

Practical Improvements to the Planning System

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What I propose to cover



- A quick look at the latest planning reforms
- POS's practical suggestions to improve the existing system:
 - Spatial planning
 - Development management
 - Planning enforcement

06:09:12 planning reforms



- Reducing delays
 - Poor performing LPAs: will PINS really be able to deal with the applications, let alone do so more quickly?
 - 12 month guarantee & PPAs
- Changes to S106
 - Unviable development & affordable housing – how will PINS decide?
 - Appeal S106 agreements that “no longer serve a planning purpose”
- Changes to PD
 - COU from commercial to C3
 - 6 & 8 metre extensions!
- Green belt policy
 - IN/OUT – opportunities will be very rare

Spatial planning



- NPPF
 - Eventually it came good!
 - A succinct statement of national policy
- Local plans (we like the new nomenclature)
 - System is now broadly fit for purpose
 - Rigidity of the 2004 model has been relaxed
 - Soundness test – the right approach by PINS
 - Neighbourhood plans may prove to be unhelpful but neighbourhood planning can be a force for good

Resources



- A large part of the DM service can be made self-financing by allowing LPAs to set their own fees
- BC has been successfully doing this for many years – local authorities can be trusted
- Research suggests that although fees for some smaller applications will rise, fees for majors will not and may reduce in some areas
- Developers are willing to fund good quality services, as evidenced by the success of pre-application services

Pre application stage



- How to determine 10,000 m² of offices (including negotiating and signing a S106) in 5 weeks and 3 days – ask LB Croydon
- Design Team Approach for major developments
- Important to involve members
- Effective involvement of the local community

Simplify consents



- Permitted development:
 - GPDO is very complex – consolidate & simplify it urgently
 - LDOs are rare for same reason: they are very hard to draft
 - Convert existing local guidance into a permitted development regime
- Unified consents: there is scope in planning
 - at least get the processing procedures in one place
- Duplication between consent regimes:
 - eg LA licensing, EA licensing, SUDs, Building Regs etc

Lawful Development Certificates



- Convert planning applications into LDCs and vice versa:
 - If a planning application is made and the development is permitted development we cannot issue a Lawful Development Certificate (LDC) in response – this should be changed
 - Conversely – if a LDC is made we should have the ability to convert it into a planning application if it turns out planning permission is needed

Validation requirements



- Only two documents needed (look at best practice in LB Tower Hamlets):
 - Design Statement
 - Impact Statement
- Consultation rules:
 - Consolidate into one place
 - Seek to reduce the extent of statutory consultation to a minimum
 - Where possible require standing advice to be issued
 - Encourage wider use of electronic consultation
- Compulsory press adverts cost £1.6M per annum in London (2006/7 survey) about £48K per borough:
 - Should not be compulsory
 - Look at Camden experiment

Decision notices



- Split decisions:
 - Possible with advert consents
 - Planning Inspectorate is able to issue them for planning permissions
 - LPAs can not – this should be changed
 - A split decision could be part planning permission/part refusal or part planning permission/part LDC
- Article 31 of DMPO (formerly Article 22 of GDPO):
 - Scrap reasons for granting planning permission ASAP – it's the biggest cause of judicial reviews and serves no useful purpose
 - Having to put development plan policies in reasons for planning conditions is also out-dated in the world of spatial planning, where there will not be a policy to cover everything
- Article 31(1) – 2012 amendment
 - We will soon have also to state how we have dealt with the application positively

Amending permissions



- The new S96A isn't enough – we need to be able to deal with changes that are more than minor but not significant
- A simple and quick application process that only involves consultation (if needed) with the people who are affected by the change – generally just local residents – but not statutory consultees
- There would be three outcomes to such an application:
 - If the change was minor, issue a notice confirming that without consultation
 - If the change was more than minor, but did not go to the heart of the consent, consult locally (where necessary) and issue a notice (either accepting or rejecting the change)
 - If the change went to the heart of the consent, ask for a fresh planning application

Enforcement: stop notices



- Stop notice – an important tool to bring breaches of planning under control quickly
- Currently there are two types:
 - Full stop notice – carries a risk of compensation if you get either the law or procedural issues wrong – risk is too high, so not used often
 - Temporary stop notice (TSN) – carries a risk of compensation if you get the law wrong, but they only lasts 28 days
- Only a need for one model – based on TSNs – and we must limit the risk of compensation
- Proposed system:
 - a stop notice initially lasting 28 days
 - it becomes permanent if an enforcement notice is served within that period
 - compensation only if you get the law wrong (ie current TSN rules)

Enforcement: retrospective



- Retrospective applications:
 - An opportunity to combine the planning permission and enforcement systems
 - Decision can be a joint planning refusal and enforcement notice
 - Fees should be at least 2x the planning application fee
- Breaches of planning control, but no retrospective application:
 - If a contravener refuses to make an application (or submits one of such poor quality it cannot be processed) and the development is OK, they “get away with it”
 - Enforcement notices cannot impose conditions
 - A planning permission should be issued (with conditions) and a charge put on the land for 10x the planning application fee