

## **Background to the Review**

### **Examining the contribution planning policy can make to maintaining balanced neighbourhoods and the quality of life for their residents**

The draft terms of reference are:

- a. To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working.
- b. To increase understanding of the various Government proposals to relax permitted development rights, including those relating to extensions, office to residential conversions and changing retail use without consent, and to consider if a local response should be developed.
- c. To consider the Council's approach to planning enforcement.

### **Background on (a) - To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working**

The Houses in Multiple Occupation Supplementary Planning Document (SPD), attached as Annexe 1, was approved in March 2012 and sets out how the Council will determine planning applications. The SPD was intended to guide the interpretation of the policy and to ensure that HMOs were spread across the city with no area (within a 40m radius) having more than either 20% or 10% of properties as HMOs so communities were balanced (defined as the "tipping point").

It has been over 18 months since the council adopted the SPD. A number of issues have arisen within this time period, particularly, from the Planning Department's perspective, relating to the Planning & Rights of Way Panel refusing planning applications that meet the requirements of the SPD on the grounds of being out of character with the area and the Planning Inspectors supporting subsequently that approach in several appeal cases.

It is not suitable to continue with the current approach of officers supporting applications that appear to meet the requirements of the SPD, only to have them refused at Panel. Landlords are also concerned that the SPD is not being followed as they want certainty when they are considering whether to buy a property or not.

The Scrutiny Panel may therefore wish to consider:

- The need to improve clarity about the SPD and whether it needs to be amended to better meet the aims and aspirations of the Council.

## **Background on (b) - To increase understanding of the various Government proposals to relax permitted development rights**

In May 2013 the Government relaxed certain Permitted Development Rights. The two main changes are:

- Increasing the size limits for single storey domestic extensions and conservatories;
- The change of use of office to residential use.

### Single storey domestic extensions

It is usually permitted development as long as the extension does not extend beyond the rear wall of the original house by more than 3m if an attached house or by 4m if a detached house. This was increased to 6m and 8m respectively by these changes (there are lots of other caveats that must also be met). This runs from 30<sup>th</sup> May 2013 and 30<sup>th</sup> May 2016. The process is (this is a shortened version):

1. A homeowner wishing to build a larger single-storey rear extension must notify the local planning authority and provide:
  - a. A written description of the proposal which includes the length that the extension extends beyond the rear wall of the original house, the height at the eaves and the height at the highest point of the extension;
  - b. A plan of the site, showing the proposed development
  - c. The addresses of any adjoining properties, including at the rear
  - d. A contact address for the developer and an email address if the developer is happy to receive correspondence by email.

There is no fee in connection with this process.

2. The local authority may ask for further information if it needs it to make a decision about the impact of the development on the amenity of adjoining properties.
3. The local authority will serve a notice on adjoining owners or occupiers, i.e. those who share a boundary, including to the rear. This will give the address of the proposed development and describe it. It will also set out:
  - a. When the application was received, and when the 42-day determination period ends
  - b. How long neighbours have to make objections (which must be a minimum of 21 days), and the date by which these must be received.

A copy of this notice must also be sent to the developer.

4. If any adjoining neighbour raises an objection within the 21-day period, the local authority will take this into account and make a decision about whether

the impact on the amenity of all adjoining properties is acceptable. No other issues will be considered.

5. The development can go ahead if the local authority notifies the developer in writing either:

- a. That, as no objections were received from adjoining neighbours it has not been necessary to consider the impact on amenity, or
- b. That following consideration, it has decided that the effect on the amenity of adjoining properties is acceptable.

6. If the local authority does not notify the developer of its decision within the 42-day determination period, the development may go ahead.

7. If approval is refused, the developer may appeal.

8. The extension must be built in accordance with the details approved by the local authority (or, if no objections were raised or the local authority has not notified the developer of its decision, the details submitted), unless the local authority agrees any changes in writing.

9. The development must accord with all other relevant limitations and conditions which apply to other rear extensions allowed under permitted development. These are set out in Class A, and include for example, the requirement that the extension (apart from a conservatory) must be constructed using materials of a similar appearance to those used in the construction of the rest of the house.

10. To benefit from these permitted development rights, the extension must be completed on or before 30 May 2016. The developer must notify the local authority in writing of the date of completion.

#### Change of use from office to residential

Premises in B1(a) office use can change to C3 residential use, subject to prior approval covering flooding, highways and transport issues and contamination. This runs from 30<sup>th</sup> May 2013 and 30<sup>th</sup> May 2016 and prior approval fees for change of use is set at £80.

The prior approval process is (this is a shortened version):

Before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to-

- (a) Transport and highways impacts of the development;
- (b) Contamination risks on the site; and
- (c) Flooding risks on the site,

The application shall be accompanied by—

- (a) A written description of the proposed development;
- (b) A plan indicating the site and showing the proposed development;
- (c) The developer's contact address; and
- (d) The developer's email address if the developer is content to receive communications electronically; together with any fee required to be paid.

The local planning authority shall notify the consultees specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

The local planning authority shall give notice of the proposed development—

(a) By site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—

- (i) Describes the proposed development;
- (ii) Provides the address of the proposed development;
- (iii) Specifies the date by which representations are to be received by the local planning authority; or

(b) by serving a notice in that form on any adjoining owner or occupier.

The local planning authority may require the developer to submit such information regarding the impacts and risks as the case may be, as the local planning authority may reasonably require in order to determine the application, which may include—

- (a) Assessments of impacts or risks;
- (b) Statements setting out how impacts or risks are to be mitigated.

The local planning authority shall, when determining an application—

(a) Take into account any representations made to them as a result of any consultation under paragraphs (3) or (4) and any notice given under paragraph (6);

(b) Have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application; and

(c) In relation to the contamination risks on the site—

- (i) Determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a), and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and
- (ii) If they determine that the site will be contaminated land, refuse to give prior approval.

The development shall not be begun before the occurrence of one of the following—

- (a) The receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
- (b) The receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
- (c) The expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

The development shall be carried out—

- (a) Where prior approval is required, in accordance with the details approved by the local planning authority;
- (b) Where prior approval is not required, or where paragraph (9)(c) applies, in accordance with the details provided in the application referred to in paragraph (1), unless the local planning authority and the developer agree otherwise in writing.

The only way to remove these permitted development rights would be to serve an Article 4 direction. A years notice needs to be given of this to avoid any risk of compensation and the Council would have to clearly set out the harm that is resulting. After that, planning permission would be required but there would not be a fee for any such application.

### **Background on (c) - To consider the Council's approach to planning enforcement**

In April 2013 the City Council's Internal Audit Service conducted a review of Development Management – Enforcement. This report is attached as Annexe 2 and it provides a background to some of the issues regarding planning enforcement.

Dr Chris Lyons  
Planning & Development Manager  
Planning, Transport & Sustainability Division  
Southampton City Council