



Department for
Communities and
Local Government

Planning application process improvements

Government response to consultation



© Crown copyright, 2015

Copyright in the typographical arrangement rests with the Crown.

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This document/publication is also available on our website at www.gov.uk/dclg

If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

Department for Communities and Local Government
Fry Building
2 Marsham Street
London
SW1P 4DF
Telephone: 030 3444 0000

For all our latest news and updates follow us on Twitter: <https://twitter.com/CommunitiesUK>

January 2015

ISBN: 978-1-4098-4444-0

Contents

Introduction	1
Part A – Measures to change the thresholds for statutory consultee involvement in planning applications	2
Part B – Proposal to notify railway infrastructure managers of planning applications for development near railways	9
Part C – Consolidation of the Town and Country Planning (Development Management Procedure) Order 2010 and measurement of the end-to-end planning process	11

Introduction

1. An effective planning system plays an important role in supporting growth – promoting and enabling the homes, jobs and facilities that communities need, and minimising uncertainty and delay for those proposing or affected by development. This government is pursuing an ambitious programme of reforms to speed up and simplify the planning application process.
2. In July 2014 the Government published the ‘Technical Consultation on Planning’¹, section 4 of which sought views on a package of measures to improve the end-to-end planning application process. The proposals outlined in section 4 build on important changes this Government has already made to improve the mechanics of the application process and primarily focus on ensuring that third party consultation (with statutory consultees and other bodies) operates effectively in the interests of all users of the process.
3. At Section 4 the consultation paper proposed the following measures:
 - Part A – measures to change the thresholds for statutory consultee involvement in planning applications to achieve a more proportionate approach; changes in arrangements for notification and referral of applications to the Secretary of State on some heritage matters and some minor changes to other heritage related consultations and notifications
 - Part B – improving notifying measures to require that railway infrastructure managers are notified of planning applications for development near railways.
 - Part C – proposals to consolidate the Town and Country Planning (Development Management Procedure) (England) Order 2010 (Development Management Procedure Order). This section also sought views on improving the measurement of the end to end planning process.

The majority of the changes proposed above would be made by amending the Town and Country Planning (Development Management Procedure) (England) Order 2010²

4. A total of 389 responses to this section of the consultation were received. 43% of respondents were local authorities, 10% were prospective applicants and the largest group of respondents (47%) came from a broad range of groups including parish councils, businesses, voluntary organisations and members of the public.
5. This document provides a summary of the responses received to each of the proposals and the Government’s response to them.

¹ <https://www.gov.uk/government/consultations/technical-consultation-on-planning>

² And where relevant, an amendment to the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 to also apply the provisions to special measures cases submitted to the Planning Inspectorate.

Part A – Measures to change the thresholds for statutory consultee involvement in planning applications

6. The consultation sought views on changes to the existing statutory consultation requirements for Natural England, the Highways Agency, English Heritage & National Amenities Societies. It also sought views on the principle of statutory consultees making more frequent use of their existing flexibility not be consulted.

Review of requirements for consultation with Natural England

7. The proposal recommended removing paragraph (v)(ii) of Schedule 5 Development Management Procedure Order (2010); this currently requires consultation with Natural England for ‘development within an area that has been notified to the local planning authority by Natural England and, which is within 2 Kilometres of a site of special scientific interest’.

Summary of Responses

8. A strong majority (85%) of those that responded to the consultation favoured the proposal. Local authorities in agreement with the proposal suggested that change would provide clarity and reduce consultation requirements to only the most appropriately sensitive cases. Many of the planning authorities supported the principle of the proposal but only if equipped with sufficient guidance, up-to-date on-line mapping and training.
9. Many ‘other parties’, including professional associations, parish councils and voluntary bodies, were in support of the proposal and commented that the changes would allow Natural England to focus their resources on developments likely to have the most impact on surrounding areas.
10. From those opposed, there was a concern that planning officers without specialist ecologist expertise would not be adequately equipped to decide what applications would be likely to impact Sites of Special Scientific interest. There was also a concern from a cross section of respondents that increased use of online mapping tool could over complicate the process and have resource implications in determining whether or not to consult; placing the burden of assessing ecological impact on the local planning authority.

Government response

11. The Government has noted the strong support received for the principle of the proposal from the majority of the responses and the confirmation that this change should reduce unnecessary consultation.

12. The Government understands the concerns raised regarding the demands on local planning authorities and the expertise required to make the judgement on when to consult under paragraph (v)(i) of Schedule 5. However, the requirement to consult on development within 2km of Sites of Special Scientific Interest was an arbitrary approach that did not ensure certainty and that removal of this will provide a more flexible approach for local planning authorities to decide what to consult on. Natural England has an on-line tool, mapping Impact Risk Zones around Sites of Special Interest and this will help local planning authorities decide when to consult.
13. The Government will therefore bring forward the changes to the statutory consultation arrangements for Natural England by removing paragraph (v)(ii) of Schedule 5 within the Development Management Procedure Order.

Review of requirements for consultation with the Highways Agency

14. This proposal recommended changing current wording in paragraph (f)(i) in Schedule 5, to 'development, other than minor development, likely to result in an adverse impact on the safety of, or queuing on a trunk road'.

Summary of responses

15. 83% of those who responded to this question supported the proposed changes. Local authorities that agreed with the changes felt that the proposal provided a more proportionate approach that would free up resources at the Highways Agency to focus on the developments where their advice is most needed. Of those who commented around half of local authorities felt that the suggested change was more specific and would provide greater clarity for both the Highways Agency and for planning officers.
16. Prospective applicants and respondents within the 'other parties category' who responded positively to the proposal supported the principle of greater clarity on consultation but commented that the wording was not sufficiently clear enough for the local authority to make the decision on whether or not to consult. Respondents in these categories indicated that further guidance would be needed to clarify the key terms, particularly in relation to 'safety' and 'queuing'.
17. Respondents within the 'other parties' and the prospective applicants' category who supported the exclusion of minor developments suggested that the definition of minor development should be expanded further to reduce consultation. However, some respondents in these categories warned that minor development could still have a cumulative impact on road safety.
18. A small number respondents within the 'other parties' category were concerned that restricting the consultation to matters of 'safety' and 'queuing' would preclude other effects of changing traffic (such as lighting, noise, visual intrusion) and commented that it was not clear how these other issues would be considered.

19. In responding to the consultation the Highways Agency has suggested that development likely to have an adverse impact on existing environmental conditions should also require consultation with the agency. The Highways Agency has raised its need to monitor and control emissions having an impact on air quality, noise and highway run-off from its network, and the impact that new development might have on these conditions, to help ensure the UK complies with the EU Air Quality Directive³. In Spring 2015, dependent on the Infrastructure Bill receiving Royal Assent, the Highways Agency will be transferring to a Government-owned company which will be responsible for supporting the UK Government to meet EU Air Quality Directive goals.

Government response

20. The Government acknowledges the support given to the consultation proposal and that a body of respondents have agreed that the proposal to change the requirements for consultation with the Highways Agency to ‘development, other than minor development, likely to result in an adverse impact on the safety of, or queuing on a trunk road’ should ensure greater clarity and reduce unnecessary consultation. Therefore, the Government will implement the proposal as set out in the consultation.
21. The Government recognises the important role that the Highways Agency has in monitoring emissions levels and the potential impact that new development could have. The Government will undertake further work to look at the case for adding a further consultation requirement for the Agency in relation to the impact of proposed development on existing environmental conditions; and will consult on any new arrangements in due course.

Review of requirements for consulting and notifying English Heritage

22. The Government sought views on simplifying and streamlining the current complex requirements for consulting and notifying English Heritage of applications for planning permission and listed building consent. A number of proposals were put forward to:
 - ensure a consistent approach across different types of heritage asset
 - align the requirements inside and outside Greater London
 - allow English Heritage to focus its resources and expertise where it can add most value

Summary of responses

23. There was considerable support (82%) for the proposed changes, particularly amongst local authorities, prospective applicants and statutory consultees. Two thirds of those in the ‘other parties’ category also agreed with the proposals.

³ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32008L0050&from=EN>

24. Amongst those in favour, there was general agreement that the proposals would provide greater clarity and consistency and allow English Heritage to focus its resources on the most sensitive cases. Some local authorities also noted that the changes would allow more decisions at local level.
25. The main reasons given by the small percentage who disagreed with the proposals were that:
- they would result in inadequate protection for heritage assets, particularly in London
 - English Heritage provides a valuable source of expertise and advice where local authorities lack the necessary resources themselves

Government response

26. The Government has noted the overall strong support for the proposals and the broad recognition that they will reduce and simplify the current requirements and allow English Heritage to focus on those cases which have the potential for greatest impact.
27. The Government understands the points made by some respondents about local authorities' resources and the need to maintain adequate levels of protection for the historic environment. However, the proposed changes will reduce burdens on local authorities by removing unnecessary consultation and that the proposals will ensure that English Heritage's resources are focussed on the cases where it can add the most value.
28. The Government therefore, will bring forward the changes to the notification and consultation requirements for English Heritage as outlined in the consultation paper.

Removing English Heritage's power of direction in London

29. In line with the general aim of having a consistent approach both inside and outside London, the Government sought views on the principle of removing English Heritage's power to direct local planning authorities in Greater London as to the granting of planning permission.

Summary of responses

30. 76% of those who responded agreed with the proposed change. There was a high level of support amongst prospective applicants, statutory consultees and local authorities generally. However, of the London authorities who responded, only a small majority (52%) were in favour of the proposal. In the 'other parties' category, 60% of respondents supported the proposed change.
31. In supporting the proposal, respondents agreed that having a more consistent approach across England was sensible. Local authorities that were opposed to the change commented that London's unique heritage warrants a different approach to the rest of England especially where local planning authorities lack the necessary resources and expertise. Local authorities also made the point that even if English Heritage rarely exercises its power to direct authorities to refuse planning permission, the fact it has the ability to do so gives it a strong negotiating position from which to

seek changes to potentially harmful proposals. Respondents in the ‘other parties’ category who did not support the change also agreed that London should be treated differently and commented that English Heritage’s power of direction was a safeguard against inappropriate development.

Government response

32. The Government has noted the positive response from a cross section of respondents on the principle of removing English Heritage’s power of direction in Greater London. The points made by those who do not agree with the changes have been considered. However, the Government believes that removing the power of direction will not undermine the protection of heritage assets in London. If English Heritage has serious concerns about any proposals for works to listed buildings in Greater London it will still be able to ask the Secretary of State to call in the application. The Government considers that this proposal will help to speed up the listed building consent process and allow for more decisions to be taken at a local level.
33. The Government therefore, intends to remove English Heritage’s power of direction in Greater London. However, as was made clear in the consultation, this change requires primary legislation and will be taken forward when a suitable legislative opportunity arises.

Notifications and Referrals to the Secretary of State

34. The Government proposed a number of changes to the arrangements for notifying and referring applications to the Secretary of State to streamline and simplify the current arrangements by:
 - bringing London requirements into line with the rest of England (as far as possible without amending primary legislation)
 - giving local authorities the power to determine their own and English Heritage’s applications

Summary of responses

35. The proposed changes were strongly supported (89%) by a wide cross section of respondents who commented that they would provide greater clarity, reduce burdens and speed up the process.
36. Those who disagreed with the proposals felt that the Secretary of State’s role in determining applications submitted by local authorities and English Heritage was vital in ensuring transparency and accountability and in safeguarding against inappropriate development.

Government response

37. The Government has noted the very high levels of support for these proposals and understands the points raised about transparency and accountability. However, the proposed changes to the arrangements for referring applications to the Secretary of

State strike the right balance between allowing more decisions on local authority and English Heritage applications to be taken at a local level while ensuring that there are adequate safeguards in place to allow intervention in exceptional circumstances. The proposed changes include the safeguard that where English Heritage or the National Amenity Societies object to proposals in the most sensitive cases that these will continue to come to the Secretary of State. The Secretary of State's ability to call in any application for his determination will also remain.

38. The Government intends to take forward these proposals.

Other heritage related consultations and notifications

39. This section of the consultation paper proposed two minor changes. The first was intended to introduce greater clarity to the current requirement to notify the National Amenity Societies of listed building consent applications involving partial demolition, by applying this to the demolition of a 'substantial' part of the building. The second proposal was to move the requirement to consult the Garden History Society into the Development Management Procedure Order rather than continue to have it set out in a Secretary of State Direction.

Summary of responses

40. Again there was strong majority (83%) in favour of the proposed changes. Amongst local authorities and prospective applicants support was particularly high (over 90%).

41. There were very few objections to the Garden History Society proposal. The proposal in relation to the National Amenity Societies attracted most comments with those in support saying that it would provide clarity, reduce unnecessary consultation saving time and effort. However, a small number also made the point that the term 'substantial' would be open to interpretation and without definition might lead to confusion and delay in consideration of applications.

42. 70% of respondents in the 'other parties' category supported the proposal. Comments from those in this category who were opposed included that:

- the change would result in fewer notifications and consequently be detrimental to the historic environment as these heritage bodies provide valuable input
- that it is not the extent of demolition that is important but the impact it has on the significance of the heritage asset
- it could result in increased administrative burdens on local authorities who would have to sift applications and decide which needed to be notified

Government response

43. The Government's intention behind the proposed change to the requirements for notifying the National Amenity Societies was simply to provide greater clarity, not to make any material changes to these arrangements. However, the Government has considered the comments received, including those representing heritage, amenity society and legal interests, and accepts that there is potential for such a change to

cause greater uncertainty because, without further definition in this context, the application of the term ‘substantial’ may be unclear. The Government also accepts that the proposed revision to wording may lead to delays in handling applications because of greater uncertainty about when notification is necessary. On balance, therefore, the Government does not consider that this change would meet the aim of improving clarity and will continue to use the existing phrasing which is tried and tested.

44. The Government will take forward the proposal to move the current requirement to consult the Garden History Society into the Development Management Procedure Order. However, the current notification requirement for the National Amenity Societies will remain unchanged.

Exemptions from the requirement to consult

45. The consultation sought views on what practical changes could be made to encourage statutory consultees to make more frequent use of the existing flexibility not to be consulted at application stage (article 16 (1) (c) of the Development Management Procedural Order).

Summary of Responses

46. The majority of respondents (76%) strongly supported the principle of making more use of the existing flexibility. A cross section of the respondents, including local authorities, prospective applicants and existing statutory consultees saw the merit in greater use of the flexibility and suggested it would promote more frequent, higher quality engagement at pre-application stage; preventing unnecessary duplication of work for statutory consultees.
47. Although the principle was broadly welcomed, the majority of respondents agreed that a greater use of flexibility could complicate the certainty of the application process. Most respondents highlighted that applications can substantially change from pre-application to application stage. Many local planning authorities recommend that statutory consultees would need to provide a record of what they had commented on at pre-application and set out terms they would need to be re-consulted on should the application change.
48. Local authorities were also concerned the submitted application would need to be cross checked with the original pre-application advice of the statutory consultee and that this could create additional complexity and resource implications at validation stage.
49. A number of respondents raised the issue of how transparent the process would be both for other parties in the planning process who may not have access to pre-application recommendations and documentation received from statutory consultees, and for local planning authorities uninvolved in pre-application discussions between the applicant and the statutory consultee.

Government response

50. The Government has noted the positive response received from a cross section of the respondents to the principle of encouraging greater use of article 16 (1)(c) and recognises the complexity and potential resource implications that reduces the scope in practice.

51. The Government intends to explore further with key stakeholders how this proposal might be best taken forward and explore some of the detailed issues raised further.

Part B – Proposal to notify railway infrastructure managers of planning applications for development near railways

52. The consultation proposed requiring local planning authorities to notify railway managers of all planning applications where any part of the development is within 10 metres of a railway.

Summary of responses

53. The railway infrastructure managers that commented were unanimously in support of the proposal. Railway heritage bodies also commented that the proposal should also apply to these organisations.

54. A clear majority of respondents (78%) supported the proposal to require planning authorities to notify railway infrastructure managers of planning applications within the vicinity of the railway, rather than making them formal statutory consultees. A cross section of those in support agreed that the requirement was essential for public safety.

55. Local authorities were the largest group to respond to the proposal and the majority were supportive. Many highlighted that notification and informal consultation with railway infrastructure managers is already part of existing practice. Some local planning authorities commented that the notification proposal was preferable to the statutory consultee option as this would reduce the burden on infrastructure managers who would not have to respond to ‘unnecessary’ consultations and would allow them to concentrate resources on proposals most likely to have an impact on railways.

56. Those that disagreed with the proposal (22%) commented that notification in all instances would place a disproportionate burden on both infrastructure managers and local planning authorities, particularly in urban areas. Some local authorities suggested that the requirement to notify should only apply to a certain criteria of development or exclude certain minor, irrelevant works unlikely to impact on railway infrastructure.

57. A cross section of respondents, including those representing development interests felt that, in the interests of safety, it may be a safer and more consistent approach to make infrastructure managers statutory consultees.

58. 76% of the respondents agreed that the suggested distance of 10 metres was reasonable and there were no consistent suggestions for an alternative distance. A large number of respondents, including local planning authorities and applicants representing the development industry suggested that the measurement should be made from the ‘boundary of ownership’ or ‘boundary operational of railway land’ rather than the track or tunnel itself to ensure a more robust approach.

59. Many local authorities who supported the proposal suggested that it is essential that they are able to access up-to-date information on the boundaries and locations of railway infrastructure

Government Response

60. The Government has noted the strong support for the proposal to notify railway managers of all planning applications where any part of the development is within 10 metres of a railway and recognises some of the detailed practical issues raised.
61. Regarding the methodology for measuring the distance from the railway, the government agrees that linking the requirement to the ‘operational railway land’ or a similar term would deliver an improved approach. It is also felt that 10 metres from the boundary of operational railway land is an appropriate distance.
62. The Government has noted the concerns that the proposal to notify railway managers of all planning applications within 10 metres of a railway may inundate infrastructure managers and infringe on planning officer resources. As the Government’s proposal is a notification measure and will not result in railway infrastructure managers becoming statutory consultees the burden placed on them and local planning authorities is regarded as significantly less. The Government acknowledges that it is important Railway infrastructure managers are informed about applications in vicinity of railways and that they are best placed to decide when to respond; this will not be in every instance.
63. The Government has noted that responses suggest there are likely to be instances of ‘minor works’ that will require notification in the 10 metre radius but that will not substantially affect railway infrastructure. To limit unnecessary notification in these instances, the Government intends to allow railway infrastructure managers to voluntarily opt out of notification on specific types of development or on development in specific areas. Rather than centrally prescribing a long list of national exemptions, the Government believes that railway infrastructure managers are best placed to judge the types of locations or development where they do not need to receive notification.
64. The Government recognises the importance of up-to-date and accessible mapping to for local planning authorities to implement this proposal effectively and that the provision of this information relies on the railway infrastructure managers concerned. The Government understands that there is currently good practice in this area but intends to issue clear guidance to encourage and prompt railway infrastructure managers to swiftly issue this information, in an accessible format, to local planning authorities. The Government will also work with key stakeholders to identify how this practice can be further promoted.

Part C – Consolidation of the Town and Country Planning (Development Management Procedure) Order 2010 and measurement of the end-to-end planning process

Consolidation of the Town and Country Planning (Development Management Procedure) Order 2010

65. The consultation invited views on the government's proposal to consolidate the Development Management Procedure Order 2010.

Summary of Responses

66. There was widespread support from a cross section of respondents for this proposal. Respondents commented that the change was strongly welcomed and would aid simplicity and clarity. It was commonly felt that the consolidation of the amendments into one document would ensure simplification and streamline the planning system for applicants and local planning authorities alike.

Government Response

67. The Government committed to a consolidation of the Development Management Procedure Order as one of its planning based commitments to the Red Tape Challenge. It has noted the widespread support for the proposal and therefore will issue a revised Development Management Procedure Order.

Measurement of the end-to-end planning process

68. The consultation sought ideas and suggestions for measuring the total time it takes for development proposals to pass through the planning system.

Summary of Responses

69. There was no consensus amongst respondents about the benefits or best means of measuring the planning process from end to end. Some felt it would be helpful but many others felt it had limited value, given that the time between stages such as pre application and submission could vary significantly. Local planning authorities were concerned that some parts of the process, particularly at the pre and post application stages, were not wholly within their control, and that any requirement for additional monitoring could impact upon their resources. Many responses suggested that the increased use of Planning Performance Agreements is reducing the relevance of the existing statutory determination targets, as in these cases the timeframe for the application is agreed between the local planning authority and applicant.

70. Suggestions for individual parts to be reported on or measured included: the time between receipt of application and validation, pre-application stage and the time taken to discharge conditions. Some local planning authorities indicated that they already collect information on these stages.
71. A number of respondents drew attention to the Planning Advisory Service's Planning Quality Framework as a way to benchmark performance and measure the quality of planning services in a consistent manner.

Government Response

72. The Government recognises that the length of the planning process as a whole is important for all parties involved in it; yet it is clear from the responses that measuring the full 'end-to-end' time is not straightforward. Where information is being collected, we are keen that local planning authorities publish regularly updated figures on their performance in relation to different parts of the process, so that it is clear to applicants and communities what level of service is being offered. The work of the Planning Advisory Service in developing a Planning Quality Framework does provide a consistent approach that local planning authorities can use to collate and make available relevant information, and to benchmark their performance against others.