

CHANGES TO THE DEVELOPMENT CONTROL SYSTEM - CONSULTATION PAPER

1 SUMMARY

- 1.1 This report outlines several changes proposed to the development control system as a result of the Planning and Compulsory Purchase Act 2004. Detailed advice will be included in a new Circular.

2 BACKGROUND

- 2.1 The Planning and Compulsory purchase Act 2004 came into operation in part on 28th September 2004. However, some of the detailed provisions relating to the operation of the development control system are still to be finalised.
- 2.2 The Government has now published a consultation paper to deal with some of these outstanding issues, with the final matters being dealt with in a subsequent consultation exercise. Comments on this consultation are required by 22nd February 2005.

3 THE PROPOSALS

Power to Decline to Determine Applications

- 3.1 These new powers are designed to prevent the use of repeat applications that are intended, over time, to reduce opposition to undesirable developments. In summary, a Local Planning Authority would be able to decline to determine an application that is similar to one refused within the preceding two years.
- 3.2 An application is 'similar' if the Planning Authority thinks that the building and land to which the applications relate are the same or substantially the same. An Authority is not automatically obliged to decline to determine a similar application. Where an Authority does refuse to do so, this decision will, of course, be open to judicial review.

Duration of Permission and Consent

- 3.3 The Act requires that in future, planning consents will remain valid for only 3 years instead of 5 although, as now, this timescale can be raised, but must be appropriate to the size and nature of the development.
- 3.4 In addition, development granted Outline Consent must be commenced within two years from the date of final approval of Reserved Matters, rather than 5 years from granting the Outline.
- 3.5 These changes will be explained in detail in a new Circular, but the aim of the three year Consent is to encourage development to take place at an early stage.

3.6 For larger sites, Local Planning Authorities will be able to consider an Outline Permission that includes a series of time limits, each relating to a separate part of the development.

3.7 Developers will no longer be able to apply to vary a condition to extend the period of validity; in future, a new application will always be required and the Local Planning Authority will be able to judge that application against current planning considerations. The fact that an application had previously been granted will no longer be a material consideration.

Duty to Respond to Consultation

3.8 Statutory consultees will be required to respond to consultations within a set time period. This measure is intended to assist with the speedier submission of the information necessary to enable an application to be determined.

3.9 In some cases, there may be a need to extend the deadline, but such cases will be minimised where potential developers have sought pre-application consultation.

Consultations with Regional Planning Bodies

3.10 The RPB is to be consulted on any development proposals that would be of major importance for the implementation of the Regional Spatial Strategy, because of its state or nature, or the location of the land.

Major Infrastructure Projects: Economic Impact Reports

3.11 The need to prepare an economic impact report will be established if and when the Secretary of State calls in for his determination a planning application which he considers to be a major infrastructure project. The draft guidance provides details of the contents of an economic impact report.

4 DISCUSSION

4.1 There is little doubt that developers have, on occasions, used the option to submit repeat applications in the hope of wearing down the resolve of the Planning Authority. Therefore, the new provisions that seek to control this situation are to be welcomed, although consideration of what is 'similar' may inevitably lead to some argument and debate.

4.2 The Government is of the view that developers should be given less time to implement the schemes for which permission is granted. It is debatable whether this measure will have any real effect though.

4.3 Whilst there will be a requirement for a new application if a consent is allowed to expire, in most instances where this has been the case in the recent past, it is rare for there to be any significant material change in planning circumstances. That being the case, it is not clear that developers will be panicked into starting schemes at an earlier date. It should also be borne in

mind that only very modest works are required to implement a planning consent. Nevertheless, the message is clear that developers should get on with their schemes as soon as possible.

- 4.4 The requirement for statutory consultees to respond to consultations within a set time period is to be welcomed, although most Local Planning Authorities will not want to make decisions without receiving a response. Whilst the statutory consultees will be required to prepare a performance report, it is not clear what sanctions will apply if their response rate is poor.
- 4.5 In relation to consultation with the RPB, this will be a rare occurrence, although future development of the airport, for example, may fall into this category.
- 4.6 It is not envisaged there will be any major infrastructure projects in the District.
- 4.7 In conclusion, these changes have the potential to provide some improvement for greater certainty in dealing with applications. The most significant change is arguably the opportunity for Authorities to refuse to determine 'similar' applications, but in reality such applications are not common and the resources saved will not be significant.

5 RISK IMPLICATIONS

5.1 Operational Risk

There may be cases of dispute arising from a decision of the Authority to refuse to determine a 'similar' application; judicial review may very well be the only way that such disputes can be resolved.

6 RESOURCE IMPLICATIONS

- 6.1 In theory at least, the requirement for all consultees to respond within a set timescale should provide some benefits in the time period for the determination of planning applications.

7 RECOMMENDATION

- 7.1 It is proposed that the Committee **RESOLVES**

That, subject to comments from Members, this report forms the basis of the Council's response to the consultation paper.

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Background Papers:-

ODPM Consultation Paper "Changes to the development control system" Nov 2004

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