New homes will be chargeable for council tax and therefore bring additional revenue to the relevant local authority. New business development will be subject to business rates and similarly bring additional revenue to the relevant local authority. Also section 106 agreements can require a sum or sums to be paid to mitigate the impact of development.

They are therefore proposing that, alongside "local finance considerations" as defined in section 70 of the Town and Country Planning Act, the following benefits should be listed in planning reports where it is considered likely they will be payable if development proceeds:

- Council tax revenue;
- Business rate revenue;
- Section 106 payments.

14. With respect to **Section 106 dispute Resolution** the Government are introducing a dispute resolution mechanism for section 106 agreements through the Housing and Planning Bill. The dispute resolution process is intended to be provided by a body on behalf of the Secretary of State, concluded within prescribed timescales, and to provide a binding report setting out appropriate terms where these had not previously been agreed by the local planning authority and the developer.
15. With respect to **Permitted Development Rights for state-funded schools** they are proposing to build on existing permitted development rights. They seek to ensure that where there is an identified need for school places, schools can open quickly on temporary sites and

in temporary buildings while permanent sites are secured and developed. It is also the intention to allow larger extensions to be made to school buildings in certain cases without the need for a planning application.

16. Finally with respect to **Changes to statutory consultation on planning applications** statutory consultees are required to report their performance in terms of responding to consultation requests about planning applications each year. The most recent performance data, provided by statutory consultees that respond to the majority of planning application consultee requests, indicates that for between 5 and 12% of cases they requested and received additional time from the local planning authority to respond beyond the 21 day statutory period.

The Government considers that requests for extension of time may affect the ability of local planning authorities to reach timely decisions on applications and that there is scope to reduce them.

To address this issue, the Government is interested in hearing views on the benefits and risks of setting a maximum period that a statutory consultee can request when seeking an extension of time. The performance data indicates that the average extension period is between 7 and 14 days and therefore a period of 14 days may be an appropriate maximum period to set for any extension sought.

17. The closing date for responses to this consultation is 15th April 2016.
18. The consultation seeks in total responses to some 77 questions. It is suggested that the officers should consult with the Chair and Vice Chair of the Planning Committee concerning the Council's response to this consultation.

Date report prepared 24th March 2016