

SOUTH EAST LINCOLNSHIRE JOINT STRATEGIC PLANNING COMMITTEE (THE JOINT COMMITTEE)

Report of the Joint Policy Unit Manager

To: Joint Committee - 9 September 2011

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Subject: Consultation on Government's proposed new Local planning regulations

Purpose: To report on the consultation document and give views on it.

Recommendations:

It is recommended that:

- a) the content of this report be noted; and
- b) the conclusions and recommended response to the consultation document in Part 6 of this report be sent to the Department of Communities and Local Government as the views of the Joint Committee.

1.0 INTRODUCTION

1.1 This consultation seeks views on the Government's proposed new regulations which would apply to the preparation of local plans. The revised regulations are:

- i) in response to reforms set out in the Localism Bill;
- ii) to consolidate changes made in the 2004 regulations into a single document; and
- iii) to ensure the regulations are as effective and simple as possible.

1.2 The consultation does not seek views on the Localism Bill or the National Planning Policy Framework (which is the subject of a separate report on this agenda) – it asks for comments on how the regulations have responded to the planning reform programme.

2.0 BACKGROUND TO LOCAL DEVELOPMENT REGULATIONS

2.1 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. The Localism Bill is intended to amend the 2004 Act, and this consultation seeks views on revised regulations to replace the amended 2004 Regulations.

2.2 The main issues that the 2004 regulations cover are:

- the form and content of plans and supporting information;
- the process of preparing, consulting and examining development plan documents;
- the process of preparing non-statutory supplementary planning documents;
- joint documents prepared by more than one council; and
- publicising information on plan preparation

3.0 What's changing, and why?

- 3.1 The Government strongly believes that it is beneficial for communities and developers to have an up-to-date local plan in place to help guide the delivery of the sustainable development that their area needs.
- 3.2 Through reforms set out in the Localism Bill, the Government wants to remove centralised bureaucracy and return decisions on planning to local councils and communities, in particular through the proposed abolition of regional strategies and introduction of neighbourhood, as well as streamlining the process of preparing local plans. These reforms will make the role of local plans even more important, as they will set a planning strategy in co-operation with neighbouring councils, as well as a framework to guide neighbourhood plans.
- 3.3 The **Localism Bill** is introducing the following changes to the way local plans are prepared.

Duty to co-operate

- 3.4 The Bill introduces a new duty to co-operate, which will require councils and other public bodies to work together on planning issues. Therefore the revised regulations set out the proposed list of bodies to which the duty will apply.

Adoption of local plan documents

- 3.5 The Government believes that despite the great benefits for communities of having an up-to-date development plan in place, the current process for preparing local plans does not always allow a local council or their communities to have ownership of their plan. The Government wants to change the process, and make it simpler and more transparent.
- 3.6 Local councils are currently required to submit their draft plan for public examination by an independent inspector, appointed by the Secretary of State. Following the examination, the inspector produces a report which may modify the plan, which a local authority must accept before they can formally adopt the plan. The Government contend that these changes can feel imposed. It therefore, in the Localism Bill, proposes to remove the inspectors' powers to impose changes. Inspectors will report to the local authority and identify conflicts between the plan and national policy and regulatory process. However, they will only be able to recommend modifications to overcome these issues if the council ask them to. In addition, councils can suggest their own modifications for assessment by the Inspector during the examination, as well as making minor non-material changes themselves. The council is then free to choose to accept the inspector's modifications and adopt the plan, or resubmit a new plan. This approach will encourage a more collaborative process as the examination becomes more recognised as a forum for mediation.

Withdrawal of local plan documents

- 3.7 This change in the Bill allows a council to withdraw a development plan document at anytime before its adoption. If it has been submitted for independent examination, the council no longer requires a recommendation from the person carrying out the examination or a direction from the Secretary of State that the document should be withdrawn.

Local development scheme

- 3.8 Councils must prepare and maintain a local development scheme specifying the development plan documents, their subject matter and area and the timetable for their preparation and revision. Councils are no longer required to submit the local development scheme to the Secretary of State. Councils must publish up to date information on their progress in preparing documents against the local development scheme. Councils have flexibility to decide how best to present this information to the public, for example using on-line timetables.

Reporting to communities

- 3.9 Councils are currently required to publish an annual monitoring report on the implementation of their local development scheme and whether the policies in their plan are being achieved. The Bill removes the need to make this report to the Secretary of State, but the duty to monitor remains by requiring an 'authorities' monitoring report' to be prepared for local people, in the interests of local transparency and accountability. This will allow regulations to require monitoring information to be made available online and in council offices as soon as it is available to the council, rather than waiting to publish in a report annually.

National planning policy

- 3.10 In addition to the Localism Bill reforms, the Government intends to replace national policy on local plans set out in Planning Policy Statement 12 with a new consolidated **National Planning Policy Framework** (see separate report on this agenda). This policy document is the subject of a separate consultation. Local plans are described as 'local development frameworks' in Planning Policy Statement 12. Local development frameworks are a collection of documents that councils can prepare to guide future development in their area, including both development plan documents that require independent examination in public, and supplementary planning documents which do not. These documents form the primary basis for council's decisions on applications for planning permission.

4.0 SUMMARY OF PROPOSED CHANGES IN THE REVISED REGULATIONS

- 4.1 Part 2 of the revised regulations streamlines existing requirements and lists the public bodies to whom the new 'duty to co-operate' applies, and requires these bodies to take account of the views of local enterprise partnerships.
- 4.2 Part 3 sets out a simple definition of development plan documents, without referring to complex 'local development framework' terminology such as 'core strategy' or 'area action plan', which made the process confusing for the public and business and inflexible for councils. This allows councils to decide what they want to include in their development plan documents and review policy more quickly. Part 3 also removes the current regulations on local development schemes, giving councils the freedom to report the information that they think most relevant to local people, while maintaining the requirement to keep the public informed about the status of planning documents, as set out in the Bill.
- 4.3 Part 5 streamlines the regulations on the preparation of supplementary planning documents, in particular in relation to the role of the Secretary of State.

- 4.4 Part 6 streamlines how the Secretary of State's powers for intervention are set out and removes the need to seek compliance with regional strategies for areas outside London in response to their proposed abolition in the Bill. The revised regulations also remove the detailed prescription for public participation in the preparation of the statement of community involvement.
- 4.5 Part 8 removes the requirement to prepare a monitoring report for the Secretary of State. Councils are instead required to make the report for local people on key issues to be determined locally, as set out in the Bill. New regulation 39 prescribes minimum information to be included in monitoring reports beyond current regulation 48, including net additional affordable housing, Community Infrastructure Levy receipts, the number of neighbourhood plans that have been adopted, and action taken under the duty to co-operate. It also requires the monitoring information to be made available online and in council offices, as soon as it is available to the council, rather than waiting to publish in a report annually.
- 4.6 Part 9 streamlines requirements into a single regulation on the availability of documents which makes it easier for readers to understand and removes repetition from other regulations.

5.0 What's not changing?

- 5.1 In revising the regulations in response to the Bill the basic process of plan preparation is largely unchanged in order to meet EU requirements. The process for preparing development plan documents consists of an engagement stage and one formal consultation stage before submission to the Secretary of State for examination in public. The main steps in preparing supplementary planning documents are all kept to a minimum.

6.0 CONCLUSIONS AND RECOMMENDED RESPONSES TO CONSULTATION QUESTIONS

- 6.1 In general terms the proposed regulations meet the objective of responding to the planning reforms. They are simpler and more concise; although only by using them for plan production will we know whether the various aspects covered by the regulations are fit for purpose. In these circumstances the recommended responses to the 4 consultation questions are as follows:

Q1. Do you agree that the revised regulations effectively reflect the changes proposed in the Localism Bill?

Response: Agree.

Q2. Do you agree with the list of bodies included in the duty to cooperate?

Response: Agree.

Q3. Do you agree the revised regulations effectively consolidate the 2004 regulations with the revisions in 2008 and 2009?

Response: Agree.

Q4. Are there any ways in which the regulations should be changed in order to improve the process of preparing local plans, within the powers set out in the Planning and Compulsory Purchase Act 2004 and the Localism Bill?

Response:

1. The consultation document, to reflect the current Government's thinking, consistently refers to the preparation of 'local plan(s)', whereas the terms 'local plan(s)' do not occur in the draft regulations which consistently refer to 'development plan document(s)' and other types of document. This ambiguity should be clarified to avoid confusion. This could be achieved by reference in the 'Interpretation' section (set out in PART 1) to the definition of the term 'local plan' even though it does not feature in the draft regulations themselves.

7.0 VIEWS OF THE HEAD OF PLANNING AND STRATEGY, BOSTON BOROUGH COUNCIL AND THE PLANNING MANAGER, BRECKLAND COUNCIL AND SOUTH HOLLAND DISTRICT COUNCIL

- 7.1 The Head of Planning and Strategy for Boston Borough Council has indicated support for the report, conclusions and recommendation.
- 7.2 The Planning Manager and Monitoring Officer for Breckland Council and South Holland District Council have been consulted and have offered no views.
- 7.3 The Strategic Planning Manager, Monitoring Officer and s151 Officer for Lincolnshire County Council have been consulted and have offered no views.

8.0 REASONS FOR RECOMMENDATIONS

- 8.1 See Part 6 above.

9.0 IMPLICATIONS

- 9.1 **Risk:** There is a risk that the regulations will not be fit for purpose, although this will not be known until local planning authorities have had the opportunity to test them in local plan production.
- 9.2 **Financial:** The revised regulations have been designed with the aim of 'streamlining the process of preparing local plans'. This could result in financial savings for the Joint Committee partners (for example, in terms of officer time spent on plan preparation) but such savings are not guaranteed.
- 9.3 **Legal:** The new regulations are the statutory embodiment of the reforms set out in the Localism Bill.
- 9.4 **Equality and Diversity:** This is a matter which will have been addressed by the Department for Communities and Local Government in producing the Consultation Document.

10.0 WARDS/COMMUNITIES AFFECTED

- 10.1. The implications of the proposed new regulations affect all wards/communities.

Background papers - None

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Appendices attached to this report: None