

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	Meeting:	Cabinet Member and Advisers for Planning, Highways and Street Scene Services
2.	Date:	Monday 1 September 2014
3.	Title:	DCLG Technical Consultation on Planning - response
4.	Directorate:	Environment and Development Services

5. Summary

The report outlines Rotherham MBC's proposed response to Government consultation documents :

Technical consultation on planning

6. Recommendation

As determined by Planning Board, the cabinet member is asked to approve the response on the consultation documents for submission to DCLG by the 26th September deadline.

7. Proposals and Details

The DCLG has published an extensive consultation document covering numerous aspects of the planning system which was received by the Authority for comment in August 2104. The consultation document recommends further deregulation within the planning system and some of the proposals are intended to make permanent a number of temporary arrangements which were introduced in May 2013. The deadline for comments to be received by the DCLG is 26 September 2014 and due to this deadline and the timing of meetings it has not been possible to report this document via the Improving Places Board.

The consultation document covers six different subject areas in 98 pages. Therefore, this report provides only a brief summary of the main elements and an initial assessment of their implications. The six elements in the consultation are:-

- Speeding up Neighbourhood Planning.
- Expansion of permitted development rights.
- Improvements to the use of planning conditions.
- Improved engagement with statutory consultees.
- Raising the screening thresholds for environmental impact assessments.
- Widening the range of consents within the Development Consent Orders which nationally significant infrastructure works are enabled.

Section 1: Neighbourhood Planning

This section of the consultation is about proposed regulatory changes to the neighbourhood planning system which were introduced via the Localism Act 2011. The most significant aspect is a proposal to introduce a 70 day time limit within which local planning authorities must take decisions on neighbourhood plans. It also seeks views on changes to the pre-submission consultation and publicity process for neighbourhood plans and neighbourhood development orders, and the documentation that must accompany a neighbourhood plan when submitted to a local planning authority.

Response:

Although Rotherham has not yet received an application to designate a neighbourhood plan the timescale for decision making would be difficult to comply with, if it is to involve a meaningful period of public consultation. Whilst we recognise the need for a speedy and responsive planning system, this should not be at the expense of due process in such important matters.

Section 2: Reducing Planning Regulations

The temporary permitted development rights, allowing offices to be converted to homes and householders to build larger extensions without the need for planning permission, is to be made permanent.

There are also proposals to allow more changes on our high street without having to go through the planning process and specific proposals which include the widening of permitted development rights to allow change of use from B1 light industrial units, B8 warehouses and storage units, offices and some other uses into residential to increase the housing supply.

A further proposal involves a requirement for premises to be used as a betting shop or by a pay day loans company to secure planning permission for such a change of use. Currently premises with an A2 Use Class can become a betting shop or pay day loan shop without the need for planning permission.

Response:

The proposal which is likely to have most implications locally is to make currently time-limited permitted development (PD) rights for the extension and alteration of most residential premises permanent. Members will be aware that in May 2013 temporary increased limits were introduced to allow for single storey rear extensions on dwelling houses via a neighbour notification process rather than a planning application. Previous comments on the temporary introduction of this should be reiterated i.e. that a core principle of the NPPF is to ensure good design and a good standard of amenity and that allowing larger home extensions allows home owners to by pass these requirements.

We commented that many modern housing estates are built on small plots often very close to or on the boundary with the neighbouring property and therefore an 8m extension would have a huge impact on the neighbour's amenity. In terraced properties where residents either side could take advantage of the PD the impact on the middle resident would be significant, effectively creating a tunneling effect. Changes in ground levels (with the neighbour at a lower level) would exacerbate the problem further cause disamenity, loss of light and loss of privacy.

Our experience so far is that if we have been notified of a larger home extension and then the neighbour has objected we have refused the extension if it is felt that it would cause problems of overshadowing or over development of the property however this has not yet been tested at appeal to ascertain if the Planning Inspectorate would support our view.

The changes to the PD for larger home extensions is therefore unnecessary – the majority of householder applications are approved but this is following the neighbours right to comment, consideration of the issues, any necessary mitigation or amendments made to result in an acceptable development.

We cannot see that the changes proposed will have a significant impact on the economy as relaxing planning rules will not improve the affordability of extending homes – an owner is not going to decide not to extend his property purely because

of the requirement for planning permission, it is more likely because he/she cannot afford to build the extension in the first place.

Should the changes be introduced then it is essential, that the Local Planning Authority is notified and evidence of compliance submitted.

Members have reiterated the issue in relation to the transparent process of a planning application which includes the ability of neighbours to lodge concerns and for these to be mitigated through the process and that taking away this process goes against localism and locally made decisions.

Councils still need to determine these prior notifications, in many instances with no fee and with reduced timescales for decision making.

We have had 152 of these types of applications and if we assume that they would have all been submitted as planning applications, the fee alone would have been £26,144 notwithstanding the officer time that it has taken to deal with these prior notifications.

Conversion of industrial / office premises to residential

Introducing new rights to allow homes to be created in buildings currently used for light industry, warehousing, launderettes, casinos, nightclubs and amusement arcades would result in the loss of valuable space for businesses and employment and could lead to the creation of poor quality housing.

Suitable locations for locally assessed need for residential and employment land have been established through the local plan process and this proposed change would undermine this work which has been subject to many stages of public consultation and will therefore remove any form of control. Issues in relation to the location of residential units in employment areas may cause problems of substandard housing, issues for the residents of noise and traffic, parking for adjacent industrial plots and issues for any expansion of industrial premises in the locality. It could stymie further industrial development.

As the value of residential land is higher than industrial land, landowner decisions are likely to be made on financial grounds rather than best use of land which is historically the Local Planning Authority's role and is at odds with plan led system approach.

High Street

Broadening the definition of "shops" to include many uses currently classed as financial and professional services. This would allow shops to convert to such as estate agents without the need for a planning application.

Response:

This could lead to a permanent loss of valuable shops and businesses in our high streets and therefore have a further impact on the work to improve the viability and vitality of our town centre's.

Section 3: Improving the Use of Planning Conditions

The proposals in this suggest amendments to ensure that planning conditions are appropriate and do not act as barrier to achieving timely development.

Developers would be able to use a new 'deemed discharge' measure if councils do not respond to their requests to sign off planning conditions within a 'reasonable time', under measures put out for consultation and failure to do so will result in a deemed discharge.

The implications of these proposals need to be fully assessed. An initial view is that the proposals may be justified in certain circumstances, but fail to recognise that there is also a responsibility on the part of applicants to ensure that information also needs to be provided to the local planning authority in a timely manner to ensure that planning applications can be registered without delay and that subsequent discharge of conditions is also a two way process. For instance the consultation does not acknowledge that some pre-commencement conditions are imposed by planning authorities because the details have not been provided by the applicant or their agent.

In relation to resolving issues through the process rather than via condition, our Authority offers an accessible pre-application service to resolve issues and is in the top quartile for speed of determining planning applications. We have good working relationship with developers and only use pre-commencement conditions if absolutely necessary to control an issue where information cannot be provided up front by the developer. It should be recognised that often the use of conditions is directly related to lack of information provided by developers and often used as a way of getting an in principle agreement with further information to be provided. This can speed up the decision making process rather than hinder it.

This proposal is therefore viewed as a broad brush approach which is not required for planning authorities who provide an efficient service

Section 4: Planning Application Process Improvements

These proposals are aimed at streamlining the consultation process, particularly with statutory consultees, by changing the thresholds for such consultations and introducing a more proportionate approach. Changes are also suggested to the referral of heritage matters to the Secretary of State. 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.

Response:

The implications of these proposals locally are considered to be minimal.

Section 5: Environmental Impact Assessment (EIA) Thresholds

The consultation seeks views on proposals to raise thresholds for screening projects which may require an environmental impact assessment. The result of the changes will potentially reduce the number of projects which will need to be screened and in turn those which are likely to require an EIA.

Response:

The EIA process is something that has become quite onerous over the last few years with a significant number of applications needing to be screened but very few actually being classed as EIA development. We would welcome a raising of thresholds for screening and a more proportionate approach.

Section 6: Improving the Nationally Significant Infrastructure Regime

Through the Planning Act 2008, a new regime for allowing certain types of nationally significant infrastructure was established. These included major energy projects, railways, ports, major roads, airports, water and waste projects. The aim of the proposals is to simplify and speed up planning consent for such projects by reducing the number of separate applications and permits and enabling faster decisions while ensuring consultation with communities and other interested parties.

Response:

No local impact

Summary

The proposals to further undermine the planning process are unnecessary – the majority of householder applications are approved, we offer free pre-application advice to residents, and an application gives the opportunity for neighbours to raise comment, plans to be amended and for negotiation to result in the best scheme to be carried out. It does not require a neighbour to formally object before an assessment of the effect on the development on them and their property can be carried out. The removal of the role of the Local Planning Authority in this process may lead to tensions and concerns between residents, neighbours and communities.

As prior notifications still require checks to be carried out and neighbour notifications to be issued there is a no recoverable cost to the Council thereby further stretching already reduced resources and impacting on the Councils capacity to deliver an efficient planning service.

The chair of Planning Board has been contacted by Sefton Council in relation to the proposals undermining the Governments aims of local empowerment and localism by removing local decision making powers. We fully concur with the views of Sefton Council and wish our objections to the proposals to be noted?????

8. Finance

The financial implications associated with these two consultations are that there would be a reduction in the number of planning applications submitted during the 3 year period but no financial implications from changing the appeals process.

It is impossible to predict the number of applications that would otherwise have been made for the types of permitted development being proposed as it is likely that the majority of them would not have got past a pre application discussion. However, we have seen that the larger house extension applications result in the loss of planning fees in excess of £25,000 per annum not including the officer time to administer the process.

9. Risks and Uncertainties

N/A

10. Policy and Performance Agenda Implications

No relevant implications.

11. Background Papers and Consultation

Planning Board members have requested that a response be made to the consultation and the detailed response will be considered on 18th September prior to submission.

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