

North York Moors National Park Authority

13 December 2012

Consultations on 'Extending Permitted Development Rights for Homeowners and Businesses' and 'Planning Performance and the Planning Guarantee'

1. Purpose of the Report

- 1.1 To consider the proposals set out in CLG's current consultation papers on the 'Extension of permitted development rights for homeowners' and 'Businesses and planning performance' and agree the Authority's response.

2. Introduction

- 2.1 The Government have recently published a consultation paper titled 'extending permitted development rights for homeowners and businesses', which says that "homeowners wishing to extend their home more than a few metres from the property's rear wall have to fill in complicated application forms that can take eight weeks or longer for the council to consider....which adds costs and delays and in many cases adds little value". The Government is proposing to make it easier to build small scale single storey extensions and conservatories for an estimated 40,000 families. The Government believes that these measures will bring extra work for local construction companies with 20,000 new extensions generating up to £600m of construction output and supporting up to 18,000 jobs. In addition the Government estimated that each family who benefits will save up to £2,500 in planning and professional fees with total savings of up to £100m a year. The consultation paper also proposes removing existing requirements in National Parks for prior notification for the installation of broadband infrastructure.
- 2.2 The Growth and Infrastructure Bill will allow developers to apply directly to the Planning Inspectorate for planning permission, where a planning authority has been designated as poorly performing. The Growth and Infrastructure Bill says that the Secretary of State must publish the criteria that will be applied in terms of both the criteria for designated Authorities and the types of development it will apply to. In order to inform this decision CLG are also consulting on 'Planning performance and the planning guarantee', which is seeking views on the criteria that might be used to assess planning performance, what thresholds might be used, how many designations would be made and the consequences of such a designation.

3. Extending permitted development rights for homeowners and businesses

3.1 Background

- 3.1.1 The Town and Country Planning Act 1990 sets out the changes to land or buildings which constitute 'development' and which are therefore subject to planning control. However, many types of development have only minor impacts and it would be unreasonable to require planning applications for these developments so they are given a national grant of planning permission via permitted development rights. Permitted development rights are set out in the Town and Country Planning (General Permitted Development) Order 1995 (as amended). The General Permitted

Development Order sets out what is allowed under permitted development and any limitations and conditions that apply.

- 3.1.2 The consultation paper on permitted development rights proposes action in five areas however four of these will not apply in protected areas such as conservation areas, National Parks, Areas of Outstanding Natural Beauty and Sites of Special Scientific Interest. The proposed changes are listed below;
- a) Increasing the size limits for the depth of single-storey domestic extensions from 4m to 8m (for detached houses) and from 3m to 6m (for all other houses), in non-protected areas, for a period of three years. No changes are proposed for extensions of more than one storey.
 - b) Increasing the size limits for extensions to shops and professional/financial services establishments to 100m² and allowing the building of these extensions up to the boundary of the property (except where the boundary is a residential property), in non-protected areas, for a period of three years.
 - c) Increasing the size limits for extensions to offices to 100m², in non-protected areas, for a period of three years.
 - d) Increasing the size limits for new industrial buildings within the curtilage of existing industrial premises to 200m² in non-protected areas for a period of three years.
- 3.1.3 The consultation proposes that these changes to permitted development rights should be in place for a period of three years as the current economic circumstances require exceptional measures to assist hard-pressed families and businesses and to stimulate growth. For this reason all development will have to be completed by the end of the three year period.
- 3.1.4 At present under part 24 of the General Permitted Development Order, fixed broadband apparatus such as cabinets, telegraph poles and overhead lines have permitted development rights which means they can be installed without the need to apply for planning permission. This is subject to a prior notification approval notice on article 1(5) land, which includes National Parks, and allows planning authorities to consider the siting and appearance of communications apparatus before development commences. The final measure proposed in the consultation paper is the removal of this prior approval requirement for the installation of broadband infrastructure for a period of five years (works must be completed before the end of this period).
- 3.1.5 As Members will be aware the Government are also taking forward separately changes to make it easier for commercial properties to be converted to residential use and encouraging the reuse of existing properties through making changes of use easier. The Authority has made strong objections to the Government on both of these proposals.
- 3.1.6 A full copy of the consultation document 'Extending permitted development rights for homeowners and business' can be found at <https://www.gov.uk/government/consultations/extending-permitted-development-rights-for-homeowners-and-businesses-technical-consultation> The proposals are subject to a consultation period of 6 weeks which ends on 24 December.

3.2. Implications for the National Park

- 3.2.1 One of the questions asked as part of the consultation is whether article 1 (5) land, which includes National Parks, should be excluded from the proposed changes to permitted development rights. At the present permitted development rights in National Parks are more restrictive than in areas outside designated areas. Although the consultation paper says that the large majority of homeowner applications are uncontroversial and that the application process adds little value, this is not always considered to be the case in the National Park. As Members will be aware many smaller householder applications generate significant opposition and raise genuine neighbour amenity issues and design concerns, which may harm the Park's special qualities. The planning application process allows for proposals to be amended in order to overcome some of these concerns or prevent developments which would cause significant harm. For these reasons Officers agree with the consultation's proposal to exclude designated areas from the proposed changes to permitted development rights.
- 3.2.2 The most significant change proposed in the consultation for the National Park Authority is the proposal to remove the prior notification for a fixed period of 5 years with the exclusion of areas designated as Sites of Special Scientific Interest. The proposals will facilitate the delivery of the Government's ambition for the UK to have the best superfast broadband network in Europe by 2015. The consultation paper states that this will not only boost UK businesses but will ensure that rural areas can share the same benefits as cities and that everyone across the country can be certain of access to a fast reliable network. Although Officers agree with the ambition to deliver superfast broadband to rural areas and have been actively involved in promoting this across the National Park there are concerns about how new infrastructure may impact the National Park's special qualities if they are not considered through the prior notification procedure. Officers have no evidence that the prior notification process hampers broadband delivery and work closely with providers to seek the most appropriate solutions in the context of a designated landscape.
- 3.2.3 Members will be aware that the Authority has been working closely with Northern Powergrid on a £1.6m project funded through Ofgem to underground electricity lines across the National Park. Officers have been working to seek the undergrounding of the BT lines at the same time as the electricity lines but so far to no avail. This has meant that in several villages where Northern Powergrid have removed their electricity lines BT have subsequently erected new poles which significantly reduces the positive impact of the Ofgem scheme. The removal of the prior notification procedure will prevent any opportunity to influence BT with regards to undergrounding their lines at the same time as the electricity lines in order to maximise the positive impact of the Ofgem funding.

3.3 Suggested Response

- 3.3.1 It is proposed that the following comments are sent to the Department of Communities and Local Government in response to the consultation paper:

'The North York Moors National Park Authority supports the proposal to exclude article 1 (5) land which includes National Parks from the proposed changes to permitted development rights set out in the consultation.'

The North York Moors National Park Authority also supports the Government's intention to promote economic growth through the roll out of broadband and has been proactively seeking to support deep rural communities to ensure their needs are met, including leading in the development of local broadband programmes. Nevertheless the Authority objects to the proposed changes to part 24 of the General Permitted Development Order which will remove the prior approval process on article 1(5) land which allows the Authority to consider the siting and appearance of communications apparatus before development commences.

The National Park Authority has no evidence that the prior notification process hampers the delivery of broadband infrastructure in the North York Moors as over the last 5 years, the Park Authority has approved 93.7% of full planning applications and notifications for telecommunications equipment.

The National Parks and Access to the Countryside Act 1949 sought to make sure that our most beautiful and distinctive landscapes are protected for future generations to enjoy. The NPPF restates that National Parks have the highest status of landscape protection and a number of Government statements have confirmed that there is no intention to reduce this. National Parks are special places and communications infrastructure can cause great harm to the appearance of these important landscapes. The prior notification procedure provides an opportunity to minimise this impact and its absence may undermine the National Park purposes. The Authority wants to continue to work closely with broadband infrastructure providers to seek the most appropriate solution which does not cause harm to the landscape of the North York Moors, which itself provides an important contribution to the local economy. This joint working will not be possible in the absence of the requirement for prior notification. The proposals to remove the requirement for prior notification are considered to significantly undermine the legislation which confirms that National Parks are special places and deserve special consideration'.

4. Planning performance and the planning guarantee

4.1 Background

4.1.1 This consultation paper seeks views on the criteria which will establish designated local planning authorities, i.e. those deemed to be under performing as set out in the Growth and Infrastructure Bill. This ability would be limited to those seeking planning permission for major development as these applications are the most important for the economy. The consultation states that the costs of planning delays can be substantial and they believe it is right to take action where there is clear evidence that particular planning authorities are performing very poorly.

4.1.2 The consultation is suggesting that the measure of quality should be the proportion of all major decisions made and are overturned at appeal over a two year period. The threshold at which poor performance will be set is proposed to be:-

- a) Where 30% or fewer major applications have been determined within the statutory period; or
- b) More than 20% of major decisions have been overturned at appeal.

A full copy of the consultation 'Planning performance and the planning guarantee' <https://www.gov.uk/government/consultations/planning-performance-and-the-planning-guarantee> The proposals are subject to a consultation period of 8 weeks which ends on 17 January.

4.2 Implications for the National Park

4.2.1 Last year in the North York Moors National Park 57% of major applications were determined within the required 13 weeks, while the previous year the figure was 75%. In terms of major applications referred to the Planning Inspectorate, only one application was recovered due to non determination and subsequently approved. It is therefore unlikely that the proposals set out in the consultation paper will affect the National Park Authority as they suggest that Local Planning Authorities will be designated where performance falls to less than 30% of all applications being determined on time and where 20% of majors have been overturned at appeal. Nevertheless Officers consider that the Government should introduce a minimum threshold for the number of applications dealt with as the number of majors considered by National Park Authorities are very low and therefore any delay in their determination will disproportionately impact overall percentage of applications determined within 13 weeks.

4.2.2 Where Local Planning Authorities are designated on the basis of very poor performance, the Growth and Infrastructure Bill would give applicants the option of applying directly to the Secretary of State. The fee for dealing with the application will be paid to the Planning Inspectorate; however the administration and consultation procedures will remain the responsibility of the Local Planning Authority, which will have significant financial implications. Discussions regarding S106 agreements, which are often the cause of delay in determining major applications, will continue to be dealt with by the Local Planning Authority. The consultation paper also seeks views on whether planning application fees should be refunded where planning applications remain undetermined after 26 weeks and this is likely to have significant financial implications for the Authority if it goes ahead. These proposals are likely to compound the problem of poor performance as it reduces already reduced resources further.

4.3 Suggested Response

4.3.1 It is proposed that the following comments are sent to the Department of Communities and Local Government in response to the consultation paper:

'The National Park Authority agrees that the option to apply directly to the Secretary of State should be limited to applications for major development and that the thresholds for designations set initially at 30% or fewer of major decisions made on time or more than 20% of major decisions overturned at appeal are appropriate. However the Authority recommends that a minimum threshold of 10 applications is also included as where Local Planning Authorities, particularly National Parks, deal with very few major applications the percentage outturns of failing to determine major applications within 13 weeks will distort the percentage figures disproportionately

The Authority objects to the proposal to refund planning application fees where proposals remain undetermined after 26 weeks as this will further compound the problem of poor performance as it will stretch already reduced resources further'.

5. Financial and Staffing Implications

- 5.1 There are likely to be financial implications as a result of the proposals particularly in relation to proposals to refund planning fees where applications have not been determined within 26 weeks.

6. Sustainability Appraisal

- 6.1 None

7. Legal Implications

- 7.1 None

8. Recommendation

- 8.1 That Members note the details of the consultation paper and recommend that the comments set out in paragraphs 3.3.1 and 4.3.1 of the report which sets out the Authority's objections to the proposals be sent to the Communities and Local Government as part of the consultations.

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Background papers to this Report

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