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| Subject: | Department for Communities and Local Government - Technical Consultation on Planning | | |
| Date of Meeting: | 13 November 2014 | | |
| Report of: | Executive Director | | |
| Contact Officer: | Name: | Helen Gregory | Tel: 29-2293 |
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| Ward(s) affected: | All | | |

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report seeks the approval and endorsement of the interim response sent by officers on behalf of the council in response to the recent government consultation on proposals to further streamline the planning system.
- 1.2 The interim response was submitted to the Department for Communities and Local Government (DCLG) in order to meet the consultation deadline of 26 September 2014 but this was subject to the approval and endorsement of the response at this meeting.

2. RECOMMENDATIONS:

- 2.1 That the Committee approves and endorses the interim response to the Government's consultation seeking to further streamline the planning system (see Appendix 1).
- 2.2 That the Committee requests the Department for Communities and Local Government to consider giving short term holiday lets their own planning use class.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 On the 31 July 2014 the Government published a wide-ranging set of proposed changes to the planning system for a six week period of consultation covering: speeding up neighbourhood planning; changes to the use class order and expanding permitted development rights; improving the use of planning conditions and the planning application process; raising the screening thresholds for Environmental Impact Assessment; and further changes to nationally significant infrastructure consents regime.
- 3.2 Some of the proposals are intended to make permanent a number of temporary permitted development rights arrangements which were introduced in May 2013 in order to stimulate development during the recession, whilst others were announced during the March 2014 Budget such as further clarification of the proposed 'three tier' development management system. The general direction of most of the proposals is one of deregulation and streamlining, but a small

number of the provisions seek to provide local planning authorities with greater controls. A copy of the consultation document has been placed in the Members' Rooms.

Section 1 - Neighbourhood Planning

- 3.3 The government's intention is to make the neighbourhood planning process 'simpler and speedier'. The proposals seek to introduce a statutory time limit of 10 weeks for a local planning authority to make a decision on neighbourhood plan area designations, to change the neighbourhood plan consultation requirements and to provide clarification of the Strategic Environmental Assessment (SEA) requirements for neighbourhood plans. It should be noted that these proposals would require legislative changes which may not be capable of enacting before the general election.
- 3.4 In response it is considered that introducing a statutory time limit of 10 weeks to determine a neighbourhood area designation application would not be sufficient to address the sometimes complex nature of neighbourhood planning in urban areas and insufficient to exercise advice to facilitate consensus. Recent experience in Brighton & Hove has shown that more time is required to address issues of forum membership, the proposed boundary (as ward and neighbourhood group boundaries rarely coincide) and to build community consensus. 10 weeks would also be unrealistic for local authorities who do not have delegated decisions on designating neighbourhood areas.
- 3.5 The proposed removal of the pre-submission consultation stage of neighbourhood plans is also not supported. A neighbourhood plan performs the same function of land allocation as a local plan and adequate stages of community engagement and consultation are therefore required. Many neighbourhood plans have been significantly changed between the pre-submission stage and submission stage in order to include community views and to resolve conflicts with strategic policies. It helps to make a more robust neighbourhood plan going forward to examination and decreases the risk of challenges relating to strategic environmental assessment and/or Habitat Regulations.
- 3.6 It is also considered that the current Neighbourhood Planning Regulations are not sufficiently clear on the Strategic Environmental Assessment requirements. Given recent judgements it would appear that Neighbourhood Plans will also be subject to the requirements of the SEA Directive and would therefore always require a screening determination. Clearer guidance/ legislation is required as to when screening (determination) should be carried out on neighbourhood plans. It is considered that the SEA process should be carried out alongside and inform plan preparation.

Section 2 - Reducing Planning Regulations to support housing, high streets and growth

- 3.7 This section of the government consultation document covers a large number of proposals. To promote growth, deliver housing and support high streets, the government is committed to making the planning system simpler, clearer and

easier to use with the planning application process proportionate to the potential impact of any development. A three tiered system is described as:

- **Full planning application** – appropriate for large scale, complex developments or those with greatest impact on neighbours, the wider community or the environment;
- **Permitted development rights with prior approval** – lighter touch process that applies where the principle of development has been established, but certain specified issues still require local consideration (automatic permission if the local authority has not responded within a specified numbers of days).
- **Permitted development rights no prior approval** – removes the need for a planning application as planning permission is granted nationally by the Secretary of State. Appropriate for small scale changes and some strategic development, providing freedom to carry out development which has less impact on neighbours, the community or environment.

3.8 The specific consultation proposals set out are:

Increasing housing supply

- Making permanent the current temporary permitted development right to convert offices to residential use.
- Making permanent the permitted development right for householder extensions.
- Introducing a permitted development right to allow the change of B1(c) industrial uses and B8 storage and warehousing uses to housing

Increasing Flexibilities for High Street Uses

- Allowing launderettes, amusement arcades, casinos and nightclubs to convert to housing without planning permission
- Broadening the A1 class to include most of the uses that are currently A2 (financial and professional services such as banks, estate agents and employment agencies)
- Betting shops and pay day loan shops would be defined as A2 use class, and any change of use to a betting shop or a pay day loan shop would require planning permission.
- Allowing A1 and A2 premises and launderettes, amusement arcades, casinos and nightclubs to change use to A3 restaurants and cafes or D2 assembly and leisure uses without the need for planning permission.

Expanded facilities for retailers

- Allowing ancillary buildings; mezzanine floors and extension of loading bays for existing shops without the need for planning permission

Parking Standards

- Removing the right of local authorities to set maximum parking standards

Supporting Growth

- Permitted development rights for film and television industries, solar PV panels for commercial properties, extensions to business premises, waste management facilities, equipment housings for sewerage undertakers.

The government intends to introduce new legislation to implement these changes at the earliest opportunity.

3.9 Significant concerns have been raised with the proposals to make permanent changes to permitted development rights to allow for offices, some industrial buildings and storage and warehouse buildings to be converted to housing

without the need for planning permission. These proposed changes are considered to be a further erosion of the council's ability to maintain in the long-term a supply of needed employment land which will have a detrimental impact on future economic growth in the city. There will also be a detrimental impact on established office locations, business or industrial parks through piecemeal changes of use. Furthermore there are also concerns with the quality and standard of living accommodation likely to be created through conversions. The prior approval process does not allow for affordable housing and other important policy areas (such as the provision of amenity and open space) to be considered.

- 3.10 Whilst increasing the flexibility of uses in the high street where there is no longer demand for a particular use is in principle acceptable, there are concerns that the prior approval process does not adequately address all the potential issues likely to arise such as the overconcentration of one shop type along a street frontage.
- 3.11 The government has indicated with the proposed permitted development right changes a number of additional issues that could potentially be considered through prior approval process such as floorspace thresholds, design and external appearance, impact on neighbouring employment uses, or in the case of office to residential conversions the impact of loss of the most strategically important office accommodation. However it is considered that these proposed prior approval issues would lead to an approach that is neither a plan-led approach nor a light touch. The consultation document illustrates the increasing complexity of the incremental changes to the permitted development rights system. If all the proposals as indicated are introduced it is considered that the opposite effect will be created; a complex and difficult to negotiate planning system, which does not assist either the development industry or businesses and a system which will does not allow local communities to be fully involved.
- 3.12 The experience of Brighton & Hove show that the processes around dealing with a prior notification application are similar to that of a full application, but the fee is set considerably lower meaning that the full costs are not met.
- 3.13 The proposed change to require a planning application for any change of use to a betting shop or a pay day loan shop is welcome. There was increasing concern with the lack of powers available to act on community concerns such as the clustering of high streets with payday lenders or betting shops. Requiring change of use applications is considered appropriate particularly as these types of shops can open up in succession to one another and can be seen to exploit lower income areas. Further, over-concentration of certain shop types makes high streets less appealing. The National Planning Policy Framework should be amended to make clear that local authorities can control the clustering of betting shops in local plans where this is justified.

Short Term Holiday Lets

- 3.14 The DCLG has recently indicated that it plans to provide clarity on holiday lets, however this was not included in the DCLG Technical Consultation Paper. Brighton & Hove City Council through a recent Scrutiny Panel has investigated

the issue of short-term letting accommodation¹ catering for larger groups, particularly hen and stag parties. Recent research has shown that Brighton and Hove is one of the top UK hen and stag party destination². It is a growing market in Brighton & Hove and whilst contributing to the visitor economy, evidence clearly demonstrates the adverse affect on residents by way of noise and anti-social behaviour. The council considers that if holiday let owners had to apply for 'change of use' this would give residents and other affected parties the chance to make representations for or against the proposal and for them to be considered against a set of agreed criteria.

- 3.15 Currently Section 25 of the Greater London Council (General Powers) Act 1973 effectively makes holiday lets in the capital a use class that requires planning permission; however this is not available for other areas of the country. Therefore this report recommends that the DCLG consider giving short term holiday lets their own planning use class for use in the rest of England and Wales.

Parking Standards

- 3.16 The government is seeking to understand 'whether local authorities are stopping builders from providing sufficient parking space to meet demand' and whether local authorities' powers to set maximum parking standards should be restricted. Within Brighton & Hove, parking standards do include maximum levels to ensure parking does not impact negatively on the city's particular natural and built environments and lead to congestion and pollution.
- 3.17 Local authority powers to set maximum parking standards should not be restricted. It is considered that local authorities are best placed to determine what the appropriate level of parking is for their locality. Parking standards should be set by local authorities based upon local characteristics, taking into account public transport accessibility, car ownership levels, on-street parking stress, accessibility to local facilities, the nature of the locality (i.e. urban, suburban, rural) and the proposed land use with a differentiation between origin and destination land uses. All these factors should be assessed by the local authority when setting appropriate standards for their communities. It is considered the proposed change is therefore contrary to the aims of Localism.

Improving the Use of Planning Conditions

- 3.18 The government believes that 'too many overly restrictive and unnecessary conditions are attached routinely to planning permissions, with no regard given to the additional costs and delays on sites which have already secured planning permission.' It proposes tackling this by:
- Creating a 'deemed discharge' for certain types of conditions where the Local Planning Authority (LPA) does not make a timely decision.
 - Requiring that LPAs share draft conditions with applicants for major developments before making a decision.

¹ defined as short-term let available to rent for up to a week at a time; accommodating 10 people or more (not usually a family group), usually with two or more people per room and tending to be used for stag and hen parties, but not always the case.

² <http://www.redsevenleisure.co.uk/hen-weekends/uk/>

- Requiring LPAs to justify pre-commencement conditions.

3.19 In response, there is much to support in these proposals as they reflect that increasingly the Council has been working with developers with their approvals and negotiating to secure appropriate details to discharge conditions, particularly those relating to major developments. This has resulted in some approvals taking over 8 weeks, rather than the application being refused and further details being resubmitted in a revised application. The introduction of a deemed discharge should enable this to continue if both parties agree. However requiring LPAs to justify pre-commencement condition is not supported as this would not simplify the procedures but add to the workload on the LPA in the determination of planning applications.

Improving the Planning Application Process

3.20 Of most interest to the council in this section of the consultation document, is the proposed change to the involvement of statutory consultees. The government believes that the existing duty for the involvement of English Heritage, Natural England and the Highways Authority in the planning applications process is unnecessarily bureaucratic in that they are often required to issue a 'substantive response' to an LPA even when they have no comment they wish to make. The aim is to ensure that statutory consultees are consulted in a proportionate way on those developments where their input is most valuable. Other proposals include a requirement for local planning authorities to ensure that railway infrastructure managers are notified of all planning applications where development is proposed near a railway.

3.21 The implications of these proposals locally are considered to be minimal given the relatively small number of major applications each year that require consultation with statutory consultees (excluding English Heritage). The changes proposed to consultation with English Heritage are supported as it will allow them to concentrate their resources on the heritage assets of the greatest significance and the more major proposals. There are some concerns with the general reduction in the requirements for applications to be determined by the Secretary of State where the LPA is the applicant and owner in respect of demolition in a conservation area and of listed building consent as it is considered to provide a useful, impartial checking mechanism. The city council currently notifies Network Rail of planning applications that adjoin their land.

Environmental Impact Assessment Thresholds

3.22 The government proposes raising the screening thresholds for certain types of development:

- industrial estate development (including manufacturing, trading, distribution, and transport projects): raising the existing threshold of 0.5 hectares to 5
- urban development projects (including housing): also to 5 hectares – the government has calculated that for housing schemes, based on an average housing density of 30 dwellings per hectare, the new higher threshold will equate to around 150 units.

The government considers that this will reduce the number of projects that are screened unnecessarily thereby reducing both the cost and time taken to get planning permission for these projects.

- 3.11 In Brighton & Hove, the vast majority of residential development sites are less than 0.5 hectares (ha) with almost 99% of residential completions in the period 2004-2014 were on sites less than 0.5ha. If the site size threshold was increased to 5ha, none of the residential development situated outside sensitive areas over the last 10 years would have been subject to EIA. Similarly, 89% of commercial completions in the same period were on sites less than 0.5ha and only 1.5% were on sites greater than 5ha. The EIA process has enabled some positive outcomes for the environment, which potentially would have been missed if the site size threshold had been 5ha. Therefore it is considered that the proposed thresholds for urban development do not fully take into consideration that high density development in the form of a tall building can take place on a relatively small area of land. The environmental effects of a tall building or a very high density of development could be far greater and more significant than the effects of a much smaller building on the same area of land.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 This report advises the Committee of the main proposals contained in the consultation document published by the DCLG, and potential implications for Brighton & Hove City Council. Approving and endorsing the response which was sent on 26 September to meet the deadline allows the views of the council to be taken into consideration by the government.
- 4.2 A do nothing approach is not considered appropriate in view of the potential far reaching implications of the proposals as highlighted in the response.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The council has responded to a six week public consultation exercise published by the Department of Communities and Local Government and the government consultation was available for the wider community to take part in this directly. The government has indicated that a summary of responses to the consultation will be published on the DCLG website within three months of the closing date.
- 5.2 Internal consultation with colleagues in Development Control and Highways Strategy was undertaken and their comments are included in the interim response.

6. CONCLUSION

- 6.1 The purpose of the report is to gain formal approval and endorsement of the interim response to the Government consultation seeking to streamline the planning system. Responding to this consultation allows the views of the council to be taken into consideration by the government. Whilst the interim response has been despatched to meet the consultation deadline of 26 September 2014, this was on the basis that the response be subject to approval and endorsement at Economic Development and Culture Committee.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 Whilst these proposals will not result in any direct cost to the Council, there is a risk of some impact on, and reduction in, planning fee income if some of the prior approval proposals were to be implemented.

Finance Officer Consulted: Steve Barton

Date: 23/09/14

Legal Implications:

- 7.2 In order to implement the changes envisaged by the consultation document the relevant existing planning legislation would need to be amended.

Lawyer Consulted: Name Hilary Woodward

Date: 23/09/14

Equalities Implications:

- 7.3 The Government consultation document indicates that a brief summary of the impacts and benefits of the proposals are set out within the consultation document and that a final impact assessment on the proposed changes to be taken forward will be produced following the consultation. It is felt that the consultation document has not fully considered the potential long term impacts of making permanent the change of use from office, industrial and warehouse and storage uses to residential. A key concern is that the proposals will lead to loss of jobs, small businesses and skills training in the city; a potential to reduce the opportunities to secure affordable housing; and loss of retail units in local parades.

Sustainability Implications:

- 7.4 A key concern of some of the proposed changes is the potential for unmanaged loss of employment space in the city thus leading to an imbalance between homes and jobs. There is also less influence in the provision of affordable housing and amenity space requirements for these new homes. There are significant sustainability concerns in terms of transport, congestion and pollution in relation to removal of local authorities ability to set maximum parking standards. In addition some of the proposals are likely to lead to an increased need to travel to shops and jobs.

Any Other Significant Implications:

Corporate / Citywide Implications:

- 7.5 If the proposed changes are introduced there will be corporate and citywide implications which have been highlighted in the report.

SUPPORTING DOCUMENTATION

Appendices:

1. Brighton & Hove City Council Response – Technical Consultation on Planning

Documents in Members' Rooms

1. Department for Communities and Local Government - Technical Consultation on Planning, July 2014 (<https://www.gov.uk/government/consultations/technical-consultation-on-planning>)

Background Documents

none