Technical Planning Consultation: LGA Response September 2014

The LGA welcomes the opportunity to respond to the technical consultation on planning. Our response focuses primarily on changes to neighbourhood planning, extension of permitted development rights, use class changes and planning conditions.

It is disappointing that the majority of proposals contained in the consultation seek to impose additional control from the centre and reduce the ability of local people and businesses to have a say on planning issues that impact on their house, business and high street. Many of the proposals represent further top-down piecemeal changes which lack regard to local circumstances, add further confusion to the system and undermine the premise of a locally plan-led system that government promised to local areas.

Section 1 Neighbourhood planning

Councils are responding positively to neighbourhood planning and are engaging and providing support accordingly. As the consultation document points out councils have already designated more than 90% of neighbourhood areas applications that have been made.

In light of this imposing a statutory time limit for the determination of neighbourhood designation applications is disproportionate and unnecessary. Government guidance already makes clear that councils should set out and share a decision making timetable which provides clarity for applicants.

Timeliness in decision taking is of course important, however a balance needs to be struck to ensure that full consideration is given to the application to ensure that the right decision is made.

Neighbourhood planning has a number of resource implications for Councils, who have to schedule their involvement on neighbourhood planning where they receive multiple requests for support. Councils can only apply for new burdens funding for new legislative duties on neighbourhood planning retrospectively meaning that they have to bear these costs upfront.

Removing the statutory minimum 6 week pre-submission consultation stage is likely to be counter-productive and lead to delays further along the process. It provides a key opportunity for major issues/objections which could affect the progress of the Plan to be raised and ironed-out before submission to the local authority for designation. Frontloading consultation in this way and giving it adequate time paves the path for a smoother, faster journey through the rest of the Plan process.

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Submission

Section 2 Reducing planning regulations to support housing, high streets and growth

This is the third major set of top down changes to permitted development rights and further erodes the ability of communities and businesses to have a say about changes to their high street or residential street that affects them.

Councils should be able to set out permitted development rights locally subject to full consultation and necessary impact assessment. This would give councils the flexibility and powers they need to shape their local areas in line with the interests of both residents and local businesses. Blanket top-down national policies with no regard to local circumstances lead to unintended consequences.

Office to residential permitted development

We oppose measures to put the permitted development rights for a change of use from office to residential development on a permanent footing and removing the exemptions that are currently in place.

When introducing this policy the government recognised the variable and unintended consequences by exempting 33 areas from the right as it would have adverse economic consequences. The proposals to remove these exemptions and replace them with a general test to 'consider the impact of the loss of the strategically important office accommodation within the local area' will create difficulties for local planning authorities in protecting local employment centres and is not a sufficient safeguard.

Our work with councils has shown that this measure has resulted in a number of unintended consequences:

- **A loss of occupied and viable office space impacting on jobs and economic growth:** Our survey findings demonstrate that nearly 50% of the respondent councils that had the data said that more than half of the prior applications received were for part- or fully-occupied offices. For example in one local authority in the south east 40546 sq m of office space has been potentially lost across the borough through this measure, over 40% of this space was occupied.

- **Risks of poor quality residential accommodation:** Our evidence shows that a large number of applications to secure permitted development conversion propose small, sub-standard accommodation, some as small as 13 m^2, often with limited natural light. In one London Borough of all the prior approval applications received over 75% did not meet local minimum space standards.

- **The measures leave councils operating at a loss:** the nationally set £80 prior approval fee does not fully cover the cost of dealing with prior approval applications. 82% of respondents to our survey said that the cost of administering prior approvals is significantly higher and on average around £300. The fee level should be set locally to ensure full cost recovery.

- **A loss of much needed affordable housing and infrastructure:** The permitted development rights restrict the ability of local authorities to secure affordable housing for their area as there is no requirement for this provision. More than 60% of respondents to our survey expressed concern about this. In one local authority alone, based on a 15% affordable housing contribution this has resulted in a 'loss' of 249 affordable housing units in a 12 month period alone. 61% of councils also agreed that the permitted development rights have reduced contributions towards other local infrastructure.

> In one district council in the south east before the permitted development rights came in they allowed a 250 flat conversion scheme. Deferred contributions for affordable housing were secured, local space standards were met with sufficient parking as well as small scale contributions for local open space improvement.
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> However, 50 yards away they now have, under permitted development, a scheme which achieves none of that.

Extension of further permitted development rights to residential

We oppose measures for a further extension of permitted development rights to allow other types of building to change to residential use without the need for planning permission. Our work with councils, outlined in the previous section, illustrates the unintended consequences that this can have.

Permitted development for larger household extensions

Proposals to make permitted development for larger household extensions permanent are premature in the absence of a proper assessment of the impact of the temporary permitted development rights. It is best practice for the impact of new policies to be fully assessed after a given period of time.

If government is minded to make permitted development for larger household extensions permanent this must not happen until that assessment has been undertaken, after the 3 years that the temporary rights were put in place for.

The results from our survey suggest that introducing permitted development has not increased the numbers of larger household extensions. Only 19% of respondents said that they had had a higher number of prior approval notifications for larger household extensions, than they had had planning applications for the same in the previous year.

Authorities were asked, within the limitation of planning grounds, what were the three most common concerns cited by residents in response to prior notification of larger household extensions. 93 per cent cited loss of light or overshadowing, 90 per cent cited overlook/loss of privacy; the next largest category was design with 62 per cent.

73 per cent of respondents to the survey stated that because there was no fee for the prior notification scheme that there had been an impact on their

ability to deliver planning services in their authority. We would urge government to address this matter to ensure that local authorities are fully able to cover their costs.

A revised A2 use class for betting shops and payday loan shops

The proposal to require planning permission for change of use to betting shops is a step in the right direction, it will provide an opportunity for local residents and businesses to have a say over proposed new betting shops and pay day loan companies. This may help to reduce additional clustering of betting shops, where there are legitimate planning grounds for refusal.

However, the proposal will do nothing to address existing clustering; if an existing betting shop closes down, a different operator would be free to open a new betting shop as there would be no change of use. This would perpetuate existing patterns of clustering, which are a source of real concern in some areas.

Councils should be able to restrict the opening of any new betting shop (regardless of whether it constitutes a change of use) if they do not believe there is demand for the betting shop and / or there is evidence that it will be harmful to local economies, communities or individuals. It is arguable whether the planning framework is the appropriate mechanism through which to reach these decisions, given the limitation on making these judgements where no change of use occurs. Therefore, alongside the proposal to amend use classes, the LGA would favour the return of the demand test - or some consideration of cumulative impact - in the Gambling Act 2005, which we believe would be the most appropriate and effective route for addressing clustering.

Maximum parking standards

Restricting powers to set maximum Parking standards would self-evidently weaken parking policy, not strengthen it. Parking standards need to reflect unique local conditions, therefore the use of maximum standards should remain a matter for local decision.

Furthermore, the government is in the process of introducing a ban on CCTV parking enforcement, has abolished the previous government's guidance and has published its own. Introducing further changes before the effect of these piecemeal reforms is clear would add further confusion to an already confused area of policy.

Section 3 Improving the use of planning conditions

The proposals on conditions are unnecessary and a disproportionate use of legislation based on a weak evidence base. In a large number of cases, planning conditions are a useful tool to speed up the planning process. They can also reduce up front cost and risk to developers, enabling them to submit additional information once a decision has been made.

The most effective means of embedding the good practice that already exists on the use of and discharge of conditions is via sector led support rather than top down legislative measures. The LGA, Planning Advisory Service (PAS), Planning Officers Society (POS) and the development industry are already working on this issue.

The government's proposal to introduce an additional requirement for local planning authorities to justify the use of pre-commencement conditions is unnecessary. The current requirement for setting out a reason for attaching a condition and the six tests on use of conditions outlined in the National Planning Policy Framework are sufficient to ensure appropriate and proportionate use of conditions. This would also increase the bureaucratic burden on local planning authorities at a time of financial constraint.

The government's proposals to require authorities to share draft conditions for major applications before making a decision is unnecessary and overly bureaucratic. Sharing conditions in this way is already good practice. Where issues exist these are best resolved through sector-led support.

Notwithstanding our views outlined above, if government is minded to introduce a deemed discharge for planning conditions, this should be matched by a clarification of the fee regulations that a fee is payable for the discharge of each condition. In addition, if there is a change made to the timescales for fee refunds where a local authority has not notified an applicant of a decision, these should be aligned where an extension of time has been agreed.

Finally, more generally local planning authorities should be given the flexibility to set planning fees for all parts of the development management process at a local level to enable full cost-recovery. That would achieve far more in delivering effective planning services than piecemeal cumulative changes from central government.

Section 4 Planning application process improvements

The LGA supports the proposals in the consultation paper to streamline the statutory consultee process. Statutory consultees play an important part in ensuring that planning supports the delivery of development that meets the needs of the local area. However engagement needs to be risk based, proportionate and timely. To that end, the LGA has developed a number of proposals for further improving the statutory consultee process, outlined below. We would like to see these proposals taken forward as part of a package of measures to streamline and speed up the statutory consultee process.

Early engagement

Statutory consultees should focus on engagement at plan-making stage. This will allow significant issues with strategic sites to be identified at the outset so that all parties are aware of what further assessment and engagement is required and some sites can be screened out of further requirements. That will provide certainty and clarity to developers, reduce unnecessary consultation and save resources for all parties.

Statutory consultees should make greater use of standing advice. Early screening at plan-making stage will enable statutory consultees to do this. The provision of effective standing advice can support quick progression of planning applications by reducing the number of consultations required.

Statutory consultees should offer effective pre-application engagement discussion and advice proportionate to proposed development and the needs of applicants. Early engagement between statutory consultees, developers, councils and other partners through pre-application services allows issues to be resolved before applications are submitted, increasing the quality of schemes, reducing conflict and securing community acceptance for applications. This should be part of a coherent and joined up local pre-application offer. This can assist in bringing forward development more quickly and add value to all partners saving time and money.

A timely and proportionate approach

Statutory consultees should be required to provide notification to applicants within 5 working days if further information is needed in order to provide a substantive response within the 21-day statutory time period.

Councils should have powers to ensure that statutory consultees respond to consultations on planning applications within 21 days (where no agreement has been reached with the council to extend). This would provide an increased incentive for adherence to the time limit and remove uncertainty and delay in the planning system.

Joining-up and streamlining

Statutory consultees across different government departments should move towards a single point of engagement – a "one-stop-shop" model. Navigating numerous government agencies to find the information required is complex and time-consuming for councils and

developers. A single channel of engagement or single point where information of the statutory consultee 'offer' could be accessed would simplify and speed up the process.

Statutory consultees should promote and make greater use of e-consultation. This would provide a standardised, simplified, consistent service for councils and other applicants and be provided as part of the "one-stop-shop" proposal above. Government should support the provision of appropriate systems to enable this.

Building on the single point of engagement, **statutory consultees should consolidate planning functions across organisations.** This was recognised by the last triennial review of the Environment Agency and Natural England and would provide a coherent, single conversation offer on planning advice and support provision of a seamless planning service to councils and developers.

Statutory consultees should join up planning functions with other regulatory, licensing and permitting functions they undertake. This should provide a seamless offer to councils and developers with processes that can run concurrently to speed up decision making and consent/permit giving. This would reduce regulatory burden and simplify the process.

Section 5 Environment Impact Assessment Thresholds

The LGA supports the proposals to streamline the EIA process. This is a sensible and proportionate approach that will reduce the bureaucratic burden on local planning authorities, whilst still maintaining important environmental safeguards on significant development. However, screening applications submitted to the local planning authority should be subject to a rule that they can only be considered if the development falls within the EIA thresholds. There are many cases where developments that are clearly below the threshold are submitted for screening as a safety measure. This wastes valuable local planning authority resources.