**READING BOROUGH COUNCIL**

**REPORT BY DIRECTOR OF ENVIRONMENT**

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| **TO:** | **STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT COMMITTEE** | | |
| **DATE:** | **5 APRIL 2016** | **AGENDA ITEM:** | **11** |
| **TITLE:** | **TECHNICAL CONSULTATION ON IMPLEMENTATION OF PLANNING CHANGES** | | |
| **LEAD COUNCILLOR:** | **COUNCILLOR PAGE** | **PORTFOLIO:** | **STRATEGIC ENVIRONMENT, PLANNING AND TRANSPORT** |
| **SERVICE:** | **PLANNING** | **WARD:** | **WHITLEY** |
| **LEAD OFFICER:** | **KIARAN ROUGHAN** | **TEL:** | **0118 9374530** |
| **JOB TITLE:** | **PLANNING MANAGER** | **E-MAIL:** | **kiaran.roughan@reading.gov.uk** |

## 1. PURPOSE AND SUMMARY OF REPORT

1.1 A "Technical consultation on implementation of planning changes" was published by the Department for Communities and Local Government on 18th February 2016. The consultation is being undertaken to a deadline of 15th April 2016. The consultation is very wide ranging and significant to the operation of the planning system in England. The document covers 13 Chapters (in 64 pages) that each deal with a different matter. As part of the consultation, the document asks numerous questions upon which DCLG is seeking the views of respondents.

1.2 This report briefly summarises the changes to the planning system proposed in the Technical Consultation. It considers some of the possible implications for the planning system as it currently operates and specifically for this Council. It seeks Committee approval to a recommended draft response to the consultation, based on the questions set out in the document, attached at Appendix 1 to this report. Planning Applications Committee should note that a similar report, with the same recommendations, is being presented to Strategic Environment Planning and Transport Committee on 5th April 2016.

## 2. RECOMMENDED ACTION

**2.1 That the Committee notes the contents of the report and the various proposed changes to the planning system contained in the "Technical consultation on implementation of planning changes" published by DCLG in February 2016.**

**2.2 That committee approves the Council's recommended response to the specific consultation questions set out in the "Technical consultation," attached at Appendix 1 to this report.**

## 3. BACKGROUND AND ISSUES

3.1 DCLG has published a Technical consultation on implementation of planning changes related to the Housing and Planning Bill that is currently going through Parliament. This consultation is seeking views on the proposed approach to implementation of measures in the Bill. Responses to the consultation will inform the detail of the secondary legislation which will be prepared once the Bill gains Royal Assent. The consultation document is seeking views on proposals set out under the following headings:

1. Changes to planning application fees
2. Planning Permission in principle
3. Brownfield register
4. Small sites register to support custom build homes
5. Neighbourhood planning
6. Local plans
7. Expanding the approach to planning performance
8. Testing competition in the processing of planning applications
9. Information about financial benefits
10. Section 106 dispute resolution
11. Permitted development rights for state-funded schools
12. Changes to statutory consultation on planning applications

The proposals under each heading are summarised below.

3.2 **Changes to planning application fees**. Any changes in fees should go hand-in-hand with the provision of an effective service so the ability to raise fees will depend on satisfactory performance. The government is also looking for innovation and opportunity to charge additional fees for fast-track performance. Another initiative is to allow competition to be trialled in specific areas, with applicants having the choice of applying to the local planning authority or one of a range of approved providers (which could be other planning authorities).

3.3 **Planning Permission in principle:** This proposes to enable planning applications, similar to current outline planning permissions, to be determined with relatively little detail provided. This is designed to separate decision making on 'in principle' issues (such as land use, location and amount of development) from matters of technical detail (such as what the buildings will look like). The Bill provides for permission in principle to be granted on sites in plans and registers, and for minor sites on application to the local planning authority. Applications for permission in principle will require less information upfront than an outline application.

3.4 Applicants, including those seeking permission for minor development, will also be able to apply directly to the local planning authority for permission in principle, submitting a minimum amount of information. Such applications will consider only location, uses and a minimum and maximum level of residential development that is acceptable.

3.5 The Bill provides for 'permission in principle' to be granted on sites in two ways:

- On allocation in a locally supported qualifying document that identifies sites as having permission in principle (such as a future local plan, future neighbourhood plan or brownfield register); and,
- On application to the local authority.

3.6 The site allocation would contain 'prescribed particulars' – in effect the core 'in principle' matters that will form the basis of the permission in principle. Such matters could not be reopened when a subsequent application for 'technical details consent' is considered by the planning authority. Local planning authorities will not have the opportunity to impose any conditions when they grant permission in principle. The suggestion is that only 'location', 'uses' and 'amount of residential development' can be considered as 'in principle matters'; all other matters would be considered as 'technical details'. Permission in principle must be followed by an application for technical details consent to agree the details of the scheme before the applicant obtains full planning permission and can start work on site.

3.7 **Brownfield register**: The Consultation sets out proposals for preparing brownfield registers and keeping them up to date. The Government sees the register as a vehicle for granting permission in principle for new homes. Planning authorities would only reject

the inclusion of sites where there is no realistic prospect of sites being suitable for new housing. Sites would be found through the strategic housing land availability assessments. Details of proposals for identifying suitable sites, publicity and consultation, the proposed content of the registers and the intended requirements for publishing and updating the data (once a year) would be set out in secondary legislation.

3.8 **Small sites register: T**he consultation proposes the creation of a published list of small sites will make it easier for developers and individuals interested in self-build and custom housebuilding to identify suitable sites for development, and will also encourage more land owners to come forward and offer their land for development. It would relate to sites of 1-4 plots.

3.9 **Neighbourhood planning:** The government are proposing to set the various time periods for local planning authority decisions on neighbourhood planning; to set the procedure to be followed where the Secretary of State choses to intervene in sending a plan or Order to a referendum; and to introduce a new way for neighbourhood forums to better engage in local planning.

3.10 **Local plans:** The document is consulting on criteria that will inform decisions on whether the Secretary of State should intervene to deliver the government's commitment to get plans with up-to-date policies in place. Criteria includes the date of their last adopted local plan and a review of each council's progress against their published Local Development Scheme. Intervention would be prioritised in areas where there has been under delivery of housing in areas of high housing pressure.

3.11 **Expanding the approach to planning performance:** Currently, major planning applications can be determined by the Planning Inspectorate where the local planning authority has been 'designated'. Certain performance thresholds related to 'designation' are in place in relation to both the speed and quality of decision making. The consultation seeks to extend this approach to non-major development that would run alongside the existing performance approach to assessing applications for major development. This includes proposal to reduce the threshold for assessing the quality of local planning authorities' decisions to 10 per cent of applications for major development overturned at appeal. It is proposed that this measure will be extended to cover all appeals.

3.12 New thresholds are proposed at which authorities would become liable for designation in relation to non-major development. These would fall within the following ranges:

- speed of decisions: where authorities fail to determine at least 60-70 per cent of applications for non-major development on time, over the two year assessment period, they would be at risk of designation; quality of decisions:
- where authorities have had more than 10-20 per cent of their decisions on applications for non-major development overturned at appeal, they would be at risk of designation.

3.13 **Testing competition in the processing of planning applications:** The government intends to run a pilot to test competition by defining areas in which a planning applicant would be able to apply to either the local planning authority for the area or an 'approved provider' (a person who is considered to have the expertise to manage the processing of a planning application) to have their planning application processed. This does not prevent local planning authorities from continuing to process planning applications nor does it force them to outsource their development management service – it means that other approved providers will be able to compete to process planning applications in their area. Local planning authorities, in addition to processing planning applications in relation to land in their area, would also be able to apply to process planning applications in other local authorities' areas. Decisions on applications would remain with the local planning authority. The approved provider would only provide a recommendation. The approved provider would set their own fees.

3.14 **Information about financial benefits:** The Housing and Planning Bill proposes to place a duty on local planning authorities to ensure that planning reports, setting out a recommendation on how an application should be decided, record details of financial benefits that are likely to accrue to the area as a result of the proposed development. It also explicitly requires that planning reports list those benefits that are "local finance considerations." These would include sums payable under:

- Community Infrastructure Levy and
- Grants from central government, such as the New Homes Bonus.

They are also proposing that the following amounts are recorded in reports:

- Council tax revenue;
- Business rate revenue;
- Section 106 payments.

3.15 **Section 106 dispute resolution:** A dispute resolution process is intended to be provided by a body on behalf of the Secretary of State, concluded within prescribed timescales, and to provide a binding report setting out appropriate terms where these had not previously been agreed by the local planning authority and the developer. The process would be invoked when the target dates for determining applications are reached (e.g. 13 weeks for a major application, 8 weeks for a non-major application).

3.16 **Permitted development rights for state-funded schools:** They seek to ensure that where there is an identified need for school places, schools can open quickly on temporary sites and in temporary buildings while permanent sites are secured and developed. It is also the intention to allow larger extensions to be made to school buildings in certain cases without the need for a planning application. The proposals are to:

- Extend from one to two academic years the existing temporary right to use any property within the use classes for a state-funded school;
- Increase from 100 $m^2$ to 250 $m^2$ the threshold for extensions to existing school buildings (but not exceeding 25% of the gross floorspace of the original building); and;
- Allow temporary buildings to be erected for up to three years on cleared sites where, had a building not been demolished, the existing permitted development right for permanent change of use of a building to a state funded school would have applied.

Approval must be sought from the relevant Minister to use the site as a school. The Minister must notify the local authority of the approval. Permanent changes of use will require the Prior approval of the LPA in relation to highways, noise and contamination.

3.17 **Changes to statutory consultation on planning applications**: The government is seeking views on the benefits and risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond to a consultation. The performance data indicates that the average extension period is between 7 and 14 days and therefore a period of 14 days may be an appropriate maximum period to set for any extension sought.

## 4.0 COMMENTARY

4.1 This is a significant consultation with substantial implications for how the existing planning system operates. A recommended draft response to the consultation, based on the questions set out in the document, is attached at Appendix 1 to this report. This selectively answers most of the many questions set in the consultation. Some questions are left unanswered.

4.2 Officers do have concerns and criticisms over many of the chapters. Far from simplifying planning, a lot of what the government have been doing, and continues to do through this consultation, is complicate the planning system further while also seeking to weaken its ability to control development. A number of the measures run counter to the principles of localism which was supposedly a leading principle of the planning system under the current government. Measures such as permissions in principle, allowing competition on processing planning applications, etc, seem to dilute the involvement of local populations in decisions on planning applications. In other matters, such as on fees, new measures appear piecemeal and disjointed. They seek to solve one issue but may have unintended consequences elsewhere. Proposals relating to Brownfield Sites and Permissions in Principle are also put forward without reference to previous proposals, also contained within the Housing and Planning Bill, for local authorities to provide Local Development Orders for areas of brownfield land within their areas. The proposal to only allow increases in fees in line with inflation for authorities with satisfactory performance is not joined up with measures elsewhere in the document on performance.

## 5. CONTRIBUTION TO STRATEGIC AIMS

5.1 The Planning Service contributes to the Council's strategic aims in terms of:

- Seeking to meet the 2015 -18 Corporate Plan objective for "Keeping the town clean, safe, green and active."
- Seeking to meet the 2015 -18 Corporate Plan objective for "Providing homes for those in most need."
- Seeking to meet the 2015 -18 Corporate Plan objective for "Providing infrastructure to support the economy."

## 6. COMMUNITY ENGAGEMENT AND INFORMATION

6.1 Only minor reference is made to these matters in the changes proposed.

## 7 EQUALITY IMPACT ASSESSMENT

7.1 Where appropriate the Council must have regard to its duties under the Equality Act 2010, Section 149, to have due regard to the need to—

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

7.2 There are no direct implications arising from the proposals.

## 8. LEGAL IMPLICATIONS

8.1 These are dealt with in the Report.

## 9. FINANCIAL IMPLICATIONS

9.1 There are no direct financial implications resulting from this report.

## 10. BACKGROUND PAPERS

Housing and Planning Bill, October 2015.
http://www.publications.parliament.uk/pa/bills/cbill/2015-2016/0075/16075.pdf

**Appendix 1**

**Reading Borough Council. Recommended Responses to Consultation Questions**

**Chapter 1: Fees**

**Q. 1.1: Do you agree with our proposal to adjust planning fees in line with inflation, but only in areas where the local planning authority is performing well? If not what alternative would you suggest?**

**Should this be implemented immediately or in a given period of time to allow LPAs the chance to improve their performance?**

This proposal would be counterproductive: application fees are a primary source for resourcing LPA workforce. They ensure that planning departments have funding to deal with workloads and improve performance. On the whole, application fees currently do not cover the cost of dealing with an application. Any reduction in fees (or effective reduction through not increasing the fees) would adversely affect the ability of the LPA to deal with its workload, and therefore its performance. This is not therefore seen as a fair or effective way of ensuring improved performance. The 'effective service' could mean only that decisions are made within target time; this could encourage negative decisions in order to meet targets, and this would not result in a satisfactory outcome for the applicant. The last thing a poor performing authority needs is financial penalties which further undermine its ability to improve performance.

Performance is dealt with elsewhere in the document and by other existing measures. This measure reflects continuing piecemeal changes to different aspects of the planning system. This confuses and dilutes the objectives. Can we have just one, joined up approach to performance?

If it is to be implemented, then there should be a period of grace to allow LPAs to consider and implement the best use of the resources available to them.

**Question 1.2: Do you agree that national fee changes should not apply where a local planning authority is designated as under-performing, or would you propose an alternative means of linking fees to performance? And should there be a delay before any change of this type is applied?**

For the reason given above in answer to Q1.1, it is not considered that fee income should be related to performance; financial penalties would be counter-productive

It would be fairer to link application fees to the cost of development by area, i.e. to allow for geographical distinctions in fee setting (locally-led). This more proportionate approach would also have the benefit of encouraging development where it is most needed i.e. in the less affluent areas.

**Question 1.3: Do you agree that additional flexibility over planning application fees should be allowed through deals, in return for higher standards of service or radical proposals for reform?**

We consider that it might be possible to offer a fast-track service for householder applications on the basis that no negotiation is entered into and the proposals are assessed on the basis of the plans as first submitted. While this may result in a larger number of negative decisions, this is compensated for by the opportunity to undertake pre-app enquiries with the LPA before the submission of an application.

There is a danger that, unless the additional flexibility leads to substantial resource increase, problems in resourcing higher levels of service for some will be at the expense of the service

experienced by those applicants who do not follow that route. This could create an unfair 2 tier system.

**Question 1.4: Do you have a view on how any fast-track services could best operate, or on other options for radical service improvement?**

Such services would operate most successfully where the opportunity for pre-application enquiries is maximised.

**Question 1.5: Do you have any other comments on these proposals, including the impact on business and other users of the system?**

While the proposals for increased fees to be related to performance may encourage an improvement in performance, this could be at the expense of the quality of the decision and the flexibility to respond to the applicant in terms of facilitating an approval. Speed is not the only criterion of an effective service, which also includes the flexibility to achieve an approval through discussion/negotiation and the quality of the development which results from the application. These criteria do not seem to have been considered in the consultation proposals.

**Chapter 2.**

**Question 2.1: Do you agree that the following should be qualifying documents capable of granting permission in principle?**

**a) future local plans;**

**b) future neighbourhood plans;**

**c) brownfield registers.**

No.

The concept of including prescribed particulars and the granting of quite detailed "permission in principle" will add significant detail to the preparation of local plans and the preparation of brownfield registers, with correspondingly detailed consultation responses, requests for detailed negotiations over wording, objections to the detail within allocations and significantly increased complexity, spread over sometimes numerous sites. Inevitably this will increase resource needs for all parties for plan-making and compiling registers, raise the level of controversy, significantly extend preparation times, significantly extend the time and costs involved in the examinations of plans, etc. In addition, such levels of detail in plans quickly become out of date due to changing circumstances and the details contained in the permission in principle in the plan is no longer be what the landowner/developer wants to develop. There are very good reasons why such levels of detail are not generally provided in local plans – experience shows it adds unnecessary complexity and becomes out of date quickly. Consequently it is a waste of time.

In addition, this Council has its reservations about the resources needed to produce a Brownfield Register on top of a local plan and the scope for confusion if there is more than 1 document allocating sites. And the consultation makes no mention of LDO's!

In recent consultations and in the Planning and Housing Bill, the prospect of LDO's for brownfield land has been proposed. There is no mention of LDO's in this technical consultation and it is difficult to see how such a mechanism will fit with a system of permissions in principle derived from Local Plans and brownfield registers. This is just adding a further level of confusion to an already confusing proposed regulatory regime.

**Question 2.2: Do you agree that permission in principle on application should be available to minor development?**

No.

We do not agree that developers of small sites face challenges due to the lack of certainty and their inability to submit for pre-application advice in accordance with a realistic timescale. They tell us they face challenges by banks not being prepared to lend them the money to implement the permissions they have granted to them.

How can we judge the "minimum amount of information requirements" for each site?

In Reading we can agree that a site is in a sustainable location and development will be acceptable in principle – however this is subject to a number of policies and other material considerations being met which would only become known following consultation and surveys and the preparation of detailed layouts and designs.

**Question 2.3: Do you agree that location, uses and amount of residential development should constitute 'in principle matters' that must be included in a permission in principle? Do you think any other matter should be included?**

No.

These three things are important if giving certainty to developers and presumably neighbours is the aim. However, in the location description the "parameters" of the site are referred to. Does this apply to heights, layout, access, landscaping, etc?

Planning is complex. All sites have sensitivities. No planning authority, and residents will not allow them, is going to permit a specific level (amount) of development on a site without a thorough examination of the potential impacts and implications of that level of development. The current system provides permission in principle for location and uses through allocations in local plans and through outline planning permissions. The problem is always that if a developer wants permission for a specific level of development or a high maximum number of units in a range, and that is usually what they are seeking, there is an inevitable expectation that it be demonstrated how such a level of development can be accommodated without unacceptable impacts on the local area or on other matters of importance.

The principles of localism seek to give local populations a significant involvement in how their area changes and inevitably those populations expect to be able to interrogate any proposal for specific amounts of development in terms of how it affects the area and individuals. What is proposed under this measure is contrary to the principles of localism.

**Question 2.4: Do you have views on how best to ensure that the parameters of the technical details that need to be agreed are described at the permission in principle stage?**

As already identified above we will only know what technical details are needed following consultation and surveys. The concept of "permission in principle" is flawed as it fails to acknowledge the value of the current process. This paper has failed to identify with evidence what these actually are.

Why is the government introducing a new form of application when outline planning permission already exists? Is "permission in principle" and "technical details" intended to complement or replace outline permissions and reserved matters permissions? Would it not be more sensible to prescribe how outline planning permission will work differently rather than introducing a new form of outline permission with confusing new terminology and yet another separate regulatory system?

**Question 2.5: Do you have views on our suggested approach to a) Environmental Impact Assessment, b) Habitats Directive or c) other sensitive sites?**

Surely if proposal is likely to need an EIA or site is sensitive it should not be on a "permission in principle" list?

There is a danger that the suggested approach is seen as relegating more local designations as unimportant and therefore possible to ignore in the design of development proposals. For local people, all designated sensitivities area important and need to be taken into account.

**Question 2.6: Do you agree with our proposals for community and other involvement?**

The Council can see no advantage in the identified process over that for outline applications and applications for reserved matters or conditions.

**Question 2.7: Do you agree with our proposals for information requirements?**

No.

The Council can see no advantage in the identified process over that for outline applications and applications for reserved matters or conditions.

An appropriate level of information should be submitted with any application to enable a decision maker to properly consider a proposal. That information may be sourced from information held by a local authority and other bodies, but there is inevitably a need for site specific information on a whole range of matters that must be considered before any decision is made. It is naïve to think that permission in principle can be granted on the basis of minimal information. The potential for litigation for failing to consider material considerations as part of the decision making process is enormous and will significantly delay development rather than speed it up.

**Question 2.8: Do you have any views about the fee that should be set for a) a permission in principle application and b) a technical details consent application?**

No.

**Question 2.9: Do you agree with our proposals for the expiry of permissions in principle on allocation and application? Do you have any views about whether we should allow for local variation to the duration of permission in principle?**

No. Why should it be different to outline/reserved matters applications?

**Question 2.10: Do you agree with our proposals for the maximum determination periods for a) permission in principle minor applications, and b) technical details consent for minor and major sites?**

No. Why should it be different? The consultation proposes the same level of consultation as for other applications. It is impossible to consult, collate and consider representations and make a decision, particularly if it is through a committee process in significantly shorter time periods.

As we consider the concept and justification for a "permission in principle" process to be seriously flawed we find the comment about improving the efficiency of the planning system to justify 5 weeks and 10 weeks as likely to be unworkable.

**Chapter 3: Brownfield Register**

**Question 3.1: Do you agree with our proposals for identifying potential sites? Are there other sources of information that we should highlight?**

It appears that, at present, the brownfield register does not particularly add anything to the Strategic Housing Land Availability Assessment (SHLAA) process, which likewise asks for sites to be assessed, considers their suitability for housing, and then publishes the information on a regular basis. In a primarily brownfield authority such as Reading, it would simply be another way to present largely the same information, and thus adds another layer of complication and confusion.

The DCLG should give some thought to how the two can be combined to reduce the resource implications of two separate processes.

**Question 3.2: Do you agree with our proposed criteria for assessing suitable sites? Are there other factors which you think should be considered?**

The proposed criteria for assessing suitability seem reasonable in general, assuming that there would likely be further detail set out in Planning Practice Guidance.

In the third bullet point, however, only policies in the NPPF are specified as being potential constraints. This should also refer to up-to-date local policies, in order to reflect the primacy of the development plan as set out in planning law.

**Question 3.4: Do you agree with our views on the application of the Strategic Environment Assessment Directive? Could the Department provide assistance in order to make any applicable requirements easier to meet?**

The SEA directive is highly likely to apply. Essentially, if permission in principle is likely to be granted for the large majority of sites on the brownfield register, as paragraph 3.5 indicates, appearance on the register is equivalent to a local plan allocation, and ought to be subject to the same level of consideration. This will have substantial resource implications, and it is difficult to see how the requirements of law could be lessened by an assessment lessened in scope, as identified in paragraph 3.22.

**Question 3.5: Do you agree with our proposals on publicity and consultation requirements?**

We must make the point that the processes for appearance on the brownfield register will take resources away from production of the local plan, particularly in an authority such as Reading, where almost all potential housing sites are brownfield. Consultation and strategic environmental assessment are parallel processes, and draw on the same resources. We must be clear at this point that fulfilment of the proposed approach to the brownfield register would be highly likely to delay production of the local plan in many authorities.

**Question 3.9: Do our proposals to drive progress provide a strong enough incentive to ensure the most effective use of local brownfield registers and permission in principle?**

The threat that, without up-to-date brownfield registers a local planning authority will not be judged to have a five-year housing land supply, certainly represents a more than adequate incentive. This approach seems to be more interested in the process than the actual outcome. The ultimate outcome that is surely intended is an increase in housing land supply. If a local authority can demonstrate that this is likely to be achieved for the next five years through a Five Year Housing Land Supply, it seems perverse to overturn that conclusion based on the specific processes and planning vehicles that have been used to get to that point.

**Question 3.10: Are there further specific measures we should consider where local authorities fail to make sufficient progress, both in advance of 2020 and thereafter?**

Given the comments in relation to question 3.9, there is certainly no need for any further measures.

**Chapter 4: Small sites register**

**Question 4.1: Do you agree that for the small sites register, small sites should be between one and four plots in size?**

For the avoidance of uncertainty, the cut-off should be worded in an equivalent way as to the requirements for SHLAAs and the brownfield register, so that a site should be capable of supporting between one and five dwellings or be under 0.25 ha.

In more general terms, we would point out that this is yet another significant draw on very scarce resources in many local authorities. There is a potentially huge list of small sites in any one authority. Much will depend on how proactive a local authority is expected to be in identifying sites. There is no information in this section on whether the expectation will be that the register include only sites that are known to the local authority anyway (e.g. through having been identified in a SHLAA/Local Plan call for sites, or due to having planning permission) or whether it is expected that local authorities will actively seek to identify potential small sites not already known. There would clearly be even more significant resource implications if it is the latter, and our concerns expressed elsewhere in this response in relation to local plans would be significantly magnified.

**Question 4.2: Do you agree that sites should just be entered on the small sites register when a local authority is aware of them without any need for a suitability assessment?**

We have significant concerns with either approach. Appearance on a list maintained by the Council, irrespective of the caveats that are added, will always give the appearance that the local authority supports the development of the site. On the other hand, going through the process of assessing suitability will represent a potentially enormous resource commitment that many local planning authorities are simply not resourced for. On balance, therefore, if a small sites register must be introduced, we would not support a requirement for suitability to be assessed.

**Question 4.3: Are there any categories of land which we should automatically exclude from the register? If so what are they?**

See comments in relation to question 4.2 above. If certain categories of land must be excluded, this should be very clearly defined in order to avoid a resource-intensive assessment of suitability. If certain types of site are excluded at this stage, this will inevitably give the impression that those sites that remain on the register have some level of support.

**Chapter 6: Local plans**

**Question 6.1: Do you agree with our proposed criteria for prioritising intervention in local plans?**

The criteria seem broadly reasonable, although we would wish to clarify that, under the second bullet point (policies in plans have not been kept up-to-date) that this not be a simple assessment of the age of policies. Some older policies may still be very much in line with national planning policy, particularly where a local authority has long sought strong delivery of new housing as a priority, as has been the case in Reading for some time before the NPPF.

The key point to be made here is that the Government must surely recognise that the collation and maintenance of brownfield and small sites registers and use of permission in principle as set out elsewhere in this consultation will inevitably delay plan making in a great many authorities. There are simply not the resources in many places to undertake all tasks satisfactorily. If the Secretary of State will not decide what the priority is to be, this will have to be decided at a local level.

**Question 6.2: Do you agree that decisions on prioritising intervention to arrange for a local plan to be written should take into consideration a) collaborative and strategic plan-making and b) neighbourhood planning?**

We agree that this should be taken into account.

**Question 6.4: Do you agree that the Secretary of State should take exceptional circumstances submitted by local planning authorities into account when considering intervention?**

We agree that this should be taken into account.

**Chapter 7: Expanding the approach to planning performance**

**Question 7.1: Do you agree that the threshold for designations involving applications for non-major development should be set initially at between 60-70% of decisions made on time, and between 10-20% of decisions overturned at appeal? If so what specific thresholds would you suggest?**

The current performance target for minors is 65% of decisions made on time so a designation level of 60-70% would be perverse.

If the designation level is set too high (i.e. 70%), it is inevitable that local authorities will not negotiate effectively on applications and that the level of refusals of permission will increase adding to the time that many developments take to get permission.

Relating performance to testing targets in relation to appeals could be used by some applicants to force through unacceptable proposals on the basis that an authority would be in danger of being designated if a further appeal is overturned. It might mean that the danger of designation becomes an immaterial but significant influence in relation to a planning decision. That could lead to irrational decisions.

**Question 7.2: Do you agree that the threshold for designations based on the quality of decisions on applications for major development should be reduced to 10% of decisions overturned at appeal?**

The average for England is that around 30% of appeals are overturned on appeal, so a target of 10% seems somewhat onerous if not very unfair. The threat of designation against such an onerous and unrealistic target could also become an immaterial but significant influence in relation to planning decisions. That is not acceptable and decisions made on the basis of the threat of designation rather that solely on the merits of the proposals could be unlawful. It could put a local authority in an impossible position.

**Question 7.3: Do you agree with our proposed approach to designation and de-designation, and in particular:**

**(a) that the general approach should be the same for applications involving major and non-major development?**

No comment

**(b) performance in handling applications for major and non-major development should be assessed separately?**

Yes

**(c) in considering exceptional circumstances, we should take into account the extent to which any appeals involve decisions which authorities considered to be in line with an up-to-date plan, prior to confirming any designations based on the quality of decisions?**

Yes, but this will involve some resources to detail and assess which appeal decisions fall into this category

**Question 7.4: Do you agree that the option to apply directly to the Secretary of State should not apply to applications for householder developments?**

Yes.

**Chapter 8: Testing competition in the processing of planning applications**

**Question 8.1: Who should be able to compete for the processing of planning applications and which applications could they compete for?**

To become an "approved provider" the provider must have been through a rigorous process, perhaps run by the Planning Inspectorate, to verify that they have the qualifications, experience knowledge, analytical ability and ability to negotiate with the public and applicants needed to validate and determine a planning application in accordance with regulations and adopted policies (sounds like a planning officer)!

If the LPA is to manage the approval process for the providers who is to pay for that? Inevitably such a measure will require the payment of separate fees to pay the costs of the local authority in reviewing and making decisions on applications.

They should be able to compete for any application based on their approval rating.

**Question 8.2: How should fee setting in competition test areas operate?**

No comment – a recipe for disaster if there are different charges for the same job in same area.

**Question 8.3: What should applicants, approved providers and LPA's in test areas be able to do?**

Applicants should be able to choose who they like to process applications

Approved providers will not be able to use the LPA logo or sources of information other than as available on public website. If they can negotiate S106's who does the drafting of them? They should make recommendation within 4 weeks.

LPA's can reject recommendations but 3 weeks is a more reasonable time frame to allow consideration and discussion and still meet 8 weeks. Longer periods will be needed for major applications.

**Question 8.4: Do you have a view on how we could maintain appropriate high standards and performance during the testing of competition?**

See suggestion above that approved providers are vetted and tested by PINS.

**Question 8.5: What information would need to be shared between approved providers and LPA's and what safeguards are needed?**

Establishing how data will be secured and confidential information handled should form part of the approval process. The approved providers will need to have professional insurance to cover legal challenges and complaints.

**Question 8.6: Do you have any other comments on these proposals?**

Again appears to be another half thought through process which would not be needed if LPA's were properly resourced and could employ the right amount of people to do the job in house.

**Chapter 9: Information about financial benefits**

**Question 9.1: Do you agree with these proposals for the range of benefits to be listed in planning reports?**

There is a real danger that this concentration on the financial benefits of a scheme will give the appearance that planning permission is being granted solely for the financial gains that it brings and, in some cases, that planning permission is being sold. Potentially, that undermines the faith of the public in the planning system and the fairness of the decisions made in relation to the

merits of the development. Perversely it could turn the public away from development, rather than meeting the aim of encouraging positive attitudes towards development.

Reports need to be explicit of course where there are direct payments via CIL and Section 106 agreements that will feed into infrastructure provision or otherwise mitigate the impacts of development. However, it is very questionable that the proceeds accruing from the New Homes Bonus or future Council Tax and Business Rate proceeds should have any bearing on the merits of a planning proposal. Council tax and Business Rates pays for services to the population and businesses. In many cases new development imposes additional liabilities on local tax payers, particularly where development fails to provide adequate infrastructure, rather than financial benefits. The amount of future Council tax and Business Rates should have no bearing on decisions on the development itself.

**Question 9.2: Do you agree with these proposals for the information to be recorded, and are there any other matters that we should consider when preparing regulations to implement this measure?**

There are significant resource implications from the proposal that reports list and estimate the value of benefits particularly as advice will be needed on tax bands and tax per unit for business rates and Council tax.

**Chapter 10: Section 106 dispute resolution**

**Question 10.1: Do you agree that the dispute resolution procedure should be able to apply to any planning application?**

This seems somewhat late in the day as so many authorities, including Reading Borough Council, have moved over to the Community Infrastructure Levy and consequently, Section 106 is becoming less important.

The nature of Section 106 negotiations is that they are negotiations and, often, they can be complex and highly technical. The danger is that this will be used as an alternative appeal mechanism. A further danger is that each side will have to expend considerable resources providing justifications for their positions in the negotiation and it will end up being a costly, time consuming and resource intensive regime. If that does happen, it will become impractical for it to be used for smaller applications.

**Question 10.2: Do you agree with the proposals about when a request for dispute resolution can be made?**

**Question 10.3: Do you agree with the proposals about what should be contained in a request?**

**Question 10.4: Do you consider that another party to the section 106 agreement should be able to refer the matter for dispute resolution? If yes, should this be with the agreement of both the main parties?**

There is the potential for 3rd parties to seek to become involved in a vexatious way, possibly seeking to delay matters or to prevent development. That needs to be controlled so it may need to be with the agreement of both parties.

**Question 10.5: Do you agree that two weeks would be sufficient for the cooling off period?**

A good idea, but not helpful to speedy dispute resolution, so may deter parties from getting involved.

**Question 10.6: What qualifications and experience do you consider the appointed person should have to enable them to be credible?**

Disputes can cover various matters but currently they mainly revolve around legal issues or viability matters. A high level of qualifications and experience related to the matters in dispute is often needed to deal with areas where agreement is proving difficult.

**Question 10.7: Do you agree with the proposals for sharing fees? If not, what alternative arrangement would you support?**

A party that disagrees with entering into dispute resolution may object to having to pay a fee. How will that be resolved? Will resolution take place if one party refuses or delays paying a fee? Who will collect and chase any debt, particularly as for most cases this should not involve costs of any magnitude?

**Question 10.8: Do you have any comments on how long the appointed person should have to produce their report?**

This will only be of benefit if it is speedy or the dispute is intractable, in which case it will probably already have gone to appeal.

**Question 10.9: What matters do you think should and should not be taken into account by the appointed person?**

**Question 10.10: Do you agree that the appointed person's report should be published on the local authority's website? Do you agree that there should be a mechanism for errors in the appointed person's report to be corrected by request?**

**Question 10.11: Do you have any comments about how long there should be following the dispute resolution process for a) completing any section 106 obligations and b) determining the planning application?**

**Question 10.12: Are there any cases or circumstances where the consequences of the report, as set out in the Bill, should not apply?**

**Question 10.13: What limitations do you consider appropriate, following the publication of the appointed person's report, to restrict the use of other obligations?**

**Question 10.14: Are there any other steps that you consider that parties should be required to take in connection with the appointed person's report and are there any other matters that we should consider when preparing regulations to implement the dispute resolution process?**

It is difficult to see the merit of this inevitably tortuous and expensive proposal except in a very limited number of cases. Would it not be better to use the existing appeal system, perhaps via a fast-track mechanism where the only issue is a failure to agree the terms of the Section 106 agreement?

**Chapter 11 Permitted development rights for state-funded schools**

**Question 11.1: Do you have any views on our proposals to extend permitted development rights for state-funded schools, or whether other changes should be made? For example, should changes be made to the thresholds within which school buildings can be extended?**

This authority is generally positive about facilitating the speedy provision of school places. However in most cases the primary issue for both temporary and permanent school provision is the impact on highways and transport. No allowance has been made for LPAs to take this into consideration for temporary school use. In relation to the thresholds, this authority believes that the current threshold of 5m from the boundary of the curtilage of the site is the minimum distance that should be considered and therefore would not propose any change is made to this.

**Question 11.2: Do you consider that the existing prior approval provisions are adequate? Do you consider that other local impacts arise which should be considered in designing the right?**

Flooding issues should also be considered.

**Question 12.3: What are the benefits and/or risks of setting a maximum period that a statutory consultee can request when seeking an extension of time to respond with comments to a planning application?**

**Question 12.4: Where an extension of time to respond is requested by a statutory consultee, what do you consider should be the maximum additional time allowed? Please provide details.**