DRAFT RESPONSE TO GOVERNMENT'S CONSULTATION PAPER ENTITLED "TECHNICAL CONSULTATION ON IMPLEMENTATION OF PLANNING CHANGES".

Changes to planning application fees

Q1.1: Do you agree with our proposal to adjust planning fees in line with inflation, but only in areas where the local planning authority is performing well? If not what alternative would you suggest?

Planning fees should be altered in line with inflation to ensure that local authorities can continue to deliver effective planning functions given the significant reductions in grant funding that have been imposed by the Government, although at the current rate of inflation, any increase would be small and not necessarily such an incentive for local planning authorities. Planning fee increases should not though be withheld on the basis of performance. The measure of performance alone does not show how effective Development Management is as a whole and we know that this measure is easily manipulated by the extension of time procedure. As a mainly green belt authority on the edge of London, Epping Forest has relatively few major applications and therefore a small number being delayed could mean fee increases are withheld, despite meeting targets for minor and other category applications, which are the majority of applications this council deals with. The appeal process and decision making is an existing and effective way of measuring quality and performance which carries the threat of cost penalties.

Q1.2: Do you agree that national fee changes should not apply where a local planning authority is designated as under-performing, or would you propose an alternative means of linking fees to performance? And should there be a delay before any change of this type is applied?

As set out above, the Council believes that fee increases should not be linked to performance. If it was to be introduced, there should be a time opportunity for council threatened in this way to put their house in order because resource and system changes do not happen overnight and require Member decision-making.

Q1.3: Do you agree that additional flexibility over planning application fees should be allowed through deals, in return for higher standards of service or radical proposals for reform?

The Council already provides a duty officer system and agents inform us that they consider availability and ease of contacting the planning case officer as qualities of our service. We also provide different levels of pre application services from a written response through to a series of more detailed meetings and discussions. This service works effectively in ensuring better applications and supporting information are submitted as well as speeding up decision making once an application is submitted.

A speedy turn round in the processing and determination of an application though does not necessarily provide value for money, particularly if it is a refusal. It does not take account of positive and proactive working with an applicant to achieve a better quality development, which normally takes a longer amount of time than the 'fast track' period that the Government is proposing. It is also not clear how the Government expects local planning authorities to have the time and resources to quickly process and determine the applications that the applicant has paid an extra fee for. However, many applicants would be prepared to pay a higher fee to receive this fast track service, including householder applications, which could divert resources away from major applications and the Government s aim to increase the supply of housing. Passport-style fast tracking the registering of planning applications is not working at other authorities because of a combination of low take-up and staff resources available.

Q1.4: Do you have a view on how any fast-track services could best operate, or on other options for radical service improvement?

Any fast track service would have to operate in a manner that would not impact on the timescales taken for all other applications. As such the fees would need to be set at a level that the local authority thinks is sufficient to maintain its services and should not be capped or limited in any way by Government. A national, rather than local, validation requirement for submitting planning applications could speed up the service and therefore be controllable at the point of submission, i.e. by the Planning Portal. Also, a requirement that detail be submitted at the submission stage, so as to limit the number of conditions being subsequently attached to a planning permission for further approval.

Q1.5: Do you have any other comments on these proposals, including the impact on business and other users of the system?

No

Permission in principle

Q2.1: Do you agree that the above should be qualifying documents capable of granting permission in principle?

Local Plans and Neighbourhood Plans allow for the allocation of sites for development and, as they have been through significant scrutiny both locally and via the Planning Inspectorate they would be appropriate documents through which to use the permission in principle. The brownfield register would be consulted also on locally, and may also be appropriate.

Q2.2: Do you agree that permission in principle on application should be available to minor

development?

No. The concept of a ‘permission in principle’ virtually duplicates already available processes for assessing in principle development, such as outline applications and pre-application advice. This includes minor development. Remove the outline process if the in-principle is a viable alternative, or else this is making the process unnecessarily complicated and confusing as to the difference between the two. There also does not appear to be any evidence put forward to support the claim that ‘developers of small sites can struggle to get access to timely pre-application advice’ when this is a service routinely offered by local planning authorities. Finally, the time period for determination Permission in Principle and Technical Details Consent are shorter than for major (13 weeks) and minor (8 weeks) applications - *The suggested Permission in principle minor applications: 5 weeks to determine; Technical details consent for minor sites: 5 weeks to determine and Technical details consent for major sites: 10 weeks to determine*. The Council does not have the facility to hold more planning committees.

Q2.3: Do you agree that location, uses and amount of residential development should constitute ‘in principle matters’ that must be included in a “permission in principle”? Do you think any other matter should be included?

The amount of development needs some indication of scale. Other factors that need to be considered at the in principle stage include – vehicular access, protected habitat impact, flooding, contamination, setting of listed buildings, conservation areas, amount of affordable housing etc. The in-principle seems to be too narrow a set of matters.

Q2.4: Do you have views on how best to ensure that the parameters of the technical details that need to be agreed are described at the permission in principle stage?

Through a list of planning conditions, setting out the necessary parameters.

Q2.5: Do you have views on our suggested approach to a) Environmental Impact

Assessment, b) Habitats Directive or c) other sensitive sites?

The appropriate mitigation required in relation to such sites is clearly set out as part of the permission in principle and processed in accordance with the appropriate Regulations.

Q2.6: Do you agree with our proposals for community and other involvement?

Yes

Q2.7: Do you agree with our proposals for information requirements?

It is considered that the minimum amount of information to be submitted with the application means that that the permission in principle would be meaningless. This is because further information may be required to assess whether the principle of development is acceptable. It is also not clear as to how such applications would stand in terms of EIAs, protected habitats, flooding or land contamination.

Q2.8: Do you have any views about the fee that should be set for: a) a permission in principle application; and b) a technical details consent application?

Increase them so that we can cover the Development Management service we provide. However, to persuade this process rather than an outline application, the in principle fee is likely to be lower, representing less return for the local planning authority. The technical detail fee should be the same as a reserved matters application, which really does question the need for this process when it is virtually duplicating existing ones.

Q2.9: Do you agree with our proposals for the expiry of a permission in principle on allocation and application? Do you have any views about whether we should allow for local variation to the duration of permission in principle?

If the time limit is set at 3 years, it reinforces the case that this is duplication of existing mechanisms. If set at 1 year, then agree that this could force development to go ahead with planning permission and deliver the much needed housing. To have locally set expirations could lead to confusion when LPAs set different time limits to nearby authorities.

Question 2.10: Do you agree with our proposals for the maximum determination periods for a) permission in principle minor applications, and b) technical details consent for minor and major sites?

No. The determination periods are too short to allow for statutory consultations and neighbour notifications to be carried out, as well as allow decision making where necessary at planning committees, given the short period to determination.

Brownfield Register

Q3.1: Do you agree with our proposals for identifying potential sites? Are there other sources of information that we should highlight?

There are some concerns over the preparation and implementation of Brownfield Register as has been presented in the Technical Consultation. There are likely to be resource implications for the Council in preparing a Brownfield Register. The process for preparing

and publishing a register is very similar to the process for preparing a SHLAA and as such is generally a duplication of development plan work and therefore undermines the primacy of the development plan. So, the SHLAA forms the most appropriate approach to identifying potential sites for inclusion in a brownfield register.

Q3.2: Do you agree with our proposed criteria for assessing suitable sites? Are there other factors which you think should be considered?

Yes. It is similar to criteria used for the inclusion of sites within the authorities SHLAA and the assessment of the five year housing land supply.

Q3.3: Do you have any views on our suggested approach for addressing the requirements of Environmental Impact Assessment and Habitats Directives?

The suggested approach seems acceptable.

Q3.4: Do you agree with our views on the application of the Strategic Environment Assessment Directive? Could the Department provide assistance in order to make any applicable requirements easier to meet?

No comment.

Small sites register

Q4.1: Do you agree that for the small sites register, small sites should be between one and four plots in size?

The Council considers this to be an appropriate figure.

Q4.2: Do you agree that sites should just be entered on the small sites register when a local authority is aware of them without any need for a suitability assessment?

No. Whilst this would be additional work some assessment of suitability should be required for inclusion on the register. Otherwise, it creates a sense of expectation that the site is developable and free from mitigation.

Q4.3: Are there any categories of land which we should automatically exclude from the register? If so what are they?

Sites in the curtilage of a listed building, scheduled ancient monuments and Greenfield sites in the Green Belt.

Q4.4: Do you agree that location, size and contact details will be sufficient to make the small sites register useful? If not what additional information should be required?

Any constraints on the site that would require mitigation, such as flood risk category, contamination etc. should be included in the site details.

Expanding the approach to planning performance

Q7.1: Do you agree that the threshold for designations involving applications for non-major development should be set initially at between 60-70% of decisions made on time, and between 10-20% of decisions overturned at appeal? If so what specific thresholds would you suggest?

Epping Forest is performing well above both the 50% target for Majors. In respect of the non-major applications, the consultation document is suggesting performance criteria of 60-70% of decisions made on time. Epping Forest is performing above this and the suggested threshold generally is reasonable. There is a clear customer expectation that the more minor applications, determined under delegated powers in particular, should be able to pass through the planning system in a timely manner, given the planning issues are likely to be much less.

Q7.2: Do you agree that the threshold for designations based on the quality of decisions on applications for major development should be reduced to 10% of decisions overturned at appeal?

We assume this is as the existing measure, I.e. appeals allowed as a total of all major planning application decisions, in which case, there is no objection.

Q7.3: Do you agree with our proposed approach to designation and de-designation, and in particular:

a. *that the general approach should be the same for applications involving major and non-major development?*

Yes - 2 year rolling period and still include extension of time agreements and planning performance agreements.

b. *performance in handling applications for major and non-major development should be assessed separately?*

Yes.

c. *in considering exceptional circumstances, we should take into account the extent to which any appeals involve decisions which authorities considered to be in line with an up-to-date plan, prior to confirming any designations based on the quality of decisions?*

Not sure of the understanding of this. Needs clarifying.

Q7.4: Do you agree that the option to apply directly to the Secretary of State should not apply to applications for householder developments?

This is no doubt that the Planning Inspectorate would not be able to cope, because it would be experiencing a high volume of casework as a result of amending the thresholds for minor and major applications. If the Government is so concerned about processes, then why should it hold back from including householders. We are therefore only saying yes to this because it would result in too great an administrative and decision making burden for the Planning Inspectorate if all the existing neighbour and other consultation requirements had to be carried out by them.

Testing competition in the processing of planning applications

Q8.1: Who should be able to compete for the processing of planning applications and which applications could they compete for?

Seriously, how is this going to work without;

- threat of abusing the system (outsourcing to private company who may have regular clients who put in planning applications or clients who also tend to use numerous architects etc and therefore could become the planning application assessor),

- ensuring local representations are carefully taken into consideration,

- varying quality of assessment of planning applications, and need for wide knowledge of different authority local plan policies, between providers,

- ensuring who deals with pre-application advice, conditions approval, appeals etc.

- who deals with complaint investigation - the local government ombudsman could become busier on planning investigations.

- the other providers not also being liable for designation if turnaround planning application performance is not met.

The processing of planning applications should be restricted to among local planning authorities, if there is going to be any competition. The application types that bog down most local planning authorities are the discharge of conditions. Put these out to alternative private

providers and free up council planning officers to concentrate on dealing with planning applications. Also, not convinced that costs can be driven down and performance improved through outsourcing the processing of planning applications. Where is the evidence?

The planning system and the building regulation system are not the same in terms of need for consultation, policy adherence or decision making, so do not see how this is a comparison.

Q8.2: How should fee setting in competition test areas operate?

Fees should cover the cost of processing applications but this should be set and apply to the LPA as well as the provider.

Q8.3: What should applicants, approved providers and local planning authorities in test areas be able to?

Have a longer period of time to make the decision after the processing has taken place. Taking a decision in 1 to 2 weeks after the report is received is not going to be a committee decision. What happens if the local planning authority disagrees or wants further information/extra conditions/ further consultation etc?

Q8.4: Do you have a view on how we could maintain appropriate high standards and performance during the testing of competition?

Standardise and ensure the validation of planning application requirements are the same across all providers.

Q8.5: What information would need to be shared between approved providers and local planning authorities, and what safeguards are needed to protect information?

Main information would be validation requirements, planning history, constraints layers on GIS, planning policies, details of internal consultations, any pre-application advise given, newspaper circulating in the local area for statutory adverts (and who pays for this?) and need/negotiation of s.106 contribution requirements.

Q8.6: Do you have any other comments on these proposals, including the impact on businesses and other users of the system?

It makes the decision-making of planning applications less transparent. Full details of the

pilot exercise should be shared with all local planning authorities.

Information about financial benefits

Q9.1: Do you agree with these proposals for the range of benefits to be listed in planning reports?

If included, they will inevitably be a factor in the determination of planning applications because why else should these facts be put in front of Members in a planning committee report. If they are to be included, then they should be at the end of the report, after the conclusion, in a section headed “non-planning matters of interest, should the planning application be granted”. Officers will have to waste time and effort in defending the increase in complaints received from angry objectors who will believe this has influenced the final decision.

Q9.2: Do you agree with these proposals for the information to be recorded, and are there any other matters that we should consider when preparing regulations to implement this measure?

No.

Section 106 dispute resolution

Q10.1: Do you agree that the dispute resolution procedure should be able to apply to any planning application?

The Council operates an effective pre-application service that identifies areas of concern prior to the planning application being considered. This allows consideration of S106 contributions and where necessary viability issues relating to affordable housing delivery, education and health service improvements etc. to be considered early and a negotiated resolution achieved. The process being proposed by Government will add additional time and cost to the planning decision making process and the Council therefore disagrees with its implementation.

Q.10.2 to 10.14

See response to question 10.1

Permitted development rights for state-funded schools

Q11.1: Do you have any views on our proposals to extend permitted development rights for state-funded schools, or whether other changes should be made? For example, should changes be made to the thresholds within which school buildings can be extended?

We have not had an example yet of a temporary state-funded school opening with the benefit of permitted development, but this is not supported as these changes appear to encourage students being in temporary accommodation longer than is necessary.

Q11.2: Do you consider that the existing prior approval provisions are adequate? Do you consider that other local impacts arise which should be considered in designing the right?

In addition to highway, noise and contamination impacts that are currently required, other prior notifications also include flooding. A change of use may alter the flood risk category of the building if used as a state-funded school or be in a high flood risk zone and therefore place the if in a and pupils are therefore place its occupants at an inappropriate risk unless effective mitigation is put in place.

Changes to statutory consultation on planning applications

Q12.1: What are the benefits and/or risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond with comments to a planning application?

Clearly if they require further period of time to respond it is because they have resource issues and the Government should be helping to ensure that the Environment Agency, Highway England etc have sufficient funding. What happens if they do not comment in time?

Q12.2: Where an extension of time to respond is requested by a statutory consultee, what do you consider should be the maximum additional time allowed? Please provide details.

Irrespective of the comments in Q12.1, an extra 14 days beyond the current 21 days does appear a reasonable time period in which to respond.