

## **Local Government Association (LGA) submission to DCLG consultation on improving the use of planning conditions.**

**October 2016**

The Local Government Association (LGA) welcomes the opportunity to respond to the DCLG technical [consultation](#) on improving the use of planning conditions.

### **About the Local Government Association (LGA)**

The Local Government Association (LGA) is the national voice of local government. We work with councils to support, promote and improve local government.

We are a politically-led, cross party organisation which works on behalf of councils to ensure local government has a strong, credible voice with national government. We aim to influence and set the political agenda on the issues that matter to councils so they are able to deliver local solutions to national problems.

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### Background

The consultation proposes introducing legislation so that pre-commencement planning conditions can only be used by local planning authorities where they have the written agreement of the developer. It also proposes a wider application of legislation to allow the Secretary of State to make regulations which prescribe the circumstances where certain conditions may or may not be used by local planning authorities when granting planning permission.

### LGA view

An effective, democratically-led planning system is critical to good place-making that drives growth and prosperity. Councils approve almost nine out of 10 planning applications and the number of homes granted planning permission by local authorities in the year to March 2016 was 265,000, the highest figure since 2007.<sup>1</sup>

Planning conditions provide a vital role by enabling planning permissions to go ahead which would otherwise be refused or delayed while the details are worked out. They can also save developers time and money as they do not need to invest in detailed submissions until after the principle of the development is granted.

The National Planning Policy Framework (NPPF) and the associated national planning practice guidance already sets out clearly expectations on use of planning conditions and are sufficient to ensure appropriate and proportionate use of conditions.

Joint working between councils and developers is the most effective way of

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<sup>1</sup> [DCLG: Planning Applications in England January to March 2016](#)

ensuring that the use of conditions is proportionate and justified and the LGA strongly advocates the use of early, collaborative discussions ahead of planning applications being submitted for consideration.

An advice note on best practice principles for using and discharging conditions was developed in 2015 by a cross-sector group and DCLG to help planning authorities, developers and statutory consultees.<sup>2</sup> This type of sector led support is a better way of embedding the good practice that already exists than top down legislative measures. Similarly where any issues do exist sector-led support should be the default route to help resolve them.

There is a risk that the proposals may have a number of unintended consequences including the potential for increased number of planning application refusals and/or statutory timescales for processing planning applications being missed, if agreement cannot be reached on pre-commencement conditions between an applicant and the local planning authority.

If the government is minded to go ahead with the proposals, we agree that there should be a default period, after which an applicant's agreement on proposed pre-commencement conditions would be deemed to be given, if no response had been received. This would help to minimise the risk of a local planning authority failing to determine an application within the statutory periods and appeals being permitted on the grounds of 'non-determination'.

Restriction of the imposition of certain planning conditions by the Secretary of State also risks reducing the ability of local planning authorities to include conditions that are necessary to address issues which might be specific to a local area or an individual development site.

It is difficult to determine the full implications of the proposals as there is much detail that will be determined in regulations that have not been published alongside the Bill or within the consultation. Draft regulations should be published as soon as possible to allow for effective scrutiny.

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. This should include fees for the discharge of planning conditions, which are currently set nationally at £97 per request, which can cover one or more conditions.<sup>3</sup> Locally-set planning fees would achieve far more in delivering effective planning services than piecemeal cumulative legislative changes from central government.

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<sup>2</sup> [Using and Discharging Conditions – Ten Best Practice Principles](#)

<sup>3</sup> <http://planningguidance.communities.gov.uk/blog/guidance/fees-for-planning-applications/fees-for-specific-application-types/>