

TONBRIDGE & MALLING BOROUGH COUNCIL

PLANNING and TRANSPORTATION ADVISORY BOARD

08 January 2008

Report of the Director of Planning Transport and Leisure

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

1 STREAMLINING LOCAL DEVELOPMENT FRAMEWORKS – CONSULTATION

Summary

In the light of experience of the first 3 years of operation of the new planning system the Government is consulting rather belatedly on a number of measures aimed at simplifying and speeding up the Local Development Framework process.

1.1 Introduction

1.1.1 When I reported in July to Cabinet on the Planning White Paper I made reference to the fact that the Government would be coming forward later in the year with detailed proposals aimed at improving the Local Development Framework (LDF) System. It has now brought forward, for consultation, draft changes to the LDF Regulations and changes to PPS12 which is the Planning Policy Statement dealing with LDFs. These changes are in addition to the changes relating to Supplementary Planning Documents (SPD) contained the Planning Bill (referred to elsewhere on this agenda)

1.1.2 Together these change propose the following:

- Changes to consultation and submission arrangements;
- Allowing SPD to be produced pursuant to policies in documents other than Development Plan Documents (DPD);
- Technical changes to administrative requirements;
- Greater flexibility in the choice of DPDs that have to be prepared to reduce the number and complexity of DPDs;
- To allow strategic sites to be allocated in the Core Strategy;
- Repackaging the tests of soundness;

- Emphasis on the importance of proper infrastructure planning
- Extending the lifespan of Core Strategies to 15 years.

1.1.3 I set out below more detail of the main proposals together with a commentary in response to the specific questions raised in the consultation about the changes to the Regulations. There are no specific questions about the changes to PPS12 so I comment more generally on that aspect of the consultation. As is so often the case with recent Government consultations the changes to PPS12 are to be accompanied by a new "Planning Manual" which has not yet been published. This inevitably leads to a lot of unanswered questions.

Changes to the Regulations

1.2 Consultation and Submission Procedures

1.2.1 Attached at **Annex 1** is a diagram which compares the current procedures with those proposed in the draft new Regulations. Essentially, the new regulations propose two things:

- to reduce the number of stages of consultation down from four to three by removing a requirement (under Reg26) to consult on the Preferred Options; and
- to defer submitting the DPD to the Secretary of State until after consultation on the final plan rather than before.

They do not yet propose any changes to the arrangements under Regs 29 and 30 for dealing with site allocation representations but seem to have an open mind about how this part of the process could be improved.

1.2.2 As I mentioned in the report on the White Paper, I believe that the overall time saving from these proposed changes will be somewhat illusory. Certainly the revised procedures do not seem to have streamlined things. The intention is that there will be only one stage of consultation on the Issues and Options before the preparation of the final DPD. There will therefore be no consultation on what is effectively a draft plan. From experience elsewhere this approach is doomed to failure. I believe it is helpful for consultees to see a full draft of a document in order to be able to comment constructively on it and, from our experience; our plans have usually been improved by such constructive criticism. Certainly the number of objections at the following stage in the process has been less than they would otherwise have been.

1.2.3 The proposed arrangements assume that comments of this nature at the final stage of the process will be the exception rather than the rule. Under, what they perceive to be, the exceptional circumstances when an authority might wish to propose any changes in the light of comments received they propose that the original plan should be completely withdrawn and that a completely revised plan

should be published in its place incorporating the proposed changes. But instead of opening up this revised plan to general public consultation it implies that only those who have made comments on the first draft should be allowed to comment on the second. This seems counter-productive in that, in the absence of a modifications stage, everyone should have an opportunity to comment of the changes.

1.2.4 This whole process seems unnecessarily complicated and cumbersome and still does not address the issue of consultation on site allocation representations which currently occurs after submission. In **Annex 1** I propose a revised process which I believe would be very much tidier and easier to understand. Essentially, what I am suggesting is that following publication of what is effectively a draft plan a schedule of any proposed changes should be published for public comment (comments at that stage being confined to the changes). These could be published alongside the site allocation representations together with the Councils' response to them. The public could then comment on these at the same time. Following this process a revised version of the DPD, incorporating the proposed changes, could then be submitted to the Secretary of State alongside:

- representations on the original plan
- representations on the proposed changes to the plan
- representations on the site allocations objections.

The Inspector would then have before them all the information necessary to make a judgement on the soundness of the plan and the issues for the Examination. Overall, the proposal to defer submission to the Secretary of State until after all of the other procedures have been followed seems sensible.

1.2.5 The changes to Regulations also propose that the current 6 week consultation period should be changed to "at least 6 weeks". I do not favour this change because it is too open-ended. When we wanted to offer people longer to comment on the plan we started the consultation period 3 weeks prior to the statutory period within which comments should be received.

The following paragraphs address the specific questions in the consultation document.

Question 1. Do you support the proposal to remove the requirement to have a stage of consultation in the middle of the process (ie Reg 26 Preferred Options?

Yes, but beware that a DPD published in full for the first time immediately prior to submission will be subject to far more detail criticism. As a consequence, the need for pre-submission changes will be the norm.

Question 2. Do you agree that the period for formal representations on the plan should be brought forward before submission?

Yes

Question 3. Do you think that the procedure concerning site allocation representations is unnecessarily burdensome?

It is not that it is burdensome, it is simply at the wrong stage in the process. It ought to be brought forward prior to submission and be regarded as an integral part of consulting on any changes to what is, in effect, a draft plan.

Question 4. Do you think we should require (by Regulation) local authorities to be under a duty to consider representations at the stage immediately prior to submission?

In the absence of a Preferred Options stage this must be an essential requirement. It should also be a requirement, by regulation, that the public be invited to comment on any changes that might be proposed as a result of considering representations. Consultation of the site allocation representations could usefully be subsumed into this process.

1.3 Supplementary Planning Documents

- 1.3.1 At present SPDs are required to be in conformity with a parent policy in an adopted DPD (or a saved Local Plan policy). It is proposed that SPD could be prepared which conforms with either national policy or with a policy in the Regional Spatial Strategy (RSS). This avoids the need for an authority to include a policy in its DPD repeating national or RSS policy, which would actually be contrary to advice elsewhere in the document, simply in order to provide a context for a more detailed SPD.

Question 5. Do you agree that LPAs should be able to produce SPD based directly on national or regional policy provided it does not contravene their DPD?

Yes. This seems a sensible and helpful change.

- 1.3.2 Government also proposes that non statutory supplementary planning guidance may be prepared by a Government Department, Regional Planning Body or County Council or other bodies (eg the AONB Joint Advisory Committee) where this would provide economies of production and avoid duplication. Such guidance would not be a SPD. However, if it was prepared with comparable public consultation and sustainability appraisal such guidance could be afforded weight in decision making, particularly if it was endorsed by the local authority to which it is intended to apply, or if was prepared in amplification of an RSS policy by the Regional Planning Body.

Question 6. Do you agree that we should draw attention to the possibility that certain key bodies could produce non-statutory planning guidance?

Yes, but it should be made clear that they should only do so with the prior agreement of the local authorities involved and that, other than that prepared by the Regional Planning Body pursuant to its own policies, the guidance will have no weight unless endorsed by the respective local planning authorities to which it is intended to apply.

1.4 Reduction in administrative burden

- 1.4.1 Some minor changes are proposed to the regulations limiting the number of organisations and individuals who must, by regulation, be sent hard copies of the DPD. It would still be at the discretion of the authority who else the documents should be sent to, but with everything now being on the Website it is increasingly less necessary to send hard copies to consultees.

Question 5. Do you agree that only specific consultation bodies must be sent a hard copy of the DPD?

Yes

Changes to PPS12

1.5 Greater flexibility and reduction in complexity and number of DPDs

- 1.5.1 Whilst all authorities will be required to prepare a Core Strategy the number and content of other plans will be at local authorities' discretion. Draft PPS12 includes criteria to assist local authorities in deciding whether a DPD is necessary. The aim is to reduce the overall number of DPDs being produced. We have already been through this process and have reduced the number of DPDs from 6 to 4, 3 of which are nearly complete. The main considerations are whether a plan is justified, effective and consistent with national policy.
- 1.5.2 It is made clear that other DPDs should not be used to take the place of the Core Strategy but may be prepared to provide additional detail which would not be suitable for a Core Strategy. The amount of weight given to Core Strategies in draft PPS12 seems disproportionate bearing in mind we already have an adopted Core Strategy and most other authorities in the country will now be well on the way with preparing one.
- 1.5.3 What is now required is greater guidance on what can and cannot be done in addition to the Core Strategy. At present the draft PPS12 allocates 15 pages to Core Strategies and only 2 to other DPDs. This is important because there are still a lot of extant PPGs which require local authorities to include policies in their local planning documents relating to a number of matters in greater detail than appropriate to the Core Strategy (eg. PPG7 countryside matters, PPS9 Biodiversity, PPS15 and 16 historic environment, PPG17 open space, PPS22

renewable energy, PPG23 pollution control, PPG24 noise and PPS25 flood risk). Advice is needed on how these issues can be properly addressed in DPDs.

1.6 Strategic Sites in Core Strategies

- 1.6.1 PPS12 is proposed to be clarified to confirm that strategic sites can be allocated in Core Strategies and shown on the Proposals Map. This is, of course, exactly what we did with Isles Quarry West and Bushey Wood but the advice was previously ambiguous. This clarification is therefore a welcome change.

1.7 Repackaging of the tests of soundness

- 1.7.1 PPS12 included 9 tests of soundness. Revised PPS12 proposes to repackage these into two basic principles or justification and effectiveness. Any simplification is to be welcomed in principle but the revised tests in para 4.52 are too vague to be helpful and could do with some expansion and further explanation without the need to cross-refer to other paragraphs in the PPS.

1.8 Infrastructure Planning

- 1.8.1 Draft PPS12 makes clear the importance of planning for infrastructure at the outset. The proposals in the Planning Bill (reported elsewhere) to introduce a planning tariff to be called the Community Infrastructure Levy (CIL) will need to be supported by sound planning for infrastructure delivery so that the reasons for imposing it are fully justified. The evidence on infrastructure should cover who will provide the infrastructure and when.
- 1.8.2 It says that the Core Strategy should draw on and in parallel influence any strategies and investment plans of the local authority and other organisations. It emphasises that the Core Strategy should allow for flexibility when there is uncertainty about the delivery of infrastructure by other bodies and should not place undue reliance on critical elements of infrastructure where funding is unknown. The test should be whether there is a reasonable prospect of its provision.
- 1.8.3 The CIL will be based on a costed assessment of the infrastructure requirements arising from development. The new powers will not come into effect until the spring of 2009. In the meantime, the draft PPS says that authorities should continue to advance their infrastructure planning in preparation for the CIL in order to ensure that there is clear evidence about planned infrastructure, its cost, timing and likely sources of funding.
- 1.8.4 This is one of the areas in the draft PPS12 with least clarity about “how” this is to be done. Maybe the Planning Manual will provide greater guidance, though no doubt there also will be specific guidance on the CIL when the Bill is enacted. What is important to understand is how we are supposed to deal with the matter in circumstances where an adopted Core Strategy already exists.

1.9 Extended timeframe

1.9.1 It is proposed to extend the required timeframe of a Core Strategy from 10 years to 15 years from its date of adoption. This is in line with the requirement now in PPS3 that authorities should be able to identify at least 15 years of housing land supply. Our Core Strategy has a time horizon of 2021 which is 13 years from its date of adoption, though it can reasonably be argued that it provides guidance on housing land well beyond this date by the identification of the Reserve Sites and the Area of Opportunity at Bushey Wood. Nevertheless, there needs to be clarity about what happens in the case of Core Strategies already adopted.

1.10 Conclusions

1.10.1 My conclusion is that many of the changes now proposed are to be welcomed but, certainly in our case, are too late. Indeed, nationally, there cannot be many authorities where this will be helpful because most will be at an advanced stage of preparation of their Core Strategies. On the contrary, many will find it extremely inconvenient in that they may well wonder whether they should stop what they are doing and start again. There needs to be much greater guidance and advice on what should be done after a Core Strategy is adopted and how to deal with matters such as Infrastructure Planning in circumstances where a Core Strategy is already adopted.

1.10.2 There are a number of more detailed points and individual word changes and corrections that I would wish to draw to the attention of the Secretary of State, but I would seek delegated authority to deal with these in addition to the more substantive points raised in this report.

1.11 Legal Implications

1.11.1 None directly arising from this report.

1.12 Financial and Value for Money Considerations

1.12.1 There could be significant costs if any of these changes mean that we have to redo what we have already done. On the other hand if some of the changes come into effect sooner rather than later there may be some savings in the cost of the adoption process for the Managing Development and the Environment DPD.

1.13 Risk Assessment

1.13.1 There is a risk, unless the PPS is clarified, that some of the changes may require the Council to revisit its recently adopted Core Strategy.

1.14 Recommendations

1.14.1 The general comments and specific responses to questions set out in this report be used as the basis for framing the Council's formal response to the consultation on "Streamlining the LDF System".

1.14.2 The final response, including more detailed technical comments, be agreed by the Cabinet Member for Planning and Transportation.

The Director of Planning Transport and Leisure confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

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DCLG Consultation Document on PPS12

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