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Submitted to Planning committee reforms: statutory consultation on draft Regulations and guidance
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Respondent details

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4 Please indicate in what capacity you are responding to this consultation (please only select one)

Neighbourhood planning body, parish or town council

Question 1

5 Do you have any comments on the draft Regulations?

Do you have any views on the draft Regulations?:

The government's opening statemen on this reform is that "Planning is principally a local activity because decisions about what to build and where should be shaped by local communities and reflect the views of local residents." It is stated that planning decisions should be transparent, accountable and community focused with planning being an inherently local activity which should reflect the views of residents and communities with planning committees being a functional part of local democratic accountability. These hastily and ill-thought out proposals are contrary to these principles and remove community involvement and discussion at a local level from those who have the greatest knowledge and understanding of risks, potential harms and benefits which are material to any decision-making process. LAs are accountable to their electorate and must demonstrate clearly through transparency of decision making that they represent the views and aspirations of their communities and that these communities, both existing and future, are able to fully participate in what is a fundamental and highly important democratic process of key concern to those who live and work in these areas. As it stands, these proposals fail and there is a lack of balance.

It is evident however that there is a lack of consistency across different LPAs, in how they operate and in the decisions which are currently delegated such as Reserved Matters, NMAs and variation of conditions and of s106/s278 agreements. These need to be standardised and properly defined.

A common agreement on the criteria used to determine either officer delegation or committee referral and to remove uncertainty is to be applauded; however the regulations as proposed are heavily weighted towards a single officer to the disadvantage of the community. The default position is that it will be delegated with limited circumstances under which an application would go to committee. This already exist within better organised LPAs who have working processes to determine approval routes but there seems to be no examination of any best practices. A fundamental part of any delegation has to be that any application has to be published in an accessible format such that communities can comment on these and that, should there be significant and valid issues, that this application is then considered under Schedule 2.

The regulations should allow LAs to introduce their own arrangements for how these regulations will operate in practice, with local variations in which the needs of their wider community and of residents are an instrumental and fundamental consideration and not in the hands of unelected bureaucrats. Whilst this is theoretically allowed, the circumstances under local arrangements would be permitted are vague and constrictive to the extreme. There are potential restrictions introduced in para 2(2) that the LA "must not make arrangements that limit the officer's discretion as to how to determine that application." Discretion is fallible and should not be dependent on a single unelected officer's view.

Para 5(2) specifies that a nominated councillor and officer "may agree to refer a proposal to determine a Schedule 2 application to a committee if in their view the proposal raises – (a) one or more issues of economic, social or environmental significance to the local area i.e. unsustainable under NPPF 2024 para 11(d)or (b) one or more significant planning matters having regard to the development plan and any other material considerations". The use of "may" be referred to committee rather than being mandatory is a concern; subject to Regulation 5, types are delegated including other applications not listed in Schedule 1 with the default position being delegation.

The gateway test is undemocratic and places too much power in the hands of firstly planning officers – where the planning officer is minded to approve any application or permissions in principle these would be considered Schedule A/Tier 1 – or with two people, suggested as the chief planning officer and the planning committee chair. The former would no doubt be guided by their case officer but unfortunately the report and the planning balance in so many cases has been proven to be questionable and not evidence based, with planners often under pressure to approve all and sundry due to a lack of unrealistic unaffordable housing targets. Scrutiny by the planning committee and by local residents and communities have highlighted these deficiencies

and inconsistencies which would otherwise have resulted in irreversible harm. Further having a single councillor as part of the restricted decision-making process is fraught with problems; firstly the pressure on a single largely voluntary person, secondly their availability, thirdly that they are unlikely to be aware of the local circumstances within individual settlements especially in authorities which have both urban and rural communities and fourthly that they cannot be expected to be an expert in all areas to allow an informed decision to be made. Should there be a failure to agree then the case would be delegated; in these cases, they must all be referred to committee and not just in a few exceptional circumstances.

Currently the planning committee chair acts independently to regulate the application decision process, to ensure that correct procedures are followed and to moderate behaviour. They do not get involved in the discussion and do not vote unless there is a deadlock, in which case, they exercise their casting vote. These regulations seek to remove this function and make the role untenable.

As referred to in the CPA (Community Planning Alliance) response, the approach is also not consistent with government Vision for regulated bodies, which it states should be “targeted and proportionate” and that space should be allowed for “discretion and good behaviour”. The lack of balance between business and communities, the electorate, is stark but also trivialises the work and inherent trust embedded within a local planning committee.

Question 2

6 Do you agree with our proposed approach to phased reserved matters applications? If not, do you think we should return to the original position of reserved matters on phased development being delegated in all circumstances or should we instead consider delegating certain types of phased reserved matters applications?

Disagree

Free text:

Reserved matters should not be unilaterally delegated to officers under all circumstances whether phased or not. It is logical that there is clarity on reserved matters delegations and that these should follow the same rules as for the original application. However, clear definitions must be provided for consistency and exclusions from delegation applied if these e.g. have material impacts on infrastructure such as transport, flooding or sewage, there are significant community objections or any criteria in the gateway test at Regulation 5 is met, in which case the application should be decided by the planning committee. Additional criteria are also critical as set out elsewhere in this response. In practice, most i.e. real life, applications are phased except for small householder applications and especially so for medium and large scale ones, this being a natural consequence of the financial forward planning of development build out and construction. It is accepted and understood that developers will generally require at least some of the early available properties to be sold to fund on-going development of the site. This proposal is therefore nonsensical.

Outline planning applications rely on compliance with reserved matters; whilst principles are agreed at the outline stage, these are indicative with detailed plans and surveys, whether environmental, landscape, layout, design, community facilities and utilities, subject to detailed submissions later but which may be of significant public interest and of high impact to the community with no differentiation between different settings e.g. urban, rural, sensitive locations. Any RM applications should follow the same route as per the original application such that Schedule 1, unless agreed otherwise, could be delegated but not Schedule 2.

Equally NMAs are inconsistently defined across different LPAs and the planning officer may well consider that such changes are immaterial; in practice these can have a significant impact. Recent examples include changing the gradient and FFL of properties which caused predictable flooding in neighbouring gardens, still to be resolved, despite numerous warnings, since commencement in 2020; changes to s106 agreements which were signed off at appeal and removal or deferment of pre-commencement conditions for drainage and sewage on a site with poor drainage and which experiences surface water flooding.

Question 3

7 Do you have any comments on the draft guidance?

Do you have any comments on the draft guidance?:

Completely disagree. The national scheme will not allow democratically elected councillors who are ultimately accountable to their electorate, to determine local conditions, impacts and concerns based on local knowledge and experience that would require a proposal to be considered by a planning committee.

It is regrettable that the measures proposed are enabling powers with detailed provisions to be set out in subsequent regulations on which presumably there will be no further opportunity to consult or amend. As it stands consideration of the responses to the 2025 consultation seem more weighted towards the comments from developers and commercial interests rather than community ones.
The implementation date of 30th September 2026, presumably following future publication in the intervening 5 months, is unacceptable; it is unnecessarily rushed and does not allow sufficient time for Local Authorities to “make arrangements such as amending constitutions” over the summer period. This is especially constraining for LAs with dual constituent LPAs or for those who are undergoing elections in May or uncertain process of LGR.

On the positive side, the plan to introduce compulsory training for all planning committee members, details to be provided, is supported but should not be so onerous as to deter councillors from standing. This can be at a national level but should also include location specific training which relate the appropriate plan area and to the LAs Core Policies and Local and Neighbourhood Plans. As some times an alternate is appointed in the absence of a committee member, these also need to be trained to the same level and perhaps drawn from a limited pool rather than all councillors. Proxy voting should be banned as otherwise implies predetermination.

The guidance on reporting and recording of all discussions and decisions related to delegated decisions for transparency and the propagation of trust is

welcomed. There should be a cooling off period during which decisions can be challenged if found to be non-compliant with the criteria for Schedule 1 delegation. Equally this should apply to all Schedule 2 pre-application meetings where significant decisions can be made without any disclosure and responsibility and no local input, whilst allowing strong developer interests to be permitted or even encouraged. Communities can have constructive input which could improve proposals and shorten the process by mutual agreement of issue mitigation.

The restriction of Schedule 1 types to minor i.e. <10 units or 0.5ha and no extension to medium size (10-50) is also supported, although this should also reflect the different settings e.g. urban, rural or sensitive locations where impacts, risks as well as benefits may well be of varying significance.

In combination with other changes, e.g. to the NPPF and requirement for any developments >150 which the office may recommend for refusal to be referred to the Secretary of State for a response within 21 days etc, these regulations remove the democratic right of communities to determine their shape and nature, both for existing and future residents and for any legal accountability for any resulting consequences. Presumably there will be national public liability insurance for such circumstances.