

**Report to: Governance Select  
Committee**

**Date of Meeting: 5 April 2016**



**Portfolio:** Governance and Development Management (Councillor J. Philip)

**Subject:** Response to “Technical Consultation on Implementation of Planning Changes” consultation

**Officer contact for further information:** Nigel Richardson (01992 564110)

**Democratic Services Officer:** Mark Jenkins (01992 564607)

**Recommendations/Decisions Required:**

To consider and agree the proposed responses to the questions set in the Government’s consultation paper entitled “Technical Consultation on Implementation of Planning Changes”.

**Report:**

1. The 64 page consultation is seeking views on the proposed approach to implementation of measures in the Housing and Planning Bill and other planning measures. The Government is setting out proposals in the following areas:

Changes to planning application fees;

Permission in principle;

Brownfield Register;

Small sites register;

Neighbourhood Planning;

Local Plans;

Expanding the approach to planning performance;

Testing competition in the processing of planning applications;

Information about financial benefits;

Section 106 dispute resolution;

Permitted Development rights for state-funded schools;

Changes to statutory consultation on planning applications.

2. The consultation period commenced on 18 February 2015 and concludes at midday 15 April 2016. There are twelve chapters contained within the consultation paper - 77 questions in all, though only inviting comment on consultation proposals which are most relevant to them. For the purposes of this committee's consideration and remit, this disregards the two chapters in respect of the Neighbourhood Planning (Chapter 5) and Local Plans (Chapter 6) as this is a matter for the Planning Policy Section in The Neighbourhoods Directorate. Officers suggested response to the relevant questions will be presented at the committee meeting and Members of this Committee have previously been sent a link by Democratic Services to the consultation document containing the questions - <https://www.gov.uk/government/consultations/implementation-of-planning-changes-technical-consultation>.

3. In summary, the key issues for consideration by this committee are:

- a. (Chapter 1,) The Government proposes that the national fee schedule for planning applications would be increased in line with the rate of inflation since the last increase in fees in 2012. This has been heralded in the Housing and Planning Bill, and would need to be the subject of secondary legislation. Therefore this provision would be unlikely to be brought into effect until Autumn 2016 at the earliest. Future adjustments would be made on an annual basis if required to maintain fee levels relative to inflation. As there is consistent evidence that the income from planning fees does not cover the costs of delivering the planning application service, the proposed increase to fees is welcomed. However, the Government proposes that the fee increase will only apply to local planning authorities who are performing well. The consultation document does not specify the exact means of selecting the authorities who are not 'performing well'.

However, the consultation is also clear that increases in fees should go hand-in-hand with the provision of more effective services, including the introduction of a "fast-track" services whereby applicants could pay a higher fee for a faster service. It is being suggested that any increases in fees would not apply to authorities designated as being under performing. Suggested approaches to this include:

- No fee increases for authorities under-performing on statutory targets for the handling of major applications - Epping Forest District would not fall within this category,

- Fee increases being applied to only those in the top 75% of authorities for quality and speed of decision making – this evidence does not appear to be readily available so it is not possible to confirm whether Epping Forest District is in the top 75%,
- Where an authority is not eligible for the increase the pre-existing fee would apply until performance improves and the fees are next revised,

As the Government have increased the threshold in July 2015 and are proposing to make further changes in this Consultation (see commentary on Chapter 7 below), there are continued risks and pressures to achieve the increasingly higher standards for Council's to strive for, and therefore could be at risk from being ineligible for any increase in fees.

- b. (Chapter 2) A new planning permission "in principle" route for obtaining planning permission for residential led development, that separates initial in-principle issues from later to be approved technical detail. Two alternative processes permission in principle: either, 1) through a qualifying document (Local Plan, Neighbourhood Plan, Brownfield Register) for a maximum of 5 years or, by 2) making an application where the consultation suggests an option of 1 or 3 year permission but 5 weeks only for determination. Whatever the choice of "in-principle", the later to be submitted technical detail consent shall be an application only, giving 5 weeks (Minor) to 10 weeks (Major) for determination, granted for 3 years and cannot re-open the "in principle" permission. The aim is to give greater certainty and predictability by ensuring that the principle of development only needs to be established once.
- c. (Chapter 3) Brownfield Registers are proposed and are one of the qualifying documents to grant Permission in Principle and would comprise a list of brownfield sites that are suitable for housing including mixed housing led schemes. An up to date Strategic Housing Land Availability Assessment (SHLAA) should form a starting point and the criteria be that the site is available, capable of supporting 5 or more dwellings or more than 0.25 hectares. Only sites with no realistic prospect of being suitable for new housing should be rejected.
- d. (Chapter 4) Small Sites Register for sites of 1-4 house plots in size to be kept and published by Council's, which would allow and assist self-build and custom-build houses to enter the development market and encourage land-owners to offer their land for development. An applicant will still need to apply for planning permission. It is proposed that no suitability assessment be required for a site to be included on the list.
- e. (Chapter 5) A number of changes are being proposed the neighbourhood planning process to amend timescales for the consideration of neighbourhood forums and the period of time between examiners report and the eventual adoption of a neighbourhood plan after a successful referendum.
- f. (Chapter 6) The Government is committed to a plan led approach to provide

certainty to both residents and developers in meeting housing need. However, they are concerned about the shortfall between the homes needed and those delivered and in the Housing and Planning Bill they propose to increase the powers of intervention for the Secretary of State. It is therefore proposed that the Government will intervene where plans have not been progressed or been kept up to date. In particular they will focus intervention where there are significant housing pressures. The criteria for intervention will be based on a local authorities Local Development Scheme setting out their plan making timetable. These will be reviewed by Government every six months and a league table published.

- g. (Chapter 7) The consultation seeks views on expanding the approach to planning performance. For major category development, the speed of decisions threshold has already been raised to 50% made on time but whilst this is to be kept under review, it is proposed to reduce the threshold from 20% to no more than 10% of Major applications overturned at appeal, otherwise the Council becomes designated. There is though a proposed threshold at which Council's would become liable to "designation" (applicant having the option to apply direct to the Planning Inspectorate rather than the Council) where they fail to determine 60 to 70% of applications on time over a rolling two year assessment period and have had more than 10-20% of their decisions overturned at appeal for non-major applications (changes of use, householder, 1-9 dwelling development etc).
- h. (Chapter 8) Whilst the Council would still make the final decision on planning applications, the consultation proposes introducing competition in the processing of planning applications. A pilot is proposed in a number of specific geographic areas for a limited time, whereby a planning applicant would be able to apply either to the Council or to an "approved provider" to process it (validating, consultation, s.106 negotiation, issuing of a report with a recommendation) and the Council would have to make a decision within 1-2 weeks of receipt of the approved provider's report and recommendation. This, if approved, would require considerable change to the scheme of delegation of deciding planning applications for most Council's, including Epping Forest.
- i. (Chapter 9) Local finance considerations may now be cited for information in committee reports (even where they are no material to the decision) but the Government are concerned that they are not always in the case of larger significant or controversial applications. The consultation queries which other local financial benefits should be listed - Council tax revenue, business rate revenue, section 106 payments, new homes bonus, community infrastructure levy etc.
- j. (Chapter 10) Section 106 dispute resolution to apply to all planning applications where there are unresolved issues to such agreements after 8/13/16 week statutory timeframes and undertaken by an independent body on behalf of the Secretary of State.

- k. (Chapter 11) Increase permitted development rights for state-funded schools:- temporary use of any property for such a purpose extending from 1 to 2 academic years, increase extensions from 100 to 250m<sup>2</sup>.
  - l. (Chapter 12) Changes to Statutory Consultation on planning applications - where a statutory consultee requests a longer period to respond beyond the normal 21 days, that period shall be no longer than 14 days.
4. Officers propose to write a response to most of the questions posed in the consultation in respect of the broad reaching proposed changes to national planning policy, a draft of which will be available at the meeting. This report has been prepared to make Members aware of the consultation and the opportunity for the Committee to input and agree the response before Officers reply.