



## **Report to Cabinet**

**Subject:** Planning for a Sustainable Future (Planning White Paper) and Permitted Development Rights consultation

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## **Introduction**

1. The purpose of this paper is to outline the key issues raised by the recently published Planning White Paper and their implications for the Council. It will focus principally on the proposed changes to the Local Development Framework process, which will impact upon us most directly. Details of the accompanying consultation on proposed changes to Permitted Development Rights are also set out.

## **Background**

2. The Planning White Paper was published in May 2007 and draws together recommendations made in the Government commissioned Barker Review of Housing and Eddington Review of Transport. It sets out detailed proposals for further reform of the planning system, building on Barker's recommendations for improving the speed, responsiveness and efficiency of land use planning, and taking forward Barker's and Eddington's proposals for reform of major infrastructure planning.

## **White Paper - Summary of key Local Development Framework issues**

3. There are several proposals for changes to the Local Development Framework (LDF) process. First, in order to ensure that local development documents come forward more quickly, the Government proposes to use the Planning Delivery Grant (likely to be renamed Housing & Planning Delivery Grant), currently weighted towards Development Control achievement, to 'incentivise':
  - Progress in delivering LDFs;
  - Progress in achieving outcomes from policies set out in LDFs; and
  - Joint working between groups of local planning authorities.

4. Second, it is proposed that greater flexibility is allowed in the plan making process. This will chiefly involve changes to the existing three stage consultation process, doing away with the requirement to consult formally on the Council's Preferred Options (Stage Two) and introducing a single plan preparation and consultation period, to be structured as the Local Planning Authority (LPA) sees fit. LPAs will need to be able to show how they have involved and responded to the community during this plan preparation stage. The Government hopes that this will result in complex plans (e.g. the Core Strategy) taking no more than two years and the time taken to produce a simple Development Plan Document (DPD) being brought down to around a year.
5. Third, it is proposed that LPAs will carry out the final statutory consultation on the plan before submitting it for examination (rather than consulting simultaneously as at present). This will provide LPAs with scope to make last minute changes in response to new information, which is not currently possible.
6. Fourth, at present, if a plan is found to be unsound as a result of legal challenge, the LPA must go back to the beginning and start its production again. The White Paper proposes that, instead, the High Court might send a plan back to an earlier stage of the process, rather than having to start over again. It is unclear whether this same discretion will be given to Inspectors, who are also only able to send a plan back to its first stage at present.
7. The final point of relevance to the process side of the LDF is the proposal to remove the blanket need to undertake Sustainability Appraisals for all documents, focusing it instead on key DPDs. Thus, it is proposed that Appraisals will only be required for Supplementary Planning Documents (SPD) with significant social, economic or environmental effects not already addressed by higher level DPDs.
8. A change to the content of DPDs is also proposed. This is centred on the 'clarification' of the Test of Soundness on implementation. LPAs will be expected to demonstrate to Inspectors through each DPD how and when infrastructure that is required to facilitate development will be delivered, taking a strategic overview of need at the local level.
9. Finally, the White Paper also proposes changes to the number and type of plans that an LPA must produce. All LPAs must develop a Core Strategy, but it is at their own discretion that other DPDs are produced. It is now proposed that Site Allocation documents in particular may be merged with the Core Strategy, reducing the need to produce further detailed documents. Furthermore, at present, all Supplementary Planning Documents must be listed in the LPA's Local Development Scheme. The White Paper proposes that this requirement is removed, allowing LPAs to produce SPDs without recourse to central government and to enable them to respond more readily to local need.

10. It is also worth noting that the Planning White Paper reiterates moves set out in the Local Government White Paper, which are set to change the role of planning at local authority level. These are centred around ensuring a better alignment between the LDF and the Sustainable Community Strategy, and focusing on planning as a key delivery vehicle for Local Area Agreements. This reflects the aim of cementing further the role of Local Authorities as 'place shapers' (guidance on which is expected later in the year), a role that cannot be delivered without effective spatial planning. This move places spatial planning at the centre of Local Authority corporate and business planning, shifting its focus beyond just allocating land uses across the Borough.

### **White Paper - Implications for the Local Development Framework**

11. In the short-term the implications of these proposals are few as, in order to bring about several of these proposed changes, new legislation will be required along with revisions to existing regulations and national policy guidance relating to development plans. There will be further consultation on the specifics of a number of these proposals later in the year, so we will continue to operate under the current system for now.
12. In the meantime, the Council may wish to consider being more specific in the Core Strategy about its decisions over site allocations and will need to consider carefully, in discussion with key stakeholders, the infrastructure implications of proposed decisions. Beyond this, the Council will need to wait for the more detailed proposals that will be released for consultation later in the year. Overall, however, the proposed changes can be seen as being generally positive and providing a greater degree of flexibility in terms of what can be produced and how it is produced.

### **White Paper - Summary of key Development Control issues**

13. The White Paper also addresses matters relating to Development Control. First, it is proposed that Planning Performance Agreements are introduced for large projects (e.g. over 200 houses). These would be upfront agreements between a developer and an LPA that set out all the information required, and timetable needed for, delivering an application decision. A separate consultation process is underway on the detail of such proposals.
14. Second, it is proposed that planning fees be increased to enable local authorities to recover the full cost of determining planning applications. This will primarily affect large applications, although local authorities may be able to set their own fee structure.
15. Third, the White Paper sets out proposals for reducing the need for planning permission for minor developments, notably householder extensions. It is proposed that a new approach based around the impact of development upon others is introduced, which closes a current area of uncertainty. The fine details of these proposals are the subject of a concurrent consultation and are addressed in more detail below.

16. Fourth, proposals for streamlining the planning application process are mooted. These centre on:
- Simplification of the planning application regulations;
  - Allowing minor amendments to be made to planning permissions;
  - Unifying consent regimes (chiefly around listed building and conservation area consent);
  - Rationalising Tree Preservation Order rules;
  - Streamlining information requirements for applicants, including the introduction of a standard application form; and
  - Reducing Secretary of State involvement in casework.
17. Finally, improvements to the appeal system are proposed, focusing on improved resourcing and changes to the processes required for different types of appeal. Of particular interest here are proposals to establish Local Member Review Bodies, comprising a board of Councillors, which would determine minor appeals in each local authority area.

### **White Paper - Summary of other relevant issues**

18. The White Paper also highlights:
- Clear commitment to the principles of the Green Belt and an assurance that no fundamental changes will be made to planning policy currently set out in *Planning Policy Guidance Note 2: Green Belts*. Even so, there is an assertion that Green Belt boundaries should be reviewed as part of the LDF process.
  - The intention to review the current approach in *Planning Policy Statement 6: Planning for Town Centres*, with the aim of replacing the current need and impact tests for new development with a test focused on a 'town centre first policy'. Further consultation on these changes is expected later in the year.
  - Proposals for mechanisms to bring forward key national infrastructure projects. These are centred on the development of a clear national policy context for such projects and the introduction of an independent commission to take planning decisions in place of the existing multiple consent regimes. The impact upon Gedling from this proposal is likely to be minimal.

### **Permitted Development Rights consultation**

19. This consultation paper sets out the Government's proposals for changes to the planning system in relation to householder permitted development. The aims of these proposals are to:
- reduce the number of householder planning applications;

- improve the quality of householder developments which do not need permission;
  - make the regulations which control householder developments more user friendly.
20. The rationale for Government intervention is that some of the developments that currently require an application for planning permission may have no significant impacts. A considerable amount of time and resource is required by both the applicant and local authority officials to process such applications.
21. It is intended that the revised system would deliver a more permissive regime for householders than exists at present and remove the need for a planning application in many cases. It follows a separate consultation paper on proposals relating to the extension of permitted development to householder microgeneration.

### **Permitted Development Rights - General Issues for Householder Development**

22. A key recommendation from the Householder Development Consents Review was that future permitted development rights should be informed primarily by their potential impact on others, such as overshadowing. The planning system should not be there to regulate development that has no impact beyond the host property.
23. The existing householder permitted development rights already protect certain designated areas, such as conservation areas, and these restrictions would be retained. Given the protection afforded through the existing requirement for Listed Building Consent, the Government believes that the existing safeguards are adequate to protect the character of listed buildings from insensitive development.
24. Whilst the proposals generally provide for a more permissive system, some development such as overlarge dormer windows would cease to be permitted development. At present, compensation is payable for a period of 12 months, where a change to the General Permitted Development Order (GDPO) restricts what was previously permitted and a subsequent application is refused or granted subject to conditions.
25. Existing householder permitted development rights do not apply to flats and a further study will be undertaken on these issues.
26. Planning authorities may already restrict permitted development locally by means of an article 4 direction, although the use of this power is constrained currently by the possible need to pay compensation. To enable greater local flexibility, the Government is considering whether this process needs amending.

27. An additional possibility is to ensure that suitable safeguards are in place to protect against inappropriate development by making certain types of permitted development subject to a prior approval mechanism, such as already exists for types of telecommunication equipment.

### **Permitted Development Rights – Recommendations on Types of Householder Permitted Development**

28. Whilst no significant change is proposed to the permitted development rights in relation to boundaries, new accesses and exterior painting, substantial amendment is proposed for those types of development rights for dwellinghouses, with the exception of those in relation to porches and microwave antennas.
29. Two particular problems have been highlighted with the current approach. Firstly, extensions are currently restricted by setting limits in terms of volume. This sets a cumulative limit depending on the type of house and where it is located and places an artificial limit on the enlargement of larger properties, even if cumulative extensions beyond the current limit may not give rise to any problems. Secondly, if the rear of a property faces a highway, any rear extension within 20 metres requires an application for planning permission.
30. Roof extensions are the second most common type of householder development and are also controlled primarily by means of a volume based approach. However, evidence from the Local Government Ombudsman suggests that the current rights may allow roof development, such as overlarge dormers, with an unacceptably high impact.
31. As a consequence, there are a number of proposals for changes to the permitted limits for side and rear extensions in response to the problems identified, which would result in a more permissive regime. Conversely, the Government's proposals for roof extensions such as dormers would be more restrictive than at present.
32. With regard to other roof alterations such as solar panels, the Government proposes a maximum up stand of 150 millimetres, but does not intend to impose any maximum percentage roof coverage, except in designated areas.
33. For cartilage developments, such as garages and outbuildings, the Government again notes evidence from the Ombudsman about their size and use and proposes slightly more restrictive rights in terms of their height and site coverage. It is proposed that new limits are introduced for decking, terraces and balconies, although no restrictions are proposed for hard surface coverage.
34. A number of new definitions are also proposed to address some of the anomalies that the existing General Development Procedure Order throws up.

35. In summary, it is intended that the new guidelines would broadly increase the amount by which householders could extend their properties, particularly those with larger houses, but would also tighten up areas of the current regulations where undesirable developments, such as overlarge dormer extensions, are brought under control.
36. The benefits of these proposals are likely to be felt more strongly in rural areas or by the owners of larger properties. The additional restrictions on roof extensions are more likely to restrict development in urban areas.

### **Recommendation**

It is recommended that Cabinet note this report and delegate to the Portfolio Holder the authority to approve a response to the large number of detailed consultation questions posed in the White Paper and Permitted Development Rights paper.