

Appendix 1

Wokingham Borough Council's Response to Government 'Improving the Use of Planning Conditions' Consultation

Q1. Do you agree that the notice should require the local planning authority to give full reasons for the proposed condition and full reasons for making it a precommencement condition?

- A. That is acceptable in principle, but unnecessary for the reasons set out in answer to Q4 below.

Q2. Do you agree with our proposed definition of "substantive response" set out in draft Regulation 2(6)?

- A. No comments.

Q3. Do you agree with our proposal not to give local planning authorities discretion to agree with applicants a longer period than 10 working days to respond to the notice?

- A. It is considered that 10 working days is too long because it would serve to slow down determination of planning applications as set out in the answer to Q4 below.

Q4. Do you have any other comments on the draft regulations?

- A. Whilst the aim of the regulations is to speed to development up, they may have the effect of slowing down the determination of planning applications. Applications are determined to an 8 or 13 week timescale. The regulations would effectively require applications to be ready to be issued to a 6 or 11 week timescale because the local planning authority must serve notice of any pre-commencement conditions with a 10 working day (i.e. 2 weeks) period. Working to a 6/11 week timescale often isn't possible because of a number of factors including the volume of applications an officer will have on hand at any one time, the time it takes to assess complicated submissions and additional information on matters which may require comments from internal and external consultees, including the Environment Agency, and because of Committee timetables. Determination of applications often takes place towards the latter part of the 8/13 week process and increasing the time required to deal with conditions lessens the time available to consider the application itself. This may result in more applications going over the 8/13 week targets, or more applications being refused on the basis that conditions haven't be agreed.

It is likely that many applicants will accept a pre-commencement condition rather than receive a refusal on the basis that additional information has not been supplied or to halt an application whilst they prepare additional information (often complex in its nature) which would require further delays in the

determination of their application. The overriding aim for a developer is to secure planning permission, and as such they are often content to deal with the 'details' at a later date once they have permission in place.

Additionally, although the consultation implies the blame for placing too many pre-commencement conditions lies with the local planning authority, often the reason for so many pre-commencement conditions being imposed on a planning permission is because the quality of submissions is poor and/or because detailed information is lacking. In some cases, the developer will have given little thought at application stage to matters which are the subject of pre-commencement conditions e.g. materials details, Construction Method Statement etc. As such, it is not clear that the regulations would necessarily tackle the issue of local planning authorities imposing pre-commencement conditions because the 'fault' often lays with the developer.

Other issues include that:

- The draft regulations don't appear to have accounted for a situation where Planning Committee decides to impose a pre-commencement condition. If, for example, a developer is not happy with a condition Committee imposes, it may be that the condition has to be reconsidered at the next committee meeting, further slowing the process.
- Additional officer time will also be required in dealing with pre-commencement conditions at application stage to discuss conditions in more detail with consultees, serve notice on the applicant, engage in further discussions with the applicant and ensure only agreed pre-commencement conditions are placed on consents (it is not clear what happens if a permission is issued without notice having been given to the applicant).
- In some circumstances it would be possible to replace a pre-commencement condition with a condition with a slightly later trigger that would serve the same purpose e.g. a trigger which required the submission of details 'pre-construction above damp proof course level', and therefore the regulations may only serve to change the trigger for conditions rather than remove them altogether (although it should be noted that some conditions, such as those relating to archaeology, would be likely to still require discharge prior to commencement)
- Whether the trigger for a condition is pre-commencement or another trigger is agreed (e.g. pre-occupation), developers will still need to submit that information at some stage if they haven't done so with the application, and so removing a pre-commencement condition doesn't necessarily speed up development overall.

The draft regulations are aimed at speeding up development, but the end result is the creation of more administrative work and negotiations during the application stage, which serve to slow down determination of planning applications. The regulations also

do not resolve the issues relating to the quality of submissions that results in the requirement for pre-commencement conditions.

Q5.

- i. Do you have any views about the impact of these proposals on people with protected characteristics as defined in section 149 of the Equality Act 2010?
- ii. What evidence do you have on this matter?
- iii. If any such impact is negative, is there anything that could be done to mitigate it?

A. No comments

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