

**TONBRIDGE & MALLING BOROUGH COUNCIL**

**PLANNING and TRANSPORTATION ADVISORY BOARD**

**29 July 2009**

**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 GREATER FLEXIBILITY FOR PLANNING PERMISSIONS – DCLG CONSULTATIONS**

**Summary**

**To report on proposed changes to the regime for extending the life of planning permissions and amendments to planning permissions in light of the current economic climate.**

**1.1 The Government's proposals**

1.1.1 In 2004 the Government legislated to reduce the period that a planning permission is normally valid from 5 years to 3 years – in an endeavour to encourage speedy implantation and avoid a build-up of permissions. At that time it also removed the right to extend the period of validity by a short form process.

1.1.2 As a result of the current economic conditions the Government now feels that it would be more appropriate if some permissions could now run for more than 3 years to increase confidence into the future. The power currently exists to allow the Council to give a more than 3 year permission but what is now proposed is a more structured approach.

1.1.3 The gist of the proposal is set out in the Consultation paper as follows:

*“As this measure is being introduced in response to current economic circumstances, it will be temporary, and will apply only to permissions which were granted on or before the date on which this measure comes into force (i.e. 1 October 2009). The length of time the measure will operate for therefore depends on the length of time which each individual permission has left to run. For example, a three-year permission granted in April 2008 could be extended at any time during the remaining 1.5 years of its life (i.e. until it lapses in April 2011). However, a permission granted in September 2007 could only be extended during the remaining year of its life (i.e. until it lapses in September 2010). The effect of this measure will be kept under review.*”

*Only one extension to each permission will be possible. This is because a successful application to extend results in a new permission, and that new permission would not have been granted on or before 1 October.”*

- 1.1.4 It would seem that CLG expects this facility to be effectively for major schemes. It is also proposed that new category of fee be introduced to avoid the need for a full application fee to be paid simply to extend the period for implementation. However this cannot be done until later in the legislative cycle.
- 1.1.5 Other proposals are to modify that way in which minor material amendments to schemes are to be dealt with – at present by use of current legislation but modified later by legislative changes.
- 1.1.6 It is also proposed to produce secondary legislation to allow “non-material” changes to be made again in some “short form” of procedure. This won’t happen until October. The interesting point is that the Government appears to have set its face against giving a definition of “non-material” or indeed any guidance on what may constitute such a change. It remains unclear to me how a “non-material” change requires a formal process at all given that by definition the changes are “non-material”. The processes will only be finally revealed in secondary legislation.
- 1.1.7 This range of changes seems to be very much of the character of “legislate in haste and repent at leisure” but we are now faced with this situation and need to make the best of it. The consultation paper sets out some more detail as to anticipated processes to be used, and these are generally unexceptional, but the final detail will only be revealed in the secondary legalisation.
- 1.1.8 The consultation sets out a series of specific question and my suggested answers are shown in Annex1 hereto. These will need to be submitted by 13 August to meet the deadline for responses.

## **1.2 Legal Implications**

- 1.2.1 None given that our part in this process will be circumscribed by legislation.

## **1.3 Financial and Value for Money Considerations**

- 1.3.1 There may be marginal changes to levels of fee income but this will not be clear until after the implementation of revised fee regulations in October 2009, at the earliest, and then only in the context of the state of the development economy from that date.

## **1.4 Risk Assessment**

- 1.4.1 Low risk at this consultation stage. Part on normal business of implementation of legislation.

## 1.5 Recommendations

1.5.1 The answers set out in Annex 1 **BE SUBMITTED** to DCLG as this Council's response to the consultation.

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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Nil

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