

Agenda Item 6

Development Management Committee

22 September 2009

JFM



Consultation Paper on a new Planning Policy on Development and Coastal Change

Summary

This report advises Members of the publication of a Government Consultation Paper on a new Planning Policy on Development and Coastal Change and provides a basis for a formal response to that document

Recommendations

The Department for Communities and Local Government be advised that the Council's response to two of the specific questions asked in the consultation paper be as set out in section 3 of this report

a) Reasons for Recommendation

So that members can comment on the draft Planning Policy Statement

b) Alternative Options

Members could amend or make different comments from those recommended.

c) Risk Considerations

Not commenting on the draft statement would mean that the Council's views would not be taken into account by Government in preparing the final version of the new planning policy.

d) Policy and Budgetary Considerations

Not applicable

e) Date for Review of Decision

Not applicable.

1.0 Background

Introduction

- 1.1 The Consultation Paper which is the subject of this report seeks views on a new planning policy on development and coastal change which, in its final form, will be published as a supplement to PPS 25 – Development and Flood Risk
- 1.2 In a press release to announce the consultation Planning minister John Healey said: "What we're hearing from coastal communities is that right now temporary development that would be beneficial to the area's economy and tourist industry is unable to go ahead. It's really important for local business that they can keep going at this time of economic difficulties. That's why we're proposing to change the planning rules to allow safe time-limited development such as beach huts, car parks and cafes to be built in coastal areas if there's an economic benefit."
- 1.3 Under new planning policy all inappropriate residential development such as housing will continue to be banned in areas at significant risk of coastal erosion. But there will no longer be a blanket ban on temporary development that has wider economic benefits, an acceptable coastal use and could be relocated when required.
- 1.4 The Environment Agency is currently mapping coastal erosion rates for the next hundred years giving communities a better idea of how the changing coastline will affect them. The erosion information is very closely linked to the Shoreline Management Plans (SMPs) and will be published between autumn 2009 and 2011.
- 1.5 Within short-term risk areas (20 year time horizon) only a limited range of development linked directly to the coastal strip such as beach huts, cafes/tea rooms, car parks and sites used for holiday or short-let caravans and camping will be allowed. All with time limited planning permission. Within the medium to long-term risk areas (50 to 100 year time horizon) a wider range of time-limited development, such as hotels, shops, office or leisure activities requiring a coastal location and providing substantial economic and social benefits to the community, may be appropriate.
- 1.6 Councils will also have to ensure the development will be safe through its planned lifetime and doesn't damage the coastline. The department has stressed that the new policy aims to strike the right balance between economic prosperity and adaptation to coastal change.
- 1.7 As well as allowing necessary temporary development that is appropriate and safe, councils will be expected to facilitate the roll-back and relocation of development over time to safer locations.

2. Proposed Policy Approach

- 2.1 Coastal change is defined in the paper as meaning the physical change to the shoreline, i.e. erosion, coastal landslip, permanent inundation and coastal accretion. The proposed policy approach is to gather consistent information about where and how fast coastal change is likely to happen (SMT and Environment Agency) to provide the evidence for designating in the LDF 'Coastal Change Management Areas' (CCMAs). Within those areas new development should not normally be permitted where it would increase the risk to people's safety, increase the number of properties vulnerable to coastal change or result in an increased demand for future coast defence, or reduce options for providing compensatory habitat or natural enhancement.

- 2.2 However, certain types of time limited developments and minor temporary uses may be permitted within the CCMA, having regard to the need to maintain the social and economic viability of the community and the vulnerability of the proposed development to coastal change. Such temporary development may be permitted where it can be demonstrated that it will be safe through its planned lifetime, with no additional risk to life, and it will not bring additional demands for new coastal defences or have adverse effects on the environment. The time-limit conditions should reflect the expected life of the intended use taking account of the predicted rate of coastal change. It is proposed that a vulnerability assessment should be carried out on any development proposed in a CCMA. This should describe the impact from and to coastal change of the proposed development.

Plan Making Policies

- 2.3 Three plan making policies are proposed. The first (DCC1) deals with the evidence base which should be drawn from Shoreline Management Plans (SMPs) and maps and data developed by the Environment Agency. It also requires local planning authorities to develop partnership working with their neighbours and relevant agencies and bodies. SMPs will be an integral part of this approach. They would provide the evidence for designating in the LDF the area likely to be affected by physical changes to the coast, that the document calls the 'Coastal Change Management Area' (CCMA), upon which future development policies should be based
- 2.4 The second (DCC2) deals with regional planning and the third is about local planning and is reproduced in full below:

Policy DCC3: Local planning approach

DCC3.1 Local planning authorities should identify on the proposals map the area likely to be affected by physical changes to the coast and refer to this area as the coastal change management area (CCMA). In determining the CCMA(s), local planning authorities should:

- draw on the evidence of impacts (DCC1)
- take into account the wider social, economic and environmental policy objectives
- take into account the strategic approach in the regional spatial strategy (DCC2) and other strategies and plans of significance to the coast and
- work in partnership with other local planning authorities and relevant agencies and bodies with an interest in the coast, including through consideration of any wider community adaptation activity

DCC3.2 Local planning authorities should set out the approach to development in the CCMA(s). The aim should be to:

- determine the nature of development that will be appropriate within the CCMA(s)
- indicate the circumstances in which certain types of development may be permissible within the CCMA(s) and
- allocate land suitable for appropriate development within the CCMA(s)

DCC3.3 Where development and infrastructure needs to be relocated from CCMA(s) (DCC3.2), local planning authorities should allocate sufficient, suitable land beyond the CCMA(s). In allocating such land, local planning authorities should be able to demonstrate that there are sufficient links with the coastal community from which development has been displaced, to secure the long-term future sustainability of coastal areas.

- 2.5 The draft guidance states that CCMA's where rates of shoreline change are significant (the practice guide will advise on this) and will not need to be defined where the SMP policy is to hold or advance the line (maintain existing defences or build new defences). The policy units defined in the SMP where the recommended policy is either no active intervention or managed retreat are as follows:

No Active Intervention

6a23 Seven Point Rock (west of Lyme Regis) to Haven Cliff (West)

6a27 Axe Estuary (Spit)

6a30 Seaton Hole to Beer

6a32 Beer to Beer Head

6a33 Beer Head to Salcombe Hill

6a36 Chit Rocks to Big Picket Rock

6a37 Bid Picket Rock to Otterton Ledge

6a39 Otter Estuary (Spit)

6a41 Budleigh Salterton (West) to Straight Point

6a42 Straight Point to Orcombe Rocks

Managed Realignment

6a25 Axe Estuary (Axmouth North to Seaton North)

6a29 Seaton (West) to Seaton Hole – hold the line policy in the short term but managed realignment in the medium and long term.

6a34 River Sid

6a38 Otter Estuary (Otterton Ledge to Budleigh Salterton East)

6a44 The Maer – hold the line in the short term, implement managed realignment to a more sustainable position in the medium term and then hold the line of the realigned defence in the long term.

6b08 Exe Estuary – Clyst Bridge to Railway

Development Management Policies

- 2.6 Three development management policies are proposed. The first (DCC4) deals with pre-application discussions and assessment. The second (DCC5) deals with the evidence required for validation of applications for planning permission in the Coastal Change Management Area. An assessment of the vulnerability of the proposed development to coastal change and of the impact on coastal change. The level of information required by local planning authorities should be proportionate to the level of impact from and to coastal change. The third policy is reproduced in full below:

DCC6: Policy principles guiding the consideration of applications for development in coastal change management areas

DCC6.1 In considering applications for development, local planning authorities should take into account:

- the assessment of vulnerability
- shoreline management plans
- the wider sustainability benefits of the development proposed
- whether the development will be safe through its planned life-time; the outcome of consultation with relevant agencies and bodies with an interest in the coast, in particular the Environment Agency [in their role as statutory consultee]
- the outcome of any consultation with the local community; and
- the requirement in the Marine and Coastal Access Bill to enable the creation of a continuous signed and managed route around the coast

DCC6.2 When development is appropriate in a CCMA local planning authorities should set a time-limit for developments permitted in the CCMA to reduce the consequences of coastal change risk to people and development in the long-term. The time-limit should reflect the planned life-time of the proposed development, taking account of the assessment of vulnerability. Planning conditions should be applied where there is a need to manage the risk to the proposed development during its planned life-time.

Removal of Permitted Development Rights

- 2.7 The consultation is seeking views on the appropriateness of advising planning authorities to consider removing some permitted development rights (by making a Direction under Article 4 of the Town and Country Planning (General Permitted Development) Order 1995) for extensions and alterations in CCMA that are likely to result in an increase in the scale of property and number of occupants at risk from coastal change within a short-term period (i.e. the next 20 years). This would be areas where either no coastal defences exist or existing defences will not be maintained and are expected to fail in the near future. This does not mean that development will not be permitted. It means that it will be for the local planning authority to decide, taking into account the circumstances of any particular case, whether planning permission should be granted. The consultation paper states that the requirement for planning permission to be sought would help ensure that proper consideration is given to the possible impacts of coastal change on the development.
- 2.8 On the face of it this is a sensible proposal. However, the consultation paper does not point out that if a Local Planning Authority refused planning permission for a development that, but for an article 4 Direction, would have been permitted development not requiring an application for express permission, then it is liable to pay compensation for abortive expenditure and any loss or damage caused by the loss of rights.

3.0 Consultation Questions

3.1 The consultation paper sets out a number of questions on the policy approach and proposed content of the practice guide but there are only two which it is felt require a response:

3.2 Proposed planning policy approach:

Question 1.

The new policy and supporting practice guide promotes a strategic risk-based approach to managing future physical changes to the coastline to meet the Government objectives set out in the proposed policy so that long-term adaptation of communities can be planned. It allows necessary development that is appropriate and safe whilst avoiding inappropriate development in areas at risk from coastal change. Do you agree with this approach? If not, what alterations in approach do you suggest?

Response

The proposed planning policy approach is welcomed as a pragmatic way of allowing temporary appropriate development in areas at risk from coastal change that will benefit the economy and tourist industry in coastal areas.

3.3 Practice Guide

Question 12

We are seeking views on the appropriateness of advising planning authorities to consider removing some permitted development rights for developments in areas in the CCMA that are identified as at risk from coastal change within a short-term period (i.e. the next 20 years). Do you agree with the approach to this set out in section 6 of Part 1 of the consultation document? If not, why?

Response

Whilst on the face of it this is a sensible proposal if a local planning authority refused planning permission for a development that, but for an article 4 Direction, would have been permitted development not requiring an application for express permission, then it is liable to pay compensation for abortive expenditure and any loss or damage caused by the loss of rights. Unless the government is proposing to reimburse local authorities in these circumstances then, even if refusal were justified on the evidence, most authorities would grant permission rather than risk having to pay compensation and is therefore unlikely to seek to removal of permitted development rights.

Legal Implications

Comments relevant to the removal of permitted development rights are adequately covered in the report.

Financial Implications

There are no financial implications indicated in the report.

Background Papers

Consultation Paper on a new planning policy on Development and Coastal Change - CLG – July 2009

South Devon and Dorset Shoreline Management Plan

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