

PLYMOUTH CITY COUNCIL

Subject: Implementation of the Penfold Review
Committee: Growth and Prosperity Overview and Scrutiny
Panel
Date: 05 March 2012
Cabinet Member: Councillor Fry
CMT Member: Director for Place
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Ref: PWB/SMT/Horizon Scanning
Key Decision: No
Part: I

Executive Summary:

The Coalition Government has made supporting sustainable growth and enterprise, balanced across all regions and industries, one of its top priorities in the Coalition Agreement (May 2010). The final report of the Penfold Review into Non-Planning Consents was published in July 2010. The Review aimed to identify areas where there is scope to support investment by streamlining the process for securing consents obtained alongside or after, and separate from, planning permission ('non-planning consents'). It sought to do so by:

- a. Identifying non-planning consents which developers and other stakeholders regard as problematic;
- b. Assessing their impact on developers and the development process; and
- c. Considering how obtaining such consents could be made simpler and more cost-effective.

The intention of the Review has been to explore whether the process for obtaining non-planning consents is delaying or discouraging businesses from investing, with a view to identifying areas where there is scope to support investment by streamlining the process. The Government's response to the Review, published in November 2010, largely accepted the recommendations set out in the Review. In March 2011 the Government published the Plan for Growth proposing a number of reforms to the planning system. Planning Services produced a 15-point action plan in response to this in April 2011. Linked to the 2011 Autumn Statement, the Government announced a further programme to scrap unnecessary development consents and simplify others; reform the remits and working practices of the public bodies granting or advising on development consents; set a clear timescale for deciding

development consent applications; and making it easier to apply for development consents. This report summarises these proposals and highlights the implications for the City Council.

Corporate Plan 2011-2014:

The recommendations of the report directly support the Council's 'delivering growth' priority.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land

The implementation of the Penfold Review will result in some savings of officer time arising from consents, such as Conservation Area Consent applications, no longer being required. However the implementation of other changes could have workload implications resulting in extra monitoring or other costs.

Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.

None directly related to the report.

Recommendations & Reasons for recommended action:

It is recommended that Growth & Prosperity Overview and Scrutiny Panel note the implications of the implementation of the Penfold Review as set out in the report.

Reason: To ensure that Members are aware of the Penfold Review.

Background Documents

Cabinet Office, "The Coalition: Our Programme for Government", May 2010.

Penfold/BIS, "Review of Non-Planning Consents", Final Report, July 2010.

BIS, "Government Response to the Penfold Review of Non-Planning Consents", November 2010.

HM Government, "The Plan for Growth", March 2011.

Plymouth City Council, "Planning Review Actions: City Council Response and 15-Point Action Plan", April 2011.

BIS, "Implementation of the Penfold Review", November 2011.

Implementation of the Penfold Review: November 2011

Recommendation	Timescale	+ve/-ve Implications
HERITAGE		
A1. Enable the extent of a listed building's special interest to be legally defined.	Subject to Parliamentary time	+ Will reduce amount of applications received since only parts of listing will require consent + Could have significant positive implications for City Council buildings - Could reduce income if local fees introduced
A2. Enable developers to seek a Certificate of Immunity from designation or listing at any time.	Subject to Parliamentary time	+ Will create greater certainty in the regeneration process - Could have workload implications if the numbers of certificates sought significantly rises
A3. Allow owners of listed buildings and local authorities to enter into Statutory Management Agreements.	Subject to Parliamentary time	+ Could simplify the regeneration process for complex sites (e.g. Dockyard or organisations with large or multiple listed buildings) + Will reduce number of applications required - Could reduce income if local fees introduced - Would be resource intensive upfront
A4. Remove the requirement for Conservation Area Consent when demolishing unlisted buildings.	Subject to Parliamentary time	+ Will simplify the system as planning permission will only be required - Could reduce income if local fees introduced

Recommendation	Timescale	+ve/-ve Implications
<p>B1. Consult on introducing a system of prior approval for specified types of works to listed buildings.</p>	<p>During 2012</p>	<ul style="list-style-type: none"> + Might reduce the number of listed building consent applications + Could speed up process - Adds a confusing layer of application type (as with Telecommunications it is not as simple as what does or does not need planning permission there is a prior notice procedure) - May reduce pre-application fee income - Could reduce income if local fees introduced
<p>B2. Consult on allowing certification of applications for Listed Building Consent by accredited independent agents.</p>	<p>During 2012</p>	<ul style="list-style-type: none"> + Could potentially save money by reducing need for in house expertise + Could be linked to wider accredited agents scheme currently being planned for householder and other minor applications - Could raise probity and quality issues - Could reduce income if local fees introduced
<p>B3. Consult on legally defining circumstances in which minimum compensation should be payable when listed buildings are subject to compulsory purchase.</p>	<p>During 2012</p>	<ul style="list-style-type: none"> + Gives greater certainty to owners of listed buildings + Will reduce the costs of enforcement - Could increase the costs of Compulsory Purchase Order procedures by the City Council

Recommendation	Timescale	+ve/-ve Implications
C. Undertake a prioritisation programme to update the list entries of listed buildings.	Programme scoping is underway	<p>+ Will result in more rationalisation and more robust justification of listing entries</p> <p>+ Historic anomalies will be identified which could help the regeneration process</p> <p>- Could increase workloads for monitoring and managing the changes</p>
ENVIRONMENTAL DEVELOPMENT CONSENTS		
D1. Introduce water abstraction and impoundment, flood defence consents and fish pass approvals into the Environmental Permit.	Subject to agreement, included in the Water Bill 2012	<p>+ Could reduce the complexity of consents procedure</p> <p>+ Could speed up consent process by allowing more work to be undertaken upfront</p>
D2. Expand class licensing to further low risk activities and species and introduce organisational licensing.	By summer 2012	+ Could simplify class licensing and speed up the process
D3. Explore the scope for developing a system of chartered or accredited consultants.	Beginning 2012/13	<p>+ Could potentially save money by reducing need for in house and external expertise</p> <p>+ Could speed up consents process caused by need to check quality</p>
D4. Issue guidance on how Natural England proposes to apply the offence of deliberately disturbing a wild animal.	By end of 2011/12	<p>+ Reduce the likelihood of a developer undertaking “pre-planning” activities to reduce planning constraints</p> <p>- Could increase enforcement and monitoring responsibilities</p>
D5. Consult on the introduction of Environmental Account Managers.	September 2012	+ Could improve coordination for developers between Natural England, Environment Agency and Forestry Commission by having a single point of contact

Recommendation	Timescale	+ve/-ve Implications
HIGHWAYS CONSENTS		
E1. Consult upon options to improve the operation of 'Stopping Up Orders' and the interaction between highways consents and the planning system.	End of 2011/12	<ul style="list-style-type: none"> + Could create greater opportunities for joined up working with Highway Authorities + Could provide an opportunity for streamlining departmental processes + Could speed up planning application process - Could slow down the consents process if not properly joined up
E2. Review existing arrangements between local highways authorities and local planning authorities.	Report by end 2012	<ul style="list-style-type: none"> + Could create greater opportunities for joined up working with Highway Authorities + Could provide an opportunity for streamlining departmental processes - Could slow down the consents process if not properly joined up
E3. Consult upon publicity requirements associated with Traffic Regulation Orders.	By end of 2011	<ul style="list-style-type: none"> + Could streamline processes and allow for more local decision making + Could speed up regeneration projects where a Traffic Regulation Order is required (and paid for) by a developer
LICENSING APPLICATIONS		
F1. Pilot a system of prior-approval for Natural England's species licenses.	September 2012	<ul style="list-style-type: none"> + Could give developers the option of applying for a species license (charged on a cost-recovery basis) prior to planning permission, to speed up the subsequent planning process

Recommendation	Timescale	+ve/-ve Implications
F2. Issue a consultation document giving options for reducing the duplication between Rights of Way consents and planning system.	In due course	<ul style="list-style-type: none"> + Could simplify and speed up consent process + Could create greater opportunities for joined up working with Highway Authorities + May create departmental savings - Could slow down the consents process if not properly joined up
F3. Strength guidance to smooth working practices between licensing authorities and planning authorities – through statutory Home Office guidance and DCLG guidance following the National Planning Policy Framework (NPPF).	April 2012 and following publication of the NPPF	<ul style="list-style-type: none"> + Depending on the detail could simplify the process for all parties + Could create greater opportunities for joined up working with the Public Protection Service + Could simplify and speed up consent process - Potential to slow down planning consent process if not properly managed
G. Remove two redundant energy development consents.	Upon securing a legislative slot	Minimal impact on projects in Plymouth
STATUTORY CONSULTEES		
H1. Ensure the Environment Agency has a remit to promote sustainable development.	Upon finalisation of the NPPF	+ Should promote better synergy with spatial planning
H2. Ensure Natural England has a remit to promote sustainable development.	Upon finalisation of the NPPF	+ Should promote better synergy with spatial planning
H3. Ensure English Heritage has a remit to promote sustainable development.	Upon finalisation of the NPPF	+ Should promote better synergy with spatial planning

Recommendation	Timescale	+ve/-ve Implications
H4. Ensure Highways Agency has a remit to promote sustainable development.	Upon finalisation of the NPPF	+ Should promote better synergy with spatial planning
H5. Ensure Health and Safety Executive has a remit to promote sustainable development.	Upon finalisation of the NPPF	+ Should promote better synergy with spatial planning + Should help address more proactive engagement on specific areas of Plymouth where HSE objections have prevented regeneration projects (e.g. Cattedown)

TIMESCALES FOR CONSENTS

I. Determine development consent applications in a maximum of 13 weeks and less when other timetables are agreed.	Immediately for national consenting agencies and subject to consultation for Local Authority consenting authorities	+ Other consenting authorities coming under the same performance standards as Local Planning Authorities should result in less delays + Should give an opportunity to further review planning processes to improve performance - May need a more rigorous process to ensure applicants either meet their targets or formally agree an extension of time - Position with local authority level consents still unclear - The timescale would not apply to consents determined by private sector providers (e.g. Building Regulations Approved Inspectors)
J. Provide information on performance to developers and Parliament in determining development consents within the agreed timescales.	Immediately for national consenting agencies	+ Other consenting authorities coming under the same performance scrutiny as Local Planning Authorities should result in less delays + Will create greater accountability and ownership of targets by other consultees

Recommendation	Timescale	+ve/-ve Implications
APPLYING FOR PLANNING PERMISSION		
<p>K. Add information and web links on major development consents to the Planning Portal.</p>	<p>Go live from April 2012</p>	<ul style="list-style-type: none"> + Endorsement of the Planning Portal's role should help improve the take up of electronic submission of applications thereby improving efficiency + Will enable "do I need planning permission" service to be delivered through Planning Portal allowing staff time to be dedicated to other service priorities + Should enable more Building Regulation applications to be made online - May reduce opportunity for pre-application fees
<p>L. Evaluate whether further integration of planning permission and development consent applications is feasible.</p>	<p>Commencing April 2012</p>	<ul style="list-style-type: none"> + Should speed up the consents process and provide more of a one stop shop approach to development consents - Could complicate the consents process if decisions are being held up by multi agency co-operation - Could result in a "democratic deficit" in relation to any current planning consents combined with permits or licenses which are not subject to community and stakeholder consultations - Will lead to further uncertainty given the wider planning reforms still being implemented through the Localism Act 2011