

REPORT FROM: PLANNING, BUILDING CONTROL AND LICENSING
SERVICES MANAGER

TO: NELSON COMMITTEE

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**BRIEFING NOTE ON GOVERNMENT'S PROPOSED CHANGES
TO THE PLANNING SYSTEM**

PURPOSE OF REPORT

To brief Committee on proposed changes to the Planning System that the Government have indicated they intend to implement

BACKGROUND

- 1 The Government have changed significant parts of the planning system over recent years in an attempt to make it easier to develop and to stimulate greater levels of housebuilding.
- 2 A series of changes were proposed in relation to planning conditions with the view of Government being that the way these are applied has, in many instances, led to delays in the planning process. It is interesting to note however that no evidence of this has been published. The House of Lords has started to debate this and have called for this evidence to be published.
- 3 The Government published their response to the consultation on the use of planning conditions in December 2016. The following sections inform Members of the Government's intentions to impose changes on how the condition regime will operate and what conditions will be allowed to be added to planning permissions. The intention is that the changes will be enshrined in forthcoming legislation.

- 4 We cannot fully advise Committee of what the full ramifications of the changes are until the legislation is published. It is however likely that the changes will alter how we will determine planning applications, what we require of applicant's before we register applications, how Committees can add certain conditions if they do not agree with the recommendations and lead to greater numbers of refusals.

5 Pre-Commencement Conditions

- 5.1 These are conditions requiring something to happen before development can commence such as agreeing a methodology for dealing with contamination.
- 5.2 Pre-commencement conditions will be required to be agreed with applicants early in the determination process. The response from Government indicates that this will lead to reduced workloads for Councils post decisions being taken. That is accepted but it fails to recognize that it will significantly add to workloads before applications are decided and will no doubt add to the requirements of developers to supply up front information.
- 5.3 If an applicant does not agree to a pre-commencement condition being imposed and that condition is deemed to be necessary planning permission should be refused.

6 Default Period

- 6.1 If an applicant does not respond to a request to agree pre-commencement conditions and 10 days elapse then those condition can be imposed.
- 6.2 The commentary in the response indicates that it is essential that early engagement for the identification of the need for conditions happens. This is fully accepted but the reality is that many conditions are identified through the consultation process with neighbours and statutory consultees who often respond later in the process.

7 Prohibition of Certain Conditions

- 7.1 Despite considerable opposition to the prohibition of attaching conditions based on the fact that conditions had to meet policy tests anyway the following types of condition will be prohibited:

Conditions Which Unreasonably Impact on Deliverability

The issue here is that every LPA will have to understand the viability of the application before it and then decide on a case by case basis what is a reasonable or unreasonable impact. The Government states that each LPA will have to determine this on a case by case basis and refuse applications where reasonable conditions cannot be imposed.

Conditions Which Reserve Outline Application Details

This will prevent conditions that are imposed for matters not reserved for further consideration on outline applications. This is already applied in Pendle and will have no impact.

Conditions Which Require Development to be Carried Out in Its Entirety

These conditions are not used in Pendle. Other Authorities use them to for example require all roads, drainage etc to be completed. We use specific conditions for specific elements in a development. This change will not impact on Pendle.

Conditions Which Duplicate a Requirement for Compliance With Other Regulatory Requirements

This type of condition is not normally applied in Pendle. As required in the National Planning Practice Guidance we would normally place a note on the planning permission about the other requirements.

Positively Worded Conditions Requiring Payment of Money or Other Consideration

We do not use positively worded conditions but do use negatively worded one in certain situations. Our practice is in line with current government guidance and will not be affected by the changes.

IMPLICATIONS

Policy: None

Financial: None arising directly from this report

Legal: None arising directly from the report.

Risk Management: The risks associated with this surround a potential increase in appeals if developers do not agree to pre-commencement conditions and of delays in decisions if Committees wish to impose pre-commencement conditions over and above any agreed with the developer prior to Committee.

Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: None arising directly from the report.

Equality and Diversity: None arising directly from the report.