

Unrestricted

MISCELLANEOUS ITEM

PLANNING COMMITTEE

24 April 2014

GOVERNMENT CONSULTATION ON PLANNING PERFORMANCE & PLANNING CONTRIBUTIONS

Head of Development Management

1 PURPOSE

- 1.1 To provide the Planning Committee opportunity to discuss the Government consultation on proposals in relation to changing the threshold for measuring the performance of planning authorities and changes to the requirements for contributions towards delivering affordable housing.

2 RECOMMENDATION

- 2.1 That Members note the content of the consultation and provide comment to inform the response of the Executive Member for Planning and Transport.**

3 REASONS FOR RECOMMENDATION

- 3.1 This report provides details of the consultation on which the views of the Members of the Committee are sought. This consultation was issued on the 23 March 2014 and in line with the Government's reduced timescales for such consultations views are sought by the 4 May 2014. Members of the Committee have previously been sent the full consultation document electronically.

4 SUPPORTING INFORMATION

Background

- 4.1 This consultation is in respect of two distinct aspects – Local Planning Authority performance and s106 contributions in relation to affordable housing.

Local Planning Authority performance

- 4.2 At the meeting of the Planning Committee in December 2012 Members discussed Government consultations which set out proposals on how the performance of local planning authorities would be assessed. This consultation followed on from statements by Government Ministers criticising the planning system as being slow and unresponsive. When the Government

announced the measures in April 2013 these broadly reflected the proposals set out in the consultation namely:

- If 30% or fewer of the major development applications it has received have been determined within the statutory period (13 weeks, or 16 weeks if EIA development) (not counting applications governed by planning performance agreements and applications where a time extension has been agreed).
- If 20% or more of its major development applications that it has refused have been overturned on appeal.

4.3 In that earlier consultation the Government proposed raising the bar for the speed of decisions after the first year stating this was 'to ensure that there is a strong but achievable incentive for further improvement in performance, and to reflect an anticipated increase in the use of planning performance agreements for the more difficult cases as proposed elsewhere in this consultation.'

4.4 These targets applied to the performance of Councils over the preceding two years starting in April 2011. In October 2013 the Government announced that no planning authorities had been under performing on the appeals measure but one Council (Blaby District Council) was designated as under performing on the basis of the speed under which it dealt with major applications and consequently that Council was placed on special measures. The consequence of designation is that applicants can opt to make planning applications to the Planning Inspectorate rather than the Council and the 'failing' Council is subject to close scrutiny.

S106 contributions in relation to affordable housing

4.5 The second aspect of this consultation relates to thresholds for securing Affordable Housing contributions by s106 and then only in respect of small sites and house extensions. As with other changes proposed by the Coalition Government (including the performance measures) the changes outlined in this consultation do not appear to be based on any robust evidence/justification that the costs they seek to remove are disproportionate and prevent delivery, it simply asserts that this is the case for small sites.

Summary of changes proposed in the consultation

4.6 Changes to performance measures: In line with previous statements this consultation proposes to increase the speed of deciding applications for major developments to 40% or fewer of the major development applications determined in the statutory period.

4.7 Changes to section 106 planning obligations: In his 2013 Autumn Statement the Chancellor made a commitment to reduce the planning costs to developers through a range of relaxations; including through a proposed new 10-unit threshold for section 106 affordable housing contributions. This consultation outlines how this commitment could be delivered and proposes that before any request for affordable housing contributions can be considered as part of a section 106 planning obligations agreement, authorities will have to have regard to national policy that such charges create

a disproportionate burden for development falling below a combined 10-unit and maximum of 1,000 square metres gross floor space threshold.

- 4.8 The consultation makes it clear that under the proposals Councils would not be able to seek affordable housing contributions from residential extensions or annexes added to existing homes. The proposed changes would, therefore, restrict the use of section 106 planning obligation contributions where sites contain 10 units or less with a maximum combined gross floor space of 1,000 square metres and for residential extensions or annexes. It is proposed to include a maximum total floor space in combination with a unit threshold to avoid creating a perverse incentive in terms of construction density.

Consideration of questions raised in the consultation

Local Planning Authority performance

- 4.9 The consultation asks four questions in relation to this aspect:
- 4.10 **Question 1: Do you agree that the threshold for designating authorities as under-performing, based on speed, should increase to 40% or fewer of decisions made on time?**

The current consultation does not give any analysis to support the need for this proposed change or the impacts of the measures introduced last year. On the face of it, the perception of significant delays caused to major developments has not been borne out given only one Council in England has been identified as under-performing against the target. However, in its initial consultation in 2012 the Government indicated its intention to ratchet up the performance target for determining major category planning applications.

On the previous consultation this Council's view was that a more measured approach should be taken in the first year so that authorities who can evidence a significant improvement in the speed of determination of applications, or have evidenced the increased use of extension of time agreements and PPA's in the second half of the accounting period, will not be automatically identified as under-performing. In the case of Bracknell Forest Council, in excess of 70% of major applications are being determined within either 13 weeks or such period agreed with the applicant and the proposed raising of the target should not give rise to any concerns.

- 4.11 **Question 2: Do you think there is scope to raise the threshold for under-performance above 40% (for example to 45% or 50%); and, if so, by when?**

Whilst Ministers may see benefit in introducing relatively arbitrary targets and making examples of a few Councils, one has to question the usefulness of this measure. Nothing in the consultation evidences the extent of the problem and, given the measures retrospectively measured performance back to April 2012, it is questionable whether the criticisms levelled by Ministers at Local Planning Authorities were well founded. However, Bracknell Forest like many other Councils in the south east has seen in the past year steadily increasing demands on planning services following a period of resources being cut back as application numbers fell following the banking crisis. The focus of

Government should be on ensuring adequately resourced and effective planning services are able to respond effectively and speedily with this rise in applications and increased complexity arising from other changes brought in recently.

A 15% fee increase in 2012 to catch up on 4 years of frozen planning fees together with the introduction of a number of low fee application types (prior approvals), has not been adequate to deal with the issues of resourcing and any response to Government should raise this issue. Indeed some of the prior approval applications whilst attracting very low fees have not resulted in a proportionate reduction in work required.

- 4.12 **Question 3: Do you agree that authorities that have dealt with no more than two applications for major development, over the two year assessment period, should be exempt from designation based on their speed of decisions?**

This question should be linked with the following Q4 as in assessing whether to designate a Council a very low number of applications should be taken into account as an exceptional circumstance. From the position of Bracknell Forest Council, the threshold would clearly not apply.

- 4.13 **Question 4: Do you agree that the tests set out at paragraph 21 of this consultation are appropriate for taking exceptional circumstances into account, prior to designations being confirmed?**

The tests referred to are:

- (a) Whether the issue significantly affects the reasonableness of the conclusions that can be drawn from the recorded data for the authority, over the assessment period;
- (b) Whether the issue had a significant impact on the authority's performance, for reasons that were beyond its control.

There will be instances where authorities dealing with very few major applications could run foul of the designation targets. It is suggested that civil servants should not be so wedded to targets as to ignore unique situations.

Changes to section 106 planning obligations

- 4.14 **Question 5: Is the Government's objective of aiding the delivery of small scale housing sites and expanding the self build housing market supported by:**

- **the introduction of a 10-unit and 1000 square metres gross floor space threshold for section 106 affordable housing contributions; and**
- **the exclusion of domestic extensions and annexes from section 106 affordable housing contributions?**

Bracknell Forest Council would not be significantly affected by this measure as our current threshold for affordable housing is 15 units net increase. It will

have more significant impacts for those authorities where a large proportion of overall housing comes from small sites. In these areas it will significantly hamper the authorities' ability to satisfy the Government requirement for them to plan to meet their full objectively assessed needs for market and affordable housing (NPPF paragraph 47).

4.15 **Question 6: Should the proposed exemption apply beyond affordable housing to other tariff style contributions based on standard formulae?**

No evidence is provided in the consultation to indicate that such developments are less able to contribute towards the mitigation of their impacts nor that the level of their impacts on local infrastructure is any different to non self-build development. The only justification for this proposed measure is that it would be consistent with the recent change to exempt self-build homes from CIL liability. However, if the Government wishes to support such developers there are more appropriate "carrots" to offer such as tax relief.

4.16 **Question 7: We would like your views on the impact on the Government's policy objectives to incentivise brownfield development through proposed national policy change. This would reduce the financial burden on developers by requiring that affordable housing contributions should not be sought where buildings are brought back into any use – other than proportionately for any increase in floor space.**

Part of the Government's justification for this measure is that it assumes that buildings being brought back into use have a reduced impact on local infrastructure. This is not accepted, and no evidence is provided to support this assumption. In particular, the re-use of non-residential buildings for residential purposes is likely to have an impact on the capacity of such things as local schools, health facilities, community facilities, open spaces, cultural facilities and play areas.

Where S106 or other requirements make a development unviable, developers already have the option of submitting viability information to justify reduced affordable housing provision. This measure is not, therefore, necessary and is another measure that acts against the NPPF requirement for authorities to plan to meet their full objectively assessed need for market and affordable housing.

5 ALTERNATIVE OPTIONS CONSIDERED

5.1 Not applicable.

6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

6.1 Borough Solicitor
Not applicable.

6.2 Borough Treasurer
Not applicable.

- 6.3 Equalities Impact Assessment
Not applicable.
- 6.4 Strategic Risk Management Issues
Not applicable.
- 6.5 Other Officers
Not applicable.

7 CONSULTATION

- 7.1 Not applicable.

Background Papers

Planning Performance and Planning Contributions Consultation (*published by the Department for Communities and Local Government March 2014*)

Contact for further information

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