

Planning Agents Forum

11 October 2019



Pool Innovation Centre, Pool

Key points to Note:

Action

1 Introduction and Welcome (Louise Wood, Service Director)

LW welcomed delegates to the morning's forum. The main points included:

- Recent changes to management structure – Hayley Jewels, Head of Development Management who will be DM operational lead; contact through Strategic Development Manager and Group Leaders. LW and Adam Birchall will be contacts for early discussions on investment-type schemes.
- Climate change is of increasing urgency – agents can expect to see more challenge in the planning process to secure more green infrastructure. Development Plan Document (DPD) is being progressed.
- The budget is creating a challenging situation as application types and numbers are changing and vacancies are not being filled. Officers have very high caseloads but we are dealing with this the best way we can.
- CIL is really complex with prescriptive regulations; officers are trying to be reasonable and pragmatic. Agents please keep encouraging clients to fill out the necessary forms.

AGENTS

2 Development Management update (Marshall Plummer, Strategic Development Manager)

Presentation uploaded to Planning Agents Forum webpage. Main points included:

- **Area Team approach** – As previously advised, Development Management is now organised in areas operating lean processes to help efficiency. We are continually looking for further improvements. Performance is OK, still rating well against peer authorities despite all the changes to the team. Partnership working has been going well and good feedback received.
- **Enforcement** – negative feedback received from communities so officers need to look at how this function is delivered; some changes are needed. We have lost a few staff which has also caused pressures.
- **Appeals** – The Planning Inspectorate has had a backlog; our defence success rate is good.
- **Committees** seem to be running OK but not many items; officers are trusted to make the right decisions. Also very few complaints, so we appear to be getting it right most of the time.
- **Social Media** – as a Council we are trying to communicate better and raise our presence; ALL need to be aware of putting hurtful comments online however.
- **Validation** – Officers are aware of some issues and are working to resolve them
- **Confidential pre-apps** – a mini project has resulted a reduction in the number of non-public pre-apps which has made it easier to work with local councils, more transparent and helps engaging with communities. Thank you to those agents who have worked with us to do this.
- **Planning Reforms** – more reforms are being planned by the Government, including new PD rights for 2-storey extensions. New PD rights bring their own challenge as

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quality has been an issue with some PD schemes. We do offer an advice service. Local fee setting – Cornwall Council are working with the Government on a pilot. We have also reduced the number of conditions we impose already, so are ahead. An appeals portal service will be available modelled on the Planning Portal. Green Paper on Planning Reforms expected shortly.

- **Accredited Agent scheme** – charge for the scheme being considered.

3 Policy (Hayley Jewels, Head of Development Management)

Presentation uploaded to Planning Agents Forum webpage. Additional items noted:

- **Climate Change DPD** – aiming for February 2021 for public examination.
- **Energy Efficiency** – officers are working with Building Control on the Future Homes Standard
- **Housing supply data** – latest figures show 6.9 years supply
- **50_50** – proactive engagement is underway; draft strategy to be produced in 2020.

4 Community Infrastructure Levy (CIL) (Gemma Arthur – Infrastructure Group Leader)

Presentation uploaded to Planning Agents Forum webpage. Changes were introduced in September; the main points to note were:

- **Reg 123** withdrawn; CIL and S106 can be spent on same item of infrastructure
- **Surcharges** must be imposed now; barrier introduced to stopping charging CIL – strong justification is needed now
- **Measurements** – September changes were helpful – existing floor space and total floor space of the new proposal are what we need to know
- **Assumption of liability** – responsibility is with the applicant – needs to be done as soon as possible
- **Pre-CIL permission** – if approved pre-CIL, and a new full application is submitted, it will not be taken into account. If changes are via S73, then will take into account the floor space of the previous pre-CIL approval.
- **Zone 5** – 0% rate – only relates to residential development
- **Out of town centre definition** – 3 types of retail – as well as referring to main towns, this will also include any existing town or village settlement
- **Discretionary charges** – new charge on CIL enquiries to find out if CIL has been paid or not, plus exceptional circumstances relief claims.
- **CIL monitoring** – documents have been produced setting out how we will do this

CIL Question Time:

Q: Would you charge CIL for day rooms on Gypsy sites? A: Probably it would be classed as a structure but not residential.

C: Citing the Giordano case (Full –v- S73) where permission was granted for 6 then changed to 3, as development had started, authority said No. Court of Appeal has said that it should be considered to be ‘netted off’. Has significant implications. Q: Clarification requested regarding pre-CIL consents. A: If outline approved pre-CIL, there is no charge for Reserved Matters (RM). If outline approval received after CIL, CIL would be applied at RM stage.

Q: Is there a surcharge if paperwork not filed – how is it calculated? A: For failing to submit a Form 6: Commencement Notice, the surcharge is 20% of amount calculated

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or £2,500, whichever is the lesser amount. For failing to submit a Form 2: Assumption of Liability, the surcharge is £50 per liable party.

Q: Change of use of barn to dwelling, first floor is held up by scaffolding. Would that floor be change of use if on scaffolding? A: Case officer would need to decide, floorspace can only be taken into account if it can satisfy the 'in-use' test.

Q: How is it calculated? A: We look at the size of the proposed dwelling, what the existing floor space is, and deduct this if it is 'in-use' (lawful use for a continuous period of at least six months in the three years prior to permission being granted), we don't deduct if it is derelict, then we look at what is left over on charge on that. Could a self-build exemption be claimed? Many factors affect this.

Q: If you have a Certificate of Lawful Use – is this the same as planning permission? A: It does if it related to 'proposed' use but not if 'existing'. Retrospective applications are really difficult. The Ministry for Housing, Communities and Local Government have indicated they will be looking at the self-build regs next year.

Q: If the use started before CIL start date (Jan), is trigger point then or 10 years before that point? A: If the existing floorspace is 'in lawful use', it can be deducted. If it cannot, then it will not be deducted and may be charged against. The regs do not work well with expediency or enforcement – officers to take this back as an issue to central Government.

LW/GA

Q: Is a residential garage of more than 100 sq m liable? A: Depends, if it is being delivered as part of a wider development, then it would be included in the overall size of the development and charged at the appropriate residential rate. If it is being delivered as a standalone development, then it would only be charged against if it was over the 100sqm threshold.

Q: What counts as existing floor space? A: Garages, porches are counted; conservatories depend on their structure.

Q: In the past agricultural buildings (Q017 and 18) were classed as non-residential floor space but we have now been asked to put in the floor space on those? A: Not aware of this. Is this being asked inconsistently? Officers will need to look into this and to see if it is being linked.

MP/GA

Q: In theory it is PD, if there is no need to apply for planning permission for self-build, but do we still need to do anything? A: Permitted development still need to submit Form 5: Notice of Chargeable Development if it is CIL liable development, ie, creating a dwelling, or new floorspace over 100sqm. This will be enforced by usual monitoring methods.

Q: If a Form 5 is not done, so not claiming exemption, then start is made, then can't claim exemption? So it is a problem if Form 5 not done? A: Yes, better to do Form 5. We can then help to get exemption if appropriate.

Q: When does Form 7 need to go in? A: Form 7, Part 1 for self-build – submit as soon as you like but we don't look at it until permission is granted and we also have a Form 2: Assumption of Liability. It does need to be approved before work is started. The approval will take a couple of days if not complex and all necessary information has been provided.

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Q: Would I submit a Form 5 for a Certification of Lawful Use site? A: No, use the Form 1: Additional Information Form – this is a validation requirement for proposed use.

Q: Have a site with outline planning permission for custom-build serviced plots. For a group scheme of 14 dwellings, regarding assumption of liability, applications are made on behalf of the new owners and a portion will be transferred to the group. We are trying to follow the liability trail and who needs to do what forms? A: If there is outline at this site, each individual party should submit own RM. Otherwise all 14 parties will need to assume liability for their part of the development, and each individually claim and be granted self-build relief before any work starts on site. Commencement of any works would trigger CIL payment on the whole site if all the reliefs are not in place before hand.

Q: It is a self-build cooperative group so only transferred at the end. A: Form 7 Part 2 is the 2nd stage of the Self-Build Housing relief claim process, and this form needs to be submitted within 6 months of completion along with evidence of self-build and occupation as main/sole dwelling. Officers to pick up this complex case separately to work out how best to manage it. There are issues with group self-build schemes if they are included in one permission.

GA**5 Improving Quality (Rob Lacey – Planning Policy Group Leader)**

Presentation uploaded to website. Noted that we are in a good position as we are already lined up with Government policy. Public consultation on the draft guidance to commence in the next few weeks.

6 Adaptable Homes (Karen Sawyer – Head of Home Solutions)

Presentation uploaded to Planning Agents Forum webpage. Main points to note were:

- Lack of housing options and choice in Cornwall, particularly if a wheelchair user
- 2 in 5 households in Cornwall have a health problem or disability – issues are mobility, ie homes without stairs are needed
- 984 housing adaptation last year – number has doubled in last few years
- M4(3) not currently in the Local Plan but are working towards this in future
- Aims for our own social housing is 100% at M4(2) and 5% M4(3).

Q: There are links between Building Regs and planning requirements, but am not sure who will deliver this (M4(3)? A: As long as there is a level playing field, developers will deliver. But while there is no requirement, why would developers put them in. M4(2) costs not much different but M4(3) is.

Q: The requirement for 25% for 10 dwellings or more, does that include flats? A: Yes does include flats.

Q: Don't see many developers doing 1-story houses. Is there an incentive we can offer, through the planning process eg for bungalows? Rarely find any bungalows on eg Persimmon sites. Aging population want 1-storey buildings but not flats. A: Yes it takes intervention. We (officers) will need to think about it. How to get a better housing mix will be picked up in the Local Plan review.

LW/HJ

Q: A review of the strategy for annexes is needed – lots of people want to have dependent relatives' annex. It could be a good way to alleviate pressures and be more flexible locally. A: We thought we were already quite flexible on annexes.

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C: Article that is worth looking at from Tower Hamlets ‘Multi-generational housing’ about options for lifetime housing. A: We have tried to address this in our policies, need to work with Neighbourhood Planning groups to make sure more restrictions aren’t introduced.

7 Affordable Homes (Nicky Mannell – Principal Affordable Housing Officer)

Presentation uploaded to Planning Agents Forum webpage. Main points to note were:

- Cornwall Council are looking for a strategic partner to provide Extra Care sites across Cornwall
- From comments on planning applications, we are getting more information on numbers of elderly people registered for housing need. May well be asking for bungalows in future.
- Only 2 Extra Care facilities in Cornwall at present – newer one in Liskeard, and remodelled site in Redruth.

8 General Questions and Answers

Q: For what sorts of cases are you doing no officer reports? A: The most straightforward and simple ones only. Refusals will always have a report.

Q: Accredited Agents Scheme – what do you get for the new fee? A: The idea is that we would accredit agents so you get expedited validation and the Accredited Agent logo. Though we have found that some agents are not submitting high enough quality applications. We are looking at different ways to develop our products for you. If I was looking for a recommendation for an agent, this could make people choose you if on the list of LPA Accredited Agents.

Q: Accredited Agents Scheme sounds great but would there be consistency in validation? Inconsistency in validation is one of the biggest hurdles. How do we sell your service if we’re not treated consistently and how can we be sure of being able to justify it to our clients? A: We need to offer a value-for-money service. When we brought in the process changes, we found training issues and other things that needed fixing – which we continually do. We shouldn’t be inconsistent but deal with a huge number of applications – 15,000 per year are going through the system so it is a challenge. *[Update: Since the Forum, training is being arranged for the Validation team and feedback on specific issues to be investigated and used as examples was provided by agents attending the Forum.]*

Q: There are big differences between smaller projects and larger projects. In terms of being accredited for larger schemes, there is so much information that is needed; it is a different beast. Practices dealing with larges schemes would struggle to be able to join the accredited agents scheme. A: That is a valid point – maybe it doesn’t work as well for all sizes of application.

Q: How can the increase in pre-apps fees be justified? Q: The budget situation is challenging currently plus we benchmarked against other authorities and were cheaper than most. We aim now to be average as we were too low.

Q: How can the desktop fee for a large scheme be justified? A: If talking about quality, then we take that back but yes, that is the cost and you are paying for the paragraphs containing the opinion of a professional officer working in that area.

Q: As designers, we promote inclusivity, but what about density? Cornwall

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traditionally was low-density – what guidance will you offer? A: Don't have specific density guidance in Local Plan. It is going to be considered as part of climate change guidance eg town centre uses – think flexibly. There are places where more dense works eg the recent RIBA Stirling prize winning housing scheme, but it has to be area-specific. Last week Members were taken on a bus trip to look at different sites and what they thought made some better than others.

Q: Had an application in for a long time, issue with a noise condition and was asked to give more information, so officer needs to re-consult. When chased, EH officer said they had another 10 days to respond but if a quicker response wanted, then they will reply sooner for a fee of £140. Is this new? A: This is related to the EH-TAP scheme. Not aware that EH were taking that approach and do not advocate it. Officers to have a look at this issue.

HJ/MP

Q: Phase 1 contamination reports are being requested inconsistently. A contamination report will be conditions anyway. A: The Validation team are seeking clarification from Environmental Health – it is on the local list so appreciate inconsistency is frustrating but guidance will be updated.

Q: Climate change emergency – 2030 is too late. When the Local Plan is reviewed, will this be a radical rethink? Need to look at issues for zero-carbon living. A: We will offer a session for agents on 50_50 as soon as possible.

HJ

Q: NDPs could be more progressive – how are development boundaries progressive? Need to educate those who are setting policies. A: Can only influence them so far, we can reinforce message about that approach but they are their plans and Inspectors will accept them.

Q: NDPs – being done inconsistently – one says 'no red line', another insisted on a development line, ie no more development. This is a real issue. They are being used as it is the 'path of least resistance'. A: Agree, it is a challenge. If ever given the opportunity to comment on regulations, officers will.

Q: Environment – will CIL be more appreciative of modern building materials? It is a grey area – need to look at new technologies. A: Want to say yes to that – be more innovative.

Q: iApply is closing down at the end of the month. How can I submit by Planning Portal and defer the charge? A: Can anyone do any work and not charge? It is possible to submit directly to the Council but it will take longer.

Q: Agents are the ones getting squeezed as Planning Portal fees are included in agents' fees. Problem is that clients see it as extra. A: Need to be realistic, validation officers will take more time to process applications submitted direct. We are not the Planning Portal, so you need to lobby them.

Q: Planning Portal charge is flat fee so for a large scheme it is nothing, but it is not proportionate for a small scheme. A: Advise you to contact Planning Portal as from the past experience, they have listened to feedback.

Q: Frustration with S106 process that took 6 months for a standard agreement – took 4 weeks to sign, had some mistakes by the Council which clients then had to pay to amend in their fee. Can anything be done? A: Legal have been asked to come along to respond to questions in future. All S106s are now done in-house. Please let us know if it's better now all in-house or not? Agents should ask planning case officers

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to chase up if progress is slow.

Q: Self and custom-build is being allowed by getting around the 'red line'. Noted there are specialist self-build mortgage brokers. Q: Yes we are aware. Some officers are working on self-build and being more innovative. It is supported in the Housing SPD.

Q: Is there any room for manoeuvre now if someone won't qualify for affordable housing, can't afford a plot but can build a house? A: Have tried to put some 'hooks' into the Housing SPD – self-build exception site. Would like to find ways to help those individuals and remove barriers. You do need community support however.

C: There is a big difference between Cornwall and neighbouring authority – positive feedback for Cornwall Council.

Conclusion

The Forum was attended by 64 agents. The presentations from the event are available on the Planning Agents' webpage at the below web address:

<http://www.cornwall.gov.uk/environment-and-planning/planning/planning-agents-area/>