

Contact Name: *Jan Debnam*

Tel No: *023 8028 5588*

E-mail: *jan.debnam@nfdc.gov.uk*

Date: *9 September 2014*

NOTIFICATION OF PORTFOLIO HOLDER DECISION

On 9 September 2014, Cllr Vickers, the Planning and Transportation Portfolio Holder, made the following decision. Any member of the Council, who is not a Portfolio Holder, who considers that this decision should be reviewed should give notice to the Monitoring Officer (Grainne O'Rourke) (in writing or by e-mail) to be received **ON OR BY TUESDAY 16 SEPTEMBER 2014**.

Details of the documents the Portfolio Holder considered are attached.

DECISION:

To respond to the Department of Communities and Local Government in respect of their consultation on changes to the planning system in the terms set out in the report considered by the Portfolio Holder

REASON(S):

As set out in the report considered by the Portfolio Holder.

ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

As set out in the report considered by the Portfolio Holder.

CONFLICTS OF INTEREST DECLARED:

None

For Further Information Please Contact:

David Groom
Development Control Manager
Tel: 023 8028 5345
E-mail: david.groom@nfdc.gov.uk

PLANNING AND TRANSPORTATION PORTFOLIO HOLDER DECISION – 9 SEPTEMBER 2014

NEW FOREST DISTRICT COUNCIL'S RESPONSE TO THE JULY 2014 CONSULTATION FROM GOVERNMENT (DCLG) - TECHNICAL CONSULTATION ON PLANNING

INTRODUCTION

This report and its appendices represent New Forest District Council's response to the Government's latest Technical Consultation on Planning.

This report contains brief comments on the most significant proposed changes and identifies the overall direction of travel in the proposed response.

- # A more detailed overview of the proposals is attached as Appendix One and the full Consultation can be accessed at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/339528/Technical_consultation_on_planning.pdf

- # The proposed response is attached as Appendix Two.

THE PROPOSALS

The most significant proposals are considered individually below under the following main topic headings.

Neighbourhood Planning

The consultation involves proposals to introduce time limits within which Local Planning Authorities must make decisions on applications regarding the designation of neighbourhood areas, changes to the pre-submission consultation and publicity processes and changes to the number and type of documents that must be submitted. The government's intent is to make it easier for communities and businesses to produce a plan.

Given the nature of the proposed changes and our lack of experience in terms of neighbourhood plan work this Council will not be responding to this part of the consultation.

Permitted Development

The consultation seeks views on further amendments to permitted development rights that would allow a lot more changes of use to become permitted development,

with some, but not all, having a prior notification procedure. It also considers making some of the current temporary extended permitted development rights (notably those regarding large rear extensions to dwellings and extensions to commercial premises) permanent. The stated intent is to promote growth, reduce red tape and make the planning system proportionate.

The proposed response in respect of further extensions to permitted development rights raises concerns as to the impact these proposals will have on the local economy and on town centres in terms of jobs and services. The response is written in the New Forest District context, in the knowledge of the vibrancy of our existing centres and of the views of parish and town councils as to how they must be protected, the amount of out-migration for employment that occurs, the shortage of employment land and the specific recently adopted policies that apply. It suggests that, whilst a different picture may well exist elsewhere, a one size fits all approach is not required, as the current planning system allows informed decisions to be made when proposals for changes of use are received. In particular, no dis-benefits are seen from the retention of the status quo, especially as few if any advantages would result from what is proposed. The need to achieve cost recovery for the local planning authority in terms of the fees set for such notifications is also stressed.

It is also considered that it is too early to make the current temporary permitted development rights (for extensions to dwellings and some changes of use) permanent, given the potential harm they can cause and the lack of benefits as compared to the normal planning application route. It also queries the savings and benefits that arise from the introduction of these new procedures as compared to the traditional planning application route and strongly makes the point that the relevant fees must be increased to reflect cost recovery if the changes are to be made permanent.

Planning Conditions

Changes are proposed to the timeliness for a response (with a deemed consent being proposed when targets are not met), the need to specifically justify any conditions that must be complied with before development can start, together with the need to liaise with the applicants over conditions proposed to be imposed on certain application types. The overall aim is to improve the use of conditions and allow development to commence more quickly.

No specific responses are proposed, but the suggested comments make it clear that an ability to agree to extend time limits with applicants is essential, as otherwise the proposals may actually backfire in that unnecessary refusals, based on the lack of adequate information, may result in order to meet the arbitrary time limits suggested.

The Planning Application Process

It is proposed that the requirements to consult certain major consultees be reviewed and lessened, meaning more applications can be dealt with without their involvement. Conversely, it is proposed that railway infrastructure managers should become more involved on certain developments, when it may impact on their assets. It is also intended to introduce measures to allow data on the entire development process from pre-application to start on site to be recorded. The aim is to enhance the overall planning process by being more proportionate in terms of requirements and to allow data capture.

No responses are proposed to these suggested changes which are generally supported.

Environmental Impact Assessment

The proposals involve raising the thresholds under which proposals fall within this process in addition to normal planning control. The intent is to reduce bureaucracy while remaining consistent with European law.

No concerns are raised with regard to the changes proposed and it is not intended to respond to the individual questions.

Nationally Significant Infrastructure Projects

The proposals involve legislative change to streamline the consent process and allow for far more flexibility post decision, in terms of making amendments. The overall aim is to make improvements based on lessons learnt since the process was introduced.

In general terms, based on experience to date with Navitus Bay, it is recommended that these proposals are supported but it is not intended to respond to the individual questions.

THE DETAILS OF THE PROPOSED RESPONSE

The proposed detailed response which closely follows the direction of travel outlined above is attached as Appendix Two.

CONCLUSIONS

In conclusion, this consultation follows the current government's intentions to increase growth by simplifying the planning system. In general terms the potential benefits are appreciated and much of the proposed response is positive. However, strong concerns are raised as to the impact of the changes of use, now proposed to

be covered by prior notification procedures, notwithstanding the safeguards in place; and the making permanent of the changes currently in place as a temporary measure. It is specifically queried as to what benefits accrue, and to whom, as compared to dealing with such matters within the existing main planning process. Finally the point is made that the fee structure for such notifications is inadequate in that it does not cover costs and that any increased roll-out will impact on the funding of local Planning Authorities unless this point is addressed.,

RECOMMENDATION

That the Planning and Transportation Portfolio Holder be requested to agree the responses to the Consultation Paper as set out in Appendix Two of this report

PORTFOLIO HOLDER ENDORSEMENT

I agree that the answers included in Appendix Two of this report be the Council's response to the Consultation Paper.

Cllr P Vickers
Planning and Transportation Portfolio Holder

...F P VICKERS.....Dated 09.09.14

For further information contact:

David Groom
Development Control Manager
Tel: 023 8028 5354
E mail:david.groom@nfdc.gov.uk

Background Papers:

DCLG Consultation Document
(See link in report)

Date Notification of this Decision given: 9 September 2014
Last date for call-in: 16 September 2014

APPENDIX ONE: SUMMARY OF PROPOSED FURTHER PERMITTED DEVELOPMENT CHANGES (Source Planning Jungle)

GPDO – Part 1 Class A – AMENDED PD RIGHTS for houses to erect larger rear extensions:

- Part 1 Class A was amended in May 2013 to allow houses to erect larger rear extensions (subject to prior approval) during the 3 year period from 30/05/2013 to 30/05/2016. The current version of the legislation requires that any such larger rear extension must be completed on or before 30/05/2016.
- It's proposed to **amend** the legislation so that the above right to erect larger rear extensions (subject to prior approval) would operate on a **permanent** basis. As is currently the case, the above right would **not** apply to a listed building, nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.

GPDO – Part 3 – AMENDED PD RIGHTS for a change of use from B1(a) (office) to C3 (residential):

- The current version of Part 3 Class J, which allows the above change of use, requires that the C3 use must begin on or before 30/05/2016. It's proposed to **extend** this time limit to **30/05/2019**.
- In addition, it's proposed to introduce a **replacement** version of the legislation that would apply from May 2016 onwards.
- The replacement version would be subject to **prior approval** with respect to the same issues as the current version (i.e. transport and highways impacts, contamination risks, and flooding risks).
- However, the key difference is that the replacement version would **not** be subject to the exemption relating to Article 1(6A) land. Instead, the replacement version would be subject to prior approval with respect to the additional issue of ***“the potential impact of the significant loss of the most strategically important office accommodation”***. The consultation document states that *“to ensure that the ability of the policy to deliver much needed new housing is not undermined, this will be a tightly defined prior approval, and we would welcome suggestions about the specific wording”*.
- It appears that the replacement version would **not** require the use to begin (or the works to be completed) by a certain time (i.e. so that these new PD rights would operate on a **permanent** basis).

- It may also be the case that the replacement version would **not** require the building to have been used as B1(a) immediately before 30/05/2013 (or, if not in use at that time, when it was last in use), noting that the consultation document states that *“the exemptions which apply to the current permitted development right will not be extended to apply to the new permitted development right”*.

GPDO – Part 3 – NEW PD RIGHTS for a change of use from B1(c) (light industrial) or B8 (storage or distribution) to C3 (residential):

- It’s proposed to introduce **new PD rights** to allow the above change of use.
- The above new PD rights would be subject to **prior approval** with respect to transport and highways impacts, noise impacts, contamination risks, flooding risks, and potentially (subject to consultation) *“the impact of a residential use being introduced into an existing industrial/employment area”*.
- The above new PD rights would **not** apply to the standard 4 types of excluded buildings (i.e. a listed building, a scheduled monument, a safety hazard area, or a military explosives storage area), nor to a Site of Special Scientific Interest (SSSI), but **would** apply on Article 1(5) land.

GPDO – Part 3 – NEW PD RIGHTS for a change of use from certain “sui generis” uses (specifically launderette, amusement arcade or centre, casino, or nightclub) to C3 (residential):

- It’s proposed to introduce **new PD rights** to allow the above change of use.
- The above new PD rights would also allow *“limited external modifications sufficient to allow for the conversion to residential use”*.
- The above new PD rights would be subject to **prior approval** with respect to transport and highways impacts, contamination risks, flooding risks, and potentially (subject to consultation) *“the design and external appearance of the building”*.
- The above new PD rights would **not** apply to the standard 4 types of excluded buildings (i.e. a listed building, a scheduled monument, a safety hazard area, or a military explosives storage area), nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.

GPDO – Part 3 – NEW PD RIGHTS for a change of use from A1 (shops), A2 (financial and professional services), or certain “sui generis” uses (specifically launderette, amusement arcade or centre, casino, or nightclub) to A3 (restaurants and cafes):

- It's proposed to introduce **new PD rights** to allow the above change of use.
- The above new PD rights would be subject to a size threshold of 150m².
- ***In the case where the adjoining premises objects to the proposed development***, the above new PD rights would be subject to **prior approval** with respect to *“the impact of the proposed change of use on local amenity, covering issues such as noise, odours, traffic and hours of opening”*. The consultation document states that the LPA *“will be able to consider such matters under prior approval **only** when neighbours object”*.
- The consultation document states that the above new PD rights will *“provide safeguards where the retail premises is a local service, or its loss will have an adverse impact on the shopping area”*. However, no further details are provided, and it's not clear how such a provision would operate.
- The above new PD rights would **not** apply to the standard 4 types of excluded buildings (i.e. a listed building, a scheduled monument, a safety hazard area, or a military explosives storage area), nor to a Site of Special Scientific Interest (SSSI), but **would** apply on Article 1(5) land.

GPDO – Part 3 – NEW PD RIGHTS for a change of use from A1 (shops), A2 (financial and professional services), or certain “sui generis” uses (specifically launderette, amusement arcade or centre, or nightclub) to D2 (assembly and leisure):

- It's proposed to introduce **new PD rights** to allow the above change of use. [Note: this list, unlike other similar lists, does not include a "casino"].
- The above new PD rights would **not** be subject to a size restriction.
- The above new PD rights would be subject to **prior approval** with respect to transport and highways impacts (including “parking”), and noise impacts. [Note: this list, unlike other similar lists, does not include "contamination risks" or "flooding risks"].
- The above new PD rights would **not** apply to the standard 4 types of excluded buildings (i.e. a listed building, a scheduled monument, a safety hazard area, or a military explosives storage area), nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.

GPDO – Part 3 – REMOVED PD RIGHTS for a change of use from A3 (restaurants and cafes), A4 (drinking establishments), or A5 (hot food takeaways) to a “betting shop” or a “pay day loan shop”:

- It’s proposed to **remove** the existing PD rights that allow the above change of use - for further info, please see the “USE CLASSES ORDER” section below.

GPDO – Part 4 – NEW PD RIGHTS for the film and television industries to use buildings and land for commercial filming for up to 9 months in any 27 month period:

- It’s proposed to introduce **new PD rights** to allow the above temporary use, along with the construction of associated sets, *“on single sites of up to **one hectare**, which can be split between buildings and land”*.
- The above new PD rights would be subject to a maximum period of **9 months** in any 27 month period.
- The above new PD rights would **not** allow demolition, excavation, the physical alteration of an existing building, other engineering works, or overnight temporary sleeping accommodation. Any outside sets would be subject to a **height limit** of 10m (or similar).
- The above new PD rights would be subject to **prior approval** with respect to transport and highways impacts (including a “travel plan”), noise impacts, and light impacts.
- The above new PD rights would **not** apply to the standard 4 types of excluded buildings (i.e. a listed building, a scheduled monument, a safety hazard area, or a military explosives storage area), nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.

GPDO – Parts 8, 41, 42 – AMENDED PD RIGHTS for B1(b), B1(c), and B8 properties to erect larger new buildings and extensions, and for A1, A2, and B1(a) properties to erect larger extensions:

- Part 8 Class A allows B1(b), B1(c), and B8 properties to erect new buildings and extensions, Part 41 Class A allows B1(a) properties to erect extensions, and Part 42 Class A allows A1 and A2 properties to erect extensions. These Classes were amended in May 2013 to allow the above properties to erect larger new buildings and extensions during the 3 year period from 30/05/2013 to 30/05/2016. Furthermore, during this period, for some A1 and A2 properties, Part 42 Class A allows extensions

that are closer to the boundary. The current version of the legislation requires that any such larger new building or extension must be completed on or before 30/05/2016.

- It's proposed to **amend** the legislation so that the above right to erect larger new buildings and extensions would operate on a **permanent** basis. As is currently the case, the above right would **not** apply to a listed building, nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.

GPDO – Part 16 – NEW PD RIGHTS for sewerage undertakers to erect a pumping station, valve house, control panel or switchgear house into a sewerage system:

- It's proposed to introduce **new PD rights** to allow sewerage undertakers *“to carry out the installation of a pumping station, valve house, control panel or switchgear house into a sewerage system”*.
- The above new PD rights for sewerage undertakers would be subject to the same restriction that currently applies to the equivalent PD rights for water undertakers (i.e. under Part 17 Class E paragraph E(e)). As such, if the installation of a station or house is carried out at or above ground level, or under a highway used by vehicular traffic, then the station or house would be subject to a capacity limit of **29 cubic metres**.

GPDO – Part 42 – NEW PD RIGHTS for A1 properties to erect new buildings and to increase their loading bay capacity:

- At present, Part 42 Class B allows A1 properties to erect a *“trolley store”* within the curtilage.
- It's proposed to introduce **new PD rights** to allow A1 properties to erect *“small, ancillary buildings [to] facilitate ‘click and collect’ services”*. These new PD rights would be subject to a floor space limit of 20m², a height limit of 4m, and certain other restrictions. These new PD rights would be subject to prior approval with respect to *“the design, siting and external appearance of any new structure”*. These new PD rights would **not** apply to a listed building, nor a scheduled monument, nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.
- It's also proposed to introduce **new PD rights** to allow A1 properties to *“increase their back of house loading bay capacity, allowing them to store more goods for home delivery and ‘click and collect’”*. These new PD rights would allow *“the*

*installation of new loading bay doors and new loading ramps in existing shops”, but would set out that “the size of an existing loading bay cannot increase by more than 20%”. These new PD rights would **not** apply to a listed building, nor a scheduled monument, nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.*

GPDO – Part 43 – NEW PD RIGHTS for non-domestic properties to install solar PV equipment up to 1 megawatt (MW):

- At present, Part 43 Class A allows non-domestic properties to install solar PV or solar thermal equipment. The heading of Part 43 specifically refers to “*microgeneration equipment*”, which is defined by the Energy Act 2004 as having a capacity of up to **50 kilowatts (kW)** in relation to the generation of electricity (and 45kW thermal in relation to the production of heat).
- It’s proposed to introduce **new PD rights** to allow non-domestic properties to install solar PV equipment with a capacity of up to **1 megawatt (MW)** (i.e. 20 times the current limit).
- The above new PD rights would be subject to **prior approval** with respect to “*siting and design, in order to minimise the impact of glare on neighbouring or overlooking properties*”.
- The above new PD rights would be subject to various restrictions, including those relating to the height of the solar PV equipment and their protrusion beyond the roof slope.
- The above new PD rights would **not** apply to a listed building, nor a scheduled monument, but **would** apply to a Site of Special Scientific Interest (SSSI) and on Article 1(5) land. In the case of Article 1(5) land, the solar PV equipment would **not** be allowed on a roof slope that fronts a highway.

GPDO – NEW PD RIGHTS for sui generis waste management facilities to replace buildings, plant or machinery:

- It’s proposed to introduce **new PD rights** to allow “*those waste management facilities currently sui generis*” to replace “*any plant or machinery and buildings on land within the curtilage*”.
- The above new PD rights would set out that any replacement building, plant or machinery could not exceed the existing facilities by more than **50% or 100 square metres** (whichever is lesser). Furthermore, the footprint of any replacement plant or

machinery could not exceed that of the existing plant or machinery by more than **15%**.

- These new PD rights would **not** apply to a listed building, nor a scheduled monument, nor to a Site of Special Scientific Interest (SSSI), nor on Article 1(5) land.

GPDO – OTHER:

- The consultation document asks for “*any other comments or suggestions for extending permitted development rights*”.
- The consultation document states that “*The Government intends to introduce new legislation to implement any changes **at the earliest opportunity**, subject to the Parliamentary process*”.
- The consultation document states that the government is producing a **consolidated version** of the GPDO, which will include the new legislation that results from this consultation. The consultation document states that the GPDO “*has been amended over 20 times since 1995*”, although as shown by this website it has actually been amended at least 35 times since 1995.

USE CLASSES ORDER (amendments to Use Classes A1 and A2):

- It’s proposed to **transfer** “*the majority of financial and professional services currently found in A2*” from **Use Class A2** to **Use Class A1**. Indeed, it appears that **all** uses currently within Use Class A2 (e.g. banks, building societies, estate agents, solicitors, accountants, employment agencies, etc) would be moved to Use Class A1 **except for “betting shops” and “pay day loan shops”**.
- The effect of the above amendment is that a change of use between any use currently within A1 and most uses currently within A2 (i.e. excluding “*betting shops*” and “*pay day loan shops*”) would no longer constitute development, and therefore would **not** require planning permission.
- In addition, the existing PD rights that allow a change of use **from** A2 would be retained, but the existing PD rights that allow a change of use **to** A2 would be removed. In other words, a change of use from A3, A4, or A5 to a “*betting shop*” or a “*pay day loan shop*” would **no longer** be permitted development.

MEZZANINE FLOORS (increase in the 200m2 limit for retail properties):

- At present, a building used for the retail sale of goods (other than hot food) can increase its floor space by up to **200m²** via a mezzanine floor without requiring planning permission (see section 55(2A) of the TCPA 1990 and article 3 of the DMPO 2010). It's proposed to **increase** this limit, and the consultation document states that the government would *"welcome views on what size would be appropriate"*.

ARTICLE 4 DIRECTIONS (not to apply where prior approval has already been given):

- At present, if an applicant has been given prior approval for PD works, but an Article 4 direction (which restricts those particular works) comes into force before the use is instituted or before the operations are begun (as applicable), then those works would no longer be permitted development.
- It's proposed to **amend** the legislation so that an Article 4 direction would **not** apply to works for which prior approval has already been given.

FEES (new fee for a prior approval application that relates to only building operations):

- At present, there are the following fees:
 - **£80** for a prior approval application that relates to only a **change of use**.
 - **£172** for a prior approval that relates to a **change of use and building operations**.
- It's proposed to introduce the following new fee:
 - **£80** for a prior approval application that relates to only **building operations**.
- For reference, the consultation document states that *"Where a prior approval is required to carry out physical development we intend to introduce a fee of £80, including for the erection of a structure in a retail car park or the installation of solar panels on a non-domestic building"*. As such, it's **not** clear whether this new fee would apply to a prior approval application for a larger rear extension under Part 1 of the GPDO. On the one hand, the consultation document doesn't state that the new fee wouldn't apply to Part 1 of the GPDO, but on the other hand it's noticeable that such works aren't included within the above examples.

NEIGHBOURHOOD PLANNING:

- It's proposed to introduce a **time limit of 10 weeks** for the LPA to issue a decision on an **application to designate a neighbourhood area** (subject to certain exceptions). Within this period, the LPA would still be required to consult for a minimum of 6 weeks. The government will consider whether to change the "*new burdens*" funding criteria to reduce funding where decisions are not made within the above period.
- The consultation document asks for views on "*whether there are other stages in the neighbourhood planning process where time limits may be beneficial*". Furthermore, the consultation document states that it's the government's "*longer term intention to introduce measures whereby neighbourhood areas are **automatically designated** if a local planning authority does not take a decision within a specified time period*".
- It's proposed to **remove** the current requirement for a minimum of 6 weeks of **pre-submission consultation** and publicity by those preparing a neighbourhood plan or Order. Those preparing a neighbourhood plan or Order would still be required to submit a consultation statement to the LPA. The consultation document also asks for views on whether the "*responsibility for publicising a proposed neighbourhood plan or Order, inviting representations and notifying consultation bodies ahead of independent examination should remain with [the LPA]*".
- It's proposed that, where a neighbourhood plan is seeking to allocate specific sites for development, those preparing the neighbourhood plan should consult "**the owners of sites they consider may be affected**".
- It's proposed to introduce "*a new statutory requirement (basic condition) to test **the nature and adequacy of the consultation** undertaken during the preparation of a neighbourhood plan or Order*".
- It's proposed to introduce a requirement for a neighbourhood plan submitted to the LPA to be accompanied by either a statement of reasons why the proposed plan is unlikely to have significant environmental effects, or an environmental report, or an explanation of why the plan is not subject to the requirements of the EU Strategic Environmental Assessment Directive.

MAXIMUM PARKING STANDARDS (restricting powers to set maximum parking standards):

- The consultation document states that the government “*supports the motorist and wants to see adequate parking provision for them*” and that the government wants “*to understand whether local authorities are stopping builders from providing **sufficient parking space to meet market demand***“. As such, the consultation document asks for views on whether “*parking policy should be strengthened to tackle on-street parking problems by **restricting powers** to set maximum parking standards*”.

PLANNING CONDITIONS (introduction of deemed discharge, etc):

- The consultation document asks for views on the government’s “*intention to introduce a **deemed discharge** for planning conditions*” (i.e. where an application to discharge a condition has been submitted, but the LPA hasn’t issued a decision within a certain time period).
- It’s proposed that such a deemed discharge should **not** apply in certain situations, such as where the development is subject to an EIA, or is likely to have a significant effect on a qualifying European site, or is in an area of high flood risk. Furthermore, it’s proposed that such a deemed discharge should **not** apply to conditions that require a section 106 agreement (TCPA 1990) or a section 278 agreement (Highways Act 1980), or those that require the approval of details for outline planning permissions required by reserved matters.
- It’s proposed that such a deemed discharge should only apply if the applicant first serves a **notice** on the LPA. The applicant would be able to serve such a notice after 6 weeks (from the date when the application to discharge the condition was received by the LPA), and the notice would set out that a deemed discharge will occur if the LPA doesn’t issue a decision within a further 2 weeks (or any longer period that the applicant may choose).
- The consultation document states that “*Where a deemed discharge applies, this would **not** prevent a local planning authority from taking enforcement action against development that does not comply with the details submitted to them in support of the request to discharge the condition*”.
- The consultation document also asks for views on whether such a deemed discharge should be available for other types of consent, such as advertisement consent, planning permission granted by a local development order, etc.

- At present, the Fees Regulations 2012 sets out that the fee for an application to discharge a condition shall be refunded if the LPA fails to issue a decision within 12 weeks. It's proposed to reduce this period to **8 weeks**.
- It's proposed to amend the DMPO 2010 to require the LPA to "**share draft conditions with applicants for major developments before they can make a decision on the application**". The consultation document suggests that LPA would be required to share draft conditions at least 5 or 10 working days before planning permission is granted. The consultation document also asks for views on whether any subsequent changes to conditions (e.g. made by a planning committee, etc) should also be shared before planning permission is granted.
- It's proposed to amend the DMPO 2010 so that, in the case where an LPA has imposed a pre-commencement condition, the LPA must produce a "**written justification ... as to why it is necessary for that particular matter to be dealt with before development starts**". The consultation document notes that this would be "*in addition to the general justification that local planning authorities are already required to provide for using conditions*". Furthermore, the consultation document asks for views on whether such a written justification should apply to **all** conditions that require further action to be undertaken before an aspect of the development can go ahead.

STATUTORY CONSULTEES and REFERRALS TO THE SECRETARY OF STATE:

- It's proposed to **reduce** the range of development for which the LPA needs to consult the following statutory consultees:
 - **Natural England** (see page 60 of the consultation document).
 - **Highways Agency** (see page 61 of the consultation document).
 - **English Heritage** (see page 63 of the consultation document).
- An exception to the above reductions is that for English Heritage there would be new consultation requirements relating to **registered battlefields** and the **LPA's own applications**.
- It's proposed to **remove** English Heritage's powers of direction and authorisation in Greater London.
- It's proposed to **reduce** the range of applications (including English Heritage's own applications and the LPA's own applications) that are notified or referred to the Secretary of State.

- It's proposed to make minor amendments relating to requirements to notify the National Amenity Societies and to consult the Garden History Society.
- The consultation document asks for views on the idea that a statutory consultee, if satisfied with a scheme at a pre-application stage, could choose to confirm that it does **not** wish to be consulted on the same scheme at the application stage.
- It's proposed to require that LPAs should notify railway infrastructure managers of "**all planning applications** where any part of a proposed development is **within 10 metres of a railway**". The consultation document states that it would expect railway infrastructure managers to ensure that LPAs are "*aware of the location of all railways, including railway tunnels*".

DMPO 2010:

- It's proposed to produce a **consolidated version** of the DMPO 2010.

MEASUREMENT OF THE END-TO-END PLANNING PROCESS:

- The consultation document asks for suggestions about "*how each stage of the planning application process should be measured*", and states that "*The Government is keen to improve the information it has about the total time it takes for developments to be delivered including the **pre-application** and **post-permission** stages so that we can more accurately measure the time it takes to deliver development*".

ENVIRONMENTAL IMPACT ASSESSMENTS (increasing certain thresholds):

- For "**industrial estate development**" under Schedule 2 paragraph 10(a) of the EIA Regulations 2011, it's proposed to increase the screening threshold from 0.5 hectare to **5 hectares**.
- For "**urban development projects**" under Schedule 2 paragraph 10(b) of the EIA Regulations 2011, it's proposed to increase the screening threshold from 0.5 hectare to **5 hectares**, including where there is up to 1 hectare of non-residential urban development.

NATIONALLY SIGNIFICANT INFRASTRUCTURE PROJECTS:

- It's proposed to introduce **guidance** on the assessment of whether changes to an existing Development Consent Order would be non-material or material. The consultation document sets out three *“characteristics of a change that means there will be a greater likelihood of it being non-material”* and asks for views on these characteristics.
- For an application for a **non-material change**, it's proposed to transfer the requirements to consult on the application from the Secretary of State to the applicant. The consultation document also sets out other minor amendments to these requirements to consult, an amendment to the requirement for maps, and the removal of the requirement for the applicant to pay the Secretary of State's costs for consulting on the application.
- For an application for a **material change**, it's proposed to amend the requirements to consult at a pre-application stage. The applicant would be required to consult *“those persons who could be directly affected by the change”* (rather than every person consulted about the original application), would no longer be required to prepare a statement of community consultation, and would no longer be required to publish a notice in local and national newspapers and other publications.
- For an application for a **material change**, it's proposed to allow the Secretary of State to choose not to hold an examination *“if he considers that one is not necessary”*. In such a case, anyone who has made a relevant representation will be given the opportunity to submit further representations.
- For an application for a **material change**, it's proposed to reduce the time period for the examination from 6 months to 4 months, to reduce the time period for the Examining Authority to produce a report and recommendation from 3 months to 2 months, and to reduce the time period for the Secretary of State to reach a decision from 3 months to 2 months.
- It's proposed to introduce **guidance** on the operation of the process for making non-material and material changes to Development Consent Orders. This guidance will mainly be aimed at applicants.

For each of **10 non-planning consents** (see the list on page 97), it's proposed to allow the applicant to include such a consent within their application for a Development Consent Order **without** requiring the permission of the relevant consenting body.

Appendix Two: The Proposed Response

Neighbourhood planning

Would you like to respond to the consultation on neighbourhood planning?

No

Detailed comments have not been made as, to date; this Authority has little experience in undertaking such work. However, officers are aware that some local authorities that do have experience in these matters are concerned about aspects of the proposed changes. It is hoped these will be thoroughly considered and taken on board before any changes are made.

Reducing planning regulations to support housing, high streets and growth

Would you like to respond to the consultation on reducing planning regulations to support housing, high streets and growth?

Yes

Question 2.1: Do you agree that there should be permitted development rights for:

- (i) light industrial (B1(c)) buildings and
- (ii) storage and distribution (B8) buildings to change to residential (C3) use?

No

Comments

These proposals will result in a loss of affordable opportunities for employment uses and directly and indirectly a loss of jobs. This is a particular concern for the District given the amount of outward migration for jobs and the shortage of employment land

Question 2.2: Should the new permitted development right:

- (i) include a limit on the amount of floor space that can change use to residential

- (ii) apply in Article 1(5) land i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites and
- (iii) should other issues be considered as part of the prior approval, for example the impact of the proposed residential use on neighbouring employment uses?

- (i) limit on floor space Yes
- (ii) apply in Article 1(5) land No
- (iii) other prior approval issues Yes

Comments

The principal of extending these permitted development rights is disagreed with, so anything that restricts the extent of the harm of the proposal to the local economy would be supported.

Question 2.3: Do you agree that there should be permitted development rights, as proposed, for laundrettes, amusement arcades/centres, casinos and nightclubs to change use to residential (C3) use and to carry out building work directly related to the change of use?

No

Comments

This will result in the loss of appropriate town centre and local centre uses that, in the right places, can provide important local facilities or places for leisure/entertainment.

Question 2.4: Should the new permitted development right include:

- (i) a limit on the amount of floor space that can change use to residential and

Yes

- (ii) a prior approval in respect of design and external appearance?

Yes

Comments

The principal of extending these permitted development rights is disagreed with, so anything that restricts the extent of the harm of the proposal on the local economy and local environment would be supported.

Question 2.5: Do you agree that there should be a permitted development right from May 2016 to allow change of use from offices (B1(a)) to residential (C3)?

No

Comments

These proposals will result in a loss of affordable opportunities for employment uses and directly and indirectly a loss of jobs, and harm the vitality and viability of town and local centres. This impact will be particularly profound in this District given the shortage of employment land and the relative vibrancy of the town centres at present

Question 2.6: Do you have suggestions for the definition of the prior approval required to allow local planning authorities to consider the impact of the significant loss of the most strategically important office accommodation within the local area?

Yes

Comments

The suggested definitions appear appropriate but for the reasons set out above these changes are objected to.

Question 2.7: Do you agree that the permitted development rights allowing larger extensions for dwelling houses should be made permanent?

No

Comments

Experience shows that the current temporary arrangements have no benefits to anyone (including the applicants) as compared to the application route. The application route allows changes to be made to proposals to ensure they meet an applicant's requirements whilst respecting the environment they sit in. If the change was to be made permanent an enhanced fee that starts to reflect cost recovery would be required otherwise an untoward impact on local government financing will occur.

Supporting a mixed and vibrant high street

Question 2.8: Do you agree that the shops (A1) use class should be broadened to incorporate the majority of uses currently within the financial and professional services (A2) use class?

Yes

Comments

With caution. There is some scope for careful revision to the use classes, it may not however be appropriate to include all A2 uses in the revised definition.

Question 2.9: Do you agree that a planning application should be required for any change of use to a betting shop or a pay day loan shop?

No

Comments

There seems no logic to this proposal in terms of their impact in land use terms.

Question 2.10: Do you have suggestions for the definition of pay day loan shops, or on the type of activities undertaken, that the regulations should capture?

No

Comments

The definition seems appropriate

Question 2.11: Do you agree that there should be permitted development rights for:

(i) A1 and A2 premises and

No

(ii) laundrettes, amusement arcades/centres, casinos and nightclubs to change use to restaurants and cafés (A3)?

Yes

Comments

This needs more careful thought than apparent in the question above. There is some scope for some of the uses in A2 and (ii) to have PD rights for change of use to A3.

Question 2.12: Do you agree that there should be permitted development rights for A1 and A2 uses, laundrettes, amusement arcades/centres and nightclubs to change use to assembly and leisure (D2)?

No

Comments

Again – loss of retail uses would be of concern, and the proposed uses could have a detrimental impact on local amenity etc. Have the consequences for rural areas been properly considered? Consideration needs to be given to a size restriction.

Supporting Retail Facilities

Question 2.13: Do you agree that there should be a permitted development right for an ancillary building within the curtilage of an existing shop?

No

Comments

Local amenities need to be safeguarded. Conservation Areas should be excluded to protect historic town centres.

Question 2.14: Do you agree that there should be a permitted development right to extend loading bays for existing shops?

No

Comments

Local amenities need to be safeguarded, particularly those of nearby residential properties (which are being encouraged within shopping areas.)
There seems to be a policy conflict between encouraging more residential properties within shopping areas and then relaxing the environmental/ amenity controls that safeguards the amenities and living conditions of those living within town centres and near commercial premises.

Question 2.15: Do you agree that the permitted development right allowing shops to build internal mezzanine floors should be increased from 200 square metres?

Yes

Comments

None

Question 2.16: Do you agree that parking policy should be strengthened to tackle on-street parking problems by restricting powers to set maximum parking standards?

Yes

Comments

Car parking has to be examined on a case by case basis and it is not appropriate to set maximums to be universally applied as one size does not fit all.

Supporting growth

Question 2.17: Do you agree that there should be a new permitted development right for commercial film and television production?

Yes

Comments

Not seen as a major issue in terms of planning impacts

Question 2.18: Do you agree that there should be a permitted development right for the installation of solar PV up to 1MW on the roof of non-domestic buildings?

Yes

Comments

None

Question 2.19: Do you agree that the permitted development rights allowing larger extensions for shops, financial and professional services, offices, industrial and warehouse buildings should be made permanent?

No

Comments

Too early to assess the impact, given the potential harm in terms of neighbour amenities from the allowance as drafted. In addition, there are adverse cost implications for local authorities. The inadequacy of the existing fee to cover the local authority's costs must be recognized.

Question 2.20: Do you agree that there should be a new permitted development right for waste management facilities to replace buildings, equipment and machinery?

Yes

Comments

Seen as a sensible extension of PD rights, with appropriate controls, as suggested, being in place

Question 2.21: Do you agree that permitted development rights for sewerage undertakers should be extended to include equipment housings?

Yes

Comments

No comment

Question 2.22: Do you have any other comments or suggestions for extending permitted development rights?

No

Comments

None

Implementing the proposals

Question 2.23: Do you have any evidence regarding the costs or benefits of the proposed changes or new permitted development rights, including any evidence regarding the impact of the proposal on the number of new betting shops and pay day loan shops, and the costs and benefits, in particular new openings in premises that were formerly A2, A3, A4 or A5?

No

Comments

No evidence is available

Article 4 Directions

Question 2.24: Do you agree:

(i) that where prior approval for permitted development has been given, but not yet implemented, it should not be removed by subsequent Article 4 direction and

Yes

(ii) should the compensation regulations also cover the permitted development rights set out in the consultation?

No

Comments

Councils should not be put off imposing Article 4 Directions that bring large scale community benefits and meet the relevant tests by the threat of compensation claims if any subsequent applications are refused.

Question 2.25: Are there any further comments that you wish to make in response to this section?

Yes

Comments

The responses to the questions asked raise concerns as to the impact of these proposals particularly in terms of the impact on the local economy and town centres in terms of jobs and services. It is written in the New Forest District context and in the knowledge of the vibrancy of our existing centres and the views of parish and town councils as to how they must be protected, the amount of out-migration for employment that occurs, the shortage of employment land and the specific recently adopted policies that apply.

A different picture may well exist elsewhere consequently a one size fits all approach is not required, given the current planning system allows informed decisions to be made when proposals for changes of use are received. In particular, no dis-benefits are seen with the retention of the status quo, especially as few if any advantages would result from what is proposed. The need to achieve cost recovery in terms of the fees set for such notifications is also stressed.

It is felt to be too early to make the temporary permitted development rights for extensions to dwellings and some changes of use permanent, given the potential for harm they can cause and the lack of demonstrated benefits as compared to the normal planning application route. This Council also queries the savings and benefits that arise from the introduction of these new procedures as compared to the traditional planning application route and strongly makes the point that the relevant fees must be increased to reflect cost recovery if the changes are to be made permanent.

Improving the use of planning conditions

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Would you like to respond to the consultation on improving the use of planning conditions?

No

Question 3.15: Are there any further comments that you wish to make in response to this section?

Yes

Comments

It is crucial that, if the above proposals are implemented, an applicant has the right to agree an extension of time otherwise, perversely; further delays could be caused by refusals based on lack of information.

Planning application process improvements

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Would you like to respond to the consultation on planning application process improvements?

No

Question 4.12: Are there any further comments that you wish to make in response to this section?

No

Comments

In principle the Council supports the proposed changes

Environmental Impact Assessment Thresholds

Please refer to the relevant parts of the consultation document for narrative relating to each question.

Would you like to respond to the consultation on Environmental Impact Assessment Thresholds?

No

Comments

In principle the Council supports the proposed changes

Improving the Nationally Significant Infrastructure Regime

Would you like to respond to the consultation on streamlining consents for nationally significant infrastructure projects?

No

Question 6.11: Are there any other comments you wish to make in response to this section?

Yes

Comments

In principle the Council supports the proposed changes