



PLANNING COMMITTEE – 14TH JANUARY 2015

SUBJECT: WELSH GOVERNMENT CONSULTATION ON PLANNING AND RELATED DECISIONS

REPORT BY: CHIEF EXECUTIVE

1. PURPOSE OF REPORT

1.1 Welsh Government (WG) is currently running a consultation about changes to the planning process on the following basis:

- Introduce an expedited system for advertisement appeals in line with the Householder Appeal System and Commercial Appeal System, which are currently subject to a pilot scheme;
- Change how called-in applications and appeals by statutory undertakers are dealt with;
- Introduce the ability for an appeal against non-determination to be returned to the local planning authority for a decision within a prescribed timescale; and
- Transfer authority for the determination of certain appeals from the Welsh Ministers to the Planning Inspectorate.

The purpose of this report is to consider the Council's response to the consultation.

2. SUMMARY

2.1 According to WG there is pressure from professionals and developers seeking swifter decisions to improve the system to provide necessary sustainable development and stimulate economic growth. Communities and the public seek a system that provides greater fairness and transparency. Whilst the current appeal system generally works well, some aspects are sometimes criticised for being inefficient. The intention of the proposed changes contained in the consultation paper is to further improve the efficiency of the existing system. The proposed changes are intended to:

- Increase the speed of decisions, thereby promoting growth and providing greater certainty to developers;
- Remove unnecessary and outdated procedures from the determination process; and
- Increase fairness for all involved through enabling decisions to be made at the local level, wherever possible.

2.2 The deadline for the submission of comments is 30 January 2015. A summary of the proposals is provided below, along with comments from officers. Should members agree with the officers' comments, they will then be adapted for completing the standard consultation form from WG.

3. LINKS TO STRATEGY

- 3.1 The report takes account of the adopted Caerphilly County Borough Local Development Plan up 2021.

4. THE REPORT

4.1 ADVERTISEMENT APPEALS

WG has already introduced a fast-track appeals process for householder and minor commercial developments. The main components of that process are:

- Provide an applicant 12 weeks from the date of the decision to lodge an appeal;
- Introduce an 8 week target for the appeal decision;
- Conduct the appeal process electronically wherever possible;
- Limit the local planning authority's case to documentation used in the handling and determination of the application, which is to be submitted with the appeal questionnaire;
- Limit the appellant's case to an appeal statement made alongside an appeal form explaining why the local planning authority's decision is being contested;
- Limit representations at appeal to those received at the application stage. Notification at appeal stage will be made only to confirm whether the original representations still stand; and
- Adopt a more efficient procedure for Inspector site visits, not requiring attendance by any party to the appeal, unless that is to provide access to the site.

It is now intended to deal with advertisement appeals following the same procedure.

- 4.2 The new procedure has undoubtedly improved the efficiency of the householder and commercial development appeal process, and it has not prejudiced this Council's position in respect of any of the appeals. In summary, the new process depends on the documentation that forms the background to the Council's original decision, and so it saves time for officers who do not have to submit an additional appeal statement, and more often than not Officers are not required to attend the inspector's site visit. There have not been any complaints about the process from the public to the Council. Therefore, there are no objections to the use of the same process for advertisement appeals.

4.3 APPEALS BY STATUTORY UNDERTAKERS

Appeals by statutory undertakers e.g. a gas or a railway company, are considered by Welsh Ministers, and the appropriate UK government minister. This is a cumbersome and costly process. This amendment is being proposed so that the default position for called-in applications and appeals by statutory undertakers will be that they are dealt with solely by the Welsh Ministers unless otherwise directed.

- 4.4 Such appeals are very rare in this borough, but there is no apparent reason to object to this proposed amendment, which is a sensible streamlining of the process.

4.5 NON-DETERMINATION APPEALS

Where the Council fails to determine an application within the statutory eight-week period, the applicant can appeal against non-determination to The Planning Inspectorate. Jurisdiction for making a decision is passed to The Inspectorate once an appeal is made. It is proposed to allow a period of four weeks from the making of the appeal during which the Council will still be able to determine a planning or listed building consent application. Where the local planning authority refuses permission within that additional period, the appeal against nondetermination will become an appeal against refusal. If the authority grants permission, the appellant may withdraw the appeal or proceed with the appeal on revised grounds; for example, an appeal against conditions which may have been imposed.

4.6 It has been good practice to make an informal decision on an application even if an appeal against non-determination has been submitted because the inspector can then be made aware of the Council's concerns had it been in a position to make the formal decision. This proposal would formalise that approach and there are no objections to its adoption. The suggested 4-week timescale is reasonable as it would allow sufficient time for a committee report to be prepared, which if necessary could become the basis of an appeal statement in support of a refusal, or would justify any conditions imposed on an approval.

4.7 **CHANGES TO THE PRESCRIBED CLASSES REGULATIONS**

There are a number of classes of appeal that, whilst they are dealt with by the Planning Inspectorate, are reserved for final determination by the Welsh Ministers. They are:

- Listed Building Consent and Listed Building Enforcement Appeals for Grade I and Grade II* buildings
- Appeals relating to buildings subject to historic building grants
- Conditions attached to minerals permissions
- Hazardous Substances appeals, and
- Replacement of Trees

That can often add an additional 12 weeks to the determination process. It is proposed to allow The Inspectorate to make the decision, with Welsh Ministers having the power to recover jurisdiction should they consider it appropriate.

4.8 Again, this would seem a sensible streamlining of the process. There is no strong reason why the Ministers should determine these appeals any more than any other type of appeal, but they would retain the right to recover them if they considered it appropriate.

5. **EQUALITIES IMPLICATIONS**

5.1 There would be no equalities implications

6. **FINANCIAL IMPLICATIONS**

6.1 None

7. **PERSONNEL IMPLICATIONS**

7.1 None

8. **CONSULTATIONS**

8.1 None

9. **RECOMMENDATIONS**

9.1 That Officers reply to the questions set out in the consultation on the basis of the comments above, and any additional comments from Members.

10. **REASONS FOR THE RECOMMENDATIONS**

10.1 As set out in the report above.

11. STATUTORY POWER

11.1 The Town and Country Planning Act 1990 and related acts and statutes.

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Background Papers: Consultation from Welsh Government