

Committee(s):	Date(s):
Planning & Transportation Committee	25 July 2017
Subject: Imposition of planning conditions on planning permissions	Public
Report of: Chief Planning Officer	For Information
<p style="text-align: center;">Summary</p> <p>This report advises Members on planning conditions in response to a question raised by a Member. The questions posed were:</p> <ol style="list-style-type: none"> 1. How conditions are used 2. The way conditions are processed 3. Are they becoming more onerous? <p>Recommendation</p> <p>Members are asked to:</p> <ul style="list-style-type: none"> • To note the report 	

Main Report

Background

1. Members have requested further information in relation to:
 1. How conditions are used
 2. The way conditions are processed
 3. Are they becoming more onerous?
2. Guidance in respect of the use of planning conditions is set out in legislation and in the NPPF.
3. The NPPF states '*local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.... and 'planning conditions should only be imposed where they are:*
 - *necessary*
 - *relevant to planning and to the development to be permitted*
 - *enforceable*
 - *precise and*

- *reasonable in all other respects”*
4. More detailed government guidance on the use of planning conditions is set out in the Planning Practice Guidance prepared by the DCLG and published on the 6 March 2014 and this is attached as Appendix 1.
 5. It states *‘when used properly, conditions can enhance the quality of development and enable development proposals to proceed where it would otherwise have been necessary to refuse planning permission, by mitigating the adverse effects of the development. The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable.’*
 6. It is correct to say that more and more matters have been added to material planning considerations over the years on the basis of the developer is required to absorb the consequences of the development. These include such matters as security, inclusive access, sustainable urban drainage systems (SUDS), and air quality and micro-climate considerations. All these and more require the imposition of conditions which does increase the burden on developers.

Current Position

Imposing conditions

7. Planning conditions are imposed in the City of London to ensure that development is acceptable and that any impacts of the development on the public interest are mitigated as far as is reasonable.
8. As Members will have observed the broad issues which conditions cover are:
 - Time limits
 - Design matters
 - Use and hours controls
 - Archaeology
 - Protection of trees
 - Servicing
 - Refuse collection
 - Demolition and construction
 - Noise mitigation
9. These conditions are relevant to planning and are imposed to ensure the quality of design in the City of London and to safeguard residential amenity. Whilst some of these touch on matters that are regulated through other control regimes such as licensing the imposition of the conditions can support these other controls. Examples have been the requirement for double doors on licensed premises and conditions in respect of noise attached to air conditioning units.

10. Some matters are not appropriate for control under planning conditions and in these circumstances it is necessary in addition to enter a S106 planning obligation to secure those matters as local procurement and affordable housing.
11. Where a developer is unwilling or unable to comply with a condition it can apply to the local authority to remove that condition. If that is refused it can appeal to the Secretary of State.
12. If it proceeds with the development and does not comply with the conditions then a breach of condition occurs and it is open to the LPA to take enforcement action where it is expedient. In rare circumstances where a serious breach occurs the City could apply to injunct.

Trigger points for compliance

13. Timing for compliance fall into five broad categories:
 - a. Time limits which specify by when permissions need to be implemented
 - b. Those that have to be satisfied prior to works commencing
 - c. Those that have to be satisfied prior to certain elements of a scheme commencing
 - d. Those that have to be complied with at some further stated period, such as occupation
 - e. Those that run for the life of the development.
14. When the City issues a planning decision the notice sets out the relevant conditions. Within the document, the City, as has been agreed with the development community, lays out the conditions in an order making it clear which conditions have to be satisfied at which stage.
15. The Government encourages (and it is proposed that it will become mandatory) local planning authorities to share conditions with applicants prior to issuing the decision to ensure that they do not give rise to compliance issues, which we do in relation to major applications.
16. Applicants sometimes do request alterations to proposed conditions and these are taken into account if they do not conflict with the City Corporation's objectives in imposing the conditions.
17. Conditions requiring compliance with other regulatory regimes, such as licencing or environmental health will not normally meet the test of necessity unless they are relevant to planning.
18. It is important to ensure that conditions are tailored to tackle specific issues rather than standardized or used to impose broad or possibly unnecessary controls.

19. The City does utilise standard planning conditions in order to ensure consistency and quality. These are regularly reviewed and are discussed with officers in other departments so ensure that they are relevant. They are only used where they are appropriate to deal with a matter that needs to be controlled.

Discharge of conditions

20. A developer is required to discharge conditions by requests for approval in writing enclosing any relevant details. There is a fee for this. The City Corporation will either write to confirm that a condition has been discharged or that one or more of the conditions imposed on the planning permission have been satisfied.
21. Local authorities are expected to discharge conditions without delay and that every effort should be made to ensure that this is within 21 days.
22. Delays can arise due to the poor quality of information supplied by the applicant and/or the proposal itself being unacceptable.
23. The City Corporation must give notice to the applicant of its decision within a period of 8 weeks from the date the request was received or any longer period agreed in writing between the applicant and ourselves. If no extension of time is agreed for discharging the condition, after 12 weeks the LPA must return the fee to the applicant along with a decision on the request.
24. A number of conditions require the input of other departments or external bodies which can lead to delays in the rapid processing of applications in relation to the discharge of conditions.
25. Conditions are almost always dealt with under delegated authority which reduces delays unless there is a formal request from committee to consider particular matters such as the external materials.

Proposals

26. We keep our conditions under review and will review them with the City's key users. However when I hold regular meetings with major developers and agents who when specifically asked about the imposition of conditions in the City advise that when dealing with developments in the City they have no significant problems with the conditions we impose or the way that we discharge them.
27. We are already undertaking a review of our procedures to ensure that conditions are discharged in a timely manner. Improvements are likely to include surgery sessions with relevant consultees to expedite the signing off of conditions. A contributing factor to the timely discharge of conditions is internal resources and the resources of the external consultees. I undertake to provide a verbal report in six months on progress.

28. Some local planning authorities take the line that at the end of the 21 day consultation period if no response has been received the condition is approved. This approach would lead to a diminution of the quality and impact of development and is not an approach that is recommended.

Conclusion

29. I recommend that the actions proposed above are pursued and that the Committee is kept informed as suggested.

Appendices

- Appendix 1 – Planning Policy Guidance

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