

# Planning for a Sustainable Future

## White Paper



Communities and Local Government  
Department for the Environment,  
Food and Rural Affairs  
Department of Trade and Industry  
Department for Transport



# **Planning for a Sustainable Future**

## **White Paper**

Presented to Parliament by

The Secretary of State for Communities and  
Local Government

The Secretary of State for Environment,  
Food and Rural Affairs

The Secretary of State for Trade and Industry

The Secretary of State for Transport

by Command of Her Majesty

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# Foreword



Planning is of fundamental importance to the quality of people's lives. It shapes the places where people live; allows us to create vibrant, healthy sustainable communities; protects and enhances our natural and historic environment; ensures everyone has access to green space and unspoiled countryside; and supports the economic development which is vital to creating jobs and ensuring our continuing prosperity.

Since 1997, we have made significant progress in improving the planning system. But the long-term challenges are increasing. We need to reduce emissions of greenhouse gases to meet the challenge of climate change and use our natural resources wisely. At the same time we need to support economic development so that we can generate high quality jobs in the context of rapid globalisation. We also need to build more houses so that people can afford decent homes. And we need to put the right infrastructure in place to meet our needs for travel, energy, water and public services.

The planning system also needs to evolve so that it better serves us as individuals, communities and businesses; provides for better public consultation and engagement in the planning process; better supports local authorities' role; and better enables us all to meet the challenge of climate change and deliver sustainable development including economic growth.

This White Paper sets out a wide-ranging package of reforms. We propose to streamline further the process in the town and country planning system, improve the ability of local authorities to shape their local communities, and ensure that there is a stronger approach to supporting sustainable economic development alongside work to tackle climate change in a way that is integrated with the delivery of other sustainable development objectives.

And we propose to introduce a new system that will enable us to take decisions on the infrastructure that we need to support our communities and quality of life, and achieve our goals for secure energy supply, reduced carbon emissions and international competitiveness, in a way that is timely, efficient and predictable. We will also improve accountability as part of the new system by strengthening the role ministers in setting policy and by establishing an independent body to take decisions fairly and

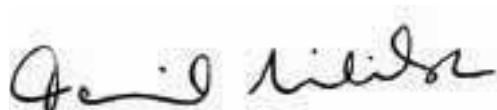
transparently. This White Paper also sets out proposals for improving and extending public and community engagement in the system.

It is 60 years since the landmark 1947 Town and Country Planning Act provided one of the pillars of post-war reconstruction, renewal and regeneration. Our planning system has served us well, with regular and sometimes radical overhauls, such as in the late 1960s, and again most recently in 2004. It has long been the model for many other countries to follow, and our intention is that our planning system should continue to set the standard in terms of the quality of outcomes for the individual citizen, the local community, developers and consumers of the system, and in terms of promoting sustainable and inclusive patterns of urban and rural development.

We believe that these reforms are essential if we are to create a planning system that is fit and able to meet the challenges that we face. In further developing these proposals we will work closely with stakeholders. This White Paper raises some important questions on which we are consulting now; we are also consulting separately on a number of other issues.



Ruth Kelly, Secretary of State for Communities and Local Government



David Miliband, Secretary of State for Environment, Food and Rural Affairs



Alistair Darling, Secretary of State for Trade and Industry



Douglas Alexander, Secretary of State for Transport

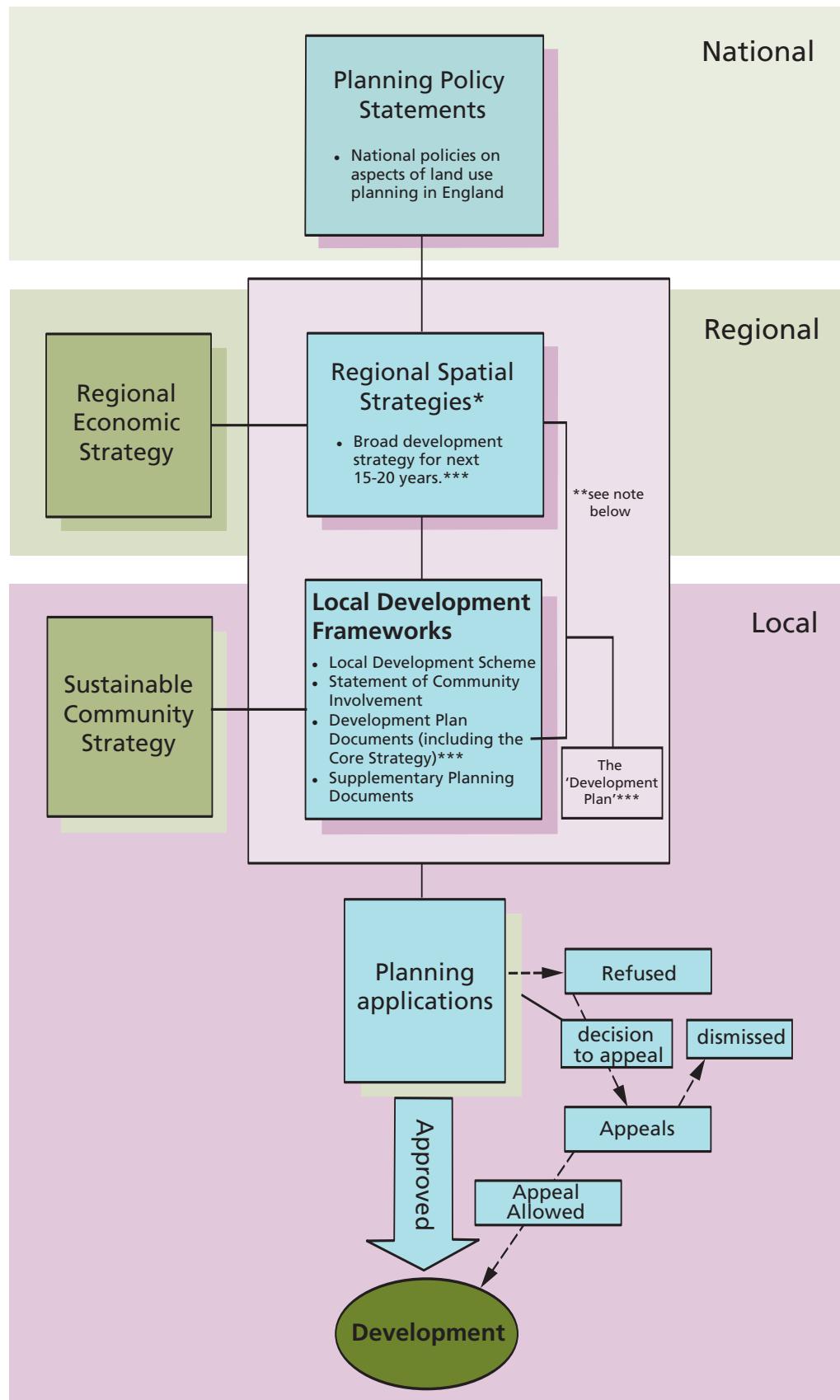


# Executive summary

## The importance of good planning

- 1.1** Planning is of fundamental importance to the quality of people's lives. When planning is done well it enables us to build thriving, healthy, sustainable communities where people want to work, shop, live or visit. It supports the economic development which is vital to create jobs and ensure our continuing prosperity as a nation. It helps us to protect our natural and historic environment and ensure everyone has access to green space and unspoiled countryside. It enables the delivery of essential infrastructure which allows us to travel and enjoy access to clean, affordable energy, water and waste facilities. And it supports us as individual citizens in improving our homes and property while protecting us from over-intrusive development. Planning does all of this by helping us to ensure development meets economic, social and environmental objectives in an integrated and sustainable way.
- 1.2** An effective and efficient planning system which is responsive to our needs as a society is therefore essential. But people have different views of, and different interests in, the way land is used. Planning is the forum for resolving those differences. On the one hand, it needs to help necessary development and modernisation, on the other, it seeks to protect and enhance our natural and historic environment and to ensure that a community's way of life, health and well-being are enhanced rather than harmed. Planning departments and committees are one of the parts of local government that people most frequently engage with because they take a strong interest in the future development of their neighbourhood and community.
- 1.3** Our vision is for a planning system which supports vibrant, healthy sustainable communities, promotes the UK's international competitiveness, and enables the infrastructure which is vital to our quality of life to be provided, in a way that is integrated with the delivery of other sustainable development objectives, and ensures that local communities and members of the public can make their views heard.

## How the existing planning system works at local, regional and national level



\* Prepared within context provided by the Regional Sustainable Development Framework

\*\* Spatial Development Strategy in London

- 1.4** On the whole the planning system works well and allows us to encourage a thriving economy, deliver vibrant, healthy communities, protect and enhance our environment, and ensure people have a say in how their area develops. In particular, the plan-led approach with development plans and policies at both local and regional level on which the public is consulted, and which then provide a framework for assessing individual planning applications, is a good one.

## Progress towards our vision

- 1.5** Since 1997, we have made significant progress in improving our planning system, as Box 1.1 highlights. Through the Planning and Compulsory Purchase Act 2004 we have put sustainable development at the heart of planning. The goal of sustainable development is to enable all people throughout the world to satisfy their basic needs and enjoy a better quality of life, without compromising the quality of life of future generations. The UK Government's strategy for sustainable development, *Securing The Future*<sup>1</sup>, launched in 2005, explains that this goal will be pursued in an integrated way through a sustainable, innovative and productive economy that delivers high levels of employment; and a just society that promotes social inclusion, sustainable communities and personal wellbeing. This will be done in ways that protect and enhance the physical and natural environment, and use resources and energy as efficiently as possible. This goal is reflected in *Planning Policy Statement 1: Delivering Sustainable Development*<sup>2</sup> which sets out the Government's objectives for the planning system.
- 1.6** So, for example, we have been able to achieve a substantial increase in new house building to help meet growing demand while minimising urban sprawl and maximising the use of brownfield land. Through our town centres first policy and revised compulsory purchase powers we have helped to regenerate and revitalise our town centres, and increase their amount of retail floor space. We have replaced the three tier plan-making structure with a simpler system based on Regional Spatial Strategies and Local Development Frameworks, with strengthened community and stakeholder engagement throughout the preparation process. The result will be improved spatial planning which allows local and regional bodies to shape their communities with greater certainty and flexibility.
- 1.7** We have also updated and improved some elements of the national policy framework with new Planning Policy Statements (PPS) on key issues, such as the protection of biodiversity and geological conservation, sustainable development in rural areas, waste management, renewable energy and flood risk. Most recently,

<sup>1</sup> *Securing The Future – delivering UK sustainable development strategy*, March 2005. Cmnd 6467, TSO. [www.sustainable-development.gov.uk/publications/uk-strategy](http://www.sustainable-development.gov.uk/publications/uk-strategy)

<sup>2</sup> PPS1: *Delivering Sustainable Development*, ODPM, Feb 2005, TSO. [www.communities.gov.uk](http://www.communities.gov.uk)

we have published a new PPS on housing and a draft PPS on climate change aimed at ensuring our goals in relation to increasing the supply of housing, creating sustainable mixed communities and reducing carbon emissions are integrated as far as possible and fully reflected in local planning decisions. In addition, through PPS1 and other measures, such as the requirement to provide design and access statements with planning applications for many types of new development and our new PPS on housing which makes clear that good design and high quality homes are fundamental to good place-making, we have strengthened our commitment to the achievement of good design, which is indivisible from good planning.

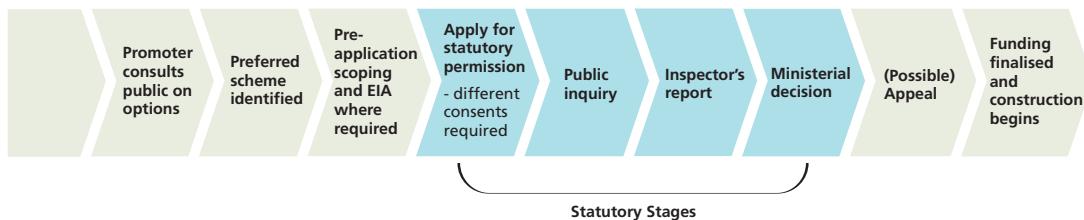
- 1.8** People and organisations making planning applications are getting speedier decisions. Many more local authorities are meeting the targets for dealing with planning decisions. We have halved the time ministers take to make decisions on town and country planning applications. The planning system has also become more efficient and effective and customer-focused with the introduction of e-planning services.
- 1.9** We have improved the quality of professional advice in planning by:
  - setting up the Planning Advisory Service to provide guidance, support and peer review for local authorities;
  - establishing the Advisory Team for Large Applications (ATLAS) which provides expert advice on large applications;
  - grant-aiding Planning Aid, which provides free professional planning advice to local communities and individuals; and
  - increasing the supply of qualified planners by introducing bursaries for post-graduate planners and providing distance learning in spatial planning skills.

**Box 1.1****What recent reforms have achieved**

- **Speed – local decisions:** local planning authorities have dramatically improved their performance in handling planning applications. We set standards to be met by 31 March 2007 (60 per cent of major applications to be dealt with within 13 weeks, 65 per cent of minor and 80 per cent of other applications within eight weeks). In 2001/02 just under a quarter of authorities were meeting all three targets– today three quarters are doing so.
- **Speed – national decisions:** we have cut in half the time taken to decide cases determined by the Secretary of State with 85 per cent of cases decided within 16 weeks in 2006.
- **Customer centred e-planning:** all local authorities are linked to the Planning Portal which deals with electronic planning applications and planning content. It has more than 170,000 users and processes more than 6,000 online planning applications each month. The Planning Portal also provides up-to-the-minute information and services to citizens and business users generating efficiencies for all.
- **Supporting planners by increasing capacity:** at the end of 2005 there were nearly 2,000 students on accredited planning courses and we have assisted over 400 post graduate students with government funded bursaries.
- **More efficient land use:** about three quarters of new dwellings are being built on brownfield land, exceeding the 60 per cent target set by the Government.
- **Increased housing supply:** more houses are being built – in the period between 2002-03 and 2005-06 there has been a 22 per cent increase in the number of new dwelling completions in England. This includes a 30 per cent increase in the four southern regions of England.
- **Revitalised town centres:** since the mid 1990s there has been an upward trend in the proportion of new development in and around town centres. In 1994 about 23 per cent of development was in and around town centres – by 2004 it was up to 41 per cent.
- **Good design:** to improve quality standards new planning guidance, along with design and access statements and new tools such as Design Coding have been introduced. CABE research is showing that this is beginning to have an effect. And local authorities have responded to the challenge, with nearly two thirds now having a design champion, up from a fifth in 2001.

**1.10** We have also taken steps to improve the planning system for key national infrastructure projects. We have introduced new rules to speed up and enhance public inquiries into major infrastructure applications that go through the town and country planning process. The 2003 Air Transport White Paper explained the need to expand our airports but to do so in a way that took account of environmental and other considerations. And the Government's 2006 Energy Review included proposals to improve the planning consents system for energy projects; guidance for power station promoters on a range of issues; new rules for more efficient inquiries; and a statement of need on renewable energy.

## The current planning process for infrastructure projects from start to finish



- 1.11** Improving the provision of local infrastructure has also been a priority. Local transport, roads, schools, health and social care facilities, and other community facilities are essential to the creation of thriving, healthy, sustainable communities. The Government has contributed to this through sustained investment in infrastructure. For example, in the 2006 Pre-Budget Report the Government committed to increasing capital investment in education, including in children's centres, schools, colleges and universities, from £8.3 billion in 2007-8 to £10.2 billion in 2010-11.
- 1.12** At Budget 2007 the Government made further announcements for allocating the revenues generated by the proposed Planning-gain Supplement (PGS) to help finance the local and regional infrastructure necessary for sustainable economic development. The Government remains engaged with stakeholders on its proposals for PGS, and will consider their views, alongside the need for additional infrastructure investment and the mechanisms that could help provide these resources. If, after further consideration, PGS continues to be deemed workable and effective, PGS would be introduced no earlier than 2009.
- 1.13** As a result of the reforms we have introduced, we are already seeing real improvements across the board. Speed and performance have improved; spatial planning has become more effective; our town centres are more vibrant; substantial increases in housing are being achieved. At the same time the impact on the countryside and green space has not only been minimised but, wherever possible, opportunities have been taken to improve the local environment.

## The challenges that we face

- 1.14** The long-term challenges for planning are increasing. Over the coming decades, debate and decisions about where development should take place are likely to become more difficult. We must ensure that the whole planning system, including both the town and country planning system covering residential and commercial development and some infrastructure, and also the range of separate consent regimes for specific types of infrastructure, is fit and able to cope with the following challenges:

# 1

- **Meeting the challenge of climate change:** The evidence is now compelling that greenhouse gas emissions from human activity are changing the world's climate. The recent Stern Review makes it clear that ignoring climate change will eventually damage economic growth, people's health and the natural environment. The Climate Change Bill published on 13 March will introduce a clear, credible, long-term framework for the UK to achieve its goals of reducing carbon dioxide emissions and ensure steps are taken towards adapting to the impacts of climate change. The planning system also has an important role to play in enabling the UK to meet those challenges. It can help us to meet our targets for the reduction of emissions of greenhouse gases by, for example:
  - supporting the building of zero-carbon homes and business premises that are low energy and produce lower carbon emissions;
  - locating development to reduce the need to travel;
  - making walking and cycling accessible, attractive and essential components of new development;
  - supporting integrated public transport.

Crucially, planning can help speed up the shift to renewable and low carbon forms of energy. Renewables currently contribute over four per cent of our electricity supplies. The European Council has agreed a binding target for renewable generation to provide 20 per cent of the EU's energy consumption by 2020. In parallel, the Renewables Obligation supports investment in new renewable electricity technologies but we need to ensure that the right regulatory and planning framework is in place to encourage this investment.

The planning system can also play a vital role in helping ensure that new developments through their location and design are resilient to the consequences of climate change including flooding, coastal erosion and higher temperatures.

- **Supporting sustainable economic development:** The global economy is changing rapidly, with new technology, production and trading patterns emerging. Globalisation is bringing more intense cross-border economic competition. This means new opportunities for growth and jobs, but also increasing competition from fast growing economies, such as China and India. It is also leading to a much more dynamic and global network of market places. To be competitive, business needs to respond much more quickly to changes in market conditions. Planning can help by being responsive and efficient, and supporting vital economic development in a way which ensures

it is consistent with wider environmental and social objectives, and which ensures that all our regions share in the benefits of sustainable economic development.

- **Increasing the supply of housing:** The population is increasing, ageing, and becoming more prosperous. The rising population means that more people have to be housed; the trend towards smaller households is further increasing housing demand; and increased prosperity means that more people are seeking to own their own home. The housing and wider service needs of the growing number of elderly will also impact on the type and location of development. These demographic shifts are putting pressure on the stock of available housing, pushing up prices. It is imperative that we support housing growth so that people's aspirations for good quality, affordable housing can be met. If we do not increase the supply of housing from currently planned rates, the proportion of 30 year old couples able to afford their own home would drop from around 50 per cent to around 30 per cent by 2026.
- **Protecting and enhancing the environment and natural resources:** Continuing economic growth and the need to build more homes puts pressure on the environment and natural resources. Planning has a role to protect and enhance the quality, character and amenity value of the countryside and urban areas as a whole, through positive policies. A high level of protection should be given to our most valued townscapes and landscapes, wildlife habitats and natural resources; and those with international and national designations should receive the highest level of protection. Environmental quality has a direct impact on overall quality of life, and the conservation and improvement of the natural and built environment brings social and economic benefits for local communities. Planning should contribute to improving the quality of water, land and air, and the conservation of renewable and non-renewable resources and to sustainable waste management.
- **Improving our local and national infrastructure:** These changes also bring with them new demands on infrastructure, public services, and commercial and leisure facilities. Vibrant, healthy, sustainable communities are not created by new housing alone. People need places to work and spend leisure time. People want high quality local services and amenities such as schools, health and social care facilities and green space. They also expect to be able to travel reliably including by road, rail and air; and to have clean, secure and affordable supplies of power, water and facilities for waste management. If we do not ensure the right infrastructure is in place at every level, our quality of life – individually and collectively – will diminish. Improving infrastructure provision is also vital for unlocking housing growth.

- **Maintaining security of energy supply:** A particular challenge is maintaining the security of our energy supplies. We need investment in about 25-30 gigawatts of new electricity generation capacity over the next two decades – equivalent to about one third of our existing capacity. If we do not do this in a timely fashion, then we may not have enough capacity to meet our energy demands. At the same time we are becoming more dependent on imported energy as our supplies from the North Sea decline. This means we also need to modernise our infrastructure by constructing import terminals and storage facilities for liquefied natural gas if we are to get the energy we need at competitive prices. We can also seize the opportunity presented by the need to renew capacity to help support the shift towards renewable and low carbon energy.

## **Why we need to do more**

**1.15** Despite the improvements that have been made in the planning system over the last decade, we need to do more to ensure that it is capable of meeting these long term challenges.

### **National policy is not sufficiently clear and responsive:**

**1.16** Over the years we have built up, incrementally, a body of national planning policy which is too voluminous, complex and unwieldy for those that use it. National planning policy on economic development is out of date. The result is that local authorities and others can find it difficult to take account of all the relevant policy considerations or may adopt an overly cautious approach rather than one that positively encourages sustainable economic development or the development of renewable energy sources.

**1.17** Neither do we have clear policy frameworks for all areas of nationally significant infrastructure. The result is that fundamental issues such as whether there is a need for additional capacity or whether a technology is proven and safe are addressed from scratch in each individual application. This can make the process of preparing applications for individual project proposals more onerous and uncertain, and mean that many months have to be spent at the inquiries into these proposals debating high level issues such as need.

### **The planning system is too bureaucratic, takes too long and is unpredictable**

**1.18** It is absolutely right that planning applications should be refused where the adverse effects of development for society or the environment outweigh the benefits. But the planning system should produce decisions in an efficient,

consistent and reliable manner. A common complaint, especially from business, has been that planning decisions take too long, cost too much and, in some cases, do not consistently reflect national policy.

- 1.19** Recent reforms mean that local planning authorities are taking half the time it used to take to draw up plans but many plans are still taking longer than originally intended and some aspects of the process are inflexible. For example, if a plan is unsound it cannot easily be fixed but must go right back to the beginning of the process. The speed and quality of decision making is also an issue and, despite the improvements that have been made, local communities, businesses and individuals are not always receiving the level of service they have a right to expect. Household applications more than doubled in the 10 years to 2005 and the planning system is in danger of becoming bogged down as planning applications rise. The growth in applications is in turn increasing pressure on the appeals system. The number of appeals grew from around 14,000 in 1997-98 to over 22,000 in 2005-06 and is forecast to grow further to 26,000 by the end of the decade. This in turn means appeals are taking longer.
- 1.20** The process for dealing with major infrastructure projects, from submission of the proposal to decision in particular, is too slow and complicated. It took seven years to get to a decision on Heathrow Terminal 5; more than six years to get to a decision on the North Yorkshire Power Line upgrade; nearly four years to get to a decision on Dibden Bay container terminal; and two and a half years to reach a decision on Staythorpe C gas-fired power station. Prolonged procedures of this sort rarely result in better decision making but they do impose high costs, not only on promoters but also on other participants in the process. Delays can also result in years of blight for individuals and communities during which people are unable to move house or receive compensation. And they can put at risk the country's economic and environmental well-being if, as a consequence, good development is delayed or investment and jobs go overseas rather than wait for modern infrastructure that is needed to support efficient business logistics.

## **Individuals and communities find it difficult to be heard**

- 1.21** Long, drawn out planning processes do not necessarily provide the best opportunities for people or communities to have their say or deliver the best outcomes in terms of social justice. Complex and lengthy consultation on local plans can lead to consultation fatigue while still failing to engage citizens effectively. The adversarial nature of the inquiry system for major infrastructure projects can be intimidating and make it difficult for local government, non-governmental organisations (NGOs) and members of the public to participate effectively. The time and costs involved means it often favours the well-resourced

and well-organised over less well-off communities and citizens.

## Planning systems are confusing and unclear

- 1.22 Some forms of development, and especially major infrastructure projects, have to get approval under a number of different statutory arrangements. In planning terminology they are subject to ‘multiple consent regimes’. So, for example, a proposal to develop a major port may need to seek a consent to dredge the harbour under the Harbours Act 1964; an order under the Transport and Works Act 1992 to provide for necessary upgrades to the rail connections to the ports; planning permission under the Town and Country Planning Act 1990 for related storage facilities for containers unloaded from ships; and separate compulsory purchase applications to allow the necessary land acquisition. Another example would be Heathrow Terminal 5 where BAA had to lodge 37 applications under seven different pieces of legislation. Complex railway projects may need to be considered under the hybrid Bill procedure.
- 1.23 The existence of multiple consent regimes also means there are multiple decision points and multiple decision makers, with potentially several ministers being involved. The result in these cases is a system which not only adds to costs for users but also reduces clarity about who is accountable for decision making. There are also multiple consent regimes for many infrastructure schemes that are not nationally significant, which can be confusing, complex and time consuming for all concerned.
- 1.24 The role of ministers in planning decisions on major infrastructure is also not well understood. For example, confusion can arise where ministers take decisions on schemes in which they or the Government have a specific policy interest, and it is sometimes thought that they are able to take into account wider political factors not directly related to the development. In reality, however, ministers perform a quasi-judicial role when deciding planning applications, basing decisions on the evidence presented and published policy and take great care to avoid any real or perceived conflict of interest. Hence, if they are likely to be involved in taking decisions on an application, they are heavily circumscribed in their ability to encourage projects, even if they consider them to be vital for the national interest; to discuss projects with representatives of affected communities and other key stakeholders; or to get involved in resolving problems or brokering compromises.

## Decisions are not always taken at the right level

- 1.25 Decisions are not always being taken at the right level. For example, transport ministers take decisions under the Transport and Works Act on some projects – such as guided bus lanes – which are predominantly local in character.

Additionally, between April 2002 and July 2006, 60 “called-in” cases were determined by ministers under the Town and Country Planning Act which were for housing developments of 25 units or fewer. While size is not the only issue when deciding whether an application raises issues of more than local importance, which merit the application being “called in,” we propose to look again at the type and scale of application where decisions are taken nationally rather than locally, with a view to reducing the number of cases decided by the Secretary of State.

- 1.26** Conversely, local decision making may not be the best solution for some applications which are particularly complex, span several local authority areas, or confer national or regional benefits but local disbenefits (the “spillover” effect). Transport projects such as new roads and railway lines can often involve a number of different local authorities; energy projects, such as new overhead power lines, while vital to the overall security of electricity supply, may confer no direct local benefits.

## The foundations for further reform

- 1.27** To help it understand how the planning system could best respond to some of the key challenges of the future, the Government commissioned Kate Barker to consider how, in the context of globalisation, and building on the reforms already made in England, planning policy and procedures could better deliver economic growth and prosperity in a way that is integrated with other sustainable development goals.<sup>3</sup>
- 1.28** The Government also asked Rod Eddington, who had been commissioned to advise on the long-term links between transport and the UK’s economic productivity, growth and stability, to examine how delivery mechanisms for transport infrastructure might be improved within the context of the Government’s commitment to sustainable development.<sup>4</sup>
- 1.29** Kate Barker’s *Review of Land Use Planning* concluded that ‘planning is a valued and necessary activity’ and welcomed the progress that had been made with reforms to date (Barker, 2006, p3). However, Barker recognised that the planning system was facing ever more demanding challenges and argued that the responsiveness and efficiency of the system needed to be improved. She recommended further wide-ranging reforms, building on recent changes and the plan-led approach, to improve the way that planning supports our economic prosperity while maintaining or enhancing delivery of other objectives, including

<sup>3</sup> Barker *Review of Land Use Planning*, Dec 2006, HMSO

<sup>4</sup> *The Eddington Transport Study*, Dec 2006, HMSO.

ensuring community involvement, supporting local democracy, and protecting and enhancing the environment.

### **Box 1.2**

#### **Kate Barker's headline recommendations:**

- streamline policy and process through reducing policy guidance, unifying consent regimes and reforming plan-making;
- update national policy on planning for economic development;
- introduce a new system for dealing with major infrastructure projects;
- promote a positive planning culture within the plan-led system;
- consider enhancing fiscal incentives to ensure a more efficient use of land;
- a more risk-based and proportionate approach to regulation;
- remove the need for minor commercial developments to require planning permission;
- improve skills and ensure sufficient resources for planning;
- reduce delays at appeals and call-in; and
- ensure that new development beyond towns and cities occurs in the most sustainable way.

**1.30** Rod Eddington's analysis of the delivery system for transport infrastructure echoed Kate Barker's concerns about the potential for the planning process to delay the development of vital new infrastructure. He recommended radical reforms to the process of planning for major transport infrastructure.

### **Box 1.3**

#### **Rod Eddington's headline recommendations for major infrastructure planning:**

- the primary role of ministers should be to set national policy statements for major infrastructure development, taking full account of economic, social and environmental considerations, following consultation;
- there should be a presumption in favour of development for major infrastructure proposals so long as they are consistent with national policy statements, and compatible with EU law and the European Convention on Human Rights;
- an independent commission should be established to manage inquiries and determine individual applications for major schemes in England;
- local consultation should be carried out by the applicant at the pre-application stage and inquiries and decisions would have regard to local considerations;
- consent regimes should be rationalised to eliminate duplication and overlap, and to treat major projects as a whole; and
- there should be a clear framework for statutory rights to challenge at key stages in the process.

**1.31** Kate Barker's Review considered these proposals in a wider planning context and recommended comprehensive reform of the planning of key infrastructure projects in relation to transport, energy, water supply and waste, based on the same principles.

## The Government's response and key principles and proposals

- 1.32** The Government has considered the reports by Kate Barker and Rod Eddington carefully. And it has taken into account both the views expressed on these reports and further feedback it has received from a range of stakeholders. We accept that there is still more that we can do to improve the way that the planning system operates, in particular to increase its responsiveness to change and its efficiency. And we accept that the planning system has to adapt to enable us to build the infrastructure necessary to support sustainable communities and our quality of life, as well as to achieve vital goals in relation to energy diversity and security of supply, reduced carbon emissions and other environmental goals, international competitiveness and reduced congestion.
- 1.33** This White Paper sets out our detailed proposals for reform in response to the recommendations made by Kate Barker and by Rod Eddington in respect of planning.
- 1.34** These reforms will, for the first time, embrace all development consent regimes, including those for major energy, water, transport and waste development, as well as the town and country planning system. We need to consider planning and development holistically if we are to ensure that it delivers the best outcome for us as a nation and for local communities.
- 1.35** For town and country planning, we consider that, even while the reforms introduced in the Planning and Compulsory Purchase Act 2004 are bedding down, the system needs to adapt further to meet the challenges we now face. We will build on the improvements we have already made to ensure that there is a stronger approach to support sustainable economic development, alongside work to tackle climate change and cut carbon emissions and other environmental impacts from new economic development; strengthen the role of local authorities as place-shapers; and streamline the system to improve the accessibility and effectiveness of the planning system for all.
- 1.36** For key national infrastructure projects – such as major airport and port projects, improvements to the Strategic Road Network, major new power generating facilities and facilities critical to energy security, and major reservoir and waste water plant works – we propose to replace the multiple existing consent regimes with a new system. This will enable us to take decisions on infrastructure in a way that is timely, efficient and predictable. It will also improve the accountability and transparency of the system by strengthening the role of ministers in setting policy and establishing an independent body to take decisions fairly and improve the

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ability of the public and communities to participate effectively in the process. Our new system needs these characteristics because, while the infrastructure concerned benefits us all and will help prevent problems such as energy shortages, congestion and increased pollution, the impacts tend to fall disproportionately on a relatively few people living close to the development. The new system will ensure that their interests are also taken into account in decisions on infrastructure. Local authorities, in particular, will have a strong part to play in representing their communities and helping shape national infrastructure in their area.

**1.37** Five core principles underpin our proposals:

- planning must be responsive, particularly to longer term challenges such as increasing globalisation and climate change, and properly integrate our economic, social and environmental objectives to deliver sustainable development;
- the planning system should be streamlined, efficient and predictable;
- there must be full and fair opportunities for public consultation and community engagement;
- the planning system should be transparent and accountable; and
- planning should be undertaken at the right level of government – national, regional and local.

## **Responsive planning which integrates our economic, social and environmental objectives**

**1.38** In order to properly integrate our economic, social and environmental objectives, we need clear and up-to-date policy frameworks which can inform decision making at every level. For town and country planning, we propose to develop a new policy framework for encouraging sustainable economic development in the challenging and rapidly changing global context, in line with the Government's objectives for the planning system set out in PPS1. We will also finalise our planning policy on climate change.

**1.39** For nationally significant infrastructure projects, we propose to produce national policy statements for key infrastructure sectors such as air transport and renewable energy. These will set out the national need for infrastructure and explain how this fits with other policies such as those relating to economic development, international competitiveness, climate change, energy conservation/efficiency and protection of the historic and natural environment. By setting out the Government's strategic, long-term approach to infrastructure development,

national policy statements will provide far greater certainty and clarity for promoters, planners and communities.

## A streamlined, efficient and predictable system

- 1.40** We will speed up town and country planning and make it more efficient. We propose to give people greater freedom and flexibility to make minor extensions to their home and their business premises, and to install microgeneration equipment such as solar panels where there is little or no impact on neighbouring properties, to reduce the number of developments for which planning permission is needed. And we propose to simplify the provisions governing how planning applications are made, and streamline information requirements for applications, to reduce the burden on all parties involved in the planning process.
- 1.41** For nationally significant infrastructure, we propose to help promoters improve the way that they prepare applications and to streamline the development consent procedures by rationalising the different regimes, improving inquiry procedures, and imposing statutory timetables on the process. These proposals are aimed at reducing the time taken from application to decision to under a year in the majority of cases.

## Full and fair opportunities for public consultation and engagement

- 1.42** A fundamental aspect of the planning system is that it is the means by which people have their say in proposals for development which have the potential to impact on their homes, communities, access to amenities and quality of life.
- 1.43** Our aim is to improve actual community engagement in planning rather than create more processes. So in respect of local plan-making we want to encourage a more joined-up approach to community engagement across the range of a local authority's functions. We will end the independent examination of separate planning 'Statements of Community Involvement', as the new statutory best value duty to involve will become the means of ensuring high standards of engagement. And we will preserve the principles of early engagement and effective consultation on local plan preparation but give local planning authorities more flexibility to decide how and when to consult and engage. This is designed to produce meaningful processes rather than bureaucratic ones, which reflect the different needs of different types of plan in different places.
- 1.44** The new procedures for dealing with nationally significant infrastructure projects will also include new provisions for public consultation and engagement. In particular, we propose to:

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- ensure effective public engagement in, and Parliamentary scrutiny of, national policy statements before final conclusions are reached. Where national policy statements include proposals for development at particular or likely locations, this should include local and community engagement;
- require promoters who are developing particular schemes to consult and to do so in a way that meets best practice standards;
- introduce an ‘open floor’ stage in inquiries to ensure that members of the public can participate more effectively. We will also reform the inquiry rules more generally to ensure members of the public can engage on a much more equal footing with the professional advocates who currently dominate the process. In this way we will also balance the need to streamline inquiries with the need to ensure a fair opportunity for those with an interest in development proposals to be heard; and
- increase grant funding for bodies such as Planning Aid (alongside the introduction of the new infrastructure planning system) to ensure members of the public get the advice and support they need to get involved on site-specific proposals in national policy statements, and in the planning inquiries on major infrastructure projects.

## A transparent and accountable system

**1.45** Decisions on planning must be made in a fair way. All of those involved in the planning system – individuals, objectors, local communities, promoters – have a right to understand the reasons for decisions and to expect accountability from policy makers and decision takers. Our proposals to reduce the number of minor applications and streamline information requirements will help ensure that more resources are available to focus on the schemes and issues where scrutiny and public testing is vitally important.

**1.46** We want to clarify and improve the way policy is set and decisions are made for nationally significant infrastructure projects. We propose that ministers should be clearly accountable – including through direct Parliamentary scrutiny – for setting overall strategy in national policy statements. We consider that decisions on individual applications should then be taken within the framework of the relevant national policy statement, by an independent, and expert, commission on an objective basis. This infrastructure planning commission would work within a clear legislative framework set by Parliament and a policy framework set by ministers, and would be accountable to them for its decisions and performance, as well as being subject to legal challenge. We consider that this framework provides for greater transparency and more effective accountability than current

arrangements, by achieving a clear separation between setting policy and taking quasi-judicial decisions.

## **Planning at the right level – national, regional and local**

- 1.47** *Strong and prosperous communities*, the Local Government White Paper published in October 2006, set out our proposals for giving local government and their partners more freedom and powers to meet the needs of their citizens and communities and enable citizens and communities themselves to play their part. Planning is a core function of local authorities and is central to their role as place shapers. We are committed therefore to ensuring that decision making is taken at as local a level as possible so that it can fully reflect local circumstances and needs.
- 1.48** But a purely local approach to planning cannot deliver the best outcomes for us as a society or nation, or for the environment. Sometimes, development may have national or regional benefits or impacts which go far beyond the immediate impact on local communities. Planning needs to reflect these wider regional and national factors. That is why we also have plan-making at the regional level with Regional Spatial Strategies in each English region (and the London Spatial Development Strategy). We will continue to encourage regional planning bodies and local authorities to make best use of the flexibility within the system, which enables them to collaborate across boundaries.
- 1.49** Most major infrastructure decisions – which account for a tiny proportion of all planning decisions – are already taken at the national level by ministers. Decisions on such development, which is vital to our prosperity as a nation, will continue to be taken at the national level but, as described above, in future they would be taken independently of government by an expert commission.
- 1.50** But we also consider that there is scope for further devolution to local authorities. We therefore propose to reduce the number of town and country planning cases notified to, and also called in by, the Secretary of State for Communities and Local Government. And we propose to explore devolution of some non-national infrastructure decisions, especially in relation to local transport, to local authorities. Further work will be needed to work out how this might operate in practice and what safeguards might be needed. For instance, some form of limited “call in” ability similar to that under the town and country planning system might be appropriate. We will work with local authorities to resolve these issues.
- 1.51** Whatever level decisions are taken at, however, it is clear that they must be taken within a framework that takes account of relevant factors at national, regional, and local level. Thus, under our proposals, we expect local authorities and regional planning bodies to take full account of relevant national policy. And we propose



that local authorities should have an important role in ensuring that national decision makers, including the proposed infrastructure planning commission, take full and proper account of relevant local and regional factors and considerations.

## Realising our vision

**1.52** Our recent reforms have put the delivery of sustainable development at the heart of the planning system. We believe that the reforms set out in this White Paper will, building on the reforms we have already put in place, make our vision for the planning system a reality, and help deliver a wide range of benefits for individuals, communities, business, society and the environment, including:

- more and better jobs as a result of sustainable economic development;
- better infrastructure so people have access to reliable transport, clean and secure energy, clean water supplies, and better local amenities;
- continued protection and enhancement of the natural and historic environment;
- places shaped by their communities where people are proud to live;
- more efficient and timely systems in which controls are proportionate to impact and unnecessary costs are eliminated; and
- a more transparent and accountable planning system in which national and local government work together to ensure decisions at every level deliver the best outcomes for all.

**1.53** The rest of this White Paper sets out our proposals in detail. The reforms to the regimes for nationally significant infrastructure projects are dealt with first, in Chapters 2 to 5, as they are more wide ranging. Chapters 6 to 9 then explain our proposals to improve the responsiveness and efficiency of the town and country planning process. Chapter 10 explains the position with regard to the Devolved Administrations, sets out our proposed timetable for introducing these reforms and details transitional arrangements.

## Consultation

**1.54** These are important and wide-ranging proposals for reform. Some of the proposals will require legislation, others changes in policy and guidance. In developing these proposals, we want to work closely with stakeholders, consulting where appropriate and when timely.

**1.55** This White Paper raises some important questions on which we are now seeking views and comments. A series of consultation questions are set out in the body of the document. For ease of reference, the proposals and the questions are then summarised at the end of the document, Annex A. The consultation closes on **17 August 2007**.

**1.56** We are also consulting separately on a number of more detailed proposals in relation to the implementation of reforms to the town and country planning system. These consultations, and where you can find them, are detailed in Section 2 of Annex A.

### **Summary of proposals**

For key national infrastructure such as major airport and port projects, improvements to the Strategic Road Network, major new power generating facilities and facilities critical to energy security, and major reservoir and waste water plant works, 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 planning approval process; improving the ability of the public to participate in inquiries by introducing a specific “open floor” stage; and, alongside the introduction of new system, providing additional funding to bodies such as Planning Aid.

For the town and country planning system, we propose to:

- produce a more strategic, clearer and more focused national planning policy framework with PPS1 – *Delivering Sustainable Development* at its heart, to provide the context for plan-making and decision-taking;
- publish a new Planning Policy Statement, *Planning for Economic Development*, which will further reinforce the Government’s commitment set out in PPS1 to promoting a strong, stable and productive economy with access for all to jobs, to regeneration and improved employment prospects;

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- improve the effectiveness of the town centre planning policy by replacing the need and impact tests with a new test which has a strong focus on our town centre first policy, and which promotes competition and improves consumer choice, avoiding the unintended effects of the current need test;
- finalise the Planning Policy Statement on climate change and introduce legislation to set out clearly the role of local planning authorities in tackling energy efficiency and climate change;
- work with industry to set in place a timetable and action plan to deliver substantial reductions in carbon emissions from new commercial buildings within the next 10 years;
- review and wherever possible extend permitted development rights on microgeneration to non residential types of land use including commercial and agricultural development;
- place planning at the heart of local government by aligning the Sustainable Community Strategy and the local development framework core strategy. We will also work with the Local Government Association and others to continue building capacity, promoting culture change in planning and we will issue ‘place shaping’ guidance;
- introduce changes to local development frameworks to ensure a more streamlined and tailored process with more flexibility about the number and type of plans, how they are produced and a more meaningful, engaged level of community involvement;
- introduce Planning Performance Agreements, which will help streamline the processing of major applications, and support a properly resourced planning service with changes to planning fees and consult on devolving the setting of planning fees to local authorities;
- introduce a new impact approach to householder development which will reduce the number of minor applications whilst protecting the interests of neighbours, the wider community and the environment, and then extend this approach to other types of development; and
- streamline the planning application process, reduce the number of applications called in by ministers and introduce a range of measures to substantially improve the appeals process.

**1.57** Annex B sets out a schedule of the Government’s responses to each recommendation made by Kate Barker. The Government plans to respond to other aspects of Rod Eddington’s report in full alongside the Comprehensive Spending Review. We will also be responding to the March 2007 Royal Commission on Environmental Pollution report on the Urban Environment<sup>5</sup>, which contains recommendations about policies for the urban environment including some which could effect the planning system, in due course.

5      *The Urban Environment*, Royal Commission on Environmental Pollution, March 2007.



# Improving the way nationally significant infrastructure projects are dealt with

## The challenge we face

- 2.1** In Chapter 1 we set out the long term challenges facing the planning system. Ensuring our communities remain vibrant and sustainable places where people can afford to live will mean building more houses. Continuing to enjoy sustained rises in our standard of living will mean further improving our economic competitiveness and securing our energy supplies. At the same time, we must further reduce our greenhouse gas emissions and develop not only places, but also a way of life, that are more environmentally sustainable.
- 2.2** Improving our nation's infrastructure is central to meeting these objectives. Planning for and enabling greater use of renewable and low carbon sources of electricity can help us both meet our emissions targets and provide energy security in a context of rising demand and increased dependence on energy imports. Improving our major transport networks, while at the same time encouraging wider use of sustainable forms of travel including walking, cycling and public transport, is critical to ensuring that people and goods continue to move around efficiently, so that we have the jobs and investment necessary to underpin our prosperity and quality of life. Building new water, waste disposal and recycling facilities, and constructing new housing developments to higher environmental standards, can also contribute to a more sustainable future while meeting the demand for new homes.
- 2.3** Delivering this infrastructure will involve challenges. The benefits of infrastructure are often widely dispersed and enjoyed by society as a whole, while the impacts of these projects tend to be concentrated in the immediate vicinity of the installation. So, while we all reap the rewards of new and improved infrastructure, the impacts tend to fall disproportionately on a few of us. For instance, society as a whole gains from improved transport networks or wind farms that produce low carbon energy with reduced emissions, but a relatively small number of people live next to the roads, rail lines and wind farms that deliver these benefits.

**2.4** If we are to continue to develop sustainably as a nation, we have to take the decisions that will enable us to develop the key projects needed to support our communities, economy and society in a way that is efficient, open and provides certainty. If we do not, we are likely to face a range of problems – such as energy shortages, mounting congestion, and increased pollution – that will drive jobs and investment overseas, undermine the vitality of our communities, damage our environment, and threaten individuals' health and well being. But we recognise that we also have to take account of the interests of those most directly affected by these major projects. That is why we are determined to ensure that decisions are taken in a way that is accountable, transparent, and enables the public to participate effectively in them.

## The case for reform

- 2.5** While airports are dealt with under the town and country planning system, there are special regimes for considering whether to grant development consent for power stations and electricity lines, some gas supply infrastructure, pipelines, ports where development extends beyond the shoreline, roads, and railways.<sup>1</sup>
- 2.6** Applications under these regimes are made directly to the relevant Secretary of State rather than to local authorities. The procedure varies according to the regime but, particularly for the major projects, there are usually a number of stages. There might be a consultation on various scheme options, which allows a preferred scheme to be identified. An application is then made for the necessary statutory permissions and powers. Generally, this is followed by a public inquiry, usually headed by a planning inspector or inspectors, where there is detailed consideration of the proposal and any objections. Evidence is typically tested via the cross-examination of witnesses. The inspector then writes a detailed report including recommendations and submits this to ministers. Following the inquiry, the Secretary of State considers the inspector's report and recommendations and decides whether the project should be granted the necessary consents and powers to proceed.
- 2.7** Despite its complexities, Rod Eddington noted that the system has delivered “sensible judgements ... that allow the UK to grow and develop, but only where the schemes do not impose unjustified costs on individuals, the environment or society” (Eddington, 2006, p56). However, Eddington and Kate Barker also identified a range of problems arising from the current systems for granting development consent for infrastructure:

<sup>1</sup> These regimes include the Transport and Works Act 1992, the Highways Act 1980, the Harbours Act 1964, the Gas Act 1965, the Electricity Act 1989, and the Pipelines Act 1962.

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- The process can take too long to deliver decisions, impose substantial costs on all parties, and generate large amounts of uncertainty. This can extend planning blight, severely affecting the lives of individuals directly affected by proposals. It can delay delivery of key infrastructure, with harmful knock on effects for communities, business, the economy and the environment. And it can, in some cases, deter promoters from bringing forward projects in the first place, threatening our ability to deliver the infrastructure we need to continue to thrive as a nation.
- In part because of the length of time inquiries can take and the expense involved in participating in them, it can be difficult for local government, non-government organisations (NGO) and local people to participate effectively in the process and make their views heard. This means that those with the most resources, or the best knowledge of the system, can have the greatest say in decisions.

### **Box 2.1**

#### **Heathrow Terminal 5**

BAA's application to build Terminal 5 is an extreme example of the delays possible in the system. BAA eventually had to lodge 37 different applications across seven different pieces of legislation. The application was lodged in 1993, the public inquiry sat for a total of 46 months, the chairman of the inquiry (an eminent QC supported by planning inspectors) took a year and a half to write his report, and the Government took 11 months to consider the report before issuing a decision. In total, this meant that it took more than seven years from the date the application was made to the issuing of the final decision.

The delay meant that, in the time taken to consider and start constructing Terminal 5 at Heathrow, Schiphol airport in the Netherlands and Charles de Gaulle airport in Paris both increased their capacity with runway expansion and terminal capacity improvements. This delay means that UK airports may lose business to EU competitors, as well as risking imposing extra costs on UK businesses, as goods may have to be trans-shipped or direct connections from the UK may not be possible for air journeys, forcing longer, and often more expensive, journeys to be made.

The length and cost of the process also made it difficult for interested parties to properly engage with the evolution of the project. During the Terminal 5 inquiry, for example, the sheer length of the inquiry process and the costs of legal representation throughout the inquiry contributed to the London borough of Hillingdon having to pull out of the process, as its funds had been exhausted.

- 2.8** The planning process for Heathrow's Terminal 5 (see Box 2.1) illustrates many of the problems with the current system. A variety of underlying problems with the current regime were identified by Eddington and Barker:
- (a) Government policy, or the balance of different government policies, is sometimes unclear. The large scale and long timeframes of nationally

significant infrastructure projects mean that it is important that there is a clear, stable strategic framework for investment. The absence of a clear policy framework can discourage promoters from bringing proposals forward, or encourage them to bring forward proposals which are less than ideal but easier to get approved. This can also cause significant delays at the public inquiry stage because national policy has to be clarified, and the need for the infrastructure has to be established, through the inquiry process for each individual application.

- (b) Promoters do not always prepare their applications as well as they could. They also do not always engage early enough with key parties such as statutory environmental and heritage bodies, the Highways Agency and key non-governmental organisations (NGOs) – though in some instances this may be because those bodies are slow to respond to requests for engagement. And they sometimes do not consult widely or clearly enough on their proposals. This can result in members of the public sometimes feeling that they have been unable to influence the way a project has been developed. And it can mean that issues have to be resolved after an application has been made, sometimes during the inquiry itself. Once an application has been made, however, it can be difficult and costly to make changes to the original proposals.
- (c) There are too many different and overlapping development consent regimes. A single project can require multiple permissions under several different regimes, particularly projects involving linked developments – for instance, where a port expansion requires improved road or rail links. Most of these different statutory consent processes have their own procedural rules and, while there are similarities, there are also some important differences. This can significantly increase the costs of applications and can act as a real barrier to bringing forward proposals and to participating in the debate about them.
- (d) Although the procedural rules give some measure of flexibility, the current inquiry processes of examining applications can be slow and inefficient at times. Evidence is usually probed by means of the oral cross-examination of witnesses by opposing legal counsel, which can be time consuming and make it difficult to estimate how long an inquiry is likely to take, adding to uncertainty. And the legalistic and adversarial approach can make it intimidating and difficult for members of the public to engage effectively in the process.

**Box 2.2****The North-Yorkshire grid upgrade**

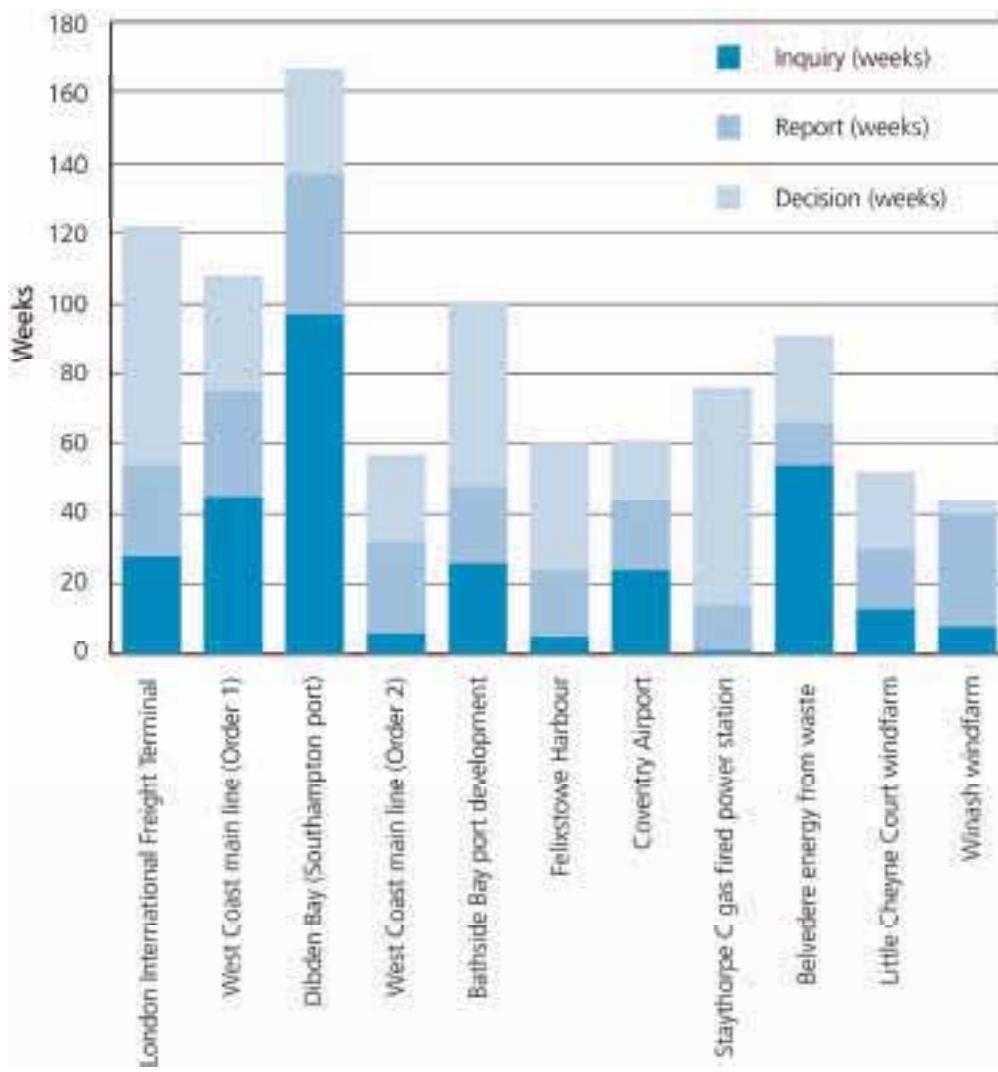
The North-Yorkshire grid upgrade was a major high-voltage transmission line upgrade essential for the integrity of the UK electricity system and security of energy supply. The line upgraded the backbone of the system that transfers electricity generated in one part of the country to where it is needed most to supply homes and businesses. Lines such as these are essential to the economy of the country.

In total, it took 77 months from the application to secure planning permission. The application for two route options for a North line and three route options for South line was made to the Department for Trade and Industry (DTI) in September 1991. The first public inquiry was held from May to November 1992 and inspectors reported in October 1993. In May 1994 the Secretary of State for Trade and Industry made a ‘minded to’ decision supporting the inspector’s recommendations on routing and their recommendation to refuse two small sections (that therefore required new applications for diversions). At the same time the Secretary of State made clear the final decision had to await the outcome of proceedings to secure access to land rights for the line.

From March to April 1995 a second public inquiry was held on the proposed diversions. At this second inquiry the need for the lines had to be confirmed again. From November 1994 to April 1995 four batches of public hearings on compulsory wayleaves were held concurrently with the second Public Inquiry and a Public Inquiry into a Compulsory Purchase Order for a ‘sealing and compound’ site to facilitate the undergrounding of one section of the line. This long process drew to an end in March 1998 when the Secretary of State for Trade and Industry made a final decision.

- (e) The decision making process is complex. There are two separate stages: the inspector’s recommendations to the minister, and the ministerial decision. The final decision can be subject to significant delay where new matters and evidence arise or issues need to be revisited for clarification as the North Yorkshire grid update shows (see Box 2.2). For major infrastructure projects with linked development, there can also be multiple decision makers – because of the different legislation and the different ministerial accountabilities, often more than one minister will be involved in making the final decision on a specific project.
- (f) The role of ministers in planning decisions on major infrastructure is also not well understood. For example, confusion can arise where ministers take decisions on schemes in which they or the Government has a specific policy interest, and it is sometimes thought that they are able to take into account wider political factors not directly related to the development. In reality, however, ministers perform a quasi-judicial role when deciding planning applications, basing decisions on the evidence presented and published policy and take great care to avoid any real or perceived conflict of interest.

## Time from start of Inquiry to decision



## Our proposals

- 2.9** The Government's recent reforms have focused on the town and country planning system. These reforms have included changes aimed at improving the procedures for inquiries for major infrastructure projects determined under the town and country planning regime, such as introducing a streamlined inquiry process with concurrent sessions to deal with particular topics. But these reforms have not been extended in all cases to the other, multiple regimes governing development consents for key national infrastructure projects. Moreover, the analysis presented by Rod Eddington and Kate Barker suggests that the problems associated with planning for major infrastructure are deeper and cannot be fully addressed by changes to inquiry procedures alone. The Government agrees with this analysis and believes that, if we are to meet the long term challenge of delivering the infrastructure that we need, more radical and wider ranging reform is needed.

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**2.10** Eddington proposed a three stage process, in which:

- ministers would set strategic objectives for national infrastructure development up front, integrating economic, social and environmental goals in order to deliver sustainable development;
- promoters would then develop project proposals within a clear strategic framework, and subject to requirements to consult the public to ensure that promoters are adequately prepared for the issues likely to arise; and
- decisions on applications would be taken by an independent commission comprising well respected experts using more focused inquiry procedures that would provide more accessible opportunities for participation.

**2.11** The Government supports this overall approach, which we consider has the potential to improve the delivery of nationally significant transport infrastructure such as major airport and port projects, and improvements to the Strategic Road Network; nationally significant energy infrastructure such as major new power generating facilities and facilities critical to energy security; and nationally significant water and waste infrastructure, such as major reservoirs and waste water plant works.

**2.12** Our detailed proposals for reform therefore build on the recommendations made by Rod Eddington and Kate Barker, but are firmly rooted in the principles set out in Chapter 1 of this White Paper:

- planning should be responsive, particularly to long term challenges such as increasing globalisation and climate change, and properly integrate our economic, social and environmental objectives to deliver sustainable development;
- planning should be streamlined, efficient and predictable;
- there should be full and fair opportunities for public consultation and community engagement;
- planning should be transparent and accountable; and
- planning should be undertaken at the right level of government – national, regional or local.

**2.13** To achieve this, we propose to:

- (a) **Produce national policy statements for key sectors to ensure that there is a clear policy framework for decisions on nationally significant infrastructure.** The statements would integrate national economic, environmental and social goals to deliver sustainable development, and provide clear direction by setting out strategic objectives for infrastructure capacity and development. There would need to be thorough and effective consultation on national policy statements in order to provide an opportunity for the Government's proposals to be scrutinised and debated. Where a policy statement identified particular locations, the local authorities for those areas would have an important role in consultation, representing their communities. There would also need to be an opportunity for Parliamentary scrutiny before these statements were finally adopted by the Government as policy. Policy statements would then set the framework for subsequent decisions by an independent commission (discussed below). Our proposals in relation to national policy statements are set out in detail in Chapter 3.
- (b) **Help promoters of infrastructure projects to improve the way that they prepare applications by making better advice available to them, requiring them to consult the public and local communities effectively and requiring earlier engagement with key parties such as statutory environmental and heritage bodies and the Highways Agency.** Effective scheme development on detailed projects is essential to ensuring quicker and better decisions on infrastructure development. This is primarily the responsibility of developers but a clear understanding of key requirements, rules and best practice can help. The proposed new infrastructure planning commission would, subject to appropriate rules to ensure propriety, provide advice to promoters and other interested parties to ensure that they understood the procedural requirements for their application and consultation with the public and local communities was effective. More detail on our proposals to improve scheme development is set out in Chapter 4.
- (c) **Clarify the decision making process and achieve a clear separation of policy and decision making by creating an independent infrastructure planning commission to take the decisions on nationally significant infrastructure cases.** The commission would comprise well respected experts, drawn from a range of fields. These might include 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. It would take charge of the development consent process for nationally significant infrastructure projects, and take the final decision as to whether permission should be granted.

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In taking the decision, it would operate within the framework of the relevant national policy statement, although this would not be the only consideration. 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. In some instances, this might lead the commission to reject an application, even where it was consistent with the national policy statement. Ministers would have no role in taking decisions on whether to approve individual applications for development consent for these national infrastructure projects. More detail on the proposed commission is set out in Chapter 5.

- (d) **Streamline the procedures for infrastructure projects of national significance by rationalising the different development consent regimes and improving the inquiry procedures for all of them.** This will harmonise requirements on developers and, as far as possible, create a single application process for all of the development authorisations needed for nationally significant infrastructure projects. We also intend to improve the speed, quality and accessibility of the procedure for examining applications by allowing the commission to gather the majority of evidence in writing, probe it by means of direct questioning rather than relying on cross-examination by opposing counsel, and imposing statutory time limits on the entire process. More details on these proposed reforms are set out in Chapter 5.
- (e) **Improve public participation across the entire process by providing better opportunities for public engagement at each stage of the development consent process.** There would be opportunities for public consultation and engagement at each of the three key stages of the new regime. First, there would be thorough and effective public consultation on each national policy statement. This would provide an important opportunity to scrutinise, consider and debate the Government's proposals for infrastructure development, including the need for infrastructure and how economic, environmental, and social goals can best be integrated. Second, promoters would be required to consult the public on the details of their particular proposals, taking account in particular of the need to ensure local communities were properly engaged in proposals which directly affected them. The commission would need to satisfy itself that such consultation had been properly carried out. Third, there would be improved processes to ensure that

communities and individuals could participate fairly in inquiries on specific projects. This would include setting out clear processes for inquiries including clear timetables, ensuring hearings were less adversarial, and providing opportunities, including through a specific open floor stage, for the public to participate in inquiries.

- (f) **Explore devolving decisions on smaller infrastructure projects, where appropriate, to local authorities.** At present many smaller infrastructure projects are decided nationally by the relevant Secretary of State. In some cases, these will need to continue to be taken nationally because smaller projects can still be nationally significant (for instance, projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network). In principle, however, we believe infrastructure projects which are primarily local in effect should be determined by local planning authorities, with the normal right of appeal and call-in procedures, if possible.

## The benefits of the package as a whole

**2.14** We believe that this system offers a better way of dealing with applications to build key national infrastructure. It will:

- Make the system more responsive to long term challenges by ensuring government policy is clearly set out and integrates our economic, social and environmental objectives.
- Make the system more streamlined, efficient and predictable by providing a settled strategic context in which to develop schemes, making the application process much more straightforward, and providing advice to ensure that applications are properly prepared. This should reduce the uncertainty that affected communities can sometimes suffer.
- Provide clearly defined opportunities for public consultation and engagement at each key stage in the process and enable local authorities to ensure that local views are reflected in debate. Consultation on national statements of policy will create an opportunity for people to express their views about the infrastructure that we need and how we should deliver it. Consultation on proposals for particular projects will make sure that local communities are able to express their views about the way this infrastructure is then delivered. And the changes to inquiries will not only make the entire system much more accessible, but also mean that members of the public can engage on a much more equal footing with the professional advocates who currently dominate the process.

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- Improve the transparency and accountability of the system by ensuring that government policy is set out clearly and that ministers are clearly accountable for this. Policy and decision making roles will be clearly separated – ministers will set policy, but decisions will be taken by an independent, expert commission on a transparent and objective basis. The commission will operate within a clear legislative framework set by Parliament and a policy framework set by ministers, and will have to give reasons for its decisions and account for its performance to Parliament. There will be rights of legal challenge to national policy statements and to final decisions of the commission.
- Ensure decisions are taken at the right level. Applications for projects which are nationally significant will be determined by a national body within a policy framework which clearly sets out the national interest. Applications for local infrastructure projects will be taken, as far as possible, by local authorities, in accordance with their wider responsibilities for place-shaping and developing sustainable communities.

**2.15** Overall, we believe that this system offers a better way of dealing with applications to build key national infrastructure. It should reduce significantly the time to reach decisions on applications for development consent for nationally significant infrastructure projects. The time saving overall for projects will depend in part on how well the scheme development process is run by promoters, but we estimate that if these changes are implemented, the average time from an application being made to the commission to its decision should be around one year. Based on our initial estimate, the total cost savings to the application process could be over £1 billion over ten years.

**2.16** Moreover these benefits can be delivered while at the same time maintaining the quality of decision making and clarifying and improving the opportunities for public consultation and engagement.

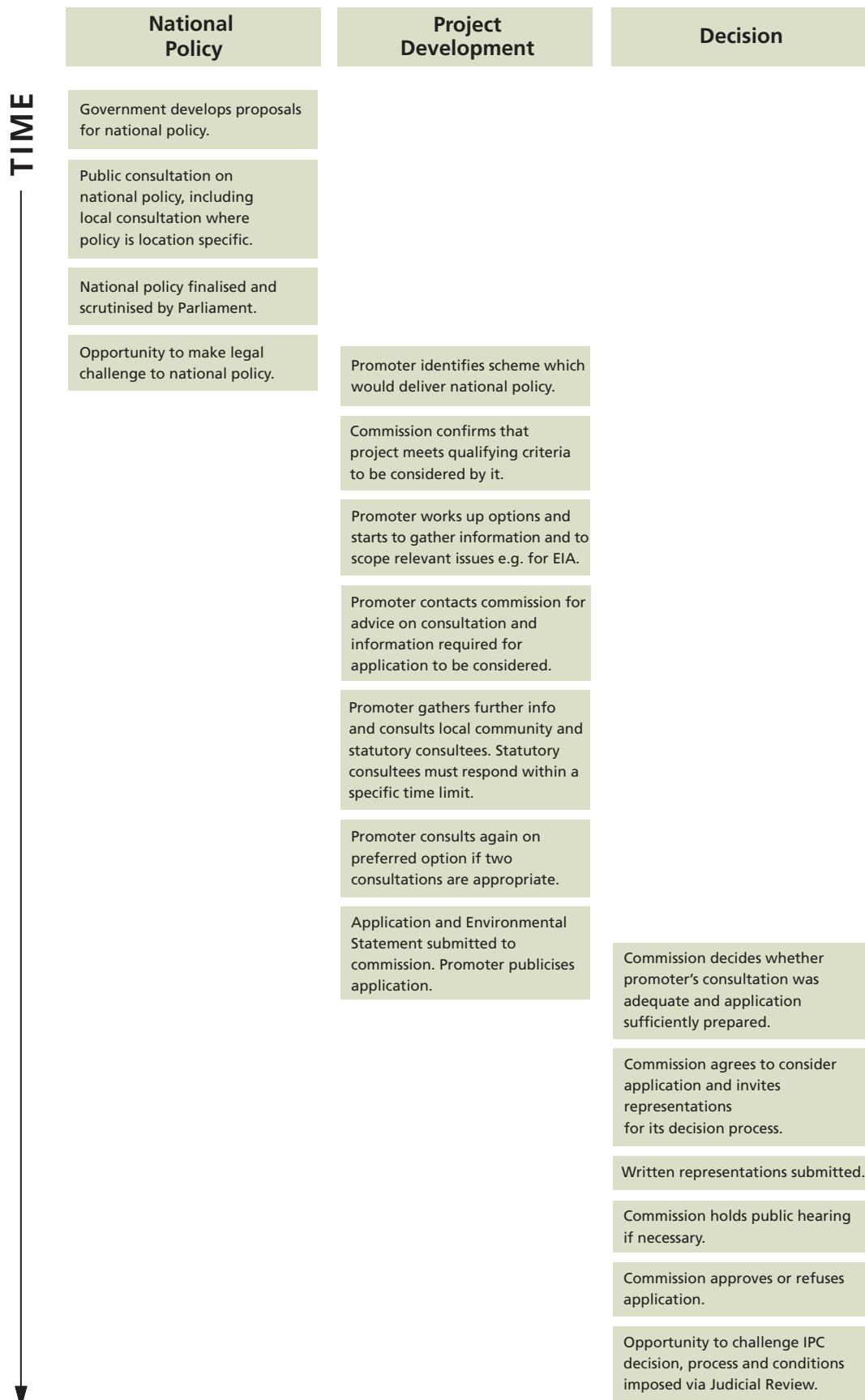
### **Consultation questions:**

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

*Do you agree, in principle, that the overall package of reforms proposed here will 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?*

## Proposed New Regime for Nationally Significant Infrastructure Projects





# National Policy Statements

3

**This chapter describes the Government's proposal for introducing a system of national policy statements:**

- the Government would produce national policy statements which would establish the national case for infrastructure development and set the policy framework for infrastructure planning commission decisions;
- the statements would explain how they integrated strategic economic, social and environmental policy objectives including the Government's climate change commitments to deliver sustainable development;
- they would also address certain other standard issues, such as safety, where appropriate, and would identify any special considerations that the commission should take into account;
- there would be thorough and effective consultation on national policy statements and certain principles would 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.
- the key requirements for consultation would be set out in legislation, so that they have full statutory underpinning;
- there would be an opportunity for Parliamentary scrutiny of proposed national policy statements before they are finally adopted;
- national policy statements would be the primary consideration for the infrastructure planning commission in determining applications for development consent for nationally significant infrastructure projects, though it would be possible for the commission to reject an application which was consistent with the national policy statement in certain circumstances;

- 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;
- national policy statements would have a timeframe in principle of between 10-25 years, depending on the sector. The Government would consider whether policy statements remain up to date, or require review, at least every five years. It would 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;
- where suitable statements already exist and meet these high standards (with necessary modifications), they would be adopted as national policy statements; and
- national policy statements would be subject to clear and defined opportunities for legal challenge.

## The case for national policy statements

- 3.1** A key problem with the current system of planning for major infrastructure is that national policy and, in particular, the national need for infrastructure, is not in all cases clearly set out. This can cause significant delays at the public inquiry stage, because national policy has to be clarified and the need for the infrastructure has to be established through the inquiry process and for each individual application. For instance, the absence of a clear policy framework for airports development was identified by the inquiry secretary in his report on the planning inquiry as one of the key factors in the very long process for securing planning approval for Heathrow Terminal 5. Considerable time had to be taken at the inquiry debating whether there was a need for additional capacity. The Government has since responded by publishing the Air Transport White Paper to provide a framework for airport development. This identifies airport development which the Government considers to be in the national interest, for reference at future planning inquiries. But for many other infrastructure sectors, national policy is still not explicitly set out, or is still in the process of being developed.
- 3.2** As well as adding to the length of planning inquiries, the absence of a clear national policy framework can also:
- make it more difficult for developers to make investment decisions which by their nature are often long term in nature and therefore depend on government policy and objectives being clear and reasonably stable;

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- make it more difficult for the public and other interested parties to have their say in what national policy should be in relation to infrastructure, since there is no clear forum for consultation or debate at the national level;
- mean that inspectors running public inquiries have to make assumptions about national policy and need, often without clear guidance and on the basis of incomplete evidence; and
- mean that decisions by ministers on individual cases may become the expression of government policy, rather than clear policy objectives framing such decisions.

**3.3** A central element of the proposed new regime is therefore that the case for nationally significant infrastructure development should be set out by government in national policy statements.

## Responsibility for national policy statements

**3.4** National policy statements would set the policy framework for the infrastructure planning commission's decisions and identify any special considerations which the commission should take into account. They would integrate the Government's objectives for infrastructure capacity and development with its wider economic, environmental and social policy objectives, including climate change goals and targets, in order to deliver sustainable development.

**3.5** Thus, for example, national policy statements for the energy sector would consider what development was necessary to meet our objectives in relation to security of supply, in a way that takes full account of economic, environmental and social considerations. National policy statements for the transport sector would need to consider what increases in capacity were needed to support growth and increasing demand, in the context of other relevant policies such as managing demand for transport and reducing carbon emissions.

**3.6** The Secretary of State with policy responsibility for that sector would take the lead for the production of national policy statements for the Government. The role of ministers would be to set the policy including, in particular, the national need for infrastructure development. This would then guide decision making by the infrastructure planning commission. Thus, ministers' role in planning for infrastructure would be more strategic and concentrated at the beginning of the process.

**3.7** There would need to be effective public consultation on draft national policy statements to ensure that they were soundly based, authoritative and provided appropriate opportunities for engagement. National policy statements would also

be subject to Parliamentary scrutiny. The proposals would, taken together, strengthen the role of ministers in strategic policy setting and make it more accountable to the public and parliament.

### **Consultation question:**

*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?*

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

### **Content of national policy statements**

- 3.8** The circumstances of the different infrastructure sectors and the nature of the development likely to be needed in each of them over the forthcoming years vary widely. National policy statements would need to reflect these differences. For example:
- infrastructure is provided both by the public sector (most roads, some rail) and private sector (airports, ports, power stations and other energy infrastructure, water and waste). This is likely to lead to some important differences of approach in national policy statements. Where government has a large degree of influence over which investment projects go ahead – for example because projects are dependent on public funding – national policy statements are likely to be relatively prescriptive and detailed in identifying what infrastructure is needed to deliver national objectives. However, where government policy is primarily providing a framework for private sector investment determined by the market, policy statements are likely to be less prescriptive;
  - the degree of choice over the means and technology for providing infrastructure differs. Power can be generated from different energy sources, applying different technologies. There are not the same differences of technology in road building but choices may still have to be made between, for example, road widening and new road development. National policy statements will need to reflect the relevant choices for the sector;
  - the regional impact of major infrastructure will also vary. Some nationally significant infrastructure – for example, major extensions to airports – will have very significant impacts on regional economies. Others will be less significant, though they will still be relevant in the development of regional spatial strategies. Although all national policies would need to consider the impact of infrastructure development on regional economies, with particular

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reference to the impact on the Government's ambitions to narrow gaps in regional economic performance, the extent to which it will be necessary or appropriate to consider how new infrastructure will contribute to regional economic growth will vary;

- some types of infrastructure need to be closely tied to a particular spatial location, for example road or rail links between two points, or may be best able to help meet overall policy in particular locations, as with airports which were named in the Air Transport White Paper. Others may depend on certain locational factors, for example, geological structures for underground gas storage or deep water channels for container ports, rather than needing to be in specific locations.
- 3.9** The detailed content of national policy statements would therefore vary. However, they would have certain core elements. National policy statements 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 including PPS1, and any relevant domestic and international policy commitments. Climate change policies would be a particularly important issue (see Box 3.2). Social policy considerations would need to include the impact on public health and well-being. For energy, security of supply would be a key consideration. Other policies might be important too; for example, those in relation to protection of the greenbelt or other designated areas, or in relation to design. National policy statements would therefore need to set out how these factors were taken into account in setting the overall policy for infrastructure development.

- 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. Demand for water and waste infrastructure provision is, for example, determined largely by domestic factors such as population and household growth while the demand for port or airfreight capacity may be more dependent on changes in international markets. In other areas, such as energy, the precise energy mix, and therefore the nature of infrastructure needed to meet demand, is determined to a large extent by the market. Assessments of capacity and demand projections will therefore need to reflect these differences.
- 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, for example to mitigate detrimental impacts such as the effect of additional noise, poorer air quality or loss of amenity space on communities. Threats to the integrity of the historic environment might be especially important in certain circumstances, which the national policy statement would address. National policy statements could also indicate the acceptability of different types of mitigation. This might relate, for example, to cost or to cases where it was particularly important to respect other objectives.
- Be as locationally specific as appropriate, in order to provide a clear framework for investment and planning decisions. As described above 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. Where national policy statements are more locationally specific, they would need to set out clearly how national interests and local impacts had been considered and balanced in setting the policy. This would include taking into account relevant national planning policy and the development plan for the locations being considered. This, in turn, has implications for the nature of consultation needed on national policy statements, especially the regional and local dimensions, which is discussed further below. If a Secretary of State were to issue a safeguarding direction to ensure that land identified in a national policy statement was protected against incompatible development, then residential and agricultural owner occupiers directly affected by such safeguarding would have access to existing statutory blight provisions.

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- Include any other particular policies or circumstances that ministers consider should be taken into account in decisions on infrastructure development.

## Box 3.1

### Strategic Environmental Assessment and Sustainability Appraisal

European Directive 2001/42/EC, known as the **Strategic Environmental Assessment or SEA Directive**, creates a procedure for “assessment of the effects of certain plans and programmes on the environment”. It requires the likely significant environmental effects of the plan or programme to be established, for the public and certain environmental authorities to be consulted and given the chance to make representations, and then for the decision maker to take account of the effects identified and any representations before adopting the plan or programme.

The SEA Directive applies mainly to plans and programmes which “set the framework for development consent of projects” – those which create or influence consent regimes, particularly for projects subject to Environmental Impact Assessment under Directive 85/337/EEC (as amended) (see Box 4.3). SEA is mandatory for many such plans and programmes in specified fields including industry, energy, transport, planning and land use, and also for those which require assessment because of impacts on sites protected under the Habitats Directive (see Box 5.3).

An authority preparing a plan or programme subject to the Directive must:

- produce an environmental report on its likely significant effects on the environment, covering reasonable alternatives and mitigation measures;
- consult the public and designated environmental authorities on the draft plan or programme and environmental report;
- take the report and consultation responses into account when finalising the plan or programme, and produce a statement summarising how they did so;
- monitor the significant environmental effects of implementing the plan/programme.

The objectives of the SEA Directive include the promotion of **sustainable development**.

An SEA can be expanded into a **Sustainability Appraisal** (SA) by covering the social and economic effects of plans and programmes in addition to the environmental objectives specified in the Directive, and by relating the assessment explicitly to objectives and indicators of sustainability. The Directive’s requirements were built into a new SA procedure for the regional and local spatial plans introduced by the Planning and Compulsory Purchase Act 2004 – for example, the Sustainability Appraisal Reports on plans cover the requirements of the Environmental Report under the Directive.

This approach also reflects a practical trend among authorities producing plans and programmes towards considering their potential effects, and meeting all assessment requirements, within an integrated framework.

### Box 3.2

#### How national policy statements might address climate change

National policy statements would need to address the vital issues of mitigation and adaptation to climate change.

The potential impact of infrastructure on carbon dioxide emissions, and how to minimise this impact as far as possible, would have to be considered in developing national policy statements. For example, we would expect them to address the impact of the construction and operation of the infrastructure itself, as distinct from its use, through principles of, for example, design or energy efficiency that would minimise the carbon impact.

National policy statements would also need to reflect the physical impacts of climate change on nationally significant projects and the need for resilience throughout their lifespan to factors such as increased risk of flood, subsidence or coastal realignment.

#### Consultation question:

*Do you agree that national policy statements should cover the core issues as set out in paragraph 3.9?*

*Are there any other criteria that should be included?*

#### Status of national policy statements

- 3.10 As noted above, national policy statements would establish the case for national infrastructure development, having integrated economic, environmental and social objectives in order to deliver sustainable development. They will, in effect, provide a clear statement of policy and the nature of infrastructure development necessary to deliver our wider goals of improving people's quality of life, economic prosperity and protecting and enhancing the environment.
- 3.11 There should therefore be no need for inquiries on individual applications for development consent to cover issues such as whether there is a case for infrastructure development, what that case is, or the sorts of development most likely to meet the need for additional capacity, since this will already have been addressed in the national policy statement. It would of course be open to anyone to draw the Government's attention to what they believe is new evidence which would affect the current validity of a national policy statement. Were that to happen, the relevant Secretary of State would then decide whether the evidence was both new and so significant that it warranted revisions to national policy. The proposer of the new evidence would be informed of the Secretary of State's decision. This would ensure that inquiries can focus on the specific and local impacts of individual applications, against the background of a clear assessment of what is in the national interest. This, in turn, should result in more focused and efficient inquiry processes.

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- 3.12** In order to ensure that decision making is predictable and consistent, it will be important to ensure that national policy statements have sufficient weight and influence in the infrastructure planning commission’s consideration of applications. We therefore propose that they should be the primary consideration for the commission in determining applications for development consent, ie that they should have more weight than any other statement of national, regional or local policy.
- 3.13** However, this does not mean that the national policy statement will be the only consideration for the commission. Even where national policy statements are locationally specific, and have involved extensive local consultation (this is discussed further below), it will not be possible for all of the impacts of a particular development proposal to be assessed at the national policy development stage. It will also not be possible for national policy statements to identify and address how individual projects would take account of the wide range of relevant EC and domestic law provisions which will apply – including for example obligations arising from the Habitats and Air Quality Directives, the rights of individuals under the ECHR, or obligations arising from UK commitments in relation to climate change.
- 3.14** The commission would need to consider such impacts and balance them against the national interest identified in the national policy statements. In some instances, this might lead the commission to reject an application, even where it is consistent with the national policy statements. However, 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.
- 3.15** Further detail on how the infrastructure planning commission would take decisions on individual applications is set out in Chapter 5. Box 5.2 illustrates the sorts of local factors that the commission would have to take into account.

**Consultation question:**

*Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?*

*If not, what alternative status would you propose?*

## **Relationship with Regional Spatial Strategies and Local Development Frameworks**

- 3.16** National policy statements will have important implications for local and regional planning. The location of a major new airport or port for example is likely to have important wider implications for the development plan at regional and local level; it will also give rise to significant associated development, which will need planning approval under the town and country planning regime.
- 3.17** More generally, national policy statements are also likely to have a useful role setting out national policy which may bear on smaller applications, in particular, national policy with regard to renewable energy. Although often relatively small projects, windfarm schemes have a vital role to play in increasing energy from renewable sources and helping us to meet our carbon emission reduction targets – the Government has recently committed to the EU target of 20 per cent renewable energy by 2020. It is essential that all decisions on such projects consistently reflect national policy. By clarifying the policy framework, national policy statements should help to ensure that the local planning decisions on smaller renewable energy projects are made effectively and help to deliver our national objectives.
- 3.18** There therefore needs to be close interaction between national policy statements and the town and country planning regime. Where appropriate, national policy statements would set out the contribution we expect the town and country planning system to make to the delivery of infrastructure.
- 3.19** The current statutory framework for planning requires the preparation of Regional Spatial Strategies, the Spatial Development Strategy in London and local development plan documents. At present, regional planning bodies and local planning authorities must have regard to national policies and guidance when preparing these development plans. We propose that this should be extended to ensure that they also have regard to proposed national policy statements on infrastructure. This will be particularly important where the national policy statement is site specific or is likely to have significant consequences for local decisions on associated development or infrastructure.
- 3.20** However, regional and local planning bodies and development plans will also have an important part to play in ensuring that suitable locations are identified to enable the development of national infrastructure, particularly where national policy statements are not site specific. We expect national policy statements on infrastructure to be reflected in, and where appropriate amplified by, relevant development plans.

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## Consultation on national policy statements

**3.21** National policy statements would play a key part in the proposed new regime for planning for nationally significant infrastructure development:

- they would set out the case for national infrastructure development, integrating this with economic, environmental and social objectives;
- they would be the primary consideration for the independent infrastructure planning commission in reaching decisions; and
- they would provide the basis for ministerial and democratic accountability within this regime.

**3.22** National policy statements would therefore potentially have important and far reaching consequences, both nationally, and for the individuals and places likely to be most affected. It is therefore essential that national policy statements are authoritative, and are seen to be authoritative. In order for this to be possible, the Government is committed to ensuring thorough and effective consultation before policy statements are finalised and adopted.

**3.23** Such consultation would also help the Government to ensure that its proposals for national infrastructure have been properly debated and tested, and reflect the right balance of interests and objectives. Much national infrastructure is by its nature controversial and it is unlikely that complete agreement or consensus will be achieved through consultation; however stakeholders, communities and individual members of the public must have the opportunity to participate in and influence the policy process.

**3.24** The precise nature of consultation will depend in part on the content of the policy. Thus, for example, a national policy which was specific about identifying locations for development would require more extensive local consultation than one which was less specific. The Government would need to consider what methods of consultation are likely to be most effective and provide the most suitable opportunities for public and local engagement for each national policy statement, with involvement of affected local authorities.

**Box 3.3**

**Guidance on government consultation**

The Cabinet Office Code of Practice on Consultation sets out the main criteria for consultation: to consult widely allowing a minimum of 12 weeks, be clear about the proposals (including alternatives) and their effects, and what questions are being asked, be widely accessible and give feedback on the responses and their influence on policy. Government policy on consultation is under review with a view to making government consultation more effective and efficient, and to ensure effective stakeholder input to the policy-making process.

**3.25** In deciding the precise form of consultation, however, certain principles will need to be applied:

- where national policy statements include detailed assessments of demand and capacity, or proposals for infrastructure which raise important technological or safety issues, or which may have a significant impact on climate change goals and targets, or on market development, they should be based on a thorough consideration of evidence. This may include consulting relevant experts or organisations in the drawing up of proposals for national policy, before they are published in draft;
- once published in draft, consultation on national policy statements should be thorough, effective, and provide opportunities for public scrutiny of and debate on government proposals. Consultation will need in particular to follow best practice, including setting out clearly the proposals on which views are sought, allowing sufficient time for responses, ensuring wide accessibility, encouraging effective stakeholder participation and ensuring that views are taken into account before final policy proposals are developed. Government guidance is explained further in Box 3.3. The aim should be to enable effective and appropriate debate on national infrastructure needs and policy;
- consultation on national policy statements should include, in particular, consultation with local, regional and national bodies likely to have a particular interest. Such bodies could include local authorities, regional assemblies and Regional Development Agencies, the Environment Agency, the Sustainable Development Commission, relevant highway authorities, CABE, English Heritage and others. They would include the devolved administrations where policy statements were UK or Great Britain wide.
- where national policy statements include proposals which may have a particular bearing on local communities, consultation will need to include effective means of engaging local people and ensuring that they understand the effect of, and have an opportunity to give views on, the Government's proposals. The principles for community involvement set out in the

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*Community involvement in planning: the Government's objectives* ODPM, 2004, will be relevant, and particular attention will need to be given to addressing the needs of hard to reach groups. Local authorities will have an important role to play in representing these communities and helping to facilitate such engagement.

- 3.26** Consultation on the national policy statement would not be the only opportunity to seek views or to engage local or other interest groups. There would be obligations on scheme developers to consult on proposals for specific projects as they are being worked up. And we are proposing a range of measures to improve public participation in inquiries. But consultation on the national policy statements would be a key element of the overall process for public engagement and participation in infrastructure development. We therefore envisage that key elements of the requirements for consultation should be set out in legislation, so that they have full statutory underpinning.

**Consultation question:**

*Do you agree, in principle, that the proposals in paragraph 3.25 and 3.26 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 might improve public and community engagement?*

**Parliamentary process**

- 3.27** As ministers would no longer be taking decisions on individual applications, it would be important to ensure that democratic accountability for national policy is seen to be full and effective. In these circumstances, the Government envisages that as well as public consultation, there should be an opportunity for Parliament to consider proposed national policy statements before they are finally adopted.
- 3.28** We therefore propose that, as ministers would no longer be taking decisions on individual applications, draft national policy statements should be subject to Parliamentary scrutiny. Further work is needed to identify the most appropriate mechanisms for ensuring Parliamentary scrutiny, for example, through examination by the relevant Select Committee.

**Consultation question:**

*Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements?*

*What mechanisms might ensure appropriate Parliamentary scrutiny?*

**Timescale for and review of national policy statements**

- 3.29** The relatively long term nature of infrastructure development, the need to provide clarity and certainty for participants in planning, and the extent of work and consultation involved in their preparation all point to the need for national policy statements to cover a significant time period. The Air Transport White Paper, published in 2003 identified needs for air transport through to 2030 and the proposed Waste Strategy will cover the period to 2020. In other areas, however, such as road policy, different investment horizons or less certain capacity projections might point to the need for national policy statements to cover a somewhat shorter time horizon, or more limited range of possible projects.
- 3.30** We therefore propose that national policy statements would look forward 10-25 years in terms of demand and capacity, depending on the sector, but also take account of longer term impacts of climate change on the location of infrastructure.

**Consultation question:**

*Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements?*

*If not, what timeframe do you consider to be appropriate?*

- 3.31** National policy statements would need to be regularly reviewed or updated to ensure that they take account of significant developments. The Air Transport White Paper, for example, had a commitment to monitor and evaluate the effectiveness and impact of the policies with a progress report after three years, and the Government is now committed to a full review in a further three to five years.
- 3.32** In practice, review periods would need to be flexible and strike a sensible balance between providing certainty and stability for infrastructure development, on the one hand, and ensuring new evidence and developments such as changes in energy technologies can be taken into account and reflected in policy on the other. The process of review also needs to be flexible – in some cases a full review of national policy statements may be necessary; in other cases, where new evidence is relevant

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to particular aspects of policy, but not to the whole statement, a partial review may be more appropriate; in others, some process may be needed to ensure national policy statements remain up to date but this may not require a full review.

- 3.33** We propose that the Government should consider whether policy statements remain up to date, or require review, at least every five years. It should consider significant new evidence and circumstances where they arise and review national policy statements where there is a clear case for doing so.

**Consultation question:**

*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?*

*What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?*

**Opportunities for legal challenge**

- 3.34** To give people confidence that national policy statements have been developed in a way that is fair to everyone it is important that there should be an opportunity for legal challenge to those statements. But, while we believe that it is essential there is proper consideration of a matter in dispute, it is in everyone's best interests that challenges are conducted as effectively as possible. We therefore propose that there would be opportunity to challenge a national policy statement, or the process of developing it, when the statement 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.

**Consultation question:**

*Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statement is sound and that people have confidence in it?*

*If not, what alternative would you propose?*

## Transition: current position and future plans

- 3.35** The production of national policy statements where these do not already exist will need to be a thorough process (particularly where spatially specific). While this is a significant task, it is not a wholly new one. Departments already have in place a range of work to develop national policy statements, or proposals of similar nature, for most key areas of infrastructure development.
- 3.36** There are a number of existing policy statements for different infrastructure sectors, published or planned. They reflect the different needs and circumstances of their subject and vary in their scope, detail and how they were prepared. Policy statements for air transport, renewable energy sources, transmission of renewable energy and gas supply infrastructure have been published; a new statement on ports is in preparation. Policy statements on new road schemes are produced by the Highways Agency for each major inquiry.
- 3.37** Since national policy statements published by ministers would provide the basis of the new system for handling major infrastructure projects, the infrastructure planning commission would need them to be in place in order for it to be able to take decisions on applications for projects in those sectors.
- 3.38** 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. This may mean some modification to existing statements. Departments are considering this, and their proposals for consultation on national policy statements, against the wider policy background of, for example, the Energy Review and the Government's response to recommendations of the Eddington Study of transport policy. Further details on the Government's proposals for the form and timing of national policy statements will be set out after this consultation.
- 3.39** Where national policy statements were not in place we propose that the commission would, until such time as ministers had approved a statement for the relevant sector, still consider the application, but would not be able to take a planning decision. In such cases it would make a recommendation to ministers for decision.

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## **Consultation question:**

*Do you agree, in principle, that subject to meeting the core elements and standards for national policy statements set out in this White Paper, policy statements in existence on commencement of the new regime should be capable of acquiring the status of national policy statements for the purposes of decision making by the commission?*

*If not, what alternative arrangements do you propose?*

## **Conclusion**

**3.40** National policy statements on infrastructure would play a key role in the proposed system for development consent for nationally significant infrastructure projects. They would:

- establish what infrastructure was needed to meet long term challenges in a way that integrated government objectives and delivered sustainable development;
- provide a more certain and stable base for investment in infrastructure;
- provide a clear and focused opportunity for consultation and debate on national infrastructure development;
- enhance ministerial accountability for policy setting;
- be the primary consideration for the infrastructure planning commission in reaching decisions; and
- provide a platform for more efficient inquiries and decisions.



# Preparing applications for nationally significant infrastructure projects

**This chapter describes how 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;
- consult the public and, in particular, affected land owners and local communities on their proposals before submitting an application to the commission;
- engage with the affected local authority or authorities on their proposals from early in the project development process;
- consult other public bodies, such as statutory environmental and heritage bodies, regional directors of public health, and relevant highway authorities, depending on the nature of their project, on their proposals before submitting an application;

*In addition, the Government is proposing that:*

- where the promoter is required to consult an organisation, that organisation should give its views promptly – we propose to impose a limit on the time that statutory consultees have to respond when consulted;
- the infrastructure planning commission would issue written guidance on the application process, procedural requirements and consultation;
- the commission would also advise promoters at the pre-application stage on whether the proposed project falls within its remit, the application process, procedural requirements, and consultation;
- there would be rules to maintain propriety, and ensure that the commission did not, in engaging with any party, prejudice its independence or impartiality; and
- the commission would refuse to consider applications for projects which were not within its remit, and send back applications which had either not been adequately prepared or not been adequately consulted on.

## Scheme development: a key stage

- 4.1** National policy statements would set out a clear policy background against which individual projects or schemes can be developed. But the way in which nationally significant infrastructure planning applications are worked up can also make a big difference to how long it takes to decide them. Done well, the scheme development phase can deliver better applications for development consent which can anticipate and resolve issues that would otherwise be raised during the

examination of applications, and so contribute to speedier, more transparent and more predictable decision making.

**4.2** This phase would typically involve promoters:

- identifying a project that might deliver the infrastructure requirement identified in the national policy statement;
- identifying potential options to deliver the project, seeking advice and input from affected local authorities and local communities;
- gathering information on the potential impacts of the project, particularly where the Environmental Impact Assessment Regulations require preparation of an Environmental Statement;
- identifying a preferred project option, after consideration of options and engagement with the local community;
- consulting on the preferred project option;
- confirming that the proposed scheme falls within the remit of the infrastructure planning commission to determine; and
- preparing an application for development consent for the project.

**4.3** Thorough preparation and early engagement with key parties including affected local communities, local authorities, and relevant public bodies such as statutory environmental and heritage bodies, as well as with the determining body, are essential if the project development process is to be effective and the planning system is to be able to deliver decisions efficiently.

**4.4** At present, most applications for consent to construct infrastructure of national significance are well prepared. However, inquiries are sometimes delayed because of poor preparation or inadequate consultation. This chapter sets out a series of reforms to capture best practice among promoters across different infrastructure types and improve the development of projects. They are designed to ensure that unnecessary delays and costs are minimised, and allow local authorities and local communities to more effectively express their views about projects and influence a promoter's proposal at the options stage.

## The responsibilities of promoters at the scheme development stage

**4.5** We propose that, to avoid delays during the decision making process, promoters should be required to prepare applications to a defined standard before the

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infrastructure planning commission would agree to consider the application. The commission would have the power to send back an application which fell below the required standards. The promoter would then need to carry out further work before resubmitting the application.

### **Consultation question:**

*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?*

## **Consultation – the hallmark of good scheme development**

**4.6** Early and inclusive consultation is the hallmark of good project preparation. The involvement of local communities, local authorities, and key public bodies such as statutory environmental and heritage bodies in the development of project proposals benefits everyone. It:

- allows members of the public to influence the way projects are developed by providing feedback on potential options and the design development process, shaping the way that their community develops;
- helps promoters identify projects or project options which are unsuitable and not worth developing further – members of the public, local authorities, and public bodies such as statutory environmental and heritage bodies, regional directors of public health, and highways authorities can provide important information about the economic, social and environmental impacts of a scheme;
- allows potential mitigating measures to be considered and, in some cases, built into the project before an application is submitted; and
- helps local people to understand better what a particular project means for them, so that concerns resulting from misunderstandings are resolved early.

All of this reduces the potential for costly delays to arise later in the process and enables applications to proceed more smoothly through the formal stages of examination and determination.

**4.7** At present, the requirements that promoters have to meet in developing nationally significant infrastructure projects vary by sector. Consultation is not mandatory but, for most types of infrastructure projects, government guidance, such as the *Code of Practice on Dissemination of Information* (DETR, 1999) recommends early

consultation with the public, local authorities, and key public bodies, particularly where the Environmental Impact Assessment Regulations require production of an Environmental Statement.<sup>1</sup>

- 4.8** Most promoters of major projects have experienced the benefits of early consultation first-hand, and are keen to consult widely on their proposals before they submit an application. Box 4.1 explains how early consultation and proactive community engagement enabled the Docklands Light Railway (DLR) to gain approval for a number of projects quickly and efficiently.

**Box 4.1**

**The Docklands Light Railway's experience of consultation**

The Docklands Light Railway has secured approval of a number of Transport and Works Act orders in a short period of time, frequently less than six months. DLR aims to minimise the number of objection to their projects, and where objections have been received, seeks to resolve points of contention prior to the public inquiry. This allows quicker decisions.

DLR carries out continuous stakeholder and public engagement during the early stages of a project. Before submitting an application they engage with key stakeholders such as local authorities and statutory organisations. Consultation is carefully planned to allow people to comment on a series of options, and to make the option assessment process accessible and transparent. Once an option has been selected, further consultation is carried out in relation to more detailed points on the preferred scheme.

Consultation is carried out in a number of different ways. DLR regularly establishes local forums and project advisory groups to oversee the planning stages of a project. Local ambassadors are also used to provide links into groups which can be hard to reach using conventional forms of consultation. Where possible, agreements are secured before the application is submitted.

- 4.9** The Government wants to ensure that interested parties and, in particular, the local authorities and local communities where a significant infrastructure project is being proposed, have the opportunity to express their views about the development. We also want to ensure that the examination of applications for nationally significant infrastructure projects is as efficient as possible, and early consultation has a key part to play here. However, we want to avoid making consultation requirements unnecessarily onerous for either promoters or consultees.
- 4.10** We propose that promoters should be required to consult the public and, in particular, affected land owners and local communities before submitting an application to the infrastructure planning commission. The Government believes that the project development stage is the point at which the local authority, local

<sup>1</sup> The Code of Practice can be found at [www.communities.gov.uk/embedded\\_object.asp?id=1508411](http://www.communities.gov.uk/embedded_object.asp?id=1508411)

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community, their Members of Parliament and other directly affected parties have the greatest contribution to make. It is vital that these parties are consulted at an early stage of a project’s development, so that they can express their views about how projects are developed and influence a promoter’s proposal at the options stage.

**Consultation question:**

*Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?*

*Do you think this consultation should take a particular form?*

- 4.11** We propose that legislation should also require promoters of nationally significant infrastructure projects to consult affected local authorities from early in the project development process. As elected local bodies, local authorities have a key role to play representing, and helping promoters to understand, local community views. And, as place-shapers, they have a key role to play in developing a vision for their local area in partnership with their local community, and in delivering on that vision to create a vibrant, healthy, sustainable community. Promoters should therefore always consult with local authorities likely to be affected by their proposals from early in project development and work closely with them throughout the process.

**Consultation question:**

*Do you agree, in principle, that relevant local authorities should have special status in any consultation?*

*Do you think the local authority role should take a particular form?*

- 4.12** We propose that legislation should also identify other organisations which, depending on the nature of their project, promoters should consult before submitting an application. An indicative list is set out in Box 4.2. For instance, consulting statutory environmental bodies such as the Environment Agency and Natural England would be essential to assess the environmental impacts of a specific development. Consulting English Heritage would be essential for any project which affected a building or site (marine or terrestrial) of special architectural, historic or archaeological interest. Consulting relevant directors of public health would be important to consider any potential impacts on public health and well being. And, where a project might impact on the road network, the promoter would need to engage with the relevant highways authorities. If promoters do not engage with these organisations, it is unlikely that the consultation would be adequate.

**Box 4.2: Indicative list of statutory consultees**

**Where relevant to an individual project, promoters would be required to consult:**

- 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

**Consultation question:**

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

*Are there any bodies not included who should be?*

**4.13** We propose to ensure that these proposals are effective by requiring in legislation that the commission must satisfy itself that the promoter has carried out adequate consultation before agreeing to consider an application. Where it was not satisfied that the promoter's consultation had been adequate, the commission would send the application back.

**4.14** Given that most nationally significant infrastructure projects are already consulted on at the pre-application stage, these requirements would not impose a significant burden on promoters. But they would bring the practice of all developers up to the standards of the best, ensuring that the right people are consulted at the right time, in the right way. Possible criteria on adequate consultation are discussed in paragraph 4.18.

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## The responsibilities of public sector bodies at the scheme development stage

- 4.15** We propose that legislation should impose an upper limit on the time that statutory consultees have to respond to a promoter's consultation. Where a promoter is required to consult an organisation, that organisation has a responsibility to give its views promptly and not cause unnecessary delays. We believe that these organisations should have an opportunity to give their views, but do not believe that they should be able to delay vital national infrastructure projects by holding up the process. This requirement will help to ensure that pre-application consultations are effective and do not add unnecessary delays to the development consent process.

### Consultation question:

*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?*

## The guidance role of the infrastructure planning commission at the scheme development stage

- 4.16** We propose that the commission would issue written guidance on the application process, the procedural requirements and consultation.
- 4.17** Guidance on the new development consent process for nationally significant infrastructure will be essential to help promoters prepare applications effectively, and to help other interested parties to understand the process. This guidance could:
- explain the process of applying to the commission for development consent for an infrastructure project, and the stages that an application would then go through;
  - define the standard to which promoters must prepare their application before it can be considered; and
  - describe what the commission would consider adequate consultation by a promoter.
- 4.18** Guidance on consultation might also usefully set out best practice, helping promoters to understand what works well, and communities to understand what they could expect in terms of consultation. This would make the system more

predictable, as promoters would know that, if they followed the guidance, their consultation would be more likely to be regarded as adequate by the commission. It might recommend:

- that where appropriate, promoters carry out both an early consultation on options for the development and a further consultation on a preferred option. The options will vary from project to project. In some cases there will only be one suitable location for a project, but there are still likely to be options within that location. We believe that once a promoter has selected its preferred option, it should carry out further consultation to inform the public of its choice and gather their views on the preferred option;
- methods that a promoter could use to engage with the local community and, in particular, how to engage with hard to reach groups;
- a minimum time for which the promoter should consult, to ensure that members of the public, affected landowners and local communities have a fair opportunity to comment; and
- the types of local organisations the promoter might consult.

**4.19** Initially, the Government might be best placed to issue this guidance, given its experience of determining applications to construct major infrastructure projects and of carrying out public consultation. But over time the commission might wish to update this guidance to reflect experience, and we would expect it to take over responsibility for issuing it.

**Consultation question:**

*Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications and consultation?*

*Are there any other issues on which it might be appropriate for the commission to issue guidance?*

## The advisory role of the infrastructure planning commission at the scheme development stage

**4.20** We propose that the commission should be able to advise promoters at the pre-application stage on whether the proposed project falls within its remit, on the application process, procedural requirements, and consultation.

**4.21** In addition to providing written guidance, a further way that the development of nationally significant infrastructure schemes could be improved and the commission's decision making process streamlined would be through the

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commission providing direct advice and conducting pre-application discussions on procedural issues.

- 4.22** The first point on which a promoter is likely to need early advice is whether the scheme they are developing will fall within the commission's remit to determine. It will be vital to confirm that the commission is the appropriate determining body as early as possible, to avoid the promoter carrying out unnecessary work preparing information which is relevant to the commission's development consent regime, but not to other regimes. We would expect the commission to offer advice so that this can be resolved before an application is submitted to it.
- 4.23** The commission would also be able to advise the promoter on what information is likely to be needed for the application to be considered efficiently, and for the commission to decide that the application is sufficiently well prepared to be considered. If the commission decides not to consider an application on the grounds that it was poorly prepared or the promoter's consultation was inadequate, the commission would advise the promoter on how it could improve. This would help the promoter to understand what further information requirements or consultation would be needed to satisfy the commission.
- 4.24** For instance, the commission could advise on what data is needed for the purposes of the Environmental Impact Assessment, where one is required. Some data for Environmental Impact Assessments can take a long time to collect. For instance, offshore renewable energy promoters are usually expected to gather two years of data on birds in the proposed area. It is vital that promoters understand these data requirements so that they can start gathering it at the earliest opportunity. This could avoid substantial delays caused by needing to gather new information during the decision making stage. Box 4.3 explains Environmental Impact Assessment in more detail.

### Box 4.3

#### Environmental Impact Assessment (EIA)

EIA is a procedure which draws together, in a systematic way, an assessment of a project's likely significant environmental effects. This enables environmental factors to be given due weight (along with economic and social factors) in determining whether to give an application consent.

The requirement for EIA stems from EC Directive 85/337 (as amended) which contains schedules listing those major projects (eg large oil refineries, airports, railways) which always require an EIA, and others which require an EIA only when they are likely to give rise to "significant environmental effects".

The EIA Directive has largely been implemented in the UK through regulations made under section 2(2) of the European Communities Act 1972 and section 71A of the Town and Country Planning Act 1990, since most relevant projects are 'development' for which planning permission is required.

Local planning authorities are 'competent authorities' for EIA purposes (except that the Secretary of State is the authority where it falls to him/her to determine the application). Where a project would fall to the infrastructure planning commission for determination, the commission would become the 'competent authority'. Competent authorities must determine whether an EIA is needed by "screening" each application for which EIA is not mandatory. The regulations contain thresholds below which EIA is not normally required, except in sensitive areas where the thresholds do not apply.

Central to the EIA procedure is the preparation, by the applicant, of environmental information about the project, including:

- a description of the site and the design and size of the project;
- a description of the aspects of the environment likely to be significantly affected;
- an outline of the main alternatives studied by the applicant;
- the measures envisaged to mitigate the significant adverse effects of the project;
- a non-technical summary of all this information.

Public consultation is an important element of the EIA process. Applications for EIA development must be submitted to certain statutory consultees, eg Natural England. They must also be advertised and the environmental information made available for public comment. The authority which decides the application must take account of the environmental information, and any comments and representations received, in reaching its decision.

- 4.25** The commission could also give advice to the promoter on consultation, supplementing the written guidance, such as how to most effectively engage hard to reach groups. This would help to ensure that the promoter carries out a consultation which the commission would be likely to consider adequate. The commission could also advise other parties on what they could expect in terms of the promoter's consultation.

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**Consultation question:**

*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?*

*Are there any other advisory roles which the commission could perform?*

## Rules governing pre-application engagement

- 4.26 We propose that there would be propriety rules to govern the commission's interactions with promoters and other parties. The commission must not engage with any party in a way which could be seen to prejudice its decision on an application.
- 4.27 As the commission will decide whether to grant development consent for nationally significant infrastructure projects, it must be impartial. The commission would treat all parties equally, and would be able to provide advice on the application process to parties other than the promoter, such as the local authority and local community. This would allow the local community to prepare fully for the inquiry and ensure that the commission's advice would not unfairly advantage the promoter. It would also allow the commission's examination of the application to progress more efficiently.
- 4.28 Propriety rules will need to be in place to ensure that the commission's advisory role does not prejudice its independence or impartiality, undermining public confidence and compromising the integrity of its decision on an application. For instance, to avoid allegations of impropriety, commissioners who might be involved in determining an application should avoid contact with promoters. Instead, contact could be through a part of the commission secretariat dedicated to procedural advice and not involved in decision making. Written advice provided to one party could be copied to all parties who had registered their interest with the commission.

**Consultation question:**

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

## The role of the infrastructure planning commission at the point of application

- 4.29** We propose that upon submitting an application to the commission, the onus should be on the promoter to publicise the fact that the application has been submitted. For instance, this could take the form of an advertisement in a local newspaper, electronic publication, site notices and a letter sent to all consultation respondents. The promoter would also be responsible for serving a notice on all owners, lessees and occupiers of land, which it is proposing to develop or applying to compulsory purchase. The commission would then spend a short period of time checking whether the consultation was adequate, and whether the application was otherwise sufficiently prepared. Local authorities would provide their views on the consultation that had taken place during the project's development.
- 4.30** 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.
- 4.31** The reforms that we have proposed for the scheme development stage should ensure that the vast majority of applications made to the commission would be within its remit to determine, properly prepared and adequately consulted on. Where this was the case, the commission would secure consultation with the relevant organisations and public on the project's environmental impact statement, ensure that the notice requirements are complied with, and invite submission of evidence to inform its examination of the application. It would then proceed to examine the application. This process is described in Chapter 5.
- 4.32** However, it is impossible to rule out the possibility that, in some cases, promoters might submit applications to the commission that did not fall within its remit, or which had not been properly prepared or consulted on. In the event that an application did not fall within its remit to determine, the commission would refuse to consider it. 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. This would ensure that the commission only examined cases that were within its remit to determine, and that it did not begin consideration of cases without adequate preparation, consultation, and notice requirements having been carried out.

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## Consultation question:

*Do you agree, in principle, that the commission should have the powers described in paragraphs 4.30-4.32?*

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

- 4.33** We believe that these proposals will ensure that local people have the opportunity to influence developments in their area and that applications to construct nationally significant projects are considered efficiently and effectively. Thorough early preparation and cooperative working between promoters, affected local communities, local authorities, key public bodies and the commission would help to ensure the delivery of infrastructure which secures the greatest benefits to local communities and the country as a whole. The combination of minimal statutory requirements and best practice guidance that we are proposing will provide consistency, without being overly burdensome for all parties involved.



# Determining applications for nationally significant infrastructure projects

**This chapter explains the proposed role of the infrastructure planning commission in:**

- taking decisions on individual applications for infrastructure schemes of national significance in England, and nationally significant energy projects in England and Wales;
- determining applications for development consent for transport, energy, water, wastewater and waste infrastructure projects above statutory thresholds within the framework of relevant national policy statements;
- determining applications for projects which were specifically identified as being of national significance in the national policy statements or which ministers directed were to be treated as such.

**This chapter also explains the Government's proposals for:**

- harmonising as far as possible, the different development consent regimes to create a single application process for these projects and give the infrastructure planning commission powers to grant the authorisations necessary to construct the project, including the power to authorise the compulsory purchase of land;
- the board of the commission, in most cases, to appoint a panel of members to consider each major infrastructure project application. However, where it did not consider that this was necessary, such as for more minor or less complex projects, it would have discretion to delegate the examination of the application to a single commissioner with the commission's secretariat;
- the commission to gather and probe the majority of evidence in writing, and to use direct questioning rather than cross-examination by opposing counsel as the basis for oral examination. The commission would work to a statutory time limit of nine months for its examination and decision;
- including an open floor stage in the examination to allow interested parties to express their views about an application, within a defined period of time;
- the commission to 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;
- the commission, in granting permission, to specify any conditions that the promoter would have to comply with – these would usually be enforced by local authorities; and
- a clear and defined opportunity for legal challenge to a decision of the commission.

## The case for an independent commission

- 5.1** In Chapters 3 and 4 we explained how we propose to improve the way that national policy is set and nationally significant infrastructure projects are developed. This chapter explains our proposals to reform the way that decisions on development consents for nationally significant infrastructure projects are taken.
- 5.2** As set out in Chapter 2 at the heart of the Government’s reforms is the creation of an infrastructure planning commission to examine and take decisions on applications for nationally significant infrastructure in England and nationally significant energy infrastructure in Wales. The commission would be an independent body composed of experts of considerable standing and experience drawn from a range of relevant fields. Commissioners would be appointed for their individual expertise, experience, ability and diversity of background, not as representatives of particular organisations, interests or political parties (the composition and membership of the commission is discussed in paras. 5.53–5.61).
- 5.3** Putting a single, independent, expert body in charge of development consent applications for nationally significant infrastructure projects would enhance the transparency of the process by establishing a clear separation between policy making and taking quasi-judicial decisions in relation to infrastructure projects. It would streamline the process by ensuring that the examination and decision phases are as joined up as possible. And it would ensure that we get high quality decisions because experts from a range of specialisms would be involved throughout the process.

## The scope of the commission’s remit

- 5.4** 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. It would be able to treat these projects holistically, considering associated works essential to their construction and operation, for instance overhead lines for power stations or surface access infrastructure for airports and ports, where these had been agreed with network providers.
- 5.5** We believe that it is important to set clear statutory thresholds to define the projects that the commission would determine to provide transparency and certainty. In some sectors, such as electricity generation, appropriate thresholds are already enshrined in the legislation that triggers ministerial decision making. In other sectors there are no existing thresholds. We propose to set thresholds by

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drawing on those which already exist and developing new ones in other sectors. We have not yet decided on the best way of expressing thresholds for all the sectors, but have produced some illustrative possibilities. These are set out in Box 5.1.

## **Box 5.1**

### **Illustrative 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<sup>1</sup>**

- (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 5 million 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.

<sup>1</sup> We do not intend to set a threshold for rail projects at this stage as the current programme of investment and improvements to the rail network is deliverable through the permitted development rights of Network Rail or is of a scale that would be unlikely to require determination by the infrastructure planning commission.

- 5.6** These thresholds would encompass projects with nationally significant benefits – such as major airport and port projects, new power stations and facilities critical to energy security, and major reservoir and waste water plant works. But they would avoid drawing in many of the smaller projects that might have more local impacts and benefits.

**Consultation question:**

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

*If not, what alternative thresholds would you propose?*

- 5.7** There is a particular issue regarding the inclusion of projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network. 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. The distribution network, in particular, needs to be robust as new, renewable sources of electricity generation start to be developed to meet our climate change objectives. The planning system must be able to take into account and allow for the full implications of the drive towards a greater role for renewable energy and for a more localised pattern of generation and distribution. In the circumstances, the Government sees 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.

**Consultation question:**

*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?*

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

- 5.8** 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

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nationally significant gas supply infrastructure, as clarified in the relevant national policy statement, should be considered by the infrastructure planning commission.

## **Consultation question:**

*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?*

- 5.9** In line with the *Response to the Report and Recommendations from the Committee on Radioactive Waste Management* (CoRWM) (Defra, October 2006), Government will be consulting this summer on proposals for implementing a geological disposal facility for higher activity radioactive wastes. Given the scale, longevity and national importance of any such facility, it may be appropriate for it to be covered by these new arrangements. However a final decision on this cannot be taken until the proposed summer consultation on radioactive waste disposal is complete. The Government will consult on the issue of the potential role of the infrastructure planning commission as part of the summer consultation on radioactive waste disposal and review it in light of responses to the consultation. The Government reiterates its commitment to exploring a voluntarist and partnership approach, as CoRWM has recommended, and is not seeking to impose the facility on any community.
- 5.10** Changing technology (such as for carbon capture and storage) and changing sectoral circumstances (such as increased dependency on gas imports) can mean that there may also be other types of projects that become nationally significant, and may require a national view. It might also be appropriate for the commission to consider applications that, while below the normal thresholds, had potential cumulative impacts with other applications above the thresholds. It is therefore likely that a small number of other projects, not covered by the thresholds set out in Box 5.1, might require national decision making.
- 5.11** We therefore propose that, in addition to the projects identified in Box 5.1, the commission would deal with any applications for projects which:
  - were specifically identified as being of national significance in the national policy statements; or
  - 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 policy statement itself.

### **Consultation question:**

*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?*

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

- 5.12** The Marine (Bill) White Paper published on 15 March sets out a new regime for integrated management of the UK's seas which complements the proposals in this White Paper. A new Marine Management Organisation would generally operate as the consenting body for developments in the marine area.<sup>2</sup> Decisions on proposed renewable energy developments over a threshold of 100 megawatts and ports classed as major infrastructure would be taken by the infrastructure planning commission. Decisions on smaller port and marine renewable energy developments as well as other marine developments would be taken by the Marine Management Organisation. The commission would make decisions on marine developments in accordance with the marine policy statement and relevant national policy statements. Once decisions were made by the infrastructure planning commission on developments in the marine area, the responsibility for enforcing conditions would rest with the Marine Management Organisation.

## **A single, unified development consent regime**

- 5.13** At present, there are a number of special regimes for considering whether to grant development consent for projects such as power stations and electricity lines, some gas supply infrastructure, pipelines, ports where development extends beyond the shoreline, roads, and railways. These include the Transport and Works Act 1992, the Highways Act 1980, the Harbours Act 1964, the Gas Act 1965, the Electricity Act 1989, and the Pipelines Act 1962. Airports are dealt with under the Town and Country Planning Act 1990.

- 5.14** These regimes provide a range of different authorisations necessary to implement projects, including:

- permissions or consents, such as actual or deemed planning permission;
- powers, such as the power to compulsorily purchase land or to stop up a right of way; and

<sup>2</sup> Licensing for offshore oil and gas supply infrastructure will remain with the Department of Trade and Industry.

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- amendments to private legislation which established the existing infrastructure, particularly for railways or harbours, and the exclusion or application with modifications of provisions in public and general Acts.

**5.15** These regimes involve a variety of different procedures. For instance:

- the applicant may be required to pay fees to the decision maker for projects under the Transport and Works Act, Harbours Act, Town and Country Planning Act and Electricity Act applications, but fees may not be charged for applications under the Highways Act, Water Industry Act or Gas Act;
- the costs of public inquiries on projects under the Water Industry Act cannot be recovered from applicants, but costs of inquiries for projects under the Transport and Works Act, Harbours Act, Town and Country Planning Act and Highways Act can be recovered;
- minor changes can be made to an application after it has been submitted to the decision maker under all regimes apart from the Water Industry Act;
- rules under the Harbours Act, Highways Act and Water Industry Act cannot be disapplied, but rules under the Transport and Works Act, Electricity and Gas Acts can be, for instance the publicity requirements can be varied;
- objections must be received within six weeks for projects under the Transport and Works Act and seven weeks under the Harbour Act in order to trigger an inquiry. For the Electricity Act, members of the public have 28 days from the publication of the second notice to qualify as registered objectors, but the relevant planning authority has four months to register its objection (two months in the case of overhead lines applications). The Gas Act provides 28 days from the publication of notice of the application for objections to be registered. The Water Industry Act provides 28 days from publication of first advert or 25 days after the London Gazette advert.

**5.16** Simply transferring the current suite of development consent regimes to the infrastructure planning commission unchanged would be problematic. The process would remain complex and time consuming, potentially limiting the efficiency improvements that the new system could deliver. The different procedures across the regimes could force the commission to treat different projects inconsistently. And, where an individual project, such as a major port involving linked road and rail developments, required applications under several different regimes, there would be a risk of introducing significant confusion, complexity and delay into the process.

**5.17** Rationalising the different consent regimes for nationally significant infrastructure projects should, on the other hand, deliver significant improvements in the speed, transparency and predictability of decisions. It would allow us to harmonise the requirements on developers; create a single application process for nationally significant infrastructure projects; and harmonise the procedural rules which then govern the examination and determination of applications. It would also allow us to bring together the range of authorisations needed to implement nationally significant infrastructure projects in the infrastructure planning commission, so that the commission could consider projects holistically and give the necessary authorisations required to proceed. This would simplify the process for promoters, participants and the infrastructure planning commission.

**5.18** 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);

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- listed building consent, conservation area consent, and scheduled monument consent;<sup>3</sup>
- 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.

**5.19** The Government is not proposing that any of the powers providing for the regulation of the subsequent operation of the infrastructure, such as to limit environmental impacts and address health and safety issues, should be transferred to the infrastructure planning commission. The Government also does not propose that the commission would deal with disputes about compensation in relation to compulsory purchase orders. These will continue to be referred to the Lands Tribunal where necessary. Further, the Government does not propose reducing or removing any permitted development rights that bodies currently have in respect of their land and property under the *Town and Country Planning (General Permitted Development) Order 1995*.

**Consultation question:**

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

*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?*

**5.20** The Government may, in light of the proposals for handling nationally significant infrastructure projects, make some alterations to existing development consent regimes for infrastructure projects which are not nationally significant.

<sup>3</sup> The Department for Culture, Media and Sport's White Paper, *Heritage Protection for the 21st Century*, published on March 8th 2007, proposes an integrated range of measures for a new heritage protection system, including a single system of designation for historic assets and an associated unification of Listed Building and Scheduled Monument Consents as a new Historic Asset Consent. We envisage that, in advance of the legislative change needed to introduce the new system of heritage protection reform, the infrastructure planning commission would have appropriate powers to grant Listed Building Consent and Scheduled Monument Consent for nationally significant infrastructure projects subject to the commission having in-house heritage expertise.

## How the commission would consider these applications

- 5.21** 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. Each panel would be constructed to ensure that it had an appropriate mix of expertise and experience for the case, including, if necessary, specialist technical expertise related to the particular sector. Each panel would also be able to draw on the expertise of other commissioners and the commission secretariat as necessary, in a way that ensures transparency.
- 5.22** The panel would be responsible for all aspects of the examination of an application, including considering its merits, managing any oral hearings, deciding whether to grant development consent, and determining any conditions that might be attached to the development consent.
- 5.23** The panel would take a hands-on role in each stage of this process, considering submissions, identifying issues that need to be tested further, and managing any hearings. In deciding whether to approve the application and grant the project permission to proceed, the panel would operate collectively, to reflect the equal role of members and the skills they brought to the table.
- 5.24** However, some of the projects that the commission might deal with, and particularly the smaller works related to the integrity of national networks, are likely to be considerably less complex. As such, commissioners might not need to be involved in all stages in as much detail.
- 5.25** We propose 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. In such cases, the commissioner would make a recommendation to the board of the commission, which would take the final decision as to whether the project should be given permission to proceed.
- 5.26** Giving the commission the ability to delegate the examination of applications to a single commissioner with the secretariat while retaining the decision with a board of commissioners will ensure that the commission can design a mode of consideration proportionate to the complexity and demands of the case, while ensuring that an appropriate range of specialist expertise is brought to bear on the final decision.

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## **Consultation question:**

*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?*

## **Preliminary stages**

**5.27** As soon as an application had been accepted, the commission would begin the process of securing consultation on the proposal, including for the purpose of ensuring the requirements of the Environmental Impact Assessment Regulations had been complied with, gathering preliminary evidence, and organising its consideration. Although this process is likely to be time consuming, it is essential to ensure that people and communities are informed about proposed developments, that they have the opportunity to make their views heard, and that the commission has the right information to identify and test all the issues and reach an informed decision.

**5.28** This is likely to involve:

- notification of and consultation with affected individuals, the public, relevant local authorities and Members of Parliament, and relevant statutory consultees on the application, including securing that EIA requirements had been complied with where necessary. An indicative list of statutory consultees is set out in Box 4.2;
- setting up a formal process to govern the consideration of the application – registering the details of all interested parties, determining the appropriate structure for the consideration stage, and drawing up a detailed timetable;
- preliminary evidence gathering (organised around outline statements) to identify the key points likely to be at issue and identify whether there are any relevant issues which are in danger of not being properly covered;
- organising pre-meetings to reach as much consensus between parties as possible, possibly appointing mediators to help facilitate agreement where this might be beneficial, so that the consideration stage can focus on key issues; and
- inviting detailed submissions of evidence from relevant parties, allowing at least one further stage to allow written counter evidence to be submitted from anyone who wants to provide it. Local authorities would provide their views on the project and its relationship with local strategies.

### **Consultation question:**

*Do you agree, in principle, that the list of statutory consultees set out in Box 4.2 is appropriate at the determination stage?*

*Are there any bodies not included who should be?*

## **The examination stage**

- 5.29** Once the preliminary stage was complete, the commission would set out a detailed timetable and then begin to probe the evidence put before it with a view to determining the merits of the case, calling additional evidence where necessary.
- 5.30** 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 judged that it would help it to understand the issues, or asking a witness to give evidence in writing might disadvantage them.
- 5.31** This would speed up the process of considering an application because it would reduce the need for often lengthy and repetitious oral evidence giving. It would also improve the analysis of evidence, because it would allow technical questions to be tested in greater depth through the exchange of written submissions. And it would make the process much more accessible to members of the public because it would be easier to understand the issues without having to attend, or be represented at, an often lengthy public Inquiry. Correspondence would be circulated to interested parties who requested it. Oral evidence would be given in public hearings. Hearings would be held in a location which was reasonably accessible to affected parties.
- 5.32** We propose that 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 judged that this would better test the evidence.
- 5.33** This would significantly speed up the process of considering the application as well as improve the analysis of the key issues, because it would allow the commission to focus its examination of the application on the points that it felt were at the core of the issue, and to test these points thoroughly itself, rather than being dependent on the parties and their advocates to pick up on these points and test them via cross-examination. It should also improve the openness of the process and create a much more level playing field for all parties – the current adversarial system can benefit those who can afford to employ professional

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advocates and, because of the length of time and cost involved in participating, even shut out smaller, less confident or less well resourced parties.

- 5.34** We propose that, once this process was completed, 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.
- 5.35** We believe that providing this dedicated opportunity for people to have their say will enhance the ability of interested parties, and particularly members of the public, to express their views about projects and the impact that they might have on them.
- 5.36** We propose that 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 it could reach a decision. In such cases, the Chair of the commission would write to the Secretary of State notifying them of the reasons for this.
- 5.37** This would provide greater certainty for participants and promoters about the likely length of the process, and should provide a strong incentive to keep the process focused on the key issues. This should reduce the burdens of participating for promoters, local communities and members of the public; allow promoters to plan delivery of their projects and associated investment with much greater confidence; and reduce the amount of uncertainty that can sometimes affect communities and individuals.

**Consultation question:**

*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?*

*If not, what changes or other procedural reforms might help to achieve these objectives?*

- 5.38** We recognise that some individuals and 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 individuals and communities can participate effectively and make their views heard in the process. We want 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. In 2004 we

introduced grant funding for Planning Aid, which provides free professional planning advice to local communities and individuals. 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. This extra money will ensure that members of the public, and particularly hard-to-reach groups, can engage in the planning process for major infrastructure. We are also considering other ways in which the proposed commission might engage groups who are hard to reach and help build their capacity to participate fully in the inquiry process.

### **Consultation question:**

*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?*

*How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?*

## **The decision stage**

- 5.39** The commission would decide whether to grant a project development consent. It would do so independently, within a framework set by legislation and national policy statements, without reference to ministers.
- 5.40** As explained in Chapter 3, national policy statements would establish the national case for infrastructure development and set the policy framework for commission decisions and would identify any special considerations which the commission should take into account. They would integrate government's objectives for infrastructure capacity and development with its wider economic, environmental and social policy objectives, including climate change goals and targets, in order to deliver sustainable development. They would be the primary consideration for the commission in determining applications for development consent.
- 5.41** 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 incompatible with relevant EC and domestic law outweighed the benefits, including benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC

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

**5.42** In practical terms, this means that the commission would first need to consider the extent to which a particular proposed development is consistent with national policy as expressed in a national policy statement.

**5.43** National policy statements would cover a set of core elements, although they would be likely to vary in their coverage and detail (see Chapter 3, paragraphs 3.8 and 3.9). Subject to the nature of the national policy statement, and the degree to which it was appropriate to cover each of these elements, we would expect the commission’s consideration of the application for consent for infrastructure development to include:

- whether the type of proposed infrastructure contributed to the objectives of the policy;
- whether the location or type of location would be consistent with the national policy statement;
- whether the technological and safety features would be consistent with the national policy; and
- whether it would be consistent with any special considerations included in the national policy statement.

**5.44** We expect that the more specific the national policy statement, the more readily the commission would be able to assess the consistency of the proposed development. Inconsistency with the national policy statement would not necessarily lead to rejection of an application if, for example, mitigating conditions could bring the application into conformity.

**5.45** Where a proposed development was consistent with the main aims of the national policy statement, the commission would assume that the need for development (and consequently a high level of national interest) had been established. There would be no need for the inquiry to cover this ground again.

**5.46** However, the commission would then need to consider whether relevant adverse local consequences of the particular proposed infrastructure development were sufficient to outweigh the national interest identified in the national policy statement. Relevant adverse local consequences would be defined as those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law would be specified in the planning reform legislation. The commission would consider evidence from members of the public,

organisations and statutory consultees (such as the Environment Agency, English Heritage and local authorities) about the impact of the proposed development. Box 5.2 illustrates the sorts of factors that would be covered.

**Box 5.2: Illustrative factors the infrastructure planning commission would take into account in deciding an application for development consent**

Relevant EC and domestic law for development consent covers a **wide range of factors, including those relating to the impact on the local community and local environment**, which the commission would have to take into account before taking its decision to reject or approve an application for development.

- The **Human Rights Act 1998** seeks to prevent unjustifiable interferences with a person's family life, home, and possessions. This is of particular relevance where a planning application includes a proposal for the compulsory purchase of land.
- Other legislation contains **processes** which must be followed when taking planning decisions, for example, the T&CP (Environmental Impact Assessment)(England and Wales) Regulations 1999 (see Box 4.3). Assessment of environmental impact covers a wide range of aspects, including for example effects on human beings, fauna, flora, heritage and landscape, as well as main alternatives studied and mitigation measures envisaged for significant adverse effects. The assessment does not contain a particular standard that proposed development must pass, but the commission would have to consider and balance the impacts against the national benefits in the national policy statement and other benefits. In certain locations, it would be subject to the requirements of the Habitats and Birds Directives (see Box 5.3).
- Some relevant legislation contains **specific environmental standards** that development must meet, for example, EC air quality values. So, where relevant, the commission would have to stipulate that development could go ahead only if stringent environmental standards on air quality could be met. The environmental information prepared by the promoter would have to include this information.
- Some legislation contains **qualitative factors** that the commission must take into account in its decisions. For example, the commission would be required to have regard to the purposes of National Parks and Areas of Outstanding Natural Beauty by (respectively) the National Parks and Access to the Countryside Act 1949 and the Countryside and Rights of Way Act 2000, when making decisions that affect them.

**5.47** It would be possible for the commission to reject an application that was consistent with the national policy statement. In general, the commission would reject an application where:

- the specific adverse impact of the project, including the adverse impact on a persons whose land is to be acquired by a compulsory purchase order, meant that it did not meet the criteria set out in relevant EC or domestic law as specified in the proposed planning reform legislation; or

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- the total local impact in areas covered by relevant EC and domestic law was adverse and outweighed the national interest benefits identified in the national policy statement and other benefits (see Box 5.2).
- 5.48** Any proposal for development likely to have a significant effect on or near a site designated under the Habitats or Birds Directives must be subject to an appropriate assessment of its implications for the site. The commission would be required to apply the tests of the Habitats Directive in reaching its decision. These tests are set out in more detail in Box 5.3 below. A clear national policy statement would help in identifying whether there was an ‘overriding public interest’ in a proposed development.

#### Box 5.3: Habitats Directive

The Habitats Directive (92/43/EEC) and the Birds Directive (79/409/EEC) protect the specified interests of designated sites and also impose a regime of strict protection for listed species of flora and fauna and to landscape features of major importance to wildlife.

The Directives set out certain steps to be followed before a plan or project can be carried out in special conservation areas which form part of a European network called Natura 2000:

- If there would be, or it was not clear that there would not be, an adverse impact on the site’s integrity, then the competent national authority must establish if an alternative solution exists which better respects the integrity of that site – if so, the plan or project cannot be carried out;
- If no alternative solution exists, the plan or project can only be carried out if there are *imperative reasons of overriding public interest*, which can include social or economic reasons. However, where the protected site hosts a priority natural habitat or species, the only considerations that may be raised are those relating to human health or public safety, beneficial effects of primary importance for the environment or, following an opinion from the European Commission, other imperative reasons of overriding public interest;
- The Member State must still take compensatory measures to ensure that the overall coherence of Natura 2000 is protected.
- According to European Commission guidance, alternative solutions could involve alternative locations (or routes, for linear developments), different scales or designs of development, or alternative processes. The ‘zero-option’ should also be considered.

New developments for which development works would contravene the protection afforded to European protected species require a derogation (in the form of a licence) from the provisions of the Habitats Directive.

**Consultation question:**

*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?*

## The grant of permission to proceed

- 5.49** 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.
- 5.50** Once the decision was made, responsibility for enforcing conditions would pass to the relevant local authorities. This is consistent with the well established principle under the town and country planning legislation in both inspector and ministerial cases that local authorities take on responsibility for enforcing conditions.
- 5.51** However, the commission would deal with any variation of conditions after the point of decision. For instance, if a promoter found that a proposed mitigation measure was unworkable, or a superior alternative form of mitigation was available, they would be able to revert to the commission to request a variation of their permission. The precise way that this was dealt with would depend on the potential impact of such a variation; the secretariat of the commission might be able to consider minor requests for variations and make a recommendation to the board of commissioners, but more significant request might require the same general approach as the initial consent.

**Consultation question:**

*Do you agree, in principle, that the commission should be able to specify conditions as set out in paragraphs 5.49-5.51, subject to the limitations identified, and for local authorities to then enforce them?*

*If not what alternative approach would you propose?*

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## Opportunities for legal challenge

**5.52** As with national policy statements, to give people confidence that applications are examined and decisions are taken in a way that is fair to everyone it is important that there should be an opportunity for legal challenge to the infrastructure planning commission's decisions. But, while we believe that it is essential there is proper consideration of a matter in dispute, it is in everyone's best interests that challenges are conducted as effectively as possible. We therefore propose that there would be opportunity to challenge a decision by the 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.

### Consultation question:

*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?*

*If not what alternative would you propose?*

## The composition, organisation and costs of the infrastructure planning commission

### The commission

**5.53** The commission would be an independent body operating at arms length from ministers, in much the same way as bodies such as the Competition Commission. Ministers would have no day to day involvement in its operations and, in particular, no role in taking decisions on whether or not to grant development consent for cases that fell to it.

**5.54** However, the commission would be accountable to ministers for its overall performance. The commission would be obliged to report to ministers, for instance where it breached the statutory time limits imposed on it for the consideration of cases, and ministers would remain responsible for its effectiveness and value for money.

**5.55** The commission would also, ultimately, be responsible to Parliament. The Chief Executive would be an Accounting Officer, answerable to the Public Accounts Committee for the economy, efficiency and effectiveness with which it spent public money. And Departmental Select Committees would also be able to question the Chair and Chief Executive on the organisation's performance. The commission would be required to publish an annual report.

## The commissioners

**5.56** The commission would be run by a Chair, with the support of one or more Deputy Chairs. The consideration of particular cases would be carried out by the Chair or commissioners. The Chair and Deputy Chair, would be full time. Some of the commissioners would be full time and some of them part time.

**5.57** We expect that the commission would consider around 10 major infrastructure projects a year as well as a larger number of less complex cases, such as works necessary to ensure the operational effectiveness and resilience of the electricity transmission and distribution network. However, it is hard to be specific because of the likelihood of fluctuations in the frequency with which major infrastructure projects are brought forward, and there might potentially be peaks of anywhere up to 25 major projects in some years. Depending on the volume of cases that fell to it to consider, we expect that the commission might require between 20 and 30 commissioners.

**5.58** The commissioners would be appointed by ministers according to the Commissioner for Public Appointments' Code of Practice, in order to ensure transparency. Two or three commissioners would be appointed on the advice of the Welsh Assembly Government, reflecting the role of the commission in determining nationally significant energy infrastructure projects in Wales. 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. The commissioners would be appointed for their individual expertise, experience, ability and diversity of background. They would not be appointed as representatives of particular organisations, interests or political parties.

**5.59** The commissioners would be appointed on a basis that would ensure they had sufficient security of tenure to avoid any risk that their decisions might be influenced by fear of dismissal. We envisage that this might mean appointing them for terms of anywhere up to eight years, and that commissioners could be

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removed on grounds of misconduct or incapacity but not because of the decisions they took.

- 5.60** The commissioners would be obliged to observe the highest standards of impartiality, integrity and objectivity in the performance of their functions, and would be subject to a strict code of practice to ensure this. This would prohibit them from holding any outside interest that might compromise the independence or impartiality of the commission.
- 5.61** Commissioners would also be obliged to record any outside interests in a register of interests, which would be made public, and to disclose any potential conflict of interest in relation to a particular case. Where commissioners held any interest which might influence, or be perceived as being capable of influencing, his or her judgement on a case, they would not be permitted to serve on a panel considering it.

### **Consultation question:**

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

### **Secretariat**

- 5.62** The commission would have a secretariat sufficient to support its operations, headed by a Chief Executive, who would also be an Accounting Officer. The secretariat to the commission would employ individuals with the necessary technical expertise across the infrastructure sectors that the commission would consider. The commission would also be able to draw on specialist technical advice from external sources where necessary to assist it in the consideration of particular cases. The commission would also be able, where necessary, to draw on support from the Planning Inspectorate to assist it in the handling of particular cases.

### **Costs**

- 5.63** The Regulatory Impact Assessment attached to the White Paper sets out the costs involved in these proposals. It estimates that the cost of setting up the commission would be in the order of £4 million and that the annual costs of operating it would be in the order of £8.8 million.
- 5.64** A proportion of these costs would be offset by savings associated with the scaling back of activities currently conducted in departments and agencies made possible by the economies permitted by the wider reforms, and the transfer of many residual functions to the commission.

- 5.65** A further proportion of these costs would be recovered from applicants. Although the current system of charging varies widely between the different consent regimes, it is a well established principle that applicants pay fees to cover the direct costs of processing applications.
- 5.66** We will consult on the appropriate level and basis of fees, and any instruments to recover other costs incurred, in due course. However, it should be noted at this stage that while applicants might pay more in charges than they currently do, these costs would be more than offset by savings elsewhere.
- 5.67** Promoters face, in addition to fees, the costs associated with preparing cases, general legal and professional costs, the cost of legal representation at the inquiry itself, the cost of expert witnesses, the cost of staff appearing before inquiries (travel, overnight costs, loss of earnings), and the cost of reproducing and circulating documents.
- 5.68** The length of time it can take to secure consent for a scheme under the current regime, and the complexity of doing so, mean that these costs can often be significant. The streamlining of procedures under the proposed reforms will permit considerable economies in these wider costs which should more than offset any burden of additional fees and recovery of other costs.

## Conclusion

- 5.69** We believe that these reforms will make the development consent process for nationally significant infrastructure projects quicker and more efficient, provide for greater transparency and more effective accountability, and significantly improve the ability of individuals and communities to participate effectively in the decision process.
- 5.70** The introduction of national policy statements would provide a settled strategic context in which to develop schemes and a much clearer framework for their examination. The changes that we propose to the project development phase would ensure that local people have the opportunity to influence developments in their area and that applications are considered efficiently and effectively.
- 5.71** The introduction of an independent, expert commission to take decisions would make the examination and determination of applications much more joined-up, ensure expert involvement throughout, and clarify the decision making process. And the procedural reforms that we have proposed should significantly reduce the time taken to determine applications for nationally significant infrastructure by ensuring that the examination of applications is focused on the key issues and

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conducted in the most efficient way possible, while making the entire process much less intimidating and much more accessible to ordinary members of the public.

- 5.72** Overall, we believe that the revised system would enable the infrastructure which is vital to our quality of life to be provided, in a way that is integrated with the delivery of other sustainable development objectives, and which ensures that local communities and members of the public can make their views heard.



# Improving the town and country planning system

## Building on recent reforms

- 6.1** Major infrastructure projects are enormously important both for the future of the nation and for neighbourhoods affected. However, there are, as the previous chapter showed, relatively few of them. Most planning activity takes place locally and is overseen by local planning authorities and it is planning at this level which most often affects those proposing development and local people.
- 6.2** Chapter 1 explained how, since 1997, we have made significant progress in improving our planning system. In particular, we have embedded sustainable development at the heart of the planning system<sup>1</sup>, and just as importantly improved the outcomes in terms of speedier and more consistent decisions.
- 6.3** On the whole the planning system works well and the main thrust of our proposals for the town country planning system set out in the remaining chapters of this White Paper is to build on recent reforms and further improve the system, rather than fundamentally re-engineer it (see box 6.1 below for an explanation of how the system currently works).
- 6.4** But we agree with Kate Barker that even while previous reforms are bedding down, further change is needed:
- to make planning more responsive to future challenges, such as globalisation and climate change;
  - to strengthen the place shaping role of local authorities; and
  - to address problems in the way the system currently operates.
- 6.5** The following three chapters set out the changes we propose, in terms of providing a positive framework for delivering sustainable development, supporting local government in its place shaping role and improving speed, efficiency and customer focus within the planning system.

<sup>1</sup> The Planning & Compulsory Purchase Act 2004 and PPS1: *Delivering Sustainable Development*.

### Box 6.1

#### The current system

The planning system in England comprises three main elements: a framework of development plans; a process of development management (the determination of planning applications); and an appeals system. In addition to involvement in aspects of these main elements, the Government sets legislation and national planning policy, and issues guidance on planning policy and procedures.

#### Development plans

The Regional Planning Body prepares draft revisions to the Regional Spatial Strategy, which is subject to examination in public and approval by the Secretary of State (in London, the Mayor prepares a Spatial Development Strategy). The Regional Spatial Strategy is the top tier of the statutory development plan and provides a broad development strategy for the region for a fifteen to twenty year period. It is prepared within the context provided by the Regional Sustainable Development Framework. The Regional Spatial Strategy (RSS) both shapes, and is shaped by, other regional strategies, including the Regional Economic Strategy (RES).

Local planning authorities<sup>2</sup> must prepare a local development framework for their area, in general conformity with the Regional Spatial Strategy. This comprises a portfolio of documents setting out the spatial strategy for the area. The spatial strategy includes a core strategy, which sets out the vision for the area; core policies and a monitoring and implementation framework. It is supplemented by further development plan documents, for example, setting out site specific allocations, and supplementary planning documents, such as design guides and area development briefs which supplement policies in the development plan documents. A Local Development Framework will also include:

- a local development scheme – which sets out a timetable for the production of the development plan documents and supplementary planning documents; and
- a statement of community involvement – a description of how the local planning authority will involve the public in the development of the Local Development Framework and planning applications.

#### Development Management

This is the process by which planning permission for development is obtained. The vast majority of planning applications are decided by local planning authorities. They must determine planning applications in accordance with the statutory development plan, unless material considerations indicate otherwise. The courts are the final arbiters of what constitutes a material consideration but they must be genuine planning considerations and relate to the application concerned, for example, the size and design of the development and its impact on the neighbourhood and the availability of infrastructure.

#### Appeals

If a planning application is refused or not determined within a defined period, the applicant has the right to appeal. The vast majority of appeals are determined by planning inspectors appointed by the Secretary of State for Communities and Local Government. Appeals must be lodged within six months of the decision and may be dealt with through written representations, an oral hearing, or a public inquiry. Appeal decisions can be challenged in the courts through judicial review of the process and procedures.

The Secretary of State calls in a very small number of applications to be decided at a national level, and she also recovers a similar number of planning appeals from planning inspectors, for her decision. These are cases where issues of more than local importance are involved.

2 Other than county councils. The requirements for local minerals planning that apply to county councils are set out in Minerals Policy Statement 1 – Planning and Minerals and the requirements for waste planning are set out in Planning Policy Statement 10 – *Planning for Sustainable Waste Management*

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## Meeting future challenges

- 6.6** We must continue to ensure the planning system can help respond to new challenges such as rapid changes in technology, globalisation, demographic developments and, of course, climate change. We have recently put in place new planning policies to improve the responsiveness of planning to key issues such as the need for more housing, reducing flood risk and protecting and enhancing biodiversity. But we need to do more. In Chapter 7, we outline our proposals for: a new planning policy statement on sustainable economic development; streamlining the body of national planning policy; and ensuring that planning helps us respond to the challenges of climate change. Our aim is to:
- provide a clear and positive policy framework within which sustainable economic development can be delivered;
  - make it easier for local planning authorities to apply policy to their plan making and development control decisions; and
  - encourage action through the planning system to help tackle climate change.

## Local authority place-shaping role

- 6.7** The Local Government White Paper, published in October 2006, set out our commitment to rebalancing the relationship between central government, local government and local people. There is a need to strengthen the role of local authorities in place shaping and put planning at the centre of their activities. We want to encourage local authorities to use their powers and influence to pursue that role actively, working closely with the local community, and ensure that they have the right tools and resources to do so.
- 6.8** In Chapter 8 we set out further measures on deregulating local plan making, working with the local authority sector on developing capacity and a new performance framework for planning. We propose a new approach to planning fees, and the introduction of Planning Performance Agreements between developers and planning authorities, to provide greater certainty about how major planning applications will be handled.

### **Local government as a strategic leader and place-shaper**

In a rapidly changing world, areas need strong and strategic leadership from local government. This was described by Sir Michael Lyons\* as the “place-shaping” role of local government.

Place-shaping involves local authorities and their key partners considering how they can respond to local priorities and meet the challenges of the future. This includes how a place can adapt to demographic shifts, assess and mitigate the impact of climate change on the locality, build cohesive communities and secure a viable economic future.

To do this local authorities need to bring together various local agencies, from across the public sector, community and voluntary sector and the private sector, to work in partnership to achieve these local priorities. This partnership approach is vital in enabling areas to respond to and tackle the locality's problems and challenges in a co-ordinated and well-informed way.

As the democratically elected body for the area, with the mandate and influence to form partnerships and ensure that local needs and priorities are delivered, local government is ideally placed to play this place-shaping role.

Over the past few years a growing number of local authorities have used the introduction of Local Strategic Partnerships, Community Strategies, Local Development Frameworks and Local Area Agreements, as well as new freedoms and flexibilities, to develop their place-shaping role.

*Strong and Prosperous Communities*, the Local Government White Paper, set out a framework and new measures to support the strategic place-shaping role of local government. The Local Government and Public Involvement in Health Bill will give many of the measures a statutory basis.

\* Place-shaping: A shared ambition for the future of local government: March 2007

## **A more efficient planning system**

- 6.9** Despite improvements that have been made, local communities, businesses and individuals are not routinely receiving the level of service in handling applications that they have a right to expect. This is true, particularly in relation to very large schemes and on the time taken to determine appeals. Unnecessary delays can have significant, hidden economic costs, such as reducing competition within markets by delaying or deterring new entrants. But improvements must be achieved without weakening the quality of decision making or effective public participation.

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- 6.10** Chapter 9 sets out proposals to remove the need for planning permission for minor householder extensions and eventually to extend this approach to other types of property. We set out a range of measures to simplify the planning application process, including measures to streamline information requirements, starting with the introduction of a standard, electronic application form. We also propose rationalisation of the process for making tree preservation orders and a reduction of Secretary of State involvement in casework. Finally, we have a set of proposals to improve the appeals system, to allow the processing cases more efficiently, with improved customer focus.
- 6.11** The Government is confident that, taken together, these measures promise significant improvements in the operation of the planning system. However publication of the White Paper, and the accompanying consultation documents, provide a major opportunity for users of the system and any other interested persons to make their views known on a range of issues. Annex A sets out the consultation arrangements in relation to the White Paper and accompanying consultation documents in detail.



# A positive framework for delivering sustainable development

**This chapter describes how the town and country planning system will be reformed to:**

**Help address climate change by:**

- finalising the Planning Policy Statement on climate change and introducing legislation to set out clearly the role of local planning authorities in tackling energy efficiency and climate change;
- permitting a range of types of householder microgeneration without the need to apply for planning permission, subject to certain limitations and conditions to control impact on others;
- reviewing and where possible extending permitted development rights on microgeneration to other types of land use including commercial and agricultural development; and
- working with industry to set in place a timetable and action plan to deliver substantial reductions in carbon emission from new commercial buildings within the next 10 years.

**Plan for a sustainable supply of land for development by:**

- continuing to prioritise the use of previously developed land while recognising the importance of our parks and green spaces in urban areas;
- implementing measures announced in the 2007 Budget; and
- promoting a debate as part of developing a long term vision for land use and land management.

**Positively plan for sustainable economic development by:**

- amending The Planning System: General Principles to make them consistent with Planning Policy Statement 1 which recognises the benefits that can flow from properly planned development; and
- publishing a new planning policy statement Planning for Economic Development which will further reinforce the Government's commitment set out in PPS1 to promoting a strong, stable and productive economy.

**Improve the effectiveness of the town centre planning policy by:**

- replacing the need and impact tests with a new test which has a strong focus on our town centre first policy, and which promotes competition and improves consumer choice, avoiding the unintended effects of the current need test.

**Produce a more strategic and clearly focused national policy framework with  
PPS1: *Delivering Sustainable Development* at its heart, by:**

- separating out policy from guidance and limiting the amount of central guidance to those matters which are strategic and necessary to achieving a consistent approach to decision making;
- devolving decision making to the local level where this is appropriate;
- ensuring that the scale and complexity of evidence required for plan-making and planning decisions is proportionate; and
- encouraging positive and proactive planning that actively shapes places.

- 7.1** Chapter 1 set out the challenges posed by rapid developments in the way that we live today. Climate change, demographic developments and the need for the UK to remain economically competitive mean that the planning system must adapt and change. We want to create a planning system that enables us to integrate our economic, social and environmental objectives to deliver sustainable development in this changing global context.
- 7.2** The planning framework should give local authorities real opportunities to make the best use of existing resources and to move to lower carbon living. Through local authorities, we aim to make it easier for individual citizens to contribute to tackling climate change through the choices they make about where to live, and the goods and services they use.
- 7.3** The planning system also has a critically important role in delivering the land needed to meet the increased number of households being formed and our future demographic needs, while making full use of brownfield opportunities and protecting the land we value most, such as parks and open spaces in urban areas.
- 7.4** As Kate Barker's report made clear the planning system must be more responsive to rapid economic change. Sustainable economic development is a priority for everyone. We cannot deliver our objectives for social justice and a fairer, more equal society unless we have a prosperous and competitive economy. The Government must set the right policy context to enable local authorities, businesses and other stakeholders to work together to achieve sustainable development, that serves the needs of local communities and builds their quality of life. This means, among other things, ensuring that there is a positive framework for encouraging economic growth and investment that is consistent with our objectives for delivering sustainable development and promoting the vitality of town and city centres. In this chapter, we set out our proposals for developing a new framework for economic development and for improving the effectiveness of town centre policy.



- 7.5** We also propose to streamline national policy to make it more strategic, clearer and shorter. A more focussed approach to national policy will not only improve the responsiveness of the planning system but also provide greater discretion as to how the critical challenges we face are addressed locally.

## Helping to address climate change

- 7.6** Climate change is a key challenge facing our generation. As the Barker and Stern reports made clear, planning will be one of the elements required in a successful response to climate change and ensuring that the planning system plays its role in helping with mitigation and adaptation is therefore an important priority. Used positively planning has a significant contribution to make. But it is important that the planning system is not asked to bear a disproportionate weight of the overall response nor relied on where there are more effective policy tools.
- 7.7** The draft Planning Policy Statement (PPS) Planning and Climate Change (on which consultation recently closed) sets out how planning, in providing for the new homes, jobs and infrastructure needed by communities, should help shape places with lower carbon emissions and which are resilient to climate change. We have put tackling climate change at the centre of what is expected from good planning.
- 7.8** Tackling climate change is a key theme in this White Paper, as it will be in the national policy statements we publish and in the planning decisions taken by the Infrastructure Planning Commission. Our policies and proposals in this White Paper are concerned with creating an effective platform for delivering our commitments on climate change.
- 7.9** Local planning authorities have a crucial role to play in tackling climate change. We want to see up-to-date development plans to help secure progress against the UK's emissions targets – both through direct influence on energy use and emissions and through bringing together and encouraging action by others.
- 7.10** We will expect development plans to be tested on their carbon ambition. They should deliver patterns of urban growth that help secure the fullest possible use of sustainable transport and, overall, reduce the need to travel. New development should be located to reduce as far as practicable its direct carbon emissions and those it generates through the transport activities of its occupiers and users.
- 7.11** The draft PPS on climate change, in a radical development of the 'Merton rule'<sup>1</sup> pioneered by local government, set out proposals for how local planning authorities should ensure that a significant proportion of energy supply is gained

\* Footnote 1 on p106

on-site and renewably and/or from a decentralised renewable or low carbon energy supply. This approach reflects the important role of local government in leading, shaping and supporting local strategies that help move to low-carbon living. Appropriate technologies, and their potential, will vary from place to place. So the vision, delivery strategy and individual decisions on how new development should integrate with, and in practice make the most of, these technologies and their potential are best made locally not nationally, as part of, the wider consideration of the infrastructure and services needed to secure sustainable communities.

## Higher environmental standards

- 7.12** The draft PPS on climate change also sets out a framework to support progress towards zero carbon homes. It proposes that local planning authorities should engage constructively and imaginatively with developers to secure the delivery of sustainable buildings.
- 7.13** We have set a timetable for all homes to become zero carbon with significant increases in the energy standards in building regulations along the way. There will be local circumstances that justify requiring higher standards for particular developments, using the Code for Sustainable Homes for new housing.
- 7.14** We intend to legislate to set out clearly the role of local planning authorities in tackling energy efficiency and climate change, drawing on the responses to our consultation on the draft PPS, and reflecting our overarching ambition for achieving zero carbon development as set out in Building a Greener Future.
- 7.15** In doing so, we will have in mind both the importance of local authority led innovation and that the development industry, to respond effectively to our ambitions for zero-carbon development, must be able to exploit economies of scale, both internally and through its supply chain, to lower costs. The planning system needs to support higher standards but also ensure that increased housing is delivered too.
- 7.16** It is also vitally important that new commercial development addresses the challenges posed by climate change. Following on from the Code for Sustainable Homes, we believe more progress is now needed in the commercial sector. We understand that it may be technologically and economically possible for all new non-domestic buildings to achieve substantial reductions in carbon emissions

1 “The Merton Rule” is so called because this type of planning policy was first developed by the London Borough of Merton in its Unitary Development Plan (as amended by the Government Inspector and approved in November 2003) The policy stipulates that “all new non-residential development above a threshold of 1,000 sqm will be expected to incorporate renewable energy production equipment to provide at least 10 per cent of predicted energy requirements.

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over the next decade and for many to achieve zero carbon on non-process related emissions. Buildings outside of dense urban areas and those with low appliance energy requirements, such as warehouses, distribution centres and some retail outlets, should be able to be built to a zero carbon specification more easily. Other building types may take longer to get there.

- 7.17** We are working closely with industry through our task group to learn the lessons from existing exemplars that individual organisations have built, so we can fully understand the costs involved and the barriers to progress. We will use this knowledge to set in place a clear timetable and action plan to deliver substantial reductions in carbon emissions from new commercial buildings within the next 10 years.

## Delivering more renewable energy

- 7.18** In the draft PPS on climate change we also set out a new agenda for renewable and low-carbon technologies. Regional and local planning should actively plan for, and support, renewable and low-carbon energy supplies, including through allocating and safeguarding sites. We have challenged regional planning bodies to set targets in the Regional Spatial Strategies for renewable energy capacity in line with national targets, or better where possible. Applicants for renewable energy will no longer have to demonstrate the need for their project, either in general or in particular locations.
- 7.19** The Government is keen to support local planning authorities to ensure that local planning decisions on smaller renewable energy projects are made effectively and help to deliver national policy. As we have already made clear, regional and local development plans would be expected to have regard to proposed national policy statements on infrastructure and as a last resort government has the power of direction over plans, where this is justified. Our new national planning policy in the Climate Change PPS will make it clear that the government expects local authorities to look favourably on proposals for renewable energy.
- 7.20** We intend to legislate to set out clearly the role of local planning authorities in tackling energy efficiency and climate change. We want to work with local planning authorities and with the industry to ensure that high quality renewable energy schemes are prepared, resolve potential local impact problems and improve the engagement with local communities on the case for renewable energy. We will provide additional training for planning inspectors on the policy context for determining appeals on renewable energy schemes, including the need to deal with such cases promptly. In our consultation paper on improving the appeals process, which is issued alongside the White Paper, we announce our intention to

review the Award of Costs Circular and as part of this we will look at encouraging inspectors to be more pro-active in awarding costs where they find unreasonable behaviour.

- 7.21** Local planning authorities are required by statute to determine applications in accordance with the statutory development plan, unless material planning considerations indicate otherwise. As Chapter 5 sets out, ministers would have the power to direct that smaller projects which are below the normal thresholds but are nevertheless of national significance, or which have potential cumulative impacts with other applications above the thresholds, should be treated as nationally significant infrastructure projects and determined by the infrastructure planning commission.
- 7.22** In addition, we propose to make it easier for householders to use renewable energy. The Government's microgeneration strategy published in March 2006 estimated that 30 per cent to 40 per cent of the UK's electricity demand could be met by installing microgeneration equipment on all types of building by 2050. For example, solar panels could produce about a third of electricity demands for an average house. However, installation of domestic microgeneration equipment is currently constrained by uncertainty over whether a planning application is required before installation, and if so, how to go about doing so. The costs and time associated with an application to obtain planning permission can be a disincentive.
- 7.23** Therefore, following initial work on the Householder Development Consents Review, the Government commissioned a study using an impact approach to look at the rules governing the need to obtain planning permission for microgeneration with the aim of making it easier for householders to install microgeneration equipment, whilst protecting residential amenity.
- 7.24** Based on the results of the study we have proposed that broadly all forms of householder microgeneration should be permitted without the need to apply for planning permission, subject to certain limitations and conditions on noise, vibration and visual amenity to control impact on others. At the same time local planning authorities will retain the right to restrict planning permission in exceptional circumstances where the benefit of the technology is clearly questionable and outweighed by its impact on the local environment. A consultation paper, *Changes To Permitted Development Consultation Paper 1: Permitted Development Rights for Householder Microgeneration*, setting out detailed proposals for amending the General Permitted Development Order, was published in early April 2007.

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**7.25** Our proposals should make it easier for householders to meet a significant portion of their energy needs through microgeneration. There is also an urgent need to make quick progress in extending permitted development on microgeneration 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. We will start consultation on detailed proposals later this year.

**Consultation question:**

*What types of non residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?*

## Adapting to climate change

**7.26** While it is crucial that we use the planning system to help us move to a low carbon economy, we must also recognise that climate change is already happening and will do so over the next decades due to the inertia in the climate system. Our welfare, economic and environmental outcomes during the next half century will be heavily influenced by our ability to adapt to the risks and opportunities that climate change will bring.

**7.27** Planning is a key tool in ensuring that our communities and our infrastructure are able to cope with these changes. This is why our draft PPS on climate change sets out a clear and challenging role for planning in securing new development and shaping places resilient to the effects of climate change and in ways consistent with social cohesion and inclusion.

**7.28** We also care passionately about the impacts of climate change on the natural environment and in particular on the distribution of habitats and species. These too will be affected by climate change and will need to adapt. We have underlined in the draft PPS on climate change the central role of planning in sustaining biodiversity.

## Planning for a sustainable supply of land for development

**7.29** How we use land most efficiently and sustainably is a fundamental issue in planning. We have a duty to safeguard for future generations the wide range of environmental goods and services provided by sustainable land use, including clean water and flood protection. Demographic change and an increasing rate of household formation also mean there are increasing demands on the land we have

available for development. It makes sense to protect the land that matters most – such as land of high landscape value, high biodiversity, and special historic significance – and to find ways of enhancing both the quality and quantity of our landscapes, wildlife habitats and natural resources. This will have environmental, social and economic benefits.

- 7.30** We are still improving our understanding of the longer-term impacts of climate change on our use of land. But it is inevitable that this is likely to alter significantly the way we use land in the future. Our objective is to ensure that, in line with current policy, regional planning bodies and local planning authorities, when developing their plans, take a strategic and proactive approach to planning for and managing land use: considering all the land use pressures, the land available to meet those pressures, the consequences of using land for different purposes and the objective of achieving multiple benefits. We are, therefore, taking forward a public debate to develop a long-term vision for land use and land management, in order to inform the planning policies and decisions made by regions and local authorities, and wider Government policy.<sup>2</sup>
- 7.31** Because the Government wants to see land being used efficiently there is a national target that at least 60 per cent of new housing should be provided on previously developed land (this includes land and buildings that are vacant or derelict as well as land that is currently in use but has the potential for re-development). Currently about three quarters of new housing is being provided on previously developed land.
- 7.32** But there is a finite amount of previously developed land available and some of that land will not be suitable for development because of its location or circumstances. Experience also suggests that, as urban economies change, some previously used land is always released for fresh purposes.
- 7.33** We should focus new development in suitable locations, making effective use of land and existing infrastructure such as road networks, and services such as schools or hospitals. This includes prioritising the use of previously developed land, in particular re-using vacant and derelict land and buildings. Making better use of what is there now, where we can, makes more sense. In PPS3: *Housing* we give local planning authorities more flexibility to look at what kinds of sites are most sustainable in their area, including looking at different kinds of previously developed land.

<sup>2</sup> See [www.defra.gov.uk/corporate/ministers/speeches/david-miliband/dm070309.htm](http://www.defra.gov.uk/corporate/ministers/speeches/david-miliband/dm070309.htm) for David Miliband's speech to celebrate the 80th anniversary of the founding of the Campaign for the Protection of Rural England (CPRE), *A Land Fit for the Future*, London, 9 March 2007, and the CPRE's blog following the speech at <http://cpredebates.wordpress.com/>. As David Miliband says in his response to the blog, there will be further opportunities for stakeholders and individuals to contribute and engage.



- 7.34** Measures announced at the Budget will also help increase the supply of commercial property and brownfield land. These measures include the modernisation of empty property relief from April 2008, the introduction of a Business Premises Renovation Allowance, and acceptance of Kate Barker's recommendation for a consultation on land remediation relief.
- 7.35** In addition, particular protection is needed for parks and urban green spaces. These places make a huge contribution to the quality of urban life, as well as, through encouraging activity and sport, providing potential health benefits. That is why we want to see new development which positively shapes our open spaces, public parks, and sports or other recreational facilities. Planning tools such as protected green spaces can play an important role in shaping urban form. Open green spaces are essential both in towns and cities, as well as in the countryside, to meet the diverse needs and general well being of local communities. Development which has the potential to enhance the surrounding area through good design, as well as improving community access to open green space or to providing additional recreational facilities is to be welcomed.

## Positive planning for sustainable economic development

- 7.36** Rapid changes in the global economy, technological advances and ease of travel are transforming the way we do business. Globalisation implies a significant intensification of cross-border economic competition. Many potential new markets and job opportunities have opened up. But this also means that there is increased competition, including from high growth economies such as China and India.
- 7.37** Planning is critical to ensuring that we can respond to these challenges. We need a planning system that is responsive and efficient and which positively supports vital economic development and encourages greater investment, both domestic and foreign, in the UK economy.
- 7.38** In order to compete effectively, businesses have to be able to keep costs as low as practicable, so that they can respond much more quickly to changes in market conditions. It is important, therefore, that regulatory costs should be proportionate, to help keep business costs down.
- 7.39** PPS1 provides an overarching framework for planning, underpinned by the principle of sustainable development. It is supported by a number of planning policy statements which address in detail particular policy objectives<sup>3</sup>. Our priority now is to set out a clear policy framework on how to plan for and manage

\* Footnote 3 on p112

sustainable economic development. In addition we will aim, following our review of new commercial buildings, to deliver improved energy efficiency from key parts of the commercial sector.

- 7.40** Our intention is to build on the reforms contained in the Planning and Compulsory Purchase Act 2004, which reinforced the ‘plan-led’ system. We need to ensure places work well for all in a community, including businesses – whether they are industrial or commercial, large or small. Planning authorities and business should work together to develop spatial strategies and policies which will provide a choice of suitable sites for development in places where people will want to work and, as far as is practicable, close to where they also want to live.
- 7.41** At the regional level we also want to see a closer alignment of Regional Economic Strategies with Regional Spatial Strategies. The regional tier is being looked at through the review of sub-national economic development and regeneration as part of the 2007 Comprehensive Spending Review. This review includes a focus on the sub-regional and city region level to reflect the importance of policies that are specific to particular parts of the region.
- 7.42** The current planning framework sets out the scope and powers for sub-regional planning. This is given further weight through PPS3 and will be a key consideration in the new planning policy statement on economic development (see paragraphs 7.45 – 7.48 below). It will be important to build upon best practice in developing sub-regional and city-region approaches both within Regional Spatial Strategies and in identifying opportunities for joint plans at a local level, notably joint core strategies (the key document in local plans).
- 7.43** The fundamental principle of sustainable development, set out in the Government’s Sustainable Development Strategy and in PPS1, is that an integrated approach should be taken to achieving economic, environmental and social objectives. The Barker Review identified a number of reasons why the benefits of development may not be effectively addressed in planning decisions. To help deliver positive planning, other proposals in the White Paper, which aim to make planning more efficient and effective, should help to tackle some of the reasons why development may not occur in certain circumstances. Planning policy also has a clear role in setting a positive framework which enables sustainable development to happen.

<sup>3</sup> For example, PPS9 covers biodiversity and PPS10 waste issues. PPS3 on housing, sets a clear framework for delivering a step change in the supply of high quality housing in sustainable communities. Alongside it, we have introduced measures to ensure that the new housing provided properly addresses climate change considerations.

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**Box 7.1**
**Sustainable economic development: what we want to see:**

- strong regional, sub-regional and local economies with access to jobs for all;
- regeneration in urban and rural areas which supports sustainable communities;
- a range of economic development opportunities in the most suitable locations;
- a positive approach to planning for economic development;
- a flexible and responsive supply of land – which takes into account market information and provides a range of opportunities for large and small businesses;
- high quality development and inclusive design for all forms of development;
- planning better for mixed-use developments to allow, for example, greater flexibility of land-use; and
- reduced impact on the environment including the need to travel by car.

**7.44** We will amend the statement of general principles – *The Planning System: General Principles* – to make it consistent with PPS1 which recognises the benefits that development, if properly planned for, can bring, including those that can flow from economic development. The General Principles will in future make it clear that, in determining planning applications, local planning authorities must pay full regard to the economic, as well as the environmental and social, benefits of sustainable new development. We will set out the timing for amending the General Principles in the Summer 2007.

**7.45** We also propose a new planning policy statement on Planning for Economic Development which will reinforce the Government's commitment to a strong, stable and productive economy with access for all to jobs, to regeneration and improved employment prospects. It will build upon the Government's objectives for the planning system to contribute to the delivery of sustainable economic development which are set out in PPS1. It will reflect the Government's drive to give greater autonomy to local authorities to set policies and standards to reflect local circumstances, as we have done in PPS3, for example, in relation to density and car-parking. We believe that such an approach will encourage planning authorities to get plans in place quickly. It will also encourage developers to engage constructively with the plan-making process, and provide a positive, flexible and responsive approach to evolving development needs.

**7.46** We propose that this new draft planning policy statement on Planning for Economic Development should cover:

**Plan-making**

- development plans should be strategic and look ahead, drawing on a strong evidence base, using market information and including that available from regional and local economic strategies;

- plan-making and development control will need to respond to new forms of economic development such as providing for clusters and innovation, in enabling each locality to fulfil its economic potential;
- development plans should ensure that there is a good supply of appropriate land to meet expected employment needs, but be flexible enough to deal with unforeseen demand;
- development plans should promote mixed-use developments. They should take a positive approach to changes of use where there is no likelihood of demonstrable harm; and
- development plans should include policies which set out the circumstances under which planning authorities will grant permission to development that had not been foreseen when the plan was made.

### Decision taking

- there will be a new approach to determining planning applications which do not have the specific support of plan policies, using market information, and other economic information as well as environmental and social information and other relevant evidence;
- planning policy will make clear that applications should be considered favourably unless there is good reason to believe that the economic, social and/or environmental costs of development are likely to outweigh the benefits. Where development is fully in accordance with the plan it should normally be approved;
- planning authorities should take full account of the longer term benefits, as well as the costs, of development that will create jobs, including those with wider benefits to national, regional or local economies by improving productivity and competitiveness; and
- if, having taken account of the development plan and all material considerations, local planning authorities propose to turn down an application, they should set out clear and precise reasons why, on the basis of the evidence, they have decided that the disbenefits of the proposal outweigh the benefits.

**7.47** We intend to ensure that there is a more strategic approach to planning for economic development. Local authorities should indicate in their core strategy the circumstances in which they would accept development not envisaged when the plan was approved – for example if a proposal addressed a particular skills need, or would help tackle social deprivation in a particular area. In this way we would



expect to see fewer departures from development plans, fewer referrals to the Secretary of State, and quicker decisions at all levels.

- 7.48** We will publish a draft new PPS on *Planning for Economic Development* in Summer 2007 and produce the final version by Spring 2008.
- 7.49** We also intend to take two other steps to support the new positive planning framework for economic development. First, we will work with local authorities and other stakeholders on how authorities can make better use of market information and other relevant evidence in planning for sustainable economic development and in considering specific proposals for development. Second, we will also ensure that any future changes to wider planning policy do not unduly add to the burden of regulation on business. We will also continue to engage with partners in the European Union to ensure that emerging EU legislation helps to support sustainable economic development.

## Improving the effectiveness of the town centre planning policy

- 7.50** A crucially important aspect of creating places where people want to live and communities can flourish is to maintain and nurture the vitality of our town centres. Local planning authorities need to be supported in their strategies for achieving this. We are fully committed to promoting the vitality and viability of town centres and to ensuring that the planning system supports the growth and development of our town centres.
- 7.51** Our town centre policies are showing real signs of success. In 1994 only a quarter of new development was in or around our town centres. By 2004 it was up to 41 per cent. We want this trend to continue and we want investors to continue to have the confidence to locate in town centres. But we also need local authorities to proactively manage the role and function of their town centres, including by extending the boundary where that makes sense, and to promote the growth and development of their town centres by facilitating a wide range of shopping, leisure and local services that enhance consumer choice.
- 7.52** To achieve this it is essential that local authorities have robust, evidenced-based plans and strategies that are up to date and which set out a clear and proactive vision for town centres, based on a sound understanding of both the need and demand for new facilities. Where development outside the town centre would not impact detrimentally on the town centre, and it is otherwise acceptable in planning terms, both plans and planning decisions should reflect this.

**7.53** We recognise that there are issues around the practical effect of the current policy requirement on applicants to demonstrate the need for proposals outside town centres, where these are not supported by an up-to-date development plan. This ‘need test’ has proved in some respects a blunt instrument, and can have the unintended effect of restricting competition and limiting consumer choice. For example, it is possible under current policy for a new retail development on the edge of the town centre to be refused because there is an existing or proposed out-of-town development which meets the identified ‘need’ even though the new retail development would bring wider benefits and help support the town centre.

**7.54** In addressing this issue, we have two clear objectives. First, we must support current and prospective town centre investment, which contributes to economic prosperity, and to our social and environmental goals. Simply to remove the ‘needs test’ could put this at risk. Second, we must ensure that planning promotes competition and consumer choice and does not unduly or disproportionately constrain the market.

**7.55** We therefore intend to review the current approach in PPS6 to assessing the impact of proposals outside town centres. We will replace the need and impact tests with a new test which has a strong focus on our town centre first policy, and which promotes competition and improves consumer choice avoiding the unintended effects of the current need test.

**7.56** We will consult on proposals in Summer 2007 and develop new guidance working with the industry and other important stakeholders. We will also consider how best to address competition considerations in our town centre policies, taking into account the conclusions of the Competition Commission inquiry into the groceries market. We will finalise any changes by Spring 2008.

## **Producing a more strategic and clearly focused national policy framework**

**7.57** There is a strong and widely held view amongst the users of the planning system that one of the major causes of complexity and delay is the nature of the national planning policy framework. This is because:

- there is too much guidance and too little flexibility on process and on matters which could better be left to local discretion;
- some planning policy is written in a more regulatory style and doesn’t reflect our ambition for positive and proactive planning which aims to deliver better outcomes faster; and



- the range and complexity of issues that planning now covers has expanded over time, even where it may not be the best or most effective mechanism for delivery.

**7.58** The 2001 Planning Green Paper recognised that there was a need for reform of the national planning policy framework and we have begun the process of reform by replacing almost half of the old-style planning policy guidance notes with planning policy statements. However, the framework as it stands is a patchwork of old and new style documents.

**7.59** Our objective is therefore, to produce a more strategic, clearer and more focused national planning policy framework, with PPS1 – *Delivering Sustainable Development* at its heart to provide the context for plan-making and decision taking.

**7.60** As a first step, we propose to carry out a comprehensive review of the current planning policy statements and guidance, and other relevant key policy material. The key aim of the review will be to achieve a significant streamlining of the existing suite of documents by separating out policy from guidance and limiting the amount of central guidance to those matters which are strategic and necessary to achieving a consistent approach to decision making. In doing so the review will ensure:

- the devolution of decision making to the local level where this is appropriate;
- that the scale and complexity of evidence required for plan-making and planning decisions is proportionate;
- that the framework supports and encourages positive and proactive planning that actively shapes places; and
- that planning is used where it is an appropriate lever to deliver policy objectives in an efficient and effective way.

**7.61** The review itself is not about creating new policy or changing policy, but about better managing and communicating existing policy, and separating this from supplementary guidance. Our ambition is however to secure a significant reduction in the volume of policy and guidance. Where new policy is being proposed – as with the new PPS on *Planning for Economic Development* – we will develop proposals and consult in the normal way.

**7.62** Green Belts perform an important function in preventing urban sprawl, preventing towns from merging into one another, safeguarding the countryside from encroachment, preserving the setting and character of historic towns and

helping urban regeneration. The Government is committed to the principles of the Green Belt and will make no fundamental change to planning policy as set out in Planning Policy Guidance Note 2.

- 7.63** Policy is that, once designated, inappropriate development should only take place in Green Belts in very special circumstances. Where development has the potential to enhance the surrounding area by improving community access to open green space, providing additional recreational facilities, or enhancing biodiversity and wildlife, these are material factors that should be weighed into the balance by decision makers when planning applications are determined.
- 7.64** Decisions on Green Belt boundaries should be made through the development plan process as current policy allows for. To ensure that future development takes place in the most appropriate and sustainable locations it is also important that planning authorities should, where appropriate, continue to review Green Belt boundaries when they are drawing up their development plans, as current planning policy allows them to do, and as has already been undertaken in some areas.
- 7.65** We will publish a detailed strategy and timetable for change in summer 2007, which will set out our vision for the new national planning policy framework and how we plan to achieve it, including what consultation arrangements we will put in place. Our overall objective is to complete the whole process by Summer 2009.



# Strengthening the role of local authorities in place shaping

**This chapter describes the Government's proposals for:**

- placing planning at the heart of local government by aligning the Sustainable Community Strategy and the local development framework core strategy. We will also work with the LGA and others to continue promoting culture change in planning, and issue 'place shaping' guidance;
- promoting a joined up community engagement approach across a local authority's remit and remove the requirement for the independent examination of the separate planning Statements of Community Involvement;
- introducing changes to local development frameworks to ensure a more streamlined and tailored process with more flexibility about the number and type of plans, how they are produced and a more meaningful, engaged level of community involvement;
- building on current improvements to planning performance by focusing delivery and incentives through Local Area Agreements with a particular focus on delivering local development frameworks;
- introducing Planning Performance Agreements, which will help streamline the processing of major applications;
- supporting a properly resourced planning service with changes to planning fees and consult on devolving the setting of fees to local authorities;
- building planning capacity in local authorities by working with the Local Government Association and others to ensure the co-ordination of current initiatives and in particular to extend the scope of ATLAS and require student bursary recipients to work in the public sector for two years; and
- expanding the use and take-up of e-planning arrangements.

- 8.1** Since the planning reforms of 2004 we have encouraged a shift from viewing planning as a narrow, regulatory system to thinking of it as a positive way to shape the places and communities in which we live, through sustainable development. This thinking is reflected in the Local Government White Paper published in October 2006. It strengthened the leadership role of local authorities as place-shapers and set out a new settlement between central government, local government and citizens with greater devolution and a more streamlined performance management regime. Local authorities have already risen to the challenge on planning performance, but we now need to build upon the progress made so that we see:

- positive strategic planning at the heart of the local authority as a key tool in shaping places for communities;
- an improved local development framework process;
- further performance improvements in planning;
- effective intervention to address poor performance; and
- additional skills and capacity to deliver the new planning system;

## Positive strategic planning at the heart of the local authority

- 8.2** Until recently there had been a tendency to regard the planning system largely as a regulatory tool, comprising a set of detailed policies aimed at controlling development. Viewed in this way it is easy to understand why planning might be regarded as peripheral to the broader strategic role and work of a local authority.
- 8.3** The planning reforms we introduced in 2004 not only sought to bring about a culture change away from negative and reactive planning to a more positive and proactive approach, but also introduced the concept of “spatial plans”. These are designed to bring together in one place the land use implications of all the policies relevant to a local area’s Sustainable Community Strategy, such as education, health, waste, transport, recycling and environmental protection. When used in a forward looking strategic way this can be a very powerful tool for creating places where local communities can thrive.<sup>1</sup>
- 8.4** We want to build on this and see planning better integrated and aligned with other local authority functions, so that the full benefit of these new arrangements can be realised to support ‘place shaping’ in the widest sense. Measures in the current Local Government and Public Involvement in Health Bill will strengthen working between local authorities and other public agencies and partners operating at a local and regional level. The intention is for the Sustainable Community Strategy to be the expression of a shared vision and for this in turn to be the basis for delivering shared targets which will be included in Local Area Agreements. We propose a number of measures to support this approach:
- The local development framework Core Strategy – which is at the heart of the local planning framework – should be the spatial expression of the Sustainable Community Strategy. We plan to work with the Local Government Association and other stakeholders on draft guidance to local authorities and

1 Please see: *Planning Together: Local Strategic Partnerships and Spatial Planning* at : [www.communities.gov.uk/index.asp?id=1505906](http://www.communities.gov.uk/index.asp?id=1505906)

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local strategic partnerships on place shaping later this year. This will highlight the role of the Core Strategy and provide advice on how to align and coordinate these two documents. It will expand on the note we published in January 2007 on Local Strategic Partnerships and planning.

- With the closer integration of plan making, Sustainable Community Strategies and Local Area Agreements, we also want to see a more joined up approach to the involvement of the wider community. Our aim is for there to be a more comprehensive community engagement strategy. The Local Government White Paper set out our intention to replace the requirement for independent examination of the Statement of Community Involvement (SCI) with an approach which considers the standards of engagement in all aspects of a local authority's business. A new statutory best value duty to appropriately involve, as well as inform and consult, in the exercise of the local authority's functions, including planning, will help to ensure that local authorities practise high levels of community engagement. The Comprehensive Area Assessment will include consideration of community engagement. The new "duty to involve" will be a key driver for incentivising high levels of community engagement across all local authority and local strategic partnership activities, we will therefore remove the requirement for a separate examination of planning Statements of Community Involvement.

### **Consultation Question:**

*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?*

- In recognition of the need to maintain the right capability within local government, Kate Barker recommended raising the status of the Chief Planning Officer. We had already included in the Local Government White Paper a recommendation that local authorities should make planning a prime responsibility of one of their corporate directors, who should be professionally qualified. We have now asked the local government sector to work with the Audit Commission and others to redefine the assessment of a local authority to reflect more accurately planning as part an authority's place shaping responsibility.
- In line with the principle of giving greater freedom to local authorities, we want to give them more flexibility in how they organise their planning decision-making. In the Local Government White Paper we announced that we want to enable local authorities, where they wish, to allocate to the executive responsibility for determining planning applications that are

particularly significant in implementing the local development framework. It is our intention to prepare draft amendments to regulations in discussion with the local government sector by autumn of this year.

## **Improvements to the Local Development Framework process**

- 8.5** In 2004 we introduced a new system of local spatial plans that are designed to foster positive ‘place making’ and address the problems with the former system. For example, previously there were inconsistencies between the four tiers of policy and plan making; plans tried to anticipate every eventuality and were therefore inflexible; they tended to place a much greater emphasis on preventing development than enabling it; preparation was slow and expensive; and at any one time most plans were out of date. In addition “consultation” favoured those with the deepest pockets and greatest stamina.
- 8.6** The new system of Local Development Frameworks has replaced the single local plan with a suite of development plan documents (DPDs). The key DPD is the high-level core strategy which is supported, where necessary, by lower level DPDs intended to deliver the core strategy. The former supplementary planning guidance was replaced by supplementary planning documents (SPD), which do not form part of the development plan. The reforms included changes to the way these planning documents were produced in order to achieve:
- greater flexibility to respond to changing circumstances;
  - more meaningful community and stakeholder involvement;
  - better integration with the plans of other public sector bodies;
  - key discussions being held *early* in the process – not in lengthy inquiries;
  - plans that better address sustainability issues (and comply with new EU law);
  - improved programme management and speed of production;
  - an increased evidence base for decisions – moving away from planning by assertion.
- 8.7** There have already been benefits from the changes. There is some evidence of earlier engagement by key stakeholders, such as the Highways Agency. There has also been a recognition by many planners that they need to engage with the rest of the public sector and communities early in the process. We now have shorter examinations and the first plans are now being adopted just two and a half years after commencement compared to an average of five and a half years previously.

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- 8.8** However, the implementation of the reforms has thrown up some problems. Many plans are still taking longer than originally thought and the system has elements within it that remain very inflexible. For example, if a plan is unsound it cannot be easily fixed but must go right back to the beginning of the process. Supplementary planning documents cannot be started without government agreement and have all been subject to an often complex sustainability appraisal even where in some cases it duplicates earlier work. Detailed regulations requiring consultation can, when followed to the letter, often lead to consultation fatigue and a tick box mentality, while still failing to really engage citizens in the process. In addition some councils are still struggling to produce plans which meet the aspirations of the new system. Their plans do not have a truly long term spatial vision for a place nor do the plans integrate properly with other council activities and those of key partners.
- 8.9** In the short term we will take measures to build on the progress made by many local planning authorities and gain maximum benefit from the introduction of the new plans. This will include using Planning Delivery Grant to incentivise the timely production of sound development plan documents in line with the agreed timetables. We will use the lessons learnt during the production of the first few plans to clarify what we expect from local planning authorities and we will work together with the Planning Inspectorate, the Planning Advisory Service the Local Government Association, the Planning Officer's Society, the Royal Town Planning Institute and others in the planning sector to provide advice, support and spread best practice.
- 8.10** However, we also need to introduce changes to ensure a more effective and tailored process of plan preparation with more flexibility about the number and type of plans and how they are produced. We also want to encourage a more meaningful, engaged level of community involvement in plan making. We propose to do this by consulting on draft changes to the regulations and policy affecting development plan documents in the autumn. We also propose to make some changes to primary legislation affecting the revision of plans during the process and supplementary planning documents on which we are consulting now. Our proposals are set out below. Some changes may take time to enact, but to maintain an effective plan-led system it is vital that there are not further delays in getting plans in place. It is important therefore that current programmes of work to deliver development plan documents continue to be prioritised.

## More effective community engagement in plan-making

- 8.11** The current process for producing development plan documents includes three separate statutory requirements for consultation:
- during the ‘issues and options’ period;
  - at the ‘preferred options’ stage; and
  - on the final plan.
- 8.12** This has led in some cases to a shallow process-driven approach to consultation and the number of stages has often led to confusion amongst consultees. We wish to preserve the principles of early engagement and effective consultation throughout the plan preparation process, while giving local planning authorities more flexibility to decide how and when to consult. We therefore propose to streamline the statutory requirements for consultation before the final plan is produced while safeguarding community involvement and early engagement.
- 8.13** We propose to set out in draft regulations and policy, to be consulted on in the autumn, that for every development plan document there would be a period of plan preparation, during which the authority would gather the evidence to support different proposals and appraise the different issues and options in consultation with the public and stakeholders. During this period there would be a statutory requirement to consult and engage with those bodies and individuals the authority consider appropriate and to a degree proportionate to the scale of the matters covered by the DPD in a form somewhat akin to the current regulation 25<sup>2</sup>. The formal statutory requirement to consult on preferred options (current regulation 26) would be revoked. However local planning authorities will need to be able to show how they have involved and responded to the community during the plan preparation stage.
- 8.14** The detail of how this community engagement is carried out will be set out in the Statement of Community Involvement and should follow best practice. However issues such as the different stages and the length of time needed for this process, will be more flexible and will vary depending on the complexity and scope of planning issues involved. We think that a complex plan or core strategy might need to go through similar stages as now which could take 18 months. For a plan with a relatively narrow scope or an amendment to an existing plan the preparation time could be six months or less.

<sup>2</sup> Regulation 25 of the Town and Country Planning (Local Development) (England) Regulations 2004 (SI2004/2204) sets out a general requirement to consult appropriate parties prior to the submission of Development Plan Documents

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**8.15** These proposals allow greater flexibility to local planning authorities to develop their own engagement and consultation strategies that are most applicable to local circumstances. This is in line with our wider approach to local government set out in the Local Government White Paper and is designed to produce meaningful processes rather than simply bureaucratic ones. We believe that plans taking more than two years should be the exception and that the time to produce a simple DPD could be brought down to around a year. This would fulfil one of the original intentions of the Local Development Framework system, which was for it to be able to respond more rapidly and flexibly than its predecessor to changing circumstances.

**8.16** Following the preparation stage there would still be a statutory consultation on the final plan. On the close of this consultation period the authority would prepare a report on the representations made and then the plan would be submitted to the Secretary of State for examination.

### The Development Plan Document (DPD) Process



NOTE: The actual time each process will take will vary depending on circumstances.

**8.17** The diagram above illustrates how a revised approach to the preparation of plans would work for both complex and simple plans and compares these processes with current arrangements.

## Revising plans during the process

**8.18** The current process for producing DPDs can be very inflexible. For example, the final plan is formally submitted to the Planning Inspectorate at the same time as it is sent out for the final formal consultation. However once a plan has been submitted it should not be changed and in some cases the only solution is for the plan to be withdrawn and start again. We now propose to improve flexibility in the process. In the autumn we will consult on proposals and draft regulations stating that the local planning authority:

- carries out the final statutory consultation on the plan *before* submitting it for examination; and
- can, exceptionally, make changes if following the consultation they decide this is necessary and then re-consult before submitting for examination.

**8.19** There is a similar problem when a plan has been the subject of a legal challenge which, if successful, results in it being sent back to the beginning of the process. Kate Barker recommended that if possible this should be remedied. 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.

### Consultation Question:

*Do you agree, in principle, 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?*

## More flexibility for Local Authorities on the type and number of plans

**8.20** Currently local authorities in England are proposing to produce over 1,500 separate development plan documents and there is concern, especially given the current delays in the production of these documents, whether these are all necessary or prioritised. All local planning authorities must produce a Core Strategy but all other DPDs are currently produced at the discretion of the authority. One example where large numbers of DPDs are proposed is site allocation documents. In many cases these are vital for the delivery of sustainable development and government policy locally. However, when we issue draft

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guidance to be consulted upon in the autumn we will make it clear that site allocations DPDs may not always be needed and that there is no blanket requirement for them. We will also make clear that it is acceptable for Core Strategies to include strategic sites, which should reduce the need in some cases to produce further more detailed planning documents.

- 8.21** Supplementary planning documents (SPDs) provide additional detail or guidance to policies set out in a DPD for example: Master Plans, Area Development Briefs, Issue Based Documents and Design Guides. Currently all proposed SPDs must be listed in the local development scheme (LDS) and be agreed by the Secretary of State. We propose to seek legislation to remove the requirement that all SPDs must be listed which means that local planning authorities will be able to produce them without reference to central government. This will allow planning authorities to respond more effectively to localised policy issues as they arise. However we would still expect authorities to publicise their plan making programmes, including SPDs, to the public and stakeholders to ensure maximum engagement.

**Consultation Question:**

*Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme?*

## Sustainability Appraisal

- 8.22** There is currently a requirement for all DPDs and SPDs to be subject to a full sustainability appraisal. This remains an important mechanism for ensuring that the impact of plans have been properly assessed prior to adoption. However SPDs are not part of the statutory development plan and are simply designed to expand on policies set out in DPDs and provide additional detail and guidance. In many cases the relevant sustainability appraisal work will already have been done at the higher DPD level. In other cases the SPD may not have significant effects additional to the policy it supplements. In such cases further detailed appraisal does not add value to the decision making process and results in a great deal of duplication and disproportionate work.

- 8.23** For example Master Plan or Area Development Brief SPDs may have environmental impacts in their own right. In these cases there should be a sustainability appraisal to ensure that the SPD contributes to sustainable development. On the other hand Design Guide or Issue Based Document SPDs dealing with a specific issue such as shop fronts, advertisements or public art, might not have significant social or environmental issues that have not already

been covered in the higher order DPDs. Sustainability appraisal is unlikely to add value in these cases.

- 8.24** The current obligation creates a substantial volume of work for local planning authorities given the number of SPDs being produced – around 1,800 in the current programme. Sustainability appraisals are expensive and time consuming and in the interests of reducing unnecessary bureaucratic burdens, we propose to seek legislation to remove the requirement for a sustainability appraisal for every SPD but we will consult on guidance which makes it clear that a sustainability appraisal must 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<sup>3</sup> requires a Strategic Environmental Assessment.

#### **Consultation question:**

*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?*

- 8.25** The current guidance on sustainability appraisals for plans covers a wide range of social, economic and environmental impacts to be considered. As part of our review of guidance we will make it clear that where a sustainability appraisal is done the requirement to appraise the likely impacts of the plan on climate change must be considered as a priority.

## **Infrastructure and plan making**

- 8.26** Our work on the cross government Review into Supporting Housing Growth (which forms part of the Comprehensive Spending Review 2007) has reinforced the need for a stronger link between plans and infrastructure provision at the local level. We propose to take a forward-looking approach to planning infrastructure provision to ensure the timely delivery of infrastructure. This will provide developers with confidence that the necessary infrastructure will be delivered. There is a need to move away from site specific planning of infrastructure delivery to a more strategic and holistic view, which takes infrastructure decisions on roads alongside those of, for example, schools, hospitals, cultural and community

<sup>3</sup> The “SEA” Directive (2001/42/EC “on the assessment of the effects of certain plans and programmes on the environment”).

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facilities. Some Regional Spatial Strategies have already made considerable progress in this direction.

- 8.27** We consider that local authorities in their role as place shapers and conveners, facilitators, and commissioners of services are the right bodies to be undertaking this strategic view of infrastructure provision at the local level. They will need to involve infrastructure providers, both of physical and social infrastructure, in order to achieve this and they may well need to work jointly across local authority boundaries, as some elements of infrastructure need to be planned on a sub regional basis. There are, for example, close linkages with multi-disciplinary joint working on strategic housing market assessments.
- 8.28** As part of the detailed changes to the local plan making process to be consulted on in the Autumn, we propose to clarify the soundness test<sup>4</sup> on ‘implementation’ of development plan documents, so that local authorities demonstrate to an inspector how and when infrastructure that is required to facilitate development will be delivered. Some authorities are already demonstrating good practice in this regard and we wish to see this replicated. Annual Monitoring Reports should show how infrastructure delivery to support growth is progressing so that developers and their customers can see what success is being achieved in the creation of rounded sustainable communities.
- 8.29** These proposed changes to infrastructure planning and delivery reflect the announcements made in the 2007 Budget. The Budget also noted the cross-government Review’s proposal to use the CSR performance management framework to ensure that key infrastructure departments give appropriate prioritisation to housing growth. The Budget emphasised the Government’s commitment to working with stakeholders to develop suitable mechanisms for ‘front funding’ infrastructure at an early stage of development. Further announcements arising from the cross-government Review will be made as part of the 2007 CSR.

## Improved planning performance

- 8.30** The past few years have seen a substantial improvement in the performance of many local planning authorities. This has been the result of intensive efforts from planning departments across the country who have been assisted through sector

<sup>4</sup> All Development Plan Documents are subject to an independent examination by a planning inspector who will consider whether the document is “sound”. Current guidance sets out 9 soundness tests covering

- procedural issues – eg whether the correct procedures have been followed
- conformity issues – eg whether the document conforms with all the relevant national, regional and local policies
- coherence, consistency and effectiveness tests – eg whether policies are the most appropriate, consistent across DPDs, have clear mechanisms for implementation and sufficient flexibility.

support by bodies like the Planning Advisory Service. This has been underpinned by a substantial investment by central government in the form of Planning Delivery Grant amounting to £605 million over five years. However improvements need to be maintained and embedded and more needs to be done. This section sets out how we will continue to improve the performance management of local planning authority services. In particular it focuses on:

- developing the performance management framework for planning;
- Planning Performance Agreements for major applications; and
- resources and planning fees.

## **Developing the new performance framework for planning**

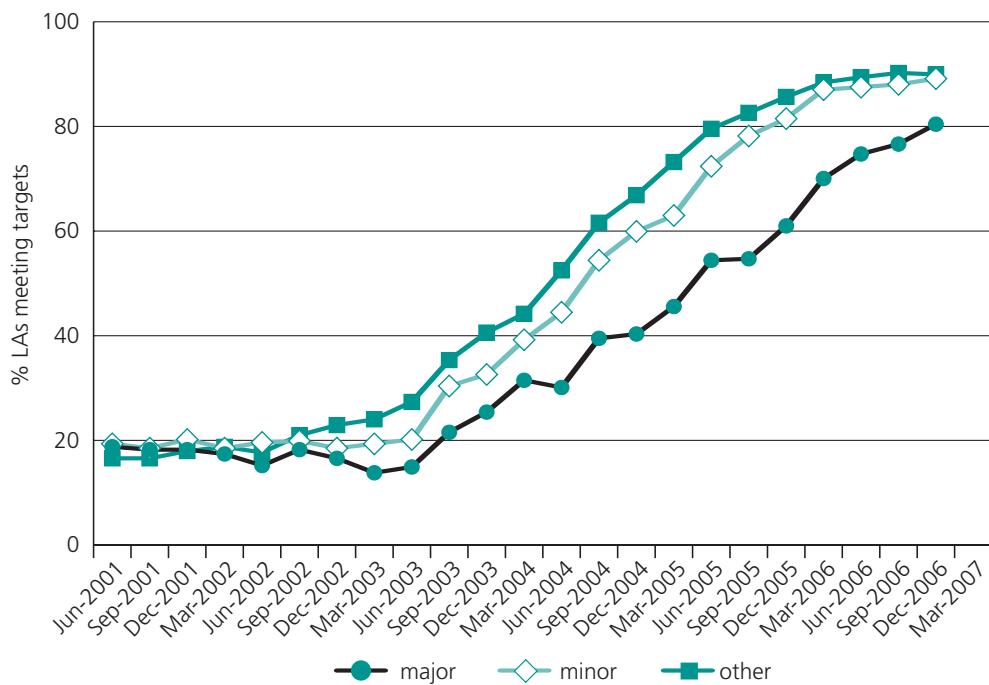
**8.31** Over the last five years we have invested heavily in planning services through the Planning Delivery Grant and set clear targets for improvement, in particular on the turnaround time for planning applications. This has resulted in significant improvements in performance:

- the target for major applications is that 65 per cent will have a decision within 13 weeks – the current achievement (year-ending December 06) is 70 per cent compared to 43 per cent in the year-ending December 02;
- the target for minor applications is that 70 per cent will have a decision within eight weeks – the current achievement (year-ending December 06) is 76 per cent compared to 54 per cent in the year-ending December 02; and
- the target for other applications is that 80 per cent will have a decision within eight weeks. The current achievement (year-ending December 06) is 87 per cent compared to 72 per cent in the year-ending December 02.

**8.32** Our main PSA6 target is for all local planning authorities to determine 60 per cent of major applications within 13 weeks, 65 per cent of minor applications within eight weeks and 80 per cent of other applications within eight weeks. The number of local planning authorities achieving these targets has also risen, currently four out of five local authorities are meeting the 13 week target for major planning applications compared to less than one in five in the year-ending December 2002. This has been achieved despite a 37 per cent increase in the number of major applications decided over the same period.

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## Development Control: Performance



**8.33** Greater priority has been given to delivery, processes have been re-engineered, committee and delegation arrangements have been reviewed and, as a result, most councils are now achieving levels of performance on development management that only the top quintile were achieving five years ago. However we need to move beyond the relatively simplistic best value targets on development control, especially given the concerns about the potential for perverse incentives they generate. The current priorities are to ensure that:

- recent improvements on development management are embedded;
- the time taken on large and complex proposals is further reduced, in particular the time taken before and after the formal application;
- the benefits from electronic handling of planning applications and plans are realised;
- sound local development plan documents are developed and implemented; and
- the overall change from ‘planning’ to wider ‘place-shaping’ agenda takes hold.

**8.34** In the current year (2007-08) we will pay over £110 million to local planning authorities to incentivise specific measures such as the delivery of development control targets, the production of local development plans, and the provision of e-planning services. Planning Delivery Grant has been an important driver of change, not only because of the performance it has incentivised, but because it has provided additional resources for local planning authorities (an average of £277,000 per year each) to invest in change and improvement.

**8.35** Our future strategy for delivery by local planning authorities is set in the context of the Local Government White Paper which focussed on rebalancing the relationship between central and local government, with more devolution to local authorities and a more streamlined approach to delivery. We are also working with the Local Government Association, the Planning Officers' Society, Royal Town Planning Institute and Planning Advisory Service, to develop a new change management strategy to clarify, enhance and support the roles of both Members and Officers in local government and promote further improvements and culture change in planning, see Box 8.1.

**Box 8.1: Driving improvement through planning**

It is essential that local authorities have effective arrangements to manage and improve the performance of the planning function. More importantly, the impact of the planning system in delivering wider local and national outcomes, for example, housing growth, economic development, sustainable communities and development, needs to be properly considered within the overall local performance framework.

Without effective spatial planning councils cannot deliver their place shaping role or the key priorities and outcomes in their local Sustainable Communities Strategies and Local Area Agreements.

This has three important consequences:

- Planning needs to be at the centre of an authority's corporate process and business planning
- Planning needs to work more closely with local communities and reflect the needs and aspirations of local people and places.
- There needs to be a shift in emphasis towards delivering outcomes rather than process, and outputs.

The diagram below represents planning within the context of a new performance framework.



The Government is working with Local Government Association and other key partners (Improvement and Development Agency, Planning Officers Society, Royal Town Planning Institute (RTPI)) to develop the devolved approach to performance management for planning as set out in the Local Government White Paper . This work will identify how peer support and challenge can support local authorities in driving improvement in planning, and how sector-led intervention will work in practice to challenge poor performance and support improvement in the planning function. It will also seek to develop clear principles of how the new assessment framework should apply to planning. In addition it will lead to the development of a programme of support and capacity building – within the overall national improvement strategy – to help councils deliver better outcomes for communities and places through planning. This programme is set out in further detail in Box 8.2 on building capacity and developing skills.

Communities and Local Government is working with RTPI to develop indicators for spatial planning outcomes at national, regional and local levels. This will help councils assess the contribution and progress made by planning towards achieving their key place-making priorities and outcomes. Local indicators will allow authorities to select those that reflect their priorities. This will also help the development of Annual Monitoring Reports into documents that set out the evidence that underpins future plan making. At the same time the Government will be developing proposals on key national outcomes and indicators for the wider local government performance framework and will consider how these may relate to planning.

*The text in this box has been agreed with the Local Government Association.*

- 8.36** We expect future delivery arrangements to be focused through Local Area Agreements (LAAs). This is where a Local Strategic Partnership (LSP) comprised of local authorities and other key stakeholders including representatives of the voluntary, community and business sectors, together with other public bodies such as the Primary Care Trust and police, work together to achieve agreed outcomes. This allows much greater flexibility and encourages arrangements and priorities to reflect local circumstances. LAAs will be the key delivery agreement between local and central government.
- 8.37** The performance management framework for LAAs announced in the Local Government White Paper includes a streamlined set of 200 national performance indicators covering all outcomes delivered by local government alone or in partnership. While all local authorities (and relevant partners) will report annually against the 200, LAAs will negotiate specific improvement targets on 35 of them (plus 18 educational targets) The LAA may also include purely-locally agreed priorities which will carry the same weight in the new statutory framework.
- 8.38** Planning is a key service for local government. As well as providing a service to householders and businesses, it also underpins the delivery of wider social, economic and environmental outcomes and the future shape and health of the locality. The list of 200 national indicators will not be finalised until the summer but we expect priority planning indicators to be reflected in the performance framework.
- 8.39** Last year the Secretary of State established the Lifting the Burdens Task Force to review the bureaucratic burdens that are imposed on local government. Its report on housing and planning was published in February. It included a number of recommendations most of which have been accepted and are included in this White Paper, such as streamlining the local development framework process, reviewing national guidance and rolling out Planning Performance Agreements. Others, such as those on specific indicators, are accepted in principle but will be explored in more detail as the new local government performance framework is developed. A more detailed response to the Task Force's report will be published shortly.
- 8.40** In practice, effective place making and planning will be shaped largely around local outcomes and priorities. It will be important for local authorities to ensure that progress on these is properly tracked to provide the evidence necessary to inform future plans and planning decisions. Annual Monitoring Reports help local planning authorities do this. We accept the recommendation of the Lifting the Burdens Task Force to review the scope, content and form of Annual Monitoring Reports and our work with the Royal Town Planning Institute, Local Government Association and others on planning outcomes will contribute to this and help the development of best practice.

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**8.41** In late 2006 we consulted on the introduction of a new Housing and Planning Delivery Grant (HPDG) to replace the current Planning Delivery Grant. Final decisions on both the size and the final scope of HPDG are subject to the Comprehensive Spending Review. However our current intention is to focus the planning element of any grant to incentivise:

- progress in delivering local development frameworks;
- progress in achieving outcomes from policies set out in local development frameworks; and
- joint working between groups of local planning authorities

**8.42** However, as with the existing Planning Development Grant, there will be scope to use HPDG to focus on other areas where circumstances require it. In particular, it will be important to ensure that sound and speedy decision making remains a priority.

**8.43** Grant will be available to those LSPs who are, for example, willing to agree a stretching target on planning delivery within their LAA, for example, in producing DPDs, or those where improvement in planning outcomes is a priority or where the local planning authorities in a LSP are willing to work together on joint DPDs. This new approach will allow performance management to be more flexible and targeted.

**8.44** We want to incentivise joint working between local planning authorities on plan making because the geography of housing markets or functional economic areas are rarely confined to administrative boundaries. National policy, such as Planning Policy Statement 3 on housing, has already emphasised the importance of joint working and we want to build on this. Through the plan making process (at both local and regional level) and through the continued development of Multi Area Agreements we will support and encourage towns and cities or other sub regional areas to work together – where they benefit from a cross-boundary approach on key issues such as housing or economic growth,

## Efficient processing of applications for very large projects

**8.45** Planning applications for very large projects (eg over 200 housing units) often have complex issues and are likely to be amongst those ‘major’ applications that we expect to take over 13 weeks to resolve. Planning Performance Agreements<sup>5</sup> (PPAs) are up front agreements between a developer and a local planning authority that set out all the information required and the timetable for delivering the decision.

<sup>5</sup> These have previously been known as Planning Delivery Agreements.

- 8.46** Successful PPAs require the local planning authority, the applicant and other key stakeholders, particularly the regulatory agencies, to establish a collaborative relationship based on trust with good communication and regular exchange of information. This should allow a process to be agreed which allows the local planning authority to project plan the work needed to determine the application. Effective PPAs can be resource intensive and local planning authorities already have the power to charge developers for pre-application work on a cost recovery basis. The decision on charging is entirely up to local planning authorities but where they do so, this should be specified as part of the agreement.
- 8.47** A pilot programme run during 2006 demonstrated that PPAs can be very successful in providing a much smoother process for planning applications with greater certainty on timescales, costs and requirements – which is what developers want. Where the size and importance of a proposal makes it appropriate local authorities should seek to agree PPAs with developers. We further propose that where authorities agree a PPA and stick to the timetable they should be able to take those cases out of the national 13 week target for major applications. We are inviting views on our proposals for PPAs, through a separate consultation paper issued alongside this White Paper, entitled: *Planning Performance Agreements: a new way to manage large-scale major planning applications*.

## **Changes to the approach to planning fees**

- 8.48** Local planning authority services need to be properly resourced in order to deliver excellent performance and the desired outcomes. For development control it has long been a principle that the would-be developer should pay for the work involved in deciding planning applications through planning fees. Research undertaken by Ove Arup with Addison & Associates<sup>6</sup> indicates that local planning authority income from planning fees still does not cover the costs authorities incur in determining planning applications, particularly in respect of large applications. For the last few years Planning Delivery Grant has helped to bridge the gap but it should not be for the taxpayer to fund this service in the long term.
- 8.49** Planning Delivery Grant will end in 2008 and we have stated that any replacement grant (Housing & Planning Delivery Grant) will focus on plan making while the new LDF system is being introduced.
- 8.50** Alongside this White Paper we have issued a consultation paper, *Planning Fees In England: Proposals for Change*, on proposals to increase fees to address this. In addition to a general increase we are consulting on further changes recommended by Kate Barker on fees. We propose to remove the fee cap currently set at £50,000

6 To be published by Communities and Local Government alongside our consultation paper on planning fees.

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to reflect the high cost of processing the most complex applications. However we are proposing that increases to householder fees (currently £135) are kept in line with inflation since the last rise in 2005.

- 8.51** Once planning permission is granted applicants sometimes need confirmation from the local planning authority in writing that conditions attached to the permission have been met. To help local authorities meet the cost of this service, we will propose an additional fee (of £85 – or £25 where the permission relates to a householder application) for local authorities where developers require confirmation of this sort. In these circumstances the authority would have to issue its written confirmation within 30 working days of receipt of the request.
- 8.52** We are also consulting on the principle of de-regulating planning fees in the longer term to allow local authorities to set their own fees. This is in line with our policy of greater devolution from central to local government. Deregulation should be linked to the performance of the local authority and would only be applicable to those authorities that:
- are able to set out the detailed cost of their planning service – a basic requirement as fees are not allowed to generate income above that cost; and
  - demonstrate that they have an effective and efficient planning service, by achieving the top rating in terms of their Comprehensive Performance Assessment rating (or in future, their Comprehensive Area Assessment rating) for ‘use of resources’.
- 8.53** In addition we are considering undertaking a pilot study with a small group of local planning authorities who would be able to offer a premium service to applicants. A premium service would allow a local planning authority to charge an enhanced fee of, for example, an extra 20 per cent where it guarantees that the applicant will receive a decision in less than 13 weeks for major applications (and less than eight weeks for minor or other applications).

## Effective intervention to address poor performance

- 8.54** Where local planning authorities are not performing and sector support has failed to bring improvement, we have used best value powers in the Local Government Act 1999 to designate them as “planning standards authorities” and to require them to meet specified standards of performance within a year. This process carries with it the threat of formal intervention if authorities fail to meet the standards they have been set. It has been successful in focussing the attention of the corporate centre of councils on planning services and in delivering improvements.

- 8.55** The Local Government White Paper proposes a streamlined ‘ladder’ of engagement and intervention. In the first instance, it will be the responsibility of local authorities and their partners to ensure that they are achieving a level of performance that will enable them to meet agreed improvement targets. If they need additional support in order to do so, they should call on assistance through regional improvement partnerships, and through organisations such as the IDeA and the Planning Advisory Service. As well as offering direct help, these sector-led organisations will provide peer challenge to local authorities to help ensure that best practice is followed and good performance is achieved.
- 8.56** Where under-performance against the national indicators is apparent – especially if this is highlighted as part of the annual risk assessment, but potentially also if it is raised as part of the on-going relationship between local authorities and Government Offices – the relevant Government Offices in discussion with local service inspectorates will be able to form a view on what further intervention may be needed. If sector-led interventions are clearly not producing the required results, the Secretary of State would be able to take actions such as the serving of an improvement notice, specifying precisely what degree of improvement is needed against a clear timetable. Failure to achieve the specified improvement could then trigger further actions, potentially including statutory directions to re-commission the service and identifying alternative providers of functions which could be other local authorities.

## **Building skills and capacity within local government**

- 8.57** In recent years the Government has made a significant investment in capacity building in local authorities and the planning sector. This has included training and support for members and officers, the production of guidance and spreading best practice. In particular we have established and funded four agencies to support local planning authorities, each of which has distinctive but complementary roles:
- a. **Planning Advisory Service (PAS)** was set up in 2004 within the Improvement & Development Agency, to support the continuous improvement of planning services, to assist under-performing authorities, and to spread best practice. PAS has undertaken a wide range of activities including:
    - advice on re-engineering planning business processes;
    - creation of a benchmark for planning services which is being used in peer reviews;

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- support for local planning authorities wishing to develop cross-boundary working; and
- training for councillors and officers.

PAS staff generally have first hand experience of the issues facing local planning authorities and their advice and support is therefore effective and readily accepted. Seventy per cent of local planning authorities have used one or more PAS products. The continuation of training provided for planners and members on economic issues, such as land supply and demand, how businesses assess risk, and the role of market signals will be important in the move to more positive planning.

- b. **Advisory Team for Large Applications (ATLAS)** was also set up in 2004, hosted by English Partnerships. It offers direct support to individual local authorities to deliver planning decisions on large-scale housing developments or regeneration projects. Like PAS, ATLAS is run by people who have worked in planning at local authority level and have first hand experience of the issues on which they are advising.
- c. **Academy for Sustainable Community Skills (ASC)** is the national centre for developing the skills and knowledge needed to make better places. ASC does this by developing knowledge, learning products and programmes for professionals, young people and community leaders.

The ASC is supporting the planning profession by:

- i. recruitment drives, including through schools and colleges, to increase the numbers coming into the profession; and
- ii. commissioning new accredited learning programmes for planners and other professional groups working on sustainable communities.
- d. **The Commission for Architecture and the Built Environment (CABE)** is the Government's adviser and champion on architecture, urban design and public space. CABE provides planning authorities with expert design advice on proposed schemes while seeking to ensure that good design is considered from the outset in urban master-planning, spatial planning, and procurement.

**8.58** The Local Government White Paper reiterated our commitment to sectoral support for local authorities as an important tool for improving performance. We will work with the Local Government Association and others to ensure that the work of the four national bodies described above is effectively co-ordinated with both the professional planning bodies and the regional improvement partnerships.

### **Box 8.2: Building capacity and developing skills**

#### **Increasing capacity and sharing good practice – Member and officer roles in spatial planning**

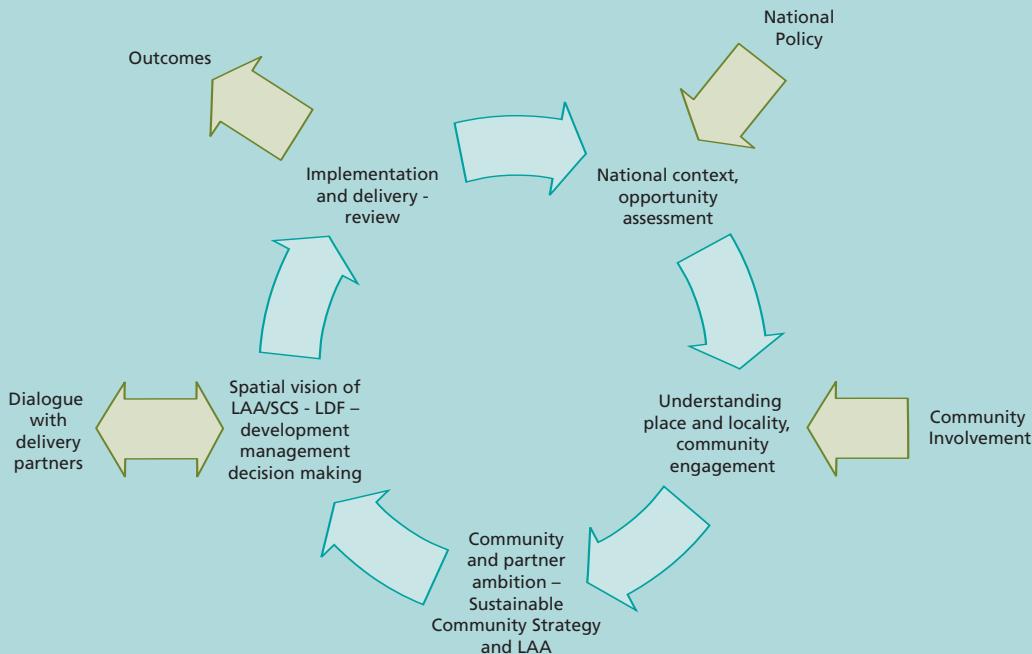
Strengthening the ability of local authorities and their partners to deliver their place-shaping role will be a central feature of the national improvement strategy, currently being developed by Government and the LGA. Within that strategy, there will be a clear focus on developing skills and capacity in relation to spatial planning – helping to make sure that this crucial component of place-shaping is better understood and delivered.

A council with an effective planning function is one that has:

- member and officer roles that are appropriate, clearly delineated and understood;
- productive partnership working locally and the ability to engage up to the national level;
- strong connections and mutual understanding between the strategic leadership of the council and members and officers focused on planning;
- members and officers with the capacity and knowledge needed for their role.

These authorities are able to demonstrate the integration of plan, programme and decision making that delivers the aspirations of the community (Sustainable Community Strategy), the ambitions of the LAA and the integration of the LDF with other locality based plans and programmes (eg Housing strategy, economic development strategy) in what can be described as a place shaping cycle. The diagram below illustrates this.

#### **Cycle of place shaping**



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## Capacity building activities

The role of planning is a complex one, with competing tensions between its enabling and controlling functions, and the need to respond to the demand for development whilst ensuring the community can influence decision making. This complexity means there is a continuing need to develop and invest in the skills and capacity of councillors and officers to understand better the role of spatial planning in realising community ambitions and aspirations.

Capacity-building programmes will build on existing activities and use a combination of sharing good practice, sector support for improvement and developing skills. Programmes will be developed in line with the national improvement strategy, making the right connections with other improvement activities and allowing local authorities to obtain the support that meets their needs.

Example activities to build capacity include:

- Developing the understanding of councillors of the role of decision making in delivering and implementing the spatial vision through sharing good practice, peer support and challenge.
- Providing guidance for councillors on the how they can engage in spatial planning and development management in a publicly transparent way.

## Oxford City Council

Recognising opportunities presented by the Local Government White Paper, Oxford City Council identified the need for Oxford to change and look outside its boundaries to understand its relationship to Oxfordshire and the rest of the South East and its potential role as the 'core city' of the County.

To establish its new role it brought in help from the IDeA and agreed a five point plan to look at the high level vision and direction for the City and its Council.

1. The Cabinet and senior management team went to look at how another city had risen to the challenge. They chose to go to Liverpool, a City that was clearly very different from their own, to get the maximum possible challenge from the visit.
2. At an Awayday the Cabinet and senior management team analysed the challenges and opportunities faced by the city and drew up a vision that identified the role of the council in delivering that vision and in community leadership to bring stakeholders on board.
3. Together the Cabinet and senior management team then reviewed political and managerial leadership positions and began to reprioritise budgets and actions.
4. The draft vision has been shared with the Local Strategic Partnership who have warmly welcomed it and have begun work on adapting the community plan and some of the individual plans of partner agencies.
5. The vision and associated documents are being refined by Cabinet and Officers to ensure the adaptation of all main strategies but particularly the corporate plan and the local development framework.

This is work in progress but a lot has already been gained by this approach of looking at the big picture.

Support programmes will be delivered in partnership across the planning and local government sectors drawing on the expertise and knowledge of a range of organisations including IDeA, RTPI, LGA, POS, Academy for Sustainable Communities.

The process of validating and developing the programme will take place by Summer 2007.

*The text in this box has been agreed with the Local Government Association.*

- 8.59** We propose to extend geographic coverage of ATLAS from the current four Southern regions initially to the East and West Midlands and to extend its remit to commercial schemes, where these form part of large mixed use developments. At present ATLAS is precluded from working on sites in the ownership of English Partnerships. In the light of proposals for Communities England we will consider the options for ensuring the continued neutrality of advice provided by the ATLAS team.
- 8.60** The Local Government White Paper saw the use of commissioning and competition as important drivers for improvement in the new performance framework<sup>7</sup>. Through the National Improvement Strategy we will encourage the development of more private sector partnership working and shared service provision building upon work to date<sup>8</sup>. There is evidence that working with private sector partners or joining forces with other local authorities to deliver planning services can be both cost efficient and effective. Decision making remains with elected members and planning authority officers but with the expertise, innovation and economies of scale that such arrangements can bring to the process.

## **Increasing the supply of planners**

- 8.61** A key barrier to improved performance by local planning authorities has been the significant shortfall in the number of planners in the UK. In 2005 local authorities in England and Wales were carrying 2,201 vacancies for planning and building control. We have taken action to build the long term capacity of the planning profession by providing bursaries for post-graduate planning students. 276 students have been funded and completed courses at 17 universities since 2004/05. One-hundred and thirty-six students hold awards for the current year and will complete their studies in September 2007. We propose to continue this scheme but in future will require all recipients to work in the public sector for two years in the first five years of employment after qualifying.

<sup>7</sup> See paragraphs 6.29-30 *Strong and prosperous communities: the Local Government White Paper*, October 2006.

<sup>8</sup> *Developing the local government services market to support the long-term strategy for local government*, Communities and Local Government, November 2006.

A large, stylized number '8' in a light teal color, set against a white background.

**8.62** In addition to bursaries we have funded the establishment of an internet based distance learning course in spatial planning which is being run by the University of the West of England. We are also creating a distance-learning foundation degree in planning for planning support staff. Students will be able to build up credits, module by module, and be awarded a University Certificate, NVQ level qualification or a Foundation Degree which would provide a base from which to work towards a professional planning qualification or provide a stand alone technical planning qualification.

## E-planning

**8.63** Since 2004 the e-planning programme has provided support to help local planning authorities e-enable their processes. The Planning Portal has been established as a one-stop shop for planning services on-line, and a range of tools and standards have been created to facilitate electronic handling of planning applications and plans. The online services of 95 per cent of local planning authorities are rated 'good' or 'excellent'.

**8.64** We now intend to focus on increasing the take-up of these services. Currently the Portal processes over 5,000 applications each month. Our expectation is that the new standard application form, which went live in May 2007 and will be fully introduced by 1 October 2007, should lead to a step-change in the number of applications being made online.

**8.65** In 2007-08 we are planning to build a major new e-consultation hub which will facilitate much more rapid and efficient exchange of planning applications and responses between local planning authorities and consultees. It also has the potential to improve information flows and generate a much greater degree of participation by individual citizens and others potentially affected by the planning process.



GOLDE  
BURLINTON  
HOTEL



# Making the planning system more efficient and effective

**This chapter sets out a range of Government proposals for making the planning system more efficient and effective, including plans to:**

- introduce a new impact approach to householder development which will reduce the number of minor applications for planning authorities whilst protecting the interests of neighbours, the wider community and the environment;
- extend the impact approach to permitted development to other types of development such as industrial or commercial buildings as appropriate, subject to limitations and conditions;
- undertake a review and simplification of the Town and Country Planning (General Development Procedure) Order 1995 which is the main legislation setting out the process for submitting and considering planning applications;
- allow minor amendments to be made to a planning permission without the need for a full planning application;
- legislate to introduce a single set of rules governing all tree preservation orders;
- streamline information requirements for all applications, through the introduction of a standard application form and associated guidance and subsequently a further review of information requirements;
- introduce a package of measures designed to reduce the number of applications determined by ministers; and
- introduce a range of measures to improve the speed and efficiency of the appeals process. These include:
  - implementing fast tracked processes for householder and tree preservation order appeals;
  - establishing Local Member Review Bodies to determine minor appeals at the local level;
  - enabling the Planning Inspectorate, acting on behalf of the Secretary of State, to determine the appeal method by applying ministerially approved and published indicative criteria;
  - improving customer focus and efficiency through a package of measures to refine the rules and regulations and increase the quality of appeals;
  - updating the provisions for awards of costs;
  - reducing the time limit for planning appeals when the same development is the subject of an enforcement notice;
  - measures to place enforcement appeals and lawful development certificate appeals on the same footing as that for planning appeals; and
  - introducing an appeal fee.

**9.1** This White Paper has shown how there have been considerable improvements in the planning process, mostly delivered by local planning authorities. However, some significant concerns remain about how the planning system operates and the outcomes it achieves. The system is still not as efficient and effective as it should be to its customers across the range: from householders and small businesses to major developers. There is unnecessary complexity which is wasteful and causes delay. And the system hinders local planning authorities from being more responsive to change. We propose a range of actions in three principal areas to address these concerns. We will:

- **reduce the need for applications for planning permission for minor development subject to safeguards to limit impact on others.** This will benefit a wide range of users of the planning system including householders, businesses and others seeking to make minor changes to their land and buildings;
  - **streamline the planning application process.** This will benefit all users of the planning system from individuals to major developers, reducing costs and delays; and
  - **improve the planning appeal process.** This will benefit all users of this service and generate better value for money in the provision of a public service.
- 9.2.** All of these proposals should, over time, also free up resources in local planning authorities, allowing them to concentrate on strategic development and to deliver the vision for their areas.

## **Reducing the need for planning permission for minor developments**

- 9.3** We propose a range of measures which will offer greater freedom and flexibility for:
- (a) householders wishing to make minor extensions or improvements to their home; and
  - (b) other occupiers of buildings and land, including small businesses who wish to extend or improve their premises.
- 9.4** In addition, we invite views on Kate Barker's proposal to introduce neighbourhood agreements to facilitate quicker planning decisions on smaller developments. In Chapter 7, we set out our proposals to extend permitted development rights in relation to the provision of micro-generation equipment.

### (a) Householder extensions

- 9.5** Applications for planning permission for minor developments, particularly from householders, are in danger of clogging up the system. From 1995 to 2005 householder applications for planning permission grew by 114 per cent, against growth of less than 8 per cent from all other applications.
- 9.6** Small scale extensions and improvements to houses often require planning permission, although their impact on neighbours and the surrounding street may be minimal. On the other hand, some developments with adverse impacts on neighbours – for example on their privacy or causing overshadowing – do not need planning permission.
- 9.7** Our approach to changing the system is based on the work of the Householder Development Consents Review (HDCR) which was set up by the former Office of the Deputy Prime Minister in January 2005. We intend to introduce an approach that assesses the impact on others, to determine what type of householder development is permitted without the need to seek the specific approval of the local planning authority. This is based on the practical approaches currently adopted by local planning authorities when considering applications across the country.
- 9.8** So a proposal with no or low impact on the area outside the immediate site, for example, in terms of visual amenity or overlooking, would be considered permitted development, that is where planning permission is automatically granted without the need for an application. Conversely, developments considered to have more than a low impact on the wider neighbourhood and/or street scene would require specific planning permission from the local planning authority.
- 9.9** Overall, these proposals should reduce the number of minor applications for planning authorities to determine and reduce bureaucracy for householders seeking to improve their homes whilst protecting the interests of neighbours, the wider community and the environment.
- 9.10** Alongside the White Paper we are publishing a consultation paper entitled, *Changes To Permitted Development Consultation Paper 2: Permitted Development Rights for Householders* which sets out in detail our proposals for introducing an impact approach to permitted development rights for householder development and on which we are seeking views.

## **(b) Extension of the impacts approach to permitted development rights for other Land Uses**

**9.11** We also propose to extend the impact approach to permitted development to other types of development such as industrial or commercial buildings as appropriate, subject to limitations and conditions. We invite views on what limitations might be appropriate for particular sorts of development and local circumstances. We intend to develop detailed proposals and start consultations later in 2007.

### **Consultation Question:**

*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?*

## **Safeguards against inappropriate development**

**9.12** Our proposals to extend permitted development rights are aimed at reducing bureaucracy for minor applications which have little or no impact beyond the individual property. However we recognise that the cumulative effect of such changes could be a cause for concern, for example, where there is a desire to preserve the special character of a neighbourhood or sensitive landscape. We therefore wish to ensure that local planning authorities can protect areas where necessary.

**9.13** Planning authorities can already restrict permitted development rights in exceptional circumstances by making an article 4 direction under the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO), where the imposition of directions would be justified – for example, to seek to address the impact that the paving over of front gardens can have on the run-off of rainwater and the capacity of local sewers to cope. However, there are some potential constraints on the use of directions by local planning authorities. These constraints include the procedures for making some directions and the possibility of compensation payable in the event of refusal or conditional grant of a planning application made following an article 4 direction.

**9.14** We are considering what measures might be taken to remove the barriers to the use of article 4 directions where they are justified. One option would be to remove the requirement for the approval of certain article 4 directions to be approved by the Secretary of State. Another would be to amend the current provision for compensation. On the other hand, to ensure that a clear justification for their existence remains, we might also require planning authorities to review these directions every five years. We are inviting views on these points in the consultation

paper, *Changes To Permitted Development Consultation Paper 2: Permitted Development Rights for Householders*, issued alongside this White Paper.

- 9.15** In addition, compensation may also potentially be payable where Government reduces permitted development rights through changes to the GPDO. Although the impact approach is generally more likely to reduce the need for applications for planning permission, there may, as has been described above, be instances where development that is currently permitted would in future require specific planning approval. The Government is considering whether these existing compensation rights should be amended and what safeguards might be appropriate. Views are invited as to how this might work as part of the householder permitted development rights consultation paper.

## Neighbour agreements

- 9.16** 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.

### Consultation question:

*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?*

## Streamlining the planning application process

- 9.17** Despite some recent simplification of planning regulation, concerns about the complexity and inaccessibility of the process of applying for planning permission continue to be expressed by businesses and the wider public. We need a planning system that serves the whole of the community and which minimises the burdens placed on those seeking planning permission for developments.

- 9.18** We propose to:
- simplify the provisions which govern how a planning application is made;
  - allow minor amendments to be made to planning permissions;
  - take steps to unify consent regimes;

- (d) rationalise the tree preservation order rules;
- (e) streamline information requirements for all applications; and
- (f) reduce Secretary of State involvement in casework.

### **a) Simplifying the planning application regulations**

**9.19** The Town and Country Planning (General Development Procedure) Order (GDPO) 1995 is the main legislation setting out the process for submitting and considering planning applications. It was last consolidated in 1995, but it has been amended a number of times since then and has inevitably become more complex. Simplification of the GDPO is therefore sensible. We will conduct a review of the GDPO, including consideration of the types of planning applications with which statutory consultees become involved. We will consider how best to consolidate other aspects of secondary legislation related to planning once these reforms are embedded.

### **(b) Allowing minor amendments to be made to planning permissions**

**9.20** We have received representations from both developers and planning authorities expressing uncertainty and concern as to the level of flexibility that now exists to make minor amendments to developments after approval by the local planning authority. Recent case law has been interpreted by many as restricting the potential for developers and planning authorities to agree between them the appropriateness of changes to an approved scheme. This leads to a situation whereby developers need to submit a further full planning application to make relatively small changes to how a development is delivered – resulting in delay, uncertainty and cost for the developer, additional work for the local planning authority and often unnecessary further consultation with stakeholders. We are minded, therefore, to allow minor variations to be made to a planning permission without the need for a new planning application.

**9.21** The approach we propose is 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. A similar approach has been in place in Scotland for many years and it has successfully provided the flexibility we seek to achieve.

**9.22** It will be important, of course, for us to ensure that transparency is maintained through this approach. Therefore, and in the light of responses to this consultation, we will need to consider what guidance is offered to planning authorities when exercising this discretion, for example, where in certain circumstances they may wish to consult on whether the variation should be allowed.

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## **Consultation question:**

*Do you agree that it should be possible to allow minor amendments to be made to a planning permission?*

*Do you agree with the approach proposed above?*

### **(c) Unification of Consent regimes**

- 9.23** For certain types of planning applications, the planning system is made more complex by the need for separate consents to be obtained alongside, but associated with, those for planning permission. Wherever possible and practical, our aim is to ensure that these multiple consents are brought into a single process, thereby reducing the complexity and time and costs incurred by those seeking planning permission.
- 9.24** The Heritage Protection White Paper<sup>1</sup> contains a range of proposals to introduce a unified, simpler and more efficient heritage protection system. It includes the replacement of Listed Building Consent and Scheduled Monument Consent with a Heritage Asset Consent and consults on the merger of Conservation Area Consent with planning permission. Subject to consultation on the Heritage Protection White Paper, these measures will be taken forward as part of a comprehensive package of improvements to the heritage protection system. Following this first set of mergers, we will consult on possible further unification of planning legislation.

### **(d) Rationalising Tree Preservation Order (TPO) rules**

- 9.25** Local planning authorities have powers to protect trees where they contribute to the amenity value of an area, by making tree preservation orders. Each tree preservation order currently comes complete with its own set of rules on procedural matters such as applications for consent and appeals. Once made, the order remains fixed. Any subsequent changes to the governing regulations which specify the content of tree preservation orders apply only to new orders. Different rules operate, therefore, depending on the date of the tree preservation order, making the system complex to administer and to understand.
- 9.26** We intend, therefore, to legislate to introduce a single set of rules governing all tree preservation orders. This will also result in a slimmer, simpler order. Previous consultations in 1990<sup>2</sup> and 1998<sup>3</sup> have indicated widespread support for such a change.

<sup>1</sup> *Heritage Protection for the 21st Century*, DCMS, published in March 2007

<sup>2</sup> *Review of Tree Preservation Policies and Legislation*: Consultative Paper by the Department of the Environment and the Welsh Office, December 1990

<sup>3</sup> *Tree Preservation Orders, Draft Regulations: A Consultation Paper*, DETR June 1998.

**9.27** These changes do not affect the level of protection of trees. Important trees will continue to enjoy strong protection under town and country planning legislation.

### **(e) Streamlining information requirements for all applications**

**9.28** Some planning applications raise a range of complex issues, which require very detailed examination and testing. In many cases there is a need to provide supplementary information which explains the full impact of the proposals. But in a number of cases, the amount of information required to support a planning application can be disproportionate. It has also grown substantially in recent years. This adds to the costs of making an application and the resources and time needed to consider it.

**9.29** We are therefore proposing a standard application form to be used by all planning authorities in England from 1 October 2007. The form will replace the current arrangement under which each planning authority has its own form with its own set of questions. Applicants will be able to apply either electronically, through the Planning Portal, the Government's online resource for planning and building services, or on paper.

**9.30** Alongside the introduction of the standard application form we are clarifying the information needed to accompany applications. Applications will be considered valid if they are accompanied by the information specified both on a short national list of statutory requirements and on a local authority's own published list. The local authority list will be expected to include information needed to ensure that applications comply with national policies. The Government will publish revised guidance by the summer of 2007 on the new arrangements for determining whether planning applications are valid.

**9.31** Later in 2007 we will start a further review with the objective of reducing information requirements. As part of the review we will also commission a study of the information demands for applications in 2006 in order to establish a baseline against which to track future levels of information demands.

**9.32** As part of our work to streamline processes we will also examine the potential to raise the thresholds used in determining whether applications require an environmental impact assessment (EIA). Raising the thresholds would reduce the number of cases where a screening opinion is needed, saving both applicants and local planning authorities time and money. However, such a change would not alter the number of EIAs undertaken, because the criteria for deciding whether one is required (for projects that are likely to have significant environmental effects) are set out in the EIA Directive.

**9.33** In addition, in the revised circular on Environmental Impact Assessment, which is due to be issued in Summer 2007, we will strengthen the present advice that Environmental Statements should focus on the main or significant environmental effects to which a development is likely to give rise, and should be prepared without unnecessary elaboration.

#### (f) Reducing Secretary of State involvement in casework

**9.34** In earlier chapters we have discussed proposals for determination of infrastructure projects of national significance by a new infrastructure planning commission. Here, ministers will be involved in setting out the strategic framework for decision making in a national policy statement. These new arrangements may include a very small number of applications currently dealt with under the Town and Country Planning Act. But the vast majority of planning applications made under the Town and Country Planning Act will continue to be determined by local planning authorities, except where an application which raises issues of more than local importance is called in for determination by the Secretary of State.

**9.35** The Government considers that decisions on Town and Country Planning Act cases, the vast majority of which raise issues of only local significance, should normally be the responsibility of local planning authorities. But there remains a need for ministers to be able to determine a very limited number of cases which raise issues of more than local importance. Compared with nationally significant infrastructure cases, which are focused on specific sectors and developments, town and country planning cases cover a wide variety of developments, for which it would not be the right approach to set out national policy statements of the type proposed for infrastructure. We therefore consider that there should be a continuing, but reduced role, for ministers in such cases.

**9.36** Potential cases are referred to the Secretary of State either as a result of a ministerial direction or as a result of a request from third parties. At present, of the 650,000 planning applications submitted each year in England, just 50 – 70 are called in for a decision by the Secretary of State. However, the number of applications actually called in represents only around five per cent of all the cases initially referred for consideration. This results in much wasted time and money for applicants, local planning authorities and the Government.

**9.37** To improve this process we will publish a consultation paper this summer on a package of measures intended to reduce the number of applications called in by ministers. These will include:

- reviewing the scope for tightening up the guidelines set out in the current call-in policy statement<sup>4</sup>; and

<sup>4</sup> Richard Caborn MP in reply to a written PQ from Bill Michie MP on 16 June 1999 (Hansard, col 138)

- setting out proposals for reducing the number of applications that have to be notified to the Secretary of State as a result of ministerial directions. We have already, in PPS3, cancelled the Greenfield and Density Directions with effect from 1 April 2007. We will eliminate other notification requirements which are outmoded or represent an inappropriate restriction on local decision making. We will ensure that the thresholds for notification in those directions which are retained are set at an appropriately high level. And, if possible, we will consolidate all remaining directions into a single direction.
- 9.38** The resulting reduction in workload should enable the Government Offices to turn round potential call in cases more quickly. This will be reflected in a revised internal monitoring target which will require a decision on whether to call in on 80 per cent of all referred cases to be in three weeks and 90 per cent within five weeks. The Secretary of State's own performance in determining called-in planning applications and recovered appeals has improved significantly from an average of 32 weeks from the closure of the inquiry in 2001/2002 to the current position where some nine out of ten of cases are being determined within 16 weeks. We intend to maintain this high level of performance, despite the fact that the more selective approach to calling in and recovering cases will mean that a higher proportion of the cases will involve more intensive work.
- 9.39** The vast majority of planning appeals are now decided by inspectors appointed to act on behalf of the Secretary of State, but some categories of appeal are still decided by the Secretary of State. We therefore intend to consult on proposals to make regulations to transfer to inspectors:
- decisions on appeals relating to Listed Buildings in Receipt of Grant Aid;
  - enforcement appeals accompanied by Environmental Statements;
  - appeals against refusal of hazardous substances consent; and
  - tree preservation order appeals.
- 9.40** We are also seeking ways to transfer planning and enforcement appeals involving statutory undertakers' operational land, though this will require legislation to amend the 1990 Town and Country Planning Act. The scope for doing this will be explored in the context of the amendments to the 1990 Act which will be required to establish the functions and powers of the proposed infrastructure planning commission. In addition, we intend to transfer to inspectors decisions on appeals relating to the imposition of conditions on old minerals working permissions.

**9.41** Notwithstanding these measures, the Secretary of State needs to retain a discretion to recover from planning inspectors any appeal for his/her own decision. A very small percentage of appeals are recovered, usually because the development is large and controversial. The criteria for recovering appeals for the Secretary of State's own decision were recently reviewed, and the revised criteria were announced to Parliament on 24 July 2006<sup>5</sup>. This has already led to a reduction in the number of appeals that are decided by the Secretary of State. We will review the scope for further refinement once the current criteria have been in place for 12 months, and will also ensure that the recovery criteria are kept in line with emerging changes to the call-in guidelines.

## Improving the appeal process

- 9.42** The right of appeal is a key element of a democratically accountable planning system. The appeals system is widely recognised for delivering a high quality service. However its efficiency and effectiveness is threatened by the large volume of appeals being received. The number of planning appeals in England has risen sharply from around 14,000 in 1997-98 to over 22,000 in 2005-06 and is forecast to rise to around 25,000 appeals per year by 2010. Delays in decision making have risen substantially as a result – in 2005-06 just under half of appeals which proceeded by the hearing method and just over a third of those that proceeded by inquiry took over a year to be determined.
- 9.43** The Government places great importance on the plan-led system. Significant changes were brought in with the 2004 Act, notably, the focus on community involvement leading to sound plans. We expect that, in time, this will lead to a reduced demand for the appeals system as local planning authorities will have in place approved and up to date development frameworks to guide decision making. However, we recognise that these changes will take time to impact on appeals and the current forecast is for a continuing rise in volumes for the next three years or so. The existing system is not equipped to handle such large volumes efficiently. Some of the existing appeal processes are disproportionately complex for the type of appeals, while some administration processes are not as efficient as they could be.
- 9.44** The Planning Inspectorate decides a wide range of appeals and other casework under planning, housing, environmental and allied legislation on behalf of the Secretary of State.<sup>6</sup> It is publicly funded, at a cost of some £56 million per year. Given the forecast increase in appeal numbers, changes need to be made to the

5 Parliamentary Statement to the House of Commons by Meg Munn MP on 24 July 2006 (Hansard cols 67WS-68WS)

6 The Planning Inspectorate also administers the appeals system in Wales on behalf of the National Assembly for Wales. However, the appeals proposals contained herein relate to England only.

current system to avoid a continued escalation of overall costs and secure best value for money.

**9.45** The changes we propose to the appeals system aim to ensure that it:

- is more proportionate to the type and complexity of each appeal;
- has improved customer service and efficiency at its core; and
- is better resourced.

**9.46** Alongside this White Paper, we are consulting on a package of measures which together would improve the appeals system. These proposals are set out in full in a consultation paper – *Improving the appeal process in the planning system – Making it proportionate, customer focused, efficient and well resourced* – and are summarised below.

**9.47** The Planning Inspectorate is already working towards achieving a target of determining 80 per cent of all written representation cases within 16 weeks by the end of 2007-08. The introduction of these measures will allow the Planning Inspectorate to achieve even tougher performance targets for the time taken to determine appeals. If the measures we propose are introduced, we envisage that:

- By the end of 2007-08:
  - 80 per cent of all written representation cases will be determined within 16 weeks.
- By the end of 2008-09:
  - 80 per cent of fast tracked householder appeals (dealt with by written representations) will be determined within eight weeks and all other written representations appeals will be determined within 13 weeks;
  - 80 per cent of all hearings will be determined within 16 weeks;
  - 80 per cent of inquiries will be determined within 22 weeks (although some inquiries would be subject to bespoke timetabling agreed between the main parties and the Planning Inspectorate); and
  - the Planning Inspectorate will aim to ensure that all appeals are determined within six months.

## A more proportionate approach

**9.48** The 22,000 planning appeals received each year range from minor schemes such as new shop fronts and householder developments through to major schemes for

office or retail developments, mineral and waste proposals, hundreds of houses and airport expansions. These appeals vary greatly in terms of complexity.

- 9.49** Under the current system, appeals are differentiated by appeal method – written representations, hearing and inquiry. The main parties (the appellant and the local planning authority) are able to select the method by which they want the appeal to proceed. This means, for example, that appeals for householder development can be dealt with in much the same way as large commercial schemes or hundreds of new dwellings. Using disproportionately complex methods to determine the simplest cases is wasteful of resources and can result in delays.
- 9.50** Around 6,000 (28 per cent) of the total number of appeals received are for householder development. We are proposing to use a simpler and quicker method for determining these appeals. For all householder cases, we intend to reduce the period for lodging an appeal from six months to eight weeks. Then, for written representations cases, we are proposing to fast track the process by applying a compressed appeal timetable so that the appointed planning inspector would then determine the appeal, with a site visit, within a tighter target of eight weeks.
- 9.51** This significant shortening of timetables would mean that in the majority of cases there would be no material change in circumstances between the application and appeal stage, so the original documents on the local planning authority's file (including third party representations) would remain relevant and would be those used by the inspector to reach a decision. There would be limited opportunity for additional material to be submitted beyond that, although appellants would be asked to explain their grounds of appeal.
- 9.52** We are also proposing a similar process for tree preservation order appeals – the 28 day period for lodging an appeal would remain unchanged, but decisions would be based chiefly on material gathered during consideration of the original application and a site visit, with limited opportunity for further representations. The simplification of this process should enable quicker decisions.
- 9.53** The Government is also considering going further by allowing minor appeals to be determined within each local authority by a board of Councillors, to be known as a Local Member Review Body. This would be consistent with the principles of proportionality and subsidiarity by enabling local decisions to be taken at the local level.
- 9.54** Each local authority would be required to establish a scheme of delegation to enable their planning officers to determine outright certain planning applications for more minor development types (eg householder development, new shop

fronts, small change of use proposals). The same would apply for tree preservation order applications. These minor application types, determined in the first instance by officers acting under delegated powers, would be those eligible for review by the Local Member Review Body. The applicant would be able to request a review of the officer's determination and there would no longer be a right of appeal to the Secretary of State in these cases. A party aggrieved by the Local Member Review Body's determination would still have the right of challenge in the High Court. Furthermore, the strict rules and procedures which are already established to ensure the propriety of the decision making process and the decisions taken by local authorities and their councillors would apply, including the use of local authority formal complaints procedures and the ability to complain to the Local Government Ombudsman.

- 9.55** We consider that a more proportionate appeals system could also be achieved by enabling the Planning Inspectorate, acting on behalf of the Secretary of State, to determine the appeal method. They would do this by applying ministerially approved and published indicative criteria. The criteria would ensure that those cases which would benefit from a hearing or inquiry due to their complexity or controversial nature are always dealt with in that way.
- 9.56** The Planning Inspectorate already uses indicative criteria to assist parties in selecting their appeal method. As this is a non-statutory process, they can only encourage people to use the appeal method which they consider most suitable. This approach has had some success – for the 12 months between April 2006 and March 2007, 335 appeals that would otherwise have been dealt with by the hearing method were dealt with under the written representations method. However, there were still a substantial number of cases which proceeded, at the main parties' request, via appeal methods which were considered to be unnecessarily complex for the type of appeal. During this 12 month period, 187 appeals were dealt with by inquiry although they were considered suitable to be dealt with via hearing, and 914 appeals were dealt with via inquiry or hearing although when assessed against the Planning Inspectorate's published criteria they were considered suitable for the written representations method.
- 9.57** Our proposal to enable the Planning Inspectorate to determine the most appropriate appeal method by applying criteria would mean that all appellants would receive an equitable service whilst resources could be distributed fairly so as to improve the efficiency of all appeal handling. All appeals would continue to be dealt with fairly and on their merits. The outcome depends on how convincing the inspector finds the planning arguments, not the method of their presentation.

## Improving customer focus and efficiency

**9.58** In the context of rising appeal numbers, it is increasingly important that the appeal system operates efficiently and maintains a strong customer focus. We propose changes to existing processes to address identified areas of concern and refine them so as to improve efficiency and speed of decision making.

**9.59** Our package of proposed measures includes:

- **Prescribing the nature and content of appeal documents:** providing better guidance and prescribing how appeal documents should be presented for appeal, including requiring summary statements and possibly imposing word limits.
- **Submission of evidence:** requiring the appellant and the local planning authority to send directly to each other and to the Secretary of State copies of their statement of case, further comments and, if applicable, proofs of evidence while encouraging the prompt submission of appeal documents.
- **Limiting the introduction of new material at appeal:** giving the Secretary of State the power to refuse to consider any changes to a scheme or evidence beyond that which was before the local authority when it made its decision.
- **Fixing inquiry and hearing dates:** offering two dates to the main parties with one to be mutually agreed within five working days of the start date of the appeal, otherwise a date will be imposed by the Planning Inspectorate on the parties.
- **Earlier submission of Statements of Common Ground:** amending the Inquiry and Hearing Rules to require Statements of Common Ground to be submitted to the Planning Inspectorate within six weeks of the appeal’s “start date”.
- **Comments at the nine week stage:** amending the Inquiry and Hearing Rules to remove the nine week stage for comments. This is unnecessary as there is an opportunity to provide additional comments at the hearing or inquiry.
- **Correction of errors in appeal decisions:** allowing the Secretary of State (and the Planning Inspectorate on his/her behalf) to issue Correction Notices for errors on decision documents without obtaining the consent of the applicant/landowner(s).
- **Award of Costs:** updating the Costs Circular (No. 8/93 – Department of the Environment) to reflect new legislation, clarify more accurately the extent of full awards and reaffirm examples of unreasonable behaviour. We are also considering allowing fixed penalties to be imposed where a party has behaved

poorly or has abused the appeal process, and extending the costs regime to planning appeals dealt with via written representations.

- **Reducing the time limit for planning appeals when the same development is the subject of an enforcement notice:** reducing the time limit for appealing a planning decision when there is an enforcement notice for the same or substantially the same development. In many cases this would allow, in the event that both the planning and enforcement appeals were pursued, the linking of the appeals, so that they could be considered and determined at the same time.
- **Enforcement and lawful development certificate appeals:** amendments to bring procedures for enforcement appeals and lawful development certificate appeals more in line with those for planning appeals.

**9.60** We also support the voluntary use of mediation within the planning system. It has been shown, in appropriate cases, to provide a cheaper, quicker and less confrontational approach to resolving disagreements between applicants and local authorities. It can also result in a higher standard of planning application and fewer cases going to appeal.

**9.61** We will work with relevant professional bodies to promote mediation services by local authorities, to develop guidance on when mediation is likely to be a suitable option and how it can be used most effectively.

## **Resourcing the appeals service**

**9.62** Under the existing system, no fees are charged for making planning appeals – therefore they rely entirely on public funds. With the cost of running planning appeals now in the region of £30.1 million per year, out of the total cost of the Planning Inspectorate of £56 million per year, they represent a substantial cost to the tax payer.

**9.63** Rising demand for the appeals service has put the Planning Inspectorate's resources under considerable pressure. Kate Barker recognised this in her Review, and recommended that the Government consider the case for additional public funding to be directed towards the appeals system. While the Government is considering this option, it must also consider whether there are other ways of contributing funding to the system which would have less burden on public funds whilst also being sustainable.

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- 9.64** Planning applications and appeals are made because some benefit would be derived if permission is granted. Given this, it seems appropriate that those appealing against decisions of the local planning authority should contribute to the cost of the service in the same way as they do for planning applications.
- 9.65** The consultation paper suggests two options for an appeal fee. One would involve an up front fixed administrative fee (much like Northern Ireland's Planning Appeals Commission fee). Another approach would be to require an up front proportionate fee, levied on a sliding scale, as a percentage of the application fee charged by local planning authorities.
- 9.66** The timetable for implementing these reforms will vary. If, following consultation, the Government decides to press ahead with these proposals, we will bring forward legislation at the earliest opportunity. A number of the proposals will require primary legislation. The other measures will require secondary legislation and could therefore be implemented during 2008-09.



# Devolution, transitional arrangements and implementation

## Scotland, Wales and Northern Ireland

- 10.1** Scotland, Wales and Northern Ireland each have fully devolved responsibility for town and country planning policy and decision making. Responsibility for planning for nationally significant infrastructure is largely devolved, but the arrangements differ between nations and between infrastructure sectors. The current devolution settlement works well and the Government proposes that it should continue. The Government is working closely with the Devolved Administrations in developing the reforms in this white paper to ensure that the planning systems in the UK operate effectively alongside each other.
- 10.2** Because of differences in the devolution settlement between the three nations, some aspects of the reforms for nationally significant infrastructure will have implications for working between each nation and the UK Government.
- 10.3** The reforms of the town and country planning system described in Chapters 6-9 will have an effect in England only. The Devolved Administrations each have their own reforms in train or planned. These will continue.

## Air transport and energy policy

- 10.4** Air transport policy remains with the UK Government. Energy Policy is more complex: some elements are UK-wide and some are Great Britain-wide. Some matters relating to energy policy are the responsibility of the Devolved Administrations, for example fuel poverty and the Renewables Obligation in Scotland and Northern Ireland. The Government intends that any national policy statements for air transport and for energy would be developed for the whole of Great Britain or the UK as appropriate. These policies would be developed with the full involvement of the Devolved Administrations and the consultation proposed in Chapter 3 would encompass the whole of Great Britain or the UK. Welsh, Scottish and Northern Ireland ministers would be statutory consultees in the development of relevant national policy statements. However the planning decisions on airports will continue to be taken by the Devolved Administrations

(or their local authorities) in all three nations, as will decisions on energy projects in Scotland and Northern Ireland. In particular, the proposals for reform of major infrastructure planning set out in this White Paper do not change the transfer of functions under sections 36 and 37 of the Electricity Act 1989 to Scottish ministers for projects in Scotland or the Electricity (Northern Ireland) Order 1992 for projects in Northern Ireland. The Government anticipates that close working in the development of Great Britain or UK wide policy will mean that it will also be reflected in policy and decisions in the Devolved Administrations.

## **Energy projects and reservoirs in Wales**

**10.5** Planning decisions on major energy infrastructure projects in Wales are presently made by the Secretary of State for Trade and Industry. The Government proposes that these decisions should be transferred to the infrastructure planning commission in the same way as energy projects in England, within the context of the relevant Great Britain or UK wide national policy statement. While the Government believes it is vital for the UK's energy strategy that the commission should have such decision making powers, we also recognise that the new regime should take full account of the views both of Welsh Assembly Government Ministers and of appropriate Welsh experts. The Government proposes to increase the role the Welsh Assembly Government will exercise in large energy consents:

- a) first, Welsh ministers would be statutory consultees in the formulation of the national policy statement;
- b) second, Welsh ministers would be prominent amongst those that developers would consult on their plans before applying consent to the infrastructure planning commission, and amongst those that the commission would consult during its consideration of any scheme in Wales, including at the decision making stages; and
- c) third, two or three commissioners of the infrastructure planning commission would be appointed on the advice of Welsh ministers, and one of those commissioners would be a member of the panel drawn to consider and decide an application for consent for an infrastructure project in Wales.

Welsh ministers have made clear that they will continue to pursue the devolution of energy consents over 50MW. The policy set out in this White Paper is aimed at ensuring a unified and coherent approach to large energy consents across England and Wales.

**10.6** Between them, these proposals would give Welsh ministers a greater role both in the development of the overarching strategy as it impacts on Wales, and in the planning process around large energy projects than exists under the current

regime, while also ensuring that the infrastructure planning commission has among its membership individuals with expertise relevant to energy infrastructure in Wales.

- 10.7** As now, the Severn Trent Water Company will not be able to plan new or extended reservoirs in Wales without the express consent of Welsh ministers and applications for development consent for the construction of such reservoirs will be determined by Welsh ministers.

## Cross border projects

- 10.8** Some major infrastructure projects may cross the border between England and either Scotland or Wales and need consent from the Devolved Administration as well as the infrastructure planning commission. We will work with Scotland and Wales to put in place effective arrangements for such projects to be jointly determined by the commission and the relevant Devolved Administration. Existing arrangements between Scotland and Northern Ireland or Northern Ireland and the Republic of Ireland will not be affected by the proposals in this White Paper.

## Implementing the proposals

- 10.9** Our intention is that the proposals in this white paper should be fully in place by 2009.

### Nationally significant infrastructure projects

- 10.10** Establishing the infrastructure planning commission will need primary legislation which we propose to introduce at the earliest opportunity. The need for legislation means that the commission is unlikely to be in place before April 2009. Nationally significant infrastructure applications received before the commission is established would be decided by the relevant Secretary of State. They would not be transferred to the commission. The Government has recently published changes to the Electricity Act Inquiry Rules which will make Inquiries more efficient as an interim stage in the reform of major infrastructure planning and section 44 of the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2005 will be used for projects which come forward through that route. This will mean faster decisions than previously.

- 10.11** We expect to put national policy statements for infrastructure sectors in place before any applications in a sector are submitted to the infrastructure planning commission, including existing statements meeting the criteria in Chapter 3.

However if applications come forward before the relevant national policy statement is in place the commission would consider the application using the procedures proposed in this White Paper but would make a recommendation to ministers for decision.

**10.12** We believe that the proposals in this White Paper give a clear basis against which industry can plan for future development consent applications. The new arrangements will give greater certainty and speedier decisions. However we would not expect developers to delay projects already close to an application in order to wait for the new system. Well prepared applications made soon should be able to traverse the present consent regimes before the infrastructure planning commission would be able to reach a decision on the project if an application were delayed until 2009.

## Town and country planning

**10.13** In relation to town and country planning we propose to build on the improvements we have already put in place, with a range of measures delivered in a staged programme over the next two to three years.

**10.14** As part of the White Paper package of proposals we propose to:

- Help achieve a positive planning framework for delivering sustainable development by:
  - working with industry to set in place a timetable and action plan to deliver substantial reductions in carbon emissions from new commercial buildings within the next ten years;
- Strengthen the role of local authorities in place shaping by:
  - consulting on some minor amendments to primary legislation to help streamline the LDF process;
  - working with the Local Government Association and other key stakeholders in developing a strategy to promote and support further improvements and culture change in planning;
  - working with key stakeholders to develop appropriate indicators for spatial planning outcomes at national, regional and local levels;
  - publishing for consultation our proposals to introduce Planning Performance Agreements, which will help improve the processing of major applications; and
  - publishing for consultation our proposals for increasing planning fees and testing views on the principle of de-regulating fees in the longer term.

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- Make the planning system more efficient and effective by:
  - publishing for consultation our proposals for allowing more householder development without the need for planning permission, based on an impact approach and providing improved safeguards against inappropriate development;
  - consulting on the proposed extension of the impact approach to non residential uses;
  - consulting on allowing minor amendments of planning permissions;
  - publishing for consultation proposals for improvement of the planning appeals process.

**10.15** By Summer 2007 we propose to:

- Help achieve a positive planning framework for delivering sustainable development by:
  - consulting on a new draft national Planning Policy Statement – *Planning for Economic Development*. This will set out a positive framework for planning for sustainable economic development at regional, sub-regional and local levels;
  - consulting on proposals to replace the need and impact tests with a new test, which has a strong focus on our town centre first policy, and which promotes competition and improves consumer choice, avoiding the unintended effects of the current need test;
  - publishing a detailed strategy and timetable for reviewing the national planning policy framework, including the Statement of General Principles. Our objective will be to complete the whole process by summer 2009; and
  - commissioning research to extend permitted development rights for domestic microgeneration to other uses, including commercial and agricultural.
- Strengthen the role of local authorities in place shaping by:
  - developing in partnership with local government and planning sectors partners, a programme to build skills and capacity among councillors and officers to undertake effective spatial planning; and
  - extending the geographic coverage of the Advisory Team for Large Applications (ATLAS) initially to the East and West Midlands (and in due course the rest of the country) and to extend their remit to include commercial schemes, where these form part of large mixed use developments.

- Make the planning system more efficient and effective by:
  - commissioning research to extend the impact approach to minor non householder development;
  - publishing revised guidance on the new arrangements for determining whether planning applications are valid;
  - consulting on proposals to reduce the Secretary of State's involvement in cases, including proposals to transfer a wider range of appeals from the Secretary of State to the Planning Inspectorate;
  - progressing work with relevant professional bodies to promote mediation services by local planning authorities; supporting local planning authorities willing to take forward this service; and
  - issuing guidance on implementation of Planning Performance Agreements for large-scale major planning applications to be implemented from 1 October.

**10.16** By the end of 2007 we propose to:

- Help achieve a positive planning framework for delivering sustainable development by:
  - finalising the PPS on *Climate Change*;
  - bringing into force regulations to allow domestic micro-generation equipment, meeting certain specifications, to be installed without the need for planning permission; and
  - consulting on proposals to extend permitted development rights for the installation of microgeneration equipment without planning permission to non residential users, including commercial and agricultural;
- Strengthen the role of local authorities in place shaping by:
  - publishing the list of 200 national performance indicators for local government;
  - consulting on detailed changes to regulations policy, and guidance in relation to local plan making;
  - preparing draft amendments to regulations to enable local planning authorities to allocate responsibility to their executive for determining significant applications;
  - requiring that all planning authorities use a standard application form (from 1 October); and

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- publishing draft place-shaping guidance for councils and LSPs as part of the programme of implementation of the Local Government White Paper.
- Make the planning system more efficient and effective by:
  - commencing a further review of information requirements associated with the submission of planning applications and commissioning a baseline study of information and cost demands for applications in 2006;
  - publishing for consultation our proposals on revised arrangements for statutory consultees;
  - consulting on proposals to extend the impact approach to minor non householder development; and
  - undertaking a review of the criteria used by the Secretary of State to recover appeals from the Planning Inspectorate for her own determination.

By Summer 2008 we propose to:

- Help achieve a positive planning framework for delivering sustainable development by:
  - publishing a new national PPS – *Planning for Economic Development* which will set out a positive framework for planning for sustainable economic development at regional, sub-regional and local levels;
  - finalising any changes to our policies and guidance on planning for town centres, taking into account the conclusions of the Competition Commission Inquiry into the groceries market; and
  - bringing into force regulations to allow non domestic microgeneration equipment, meeting certain specifications, to be installed without the need for planning permission.
- Strengthen the role of local authorities in place shaping by:
  - bringing into force new regulations on plan making;
  - publishing final policy and guidance on plan making; and
  - bringing into effect changes to planning fees in England (from 1 April 2008).
  - building a major new e-consultation hub which will facilitate much more rapid and efficient exchange of planning applications and responses between local planning authorities and consultees;
- Make the planning system more efficient and effective by:
  - consulting on proposals for revising the main legislation covering the process of submitting and considering planning applications (the General Development Procedure Order).

# Annexes

**Annex A:** Consultation arrangements

**Annex B:** Schedule of government responses to Barker recommendations

# **Annex: Consultation arrangements**

A

This White Paper sets out an ambitious programme of proposals to be taken forward in the next three years. Some of the proposals will require legislation, others changes in policy and guidance. In developing these proposals, we want to work closely with stakeholders, consulting where appropriate and when timely.

This document raises some important questions on which we are seeking input now. For ease of reference a summary of the proposals and the questions are repeated below. Please give reasons for your answers and include any evidence you have to support them.

We are also consulting separately on a number of more detailed proposals, primarily in relation to implementation of reforms to the town and country planning system. These consultations, and where you can find them, are detailed in Section 2 of this annex. Details of how to respond to the consultation are set out in Section 3.

## Section 1: Consultation questions

### 1.a) Proposed reforms to the development consent regime for nationally significant infrastructure projects

#### Chapter 2: 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?*

*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?*

## Chapter 3: 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?*

*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?*

#### **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?*

*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?*

#### **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?*

*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?*

*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?*

*What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?*

#### **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?*

*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 set out in this White 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?*

*If not, what alternative arrangements do you propose?*

### **Chapter 4: 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?*

#### **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?*

*Do you think this consultation should take a particular form?*

### **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.

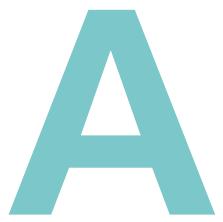
*Do you agree, in principle, that relevant local authorities should have special status in any consultation?*

*Do you think the local authority role should take a particular form?*

### **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?*

*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?*

#### **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?*

*Are there any other issues on which it might be appropriate for the commission to issue guidance?*

#### **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?*

*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?*

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

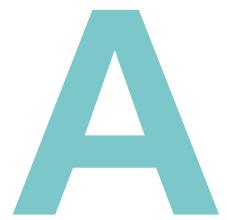
## **Chapter 5: Determining applications for nationally significant infrastructure projects**

**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?*

*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.

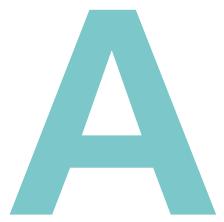
*Do you agree in principle that all projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network should be taken by the commission?*

*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?*



### **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?*

*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;<sup>1</sup>
- 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?*

*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?*

#### **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?*

<sup>1</sup> The Department for Culture, Media and Sport's White Paper, *Heritage Protection for the 21st Century*, published on March 8th 2007, proposes an integrated range of measures for a new heritage protection system, including a single system of designation for historic assets and an associated unification of Listed Building and Scheduled Monument Consents as a new Historic Asset Consent. We envisage that, in advance of the legislative change needed to introduce the new system of heritage protection reform, the infrastructure planning commission would have appropriate powers to grant Listed Building Consent and Scheduled Monument Consent for nationally significant infrastructure projects subject to the infrastructure planning commission having in-house heritage expertise.



### **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?*

*Are there any bodies not included who should be?*

### **Q.27 Examination**

We propose that

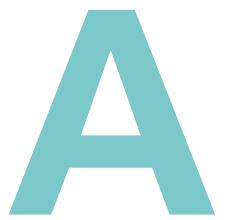
- the majority of evidence, given its likely technical nature, should be given in writing, although the commission would have discretion to call witnesses to give oral evidence where it felt that it would help it to understand the issues, or asking a witness to give evidence in writing might disadvantage 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?*

*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?*

*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?*

*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?*

*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?*

## **1.b. Proposals to reform the town and country planning system**

### **Chapter 7: 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?*



## Chapter 8: 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?*

### 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?*

### 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.*

### 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<sup>26</sup> requires a Strategic Environmental Assessment.

<sup>26</sup> The “SEA” Directive (2001/42/EC “on the assessment of the effects of certain plans and programmes on the environment”).

*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?*

## **Chapter 9: 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?*

### **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?*

*Do you agree with the approach?*



## **Section 2: Issues that we are consulting on separately**

*Alongside the White Paper we will publish the following documents for consultation:*

1. Planning Performance Agreements: A new way to manage large-scale major planning applications;
2. Planning Fees in England: Proposals for Change;
3. Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders;
4. Improving the appeal process in the planning system – Making it proportionate, customer focused, efficient and well resourced.

The closing date for comments on these documents is **Friday 17th August**.

These documents will be available from the Communities and Local Government website at [www.communities.gov.uk](http://www.communities.gov.uk)

In April 2007, we published a consultation paper setting out our proposals in relation to householder microgeneration, entitled:

*Changes to Permitted Development Consultation Paper 1: Permitted Development Rights for Householder Microgeneration.*

The closing date for comments on this document is 27 June 2007.

## **Section 3: How to respond to the consultation questions in this White Paper**

Please send your response, no later than **17th August 2007** to:

Planning Reform Team  
 Department for Communities and Local Government  
 3/J2 Eland House  
 Bressenden Place  
 London  
 SW1E 5DU

Or by email to [planningreformconsultation@communities.gsi.gov.uk](mailto:planningreformconsultation@communities.gsi.gov.uk)

If you have any queries regarding the consultation please email the above address or contact the Planning Reform Team on 020 7944 6511.

Representative groups are asked to include a summary of the people and organisations they represent in their reply.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

## **Section 4: What will happen next**

A summary of responses, including the next steps, will be published on the Communities and Local Government website at [www.communities.gov.uk](http://www.communities.gov.uk); within three months of the close of the consultation. Paper copies will be available on request.

## **Section 5: Regulatory impact assessment**

A Partial Regulatory Impact Assessment for the proposed reforms can be found on the Communities and Local Government website at [www.communities.gov.uk](http://www.communities.gov.uk).

*Do you have any comments to make on the analysis in the partial RIA? In particular, do you have any comments to make on the economic, social and environmental costs and benefits presented in the partial RIA? Do you have any comments to make on whether the proposals would impact differently on people from different groups?*



## Section 6: The consultation criteria

The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation. Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (eg under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless ministers conclude that exceptional circumstances require a departure.

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full consultation code may be viewed at  
[www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm](http://www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm)

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact

Albert Joyce,  
 Communities and Local Government Consultation Co-ordinator  
 Zone 6/H10  
 Eland House  
 Bressenden Place  
 London SW1E 5DU

or by e-mail to:  
[albert.joyce@communities.gsi.gov.uk](mailto:albert.joyce@communities.gsi.gov.uk)

Please note that **responses to the consultation itself** should be sent to the contact shown within the main body of the consultation.

# B

## Annex: Schedule of government responses to Barker recommendations

### Recommendation 1 **The decision-making framework**

Communities and Local Government should revise the framework for decision-making, in the context of the plan-led system, to make clear that where plans are out-of-date or indeterminate applications should be approved unless there is good reason to believe the costs outweigh the benefits.

One way of implementing this would be to make clear that where an application for development is in accordance with the relevant up-to-date provisions of the development plan, it should be approved unless material considerations indicate otherwise. Where development plan provisions are indeterminate or where they are not up-to-date, the application should be approved unless there is a significant probability that the likely environmental, social and economic costs of the development will outweigh the respective benefits.

The Government welcomes Kate Barker's support for the plan led system. The Government's view is that the planning system should respond positively to sustainable development proposals that bring significant local, regional or national economic benefits. The Government will bring forward proposals in this area when consulting on new planning policy statement: *Planning for Economic Development*.

Our proposals for responding to this recommendation are set out in Chapter 7.

### Recommendation 2 **Statement of Principles**

The Statement of General Principles should be revised to make clear that in determining planning applications, due regard should be paid to the economic, social and environmental benefits of development, such as the benefits new development can bring through low average energy consumption, alongside other material considerations.

We propose to amend The Planning System: General Principles to bring it into line with Planning Policy Statement 1 which recognises the benefits that development can bring.

### Recommendation 3 **New PPS4 – Economic Development**

Communities and Local Government should update its national planning policy on economic development by the end of 2007. This should include:

1. Emphasising the critical role economic development often plays in support of wider social and environmental goals, such as regeneration;
2. Strengthening the consideration given to economic factors in planning policy, so that the range of direct and indirect benefits of development are fully factored into plan-making and decision-making alongside consideration of any potential costs.
3. Emphasising the role that market signals, including price-signals, can play in ensuring an efficient use of land both in plan-making and in development management;
4. Requiring a positive approach to applications for changes to use class where there is no likelihood of demonstrable harm, to provide greater flexibility of use in the context of rapid changes in market conditions;
5. Making clear that where a Core Strategy is in place, decisions on commercial development should not be delayed simply on the basis of prematurity;
6. Ensuring that development in rural communities is not unduly restrained and allows for a wide range of economic activity; and

Ensuring that in general a more positive approach is taken to applications for tall buildings where they are of very high design quality and appropriately located, and where there is the transport infrastructure to support them.

#### **NEW PLANNING POLICY STATEMENT**

The Government will consult on a new planning policy statement: *Planning for Economic Development* in Summer 2007.

The issues raised in the recommendation will be explored in the context of preparing the new PPS and in the light of the Government's response to other report recommendations.

Our proposals in relation to Planning for Economic Development are set out in the White Paper in Chapter 7.



## Recommendation 4 General planning policies

Wider planning policy should be made more responsive to economic factors. This should include:

1. building on the more flexible approach to car-parking spaces for housing, by applying this less prescriptive approach to commercial development in place of the current national maximum standards per square metre of floor space;
2. ensuring that any review of heritage policy builds on the recent reforms of the Heritage Review, by emphasising the critical importance of viability and proportionality, and by facilitating modernisation that does not damage the historic significance of buildings;
3. supporting the town centre first policy and the impact and sequential tests that help to deliver it, but removing the requirement to demonstrate need (the 'needs test') as part of the planning application process; and
4. if the Competition Commission concludes that there is a problem relating to the exercise of local monopoly power as part of its current grocery inquiry, to establish how best to address these issues, either through planning or through other means.

In general, there is the need to establish a more robust evidence base for national policy, so that the costs and benefits of the policy can be better assessed. Furthermore, the Government should ensure that planning is used as a tool for delivering policy only when it is an appropriate lever and provides an efficient and effective means of delivering objectives.

1. **Car Parking** – The Government is considering its approach to the provision of car-parking to serve commercial development, recognising the need to ensure sustainable travel choices. Following further consideration, we will bring forward proposals in the consultation draft of Planning for Economic Development.
2. **Heritage policy** – The planning policy on heritage is detailed in the Department for Culture, Media and Sport's White Paper, *Heritage Protection for the 21st Century* published on 8 March 2007.
3. **Town centre policy** – our proposals for responding to this recommendation are set out in Chapter 7.
4. **Competition considerations** – our proposals for responding to this recommendation are set out in Chapter 7.

**Evidence Base:** We are committed to evidence-based policy and to build up a common evidence base with specialists and stakeholders.

We are taking a number of steps to improve the evidence base to inform the development of planning policy. For example, Communities and Local Government has just completed a National Statistics Quality Review of our Local Authority Development Control statistics and in line with the recommendations, we will be making changes to the data we collect. English Partnerships and the Department have appointed Kingston University to carry out a study of data on previously developed land with the aim of recommending improvements to the collection, quality and fitness of the statistics.

**Is planning the right tool for delivering policy?** We will address these issues as part of our review of national policy. (See also recommendation 14).

## Recommendation 5 **European policy**

The Government should engage more proactively at the policy development stage of European legislation with a potential planning impact. Communities and Local Government should resource and maintain close links with DEFRA, FCO and UKREP in particular, and other departments as necessary, in anticipating the domestic planning implications of emerging EU legislation. All departments should ensure that their negotiators take fully into account the implications of proposals for planning legislation, policy and the resulting outcomes for future development. Additions to existing domestic regulation should be avoided except where needed to address remaining areas of market failure. Where possible, transposition should use existing regulatory mechanisms.

There is already cross-Governmental activity in proactively engaging with policy development and Government collectively recognises the need to commit the staffing and other resources necessary to ensure the social and economic impacts of further environmental protection measures are fully reflected in UK negotiations and their outcomes. We are also working with fellow EU member states on spatial matters including how we might influence EU policy initiatives with spatial impacts. This is being pursued initially through the preparation of the Territorial Agenda for the EU, to be signed at an Informal ministerial meeting in May 2007.



## Recommendation 6 Higher priority for economic development

Regional and local planning authorities should make planning for economic development a higher priority. To achieve this there should be:

1. better integration of the Regional Economic Strategies (RES) and Regional Spatial Strategies (RSS), including enhanced alignment of timescales and compatibility of evidence bases, so that the RES can fulfil its role of informing the RSS. The Secretary of State should have regard to RES policies as part of her adoption procedures for the RSS;
2. policies that set out how the drivers of productivity (competition, investment, skills, innovation and enterprise) will be supported. Care should be taken to ensure that plans represent the interests of small firms and potential new entrants to the market (who may not be in a position to engage with the plan);
3. policies that focus, wherever possible, on desired outcomes rather than imposing the means of delivering those outcomes – for example in terms of climate change – the outcome should be to reduce the carbon footprint, with the best means being flexible;
4. a stronger link between plans and infrastructure provision, so that there is greater confidence that the infrastructure necessary to deliver large development will be in place;
5. a marked reduction in the extent to which sites are designated for single or restricted use-classes – the need to ensure provision for live-work units is relevant in this context;
6. where employment land needs to be separately designated, ensuring that employment land reviews are conducted regularly, making full use of market signals, so that there is a suitable range of quality sites which provide for all sectors and sizes of firm; and
7. delivery of the Government's objective of avoiding rigid local landscape designations in the context of a robust network established at national level.

**RSS RES** – We accept the value of improving the alignment between RSS and RES. This issue is being explored further through the CSR review of sub-national economic development and regeneration and will also be considered when drawing up the draft Planning for Economic Development.

**Drivers of productivity** – we agree with the need to provide a positive framework to support improvements in productivity. We will explore the issues raised here in the context of preparing the new policy on Planning for Economic Development.

**Outcome focused policy** – Current Government policy already expects local authorities to set out in plans how they will achieve broad policy outcomes. This is best achieved by local planning authorities sitting down with key stakeholders including businesses to see what agreed strategy can be devised to achieve national policy outcomes in a local context. The new spatial plans, introduced under the 2004 planning reforms, are expected to be more than merely setting down policies for controlling development. The draft PPS on climate change sets out the key planning objectives in relation to climate change which should be taken into account in the preparation of development plans.

**Infrastructure and planning** – We agree that there needs to be stronger links between plans and infrastructure. See further commentary on this issue in Chapter 8.

**Site designations** – We will consider further the issues raised in the context of preparing the new Planning for Economic Development and our response to Recommendation 14.

**Landscape designations** – Current Government guidance states "carefully drafted, criteria-based policies in LDDs...should provide sufficient protection for these areas, without the need for rigid local designations that may unduly restrict acceptable, sustainable development..." PPS7: *Sustainable Development in Rural Areas*. Government will continue through its advice to local planning authorities on plan content to emphasise the need to take PPS7 guidance into account.

## Recommendation 7 **Cross-boundary working**

Local authorities should be encouraged to work together in drawing up joint development plan documents and determining planning applications where there are significant spillovers which are likely to spread beyond the boundary of one authority. In the medium term, consideration should be given to how the London model, where strategic planning applications powers are being granted to the Mayor, could be applied elsewhere.

We already strongly encourage planning authorities to think and work across administrative boundaries. The planning system allows for cross boundary working both on plan-making and on taking planning decisions. In the Local Government White Paper we noted that a number of cities and towns are developing new governance arrangements to better manage and coordinate decisions across city-regions. Local Area Agreements at principal authority level may also mean that districts are drawn closer together in delivery mechanisms within LAA areas.

## Recommendation 8 **Fiscal incentives**

The Government should make better use of fiscal interventions to encourage an efficient use of urban land. In particular, it should reform business rate relief for empty property and consider introducing a charge on vacant and derelict brownfield land. This reform could be considered in the context of the broader set of issues in relation to local government finance being examined by the Lyons Inquiry.

In parallel with the introduction of the proposed Planning-gain Supplement, the Government should consult on reforms to Land Remediation Relief to help developers bring forward hard-to-remediate brownfield sites.

The Budget announced a wider review of reliefs and exemptions in business rates. This review will include an assessment of the recommendations made in the recent Barker and Lyons reports for a charge on previously developed land, promoting incentives for bringing this land back into productive use. Previously developed land is not capable of beneficial occupation and as such it is currently outside the scope of business rates. We need more time to consider how to extend business rates to include these types of land. However, Government believes that there is considerable merit in creating an incentive to bring these sites forward for redevelopment.



## Recommendation 9 **Green Belt/Green Space**

In the light of growing demand for land and the need to ensure that areas of high public value (such as sites with important or endangered wildlife) or areas at higher risk from flooding due to climate change are adequately protected:

1. regional planning bodies and local planning authorities should review green belt boundaries as part of their Regional Spatial Strategy/Local Development Framework processes to ensure that they remain relevant and appropriate, given the need to ensure that any planned development takes place in the most sustainable location;
2. local planning authorities should ensure that the quality of the green belts is enhanced through adopting a more positive approach towards applications that can be shown to enhance the surrounding areas through, for example, the creation of open access woodland or public parks in place of low grade agricultural land; and
3. The Government should consider how best to protect and enhance valued green space in towns and cities. In this context, the Government should review the merits of different models of protecting valued open space, including the "green wedge" approach.

Decisions on Green Belt boundaries should be made through the development plan process as current policy allows for. To ensure that future development takes place in the most appropriate and sustainable locations it is also important that planning authorities should, where appropriate, continue to review Green Belt boundaries when they are drawing up their development plans, as current planning policy allows them to do and as has already been undertaken in some areas.

The Government is committed to the principles of the Green Belt and will make no fundamental change to policy in this area.

Existing Government policy (PPG17) already asks planning authorities to proactively plan for the protection and enhancement of valued green space in towns and cities, including efficient and effective countryside.

## Recommendation 10 MIPS procedures

To improve the framework for decision making for major infrastructure to support a range of objectives, including the timely delivery of renewable energy:

1. Statements of Strategic Objectives for energy, transport, waste proposals (including energy from waste) and strategic water proposals (such as new reservoirs) should be drawn up where they are not in place presently. These should, where possible, be spatially specific to give greater certainty and reduce the time taken at inquiry discussing alternative sites. Regional Spatial Strategies and local plans should reflect these national Statements and indicate, in particular, where regional facilities are needed;
2. A new independent planning commission should be established which would take decisions on major infrastructure applications in the above areas. Decisions would be based on the national Statements of Strategic Objectives and policies set in the Regional Spatial Strategy, local development documents and other relevant considerations, including local economic, environmental and social impacts;
3. The planning commission would be comprised of leading experts in their respective fields. Proceedings would be based on a streamlined public inquiry model, using timetabling to ensure timely decision making. Full community consultation would be carried out and decisions would be taken in a fair, transparent and even-handed manner; and
4. Decisions which are of local importance only, including housing and commercial applications made under town and country planning legislation, should continue to be made by the local planning authority. Where appropriate, and in order to ensure successful delivery of major commercial and housing development with national or regional spillovers, Government should consider the scope for greater use of delivery bodies such as Urban Development Corporations.

Our proposals for taking forward the recommendations on nationally significant infrastructure projects are set out in the White Paper in Chapters 2-5.

In terms of other delivery bodies, there already exist a number of partnership organisations, including Urban Development Corporations, which work to deliver sustainable development and provide effective decision making and leadership. These include UDCs in the growth areas and Thames Gateway, where there are significant requirements for growth. In deciding on the most appropriate type of organisation, it is important to take into account local issues and the scale of growth. A UDC may be the answer, but other options, such as smaller scale local delivery vehicles, or joint planning powers may be preferable.



## Recommendation 11 MIPS supporting measures

In order to ensure that this new decision-making model is effective the Government should:

1. Rationalise consent regimes to ensure that infrastructure projects of major significance can be treated holistically and that the independent planning commission can take all the necessary planning decisions (if more than one is still required) on a particular scheme. Environmental consents would, however, remain separate from planning consents and be the responsibility of the Environment Agency;
2. Critically examine whether there are smaller infrastructure decisions currently made at the national level that should instead be determined by the local planning authority, or by the Planning Inspectorate on appeal;
3. End joint and linked decision making so that large infrastructure applications, or applications made by statutory undertakers, which would previously have been decided by two or more Secretaries of State will be transferred to the independent planning commission for decision. Non-strategic applications will be determined by local planning authorities or by the Planning Inspectorate on appeal; and
4. As an interim measure, all Government departments with responsibilities for planning decisions, should draw up timetables based on the Communities and Local Government model, for major applications decided by ministers before the introduction of the independent planning commission and to ensure that decision making is expedited in the short-term.

Our proposals for taking forward the recommendations on nationally significant infrastructure projects are set out in the White Paper in Chapters 2-5.

## Recommendation 12 Limiting ministerial decision-making

Measures should be taken to limit ministerial decision making to only those cases where there are national or wider than local spillover effects and to reduce the time taken to decide planning applications made under the Town and Country Planning legislation. The Government should:

1. Review the Town and Country Planning Call-in Directions. This should involve:
  - revising the Departures Directions so that it more clearly indicates that only those proposals that are at significant odds with the core strategy of a new local development framework, or similarly significant provisions of the

Our proposals for responding to this recommendation are set out in Chapter 9.

## Recommendation 12 Limiting ministerial decision-making cont.

<p>Regional Spatial Strategy, could be considered a departure. The departures thresholds should also be tightened so that only those schemes of national and strategic significance which are at odds with the development plan, could lead to notification to the Secretary of State; and</p> <ul style="list-style-type: none"> <li>• reviewing other directions, in particular the Density, Greenfield and Shopping Directions and withdrawing them if no longer necessary. The overall aim should be to reduce significantly the number of cases referred to the Secretary of State for possible call-in</li> </ul> <p>2. Review the town and country planning call-in policy by the end of 2007/08 and implement tighter criteria to the cases that are subsequently called-in following referral. Call-in should be used only in exceptional circumstances for those cases where significant national or wider than local issues are raised (particularly where there is no clear framework at the regional and local level to enable appropriate decision making to be made). The aim should be to reduce the numbers called-in by 50 per cent by 2008/09;</p> <p>3. Review the recovered appeals policy by the end of 2007/08 and so govern more strictly the appeals that are recovered, with the result that only those cases where there are significant national or wider than local issues raised, are recovered for ministerial decision;</p> <p>4. Reduce the amount of time it takes to decide whether or not to call-in an application. In particular the Government Office's secondary target of seven weeks should be reduced to no more than five weeks; and</p> <p>5. Amend secondary legislation to remove the remaining categories of transfer excepted appeals: Listed Buildings in receipt of Grant Aid, Enforcement appeals accompanied by Environmental Statements, Tree Preservation Order appeals and Hazardous Substances appeals.</p> <p>This Review does not recommend that there should be a change to ministerial decision making under the town and country planning legislation. In the future, it may be appropriate for the Government to look again at the need for ministerial involvement in decision making on planning applications made under the town and country planning legislation.</p>	
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### Recommendation 13 **Consolidation of legislation**

The Government should consolidate the secondary legislation related to planning. A priority is to consolidate the General Development Procedure Order and its subsequent amendments – this should be undertaken in 2007

Our proposals for responding to this recommendation are set out in Chapter 9.

### Recommendation 14 **National planning policy review**

There should be a substantial streamlining of national policy, delivering previous commitments. The Government should publish proposals by Summer 2007. This should include consideration of the potential to remove some of the current range of Planning Policy Guidance, and where necessary replace through an expanded PPS 1. Any new policy should be consistent with the green paper principles of being strategic, concise, and not mixing policy with guidance. Any new guidance should be published ideally alongside or otherwise within 4 months of publishing national policy. A desirable goal would be to reduce over 800 pages of policy to fewer than 200 pages.

Our proposals for responding to this recommendation are set out in Chapter 7.

### Recommendation 15 **LDF processes**

Local planning authorities and regional planning bodies should continue to develop their development plans as expeditiously as possible to provide a clear planning framework for decisions. Communities and Local Government should urgently review the regulations and guidance behind the new plan-making system to enable the next generation of development plan documents to be delivered in 18-24 months in place of the current 36-42 months, while ensuring appropriate levels of community involvement. Draft guidelines should be published by summer 2007, drawing on the views of other stakeholders including the Better Regulation Executive. This will involve:

1. streamlining of Sustainability Assessment (SA) processes including removing or reducing requirements where a related higher tier policy has already been subject to SA and exploring how SA requirements can be streamlined for supplementary planning documents;
2. streamlining of local development scheme processes to a short program of intended development documentation by Local Planning Authorities;

We agree that the local development framework process can be improved. Our proposals for responding to this recommendation are set out in Chapter 8.

### Recommendation 15 LDF processes cont.

3. refashioning the Statement of Community Involvement into a corporate 'comprehensive engagement strategy' along with removal of the need for independent examination, as proposed in the Local Government White Paper 2006;
4. increasing the speed with which supplementary planning documents can be delivered;
5. regional and local planning authorities and inspectors should ensure that regional and local plans deliver against the original objective of being short documents that do not duplicate national policy;
6. the removal of a formal requirement for an issues and options phase of plan-making, leaving the Preferred Options and Submitted stage. Preferred Options should be generated via effective and focused engagement with stakeholders, especially those vital to the delivery of the plan;
7. a reform of the challenge provision so that if a plan or part of a plan is quashed in the Court the plan can be amended without the plan-making process having to begin from the start; and
8. ensuring that the new examination in public process enables an effective scrutiny and a testing of the evidence base of policy.

Local authorities should explore the potential for efficiency gains (which could be in excess of £100 million over a three year period) to be reinvested in enhancing the quality of their planning service provision.

### Recommendation 16 Gradual unification of consent regimes

The Government should formally commit to the gradual unification of the various consent regimes related to planning following the proposed unification of scheduled monuments and listed building consents, and should set out proposals in 2007. One option would be to bring together the heritage and planning consents.

Our proposals for responding to this recommendation are set out in Chapter 9.



## Recommendation 17 Planning application information requirements

The Government should, as a matter of priority, work with local planning authorities and other bodies such as the Better Regulation Executive to reduce substantially the information requirements required to support planning applications. The principle should be to move towards a risk-based and proportionate approach to information requests. Action should include:

1. a review of the guidance on validating planning applications including the introduction of proportionality thresholds and the phasing of information required at different stages of the application process;
2. the introduction of strict criteria to be fulfilled by Government, regional planning bodies and local planning authorities before any additional information requirements on applicants are introduced;
3. an examination of the potential to raise the thresholds for EIA applications and limit the paperwork associated with Environmental Statements;
4. a tighter enforcement of processes aimed at ensuring resource transfers and training provision occurs before other government departments implement policy via planning; and
5. formal monitoring of progress based on representative samples of volumes of information, and associated costs, for like-with-like cases for both major and minor developments across a range of sectors. The first assessment should be published in 2009, benchmarking against 2006 volumes and costs.

Our proposals for responding to this recommendation are set out in Chapter 9.

## Recommendation 18 PDRs/Side agreements

There should be a rebalancing of the focus of planning on the cases that matter most, in line with the principles of risk-based regulation by:

1. a widening of permitted development rights for minor consents by extending the “impact” principle of the Householder Development Consent Review, so that in future only those cases where there will be non-marginal third-party impact will require planning permission, with the objective of an appreciable reduction in volumes of applications. This should be completed within the next two years; and
2. the development of a voluntary new system of negotiated side-agreements between affected parties, so that where agreement can be reached a full planning application will not be required. This is likely to be most practical with smaller scale applications.

The permitted development rights should also be widened to help combat climate change. In particular, proposals to extend rights to domestic micro-generation should be extended to commercial settings.

We set out our proposals in relation to extending permitted development rights for non householder development and for non domestic micro generation, including commercial and agricultural development in the White Paper in Chapters 7 and 9.

We have invited views on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights in Chapter 9

## Recommendation 19 More efficient planning applications

The planning application system should be made more efficient so that high quality outcomes are delivered through a value for money process. This should include:

1. More widespread use of pre-application discussions, which are often of great value to both planning departments and applicants. Where appropriate these should be used as an opportunity for early community involvement. Local authorities should charge for these only when this is unlikely to significantly reduce demand for the service;
2. The roll-out of Planning Performance Agreements (PPAs), formerly Planning Delivery Agreements (PDA) to ensure all applications are dealt with in a reasonable time frame. There should be a requirement for local authorities to offer these for large applications – revising the current thresholds for “majors” here by separating them from medium sized applications would help here. Where a PDA has been agreed the application would be removed from the current national targets;

**Pre Application Discussions** – The Government already recognises in PPS1 the critical importance of pre-application discussions in the planning process. The Government also endorses the recent guidance produced by the Planning Advisory Service in collaboration with key stakeholders about how to maximise the benefits of pre-application discussions. Local planning authorities already have the ability to charge for discretionary services, and there are a handful of local planning authorities who already charge for pre-application advice under the powers of the LG Act 2003 s 93 (charging for ‘discretionary’ services).

### Planning Performance Agreements.

Our proposals for responding to this recommendation are set out in Chapter 8, and the PPA consultation paper.

**Statutory consultees.** We propose to consult on draft proposals to amend the arrangements for statutory consultees later in 2007. The outcome of the consultation exercise will help inform the wider review of the General Development Procedure Order. A revised circular on the Highway Agency’s role in the planning process was published in March 2007.



## Recommendation 19 More efficient planning applications cont.

3. A review of the statutory consultee arrangements to improve efficiency, to include consideration of the thresholds at which these bodies become involved with applications and better incentives to ensure a quicker response to enquiries;
4. Early engagement from statutory consultees such as Natural England, the Environment Agency and English Heritage. In particular, the Highways Agency should ensure it adopts this approach rather than relying on late use of Article 14 holding powers; and
5. Speeding up the final stages of the application process, in particular by earlier negotiation of Section 106 agreements or use of tariffs, and discharging planning conditions.

Businesses should engage with pre-application discussions to enable issues to be identified at an early stage and ensure that they submit complete applications.

**Final stages of process.** The Government supports the view that negotiation of section 106 agreements should not unnecessarily delay the planning process. Government guidance (Circular 5/05) and good practice guidance is relevant. The Government will work with the Law Society to update the model s106 agreement during 2007 to ensure that it remains useful to local planning authorities in negotiating planning obligations. The Government is committed to ensuring that any new procedures introduced as part of a possible future Planning-gain Supplement and a scaled-back planning obligation regime are efficient and do not unnecessarily delay the grant of planning permission.

The White Paper also seeks views on a proposal to allow minor amendments to be made to a planning permission without the need for a full planning application.

**Business engagement.** Pre-application discussions provide an ideal mechanism to identify and resolve issues early in the planning process and to ensure that an applicant is fully aware of the information required to support an application. The recent guidance by the Planning Advisory Service, '*Constructive Talk: pre-application discussions*' highlights clearly these benefits

27 Made under s106 of the Town and Country Planning Act 1990 as substituted by s12 of the Planning and Compensation Act 1991.

28 ODPM Circular 05/2005, *Planning Obligations*

29 *Planning Obligations: Practice Guidance* Department for Communities and Local Government, 2006

## Recommendation 20 LPA resources

The Government should review current resource arrangements for local planning authorities, related authority services (such as conservation) and key agencies. This should take account of the efficiency gains to be derived from other recommendations. In particular it should explore:

1. Raising the £50,000 threshold for fee payments on a tapered basis;
2. Making it easier for applicants to pay for a premium service or to pay for additional resource/consultants to help process their application expeditiously, if this can be done in a manner that avoids anti-competitive effects; and
3. Maintaining a form of Planning Delivery Grant beyond 2007-08, ensuring some form of benefit for commercial speed and delivery outcomes alongside other goals.

Any fee increase should only be allowed on the basis of a clear mechanism for indicating the higher quality of service that will be delivered as a result.

Our proposals for responding to this recommendation are set out in Chapter 8. A consultation document on fees is also being issued alongside the White Paper.

## Recommendation 21 Planning skills

The skills of decision-makers and others involved with the planning system should be enhanced and more effectively utilised. To achieve this:

1. The Government should ensure continued funding for the Planning Advisory Service to promote continuous improvement, raise underperformance and facilitate joint-working;
2. The Government should work with the RTPI, TCPA and other bodies to ensure a continued focus on getting new entrants into the profession. Post-graduate bursaries funded by Communities and Local Government should be tied to a number of years public sector service, so that a return is provided for the public purse;
3. The Government should raise the status of the Chief Planner within local authorities, potentially on a statutory basis, to reinforce the status of the profession for all parties, including members;
4. Wider use of business process reviews and best practice guidance to ensure that the time of more qualified planners is freed up to focus on the most complex cases;
5. Compulsory training for planning committee members, focusing resources in the first instance on new members, with increased training for officers; and
6. The LGA and POS should establish a change management strategy/programme to help deliver culture change in local authorities.

**Planning Advisory Service** – Subject to the outcome of the Spending Review we will continue to fund the Planning Advisory Service.

**New entrants into the profession** – We will continue to work with relevant bodies to ensure a continued focus on getting new entrants into the profession. We think the bursary scheme delivers a public good by increasing the pool of qualified planners, wherever they work. However, we propose in future to link bursaries to public sector working in two of the first five years of employment after qualifying.

**Chief Planning Officer** – We support the recommendation to raise the status of the Chief Planning Officer and would expect local authorities to make planning a prime responsibility of one of the corporate directors, who should be professionally qualified. We will be consulting further with the LGA and other stakeholders to develop this idea further. At this stage, we do not, however, consider this should be a statutory matter as we do not view the role of the Chief Planning Officer to be commensurate with those statutory positions in the local authority and consider it is for each local authority to decide how best to organise its departmental structure.



## Recommendation 21 Planning skills cont.

**Process reviews** – We will support the promotion of good practice through the Planning Advisory Service. Their programme for 2007/08 includes a study of the costs and benefits of end-to-end electronic handling of planning applications; and continuing advice for local planning authorities on improvement of business processes.

**Training** – We are committed to raising standards, and to ensuring access to appropriate training. We propose to work with organisations such as the LGA, IDeA and Planning Officers' Society on agreeing benchmarks for minimum standards and have an agreement with the Local Government Association to undertake the first tranche of this work in Spring 2007. This work would build on what is already accepted practice in many Local Planning Authorities, in particular, those recognised as delivering an excellent service.

**Performance, improvement and capacity building** – We have agreed to support a proposal for sector-led change management work to further support local authorities in driving improvement through planning. This will be led by the LGA working with partners such as the Planning Officers' Society, Royal Town Planning Institute and Planning Advisory Service. Our proposals for responding to this recommendation are set out in Chapter 8.

## Recommendation 22 Improving LPA performance

Local planning authorities should enhance the quality of service provided by their planning department through more effective interaction with external organisations, via:

1. The introduction of more 'shared services' by local authority planning departments (or contracting to more efficient local planning authorities) to enable economies of scale and scope
2. Increased use of outsourcing and tendering for development control services, so that private sector expertise is more effectively leveraged; and
3. Exploring the potential for greater use of accredited consultants to carry out technical assessments for selected tasks.

The Government should also expand the role of ATLAS both in scope, to remove bottlenecks in the delivery of large commercial development as well as housing developments, and in geographic range, so that the benefits of this model can be felt beyond southern regions.

### Shared services and use of the private sector

**sector** – The Audit Commission has found that in recent years local authorities have been increasing their use of the private sector<sup>30</sup> and a few authorities are beginning to explore the scope for pooling resources. Our own work suggests that there are significant untapped opportunities to challenge the current pattern of planning service delivery through the growth of alternative supply, exploiting the synergies with other regulatory services to provide for more integrated frontline services, through the realisation of greater scale and operational efficiencies and making the best use of scarce expertise across the planning service<sup>31</sup>.

We will be shortly publishing a discussion paper to explore these issues in further detail and how such approaches can be encouraged<sup>32</sup>. Working with PAS and other bodies we will consider ways to support the development of such initiatives and promote their take-up more widely through the National Improvement Strategy.

**Accredited consultants** PAS has created a pool of accredited consultants. We will support the promotion of good practice through the PAS.

**ATLAS** – Our proposals for responding to this recommendation are set out in Chapter 8.

30 *The Planning system, matching expectations and capacity*, Audit Commission, February 2006

31 *Developing the local government services market to support the long-term strategy for local government*, Communities and Local Government, November 2006.

32 *Developing the local government services market: new ways of working and new models of provision for regulatory services*, Communities and Local Government, forthcoming



## Recommendation 23 Addressing poor LPA performance

A robust system of performance management should be put in place to address continued poor performance, in line with proposals in the Local Government White Paper.

Communities and Local Government should:

1. conduct a review of measures to judge effectiveness of planning departments in the context of local government reform. A review should consider how best to measure the quality of service by the planning system, including consideration of development outcome measures and labour productivity figures, alongside a greater emphasis on customer satisfaction survey evidence. In addition, the end-to-end time taken to process the larger applications that fall outside current targets should be included in the Communities and Local Government annual publication of development management statistics;
2. encourage the development of stronger sector-led support and intervention models
3. use the new performance framework to set improvement targets in the worst performing authorities; and
4. encourage, and where necessary, direct local authorities that continue to under-perform to tender their planning function, along the lines of the successful Urban Vision model or to contract with other more successful authorities to provide or share services.

For 2007-08, Communities and Local Government should require the chief executives of persistent poor performers to discuss improvement programmes with senior officials and, where appropriate, ministers.

Proposals for a new national indicator set are being taken forward through CSR07, and the Barker proposals will be considered in that context. (Our proposals for responding to this recommendation are set out in Chapter 8).

### **Time taken to deal with major applications**

**– Following a review of our statistical returns we intend to collect and publish data on the length of time taken to determine “major” applications (10+ housing units) that take longer than 13 weeks. In addition we intend to identify separately larger applications as a sub-set of “major” applications.**

**Sector support** – As set out in the Local Government White Paper *Strong and Prosperous Communities*, the Government believes that support and advice from the local government sector and other sectors involved in local service delivery should be the first source of external support for a local authority and its partners. The Planning Advisory Service already provides an important source of sector-led support. The Government is working with the LGA to agree a national strategy for supporting local improvement: the strategy will seek to make effective use of sector-led mechanisms such as regional improvement partnerships.

**New performance framework** – The set of 200 national indicators underpinning the new local government performance framework will be finalised later this year.

**Intervention** – Assuming planning is covered in the set of 200 national indicators we will use the ladder of intervention set out in the Local Government White Paper to ensure appropriate action is taken on under-performance.

**Persistent under-performance** – The chief executives of persistent poor performers have been asked to discuss improvement programmes with senior officials and, where appropriate, ministers in the last two years and we have set the process in train again for 2007/08.

See Chapter 8 for further commentary on addressing poor performance.

## Recommendation 24 High design standards

Decision-makers should give higher priority to ensuring that new development has high design standards – both for function and appearance:

- 1 Design coding may be used strategically and carefully in the context of master-planning to assist good design. Care is needed to ensure that design codes do not become formulaic or exclude contemporary architecture so that innovation and originality are restricted;
- 2 Pre-application discussions should be acknowledged as one tool in ensuring good design
- 3 Design champions with high-level skills and expertise should be encouraged at all levels;
- 4 Design review panels should be facilitated at the local level and integrated within the pre-application discussion process; and

Local planning authorities and inspectors should be encouraged to turn down poorly designed proposals, particularly where the costs of bad design will be high

Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) is clear that the achievement of high quality design is a key principle that should be applied to deliver sustainable development. To help deliver this policy we have published good practice guidance such as *By Design- Urban Design in the Planning System -towards better practice*, *By Design: Better Places to Live and Safer Places- the planning system and crime prevention and Preparing Design Codes: a practice manual* which gives guidance on how design codes can help deliver consistently better quality development. We have introduced the requirement for Design and Access Statements to be submitted with most planning applications which will help to ensure development proposals justify the design and access rationale that underpins them.

**Design coding.** Our guidance on design coding makes clear that codes are style neutral and that care should be taken not to impose architectural styles or the particular tastes of the design coding team without good reason.

**Pre application discussions** – Circular 1/2006 makes clear that it is considered good practice to use Design and Access Statements as an aid to pre-application discussions.

**Design champions and review panels.** We will continue to support CABE in their work to encourage effective local design champions and to support and advise existing regional panels, as well promoting and supporting the development of new regional panels

**Resisting poor design** – Our policies in PPS1 and PPS3 already make clear that inappropriate designs which fail to improve an area and the way it functions should not be accepted.



## Recommendation 25 Reducing the number of appeals/mediation

Communities and Local Government should establish a planning mediation service to act as an alternative dispute resolution mechanism within the planning system

The Planning Inspectorate should also explore further means of reducing the demand for the appeals system. This should include greater use of powers to charge for unreasonable behaviour leading to unnecessary expenses.

CLG believe that efforts should be made to reduce demand for the appeal system. Some of the package of proposals for improving the appeal process, which are set out in the White Paper at Chapter 9 and detailed in the Consultation Document, should have this effect. CLG support the principle of mediation, and will work with relevant professional bodies to promote voluntary mediation services by local authorities as part of good practice.

## Recommendation 26 Reducing non-appeal demands

The Department of Communities and Local Government should reduce the non-appeal demands made on the Planning Inspectorate. This should include working with local planning authorities to reduce both the number and the length and complexity of their development plan documents, so that there is a reduction in the proportion of resources devoted to testing their soundness.

Reducing non appeal demands would have benefits not only for the Planning Inspectorate but also for local authorities and all stakeholders involved in plans.

## Recommendation 27 Efficiency of the appeals system

There should be a series of reforms to improve the efficiency of the appeals system. These should include:

1. Planning Inspectorate (PINS) setting out further proposals for how to increase the productivity of inspectors, including ensuring appropriate use of support staff to free up inspector resource;
2. PINS being granted the right to determine the appeal route with a requirement to publish clear criteria for how this new power will be exercised; and

Communities and Local Government revising regulations on appeal processes to reduce the potential for case-creep. This would limit the issues and material considered to those that were before the local planning authority when it made its decision, subject to the inspector retaining the power to ask for additional information as he or she sees fit in order to make a proper decision.

We are proposing a package of measures aimed at making the appeals system more proportionate as well as improving its efficiency and effectiveness. Our proposals for responding to this recommendation are set out in Chapter 9 and are detailed in the appeals consultation document.

The Planning Inspectorate will continue to implement reforms to make working practices smarter and also to increase flexibility in their workforce to ensure that appropriate specialist knowledge and expertise is applied to all cases.

## Recommendation 28 Resources for the Planning Inspectorate

<p>Issues relating to the resourcing of PINS should be explored by:</p> <ol style="list-style-type: none"><li>1. considering the case for an additional £2 million public funding for appeals conditional on the overall proportion of PINS funding on appeal work not being scaled back and on the delivery of stricter performance targets</li><li>2. introducing new powers to allow PINS to recover wasted administrative costs; and</li><li>3. the introduction of cost-recovery for foregone expenses as a result of withdrawn appeals, which could result in savings of up to £1.5 million per year, to be used for appeals.</li></ol>	<p>The Government is considering the case for increasing the Planning Inspectorate's resourcing, but it must also consider whether there are other ways of funding the system which would have less burden on public funds while also being sustainable.</p> <p>Our proposals for responding to this recommendation are set out in Chapter 9 and detailed in the Consultation Document.</p>
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## Recommendation 29 Appeals targets

<p>As a result of the efficiency and resource measures outlined, the targets for appeals processing should be tightened to bring about a step change in performance:</p> <ol style="list-style-type: none"><li>1. the targets for 2007/08 should include a new requirement that 80 per cent of all written representations will be dealt with in 16 weeks;</li><li>2. the targets for 2008/09 should state that 80 per cent of written representations should be conducted in eight weeks and 80 per cent of all hearings within 16 weeks. Inquiries should be subject to bespoke timetabling, with 80 per cent conducted within 22 weeks; and</li><li>3. from 2008/09 all appeals should be processed within 6 months. Where it proves necessary to extend this period the Planning Inspectorate should make a public statement setting out the reasons for the delay (which may include appellants or other parties not being ready to meet timescales).</li></ol>	<p>The package of measures we propose should allow the Planning Inspectorate to achieve tougher performance targets for the time taken to determine appeals – see Chapter 9 for further information.</p>
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## Recommendation 30 **Fiscal incentives to promote economic growth**

That Government considers, in the context of the Lyons Inquiry into local government, further fiscal options to ensure that local authorities have the right fiscal incentives to promote local economic growth.

The Government agrees with the Lyons report's analysis on the crucially important role of local government in driving economic prosperity. The review of sub-national economic development and regeneration, which will report for the CSR, will examine this issue. The Government will examine how the local government grant system could give local authorities greater rewards for delivering increased economic prosperity in their areas, through reform of the Local Authority Business Growth Incentives scheme and will bring forward proposals before the summer.

## Recommendation 31 **Community good-will payments**

Business should make use of the potential to offer direct community goodwill payments on a voluntary basis, when this may help to facilitate development.

Developers are not prevented from making goodwill payments to individuals; however, any such payment would be outside of the planning system and cannot directly influence or be taken into account by a local planning authority in its determination of any planning application.

## Recommendation 32 **Progress report**

That DCLG should publish a progress report on delivery against these recommendations by the end of 2009, drawing on the views of key stakeholders and the users of the planning system.

The DCLG will publish a progress report in relation to the delivery of the reforms set out in *Planning for a Sustainable Future* by the end of 2009.



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