

APPENDIX ONE

London Borough of Bromley

Appendix to report to Development Control Committee 19th April 2016: **TECHNICAL CONSULTATIONS ON CHANGES TO THE PLANNING SYSTEM**

Proposed responses to consultation questions:

1) Technical consultation on implementation of planning changes

Chapter 1: Changes to planning application fees

Question 1.1: Do you agree with our proposal to adjust planning fees in line with inflation, but only in areas where the local planning authority is performing well? If not what alternative would you suggest?

Planning fees should be increased in line with inflation so as to more effectively reflect the cost of providing the planning service. Awarding increases only where the LPA is performing well could have a further negative impact on LPAs who are already under performing as a result of existing budgetary constraints, given that it is accepted that planning application fees do not cover the cost of running the planning service in most cases. This would be self-defeating. It may be more appropriate to award additional funding to LPAs who are performing well or improving their performance instead.

Question 1.2: Do you agree that national fee changes should not apply where a local planning authority is designated as under-performing, or would you propose an alternative means of linking fees to performance? And should there be a delay before any change of this type is applied?

See answer to 1.1 above. There should be a delay if this change is applied to allow underperforming LPAs an opportunity to improve.

Question 1.3: Do you agree that additional flexibility over planning application fees should be allowed through deals, in return for higher standards of service or radical proposals for reform?

No, this would complicate fee arrangements for applicants and the speed of decision making is not the only measure of the quality of that decision and whether it is the right decision. Fast track arrangements would create a two tier planning service which would be undesirable, disadvantaging those who were unable to pay more. It would be preferable to ensure a consistent, reliable and timely service at a single level for all LPAs.

Question 1.4: Do you have a view on how any fast-track services could best operate, or on other options for radical service improvement?

There are already examples of this in LPAs and it should be left to the LPA to decide whether or not to provide such a service as it will understand its customer base the best.

Question 1.5: Do you have any other comments on these proposals, including the impact on business and other users of the system?

A significant proportion of time involved in the planning application process is during consultation periods. These should not be shortened as they are at the heart of the planning system. Often delays in determining planning applications are due to the submission of revised documents by the applicant in response to consultation responses, it would not necessarily be desirable to remove this opportunity simply to increase the speed of decisions.

Dissatisfaction levels with LPAs seem to relate more often to not receiving a positive decision than the speed of the service.

Chapter 2: Permission in principle

Question 2.1: Do you agree that the following should be qualifying documents capable of granting permission in principle?

- a) future local plans;
- b) future neighbourhood plans;
- c) brownfield registers.

Yes, although it is questionable whether there is a need to replace the current ability to apply for outline permission alongside site allocation and land designation in the Local Plan which appear to serve the same purpose. It is also difficult to see what real advantages this proposal has over the current system given the complexities and cost of introducing a new permission system such as proposed.

Question 2.2: Do you agree that permission in principle on application should be available to minor development?

No, the outline application process gives adequate opportunity for this to be established and details are more important where a site is smaller where it would be beneficial to understand the precise nature of how the development will affect local people.

Question 2.3: Do you agree that location, uses and amount of residential development should constitute 'in principle matters' that must be included in a permission in principle? Do you think any other matter should be included?

Yes, these are essential basic elements which would be required.

Question 2.4: Do you have views on how best to ensure that the parameters of the technical details that need to be agreed are described at the permission in principle stage?

Use of the current outline planning permission arrangements would ensure that any permission for a site is based on up to date relevant information and the proper required consultations are carried out

Question 2.5: Do you have views on our suggested approach to a) Environmental Impact Assessment, b) Habitats Directive or c) other sensitive sites?

No

Question 2.6: Do you agree with our proposals for community and other involvement?

The proposals for involvement of others would appear to reduce involvement compared to the current outline planning permission arrangements and this could result in inappropriate designations.

Question 2.7: Do you agree with our proposals for information requirements?

No, in respect of the permission in principle this is insufficient information to make a decision about the principle of developing land. The LPA should have more control over what is or can be required in each case or this is likely to result in harmful and inappropriate 'permissions in principle' In respect of the technical details this would also seem to be lacking in appropriate detail to make a proper assessment of a proposal. These proposals are likely to undermine public confidence in the planning system by substantially reducing the control LPAs have over development.

Question 2.8: Do you have any views about the fee that should be set for a) a permission in principle application and b) a technical details consent application?

No

Question 2.9: Do you agree with our proposals for the expiry of on permission in principle on allocation and application? Do you have any views about whether we should allow for local variation to the duration of permission in principle?

Yes

Question 2.10: Do you agree with our proposals for the maximum determination periods for a) permission in principle minor applications, and b) technical details consent for minor and major sites?

No in both cases - unnecessarily shortening determination periods compared to current planning application targets will lead to decisions being rushed and potentially not properly considered. For example, the proposed 5 week period may not provide enough time for an application to be considered by a planning committee taking into account consultation and lead in periods.

Chapter 3: Brownfield register

Question 3.1: Do you agree with our proposals for identifying potential sites? Are there other sources of information that we should highlight?

Question 3.2: Do you agree with our proposed criteria for assessing suitable sites? Are there other factors which you think should be considered?

Question 3.3: Do you have any views on our suggested approach for addressing the requirements of Environmental Impact Assessment and Habitats Directives?

Question 3.4: Do you agree with our views on the application of the Strategic Environment Assessment Directive? Could the Department provide assistance in order to make any applicable requirements easier to meet?

Question 3.5: Do you agree with our proposals on publicity and consultation requirements?

Question 3.6: Do you agree with the specific information we are proposing to require for each site?

Question 3.7: Do you have any suggestions about how the data could be standardised and published in a transparent manner?

Question 3.8: Do you agree with our proposed approach for keeping data up-to-date?

Question 3.9: Do our proposals to drive progress provide a strong enough incentive to ensure the most effective use of local brownfield registers and permission in principle?

Question 3.10: Are there further specific measures we should consider where local authorities fail to make sufficient progress, both in advance of 2020 and thereafter?

Chapter 4: Small sites register

Question 4.1: Do you agree that for the small sites register, small sites should be between one and four plots in size?

Question 4.2: Do you agree that sites should just be entered on the small sites register when a local authority is aware of them without any need for a suitability assessment?

Question 4.3: Are there any categories of land which we should automatically exclude from the register? If so what are they?

Question 4.4: Do you agree that location, size and contact details will be sufficient to make the small sites register useful? If not what additional information should be required?

Chapter 5: Neighbourhood planning

Question 5.1: Do you support our proposals for the circumstances in which a local planning authority must designate all of the neighbourhood area applied for?

Question 5.2: Do you agree with the proposed time periods for a local planning authority to designate a neighbourhood forum?

Question 5.3: Do you agree with the proposed time period for the local planning authority to decide whether to send a plan or Order to referendum?

Question 5.4: Do you agree with the suggested persons to be notified and invited to make representations when a local planning authority's proposed decision differs from the recommendation of the examiner?

Question 5.5: Do you agree with the proposed time periods where a local planning authority seeks further representations and makes a final decision?

Question 5.6: Do you agree with the proposed time period within which a referendum must be held?

Question 5.7: Do you agree with the time period by which a neighbourhood plan or Order should be made following a successful referendum?

Question 5.8: What other measures could speed up or simplify the neighbourhood planning process?

Question 5.9: Do you agree with the proposed procedure to be followed where the Secretary of State may intervene to decide whether a neighbourhood plan or Order should be put to a referendum?

Question 5.10: Do you agree that local planning authorities must notify and invite representations from designated neighbourhood forums where they consider they may have an interest in the preparation of a local plan?

Chapter 6: Local plans

Question 6.1: Do you agree with our proposed criteria for prioritising intervention in local plans?

Yes – a combination of timeliness of preparation and track record in housing completions.

Question 6.2: Do you agree that decisions on prioritising intervention to arrange for a local plan to be written should take into consideration a) collaborative and strategic plan-making and b) neighbourhood planning?

Question 6.3: Are there any other factors that you think the government should take into consideration?

Yes – the existence and function of the London Plan.

Question 6.4: Do you agree that the Secretary of State should take exceptional circumstances submitted by local planning authorities into account when considering intervention?

Yes

Question 6.5: Is there any other information you think we should publish alongside what is stated above?

No

Question 6.6: Do you agree that the proposed information should be published on a six monthly basis?

Yes, that is a reasonable update period.

Chapter 7: Expanding the approach to planning performance

Question 7.1: Do you agree that the threshold for designations involving applications for non-major development should be set initially at between 60-70% of decisions made on time, and between 10-20% of decisions overturned at appeal? If so what specific thresholds would you suggest?

Yes, these are thresholds that would ensure reasonable performance although the latter for decisions overturned at appeal should be over 20%.

Question 7.2: Do you agree that the threshold for designations based on the quality of decisions on applications for major development should be reduced to 10% of decisions overturned at appeal?

No, in light of the low number of major applications received by some LPAs this would be an unfair proportion to expect.

Question 7.3: Do you agree with our proposed approach to designation and de-designation, and in particular

Yes

(a) that the general approach should be the same for applications involving major and non-major development?

Yes

(b) performance in handling applications for major and non-major development should be assessed separately?

Yes

(c) in considering exceptional circumstances, we should take into account the extent to which any appeals involve decisions which authorities considered to be in line with an up-to-date plan, prior to confirming any designations based on the quality of decisions?

Yes

Question 7.4: Do you agree that the option to apply directly to the Secretary of State should not apply to applications for householder developments?

Yes

Chapter 8: Testing competition in the processing of planning applications

Question 8.1: Who should be able to compete for the processing of planning applications and which applications could they compete for?

Planning is not similar to Building Control as planning decisions involve subjective judgement on the application of policies and as well as the inevitable risk of conflicts of interest, public faith in the system would potentially be undermined by the introduction of competition. Building Control has a clear customer (the developer) whereas planning exists to serve the whole community. There are suitable options available to LPAs already as to how to run their service and the measures proposed to improve performance would remove the need to introduce this risky proposal and undermine the principles of the planning system.

Question 8.2: How should fee setting in competition test areas operate?

National fees should apply. The proposals here are in direct conflict with the information set out in paragraph 1.6 of the consultation document which sets out why fee setting would not be advantageous. There would also be a need for the fee to be split since the LPA would still be making the decision on the application.

Question 8.3: What should applicants, approved providers and local planning authorities in test areas be able to?

If the proposal is taken forward, only elements of work which do not involve professional judgement should be carried out by third parties to protect the high level of integrity of the decision making process for planning applications.

Question 8.4: Do you have a view on how we could maintain appropriate high standards and performance during the testing of competition?

The proposal is likely to over complicate and slow down the planning application process as applications would need to be transferred between organisations. These proposals would also make Councillor involvement during the application process more difficult.

Third parties would be incentivised to recommend approval for their customers and this would make assessing applications in the proper way very difficult for the LPA.

The proposals would also make investigation of problems with decisions more difficult and there would be questions as to who would carry out certain roles, for example accompanying a Councillor on a site visit or making a decision about whether to decline to determine an application under Section 70A of the Town and Country Planning Act if the LPA is not aware of the application until it is ready to be determined.

There are also questions over how the public register of applications will operate (for example when revised plans are submitted) and whether these responsibilities will be transferred to the third party organisation.

There is also a question of whether the powers of the Local Government Ombudsman would apply to third party organisations since they may be responsible for or have contributed to maladministration. Also it is not clear how the responsibility would be defined if a decision is subject to a judicial review.

It would seem difficult to maintain appropriate high standards and performance with such a proposal and it would be best avoided.

Question 8.5: What information would need to be shared between approved providers and local planning authorities, and what safeguards are needed to protect information?

See 8.4 above, this would serve only to complicate the planning application process at a time when expectations are that it should be faster. It would be complicated and difficult to achieve this in a satisfactory manner given the responsibilities of the LPA (eg public register of applications, freedom of information responses, Member call-in powers, discretionary powers under planning acts as to how to deal with applications)

Question 8.6: Do you have any other comments on these proposals, including the impact on business and other users of the system?

See 8.4 and 8.5 but it is difficult to see any significant benefits of this proposal and it would be preferable to continue with improvements to services using designation and reward criteria.

Chapter 9: Information about financial benefits

Question 9.1: Do you agree with these proposals for the range of benefits to be listed in planning reports?

No, in general this will complicate the process of dealing with applications and potentially cause delays since the information will not be held by the LPA. It is however appropriate for s106 benefits to be listed since these are directly relevant to the planning decision.

Question 9.2: Do you agree with these proposals for the information to be recorded, and are there any other matters that we should consider when preparing regulations to implement this measure?

See 9.1 above

Chapter 10: Section 106 dispute resolution

Question 10.1: Do you agree that the dispute resolution procedure should be able to apply to any planning application?

Yes, this would be a good idea to speed up the s106 process.

Question 10.2: Do you agree with the proposals about when a request for dispute resolution can be made?

Yes

Question 10.3: Do you agree with the proposals about what should be contained in a request?

Yes

Question 10.4: Do you consider that another party to the section 106 agreement should be able to refer the matter for dispute resolution? If yes, should this be with the agreement of both the main parties?

Yes, and no since the issue they have may be with one or other of the main parties.

Question 10.5: Do you agree that two weeks would be sufficient for the cooling off period?

Yes

Question 10.6: What qualifications and experience do you consider the appointed person should have to enable them to be credible?

A member of the Royal Town Planning Institute or the relevant section of the Royal Institute of Chartered Surveyors and / or legally qualified.

Question 10.7: Do you agree with the proposals for sharing fees? If not, what alternative arrangement would you support?

No, the applicant should bear the cost of resolution proceedings.

Question 10.8: Do you have any comments on how long the appointed person should have to produce their report?

No

Question 10.9: What matters do you think should and should not be taken into account by the appointed person?

No comment

Question 10.10: Do you agree that the appointed person's report should be published on the local authority's website? Do you agree that there should be a mechanism for errors in the appointed person's report to be corrected by request?

Yes, and yes

Question 10.11: Do you have any comments about how long there should be following the dispute resolution process for a) completing any section 106 obligations and b) determining the planning application?

No

Question 10.12: Are there any cases or circumstances where the consequences of the report, as set out in the Bill, should not apply?

No

Question 10.13: What limitations do you consider appropriate, following the publication of the appointed person's report, to restrict the use of other obligations?

No comment

Question 10.14: Are there any other steps that you consider that parties should be required to take in connection with the appointed person's report and are there any other matters that we should consider when preparing regulations to implement the dispute resolution process?

No

Chapter 11: Permitted development rights for state-funded schools

Question 11.1: Do you have any views on our proposals to extend permitted development rights for state-funded schools, or whether other changes should be made? For example, should changes be made to the thresholds within which school buildings can be extended?

In general, the support for schools is welcomed, however there are particular issues around transport for all school sites and any permitted development rights should include a basic approval in respect of highway safety from the LPA.

Question 11.2: Do you consider that the existing prior approval provisions are adequate? Do you consider that other local impacts arise which should be considered in designing the right?

There should be control over impacts on highway safety

Section 12: Changes to statutory consultation on planning applications

Question 12.3: What are the benefits and/or risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond with comments to a planning application?

There is a risk to determining a planning application without a response from a statutory consultee that will relate to their special interest and could result in a harmful form of development being permitted.

Question 12.4: Where an extension of time to respond is requested by a statutory consultee, what do you consider should be the maximum additional time allowed? Please provide details.

14 days – this could impact on LPA performance.

Chapter 13: Public Sector Equality Duty

Question 13.1: Do you have any views about the implications of our proposed changes on people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter? Is there anything that could be done to mitigate any impact identified?

No comments

Question 13.2 Do you have any other suggestions or comments on the proposals set out in this consultation document?

In general measures to help LPAs achieve their objectives are welcomed, however many of the measures set out in this consultation are over complicated and not properly considered. LPAs are already suffering from funding issues and implementing some of the proposals such as permissions in principle will serve to impact further on already diminished resources. It would be better to help LPAs concentrate on producing up to date Local Plans and determine applications with the appropriate balance of speed and quality in the current planning application and development plan framework rather than trying to introduce new processes so frequently.

APPENDIX TWO

London Borough of Bromley

Appendix Two to report to Development Control Committee 19th April 2016:

TECHNICAL CONSULTATIONS ON CHANGES TO THE PLANNING SYSTEM

Proposed responses to consultation questions:

2) Consultation on upward extensions in London

Question 1: Would greater freedom to build upwards on existing premises be a viable option to increase housing supply while protecting London's open spaces?

No

Why do you think so?

Because developers are already able to apply for permission for such development and it is permitted where it is appropriate, therefore the proposal would be only likely to facilitate such development in inappropriate circumstances by avoiding proper consideration through the planning application process. The majority of opportunities where this is appropriate and possible are likely to have already been developed so the proposal is unlikely to add significantly to housing supply.

Question 2: Do you agree with the proposal for a London permitted development right with prior approval, allowing the addition of new housing units where the extension is no higher than the height of an adjoining roofline, and no more than two storeys, to support delivery of additional homes in the capital?

No, however if such a proposal is taken forward new homes should be required to meet the national minimum space standard.

Question 3: Do you agree that the proposed options for neighbour consultation provide adequate opportunity for comment on development proposals for upward extensions?

The triggering of consideration by a Local Planning Authority only by the submission of a neighbour objection is a fundamentally flawed process which does not take into account a range of possible reasons as to why a neighbour might not object, including but not limited to the possibility that they are afraid of the applicant, or have been offered an incentive not to object. It will undermine the planning application process.

Question 4: What other measures could a London permitted development right contain to encourage applications for upward extensions to come forward? For example, would allowing additional physical works to provide for access,

or partial or full demolition and re-build up to the height of an adjoining roofline, incentivise building up? If so, would this raise additional considerations which should be taken into account?

This would raise a host of other issues that would be most appropriately dealt with via the planning application process as at present. There are few advantages to this proposed process.

Question 5: Do you agree that local development orders would be an effective means to promote upward extensions and contribute to the delivery of additional homes for London?

No

Question 6: What measures should a local development order contain to encourage proposals for upward extensions to come forward?

No comment

Question 7: We would welcome the views of London boroughs on whether they consider they would introduce local development orders for upward extensions, and what might encourage them to do so?

We would not be in favour of such proposals since the current planning application process where each application is considered on its merits allows the proper consideration of such proposals compared to this suggestion which could result in unsatisfactory and harmful development.

Question 8: Do you agree that proposals for a new London Plan policy supporting upward extensions would provide certainty and incentivise the development of additional housing in appropriate locations?

A policy background encouraging such extensions in appropriate circumstances would be a preferable option.

Question 9: What are your preferred option/s to support upward extensions to increase housing supply in London?

Through the development plan and planning application processes.

Question 10: Do you agree that premises in residential, office, retail and other high street uses would be suitable for upward extension to provide additional homes? Why do you think so?

These may be suitable, however it would be more appropriate to assess each site and proposal individually rather than provide generalised views since in some cases these may be inappropriate.

Question 11: Do you agree with the locations that should be excluded from a permitted development right listed in paragraph 3.3 above, and are there other areas where proposed upward extensions would be best managed through a planning application? Why do you think so?

Yes, and Conservation Areas should also be excluded given the level of protection that is expected within them through the planning system

Question 12: Do you agree with our proposed approach to protect conservation areas and protected views?

No, Conservation Areas should also be excluded given the level of protection that is expected within them through the planning system. This is a further example of unnecessarily complicating the development control system.

Question 13: Do you agree with our proposals that the property being extended upwards should share a wall with a higher property, or form part of a continuous terrace of premises being extended that shares a wall with a higher property? Why do you think so?

Yes, as this will limit the impact.

Question 14: Do you agree that for a permitted development right or London Plan policy a limit of two additional storeys is appropriate to manage the impact of upward development in any area?

Such development at up to two storeys is substantial and could have a severe impact on neighbouring properties which would be unassessed. If this is taken forwards care must be taken that architectural features such as on the corner of some properties do not set a height limit that results in a visually harmful upwards addition.

Question 15: Do you agree that a prior approval should consider the method and hours of construction?

Yes

Question 16: Have you any views on the likely costs and benefits of these proposals to deliver additional homes in the capital?

No

Question 17: Have you any views on the implications of the approaches to housing supply outlined above for people with protected characteristics as defined in the Equalities Act 2010? What evidence do you have on this matter?

No

Question 18: Are there any other points that you wish to make in response to this consultation, including other key components we have not considered that would be beneficial in taking the proposals forward, or any examples of upward extensions providing additional housing?

This proposal is unlikely to deliver any significant volume of dwellings given that where there are opportunities to build upwards in appropriate circumstances in a way that accords with development plan policy they have often already been taken. This proposal is only likely to facilitate more inappropriate development that has potential to be harmful to adjoining premises. It is a further complication of the planning

application process which will confuse the public and add to the administrative complications already being experienced by LPAs as a result of the wide range of prior approval processes already introduced. It isn't clear that the planning application system is what is preventing the development of upwards extensions in London.