

**Committee:** Planning Policy Working Group

**Agenda Item**

**Date:** 23 March 2016

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**Title:** Technical consultation on Implementation of planning changes

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## Summary

1. This consultation is seeking views on the proposed approach to implementation of measures in the Housing and Planning Bill, and 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. This report covers the impact on local plans and neighbourhood plans.
2. This report summarises the changes to local planning and neighbourhood planning. The full consultation is at <https://www.gov.uk/government/consultations/implementation-of-planning-changes-technical-consultation>

## Recommendations

3. The views of the Working Group are sought on the proposals

## Financial Implications

4. None.

## Background Papers

5. None

## Impact

- 6.

Communication/Consultation	The Government is consulting widely on the proposals
Community Safety	N/A
Equalities	An accompanying Equalities Statement was published with the consultation
Health and Safety	N/A
Human Rights/Legal Implications	N/A
Sustainability	N/A

Ward-specific impacts	All
Workforce/Workplace	N/A

## **Situation**

### **Local Planning**

7. The Government are consulting on criteria that will inform their decision on whether to intervene to get plans with up-to-date policies in place.
8. They are proposing to prioritise intervention where:
  - the least progress in plan-making has been made;
  - policies in plans have not been kept up-to-date;
  - there is higher housing pressure;
  - intervention will have the greatest impact in accelerating local plan production

### **Local Plan Intervention**

9. The Government will establish when an authority expects to publish, submit and adopt its new or reviewed local plan from its local development scheme. By comparing this information against information on plan progress published by the Planning Inspectorate they will establish whether an authority is meeting the timetable it has set itself.
10. In taking decision about prioritising their intervention, the Government will take into account the extent of housing pressure and performance on housing delivery.

### **Comment**

11. Measuring performance against a published LDS is a reasonable proposal however local authorities need the flexibility to amend their LDS in the light of changed circumstances and should not be penalised for external factors that are outside their control.
12. The proposal to prioritise areas of high housing pressure for intervention is not supported. There are other good reasons to progress a plan other than to deliver housing.

### **Wider Planning Context**

13. The Government is proposing to have regard to how authorities are working cooperatively to get plans in place in determining intervention and taking into account the potential impact that not having a local plan has on neighbourhood planning.

### Comment

14. These appear to be reasonable proposals and are supported. Uttlesford has a good track record of working with its Housing Market Area partner authorities under the duty to co-operate as well as operating within the Co-op Group. Equally, six communities are preparing neighbourhood plans and should not be impeded by the absence of a local plan.

### **Exceptional Circumstances**

15. Before taking decisions on intervention in a local plan, the Government will give authorities an opportunity to explain any exceptional circumstances which, in their view, would make intervention at the proposed time unreasonable. The Government proposes the following tests:-
- whether the issue significantly affects the reasonableness of the conclusions that can be drawn from the data and criteria used to inform decisions on intervention;
  - whether the issue had a significant impact on the authority's ability to produce a local plan, for reasons that were entirely beyond its control.

### Comment

16. These tests are supported.

### **Publishing local planning authorities' progress in plan-making**

The Government proposes to publish the information set out below for each local planning authority in England:

- the date that the local plan was adopted or last reviewed (for areas without an adopted local plan it would be the date of their last plan prior to the 2004 Act)
  - for the publication and submission stages of the plan-making process, the date these stages have been achieved
  - for each stage in the plan-making process (publication, submission, adoption) that has not been achieved: a) the forecast date for achieving that stage as set out in the authority's local development scheme at a baseline date (likely to be April 2016); b) for subsequent publications of this information, the most recent forecast dates. If this remains the same as the baseline date it will still be published to show the authority is meeting their timetable ;c) any slippage or acceleration between the original baseline date and the most recent forecast dates.
17. It is proposed to translate dates from local development schemes so that they are presented as quarters of the financial year and the Government aims to publish its data on plan-making performance from June 2016, on a six monthly basis. They will give local planning authorities an opportunity to confirm the accuracy of the data prior to its publication.

### Comment

18. The Government will need to explain if and why they disagree with a council's explanation of the accuracy of the data; with this caveat there is no objection to the proposal.

### **Neighbourhood Planning**

#### **Designation of neighbourhood areas**

19. The Localism Act 2011 gave communities direct power to shape the development and growth of their local area through a neighbourhood plan. Currently when a town or parish council apply for a neighbourhood plan designation of the whole of their parish the authority has eight weeks to decide the application with the discretion to amend the boundary.
20. It is proposed that when a parish or town council apply for the whole of their parish area to be designated the LPA will not have the discretion to amend the boundary and they must designate the whole of that area as soon as possible.

### Comment

21. Officers agree that this will make the process simpler and quicker and have no objections to the proposal.

#### **Consideration by LPA of the recommendations made by independent examiner**

22. An independent examiner of a neighbourhood plan must send their report to the LPA who must then decide what action to take in response to each of the report's recommendations. If the LPA is satisfied that a draft neighbourhood plan meets the basic conditions and other legal tests then a referendum must be held. Currently there is no time scales as to when this has to take place.
23. It is proposed that:
  - There should be a time period of five weeks (from the date the authority received the examiner's report) within which the LPA must decide whether it can progress to referendum.
  - that when a LPA decision differs from that recommended by the examiner or when the SoS intervenes LPA must now notify specific groups and there be a period in which further representations can be made of six weeks
  - The LPA should then issue its final decision within five weeks of the end of that period.

### Comment

24. The proposal to introduce a six week representation period is supported. The proposed five week periods would mean that taking officer recommendations to the relevant committee may not be possible. A time period in principle is supported, however it is considered that 10 weeks would be more appropriate

ensuring there is enough time for the appropriate committee to consider and make the final decision.

### **Setting the referendum date**

25. Currently there is no timescale for an authority to undertake the neighbourhood plan referendum. It is now proposed that a LPA should hold a referendum within ten weeks of the decisions that one should be held.
26. It is proposed that a referendum should be held within ten weeks of the decisions (except in cases where there are legal challenges, when it can be combined with another poll or where the LPA and NP group agree another date).

### **Comment**

27. This time period is acceptable. The Council supports the proposed 10 week time scale.

### **Bringing Neighbourhood plans into force**

28. Currently A LPA is required to make a neighbourhood plan or order as soon as reasonably practicable after a successful referendum. This brings the plan or order into legal force as part of the development plan with the same status as the local plan.
29. It is proposed that this should be 8 weeks from the date of the referendum unless there are unresolved legal challenges to the decision to hold a referendum or where a LPA and the neighbourhood plan group agree an alternative time period.

### **Comment**

30. 8 weeks may not fit into the Council's committee cycle, it is suggested that 10 weeks would allow appropriate time.

### **Requests for the Secretary of State to intervene**

31. Once an examiners report has been considered by the LPA they have to decide if the draft plan or order meets the basic conditions and other legal requirements or would so with modifications. New powers in the Housing and Planning Bill would enable the SoS to intervene in this process at the request of a neighbourhood planning group in the following circumstances:
  - Where the LPA has failed to take a decision within the period prescribed or
  - The LPA do not accept all of the examiners recommendations;
  - The LPA propose to modify the plan or Order proposal in a way that was not recommended by the examiner.

Comment

32. The proposal is considered to be fair and is supported.

Risk	Likelihood	Impact	Mitigating actions
That the Council does not respond to the consultation	1 – Unlikely, the Council is preparing a response	1 – The Council's views would not be taken into account by the Government	Ensure that a response is received within the consultation deadline

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.