

Response to the Technical Consultation on the Implementation of Planning Changes

Summary

This report sets out the response to the Government's consultation on the Technical consultation on the implementation of planning changes. The consultation began on the 18th February and ends on the 15th April.

The consultation covers a number of aspects of the reforms contained in the Housing and Planning Bill which is currently progressing through the Parliamentary process. It covers issues including Permission in Principle, Brownfield Registers, Neighbourhood Planning, Local Plans, Fast Track planning applications and testing competition in the processing of planning applications. The consultation document is available to view in the Members Room or online at: <https://www.gov.uk/government/news/fast-track-applications-to-speed-up-planning-process-and-boost-housebuilding>

The full response to this consultation is set out at Annex 1 of this report.

Portfolio- Regulatory

Date Portfolio Holder signed off report: 8th March

Wards Affected

ALL

Recommendation

The Executive is advised to resolve to agree the response set out at Annex 1 of this report as the Council's formal response to the DCLG consultation on the Technical consultation on the implementation of planning changes.

1. Resource Implications

- 1.1. The suggested changes will have implications for fee income for planning applications. It is not clear what proportion of fees the Council will receive for planning applications processed by the private sector. It is not clear that this will result in any reduction in costs or the current levels of staff required. Changes will result in increased costs and time required for the Local Plan process including examinations. The impact of these proposals will be felt within 2016/17 as the government is clear that it wishes to progress these changes quickly.

2. Key Issues

- 2.1 DCLG is consulting on a range of proposed technical issues which will be in place to support the Housing and Planning Bill. These changes are intended to support housing delivery. Those themes addressed within the consultation of particular significance are: introduction of Permission in Principle, introduction of Brownfield Registers, speeding

up of neighbourhood planning, government intervention in Local Plans, introduction of Fast Track planning applications and testing competition in the processing of planning applications. The proposals and associated responses are set out in brief below, with the full response contained at Annex 1.

Permission in Principle

- 2.2 To support housing delivery the consultation proposes to introduce a 'permission in principle' approach either through allocation of a site in a Local or Neighbourhood Plan or through a Brownfield Register. Once permission in principle is granted there would be a technical details application required which would cover issues such as design, layout and access.
- 2.3 It is not clear what benefit this approach offers outside of the current system of outline, full and reserve matters applications. It is considered that the proposed approach provides less certainty to developers, decision makers and the community than the current system of outline and reserved matters applications. Officers have concerns as to how this approach, sits with the requirements of the Habitats Directive in respect of the Thames Basin Heaths SPA. It is also considered that if Permission in Principle is taken forward then this should be through the Local Plan process rather than through an untested brownfield register. However, this is likely to result in the cost of Local Plan preparation increasing and a lengthening of examinations as sites will in effect be granted permission at that point and thus consideration will have to be more detailed than at present.

Brownfield Site registers

- 2.4 The consultation proposes the preparation of Brownfield Registers which will comprise a comprehensive list of brownfield sites that are suitable for housing. A 'permission in principle' approach could be applied to these sites. There is a minimum suggested size of 0.25ha or capable of supporting five or more dwellings for such sites. A recent High Court judgement which determined residential gardens outside of built up areas could be considered brown field. This suggests that all large gardens in the countryside are at risk of development. Any statutory Brownfield Register will need to clarify what type of brownfield land it refers to and there needs to be an amendment to the NPPF to address this issue. It is also considered that existing NPPF policy adequately supports the principle of the redevelopment of brownfield sites whilst allowing a suitable degree of flexibility to resist schemes where there are overriding conflicts with the Local Plan or NPPF that cannot be mitigated and thus it is unclear what benefit a register offers in practice.

Neighbourhood Planning

- 2.5 The consultation proposes changes in relation to the time periods for the designation of Neighbourhood Areas and Neighbourhood Forums. It also proposes changes to timescales in relation to dates for referendums and adoption a Neighbourhood Plan. The current

proposed changes to timescales fail to have regard to the Committee timetables that Local Authorities have to work to and this is a matter of serious concern for a number of the proposed changes. A Neighbourhood Plan would have to be adopted at a meeting of Full Council.

- 2.6 The consultation sets out proposed criteria as to when the Government would intervene in the Local Plan making process. It is considered that the proposed criteria suggested are too vague and require significant clarification. In particular there is no definition as to what is meant by 'under delivery' or by areas of 'high housing pressure'.

Fast Track planning service

- 2.7 The consultation proposes the introduction of a Fast Track service for the determination of planning applications. The consultation does not specify which type of applications this approach would apply to. Further clarification is sought on the type of applications which would be fast tracked and on the approach in those instances where the application is to be determined by Planning Committee rather than through delegated powers. One approach could be to adopt the approach of Aylesbury Vale District Council who have introduced a Local Development Order (LDO) for householder planning applications. Those applications complying with the LDO are determined within 2 weeks for a flat rate fee of £200.

Competition in processing of planning applications

- 2.8 The consultation is seeking views on the introduction of competition in processing planning applications with decision making remaining with the local planning authority. Applications would be processed by an Approved Planning Officer (APO) in the same manner as Approved Building Control Inspectors. There is no threshold on the size of type of application that could be dealt with this way. The APO would be responsible for all aspects of the application including validation, carrying out neighbour consultations and negotiating S106 agreements. The local planning authority would then have 1-2 weeks in which to determine the planning application, irrespective of whether or not committee approval is required.
- 2.9 This proposed change sits uneasily with other areas of legislation and local authority responsibilities. It has little regard for the realities of committee timetabling and processing. If the timetables suggested were to be adhered to the Council would be left with no option but to delegate virtually all decision making to planning officers, which is not a move that officers, Councillors or the public would support. Alternatively the default position may have to be to refuse such applications, with the consequent increase in appeals and risk of costs.
- 2.9 It is not clear how the APO could act on behalf of the local authority in any legal negotiations.

- 2.10 Further guidance will be required on how fees would be split with the local authority. It seems likely that APOs will cherry pick the most profitable applications leaving local authorities with increased costs for the remainder. In addition the non fee earning work would continue to sit with local authorities as would appeals, compliance and enforcement for such schemes. It also raises the question of who the APO would act for at an appeal and the consultation does not address this issue.

3. Options

- 3.1 The options for the Executive to consider are:-

- (i) To **AGREE** the response on the consultation on the Technical Consultation on the Implementation of Planning Changes as set out in Annex 1 of this report.
- (ii) To **AGREE** the response on the consultation on the Technical Consultation on the Implementation of Planning Changes as set out in Annex 1 of this report as set out at Annex 1 of this report and any additional comments which the Executive may wish to make.
- (iii) To **NOT AGREE** the response on the consultation on the Technical Consultation on the Implementation of Planning Changes as set out in Annex 1 of this report and elect to withdraw the consultation response.

4. Proposals

- 4.1 It is proposed to submit the consultation response attached at Annex 1 by the 15th April 2016 deadline.

5. Supporting Information

- 5.1 None.

6. Corporate Objectives and Key Priorities

- 6.1 The proposals may affect the Council's ability to achieve Objective 1 by having less control over the delivery of development in the Borough.

7. Policy Framework

- 7.1 The existing policy framework is contained within the National Planning Policy Framework 2012 (NPPF) and associated Planning Practice Guidance (PPG). The consultation relates to changes to the NPPF.

8. Consultation

- 8.1 The Government consultation runs between the 18th February 2016 and the 15th April 2016.

9. Officer Comments

- 9.1 In addition to the changes outlined above, the consultation also set out proposals for the following: information on financial benefits to be included in reports, S106 dispute resolution, PD rights for state funded schools, changes to consultation timescales for statutory consultees and the introduction of a small sites register.

- 9.2 Responses to these matters are set out in Annex 1.

Annexes	Annex 1 Officer response to the Department for Communities and Local Government consultation on the Technical consultation on the implementation of planning changes
Background Papers	'Consultation on the Technical consultation on the implementation of planning changes' (2016) Department for Communities and Local Government
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Consultations, Implications and Issues Addressed

Resources	Required	Consulted
Revenue	✓	<u>24/02/16</u>
Capital		
Human Resources	✓	<u>24/02/16</u>
Asset Management		
IT		
Other Issues	Required	Consulted
Corporate Objectives & Key Priorities	✓	<u>24/02/16</u>
Policy Framework		
Legal	✓	<u>24/02/16</u>
Governance	✓	<u>24/02/16</u>
Sustainability		
Risk Management		
Equalities Impact Assessment		
Community Safety		
Human Rights		
Consultation		
P R & Marketing		

Review Date:

Version: 1st Draft