

## Consultation Paper

# STOPPING UP AND DIVERSION ORDERS: REFORM OF THE APPLICATION PROCESS FOR LOCAL HIGHWAYS

July 2012

The information or guidance in this document (including third party information, products and services), is provided by DfT on an 'as is' basis, without any representation or endorsement made and without warranty of any kind whether express or implied.

The Department for Transport has actively considered the needs of blind and partially sighted people in accessing this document. The text will be made available in full on the Department's website in accordance with the W3C's Web Content Accessibility Guidelines. The text may be freely downloaded and translated by individuals or organisations for conversion into other accessible formats. If you have other needs in this regard please contact the Department.

Department for Transport  
Great Minster House  
33 Horseferry Road  
London SW1P 4DR  
Telephone 0300 330 3000  
Website [www.dft.gov.uk](http://www.dft.gov.uk)

© Crown copyright 2011

Copyright in the typographical arrangement rests with the Crown.

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

Where we have identified any third-party copyright information you will need to obtain permission from the copyright holders concerned.

# Contents

1 Consultation Summary .....	4
2 Introduction .....	5
3 Background.....	7
4 The Issue .....	9
5 The Proposals - Options.....	11
6 Consultation Questions .....	18
7 Public Inquiry Procedure Fees .....	19
8 How to respond and what will happen next .....	20
Annex A Impact assessment .....	21
Annex B Consultation criteria .....	22

# 1. Scope of the Consultation

Topic of Consultation	Reform of the application process governing the stopping up and diversion of highways under Sections 247 and 248 of the Town and Country Planning Act 1990.
Scope of Consultation	To seek views on the options to improve the operation of stopping up orders (and the interaction between highways consents and the planning system) when development is proposed.
Geographical Scope	The proposals apply to England only.
Impact Assessment	An impact assessment and Regulatory Policy Committee opinion is published alongside this consultation document.
To	This is a formal written public consultation. It is open to all members of the public, including those who have an interest in highway extinguishment or diversion orders, developers, local highway and planning authorities, civic and community groups, and groups representing road users and businesses.
Body responsible for the consultation	Department for Transport, Local Directorate.
Duration	This consultation will run for a period of 6 weeks; this reduced period will allow us to deliver measures through the Enterprise and Regulatory Reform Bill. It begins on <b>13 July 2012 and ends on 24 August 2012.</b>
How to respond	Please send your response to: <a href="mailto:penfold.review@dft.gsi.gov.uk">penfold.review@dft.gsi.gov.uk</a>
After the consultation	A summary of the response to the consultation will be published on the Department's website within 3 months of the end of the consultation period, and alongside an announcement of the Government's way forward.
Compliance with the code of practice on consultation	This consultation complies with the Government's code of practice on consultations.
Previous engagement	This is the first formal consultation on these proposals, but we have raised these issues in informal engagement with some interested parties and experts.

## 2. Introduction

- 2.1** Stopping up and diversion orders are typical of non-planning consents that are required alongside or following principal planning permission in order to facilitate operational development. They play a vital role in driving through investment and growth in our local communities.
- 2.2** These non-planning consents can have a serious impact on the efficient and effective delivery of development. The complexity of the consents landscape and design of individual consents within this framework can lead to an inconsistent and rigid regime that relies on different legal bases, has many elements, and involves various agencies in the application and decision-making process. Navigating through the various levels of bureaucracy creates uncertainty and delay in the overall development process, as highlighted by the Penfold Review<sup>1</sup> of non-planning consents published in 2010.
- 2.3** The Penfold Review was established to explore whether the process for obtaining non-planning consent, those consents which have to be obtained alongside or after and separate from planning permission in order to complete and operate a development, is delaying or discouraging business investment and identify areas where there is scope to support investment by streamlining processes, removing duplication and improving working practices.
- 2.4** The Review found that non-planning consents make an important contribution in protecting public interest through the delivery of a wide range of policy objectives. However it also found that the process for applying for these consents is at best, rigid and at worst, bureaucratic. In particular, it found that the operation of the existing regime, rather than its structural framework, contributes the greatest risk of additional costs and delays to development.
- 2.5** As part of its findings, the Review recommended a package of measures that aim to deliver speedier decision making and to reduce burdens associated with unnecessary bureaucracy.
- 2.6** The Government accepted the majority of recommendations. The Autumn Statement, published in November 2011<sup>2</sup>, set out an action plan for implementing these recommendations including the commitment to consult

---

<sup>1</sup> Penfold Review of non-planning consents (2010)  
<http://www.bis.gov.uk/policies/bre/effectiveness-of-regulation/penfold-review>

<sup>2</sup> Implementation of the Penfold Review (November 2011)  
<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1413-implementation-of-penfold-review.pdf>

on proposals to simplify the application process for stopping up (stopping up or diversion) orders as prescribed in section 247 and section 248 of the Town and Country Planning Act 1990 (TCPA 1990).

## **Streamlining the application process**

**2.7** The primary objectives for the proposed reforms are:

- to speed up and simplify the application process for non-planning consents;
- to encourage growth and facilitate investment.

This consultation develops these objectives and invites comments on a range of options for delivering a quicker and more efficient procedure for non-planning consent for stopping up orders.

## **Enabling local authorities to take decisions that affect their communities**

**2.8** The Government is committed to providing greater freedom and flexibilities to local government and decentralising powers from Whitehall to the local level. This consultation paper therefore includes options that give local authorities powers and responsibilities for managing the application and order-making process for stopping up orders.

**2.9** The intended effect of the reform is to encourage confidence and to speed up and increase investment in development. This consultation invites comments on how best to simplify the regime and introduce a flexible and efficient structure that speeds up the non-consent application process. It seeks to remove barriers and encourage early engagement between developers and order-making bodies. It does not propose any changes to the statutory right to object.

**2.10** The specific proposals for reforming the application process are set out in section 5. All the options identified within the consultation will require amendments to primary legislation.

**2.11** The application process for stopping up orders in London is devolved to local authorities. Existing provisions allow for stopping up orders in respect of planning to be made by London Boroughs rather than the Secretary of State. In the event of unresolved objections, the matter is referred to the Mayor of London for determination as to whether or not a public inquiry should be held in accordance with section 252 of the TCPA 1990.

**2.12** This consultation does not advocate changes to the responsibilities devolved in London. However, proposals would impact on the procedural framework for all stopping up applications not just those devolved from Central Government. The Government therefore welcomes all views on the options set out in this consultation document.

## 3. Background

- 3.1** Stopping up orders authorise the stopping up or diversion of a highway where it is no longer needed or a change is required to enable development to proceed. Legislation covering stopping up orders, where planning permission for a development is in place, is set out in section 247 and section 248 of the TCPA 1990<sup>3</sup>. The provisions apply to any highway and authorise their stopping up or diversion where the decision-maker is “satisfied that it is necessary to do so in order to enable development to be carried out” (where planning permission has been granted). The provisions specific to public rights of way, set out in section 257 and section 259 of the 1990 Act, are the subject of a separate consultation<sup>4</sup>.
- 3.2** Applications to stop up or divert a local highway are made direct to the Secretary of State for Transport (the Secretary of State). On average the Department for Transport (the Department) deals with approximately 250 to 300 applications each year. Approximately 2% to 3% of these applications require a public inquiry.
- 3.3** Provisions within the TCPA 1990 permit the Secretary of State to make orders to stop up any highway where planning permission has been granted under Part III (or where section s293A<sup>5</sup> applies). These orders may also apply for the provision or improvement of any other highway where the requirement forms part of the planning permission.
- 3.4** There are exceptional circumstances where the Secretary of State has powers to make an order under section 247 where planning permission would have been granted under part III of the TCPA 1990. In these circumstances, irrespective of the permission **not** being granted, the Secretary of State has the power to make a stopping up order. This consultation does not propose any change to this.

---

<sup>3</sup> s247 Town and County Planning Act 1990  
<http://www.legislation.gov.uk/ukpga/1990/8/section/247>

<sup>4</sup> Improvements to the policy and legal framework for public rights of way: (Part 4 refers to the recommendations from the Penfold Review)  
<http://www.defra.gov.uk/consult/2012/05/14/improve-rights-of-way/>

<sup>5</sup>Section 293s applies where development is certified to be of national importance and is necessary to carry out the development as a matter of urgency.

## Current framework

- 3.5** Powers under section 247 and 248 of the TCPA 1990 are subject to statutory procedures set out in accordance with section 252 of the Act. They provide the general public and local authorities with an opportunity to consider the application and its impact on the use of the public highway.
- 3.6** The Act requires the Secretary of State to give notice of the intention to make an order:
- to statutory consultees;
  - by advertising in local papers;
  - by displaying notices for inspection on site.
- 3.7** Following the Autumn Statement, the Government set out its ambition to reduce target times for processing applications for non-planning consents including stopping up orders. Typical applications are now assessed within 13 weeks subject to agreed exceptions<sup>6</sup>, but can take significantly longer where a public inquiry is held. Stopping up and diversion applications are currently being assessed within a minimum timeframe of 7.2 weeks.

## Opposed orders

- 3.8** When an objection to a stopping-up application is made, the applicant is expected to make every effort to resolve and secure its withdrawal. However, where the applicant and objector cannot reach an agreement or negotiate an amicable solution, and the objection remains outstanding, the Secretary of State may cause a public inquiry to be held by the Planning Inspectorate as set out in section 252 (4) and schedule 14 of the TCPA 1990. Approximately 2 - 3% of stopping-up applications result in public inquiries. The planning inspector makes recommendations to the Secretary of State who makes the final decision.

---

<sup>6</sup> <http://www.bis.gov.uk/assets/biscore/better-regulation/docs/i/11-1413-implementation-of-penfold-review>



## 4. The issue

- 4.1** Typically, planning permission determines whether a development should be permitted and stopping up orders provide consent to divert or stop up a public highway (or public right of way) in order to carry out the development. Without a stopping up order, the developer is constrained in the extent to which he can develop his land since the grant of planning permission to carry out development does not contain consent to stop up the public highway.
- 4.2** The target timeframe for making a stopping up order from the date of receipt to the date the order is made is 13 weeks, where there are no objections or where objections are subsequently withdrawn. This means a developer who has received planning permission may be required to wait a further 13 weeks before he receives a decision on his stopping up application to allow him to carry out the development and considerably longer where a local inquiry is required to consider outstanding objections.
- 4.3** The Penfold Review found this framework to be too long and unnecessarily rigid. It called for a more effective and efficient procedure that enables development to begin as soon as practically possible after planning permission is granted. The Review recommended the reform of elements that increase the time and cost of applying for orders to stop up a highway.
- 4.4** The Government accepted the Review's recommendations "to increase certainty, speed up processes, reduce duplication, and minimise costs". The Autumn Statement set out in detail a package of measures to implement the recommendations. The measures include a programme to:
- scrap unnecessary development consents and simplify others;
  - reform the remits and working practices of the public bodies granting or advising on development consents;
  - set clear timescales for deciding development consent applications;
  - make it easier to apply for development consents.

## Introducing timescale for negotiating objections

- 4.5** Under the TCPA 1990, objections to a stopping up application must be logged no later than the last day of the 28 day objection period. However, there is currently no specific period prescribed in the legislation for the resolution of these objections. Whilst a substantial number of objections are resolved within a reasonable timeframe, a small percentage of cases may take longer to resolve. In some cases, it may not be possible to reach a resolution within a reasonable timescale, in which case the matter is referred for an inquiry and final decision by the Secretary of State. In other cases, objections may be raised as an opportunity to object to the main planning application rather than the stopping up application. Some applicants express the view that the absence of a time limit to resolve these objections is increasingly frustrating and presents financial burden to them in processing the application.
- 4.6** The Government is therefore considering whether to introduce a statutory time limit for considering objections. Where this time limit expires without resolution of any objection, the matter would proceed to a public inquiry. This proposal would ensure that a balanced procedure for negotiating and resolving objections is maintained without undermining the robustness and fairness of the application process. The approach would ensure a swifter objection negotiation procedure. All parties to an objection, including the developer and objector, would be encouraged to engage constructively with reasonable effort to examine and resolve objections.
- 4.7** It is the Government's view that the right to object would not be diminished by a prescribed timescale because objectors whose concerns have not been resolved within the set time would still be able to put their case to a public inquiry.

Question 1: The Government seeks views on the proposal to introduce a statutory time limit for negotiating withdrawal of objections to stopping up or diversion applications. What would you consider to be a reasonable time limit for negotiating objections?

# 5. The proposals - Options

This chapter sets out three options for speeding up and simplifying the process for making stopping up orders:

- The first would allow applications for stopping up orders to be made in parallel with the relevant planning application.
- The second builds on option 1, and in addition would devolve powers from the Secretary of State to the Local Highway Authority.
- The third also builds on option 1, and would devolve powers from the Secretary of State to the Local Planning Authority.

Question 2: The Government welcomes views on the costs and benefits of a speedier application process, supported with evidence wherever possible.

**Option 1** - Introduce a concurrent application process to allow stopping up applications alongside applications for planning permission.

- 5.1** This option would introduce a new streamlined process, which would allow an earlier start to the statutory consultation process. Sections 247 and 248 of the TCPA 1990 would need to be amended.
- 5.2** Applicants would continue with the existing procedural framework of submitting two separate applications: the planning application submitted to the Local Planning Authority and a separate stopping-up application to the Secretary of State or appropriate London Borough. The proposed change would allow concurrent submission of both applications, enabling both to be considered at the same time. The key benefit would be a speedier and more coherent process that will provide development consents sooner.
- 5.3** The consents process identified for reform within this consultation refers to stopping up orders required to enable planning permission under Part III of the TCPA 1990. In this respect, planning permission would continue to precede approval of the stopping up or diversion application. It is not the Government's intention to change this requirement. Consequently, there would be a short time lag between the decision on a planning application and the decision on a stopping up application.
- 5.4** In cases where there are unresolved objections to the stopping up application, the existing arrangements for a public inquiry would continue to apply.

- 5.5** There is a risk that where planning permission is refused or modified, the consultation process on the stopping up order could be abortive. Therefore, applicants would be encouraged to provide advice on any changes to the planning application that may influence the decision on the stopping up application.

**Question 3: The Government seeks views on the proposal to introduce a concurrent application process to allow applications for stopping up or diversion orders to be considered alongside planning permission applications.**

### **Empowering local authorities to determine applications for stopping up orders**

- 5.6** The Government is keen to ensure that local authorities are empowered with the necessary tools and responsibilities to take control of matters affecting their local communities. The Government believes that this approach could also apply to stopping up orders.
- 5.7** Greater London authorities, as both local highway and planning authorities, already possess delegated powers to make and confirm stopping up orders, where no objection has been made, or where an objection has been withdrawn. The proposals in option 2 and 3 would bring all local authorities into line with those in London.
- 5.8** Local authorities are better placed to determine the merits of a stopping up application that relates to local development. They understand the real benefits or impact of such a proposal. And, since the local planning and local highway authorities will always be involved in processing these applications, removing the Secretary of State from the process would reduce the number of parties involved, reduce bureaucracy and allow further simplification and acceleration of the process.
- 5.9** Options 2 and 3 therefore propose variations on Option 1 for transferring powers from Central Government to local authorities. These options would mean that for the first time local authorities (outside Greater London) would be responsible for stopping up orders. They would have the freedom to make and confirm stopping up orders, bringing them in line with the regime adopted by Greater London Authorities.

**Option 2** - Devolve order-making powers to the highway authority. The Secretary of State would retain powers to determine opposed orders where a public inquiry is held.

**5.10** Under this option, the Government would transfer order-making responsibility to the Local Highway Authority. This approach would provide scope for highway authorities to combine the duty of maintaining and protecting the rights of the public to use a highway<sup>7</sup> with the role of determining stopping up applications.

**5.11** The current legislation requires consultation with local authorities as statutory consultees. However, the Government considers that this approach could be strengthened by putting local authorities in charge by giving them powers to make decisions when considering matters that affect their localities. They are better placed to understand the drivers and barriers to growth in their communities and therefore best placed to remove blockages and determine the right conditions for investment.

**5.12** The Government is mindful that the benefits of transferring order-making powers to local authorities need to be balanced against placing new burdens on local authority resources. Therefore, the Government proposes that authorities should have the necessary flexibility and authority to recover the costs incurred in assessing and determining applications for stopping up orders.

**5.13** Where objections to a stopping up application cannot be resolved, and are not withdrawn, the application would be referred to the Secretary of State who could cause a public inquiry to be held by the Planning Inspectorate as is currently the case. The Secretary of State would then determine the application after considering the recommendation of the inquiry inspector.

**5.14** Under this option, in two tier authorities, local highway authorities would consider the stopping up application while local planning authorities would have responsibility for determining the planning application. Unitary authorities would determine decisions both on the planning and stopping up applications. As both processes are quasi-judicial in nature, unitary authorities who hold both planning and highway powers would for propriety reasons have to ensure that the two matters are considered fairly, properly, and discretely.

Question 4: The Government invites views on whether local highway authorities should be empowered to determine applications for stopping up or diversion orders.

Question 5: The Government seeks comments on whether local authorities should be allowed to recover a fee for stopping up or diversion

---

<sup>7</sup> Section 130 of the Highways Act (1980)

applications; in particular, how such a charging regime might operate.

**Option 3:** Devolve order-making powers to the planning authority. The Secretary of State would retain powers to determine orders where a public inquiry is held.

- 5.15** Under this option, the Government would transfer order-making responsibility to the Local Planning Authority. Local planning authorities would notify the applicant of the decision on their application following consideration of the recommendations from the local highway authority.
- 5.16** Highway authorities, as statutory consultees, would have a duty to consider the impact that closure or diversion of the highway would have on its users and to determine where the public interest may lie and submit this advice to the local planning authority.
- 5.17** There may need to be an amendment to the current legislation to allow local planning authorities the powers to remove the status of "highway" for the purposes of the Highway Act (HA 1980), which is currently achieved by the Secretary of State confirming a stopping up or diversion order.

Question 6: The Government seeks views on whether local planning authorities should be empowered to determine applications for stopping up or diversion orders.

Question 7: The Government seeks views on whether local highway authorities should be identified as statutory consultees where local planning authorities have powers to determine stopping up or diversion orders.

### Further alternative approaches

- 5.18** The primary objective of this review is to revise the current regime for stopping up and diversion orders to ensure a faster and more coherent decision making-process. The options we are consulting on emerge from the commitment in the 2011 Autumn Statement, which set out what the Government is doing to promote economic growth.
- 5.19** In considering the options, we held informal discussions with several local authorities and businesses. The Government recognises that these views may not be representative of wider opinions and concerns, and therefore invites comments and suggestions for any further ideas for improving the end-to-end process from application to decision-making for stopping up and diversion orders.

Question 8: The Government welcomes further ideas or comments on how the application process for stopping up and diversion orders might be streamlined or improved.

## **Unified planning and non-planning application regime**

- 5.20** One recommendation from the Penfold Review was that planning applications and applications for stopping up orders should be merged under a single regime.
- 5.21** The Government have given very careful consideration to how this could be achieved but foresees considerable difficulties in giving practical effect to the recommendation. The two systems have very different aims and this necessitates a difference in approach for each procedure. These differences could not easily be reconciled within a single integrated process. We believe that such a process would potentially be both complex and confusing for parties and that greater benefits would be offered by a streamlined, concurrent application process as proposed in this consultation. For these reasons this particular recommendation has not been taken forward.

## **Stopping up orders through applications to the Magistrates' Court**

- 5.22** Section 116 (1) of the Highways Act 1980 (HA 1980) enables local highway authorities to apply directly to a Magistrates' Court for an order to stop up a highway. The provisions in section 116 of HA 1980 require that these applications can only be made by the local highway authority. (Where there are two tiers of authority, the county council is the local highway authority. Unitary authorities are the local highway authorities for their areas). A stopping up order can only be made in these circumstances if the highway is unnecessary or can be diverted to make it more commodious to the public.
- 5.23** Under section 117 of the HA 1980, any person, including a developer, has the right to make a request that a local highway authority use its powers to make an application on their behalf. The Government is aware that many local authorities have extensive knowledge and expertise in the use and application of section 116 procedures. Where they are convinced of its merit, authorities have utilised these provisions, including for cases where planning permission has been granted for development. Local authorities and developers have suggested that more use could be made of section 116 of the HA 1980 as an alternative to sections section 247 and section 248 of the TCPA 1990.
- 5.24** Section 117 of the HA 1980 provides authorities with powers to recover reasonable costs for making applications. Typically, authorities charge a fee for the service.
- 5.25** Highway authorities have a statutory duty to consult, not only those with a direct interest in the stopping up, but also all parties as set out in schedule 12 of the HA 1980. Anyone on whom notice has been served has a right to be heard in court. Furthermore, the magistrate must be satisfied that the applicant has complied with the requirements set out in the schedule. The



safeguards in place ensure that the rights of the public are taken fully into consideration.

- 5.26** Highway authorities have a statutory responsibility to protect and maintain the local network including a duty to “assert and protect the rights of the public to the use and enjoyment of any highway, including a duty to prevent, as far as possible, the stopping up or obstruction of highways”<sup>8</sup>. In applying for consents under the section 116 regime, local authorities are able to ensure a balance between the rights of the public and the proposals from an applicant.
- 5.27** Although guidance in the *Rights of Way Circular – Guidance for local authorities (Circular 1/09)* states “...authorities should make use of other powers available to extinguish or divert... unless there are good reasons for not doing so”<sup>9</sup>; this guidance only applies to public rights of way<sup>10</sup> and does not preclude use of section 116 for all highways other than those that are public rights of way recordable on the definitive map and statement.
- 5.28** As part of this consultation, the Government is taking the opportunity to seek your views on whether authorities should make more use of section 116 of the HA 1980 and how it could be made clearer to authorities that there is currently no impediment to applicants applying for stopping up orders under section 116 for all highways other than those that are public rights of way recordable on the definitive map and statement.

Question 9: Do you think that more use should be made of section 116 of the Highways Act 1980? How could it be made clearer to authorities that they can already make use of these provisions?

Question 10: The Government seeks information from local highway authorities on the number of stopping up or diversion applications they have made using the Highways Act 1980.

---

<sup>8</sup> Highways Act 1980 (section 130 amended by Countrywide Rights of Way Act (2000) s63)

<sup>9</sup> Defra: Rights of Way Circular (1/09) Guidance for Local Authorities. October 2009

<sup>10</sup> Rights of way recorded, or capable of being recorded, on the definitive map and statement, see section 53 of the Wildlife and Countryside Act 1981.



## 6. Consultation Questions

Question 1: The Government seeks views on the proposal to introduce a statutory time limit for negotiating objections to stopping up and diversion applications. What would you consider to be a reasonable time limit for negotiating objections?

Question 2: The Government welcomes views on the costs and benefits of a speedier application process, supported with evidence wherever possible.

Question 3: The Government seeks views on the proposal to introduce a concurrent application process to allow applications for stopping up or diversion orders to be considered alongside planning permission applications.

Question 4: The Government invites views on whether local highway authorities should be empowered to determine applications for stopping up or diversion orders.

Question 5: The Government seeks comments on whether local authorities should be allowed to recover a fee for stopping up or diversion applications; in particular, on the principle of how such a charging regime might operate.

Question 6: The Government seeks views on whether local planning authorities should be empowered to determine applications for stopping up or diversion orders.

Question 7: The Government seeks views on whether local highway authorities should be identified as statutory consultees where local planning authorities have powers to determine stopping up orders or diversion.

Question 8: The Government welcomes further ideas or comments on how the application process for stopping up and diversion orders might be streamlined or improved.

Question 9: Do you think that more use should be made of section 116 of the Highways Act 1980? How could it be made clearer to authorities that they can already make use of these provisions?

Question 10: The Government seeks information from local highway authorities on the number of stopping up or diversion applications they have made using the Highways Act 1980.

# 7. Public Inquiry Procedure Fees

- 7.1** The current regime for applications to stop up or divert a highway includes provisions which allow the Secretary of State to cause a public inquiry to be held, where it has not been possible to resolve objections through negotiation, and they remain unwithdrawn.
- 7.2** Existing provisions within the TCPA 1990 and the Local Government Act 1972 allow for the cost of holding an inquiry in relation to stopping up and diversion orders to be rechargeable. The Government has therefore considered whether to introduce a charging regime to allow the recovery of the cost of public inquiries.
- 7.3** We feel that since there are only a few such cases, it would not be sensible to introduce a charging procedure for these alone. Therefore the Government has decided not to introduce a cost recovery regime for inquiries relating to stopping up and diversion applications. The Government reserves the right to review the position and to reconsider the matter at a future date.

## 8 How to respond

The consultation period began from 13 July and will run until 24 August. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at [www.dft.gov.uk/consultations](http://www.dft.gov.uk/consultations) ; you can also request, using the details below, alternative formats (Braille, audio CD, etc).

Please send consultation responses to: **[penfold.review@dft.gsi.gov.uk](mailto:penfold.review@dft.gsi.gov.uk)**

Penfold Review  
Cities Policy and Delivery  
2/14 Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

### Freedom of Information

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want 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 Data Protection Act (DPA) and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

# What will happen next

Within three months of the close of the consultation period, the Government will publish a summary of the responses and views expressed.

The consultation response will include details of the next steps and decisions taken in light of the consultation. The document will be published on the DfT website. Paper copies will be available on request.

# Annex A Impact assessment

An impact assessment has been published alongside this consultation.

When responding to the consultation, please comment on the analysis of costs and benefits, giving supporting evidence wherever possible.

Please also suggest any alternative methods for reaching the objective and highlight any possible unintended consequences of the policy, and practical enforcement or implementation issues.

# Annex B Consultation criteria

The consultation is being conducted in line with the Government's Code of Practice on Consultation. The criteria are listed below. A full version of the Code of Practice on Consultation is available on the Better Regulation Executive website at <http://www.bis.gov.uk/files/file47158.pdf>

If you consider that this consultation does not comply with the criteria or have comments about the consultation process, please contact:

Consultation Co-ordinator  
Department for Transport  
Zone 1/14 Great Minster House  
London SW1P 4DR  
Email [consultation@dft.gsi.gov.uk](mailto:consultation@dft.gsi.gov.uk)