

Report to Sustainable development panel

15 July 2015

Report of Head of planning service

Subject Planning policy update

Item

4

Purpose

This report updates members on recent government changes to the planning system and gives an indication of the likely focus of the new government in terms of planning. It highlights some potential implications for planning policy and the local plan which will be addressed more fully in a later report to this committee, anticipated in September, which will inform the future planning workload.

Recommendation

That members note the contents of this report.

Corporate and service priorities

The report helps to meet the corporate priority a prosperous city and the service plan priority to implement the local plan for the city, and to respond appropriately and effectively to ongoing legislative changes.

Financial implications

None

Ward/s: All wards

Cabinet member: Councillor Bremner – Environment and Sustainable Development

Contact officers

Judith Davison, planning policy team leader (projects) 01603 212529

Graham Nelson, head of planning service 01603 212530

Background documents

None

Report

Background

1. The previous coalition government made a number of reforms to the planning system, with the stated aims of promoting housing and economic growth, deregulating the planning system and removing unnecessary bureaucracy, and enabling local communities to exert more influence over development affecting them.
2. Major changes were made to the planning system in the early years of the last government commencing with the Localism Act 2011, which included the abolition of regional planning and introduction of the duty to cooperate and neighbourhood planning, and the National Planning Policy Framework 2012 which streamlined the former planning policy statements into one document. Further changes were made through the Growth and Infrastructure Act 2013 and Infrastructure Act 2015, with the aim of speeding up the planning process. The government has consulted on several separate rounds of changes to the planning regulations and the General Permitted Development Order over the past four years, as well as issuing ministerial statements on various individual reforms. Some but not all of the measures proposed have been enacted to date.
3. The purpose of this report is to update members on the broad outcomes of previous consultations, highlight any outstanding changes, and to give an indication of the current government's approach to planning in this parliament as far as is possible. It highlights the implications of changes already made for the implementation of planning policy, and flags up potential future changes which could have even more significant impacts. The report provides the context for further work that will need to be done to respond to these changes, and will help inform the review of the Local Development Scheme (which will set out the work programme for the production of development plan documents) later in the year.

Summary of previous consultations

4. Many of the government's proposals have been reported to this committee over the past four years, with reports highlighting the council's concerns about the potential impacts on planning policy and in particular on the ability to implement the recently adopted local plan. The council has responded to most of these consultations, with limited success to date. A brief summary of key consultations and their outcomes to date is set out below.
 - *Relaxation of planning rules for commercial to residential changes* (April 2011). This consultation proposed new permitted development (PD) rights for office, light industrial premises and warehouses enabling change of use to residential. (Permitted development rights allow certain changes to a building to be made without the need to apply for planning permission.) The Council response raised a number of concerns including impacts on the amenity and quality of development.
 - *Technical consultation on extending permitted development rights for homeowners and businesses* (October 2012): this proposed measure was largely concerned with increasing the permitted size thresholds for residential and commercial extensions. The Council's response was reported to SD Panel in January 2013 and raised concerns about loss of democratic accountability and potential adverse impacts on neighbouring residents.

- *Greater flexibilities for changes of use* (August 2013): this proposed a series of reforms introducing new PD rights, including allowing for change of use from small shops and financial and professional services to housing, and for change of use of shops to banks and building societies within size limits. The council's response was reported to Sustainable Development Panel in September 2013 and noted concerns about some of the proposals, for example concern about the unintended consequences of encouraging change of use from retail to housing which could, for example, drive out viable local shops.

For a brief summary of the outcome of the above three consultations related to changes of use and permitted development rights, see paragraph 5(a) below.

- *Housing design standards review* (August 2013): this proposed rationalising national housing standards by reviewing and consolidating building regulations and code for sustainable homes provision and reviewing the scope of local design standards. The council response was reported to Sustainable Development Panel in September 2013 and argued that the proposed new standards should enable the policy approach currently in operation to be continued.
- This was followed up by a further consultation *Housing Standards Review* (September 2014) on possible consolidated standards. The council's response was reported to SD Panel in November 2014 and included concern at the potential to implement JCS policy 3 in relation to reducing water consumption on sites of 500+ units.

For a summary of the outcome of these two consultations related to housing standards, see paragraph 5(b) below.

- *Technical consultation on Planning* (July 2014): this sought further deregulation in relation to PD rights including new PD rights to change light industrial and warehouse premises to housing, to change amusement centres, casinos, nightclubs and launderettes to housing, and to enable greater flexibility in changes of use between a range of high street uses including retail. It also proposed to streamline the process for neighbourhood plan making, improve the use of planning conditions, change and speed up processes for statutory consultation on planning applications, reduce the need for environmental impact assessment for industrial and other urban development projects, and amend aspects of the recently introduced national infrastructure planning regime. The council's response, reported to Sustainable Development Panel in January 2015, was opposed to many of the measures which would weaken or otherwise reduce the effectiveness of adopted planning policy. It expressed concern that reform of the planning system through a series of piecemeal changes is misconceived and the cumulative impact of proposals is poorly thought through. Concerns were also raised about deficiencies in the new prior approval regime. *For a summary of the overall outcome in relation to permitted development rights see paragraph 5(a) below.*
- *Delivering sustainable drainage systems* (September 2014). This proposed the delivery of SUDs through changes to the planning regime. The council's response was reported to SD Panel in November 2014 and expressed concern that the proposed measures removed the previously envisaged responsibility of Lead Local Flood Authorities (in our case, Norfolk County Council) to deal with SUDs and would fragment responsibility, create confusion for developers, and add to

costs. *For a summary of the outcome of this consultation see paragraph 5(d) below.*

- *Planning and Travellers* (September 2014): the government consulted on a new definition of gypsies and travellers and travelling showpeople for planning purposes, which would exclude people who have given up travelling permanently for whatever reason. The council's proposed response was reported to SD Panel in November 2014; the change was not supported on the basis that it would discriminate against the travelling community, would lead to reduced provision, and is likely to be difficult to operate in practice. *The government has not yet published the outcome of this consultation.*
- *Right to build: supporting custom and self-build* (October 2014). This proposed giving prospective custom and self-builders a right to a plot of land from their local council. The council submitted a response to government in December 2014 and reported on this to SD Panel in January 2015. Although it acknowledged that the Right to Build might have a role in contributing to housing supply, the response considered this to be unlikely to be significant, judged the proposals to be difficult to implement and to place a major burden on local authorities out of proportion to likely increased housing supply. *For a summary of the outcome of this consultation, see paragraph 5(e) below.*
- *Stepping onto the property ladder: enabling high quality starter homes for first time buyers* (December 2014). This consultation proposed to secure a supply of sites suitable for starter homes, discounted by 20% on market value. The council response was reported to SD Panel in January 2015 and set out a number of significant concerns namely that: the proposals are potentially arbitrary and bureaucratic; they may have an adverse impact on economic development; they may lead to a poor standard of residential development; they may impact on the general housing market; and may increase pressures on infrastructure. *For a summary of the outcome of this consultation, see paragraph 5(c) below.*
- *Building more homes on brownfield land* (January 2015). This consultation proposed a new requirement for local authorities to bring forward local development orders (LDOs) on brownfield sites suitable for housing with the objective that by 2020 there should be LDOs in place on over 90% of brownfield sites suitable for housing which do not already have planning permission. The council submitted its response to this consultation in March 2015 and set out a number of serious concerns including potential impacts on the council's ability to secure high quality design, influence the mix of development on sites, secure delivery of affordable housing and other infrastructure, and potential impact on planning workload and resources. *The government has not yet published the outcome of this consultation.*

Summary of outcome of consultations

5. A brief overview of the changes made to date by the government following these consultations is set out below:

(a) The government amended the General Permitted Development Order (GPDO) in May 2013 to extend permitted development (PD) rights for homeowners and businesses, and to enable the change of use of existing buildings without the need for planning permission, on a temporary basis. This enables office buildings to

change to residential use and for greater change of use to assembly and leisure uses. In April 2015 further changes to PD rights were enacted (following the Technical consultation on planning in July 2014). These changes include moving betting and payday loan shops into the 'sui generis' use class which means a planning application is needed before a building can be converted to those uses; new PD rights to allow changes of use between shops, banks, and building societies without the need for planning permission; and removing PD rights which allow a public house to be demolished or changed into a supermarket when it is listed as an Asset of community value. Many of the PD rights for extensions to offices, shops industrial buildings and schools introduced in May 2013 have now been made permanent. The PD right allowing office to change to residential use is due to expire in May 2016. It is not yet known whether the new government will extend this or let it lapse.

(b) The outcome of the Housing Standards Review was published in March 2015 through a ministerial statement and sets national technical standards including optional building regulations standards for water efficiency and access, and a new national space standard. These will replace local plan policies although it will still be possible to implement fairly demanding standards for water efficiency locally. The review also signalled the government's intention to restrict the use of local energy policies in 2016 as increased Building Regulations standards will be introduced.

(c) The outcome of the Starter Homes consultation ('Stepping onto the property ladder, December 2014) was published in March 2015 via a written ministerial statement. This confirms that the scheme would go ahead. This will seek to secure a supply of sites suitable for starter homes, discounted by 20% on market value. The national planning practice guidance has been amended accordingly and should be taken into account in plan making and planning decision taking. The statement makes clear that the government will seek to amend the Community Infrastructure Levy regulations in the current parliament to exempt discounted starter home developments from the levy.

(d) The outcome of the consultation on sustainable urban drainage systems (SUDs), September 2014, was published in December 2014 and came into force in April 2015. This makes changes to the planning system to ensure delivery of SUDs through the planning regime, and provides for SUDs in new developments of 10 dwellings or more and in major commercial development. As a consequence, Norwich City Council has requested that Norfolk County Council provides expertise and support to enable the city to implement SUDs policies effectively.

(e) The outcome of the consultation on the Right to Build was published in March 2015. This stated that the Self-Build and Custom Housebuilding Act, which received Royal Assent on 26 March, provides the legislative framework for the first part of the Right to Build, requiring local authorities to establish local registers of custom builders who wish to acquire a suitable site to build their own home. The Government stated its intention to prepare regulations and guidance setting out the detailed operation of the local registers in this parliament (for consultation), and to carry out an assessment of the additional cost of the local registers for local government. The government intends to bring forward the second part of the Right to Build in the current parliament, requiring local authorities to bring forward plots of land for registered custom builders within a specified time.

6. The main outstanding proposals from previous government consultations noted above relate to proposals to get more brownfield land back in to use, and amendment of the definition of gypsies and travellers for planning purposes.

Current government approach

7. The Conservative Party manifesto contained several planning-related commitments including: giving local people more a say about local planning and letting them vote on local issues; a commitment to ensuring that 90% of suitable brownfield sites will have planning permission for housing by 2020; and support for locally led garden cities.
8. The Queen's Speech on 27 May 2015 introduced two new bills which will make changes to planning law. These include a Housing Bill which will:
 - Introduce a statutory register for brownfield land to achieve the manifesto target;
 - Provide the statutory framework required to support the delivery of 200,000 starter homes available to the under 40's at a 20% discount;
 - Take forward the 'Right to Build', requiring local planning authorities to support custom and self-builders in their area by identifying plots of land to build or commission their own home; and
 - Simplify and speed up the neighbourhood planning system to support communities that seek to meet local housing and development needs.

Possible implications

9. Although we are only a couple of months into the new administration and the scale of further planning reform is still uncertain, it is clear that the new government has placed a renewed emphasis on neighbourhood planning and is committed to increasing housing supply through measures to bring forward significant development on brownfield sites, increase the supply of starter homes, and through self-build. This underlines the government's continuing emphasis on the role of the planning system to enable and encourage development rather than to prevent it.
10. The implications for Norwich of the increased emphasis on neighbourhood plans are uncertain; to date we have had some interest in this but no firm proposals. However the introduction of detailed measures requiring local development orders (LDOs) for suitable brownfield sites could have major implications for the council's ability to secure high quality development, and secure delivery of affordable housing and other infrastructure, as reported to SD Panel in February 2015. As a tool to bring forward development of brownfield sites, LDOs are unproven and would do nothing to address the real problems of housing delivery which lies with the economics of developing brownfield sites and the lack of adequate regeneration funding to unlock them. The introduction of LDOs is likely to have serious financial implications for the council through a reduction in planning fee income, and the requirement to produce evidence (including viability, understanding of constraints etc) required to inform the LDOs, whilst at the same time requiring major staff resources for their production. Given the lack of detail in the consultation paper it will be important to await the publication of detailed proposals before we can assess potential impacts for Norwich.

11. The duty to cooperate is now firmly embedded in the local planning process and a number of inspectors' reports of local plan examinations have underlined this by not allowing plans to proceed to examination which have not met the duty. This effectively means the re-emergence of a form of strategic planning, though less comprehensive than under the former regional spatial strategies, within the context of devolution and a potentially evolving local government structure. A separate report is provided for this committee meeting to brief members on strategic planning matters in Norfolk.
12. We have expressed significant concerns about planning deregulation in reports to SD Panel over the past couple of years, as reported above, and the way in which this reduces the ability of the system to positively shape development, protect amenity and manage change to support sustainable growth. It is not clear how much further planning deregulation is likely to go in this parliament. Constant extension of the range of development that no longer needs planning permission can only erode democratic accountability and runs contrary to the government's aim of increasing the involvement of local people in the planning process.
13. Deregulation to date and changes to planning policy have affected both the content of the adopted local plan, and the ability to implement it, particularly in relation to office and retail development. For example the ability to implement some aspects of the adopted JCS has been significantly weakened, in particular its requirement to promote and retain office employment in the city centre. This has also affected the adopted Norwich Development Management (DM) Policies Plan, which was amended to keep pace with legislative changes and to ensure that the plan would be found sound and legally compliant through examination.
14. In particular policy DM19 (Office Development) was amended during the plan preparation process to reflect the temporary PD right for changes of use from office to residential use. This change was made on the advice of the local plan inspector to ensure that the plan would be found sound. The effect of this is that, if the PD right is terminated in May 2016 as planned, the council will have limited policy basis in the DM Policies plan for regulating changes of use from office to residential use. This is a serious issue of concern given the JCS aspiration to retain a substantial office base in the city centre.
15. Recent changes to PD rights also impact on the implementation of policies to support retailing (DM20 Protecting and supporting city centre shopping; and DM21 Protecting and supporting district and local centres). For example changes of use can now be made freely between shops, banks, and building societies without the need for planning permission, which makes it difficult to implement both policies and the recently adopted Supplementary Planning Document (Main town centre uses and retail frontages SPD), in particular maintaining the minimum proportion of frontage in retail use at ground floor level. These changes make it difficult for local authorities to apply the NPPF in relation to ensuring the vitality of town centres.

Conclusion

16. The implications set out above are not exhaustive but do give a flavour of the issues that will need to be addressed over the next few months, particularly in relation to review of the Local Development Scheme. As part of this officers are currently considering options for addressing the impacts of recent changes on the implementation of the local plan, and seeking clarification where possible about

potential future changes. The latter may include changes to the PD right for changes of use from office to residential, and proposals for LDOs on brownfield sites.

17. Potential future changes and challenges may become clearer over the next couple of months. The Housing and Planning minister Brandon Lewis is speaking at the Planning Convention in London on 7th July which may provide a further indication of the government's intentions, as may the Budget announcement on 8th July.
18. The implications for a number of local plan policies and an assessment of how these may be addressed will be discussed in greater detail in a forthcoming report to SD Panel (anticipated in September). This will then help to inform the future planning work programme and a review of the Local Development Scheme, due to be reported to SD Panel later in the year.