

# CARLISLE CITY COUNCIL

**Report to:-** **Development Control Committee**

**Date of Meeting:-** 14 December 2012

**Agenda Item No:-**

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**Public**

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**Title:-** **DCLG CONSULTATIONS NOVEMBER 2012**

**Report of:-** **Director of Economic Development**

**Report reference:-** **ED.38/12**

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## **Summary:-**

This report sets out recent technical consultations from the Department for Communities and Local Government (DCLG) and the issues arising as they impact on Carlisle.

## **Recommendation:-**

That the Department for Communities and Local Government be informed of the responses to the consultations as considered by Members.

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04 December 2012

**Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: None**

## **1. BACKGROUND INFORMATION AND OPTIONS**

- 1.1 The Department for Communities and Local Government has recently issued a number of short consultations relating to technical aspects of planning rather than the Government's planning policies. These consultations propose changes which impact directly on the need for a planning application or the processes involved in consideration of an application or planning appeal. Each of these consultations is limited to a 6 week period and they are all live at the time of this committee meeting.
- 1.2 There are 5 consultations with the closing date in brackets including:
- Extending permitted development rights for homeowners and businesses (24 Dec)
  - Technical review of planning appeal procedures (13 Dec)
  - Planning performance and the planning guarantee (17 Jan)
  - Nationally significant infrastructure planning: expanding and improving the "one stop shop" approach for consents (7 Jan)
  - Nationally significant infrastructure planning: extending the regime to business and commercial projects (7 Jan)
- 1.3 The main proposals for change outlined in the consultations are highlighted in section 2 of this report.

## **2. CONSULTATION**

### **2.1 Extending permitted development rights for homeowners and businesses**

#### *Increased limits for homeowner rear extensions and conservatories*

In non-protected areas limits for single-storey rear extensions allowed under permitted development rights should be extended from 4m depth for a detached house and 3m for any other type of house to 8m for a detached house and 6m for any other type of house. This would include conservatories at the rear of properties. No changes are proposed for flats which do not have permitted development rights. Other limitations and conditions would remain the same to protect neighbouring properties e.g. not able to cover more than 50% of the curtilage, not exceed 4m in height, if the eaves height exceeds 3m it must not be within 2m of the boundary.

It states there is no weakening of the National Planning Policy Framework (NPPF) which aims to prevent garden-grabbing.

No permitted development rights for outbuildings or separate residential units.

**2.2** *Making it easier to carry out garage conversions*

Permitted development rights already exist to allow additional space to be created particularly where families need to adapt to meet changing needs. Conditions restricting conversion of garages should not be imposed by Council's unless fully justified e.g. parking problems would result otherwise.

**2.3** *Increased limits for extensions to shops and financial/professional services establishments, with development to the boundary of the premises*

Outside of protected areas, limits are currently set at extensions no larger than 50m<sup>2</sup> or 25% of the gross floor space. It is proposed to extend these limits to 100m<sup>2</sup> or 50% of the gross floor space.

Also propose that they should be able to build up to the boundary of the premises except where the boundary is adjacent to a residential property where a 2m gap should be retained.

**2.4** *Increased limits for extensions to offices*

Outside of protected areas, limits are currently set at extensions no larger than 50m<sup>2</sup> or 25% of the gross floor space. It is proposed to extend these limits to 100m<sup>2</sup> or 50% of the gross floor space.

No other changes proposed.

**2.5** *Increased limits for new industrial buildings*

New industrial buildings or warehouses can be built within the curtilage of an existing industrial building or warehouse limited to 100m<sup>2</sup> or no increase to the gross floor area of the original building by more than 25%. Propose to extend this to 200m<sup>2</sup> or 50%.

No other changes

**2.6** *A time limit on the changes*

Propose that these changes are limited to a period of three years from the implementation of secondary legislation coming into force. Homeowners or

businesses will have to complete the development within 3 years and notify the authority of that completion otherwise it will not be permitted development and could be subject of enforcement action. This is different to planning permission which is controlled on commencement.

## **2.7 *Protected areas***

Protected areas where these changes do not apply include for Carlisle Areas of Outstanding Natural Beauty, conservation areas and World Heritage Sites. It is proposed to also include Sites of Special Scientific Interest (SSSI).

## **2.8 *Delivery of superfast broadband***

It is proposed to remove the prior notification process for apparatus such as cabinets and poles in protected areas for a period of 5 years. Again works would have to be completed during that time to qualify as permitted development.

Government will be asking operators to work with local authorities to agree good practice. Prior approval will continue to apply to SSSI.

## **2.9 Planning performance and the planning guarantee**

### **2.10 *Assessing performance***

Propose to monitor and assess performance based on two key measures, the speed and quality of decisions on planning applications

### **2.11 *Speed of decisions***

Propose to focus only on applications for major development. The extent to which applications for major development are determined within 13 weeks averaged over a two year period. This assessment would be made once a year. A new reporting regime would be required.

### **2.12 *The role of planning performance agreements***

Extensions to timescales, made with written consent of the applicant following submission should be treated as a form of planning performance agreement and therefore excluded from data on which performance will be assessed.

There is scope for a more proportionate approach to the form and content of planning performance agreements but as a minimum they should set out a clear and agreed timescale for determining the application.

#### *2.13 Quality of decisions*

This will be based on appeal decisions which overturn the local authority's decision. The measure of quality is proposed to be the proportion of all major decisions made that are overturned at appeal, over a two year period.

#### *2.14 Having the right information*

There is a danger that information will be withheld by authorities therefore where data is missing for a single quarter in one reporting year it will be estimated based on average performance for the other quarters. Where data is missing for 2 or 3 quarters it will be imputed with a penalty in proportion to the amount of data, based on 5% penalty for speed and 1% penalty for quality. Data missing for a whole year will be regarded as very poor performing.

#### *2.15 Setting the bar*

Propose to use absolute thresholds where 30% or fewer major applications have been determined within the statutory period or more than 20% of major appeals have been overturned. The bar will be raised in relation to speed after the first year.

#### *2.16 Making a designation*

Designations would be made once a year and the authority would remain in that designation for at least a year.

#### *2.17 Effects of designation*

Designation would give applicants the option to apply direct to the Secretary of State but they could continue to use the designated authority in the usual way. It is proposed that this is limited to major applications. It is proposed that the Planning Inspectorate carry out the role of determining applications. Pre-application advice would be available from both parties. Fees would go direct to the Planning Inspectorate if the application is directed to them. Some functions would still be

required locally such as site notices and neighbour notifications, provision of site history and cumulative impact considerations. This performance would also be subject to standards. There would be no right of appeal. Discharge of planning conditions would remain the responsibility of the local planning authority.

#### *2.18 The planning guarantee*

The principle is that no planning application should take more than a year to decide, even where a planning appeal has been made. In order to deliver this, cases should remain with the planning authority no more than 26 weeks. It is proposed to amend legislation so that if a planning application remains undecided after 26 weeks the planning application fee is to be refunded.

#### **2.19 Nationally significant infrastructure planning: expanding and improving the “one stop shop” approach for consents**

2.20 This consultation proposed to streamline consultations requirements and ensure that relevant bodies are consulted near the development site rather than the more extensive consultation requirements. It is also proposed to streamline the consents process where other regimes may be affected although some will be retained relating to nuclear/radiation, emergency drought response orders and DECC/OFGEM in relation to the energy markets.

#### **2.21 Nationally significant infrastructure planning: extending the regime to business and commercial projects**

2.22 In line with the Growth and Infrastructure Bill there are powers to bring new business and commercial projects in the nationally significant infrastructure planning regime. The consultation lists the categories of development proposed to be included and potential thresholds over which they would be referred. For Class B uses this would be over 40,000m<sup>2</sup>, for leisure uses it would be over 100 ha, and for mixed use development (excluding housing or retail as a main use) over 100,000m<sup>2</sup>. Retail development would not be considered appropriate for this regime. There would be no national Policy Statement for a new category of business and commercial development.

### **3.0 PROPOSED RESPONSE**

- 3.1 All the consultations are related to economic growth and the inevitable consideration that planning is stifling development. There is therefore a strong and consistent message throughout these consultations that the planning process needs to be speeded up. There are some significant questions relating to what will be achieved in practice as there are already a significant number of planning consents in place with out development taking place.
- 3.2 At the time of preparing this report the Government was about to make its autumn budget announcement which may include reference to the issues highlighted by these consultation documents as the changes are intended to promote economic growth.
- 3.3 In order to provide an appropriate response an addendum report will set out officer proposed response in relation to the summary of issues highlighted in section 2 of this report.

### **4.0 Technical review of planning appeal procedures**

- 4.1 The above consultation ended on the 13 December and a summary of the consultation proposals is set out for information:
- 4.2 *Proposals for making the appeal process faster and more transparent*

Ensuring earlier submission and notification of appeal statements by requiring the appellant to submit their full appeal statement at the point of submission and ensure local authorities notify interested parties within one week rather than the two weeks as currently set.

Agree common ground upfront by the appellant submitting a first draft of a document containing factual background to the case at the time of making the appeal. The local authority would have until week 5 to negotiate a final version of agreed matters. There may also be some merit by introducing this for hearings rather than just inquiries.

Starting hearings and inquiries sooner by amending secondary legislation to expect an Inquiry to be determined not later than 16 weeks from the start date (unless impractical) and no longer than 10 weeks for a hearing.

Also make it a requirement that information is provided on the appeal forms relating to the number of witnesses and length of time they need to give their evidence.

Introducing an expedited commercial appeals service for less complex planning appeals with a simplified appeals procedure. The planning authority would notify interested parties at the application stage that there would be no further opportunity to make comment should the expedited route be chosen. The planning

Inspectorate will have the power to determine the appropriate appeal procedure.

Propose to apply a total word limit to the appellant's statement with no need for exchange of evidence or further comments. Also propose to extend this word limit to future householder appeal service.

#### *4.3 Proposals for improving the certainty and consistency of the process*

Aligning other planning-related appeal processes such as advertisement consent, listed building and lawful development certificate appeals. Propose also to remove the further comments stage of enforcement appeals.

Issuing one guide to planning appeal procedures

#### *4.4 Non-regulatory actions*

Moving to a more transparent online appeals model

Revise the criteria for determining which appeal procedure should be followed

Agreeing bespoke timetables for more inquiries e.g. which last 3 days or more

- 4.5 In response to this consultation officers agree that clarity of information at an early stage is useful and a faster appeal process for simpler appeals is welcomed. There are however difficulties with implementation in relation to the simplified appeal process and notification to third parties that they will have no right to further representation to the planning inspectorate. In addition whilst the use of timetables for Inquires is welcomed the council has experienced recent difficulties with this in relation to Beckburn and Hallburn joint inquiries to agree dates between all parties. These concerns have been relayed as a response to the consultation.



### **3. RECOMMENDATIONS**

That the Department for Communities and Local Government be informed of the responses to the consultations as considered by Members.

### **4. REASONS FOR RECOMMENDATIONS**

In order to represent the interests of the local community and town planning in Carlisle.

### **5. IMPLICATIONS**

- Staffing/Resources – Changes will be required to deal with new measures such as those relating to appeals but will be undertaken with existing staff resources
- Financial – There are implications from the planning guarantee which may impact on income received from planning applications
- Legal – Secondary legislation will be required to introduce some of the measures referred to in the consultations
- Corporate – The measures proposed in the consultations are seeking to speed up the planning service and thus encourage investment and economic growth.
- Risk Management – Some measures will be required to ensure the Council does not end up a designated authority
- Equality and Disability – No impact
- Environmental – No impact
- Crime and Disorder – No impact
- Impact on Customers – As the planning service deals with many customers guidance will need to be updated once measures are confirmed through legislation
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#### **Impact assessments**

**Does the change have an impact on the following?**

Equality Impact Screening	Impact Yes/No?	Is the impact positive or negative?
Does the policy/service impact on the following?		
Age	No	
Disability	No	
Race	No	
Gender/ Transgender	No	
Sexual Orientation	No	
Religion or belief	No	
Human Rights	No	
Health inequalities	No	
Rurality	No	

**If you consider there is either no impact or no negative impact, please give reasons:**

**The proposed changes apply throughout the planning system and not one particular sector.**

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**If an equality Impact is necessary, please contact the P&P team.**