

**Agenda Item No 5**

**Planning and Development Board**

**8 September 2014**

**Report of the  
Head of Development Control**

**Government Consultation**

**1 Summary**

- 1.1 The Government has published a further consultation paper with a view to removing more development from the need to submit a planning application and to speed decision making. The Council is invited to submit its representations.

**Recommendation to the Board**

**That the Council respond to this consultation as set out in this report, including any other concerns expressed by the Board.**

**2 The Proposals**

- 2.1 The Government has published a further consultation as part of its on-going planning reforms. These are described as being “practical improvements to help get the development and housing that our future growth depends on”. It is a larger consultation than most, covering six different areas. These are described below, together with some observations on the likely impact on the Borough.

**a) Neighbourhood Planning**

There are a number of proposals here. The first seeks to speed up the time in which a Local Planning Authority has to make a decision on designating a neighbourhood area that is the subject of a valid application for area designation by a parish council. At present there is no time limit. It is proposed that this would be 10 weeks. There is also a suggestion that failure to meet this time would result in designation by default. Experience to date in North Warwickshire suggests that there should be no issues with this.

Secondly, it is proposed that the parish council would no longer need to consult the community before its submission to the Local Planning Authority. That Authority would still have to undertake a formal consultation process itself. The proposal set out here is to only have one period of consultation – six weeks. However in order to “compensate” for this and for other reasons, the proposals include a requirement that land owners are properly engaged - the parish council would have to show that it has consulted affected owners

prior to submission of the Plan – and that the Inspector looking at a Plan would have to carry out a “test” to be satisfied that the affected community had been fully engaged throughout the process. There is no objection to this, given these safeguards.

Finally, the parish council undertaking the plan would have to justify why no strategic environmental assessment was undertaken on its plan, if it in fact chose not to do one. This again is a sensible precaution. It is not considered that there is a need to comment on these proposals.

## **b) Reducing Planning Regulations to Support Housing, High Streets and Growth**

There are a substantial number of proposals here which effectively would introduce far more flexibility as to when a planning application was needed for certain forms of development. This builds on previous changes introduced in the last couple of years. The new proposals include:

- A new permitted development right to change the use of light industrial buildings and storage and distribution buildings to convert to residential use, subject to a prior approval process limiting the criteria against which they should be assessed.
- A new permitted development right to allow some “sui generis” uses to convert to residential use, namely laundrettes; amusement arcades, casinos and night clubs, subject to a prior approval system as above.
- Making permanent the recent temporary period for the permitted development right to convert office space to residential subject to a prior approval system. The exemptions agreed by the Government as the time of the introduction of the temporary measure would be withdrawn.
- Making permanent the recent temporary period for larger house extensions but retaining the prior approval system and neighbour consultation measures.
- Widening the definition of “shops” within the Use Classes Order so as to enable greater flexibility for prospective new uses, and greater flexibility to move from non-retail uses such as banks and restaurants to full retail use. Betting Shops and Pay Day Shops would remain outside of the proposed new definition of shops.
- Enabling greater flexibility to convert shops to restaurants and shops to leisure uses –eg. gyms, subject to a prior approval system.
- Enabling retailers to construct small ancillary buildings to facilitate “click and collect” services thus expanding online shopping.

- Enabling larger mezzanine floors inside shops subject to size thresholds yet to be decided.
- Introduce new permitted development rights to allow for commercial filming and associated development both inside and outside of buildings.
- Introduce permitted development rights for solar PV panels on non-domestic buildings subject to a prior approval system.
- Making permanent the temporary permitted development rights for larger extensions to business premises subject to a prior approval system.
- To introduce new permitted development rights for some waste management facilities to enable replacement of plant, machinery and buildings subject to size thresholds and a prior approval system as well as for sewerage undertaking to install pumping stations, gear and plant housing on their premises.
- The setting of fees for the prior approval applications referred to above – either £80 or £172 depending on the type of development proposed.

The intention here to make permanent recent temporary rights comes as no surprise as do the other proposals given the Government's objectives to boost housing numbers; to promote business and economic growth and to adapt the planning system to changing technology and behaviour. For Members information we have received very few applications under the temporary measures and the expansion of the prior approval measures outlined here is unlikely to have a significant impact on work load. It is interesting to see a significant proposed expansion of the prior approval system, which lies half way between a full planning application and permitted development, as it possibly points to even greater expansion in the future.

### **c) Planning Conditions**

The Government is concerned that far too many conditions are being attached to permissions and that these are delaying the implementation of those permissions particularly when additional details are required to be agreed. There are four proposals put forward.

- The probability of a "deemed discharge" is being promoted if there is no decision with a suggested eight week period. There would be exemptions to this proposal but these are only at a very high level – eg. when the application was accompanied by an Environmental Statement; development in Flood Zones 2 and 3, development affecting reserved matters or development affecting a designated European Site. This is a highly significant proposal for the Council will be taken up below.

- The proposal above is coupled with a proposal that the fee associated with the discharge of condition application would be refunded if no decision is reached in the eight week period.
- A proposed mandatory requirement for Authorities to share draft conditions with applicants on major developments prior to any decision being made. Allowances would be made for conditions added by or varied by a Planning Committee.
- Written justifications would be necessary for all pre-commencement conditions in order to reduce their number as much detail can in practice be dealt with later as pre-occupation conditions.

The first two of these proposals could have significant impacts on the Council. We are almost wholly dependent on outside Agencies to clear the details submitted under conditions which they themselves request – eg. Warwickshire County Council; the Environment Agency, and Severn Trent Water Ltd. Our own Environmental Health colleagues also request conditions and then are involved in clearing them. The responses from the agencies is thus largely outside of our control. These proposals will inevitably increase pressure on those Agencies to respond in good time and should also “beg the question” of them, as to whether the condition is appropriate in the first place and whether it does meet a planning purpose. Apart from the capacity of these Agencies to respond there is also an issue that needs to be made in their defence in that the quality of submitted detail often leaves much to be desired and there is often much “to-ing and fro-ing” between applicant and Agency before details can be properly assessed. The Government in its paper does not raise this at all. As a consequence of these proposals, apart from raising our concerns with Government, it is recommended that the representatives of the Agencies that we deal with are notified of these proposed changes with a request to ascertain what impact these proposals would have on response times and secondly that their requests for conditions will only be agreed to when they serve a planning reason.

#### **d) The Planning Application Process**

There are three main areas dealt with here.

- The first affects Statutory Consultations – in other words consultations that are mandatory. The Government is of the view that the current requirements amount to “over-consultation”. It is therefore proposing altering the thresholds for automatic consultation. In the case of Natural England the current requirement is that it is consulted on development within a two kilometre radius of an SSSI. It is proposed to alter this to “where a development is likely to affect an SSSI”. Natural England is to publish clearer guidance on those matters where it thinks that it should be consulted. In the case of the Highways Agency, the present consultation is when, “development is likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving a Trunk

Road”. It is proposed to change this to “Development, other than minor development, likely to result in an adverse impact on the safety of, or queuing on a Trunk Road”. This is a far narrower requirement. In the case of English Heritage, the consultation criteria would in short, only require referral where Grade 1 or 2 star Listed Buildings are involved and where large demolition works in Conservation Areas. Referral to the Secretary of State would continue if a Local Planning Authority intends to grant consent in face of an English Heritage objection involving a Grade 1 or 2 Star Listed Building.

- The second affects pre-application engagement. Where a statutory consultee has been involved in these discussions and expressed a view that subject to alterations they would have no objections, then that consultee is not consulted on the application provided the proposals are as discussed and the alterations are included.
- The third would involve notifying Rail Track of more development proposals than now as a consequence of a number of incidents.
- The fourth suggests that determination times might not be the best performance measure and is seeking views on alternatives.

#### **e) Environmental Impact Assessment Thresholds**

The Government is concerned that too many development projects which are not likely to give rise to significant environmental impacts are being subject to the need to submit Environmental Statements, thus “leading to unnecessary delays in the delivery of new homes and jobs”. As a consequence the thresholds for initial consideration of Statements for “industrial estate development” would be raised to 5 hectares from the present 0.5 hectares, as would that for “urban development projects”.

#### **f) The National Infrastructure Planning Regime**

This regime was introduced to deal with major infrastructure projects and effectively the Secretary of State deals with these through a Public Inquiry with applications being submitted directly to the Planning Inspectorate. The Consent Order for Phase 3 of the DIRFT proposals at Junction 18 on the A5/M1 junction is a case in hand. The current set of proposals would involve procedures for the variation and amendment of plans or Consent Orders and are thus not relevant to this Authority.

### **3 Observations**

- 3.1 The package of proposals set out in this latest consultation paper contains few surprises given previous changes made by the Government and continuing pronouncements about the need to speed up the planning process and to remove what the Government considers is unnecessary regulation. What is noticeable in this latest set of proposals is the increased preference for the prior approval system of dealing with new development proposals. In these cases, Planning Permission is granted in principle by virtue of the General Permitted Development Order and refusal is only available based on a limited number of defined reasons. Whilst we have not seen very many of these in the last year, this will change if these new proposals are implemented. The frustration with this system is firstly that the interpretation of the defined reasons open for consideration is often unclear, and secondly that time is spent explaining what the system really means to affected neighbours and parish councils.
- 3.2 As referred to above, there is real concern here about the conditions relating to condition – particularly those that require further detail to be submitted at a later stage. These requests often come from the various Agencies whom we consult. The consequential applications to discharge this detail is thus outside the control of this Council. With the increasing number of applications being submitted and service reductions in those Agencies, there is already increasing delay in the handling of these applications. This is not uncommon to North Warwickshire as neighbouring Authorities are experiencing similar problems. Officers are in the process of contacting these Agencies in the first place to bring their attention to the current Government proposals set out here and secondly to review their interest in planning applications. Often the requests for further detail do not meet a planning purpose as such detail is already required by a different regulatory regime. In other cases those Agencies are perhaps not giving a proportionate response to a planning application. As indicated above, officers are and will continue to discuss these matters with the Agencies. On the other hand, and there is substance to this, the quality of details submitted with planning applications is very varied. Where “poor” applications are submitted then conditions for further detail are often the “stock” response from an Agency. Greater pre-application discussion need to be encouraged. This matter is again being taken up particularly with those Agencies that have introduced pre-application charging, because there is evidence that this is acting as a deterrent.

### **4 Report Implications**

#### **4.1 Financial and Value for Money Implications**

- 4.1.1 Whilst fees are to be introduced for the new prior approval applications these will be quite small. There is concern too that refunding fees could commence if outside Agencies do not respond in time. However given the expected sustained increase in planning fees overall in the next few years it is not considered that these proposals will materially affect planning income.

## 4.2 Environment and Sustainability Implications

4.2.1 With less control over new development there will be impacts. The new prior approval system is beginning to give rise to new housing in isolated areas but the increased flexibility of the current proposals is as yet unknown, but they are more likely to be felt within urban areas.

## 4.3 Impact on the Council's Priorities

4.3.1 There may well be a limited impact on the Council's priorities of retaining and enhancing the rural character of the Borough as the increased flexibility of the planning system resulting from these changes feeds through.

The Contact Officer for this report is Jeff Brown (719310).

### Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

| <b>Background Paper No</b> | <b>Author</b> | <b>Nature of Background Paper</b> | <b>Date</b> |
|----------------------------|---------------|-----------------------------------|-------------|
| 1                          | DCLG          | Technical Consultation            | July 2014   |