

Report to Planning Scrutiny Panel

Date of meeting: 3 October 2011

Portfolio: Planning & Technology

Subject: Local Planning Regulations – Consultation Response

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Committee Secretary: Mark Jenkins



Recommendations/Decisions Required:

To agree the Council's response to the consultation on the "Local Planning Regulations" as set out in Appendix 1.

Report:

Purpose of the consultation

1. The process of preparing a local plan is currently set out in the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Development) (England) regulations 2004, (as amended in 2008 and 2009). The Localism Bill is intended to amend the 2004 Act, and this current consultation seeks views on revised regulations to replace the amended 2004 Regulations.
2. Comment is not sought on the matters included in either the NPPF or the Localism Bill as part of this consultation, only whether the changes now proposed to the Regulations will deliver the intended outcomes. The Council's response to the NPPF is subject to a further report on this agenda.

Overview of matters within the consultation paper

3. This consultation concerns the specific Regulations which must be followed in order to achieve a sound Local Plan. It is stated as part of the consultation paper that the intention behind amending these Regulations is to ensure that centralised bureaucracy is removed and decision making in planning is returned to local councils and communities.

Duty to Cooperate

4. The Localism Bill introduces a "Duty to Cooperate" in relation to planning of sustainable development. This duty applies to a broad list of organisations including local planning authorities, county councils and other bodies as prescribed by the Regulations. The draft Regulations provide a list of these "other bodies" which includes 13 organisations (see Appendix 2) that must be included. The duty requires that these organisations engage constructively, actively and on an ongoing basis in the preparation of development plan documents where they relate to strategic matters.
5. Strategic matters are defined by the Bill as "sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with

infrastructure that is strategic and has or would have a significant impact on at least two planning areas” or where the development or use is a county matter.

6. The list of organisations included in the duty to cooperate appears to be appropriate, as these are all organisations that are already expected to be involved in the plan making process. Concern remains over whether the resources are available within all of these organisations to engage effectively.

Form and content of local development documents

7. The NPPF makes clear that references to local development documents will now be encompassed by reference to local plans. In this respect, the continued use of the terms “development plan document” and “local development document” within the draft Regulations is unhelpful.
8. The draft Regulations make reference to matters that should be included in Local Development Documents, but do not refer to “sustainable development”. As a result no definition of this term is included in the draft Regulation in support of the emerging Localism Bill or the NPPF.

Supplementary Planning Documents

9. Both the NPPF and the Localism Bill make clear that local planning authorities should seek to contain local planning policy to a single local plan document. Additional documents should only be used in exceptional circumstances. Despite this, the mechanism still exists for Supplementary Planning Documents (SPDs) to be delivered should a local planning authority deem this necessary.
10. The Regulations in respect of preparing SPDs has not been changed, other than to incorporate amendments made in 2008 and 2009. The time period for consultation on an SPD continues to be prescribed as “not less than four weeks and not more than six weeks”.

Development Plan Documents

11. In respect of Development Plan Documents (DPDs), the draft Regulations propose few substantial changes. Of note, however, is that the period of consultation is now prescribed as “not less than six weeks”. This provides local planning authorities with an opportunity to allow longer consultation periods should they consider this necessary. This will be helpful to ensure that local communities are given sufficient time to engage with consultation periods.
12. The draft Regulations are not as prescriptive as those currently in effect in terms of the stages that must be achieved in order to prepare a sound DPD. The current Regulations specify that specific stages must be adhered to, however the draft Regulations are more relaxed in this regard and specify only two specific stages of consultation must be undertaken. It is for local planning authorities to determine if further stages of consultation are necessary. However, it should be noted that the requirements of European Directive on Strategic Environmental Assessment must still be met, and it must be demonstrated that the most appropriate option(s) for the area have been selected based on the best information available.
13. The draft regulations make reference to “general” and “specific” consultation bodies. The definition of these bodies is currently found in the “Plan Making Manual” which is on the Planning Advisory Service website. However, it is not clear whether this will remain following the publication of the final version of the NPPF and the Regulations.

14. The Localism Bill proposes amendments to the Examination procedure by removing the requirement for the Inspector's Report to be binding on the authority. As this matter is covered by the proposed primary legislation, the draft Regulations are only concerned with matters of process in this regard.

Authorities' Monitoring Reports

15. There is an existing requirement for each local planning authority to submit an Annual Monitoring Report to the Secretary of State by 31 December every year. This Annual Monitoring Report must contain information over a number of matters for the preceding financial year. The information to be included is prescribed at length by a number of guidance documents. The draft Regulations now propose that a Monitoring Report must be published by each local authority which identifies:
- a) progress against published timetables for DPD preparation;
 - b) any adopted policies which are not being implemented, and the reason(s) for this;
 - c) what action should be taken to ensure these policies are implemented in future;
 - d) the number of dwellings built in that year, and since the relevant policy was published;
 - e) details of any Neighbourhood Development Order or Neighbourhood Plans that have been published;
 - f) progress against any Community Infrastructure Levy (CIL) tariff that has been adopted;
 - g) any action that has been taken under the duty to co-operate.
16. The Regulations do not specify a timetable over which Monitoring Reports must be published, but does set out that information that is collected for monitoring purposes should be made available as soon as possible after it is collected. This information must be made available on the Council's website, and at principal offices. The Council will need to carefully consider the way in which information is collected to ensure that this does not become onerous in terms of the frequency of updates that should be provided. It may be necessary for the Council to identify from the outset the frequency at which update Monitoring Reports may be published.

Consultation Response

17. Four consultation questions are provided, and a draft response is included at Appendix 1.

Reason for decision:

The draft Local Planning Regulations will dictate the preparation of new local planning policy in Epping Forest District. In combination with the emerging Localism Bill and the National Planning Policy Framework, this consultation process provides an opportunity to help shape the processes which will have to be followed.

Options considered and rejected:

Not to respond to the current consultation.

Consultation undertaken:

None

Resource implications:

Budget provision: Response to consultation from within existing resources

Personnel: Response to consultation from within existing resources

Land: None

Community Plan/BVPP reference:

Corporate Plan Key Objective 2011/12 no. 2: To utilise existing resources to support the Government's vision for the 'Big Society' where individuals and communities have power and responsibility to create better neighbourhoods and local services

Corporate Plan Key Objective 2011/12 no. 4a: To achieve overall improvement in respect of the Council's Key Performance Indicators for each of the four years from 2011/12 to 2014/15;
Corporate Plan Key Objective 2011/12 no. 6: To maximise the provision of affordable housing within the district

Corporate Plan Key Objective 2011/12 no. 8: To deliver a sound Core Planning Strategy, to guide development in the district up to 2031, as part of the Local Development Framework.

Relevant statutory powers:

Planning & Compulsory Purchase Act 2004, as proposed to be amended by the emerging Localism Bill 2011

Background papers: Draft National Planning Policy Framework: A consultation

Environmental/Human Rights Act/Crime and Disorder Act Implications: None

Key Decision reference: (if required)