Coventry City Council

8.9

Public report

Report to

Scrutiny Board 3	20th June 2007
Cabinet	26th June 2007
Council	26th June 2007

Report of the Director of City Development

Title: The Planning White Paper and associated consultation documents

1 Purpose of the Report

1.1 The purpose of this report is to consider the Planning White Paper and a number of associated consultation documents which have recently been published. The period of public consultation will last for 12 weeks, with responses required by 17 August 2007.

1.2 The White Paper continues the reform of the planning system and provides the governments response to Barker and Eddington. Publications on which there are separate consultations are:

- Planning performance Agreements : a new way to manage large scale major planning applications
- Planning for a sustainable future a regime for Nationally significant Infrastructure Projects and reforms to town and country planning system
- Planning Fees in England :Proposals for change
- Changes to permitted development Consultation Paper 2 Permitted development rights for householders
- Improving the Appeal process in the Planning System – making it proportionate, customer focused, efficient and well resourced

2 Recommendations

2.1 Scrutiny Board 3 is asked to consider the proposals and forward any comments to cabinet for their consideration.

2.2 Cabinet is asked to consider draft responses set out in the appendix to this report together with any comments received from scrutiny board 3 and to make the necessary recommendations to Council to enable a response to the consultation paper to be made

2.3 Council is asked to consider the comments of cabinet and to agree to Councils response.

3 Information/Background

3.1 The Planning and Compensation Act 2004 sought to modernise and provide a simpler and more responsive planning system. Since then a series of changes have been made and there have been a number of significant reports to the Government including Barker and Eddington.

The White Paper

3.2 Key messages and proposals from the white paper include:

- a new system to decide major infrastructure projects with a simpler approval regime, new approaches to community engagement, independent expert decision makers and new inquiry procedures; and
- improvements to the town and country planning system.

3.3 Chapters 2 –5 deal with Key National Infrastructure and indicate that the Government considers that major infrastructure projects take too long to deliver. The major examples quoted are Terminal 5 at Heathrow and an electricity grid update in Yorkshire. These delays are considered to impair the country's economic performance.

3.4 The Government therefore proposes to produce national policy statements which will set out the national need for major projects in eight areas:

- airports;
- ports;
- motorways and other key roads;
- nuclear power stations;
- nuclear waste disposal;
- wind farms;
- waste incineration plants; and
- reservoirs.

They will consult the public in this process.

3.5 Promoters will be helped to improve the way that they prepare applications for individual schemes together with consultation requirements. Individual schemes would be considered by an "independent infrastructure planning commission". This would hear evidence from all sides and take a decision in the light of the national policy statements.

3.6 The consent regime would be simplified.

3.7 Chapters 6 – 9 entitled Improving the town and country planning system proposes five main improvements so that the planning system can deliver sustainable development through:

- addressing climate change;
- planning for a sustainable supply of land for development;
- planning for sustainable economic development;
- improving the effectiveness of town centres policy; and
- producing a more strategic and clearly focused national policy framework.

3.8 Addressing climate change will involve:

- finalising the Planning Policy Statement (PPS) on climate change and introducing legislation for energy efficiency;
- permitting a range of householder microgeneration projects without the need for permission (subject to some controls);
- extending these rights from householders to commercial and agricultural developments; and
- working with industry to deliver substantial reductions in carbon emissions from new commercial buildings.

3.9 Planning for a sustainable supply of land for development will involve:

- continuing to prioritise the use of previously developed land while recognising the importance of urban green space;
- implementing measures in the 2007 Budget relating to commercial property and brownfield land; and
- promoting a general debate on a long-term vision for land use and management.

There is recognition of the need for particular protection for parks and urban green space which make a "huge contribution" to the quality of urban life.

3.10 Planning for sustainable economic development will involve:

- amending Government statements so they are consistent with each other; and
- publishing a new PPS on Planning for Economic Development.

There is an eight-point explanation of what the Government wants to see in terms of sustainable economic development. There will be a separate consultation exercise on the new PPS later this year.

3.11 Improving the effectiveness of town centres policy will involve:

- replacing the need and impact tests with a new test which focuses on town centres and which promotes competition and improved consumer choice.

There will be a separate consultation exercise on this later this year.

3.12 Producing a more strategic and clearly focused national policy framework will involve:

- separating Government policy from guidance and limiting the amount of guidance to matters which are strategic and necessary;
- devolving decision making to the local level where this is appropriate;
- ensuring that the scale and complexity of evidence is proportionate to the situation; and
- encouraging positive and proactive planning that actively shapes places.

The Government will publish a detailed strategy and timetable for change later this year.

3.13 Chapter 8 considers further changes to The Development Plan System – "place shaping" and acknowledges that operation of the new (2004) system has thrown up some problems and unnecessary complications:

- a plan found to be "unsound" has to go back to the very start of the process even if the problems are relatively minor;
- too many documents are required in some cases;
- Supplementary Planning Documents (SPD) have to be included in the Local Development Scheme and require Government approval;
- Sustainability appraisals are being repeated unnecessarily;
- there is evidence of "consultation fatigue";
- some plans have not had a long term spatial vision nor integrated properly with other partners' activities.

3.14 In response to these points it is proposed that:

- there will be no need to consult on the "Preferred Option" stage;

- formal consultation on the final plan will be carried out before submitting it for examination (not at the same time) and, exceptionally, it will be possible to alter the plan at that stage;
- if a plan is found to be "unsound", it may not be a requirement to start again from the very beginning but it will be possible to start at some intermediate stage in the process;
- there will be no absolute requirement to produce an Allocations DPD;
- SPD will not require Government approval through the Local Development Scheme process;
- sustainability appraisals will not be required for all documents if the matter has been considered previously (for example in a Core Strategy);
- the "implementation" test of soundness will be clarified;
- there should be proportionate requirements for consultation so that a simple alteration could only take 6 months while a complex Core Strategy would need about 18 months; and

a more joined up approach to other partners and communities will be promoted with a "duty to involve".

Planning for a sustainable future National Infrastructure Projects

3.15 This consultation document builds on the White Paper and sets our the reforms to replace the existing multiple consent regime with a new system for such projects.
The reforms would include

- Production of national policy statements setting a clear framework for nationally significant infrastructure projects setting out integrated environmental, economic and social objectives to deliver sustainable development. These statements may be locationally specific and will be the subject of thorough and effective public consultation. It will also be open to legal challenge. They will have a timeframe of 10-25 years with interim review periods;
- Improve advice to major infrastructure project promoters, require them to publicly consult on proposals before submission and require early engagement with public and statutory bodies (subject to a time limit for submitting a response);
- Streamline and rationalise consent regimes and improve the inquiry procedures so that decisions would take no longer than 9 months.
- Separate policy and decision making by creating an independent commission to make decisions on nationally significant infrastructure cases within the framework of the relevant national policy statement;
- Improve public participation on such projects and improve funding to Planning Aid to ensure engagement of hard to reach groups.

The decision of the independent commission would be open to challenge on the grounds of illegality, procedural impropriety and irrationality (6 week challenge period)

Other Suggested Initiatives

3.16 These include:

- Extend permitted development rights for micro-generation to non-residential land use
- Remove requirement for independent examination of Statement of Community Involvement and impose 'duty to involve'
- Provide flexibility for High Court (following a legal challenge) to send back plan to an earlier stage rather than to beginning
- Remove the requirement that all Supplementary Planning Document's (SPD's) must be listed in the Local Development Scheme (LDS)
- Remove requirement for all SPD's to have a sustainability appraisal (just those with significant social, environmental or economic effects [not already assessed under parent Development Plan Document (DPD)) or required by EU law
- Extend permitted development rights for non-domestic land and buildings

- Amend legislation to permit minor amendments of planning permission without requiring a fresh application

Where there is agreement between developer and neighbours on a proposal that a full planning application is not required.

Householder permitted development

3.17 In terms of amendments to the regulations controlling what householder developments require that a planning application be made for express planning permission theier have been several reviews of consents. The review found that several categories of development require a planning application even though they have little or no impact. The review recommended that the system be reformed using an impact approach which would be based upon height of a proposal and its proximity to the plot boundary.

3.18 Ministers have made clear that three important principles must underpin these considerations:

- Clear and robust arrangements should be in place so that the interests of neighbours and the wider community and environment are sufficiently protected.
- Changes to current arrangements should be based on evidence and fully tested.
- There should be full consultation on detailed proposals for taking forward the Review's recommendations.

3.19 Further consultation papers are promised in respect of basements, flats and local development orders but the consultation focuses on householder permitted development (ie the development that is permitted by legislation rather than needing an express permission) and specifically seeks to move away from prescriptive volume calculations to an “impact” assessed process. The consultation acknowledges that this assessed process will not be viewed as objective by everybody. The consultation acknowledges that removal of existing rights may result in compensation claims . It is also proposed that the Secretary of State would be required to approve article 4 directions [the approach by which local planning authorities can remove the normal permitted development rights] Discretion to LPA’s would also be provide by their ability to make Local development Order that was introduced by the 2004 Act.

3.20 By a series of changes the consultation indicates that number of householder applications would be reduced by around 26%. In summary the changes proposed relative to the existing regulations are:

Existing Tolerance	**Proposed Tolerance**
Cumulative volume limitation on extensions / roof extensions /outbuildings larger than 10 cubic metres within 5 metres of the house; 70 cu metres/15% for detached/semidetached; 50 cu metres/10% for terraced; Maximum of 115 cu metres for all house types	*Depth limitation on rear extensions*: Single storey: 4 metres attached; 5 metres detached; Two storey : 3 metres attached, 4 metres detached *Width limitation on side extensions* 50% of width of original dwellinghouse *Limitation for two storey or higher rear extensions*: Minimum 7 metres to rear boundary; Roof pitch to match main house; Any side-facing windows to be obscure glazed and non-opening *Other limitations*: No terraces or balconies; Materials to match

Cumulative volume limitation on extensions/outbuildings larger than 10 cubic metres in conservation areas etc: Max 50 cubic metres/10% for all house types Max 115 cu metres for all house types No roof extensions Max 10 cu metres for each outbuilding	*In National parks/AONB's/world heritage sites*: Max floor area of outbuildings/swimming pools more than 20m from the house: 10 sq metres. *In designated area(conservation areas)*: No extensions or outbuildings to the side of the dwelling house; No roof extensions. *Within the cartilage of listed buildings*: Max floor area of outbuildings: 3 sqm
Various forms of cladding prevented in Conservations AONB's etc	All forms of cladding prevented in designated areas
Volume limitation on roof extensions: 50 cu metres for detached /semi detached 40 cu metres for terraced	*Size limitations on roof extensions*: Minimum 1m from eaves, ridge, verge (and party wall) *Other limitations*: No front or side roof extensions; No terraces or balconies; Material to match; Any side facing windows to be obscure glazed and non opening
Limitations on height of extensions near boundaries: Max 4m height within 2 metres of boundary	*Height limitations on extensions*: 3m to eaves within 2 metres of a boundary; 4m to ridge within 2 metres of a boundary; 4m for side extensions; Within 2 metres of a boundary or to the side of a dwellinghouse extensions to be single storey only
Extensions/roof extensions to be no higher than existing house	Eaves and ridge height of extensions to be no higher than the eaves and ridge of the main part of the dwellinghouse
Max 50% ground coverage of extension/outbuildings (excluding the area of the original house)	Extension and outbuildings to cover a maximum of 50% of the private garden area
Extension/roof extensions/outbuildings/oil storage containers to be no nearer a highway than the original house	Extensions/roof extensions/outbuildings not to come forward of the principal elevation or side elevations facing a highway
Limitations on height of outbuildings/oil storage containers: 4m for outbuildings with a ridged roof; 3m for outbuildings with a flat roof and oil storage containers	*Height limitations on outbuildings*: 2.5 m to eaves, 4m to ridge (dual pitch), 3m (monopitch) 2.5 m to ridge within 2 metres of a boundary *Floor area limitations*: 20 sq metres if the rear garden is less than 100 sqm 30 sqm if the rear garden exceeds 100 sq m *Other limitations*: Single storey only; No terraces or balconies;
Roof alterations not to materially alter roof shape	*Limitations on roof alterations* (ENTEC study): Max upstand 150mm (120mm in sensitive areas); Max 60% roof coverage (50% in sensitive areas)
Restrictions on porch size: 3 sq m in area; 3m high; Minimum 2 metres back from a highway	No change
Hard surfaces unrestricted provided incidental to the enjoyment of the dwellinghouse	No change

Limitations on the height of means of enclosure: 1 metre facing highway 2 metres elsewhere	No change
Creation of means of access unrestricted except onto trunk or classified roads	No change; delete requirement that accesses must be required in connection with another class of development
Painting exterior allowed provided that not for the purpose of advertising	No change

The appeal process

3.21 The Government consider that the existing appeal system (operated by the Planning Inspectorate) is not equipped to handle the large numbers of appeals it receives which leads to delays in decision making. There are three key elements to the improvements in the service that are being suggested -

- Ensure procedure is proportionate to the type and complexity of each appeal
- Provide better customer service and efficiency; and
- System is better resourced (appeal system currently costs £30m from public purse)

3.22 Although these changes will primarily impact on the Planning Inspectorate and an appellant there will also be consequences for the City Council as local planning authority. There are three main strands to the proposed changes

i. A fast-track approach to dealing with householder and tree preservation order appeals via a written representations method (this will include reducing the appeal period from 6 months to 8 weeks [28 days for TPO appeals], the Inspectors decision would be based on the information and representation made at the planning application stage & targeting the Inspector to determine within 8 weeks).

ii. For minor appeals introducing in each local authority area a board of Councillors (to be known as the Local Member Review Body [LMRB]) who will review a decision. They would only deal with minor matters [householder development, shop-fronts etc] determined under delegated powers by officers. An applicant would request a review of the decision from the LMRB {who should have had no previous involvement in the case, will be trained in dealing with such matters but in exceptional circumstances can seek professional advice from within or outside the Council. Members of the LMRB will also be expected to limit their involvement in other work within the Council area} Any right of appeal to the Secretary of State would be repealed [although the decision may still be challenged in the High Court or be the subject of complaint to the Ombudsman).

Fast-track principles will apply to the LMRB but for applications where no decision has been reached by officers under delegated powers within the prescribed period two options are being proposed

- LMRB to determine with right of appeal maintained to SofS
- Appeal straight to SofS (status quo)

The Government estimate setting up of an LMRB is likely to cost each local authority in the region of £8,000 per annum –. Approximately 15-25% of these costs could be meet with the introduction of any appeal fee

iii. The introduction and application of published criteria, which will determine the appropriate appeal method (removing the current right of the appellant or local planning authority to request a specific appeal method). This is expected to provide an average cost saving to the approximately of £6,000 per local authority as less complex appeal procedures will be adopted.

3.23 A number of measures are proposed to improve customer service and efficiency:

i. Planning Inspectorate to produce better guidance notes on what appeal documentation should cover and consider imposing a word limit on documents.
ii. Cross-copying of evidence is devolved to principal parties and changes to costs awards proposed to penalise those that abuse the rules for submission of evidence.
iii. Prohibit the submission of evidence or information beyond that which was originally before the local planning authority (encourage the submission of fresh applications for changes to the proposals and reduce delay however there will be an expectation that local planning authorities do not commission new evidence post decision)
iv. Planning Inspectorate given powers to impose inquiry or hearing dates and resist adjournments etc.
v. Joint statement of common ground to be submitted six weeks from start of appeal (not four weeks from inquiry date).
vi. Remove ability to submit final observations in writing at nine week stage
vii. Enable Planning Inspectorate or Secretary of State to correct errors in appeal decisions without obtaining consent of land owners
viii. Consider extending costs regime to written representation and extend penalties to include late submission of evidence etc.
ix. Reduce time limit for planning appeals to 28 days where the development is already the subject of an enforcement notice to enable linking of appeals
x. Impose time limits for submitting appeals on Certificates of Lawful Development [none at present] and introduce ability to use written representations procedures to these appeals
xi. Decline to accept repeat applications where Secretary of State have refused a similar deemed application arising from an enforcement notice appeal
xii. The double fee for enforcement appeals to be paid entirely to the LPA

3.24 It is proposed to introduce fees for the making of appeals based either on a fixed administrative applied across appeal types or a proportionate fee based on a sliding scale mirroring the planning application fee. The appellant could seek an award of costs including the appeal fee if they felt the lpa had acted unreasonably

3.25 The consultation paper indicates that if these measures are put into place it is expected that the Planning Inspectorate's targets will be increased as follows

a. 80% of fast-tracked householder appeals and all other written representation appeals will determined within 13 week (currently 50% within 16 weeks)
b. 80% of all hearings will be determined within 16 weeks (currently 50% of all hearings with 30 weeks)
c. 80% of inquiries will be determined within 22 weeks (currently 50% within 30 weeks)
d. All appeals determined within six months.

<u>Planning Performance Agreements (PPA)</u>

3.26 This proposal follows from trials in the last 12 months and proposes to substitute the 13 and 16 week period for determination of major applications and those accompanied by an environmental impact statement. These are the periods currently used to assess for Best Value and CPA purposes whether not the LPA is operating to an acceptable level and it is expected that 60% of all of this type of application are determined within the prescribed period.

3.27 Basically a PPA is an agreement between a LPA and an applicant to provide a project management framework for handling a major application , that is proposed to be defined for this purpose as a scheme for more than 200 houses or a site area in excess of 4 ha and in non residential schemes more than 10,000m^2 or site area of 2 ha. Milestones will be

agreed between the parties at the various stages in the process including negotiations relating to section 106 agreements. Where such an agreement is made then these applications would not be include in BV statistics.

Fees for Planning applications

3.28 The consultation paper in respect of fees for planning applications decribes for change that would come into effect on 1st April 2008. fees have not been increased for the last 2 years and the consultation paper indicates that the proposals reflect not only inflation in relation to local Authority cost but also the cost of continuing to drive service improvements.

3.29 Fees are set centrally and in the last 5 years planning delivery grant has partially bridged the gap between fee income and cost of the services. The consultation document acknowledges that there 3 specific and evidenced ground for the suggested changes to planning fees:

- Fees do not pay in full for the service they are charged especially on larger schemes
- Fees have not been increased since April 2005
- Some important, time consuming work which Authorities have to do, do not attract a fee.

The consultation document also confirms that research has found that the planning service to be under funded and that in part this owing to insufficient fee coverage to achieve the intended cost recovery.

3.30Reserch by ARUP with ADDSION and associates propose 3 options to remove the short fall: no change to the current fee regime; increase overall fees by 40% but with a cap on householder development fees at a £10 incease; increase overall fees by 25% but with a cap on householder development fees at a £10 increase. In both options in 2 and 3 the maxmum fee cap of £50K would be lifted and a new fee would be introduced when a LPA was requested to confirm that planning condition had been complied with. The government favour option 3 (25% increase) and indicate that it would provide a national overall increase in fee income of £65m.

3.31Kate Barker recommended that a local LPA be able to offer a premium service to applicants at an additional fee. The consultation paper indicates the government intends to carry out a pilot study and may permit a charge up to 20% on top of the usual fee. The consultation paper indicates that in the " much longer term" they would like views on the principal of locally set fees

4 Proposal and Other Option(s) to be Considered

4.1 The proposals continue the theme of modernisation but also address issues that have arisen where the aims of simplification and speedier decisions have perhaps not been achieved. There area a number of matters where further consultations are promised and only when the details are available can meaningful comment be made.

4.2 Possibly the most controversial element of the proposals is the intention to take out of local decision making and that of elected representatives of the communities decisions on major infrastructure projects. It has to be recognised that many developments of significant national significance have been delayed by the current processes. A truly independent body could providing there are safeguards for the communities to engage and LPA's to input may be a way forward.

4.3 In respect of the detailed amendments to the development plan processes and also the changes to householder PD these do seem to have merit. In principle the impact approach to determining whether or not express permission should be required is sound. However those decisions should be based on nationally or locally set guidelines and should not be dependant on agreement between neighbours. Generally the amendments proposed seem reasonable. The proposals will bring some developments into requiring permission

where there is no control but will be more closely related to impacts. It seems unlikely that the level of decrease in applications anticipated will be achieved and it seems highly probable that any savings in time will be countered by enforcement enquiries. There have also in the past been proposals that there be a common consent regime based around the building regulations and this would have had the merit of simplification.

4.4 The proposals in respect of the appeals system have considerable merit particularly in introducing local boards of elected members although their impartiality will need to be ensured and the system made transparent

5 Other specific implications

5.1

	Implications (See below)	No Implications
Area Co-ordination		
Best Value		
Children and Young People		
Comparable Benchmark Data		
Corporate Parenting		
Coventry Community Plan		
Crime and Disorder		
Equal Opportunities		
Finance		
Health and Safety		
Human Resources		
Human Rights Act		
Impact on Partner Organisations		
Information and Communications Technology		
Legal Implications		
Property Implications		
Race Equality Scheme		
Risk Management		
Sustainable Development		
Trade Union Consultation		
Voluntary Sector – The Coventry Compact		

6 Finance

6.1 Planning Fees in England: Proposals for change was prepared following a national review of costs and services in the planning service. The study indicates that planning fees still do not cover the cost of the development control system. In recent years the shortfall has been partly met by the Planning Delivery Grant regime which is now in its final year, and to

ensure standards are maintained and further improvements made, fees must be increased to meet the current cost.

6.2 Fees are calculated nationally to meet the requirements of cost recovery only. Fees cannot be used to generate surplus income.

6.3 The various consultations listed have the potential to change the number of fees received, the level of these fees, as well as the type of works subject to fees and charges.

6.4 A further review of the financial impact will be undertaken as the situation becomes clearer.

7 Monitoring

The document does not indicate how monitoring will be undertaken.

8 Timescale and expected outcomes

8.1 The Government has asked for responses to the consultation paper by 17 August 2007 It has indicated that proposals are unlikely to be implemented before.

	Yes	**No**
Key Decision		✓
Scrutiny Consideration (if yes, which Scrutiny meeting and date)	✓ **Scrutiny Board 3 20th June 2007**	
Council Consideration (if yes, date of Council meeting)	✓ **26th June 2007**	

List of background papers

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Papers open to Public Inspection
Description of paper **Location**
None

Q1: Do you agree with the principle of having PPAs?

YES

Q2: Are you content with the definition of large-scale major applications?

Apartments should be excluded or have a higher limit (200 apartments Is not a large scheme in this context)

Q3: Do you think that only PPAs relating to large-scale major planning applications should be taken out of the Best Value 109 target regime?

YES

Q4: Do you think PPAs are the most effective way to ensure that local authorities and applicants/developers devote sufficient resources to the delivery of decisions on significant major planning applications?

Q5: Do you agree with the optional funding arrangements for PPAs?

yes

Q6: Are you content with the basic minimum requirements for a PPA?

yes

Q7: Should PPAs include financial penalties which would be applied to either the applicant or the local authority for failure to deliver the PPA to the agreed timetable?

The whole principle of PPA's is that they are an agreement between parties – there should be the ability for the parties if they consider it appropriate to agree financial penalties but there should be no requirement for such clauses

Q8: What are the likely effects of any of the changes on you, or the group or business or local authority you represent? Do you think there will be unintended consequences?

Consultation questions

Proposed reforms to the development consent regime for nationally significant infrastructure projects

Improving the way key infrastructure projects are dealt with

Q.1 The proposed package of reforms

We propose to replace the multiple existing consent regimes for key national infrastructure with a new system that will enable us to take decisions on infrastructure in way that is timely, efficient and predictable, and which will improve the accountability of the system, the transparency of decisions, and the ability of the public and communities to participate effectively in them.

In particular, we propose to:

- produce, following thorough and effective public consultation and Parliamentary scrutiny, national policy statements to ensure that there is a clear policy framework for nationally significant infrastructure which integrates environmental, economic and social objectives to deliver sustainable development;
- provide greater certainty for promoters of infrastructure projects and help them to improve the way that they prepare applications by making better advice available to them; by requiring them to consult publicly on proposals for development; and by requiring early and effective engagement with key parties such as local authorities, statutory bodies, and relevant highway authorities;
- streamline the procedures for infrastructure projects of national significance by rationalising the different consent regimes and improving the inquiry procedures for all of them;
- clarify the decision making process, and achieve a clear separation of policy and decision making, by creating an independent commission to take the decisions on nationally significant infrastructure cases within the framework of the relevant national policy statement;
- improve public participation across the entire process by providing better opportunities for public consultation and engagement at each stage of the development consent process; improving the ability of the public to participate in inquiries by introducing a specific "open floor" stage; and, alongside the introduction of the new regime, providing additional funding to bodies such as Planning Aid.

Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?

Yes

Do you agree, in principle, that the overall package of reforms proposed here achieve the objectives that we have set out?

If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?

National Policy Statements

Q.2 Introduction of national policy statements We propose that government would, where it deems appropriate and subject to public consultation and Parliamentary scrutiny, produce national policy statements for key infrastructure sectors to clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries.

Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries?

Yes

If not, do you have any alternative suggestions for helping to achieve these objectives?

Q.3 Content of national policy statements

The content of national policy statements should include certain core elements. They would:

- set out the Government's objectives for the development of nationally significant infrastructure in a particular sector and how this could be achieved in a way which integrated economic, environmental and social objectives to deliver sustainable development. Strategic Environmental Assessment (SEA) is a procedure for assessing the effects of certain plans and programmes on the environment and will be an important tool in some cases for ensuring the impacts of development on the environment are fully understood and taken into account in national policy statements. National policy statements would be subject to an appraisal of their sustainability to ensure that the potential impacts of the policies they contain have been properly considered. Wherever appropriate we would expect this to be in the form of an SEA;

- indicate how the Government's objectives for development in a particular infrastructure sector had been integrated with other specific government policies, including other national policy statements, national planning policy, and any relevant domestic and international policy commitments;
- show how actual and projected capacity and demand are to be taken into account in setting the overall policy for infrastructure development. This would not necessarily take the same form in all national policy statements as the drivers of need for infrastructure vary and may be more complex and uncertain for some sectors than for others.
- consider relevant issues in relation to safety or technology, and how these were to be taken into account in infrastructure development;
- indicate any circumstances where it was particularly important to address adverse impacts of development;
- be as locationally specific as appropriate, in order to provide a clear framework for investment and planning decisions. Some national policy statements might, according to circumstances, be locationally specific, while for others where it would not be appropriate, or sensible, for the Government to direct where investment should take place, they might specify certain factors affecting location; and
- include any other particular policies or circumstances that ministers consider should be taken into account in decisions on infrastructure development.

Do you agree that national policy statement should cover the core issues set out above? Are there any other criteria that should be included?

Yes

Q.4 Status of national policy statements

We propose that national policy statements would be the primary consideration for the infrastructure planning commission in determining applications for development consent for nationally significant infrastructure projects. The commission would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC

and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?
Yes
If not, what alternative status would you propose?

Q.5 Consultation on national policy statements
We propose that there should be thorough and effective public consultation on national policy statements. The precise means of consultation would depend on the proposed content of national policy statements. However to ensure consultation is to a high standard, certain principles would need to apply:

- before publishing national policy statements in draft, there should be thorough consideration of evidence, which may include informally consulting relevant experts or organisations;
- once published in draft, there should be thorough and effective public consultation, in line with best practice, on the Government's proposals for national infrastructure needs and policy;
- local, regional and national bodies and statutory agencies with a particular interest should be consulted;
- where proposals might have a particular bearing on local communities, there would need to be effective engagement to ensure that such communities understood the effect of and could express views on the government's proposals, in line with best practice on community involvement with planning;
- the Government would need to take the consultation responses into account and explain how they had influenced policy. We propose that key requirements for consultation would be set out in legislation, so they have full statutory underpinning.

Do you agree, in principle, that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected? Are there any additional measures that would improve public and community engagement in their production?
Yes
Q.6 Parliamentary scrutiny
We propose that, as ministers would no longer be taking decisions on individual applications, draft national policy statements should be subject to Parliamentary scrutiny.

Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements?
Yes. Providing consultation is undertaken with all LPA's so that they can engage with their communities
What mechanisms might ensure appropriate Parliamentary scrutiny?

Q.7 Timescale of national policy statements
We propose that national policy statements should, in principle, have a timeframe of 10-25 years, depending on the sector.

Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements?
It is accepted that a long term view must be taken but there must also be flexibility where there are material changes in circumstance that demand earlier reviews
If not, what timeframe do you consider to be appropriate?

Q.8 Review of national policy statements
The Government would consider whether national policy statements remain up to date, or require review, at least every five years. It should consider significant new evidence and any changes in circumstances where they arise and review national policy statements where there is a clear case for doing so.

Do you agree that five years is an appropriate period for the Government to consider whether national policy statements remain up to date or require review?
Generally yes, but need to introduce flexibility to respond to material changes in circumstances
What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?
See above
Q.9 Opportunities for legal challenge
We propose that there would be opportunity to challenge a national policy statement, or the process of developing it, when it had been published and that this opportunity would be set out in legislation. The opportunity to challenge would be open to any member of the public or organisation likely to be affected by the policy. The grounds for challenge would be illegality, procedural impropriety or irrationality. Any challenge would have to be brought within six weeks of publication.

Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statements is sound and that people have confidence in it?
Yes
If not, what alternative would you propose?

Q.10 Transitional arrangements
Where relevant policy statements already exist we propose that these should acquire the status of national policy statements for the purposes of decision making by the commission. However, in order for this to be possible, they will need to meet the core elements and standards for national policy statements with regard to both content and consultation.
Do you agree, in principle, that subject to meeting the core elements and standards for national policy statements Paper, policy statements in existence on commencement of the new regime should capable of acquiring the status of national policy statements for the purposes of decision making by the commission?
yes

If not, what alternative arrangements do you propose?

Preparing applications for nationally significant infrastructure projects

Q.11 The preparation of applications
To avoid delays during the decision making process, we propose that promoters of nationally significant infrastructure projects would be required to prepare applications to a defined standard before the infrastructure planning commission would agree to consider them.

Do you agree, in principle, that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?
yes
Q.12 Consultation by promoters

We propose that promoters of nationally significant infrastructure projects should be required to consult the public and, in particular, affected landowners and local communities, on their proposals before submitting an application to the commission.

Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?
Yes.
Do you think this consultation should take a particular form?
As a minimum the extent of consultation should be consistent with the requirements of the Statement of Community Involvement adopted by the LPA within which the proposal lies

Q.13 Consulting local authorities
We propose that promoters of nationally significant infrastructure projects would be required to engage with affected local authorities on their proposals from early in the project development process.

Do you agree, in principle, that relevant local authorities should have special status in any consultation?
yes
Do you think the local authority role should take a particular form?
As the elected representatives they should have an automatic right to be heard by the Commission

Q.14 Consulting other organisations
We propose that promoters of nationally significant infrastructure projects would, depending on the nature of their project, also be required to consult other public bodies, such as statutory environmental bodies, on their proposals before submitting an application. For instance:
- Health and Safety Executive
- Relevant directors of public health
- Relevant highway authorities
- Civil Aviation Authority
- Coal Authority
- Environment Agency
- English Heritage
- Natural England
- Waste Regulation Authority
- British Waterways Board
- Internal Drainage Boards
- Regional and Local Resilience Fora
- Commission for Architecture and the Built Environment
- HM Railway Inspectorate
- Office of Rail Regulation
- National Parks Authorities
- Mayor of London
- Devolved Administrations
- Regional Development Agencies
- Regional Assemblies

Do you agree, in principle, that this list of statutory consultees is appropriate at the project development stage?

yes
Are there any bodies not included who should be?

Q.15 Statutory consultees' responsibilities
We propose that legislation should impose an upper limit on the time that statutory consultees have to respond to a promoter's consultation.

Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to a promoter's consultation? If so, what time limit would be appropriate?
Yes, 12 weeks

Q.16 The infrastructure planning commission's guidance role
We propose that the commission would issue written guidance on the application process, the procedural requirements and consultation.
Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications, and consultation?
Yes
Are there any other issues on which it might be appropriate for the commission to issueguidance?

Q.17 The infrastructure planning commission's advisory role
The secretariat of the commission would advise promoters and other interested parties at the pre-application stage on whether the proposed project fell within its remit, on the application process, procedural requirements, and consultation.

Do you agree in principle that the commission should advise promoters and other parties on whether the proposed project falls within its remit to determine, the application process, procedural requirements, and consultation?
yes
Are there any other advisory roles which the commission could perform?

Q.18 Rules governing propriety
The Government proposes that there should be propriety rules to govern the commission's interactions with promoters and other parties and ensure that the commission did not engage with any party in a way which could be seen to prejudice its decision on an application.

What rules do you consider would be appropriate to ensure the propriety of the commission's interactions with promoters and other parties?

Q.19 The commission's role at the point of application
We propose that, before agreeing to consider an application, the commission would need to satisfy itself that:
(a) the application fell within the commission's remit to determine;
(b) the application had been properly prepared; and
(c) appropriate consultation had been carried out.
In the event that an application had not been properly prepared or consulted on, the commission would direct the promoter to do further work before resubmitting their application. In the event that an application was not appropriate for the commission to determine, the commission would refuse to consider it. This would ensure that the commission only took cases that were appropriate for it to consider, and that it did not begin consideration of cases without adequate preparation or consultation having been carried out.

Do you agree, in principle, that the commission should have the powers described above?
yes

Are there any other issues the commission should address before or at the point of application?

Determining applications for nationally significant infrastructure projects

Q.20 Scope of infrastructure planning commission

We propose that the commission would deal with development consent applications for nationally significant transport, water, wastewater and waste infrastructure in England, and energy infrastructure in England and Wales, which exceeded statutory thresholds. Chapter 5 of the White Paper sets out some indicative thresholds:

Energy

(a) Power stations generating more than 50 megawatts onshore – the existing Electricity Act 1989 threshold – and 100 megawatts offshore.

(b) Projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network. This would be subject to further definition in the relevant national policy statement.

(c) Major gas infrastructure projects (Liquefied Natural Gas terminals, above ground installations, and underground gas storage facilities). This would be subject to further definition in the relevant national policy statement.

(d) Commercial pipelines above the existing Pipelines Act 1962 threshold of 16.093 kilometres/10 miles in length and licensed gas transporter pipelines necessary to the operational effectiveness, reliability and resilience of the gas transmission and distribution network.

Transport

(e) Schemes on, or adding to, the Strategic Road Network requiring land outside of the existing highway boundary. This would be subject to further definition in the relevant national policy statement.

(f) A new tarmac runway or infrastructure that increases an airport's capacity by over 5m passengers per year.

(g) Ports – a container facility with a capacity of 0.5 million teu or greater; or a ro-ro (including trailers and trade-cars) facility for 250,000 units or greater; or any bulk or general cargo facility with a capacity for five million tonnes or greater.

Water and waste

(h) Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

(i) Works for the transfer of water resources, other than piped drinking water, between river basins or water undertakers' supply areas, where the volume transferred exceeds 100 million cubic metres per year.

(j) Waste water treatment plants where the capacity exceeds 150,000 population equivalent, and wastewater collection infrastructure that is associated with such works.

(k) Energy from waste plants producing more than 50 megawatts – the existing Electricity Act 1989 threshold.

(l) Plant whose main purpose is the final disposal or recovery of hazardous waste, with a permitted hazardous waste throughput capacity in excess of 30,000 tonnes per annum, or in the case of hazardous waste landfill or deep storage facility for hazardous waste, a permitted hazardous waste throughput or acceptance capacity at or in excess of 100,000 tons per annum.

Do you agree, in principle, that these thresholds are appropriate?
yes

If not, what alternative thresholds would you propose?

Q.21 Electricity system

The inclusion of projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network is a particular issue. Each link of the network is critical to the effectiveness and resilience of the network as a whole, and thus to ensuring that we can sustainably and cheaply transport power from generating stations to customers. In the circumstances, there is no obvious way to draw a line between national and local projects, although we would be interested in views on where such a line could be drawn.

Do you agree in principle that all projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network should be taken by the commission?

No. there should be the ability for proposals to be determined locally where no significant issues are raised

If not, which transmission and distribution network projects do you think could be determined locally?

Q.22 Gas infrastructure

Gas supply infrastructure (eg Liquefied Natural Gas terminals, above ground installations, underground gas storage facilities and pipelines) is covered by a number of consenting regimes with decisions confusingly split between central and local government. As the UK's indigenous gas supplies decline and we move towards increasing import dependence on gas, this infrastructure is becoming more important to the national need for secure energy supplies. Whereas, for some other energy infrastructure, there are set thresholds for responsibility for decision making, this is not currently the case for gas supply infrastructure as their importance is not necessarily determined by size. We therefore propose that nationally significant gas supply infrastructure, as clarified in the relevant national policy statement, should be considered by the infrastructure planning commission.

Do you agree in principle that the consenting regime for major gas infrastructure should be simplified and updated, rationalising the regime to bring nationally significant decision making under the commission?

yes

Q.23 Other routes to the infrastructure planning commission

We propose that, in addition to the projects which exceed the proposed statutory thresholds, the commission would deal with any applications for projects which:

- were specifically identified as being of national importance in the national policy statements
- ministers directed should be treated as nationally significant infrastructure projects. The ministerial power of direction would be exercised on the basis of clear criteria set out in a ministerial statement, or possibly in the national statement of policy itself.

Do you agree, in principle, that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission?

yes

If not, how would you propose changing technology or sectoral circumstances should be accommodated?

Q.24 Rationalization of consent regimes

In order to simplify and streamline the statutory process for nationally significant infrastructure projects, and ensure that the infrastructure planning commission is able to grant the authorisations necessary to construct these projects, we propose to:

- rationalise the different development consent regimes and create, as far as possible, a unified, single consent regime with a harmonised set of requirements and procedures; and
- authorise the infrastructure planning commission, under this revised regime, to grant consents, confer powers and amend legislation, necessary to implement nationally significant infrastructure projects.
- these authorisations could include:

– permission to carry out works needed to construct infrastructure projects;
– deemed planning permission;
– compulsory purchase of land;
– powers to amend, apply or disapply local and public legislation governing infrastructure such as railways or ports;
– powers to stop up or divert highways or other rights of way or navigating rights, both temporarily and permanently;
– permission to construct associated infrastructure and access land in order to do this (eg bridges, pipelines, overhead power lines and wayleaves);
– Listed Building Consent, Conservation Area Consent, and Scheduled Monument Consent;[1]
– hazardous substances consent;
– creation of new rights over land, including rights of way, navigating rights and easements;
– powers to lop or fell trees; and
– powers to authorise any other matters ancillary to the construction and operation of works which can presently be authorised by ministerial orders.

Do you agree, in principle, that the commission should be authorized to grant consents, confer powers including powers to compulsorily purchase land and amend legislation necessary to implement nationally significant infrastructure projects?

yes

Are there any authorisations listed that it would be appropriate to deal with separately, and if so which body should approve them, or that are not included and should be?

Commission will need power to require "applicant" to guarantee planning obligations

Q.25 The commission's mode of operation

We propose that the board of the commission would appoint a panel of members (usually three to five) to examine and determine the major applications but that, where it did not feel that a full panel would be required, the Board of the commission should have discretion to delegate the examination of smaller and less complex cases to a single commissioner with the commission's secretariat.

Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision? If not, what changes or alternative mode of operation would you propose?

yes

Q.26 Preliminary stages

Once an application was accepted, the commission would secure notification of and consultation with affected individuals, the public, relevant local authorities and, depending on the nature of the application, other public bodies such as:

- Health and Safety Executive
- Relevant directors of public health
- Relevant highway authorities

- Civil Aviation Authority
- Coal Authority
- Environment Agency
- English Heritage
- Natural England
- Waste regulation authority
- British Waterways Board
- Internal Drainage Boards
- Regional and Local Resilience Fora
- Commission for Architecture and the Built Environment
- HM Railway Inspectorate
- Office of Rail Regulation
- National Parks Authorities
- Mayor of London
- Devolved Administrations
- Regional Development Agencies
- Regional Assemblies

Do you agree in principle that the list of statutory consultees set out above is appropriate at the determination stage?
yes
Are there any bodies not included who should be?

Q.27 Examination
We propose that
- the majority of evidence, given its likely technical nature, should be given in writing, although the commission would have discretion to call witnesses to give oral evidence where it felt that it would help it to understand the issues, or asking a witness to give evidence in writing might disadvantage them.
- the commission would test this evidence itself by means of direct questions, rather than relying on opposing counsel to test it via a process of cross examination though it would have discretion to conduct or invite cross examination of witnesses, if it felt that this would better test the evidence.
- the commission would organise an "open floor" stage where interested parties could have their say about the application, within a defined period of time, where there was demand for it.
- the examination and determination process should be subject to a statutory time limit of no longer than nine months (six months for the examination and three for the decision), but that for particularly difficult cases, the commission might decide that it needed longer to probe the evidence before they could reach a decision.

Do you agree in principle that the procedural reforms set out above would improve the speed, efficiency and predictability of the consideration of applications, while maintaining the quality of consideration and improving the opportunities for effective public participation?
yes
If not, what changes or other procedural reforms might help to achieve these objectives?

Q.28 Hard to reach groups
We recognise that some communities can find it hard to engage with formal inquiry processes and may not readily come forward, even though they may be affected by proposals. We are determined to ensure that affected groups and communities can participate effectively and make their views heard in the process. We propose to build upon the long and impressive tradition in

planning of people who have found ways to reach out locally, to engage communities and give voice to people who are not usually heard. We propose that, alongside the introduction of the new infrastructure planning system, we will increase grant funding for bodies such as Planning Aid by up to £1.5 million a year so that they can extend their activities and help such groups get involved on site-specific proposals in national policy statements and in the planning inquiries on major infrastructure projects.
What measures do you think would better enable hard to reach groups to make their views heard in the process for nationally significant infrastructure projects?

Suitable measures to target those groups that are hard to engage could include working through groups and building capacity; and creating a transparent and accessible process, alongside a customer orientated approach may make it easier for the public to have access.
How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?

Q.29 Decision
We propose that the commission would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

Do you agree that the commission should decide applications in line with the framework set out above?

If not, what changes should be made or what alternative considerations should it use?

Q.30 Conditions
We propose that the commission would, where it approved an application, specify any conditions, such as mitigation measures, that the promoter would have to comply with. Any conditions would need to be imposed for a purpose directly related to the project and not for any other purpose; would have to be fair and reasonably relate to the development permitted; would have to be precise and. enforceable; and could not be so unreasonable that no reasonable authority could have imposed them. The commission would also be obliged to assess the costs, impacts and benefits of proposed mitigation options and satisfy itself that the required measures are a proportionate and efficient solution.

Do you agree in principle that the commission should be able to specify conditions in this way, subject to the limitations identified, and for local authorities to then enforce them?
yes
If not what alternative approach would you propose?

Q.31 Rights of challenge
We propose that there would be opportunity to challenge a decision by the infrastructure planning commission or the process of reaching it, when the commission's decision had been published and that this opportunity would be set out in legislation. The opportunity to challenge would be open to any member of the public or organisation likely to be affected by the decision. The grounds for challenge would be illegality, procedural impropriety or irrationality (including proportionality). Any challenge would have to be brought within six weeks of publication.

Do you agree, in principle, that this opportunity for legal challenge to a decision by the infrastructure planning commission provides a robust safeguard that will ensure decisions are taken fairly and that people have confidence in them?
yes
If not what alternative would you propose?

Q.32 Commission's skill set
We propose that commissioners would be appointed for their expertise in fields such as national and local government, community engagement, planning, law, engineering, economics, business, security, environment, heritage, and health, as well as, if necessary, specialist technical expertise related to the particular sector.

What experience and skills do you think the commission would need?

Proposals to reform the town and country planning system

A positive framework for delivering sustainable development

Q.33 Delivering more renewable energy
There is an urgent need to make quick progress in extending permitted development on micro generation to non residential land uses. To help realise a further portion of the potential for renewable energy, we will review and wherever possible extend permitted development rights on microgeneration to other types of land use including commercial and agricultural development.

What types of non residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?
It may be more suitable to encourage microgeneration across a range of public buildings and commercial development rather than prioritising particular land uses.

Strengthening the role of local authorities in place shaping

Q.34 Joined up community engagement
We propose to seek legislation to remove the requirement for the independent examination of the separate planning Statements of Community Involvement, using instead the new "duty to involve" as the means of ensuring high standards across all local authority and local strategic partnership activities.

We think it is important to enable a more joined up approach to community engagement locally. We propose to use the new "duty to involve" to ensure high standards but remove the requirement for the independent examination of the separate planning Statements of Community Involvement. Do you agree?
It is clearly useful to have a co-ordinated approach to consultation across an authority, in order to reduce the occurrence of different practices and of some communities being over-consulted. There may have been an argument for independent examination of SCIs, to ensure consistency, but this has reduced over time and there do not appear to have been significant issues.

Q.35 More flexible response to a successful legal challenge
Subject to finding a legally robust way forward, we propose to seek legislation to enable the High Court to order that a plan is sent back to an earlier stage of its process rather than back to the start. This proposal would also apply to a Regional Spatial Strategy.

Do you agree that the High Court should be able to direct a plan (both at local and regional level) to be returned to an earlier stage in its preparation process, rather than just the very start?
yes

Q.36 Removing the requirement to list Supplementary Planning Documents in Local Development Schemes We propose to seek legislation to remove the requirement that all SPDs must be listed in the local development scheme which means that local planning authorities will be able to produce them without reference to central government.
Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme.
Yes. Supplementary Planning Documents often have to be prepared quickly to deal with particular local circumstances. It is unnecessarily bureaucratic to have to re-submit Local Development Schemes to take account of such changes.

Q.37 Sustainability appraisal and Supplementary Planning Documents
We propose to seek legislation to remove the requirement for a sustainability appraisal for every supplementary planning document but we will consult on guidance which makes it clear that a sustainability appraisal should be undertaken for SPDs which have significant social, environmental or economic effects which have not been covered in the appraisal of the parent DPD or where EU law[2] requires a Strategic Environmental Assessment.

Do you agree in principle that there should not be a blanket requirement for supplementary planning documents to have a sustainability appraisal, unless there are impacts that have not been covered in the appraisal of the parent DPD or an assessment is required by the SEA directive?

Yes. Sustainability Appraisal of Supplementary Planning Documents is often unnecessary, especially if the policy to which it is related has been appraised. Removing the blanket requirement will free up resources.

Making the planning system more efficient and effective

Q.38 Permitted development for non domestic land and buildings
We propose to extend the impact approach to permitted development to other types of development such as industrial or commercial buildings as appropriate subject to certain limitations and conditions.
Which types of non residential development offer the greatest potential for change to permitted development rights? What limitations might be appropriate for particular sorts of development and local circumstances?

Q.39 Neighbour Agreements
Kate Barker proposed the development of a voluntary system, probably for smaller developments, whereby if there was agreement between a developer and neighbours affected, a full planning application would not be required. Kate Barker argued that this could make the process easier for householders in situations where those affected by the development are content for it to proceed, and so avoid small applications unnecessarily placing a burden on local planning authorities. We have a number of concerns about how this might work in practice, but welcome views.

What is your view on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights and where the neighbours to the proposed development are in agreement?
Support in principle to simplify PD however have concerns over neighbour agreements potentially lead to more enforcement work/greater monitoring. It is often the little things that cause concern to neighbours development not quite what was envisaged etc. System

will be open to abuse – developers bulling or paying off neighbours and then building something will has a serious impact on amenity of the occupiers of adjoining properties or the public realm. Assessment of impact is in relation to maintenance of standards of acceptability and there are cases where the particular occupier may not object to a development but the effect is that standards are reduced. The planning system should not be an arbitration system between neighbours it is for the lpa to establish minimum guidelines in their area reflecting local characteristics

Q.40 Minor amendments of planning permission
We propose to amend primary legislation so as to allow, at the request of the applicant, discretion for the local planning authority to vary an existing planning permission where they consider that the variation sought is not material.

Do you agree that it should be possible to allow minor amendments to be made to a planning permission?
Yes but needs definition as to what is minor and therefore not material
Do you agree with the approach?
Long established practice in the city

Planning Fees

Q1 Would a fee level increase of 25% be reasonable? Should householder applications be largely shielded from that increase?
There has been no increase in fees since 2005; fees should relate to costs. Householders should not be shielded from increase. They make up 50-60% of all submissions and the current fee nowhere near covers the costs.

Q2 Would you prefer that fees go up by the full 40% to provide more resources for planning?
yes
Q3 What are the likely effects of any of the changes on you, or the group or business or local authority you represent? Will there be unintended consequences, do you think?

Q4 Performance on development control is currently measured against targets to turn around 60% of major applications within 13 weeks, 65% of minor applications and 80% of other applications within 8 weeks. Given the desire for further service improvements flowing from any fee increase – without perverse incentives – what do you think would be the best form of performance measurement for development control and what should be an appropriate benchmark?

The current performance measures only give a very crude indication level of service but it is difficult to suggest another alternative but if the appeal process is to speed up as proposed then the % of appeals against non-determination may be an indicator of service as may be high levels of withdrawn applications.

Q5 Are current fee maximums serving any useful purpose?
No
Q6 Do you welcome the proposed fees for discharge of conditions? Do you agree this should not apply to conditions imposed on, say, listed building consents?
Yes fees for discharge of conditions welcomed; see no justicifcation for exemptions
Q7 Will it be useful if the local planning authority can offer a 'premium service'?
Yes but must be very transparent
Q8 Currently, Government sets planning fee levels. How do you feel in principle about the idea that each local authority should be able to fix its own (non-profit-making) planning charges in future?

Q9 Do you have any comment on the outcomes predicted in the partial RIA, in particular the costs and benefits (see Annex B)?

In terms of fees been a couple of years since went up so need to go up especially on the bigger schemes not reflective in overall scheme of development. Sometimes the fees don't even cover overheads. In respect of householder probably just go up with rate of inflation. Should be a fee for discharge of condition as very often consultations have to be carried out etc and again doesn't cover costs. In some instances may need to employ expert consultants for advice eg wind consultants.

Changes to Permitted Dev 2

QUESTION	YES	NO	COMMENTS
Question 1 – Do you agree with the principle of an impact approach for permitted development?	Yes		
Question 2 – Do you agree with a restriction on development facing onto and visible from a highway in designated areas?	Yes		All development facing or visible from the highway will have impact beyond the host property and with exception of minor developments (a small porch) should not be PD
Question 3 – Should the restriction apply in the same way to types of designated area?	Yes		See above
Question 4 – Do you agree that, subject to safeguards to protect householders from abortive costs, that the existing right to compensation for 12 months after any change to the GPDO is made is reviewed?	yes		
Question 5 – Do you consider that local planning authorities should be able to make an article 4 direction without the need for the Secretary of State's approval at any stage?	**yes**		**The LPA's are best placed to identify and recognize local characteristics that justify an Article 4 direction**
Question 6 – Do you consider that, subject to safeguards to protect householders from abortive costs, the existing right to compensation as a result of the making of an article 4 direction should be reviewed?	yes		
Question 7 – Should there be a requirement for planning authorities to review article 4 directions at least every five years?	yes		
Question 8 – Would there be benefit in making certain types of permitted development subject to a prior approval mechanism?		No	This is just another layer of complexity into the system which would only confuse householders and likely to result in additional cost and delay
Question 9 – If so, what types of permitted development should be subject to prior approval and what aspects of the development should be subject to approval?			
Question 10 – Would there be benefit in having a separate development order containing just permitted development rights for householders?		No	**Publications can target householder development**
Question 11 – Do you have any comments on the proposed definitions?	Yes		No problem with new definition of original dwellinghouse, original rear wall or side wall

QUESTION	YES	NO	COMMENTS
			There should be tighter controls on all elevations of a building which faces onto a high as it impacts on the public realm
Question 12 – Do you agree with the proposed limits for extensions? **1. No extension to come forward of the principal elevation of a dwellinghouse or side elevation facing a highway (where the principal or side elevations are stepped, the rearmost part of that elevation is taken to be the principal or side elevation)** **2. The maximum depth of single storey extension behind the original main rear wall of the house to be 4m for attached dwellinghouses and 5m for detached dwellinghouses (if the rear wall is stepped, the limitation on the depth of extension will similarly be stepped)** **3. The maximum depth of an extension more than 1 storey (or 4m high) behind the original main rear wall of the house to be 3m for attached dwellinghouses and 4m for detached dwellinghouses** **4. Within 2m of any boundary, the maximum eaves height of an extension to be 3m, and the maximum overall height to be 3m with a flat roof and 4m with a pitched roof** **5. The maximum eaves and ridge height of an extension to be no higher than the existing**		NO	Proposals – 1. OK subject to principal including all elevations fronting a highway 2. No definition of 'attached' Seems to penalize semi-detached properties that do not share a common party wall boundary on both sides. Suggest alternative allowance – 'The maximum depth of a single storey extension behind the original main rear wall to be 4m for attached dwellinghouses along a party wall boundary and 5m in all other cases (if the rear wall is stepped, the limitation on the depth of extension will similarly be stepped) 3. Similar observation as above 4. Discrepancy with limitations for outbuildings - suggest limitations as per outbuildings 5. No Comment

QUESTION	YES	NO	COMMENTS
dwellinghouse			
6. To the sides of a dwellinghouse, extensions to be single storey only and no higher than 4m high, and no wider than half the width of the original dwellinghouse			6. Suggest 3m to eaves and 4m to ridge
7. 2 storey extensions to be located no closer than 7m to the rear boundary, or no closer than the existing rear wall of the dwellinghouse if this is closer than 7m to the rear boundary			7. Our existing standards look to 20m window to window and therefore 14m is to close. In recent schemes a reduction to 18m has deemed to be acceptable so suggest – 9m minimum
8. The roof pitch of extensions higher than 1 storey (4m) to match that of the existing house			8. No comment
9. Any side-facing windows on extensions higher than 1 storey to be obscure-glazed and non-opening			9.No comment
10. Materials to match those of the existing dwellinghouse			10. This potentially raises issues of interpretation and may result in an increase in enforcement cases
11. No raised terraces, verandahs or balconies, including railings, walls or balustrades to be added to the dwellinghouse			11 No comment
12. Maximum 50% coverage (including outbuildings) of the private garden area			12. Suggest should refer to rear private garden area only and of the original dwellinghouse curtilage
• **in designated areas, side extensions should require planning permission**			No comment
• **in designated areas, all forms of cladding should require planning permission**			No Comment

QUESTION	YES	NO	COMMENTS
Question 13 – Do you agree with the proposed limits for roof extensions? **1. No roof extension to come forward of any roof plane of the principal elevation of a dwellinghouse or any side elevation (where the principal or side elevations is stepped, the rearmost part of that elevation is taken to be the principal or side elevation)** **2. Roof extensions to be a minimum of 1m above eaves, 1m below ridge, 1m from the side verge and where applicable 1m from the party wall. Where the roof of a dwellinghouse is hipped, a roof extension may be a minimum of 0.5m from the hipped roof. Where a terraced property has a two storey rear outrigger, the roof extension may intersect with the roof of the outrigger** **3. Materials to match those of the existing dwellinghouse** **4. No raised terraces, verandahs or balconies, including railings, walls or balustrades added to the dwellinghouse** **5. Any side-facing windows to be obscure-glazed and non-opening** • **in designated areas, all roof extensions should require planning permission**	Yes		1. No comment other than clarification as to whether side elevation include a rear outrigger 2. No comment 3. No Comment 4. No comment 5. No Comment No Comment
Question 14 – Do you agree with the proposed limits for roof alterations?		No	

QUESTION	YES	NO	COMMENTS
1. **Maximum upstand of 150mm** 2. **No maximum % roof coverage** • **in designated areas, no alteration to the roof plane of a principal elevation**			1. This would be a significant projection to the roof. For visual amenity reason your officers would suggest a maximum upstand of between 75–80mm (subject to technical feasibility) but could differentiate between roofs facing a highway and those that don't. 2. Suggest there should be a maximum roof coverage and support 60% limit Agree
Question 15 – Do you agree with the proposed limits for curtilage developments? 1. **No outbuilding, garage or swimming pool to come forward of the principal elevation of a dwellinghouse or a side elevation facing a highway (where the principal elevation is stepped, the rearmost part of that elevation is taken to be the principal elevation)** 2. **Outbuildings and garages to be single storey only** 3. **The maximum eaves height of outbuildings and garages to be 2.5m, and the maximum overall height to be 4m with a dual pitched roof, or 3m with a monopitched roof** 4. **Within 2m of a boundary the maximum overall height to be 2.5m** 5. **The maximum combined ground coverage of all garages**		No	1. No comment 2. No comment 3. There is a discrepancy between these limitations for outbuildings and those for dwellinghouse extension. Need to be consistent. Recommend 2.5m to eaves and 3m max monopitch roof height. 4. Discrepancy with limitations for dwellinghouses. Need to be consistent. 5. Should be private rear garden area

QUESTION	YES	NO	COMMENTS
and outbuildings to be 30 sq m if the private garden area exceeds 100 sq m, or 20 sq m if the private garden area is less than 100 sq m			of the original dwellinghouse curtilage
6. No raised terraces, verandahs or balconies, including railings, walls or balustrades added to the dwellinghouse			6. No comment
7. Maximum 50% coverage (including extensions) of the private garden area			7. No comment
8. Maximum height of decking to be 0.3m			8. No comment
• **in national parks, areas of outstanding natural beauty and World Heritage Sites, the maximum area to be covered by outbuildings, garages and swimming pools located more than 20 metres from the host dwelling house to be limited to 10 sq m**			No comment
• **in designated areas, outbuildings at the side of properties should require planning permission**			No comment
• **within the curtilage of listed buildings, any outbuilding greater than 3 sq m should require planning permission**			No comment
Question 16 – Do you agree that there should be no national restriction on hard surfaces?		No	The creation of hardstandings in many instances has an impact on the visual amenities of an area and increases run-off. Recommend that restrictions should be in place such that hardstandings to be no more than 50% of the garden area under permitted development.

PLANNING APPEALS

Q1: Do you agree with the proposal to fast track householder and tree preservation order appeals?
yes

Q2: Do you agree with the proposal to require local authorities to establish Local Member Review Bodies for the determination of minor appeals?
Yes

Q3: Do you agree with allowing the Planning Inspectorate, on behalf of the Secretary of State, to determine the appeal method for each case by applying Ministerially approved and published indicative criteria?
Yes in principle subject to criteria

Q4: Do you agree with the package of proposals detailed in Chapter Two to improve the customer focus and efficiency of the appeals process?
Yes

Q5: Do you agree with the changes proposed for the award of costs?
yes

Q6: Do you agree that the time limit for appealing against a planning decision should be reduced where there is an enforcement notice relating to the same development, so that in the event both are appealed, to allow the appeals to be linked?
yes

Q7: Do you agree with the changes proposed for enforcement and lawful development certificate appeals?

Q8: Do you agree with the proposal to charge a fee for appeals?
Yes

Q9: What are the likely effects of any of the changes on you, or the group or business or local authority you represent? Do you think there will there be unintended consequences?

Q10: Do you have any comment on the outcomes predicted in the partial RIAs (attached at Annex C), in particular the costs and benefits?