

## NFNPA/PDCC 201/16

### NEW FOREST NATIONAL PARK AUTHORITY

### PLANNING DEVELOPMENT CONTROL COMMITTEE MEETING – 15 MARCH 2016

#### DCLG CONSULTATION - TECHNICAL CONSULTATION ON IMPLEMENTATION OF PLANNING CHANGES

**Report by:** Steve Avery, Executive Director

#### 1. Introduction

1.1 On 18 February 2016 the Department for Communities and Local Government published its latest consultation which sets out the Government's proposed approach to implementing the planning provisions in the Housing and Planning Bill, as well as some "other planning measures". Responses to the consultation will inform the detail of the secondary legislation which will be prepared once the Bill gains Royal Assent. Specifically, the scope of the consultation covers:

- Changes to planning application fees
- Permission in principle
- Brownfield register
- Small sites register
- Neighbourhood planning
- Local plans
- Expanding the approach to planning performance
- Testing competition in the processing of planning applications
- Information about financial benefits
- Section 106 dispute resolution
- Permitted development rights for state-funded schools
- Changes to statutory consultation on planning applications
- Public Sector Equality Duty.

1.2 The consultation document is attached as Annex 1.

1.3 The purpose of this report therefore is to highlight the main matters for consideration and to seek Members' views in responding to the consultation (which closes on 15 April 2016).

#### 2. Matters for consideration

2.1 The proposal to increase **planning application fees** in line with the rate of inflation is welcomed, although it should be noted that any increase in national fees would only apply to those authorities that are performing well. There is also a suggestion that in return for an additional fee, applicants could elect to have a 'fast track' service.

2.2 Furthermore, provision is also made to bring forward a small number of time limited pilot schemes to test the benefits of **introducing competition** to the processing (but not determination) of planning applications to make the planning system more effective and efficient. This could see local authorities compete to process

applications in other local authority areas. In this scenario, local authorities would be able to set their own fee levels “enabling them to set different levels for different levels of service”.

- 2.3 A key proposal is the new **permission in principle** which already appears in the Housing and Planning Bill. The aim is to give greater certainty and predictability by ensuring that the principle of development only needs to be established once – either through a *locally supported qualifying document* or on application to the local planning authority. It is suggested that qualifying documents would include a local plan, a neighbourhood plan and a new brownfield register (see below). So for example, if a housing site is allocated in a local plan, then an applicant would only need to seek approval of the details (e.g. design and layout) as the principle of development would have already been established.
- 2.4 The consultation asks the question (2.1) as to what qualifying documents should be capable of granting permission in principle. This proposal has significant implications for local plan preparation but officers are minded to agree to local and neighbourhood plans being included. However, there is real concern about extending the ‘permission in principle’ to brownfield sites which will not have been subjected to the same degree of public consultation and independent examination as local and neighbourhood plans.
- 2.5 It is also proposed to introduce much **shorter determination periods** for ‘permission in principle’ applications and technical details consent, with a maximum determination period of five weeks in most cases. Details are important in an area like the New Forest and getting them right is often what takes the most time. Furthermore, a much reduced determination period would not allow adequate time to undertake meaningful public consultation, another very important facet of our local planning service. For these reasons, we are not looking to agree the proposals on determination periods (question 2.10).
- 2.6 The proposal for a **brownfield register** seeks to place a duty on all local planning authorities, including National Parks, to compile a register of brownfield land suitable for housing, using existing evidence on land availability as a starting point for identifying suitable sites for inclusion on the register. It would apply to all sites capable of supporting five or more dwellings or more than 0.25 ha of land “capable of development”.
- 2.7 The Government wishes to ensure that 90% of suitable brownfield sites have planning permission by 2020, with sanctions for those authorities that fail to make sufficient progress (applying the ‘presumption in favour of development’). All authorities would be required to publish the register on line in an agreed standard form.
- 2.8 The questions asked in relation to the brownfield register (in chapter 3 of the appended document) are framed in such a way that invite comments on the detail rather than the principle. It will be open to local authorities to exempt brownfield sites which are subject to constraints but only where there is “strong evidence” to support these and where they cannot be mitigated in any other way.
- 2.9 In addition to the above, local authorities are also being asked to publish a **list of small sites** to make it easier for developers and individuals interested in self-build and custom housebuilding to identify suitable sites for development. This would apply to sites between “one and four plots in size” although anyone wishing to develop a small site would still need to apply for planning permission in the normal way. When

combined with the requirement for a brownfield register of sites of five dwellings or more, the small sites register creates a significant additional burden on local planning authorities. The consultation invites comments on the categories of land to be excluded from the register and asks whether local planning authorities “should be permitted to exclude sites from the register which they deem completely unsuitable for development.” Clearly this would make sense and avoid unnecessary work.

- 2.10 The Government would like to see many more communities make use of **neighbourhood plans**. The consultation document seeks to speed up the designation process, especially for those plans advanced by parish councils. No concerns are raised in response to these specific provisions which would enable local communities to make quicker progress on the preparation of their Neighbourhood Plans.
- 2.11 The Government is also keen to promote the **financial benefits of planning permission** that can accrue to local areas as a result of development. The consultation document therefore proposes that council tax revenue, New Homes Bonus, business rate revenue and section 106 payments should all be listed in planning reports. In the case of National Park Authorities, the document acknowledges that most of the financial benefits are not collected by the determining authority but nonetheless requires National Parks to liaise with their constituent authorities in collating the relevant information.
- 2.12 There is a concern that any exaggerated emphasis on the financial benefits accruing from a development has the potential to create a false impression that these were somehow material to the decision to grant planning permission, thereby bringing the local planning system into disrepute. Members will therefore want to consider how we might respond to questions 9.1 and 9.2 (chapter 9).
- 2.13 Further special measures are proposed for **underperforming local authorities** which would raise the bar for determining non major development applications and losing no more than 10-20% of decisions on appeal (10% in the case of major applications). As a national park, we deal with relatively few major applications and even less major appeals, so any ‘rogue’ appeal decision would make us particularly vulnerable with such a low threshold of 10%. Our performance on determining applications is very good at the moment although at the end of Q3, 29% of appeals had been allowed, which would put us within the threshold for ‘designation’. A suggested ‘defence’ would be where an appeal had been allowed despite the authority considering that its initial decision was in line with an up to date plan.
- 2.14 Finally, the last measure of note is the proposal to ensure that all local authorities have an **up to date local plan in force**. The Government has made it clear that it expects all local authorities to have up to date plans in place by early 2017, failing which the Government will intervene to accelerate production of the local plan. We have already commenced the review of our 2010 Local Plan and a revised Local Development Scheme is to be reported to the Authority meeting on 24 March 2016.

### 3. Conclusions

- 3.1 National Parks England will be submitting a collective response on behalf of the nine English National Park Authorities (NPAs) and the Broads Authority.
- 3.2 Nonetheless, Members may wish for the Authority to respond in its own right, hence the recommendation below. Members should also be aware that a number of the

proposed measures will have significant resource implications for the Authority, particularly for the planning policy team.

#### **4. Recommendation**

- i. The Authority seeks an exemption from the proposal to extend the 'permission in principle' to brownfield sites within the New Forest National Park;**
- ii. The Authority does not agree to the maximum determination periods for permission in principle on application and technical details consent;**
- iii. The Authority raises concern about emphasising the financial benefits accruing from developments within planning/committee reports; and**
- iv. The Authority seeks clarification on how an authority might defend its appeal decision on the basis that its initial decision was in line with an up to date plan (given that all decisions are predicated on the local plan).**

**Contact:** Steve Avery, Executive Director (Strategy and Planning) 01590 646659 [steve.avery@newforestnpa.gov.uk](mailto:steve.avery@newforestnpa.gov.uk)

**Papers:** Annex 1 – DCLG Consultation