

TITLE OF REPORT: Consultation on potential changes to regulations regarding the use of planning conditions

REPORT OF: Paul Dowling, Strategic Director, Communities and Environment

1. Purpose of the Report

2. To update members on the current Ministry of Housing, Communities and Local Government (MHCLG) consultation entitled “Improving the Use of Planning Conditions: Consultation on draft regulations”.

3. Background

4. MHCLG have produced a public Consultation Paper on Planning Conditions with five questions outlining changes the Government proposes to make to the planning system including. The paper includes draft regulations that would prohibit pre-commencement conditions from being imposed without the prior written agreement of the applicant within a specified timeframe.
5. This report outlines the proposed changes that the Government plan to make to the planning system. It briefly discusses the implications of these changes for Gateshead.

6. Main Issues proposed by the Consultation

7. Applicant’s prior written agreement to pre-commencement conditions

8. The consultation paper states that “pre-commencement conditions play an important and useful role in some cases. However, because they prevent any start on site being made until they are discharged, imposing such a constraint on development, when it is not justified, unnecessarily delays the delivery of development and drives up costs”.
9. The consultation paper proposes changes to the process for imposing pre-commencement conditions on planning permissions. The Government intends to legislate to prohibit pre-commencement conditions from being imposed unless the applicant has first agreed them or if no response is received from the applicant within 10 working days of the Local Planning Authority notifying the applicant.
10. It would be the responsibility of Gateshead as Local Planning Authority to seek the written agreement of the applicant to any pre-commencement conditions, and planning permission could only be granted subject to these conditions if the applicant agrees or does not respond within 10 working days of the Local Planning Authority notifying the applicant.

11. If the applicant does not agree, the Local Planning Authority would retain the right to refuse the planning application if it considers that the pre-commencement condition is necessary to make the development acceptable.

12. The consultation paper seeks opinion on whether the proposed required notice to the developer should include reasons for both the condition and for making it a pre-commencement condition; on the definition of “substantive response” in the draft regulations; on the proposal to not give local planning authorities discretion to agree with applicants a longer period than 10 working days to respond to the notice; and invites any other comments on the draft regulations.

13. Conclusion

14. The consultation responses will be reviewed before the MHCLG decide which measures, if any, to take forward and in what form. A further report will be brought when any measures are announced.

15. Recommendation

16. It is recommended that the Committee note the report for information.

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Nil.

HUMAN RESOURCES IMPLICATIONS

Nil.

EQUALITY AND DIVERSITY IMPLICATIONS

Nil.

CRIME AND DISORDER IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil.

HUMAN RIGHTS IMPLICATIONS

Nil.

WARD IMPLICATIONS

Nil.

BACKGROUND INFORMATION

MHCLG Consultation Paper on Improving the Use of Planning Conditions

A copy of the consultation paper can be accessed via this link:-

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/677570/Consultation_on_regs_and_pre_commencement_conditions.pdf

Options for applicant when the Local Planning Authority issues a notice regarding a pre-commencement condition (under the proposed new regulations)

When a local planning authority issues a notice to the applicant the applicant has 4 options:

- a) to **provide written agreement** to the terms of the proposed pre-commencement condition, in which case the local planning authority may grant planning permission subject to that pre-commencement condition.
- b) to **indicate that they do not agree** to the terms of the proposed pre-commencement condition, in which case the local planning authority may then either:
 - i. grant planning permission without the pre-commencement condition,
 - ii. seek written agreement to an alternative pre-commencement condition, or
 - iii. refuse to grant permission (if it considers that the disputed pre-commencement condition is necessary to make the development acceptable in planning terms).
- c) to **provide comments** on the proposed pre-commencement condition, in which case that condition cannot be imposed. Further negotiations could follow which may result in agreement. The local planning authority could subsequently issue a further notice triggering a new date for a response.
- d) to **not respond** (i.e. remain silent). If there is no response by the date given in the notice the local planning authority may grant planning permission subject to the terms of the pre-commencement condition specified in the notice.

Definition of “a substantive response” set out in draft Regulation 2(6)

“a substantive response” means a response which—

- (i) states that the applicant does not agree to the imposition of the proposed condition, or
- (ii) provides comments on the proposed condition;