

RTPI response to improving the use of planning conditions – Consultation on draft regulations

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The Royal Town Planning Institute (RTPI)

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Please see our response to the individual questions below.

- 1) 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 pre commencement condition?**

We agree with this proposal.

- 2) Do you agree with our proposed definition of ‘substantive response’ set out in draft Regulation 2(6)?**

We believe a substantive response should be more than simply whether that the applicant disagrees that a pre commencement condition should be imposed. They should be asked to provide reasonable justification why such a condition would be unacceptable on planning grounds or, why it would not meet the six tests of a planning condition by virtue of its pre commencement requirement. In terms of providing comments, the words “full” or “direct and meaningful” could be used before the word ‘comments’ which would imply the need for clear evidence to be provided in support of the grounds for disagreement (para 2.6 (a) of the draft regulations).

- 3) 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?**

We think local authorities should be given discretion as they are best placed to determine these matters on a case by case basis, particularly where agreements could be the fine line between approval and refusal. We also think that the default period should be in line with other consultation periods i.e 21 days.

- 4) Do you have any other comments on the draft regulations**

We ask that this response be read in conjunction with our response in November 2016 to the consultation of the same title as this one. We are still not convinced there is sufficient evidence that links delays to development to the unnecessary imposition of pre commencement conditions, or that the existing rules in place (through PPGs and formally circular 11/95) are not sufficient enough to judge whether a condition, pre commencement or otherwise should be imposed.

The power of the Planning Inspectorate should act as a deterrent for any unjustified planning practice including the imposition of spurious conditions, whether because of their timing requirements or otherwise. If users of the planning system feel that they cannot rely on this system, then this is what should be addressed.

We are not convinced that the introduction of additional legislation to address a relatively small part of the planning process, is a proportional response to concerns that conditions are not being discharged quickly enough, particularly when there is just as much anecdotal evidence of general gaming of the system. For example, submitting partial details pursuant to condition to start the clock and waiting until the last minute to submit the rest, so that time pressure becomes a much bigger factor for the determining authority rather than achieving the best quality outcome.

We are concerned that the unintended consequences of these measures could outweigh their benefits, not least where the introduction of additional legal and bureaucratic requirements could trip up the process where currently a simple phone call could solve a problem.

It is not clear that due consideration has been given to these measures in relation to other recent changes being introduced and the consequent additional workload this will put on planners, enforcement officers and administrative staff in under resourced planning departments.