



Report To: Planning Portfolio Holder
Lead Officer: Director - Planning and New Communities

9 September 2014

Government Technical Consultation on Planning

Purpose

1. To agree a response to the Government's wide-ranging consultation on reforming the planning system. The consultation addresses changes to planning processes including neighbourhood planning, permitted development rights, use of planning conditions, consultation with statutory consultees, environmental impact assessment thresholds and nationally significant infrastructure schemes.
2. This is not a key decision because it is responding to a government consultation, but it raises important issues related to planning policies in the Local Development Framework and Local Plan, Neighbourhood Planning and Development Management.

Recommendations

3. It is recommended that the portfolio holder agrees the response to the consultation set out in Appendix 1.

Reasons for Recommendations

4. This is an important and wide-ranging consultation, as the proposed changes will affect planning in South Cambridgeshire for 'town centre' uses, leisure, retail, employment and residential development, and the control the Council has over change of use. It also reviews the processes for Neighbourhood Planning and Nationally Significant Infrastructure. Some of these proposed changes could have significant implications for the district.

Background

5. The Government made a priority of reforming a planning system that it considered had become convoluted, confusing, expensive and in many cases ineffective. It has already introduced neighbourhood plans and provided revised and streamlined national policy guidance in the National Planning Policy Framework. In 2013 Government made changes to the permitted development process to allow greater flexibilities for development to change use without needing planning permission. It now proposes to build on these reforms by expanding permitted development, together with a number of other more wide-ranging changes to planning procedures.
6. The Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995 (as amended) allow change of use between land uses that have similar impacts, without the need to apply for planning permission.

7. A series of changes made in 2013 provide greater flexibility for certain employment uses, and allow change of use of office premises (B1(a)) to residential use (C3) for a three year period using a prior approval process, as well as greater flexibility to re-use redundant agricultural buildings for employment purposes. Later in 2013 the Government introduced further flexibilities between use classes to support change of use from certain agricultural and retail uses to residential.
8. The Government is currently consulting on a number of further changes to the Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995, as well as a number of other more wide-ranging changes to the planning process:
 - Making it easier for residents and businesses to produce a Neighbourhood Plan or Neighbourhood Development Order.
 - Proposals to expand Permitted Development Rights to support housing, high streets and growth.
 - Proposals aimed at improving the use of planning conditions and enabling development to start more quickly once permission is granted.
 - Improving engagement with statutory consultees.
 - Raising the screening threshold for Environmental Impact Assessment for industrial estates and urban developments located outside sensitive areas.
 - Making improvements to the Nationally Significant Infrastructure planning regime.

Considerations

9. The following section outlines the main issues for South Cambridgeshire arising from the 'Technical Consultation on Planning' document, and summarises the proposed response:

Neighbourhood Planning:

- Proposal to introduce a statutory time limit of 10 weeks for local planning authorities to make a decision on whether to designate a neighbourhood area.

This timescale would be challenging considering the preparatory work necessary for undertaking consultation, the statutory minimum period of 6 weeks for undertaking consultation, allowing time for considering responses and reporting to the Portfolio Holder for decision. As a result the Council would like this period to be more flexible or extended.

- Removing the current statutory requirement for undertaking a minimum of 6 weeks pre-submission consultation and introducing a new statutory requirement to test the extent of consultation during the preparation of a Neighbourhood Plan or Order.

It is recommended that the Council supports this approach, as it should provide greater flexibility for groups preparing neighbourhood plans to undertake consultation that is proportionate to the nature and scale of the proposals within their plan, whilst the new 'test' will ensure adequate consultation is undertaken.

Reducing planning regulations to support housing, high streets and growth:

- Allowing change of use from light industrial buildings (B1(c)) and storage and distribution buildings (B8) to residential (C3) and making permanent the permitted development right allowing change of use from office (B1(a)) to residential (C3) from May 2016.

The Council previously objected (in 2013) to the Government's proposal allowing temporary permitted development right to change from offices to residential. Concerns remain about the loss of employment in villages. The Council's adopted Local Development Framework seeks to protect employment land, and a similar policy is included in the submitted Local Plan. The changes proposed undermine the Council's ability to assess the impact of the proposed loss of employment uses in individual circumstances against the policy tests, and if appropriate to resist their loss. The addition of a prior approval test to consider loss of the most strategically important office accommodation would be a positive improvement.

There are also concerns over the suitability of extending the permitted development rights to light industrial uses and storage and distribution buildings, in particular regarding the suitability of the buildings for conversion and potential impacts on remaining neighbouring uses. The prior approval scheme only allows consideration of flooding, transport, contamination and noise. A further consideration of impact of a residential use being introduced into an existing industrial / employment area is being proposed. This would be vital.

- Making permanent the permitted development right allowing larger extensions to dwellings.

The Council has received 53 prior approval applications through the neighbour consultation scheme. However, the cumulative impacts overtime has yet to be seen. A key concern is the increased level of complexity the prior approval scheme has introduced, with variations in the tests that can be applied to different types of development.

- The Government seeks to provide increased flexibilities on the high street by making amendments to the permitted development order:
 - Combining the existing A1 (shops) and A2 (financial and professional services) use classes and introducing a new A2 use class for betting shops and pay day loan shops.
 - Allowing change of use to the new wider A1 (retail) use from A2 (betting shops and payday loans), A3 (restaurants and cafes), A4 (drinking establishments) and A5 (hot food takeaways) use classes.
 - Allowing change of use from the existing A1 (shops) and A2 (financial and professional services) and some 'sui generis' uses to restaurants and cafes (A3).
 - Allowing change of use from A1 (shops), A2 (financial and professional services) and some 'sui generis' uses to assembly and leisure (D2).

The principle of increasing flexibility to help the high street is supported. However, the impact on villages may be greater than urban areas, particularly in villages with only one of two convenience stores meeting local needs. The Council's Development Plans have sought to protect vital village shops and

these proposals may undermine the Council's ability to do so. Government needs to consider what can be done to protect and support village shops.

- The Government wants to enable high street retailers to improve their retail offer, building on the existing permitted development rights to allow them to create space for 'click and collect' services and increase the size of mezzanine floors.

The Council supports, in principle, measures to help shops compete with on-line retailers if it aids their viability and helps provide an increasingly valuable local service. However, the prior approval is too narrow, and does not address impact on available car parking, traffic generation, disturbance, or impact on residential amenity.

- Introduce a new permitted development right to support installation of photovoltaic panels on non-domestic buildings with a capacity up to one megawatt.

Support in principle, proposals to help address climate change, but the prior approval process should consider appearance as well as siting and design.

- Making permanent the permitted development right allowing larger extensions to businesses.

Support the principle of enabling businesses to meet their aspirations. However, in a rural area business premises in villages need to be carefully controlled to minimise adverse impacts on their rural communities. This is not proposed as a prior approval process, therefore there is potential for residential amenity or other impacts to take place without being tested.

Improving the use of planning conditions:

- The Government considers Local Planning Authorities use too many conditions, and there are delays in their discharge. The Government proposes changes to ensure timely discharge of conditions, including 'deemed discharge' where after six weeks of seeking discharge of a condition, an applicant can serve notice on the council, giving them two weeks to determine or it will be deemed discharged. It proposes that it would not apply to some key issues, such as flood risk.

The Council uses planning conditions only where necessary, and seeks to work cooperatively with applicants to deliver the best outcome and this change should not alter this. The use of conditions is often helpful for applicants, allowing them the certainty of a decision before addressing some detailed matters. The discharge of conditions is reliant upon receiving sufficient quality of submissions and, instead of speeding up the process, there is a risk that changes may lead to delays and in certain instances more refusals of planning applications and appeals. If implemented it should not apply to conditions that are key to safety or environmental impact, such as flood risk management.

- In addition, Government proposes sharing draft conditions with applicants for major developments before a decision is made.

The Council already undertakes this practice and there are benefits to all parties in doing so. However, the Council is concerned that imposing a

specific regulation may be counter productive and may actually cause delays in cases where consents could be issued more quickly.

Planning application process improvements:

- Changes to statutory consultee involvement in the planning application process to tackle unnecessary consultation.

The intention to ensure statutory consultees are only consulted where necessary is supported. However, the proposal for some consultees to only be involved at initial stages should be used with caution, as proposals can change significantly later in the planning process.

- The Government is keen to improve the information it has about the total time it takes for developments to be delivered.

This would allow greater understanding of the time it takes to deliver development, including those parts of the process outside the Council's control, which would be welcomed. However, this may be more onerous on the Council in terms of monitoring planning applications.

Environmental Impact Assessment Thresholds:

- The Government is concerned that too many development proposals which are not likely to give rise to significant environmental effects are being subject to the more onerous requirements of the European Directive. It proposes to raise the screening threshold for urban development projects and industrial estate development outside sensitive areas.

Such amendments to thresholds could help to speed up the planning process.

10. A more detailed breakdown of all of the Government's proposed changes, together with an assessment of the potential impacts on South Cambridgeshire and a recommended response to the consultation is included in Appendix 1.

Options

11. Alternative options would be for the Council not to respond, but given the potential impact of the proposals this is not recommended. A further alternative would be to support the proposals, but given the potential issues that have been identified this is also not recommended.
12. The portfolio holder is recommended to agree the proposed response to the consultation outlined in Appendix 1.

Implications

13. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered:

Financial

14. Lower fee income to consider prior approval proposals compared to planning applications.

Legal

15. Potential impacts are highlighted in the appendix to the report.

Staffing

16. Potential impact as a result of reduced planning applications, but a prior approval scheme could also require staffing to implement.

Risk Management

17. A number of potential risks have been highlighted in the draft response.

Equality and Diversity

18. There could be inequitable impacts on people who do not have a car and end up living in housing in areas far from local facilities and infrastructure.

Climate Change

19. Potential impacts through residential development in unsustainable locations and loss of village shops, and through provision of solar panels on non-commercial properties.

Consultation responses (including from the Youth Council)

20. The Development Management and Partnerships Teams have been consulted in the preparation of the report.

Effect on Strategic Aims

Aim 3 - We will make sure that South Cambridgeshire continues to offer an outstanding quality of life for our residents

21. The changes could impact on how the Council is able to consider proposals for change of use of shops, and residential developments in rural areas.

Background Papers

The Government's Technical Consultation on Planning document can be viewed here:
<https://www.gov.uk/government/consultations/technical-consultation-on-planning>

The Government's consultation on change of use (August 2013) can be viewed here:
<https://www.gov.uk/government/consultations/greater-flexibilities-for-change-of-use>

Council's response to Government's consultation on change of use (September 2013):
<http://scamb.moderngov.co.uk/ieListDocuments.aspx?CId=1024&MId=6157&Ver=4>

The Government's consultation on change of use from commercial to residential (January 2013) <https://www.gov.uk/government/speeches/change-of-use-promoting-regeneration>

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