

**PENFOLD REVIEW OF NON-PLANNING CONSENTS  
HIGHWAYS AGENCY IMPLEMENTATION REPORT  
AS AT 10 JULY 2012**

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## Introduction

1. The Penfold Review of Non-Planning Consents was commissioned the Department of Business Innovation and Skills (BIS). The Review was charged with the identification of measures to reduce the regulatory burden imposed on developers by the need to obtain additional consents and approvals after they have secured the grant of planning permission for their development proposals. Such requirements cause delay and costs. On occasion, these can render the development concerned non-viable.
2. The table at Annex A below sets out the recommendations of the Report published in July 2010. The Government published an initial response on 03 November 2010 and this was followed by a progress report in May 2011. These documents can be found at:

<http://webarchive.nationalarchives.gov.uk/+http://www.bis.gov.uk/policies/better-regulation/policy/simplifying-existing-regulations/penfold-review-for-non-planning-consents>

3. The Review established an agenda for change amongst the various development consent regimes aimed at removing burdens for business. The Government is taking forward workstreams aimed at:
  - (a) building upon and improving the basic customer experience of applying for development consents – whilst at the same time allowing consenting bodies to direct resource where it is most valuable;
  - (b) making development consents proportionate, simple to comply with, and merging or revoking consents when appropriate; furthermore we will remain open to suggestions from business on other necessary changes;
  - (c) improving the inter-relationship between development consents and the planning system so the experience is smoother for the applicant, through facilitating best practice and identifying and delivering necessary legislative and policy changes; and
  - (d) applying the principles of good policy-making and regulation, and a ‘one-in, one-out’ approach to new development consents.
4. The following paragraphs provide an update in respect of the progress made on the delivery of the actions associated with those workstreams which are of specific relevance to the Highways Agency. The headings and associated numbering that have been adopted (**bold black text**) are taken from the Government progress report published in May 2011

(see web link above). Where the actions involved fall to the Highways Agency, this is identified by the use of ***bold blue italic*** text.

**1. The customer experience and working practices of development consenting**

**(i). Building on and improving the customer focus of development consent decision makers (Review recommendations A2, A3, B1, B2, C1, C2 C3)**

5. In the initial Government Response BIS committed to co-ordinate a single, cross-consents Quality Development Code (QDC) aimed at fostering common customer service standards *across* consenting bodies. For each of the major consenting bodies – English Heritage, Environment Agency, Natural England and the Highways Agency - the common standards are to be:

- Consenting bodies will publish 'Code of Practice'/Customer Service Standard' documents setting out service timescales and outlining how a body will engage with applicants.

***The Agency has published its 'Planning Protocol', which addresses these requirements in respect of the planning application stage. Further protocols are being drafted to cover agreements with the Secretary of State under section 278 of the Highways Act 1980 (for publication in November 2012); Local Development Orders; and Local Plans***

- Consenting bodies will be transparent about their service standards, specifically the average time taken to respond to enquiries and to process applications. Consenting bodies will – where it is useful – include information on what information the developer can provide them to ensure these service standards are met.

***This requirement is addressed within the Agency's 'Planning Protocol'***

- Consenting bodies will survey and provide an annual update on 'customer satisfaction'.

***A customer satisfaction survey is being developed to capture feedback from developers. The results will be reviewed and the findings reported to the Highways Agency Board and published on the Agency website by the end of March 2013. Based on those findings, the Agency will develop further actions to drive continuous improvement.***

- Consenting bodies will provide a named point of contact to applicants in the majority of cases.

***Named focal points are included within the 'Planning Protocol' for each Agency region. For all significant cases requiring liaison/negotiation both the Local Planning Authority (LPA) and the Applicant are being provided with contact details for the Agency's case officer (this action pre-dates Penfold)***

- Consenting bodies will provide material designed to assist developers to establish whether consent/ consents are necessary.

***The laws and regulations relating to highways consents are complex in nature and it would be potentially misleading for the Agency to attempt to produce a simple guide.***

***To address this, the Agency's Planning teams will provide advice to developers on a case specific basis, seeking input from other Agency specialists and DfT Legal as necessary.***

***However, the more effective solution is to eliminate, wherever possible, the need for Orders. See entry at paragraph 27 below.***

- Consenting bodies will operate on the general principle that pre-application engagement with applicants – be it through information, guidance or advice – is valuable and presents opportunity to smooth the application process for both parties. Where appropriate, consenting bodies will also contribute to pre-application discussion with applicants and planning officers to identify ways to phase applications in the most efficient way.

***Since long before the Penfold Review was commissioned, the Agency has welcomed and encouraged pre-application discussions with developers and LPAs. This initiative was first noted in DETR Circular 04/2001 and it has been perpetuated in the current policy as set out in DfT Circular 02/2007.***

***However, this is now largely academic as the Localism Act 2011 has imposed a statutory duty on certain public bodies, including the Highways Agency to co-operate at all stages of the Planning process, including participation in pre-application discussions. Furthermore, the promoters of certain large scale developments will themselves be subject to a statutory duty to consult during the formulation of their proposals.***

- Consenting bodies legally able to charge for premium services will test demand for premium services that are charged for on a cost-recovery basis.

***The Highways Agency currently has no powers to impose charges.***

- Consenting bodies will provide clarity to applicants on what recourse they have if they are not satisfied with the decision made. The legal frameworks governing appeals mechanisms vary but at a minimum the applicant should be given information on why their application was not acceptable and invited to return an updated application for another decision which will not be prejudiced by their previous, unsuccessful, application.

*Although the Highways Agency is described as being a consenting body, in reality it has no decision-making powers.*

*The Agency can issue directions to LPAs in respect of planning applications (conditions/ non-approval) but these can be overturned on Appeal by decision of the Planning Inspectorate or the Communities Secretary (as appropriate). In any case, there is a requirement that, in issuing its directions, the Agency must provide a statement of reasons.*

*Furthermore, repeated legal opinion has been to the effect that the Highways Agency has no power to 'second guess' the Planning system. If a valid permission should be granted for a development, the Agency is under a duty to facilitate its delivery including the promotion of any Highways Orders that might be necessary.*

*Where such Orders are required, it is the Secretary of State for Transport rather than the Highways Agency that is the consenting authority.*

- Where relevant, and as a part of pre-application discussion, bodies should coordinate the determination of consent applications to allow for flexibility in timing – by determining whether a consent will be granted alongside or 'through' the planning application.

*For third party Nationally Significant Infrastructure Projects (NSIPs) any Highways consents that may be required will be considered as associated development and the development Consent Order will provide the required authorisation for the works.*

*Further primary legislation would be necessary to extend this process to other types of development.*

**(ii). Promoting further transparency of performance standards in local Government (A3)**

7. This section is not relevant to the Highways Agency

**(iii). Expanding the use of Planning Performance Agreements to support complex applications (B1)**

8. Planning Performance Agreements were introduced into the Planning system in 2008 and help to improve the quality of planning applications and the decision making process through collaboration. They bring together the local planning authority, developer and key stakeholders, preferably at an early stage, to work together in partnership throughout the planning process. They are essentially a collaborative project management process and tool that provide greater certainty and transparency to the development of scheme proposals, the planning application assessment and decision making.
9. Following recommendations from the Penfold Review DCLG has been working with stakeholders to examine how Planning Performance Agreements (PPAs) could assist development schemes where multiple consents are required – essentially extending the PPA approach to cover more development consents.

***The initiative for the promotion of a PPA lies with the relevant LPA and the developer concerned.***

***Although, clearly, the Highways Agency is a key stakeholder in respect of development having impact on the strategic road network (SRN), as has been noted above, it is not a consenting body. Consequently, this particular workstream element does not change the Agency's position.***

***Nevertheless, the Agency has received a limited number of approaches to participate in a PPA in respect of its consideration of and response to the proposals being promoted.***

***When it receives such an approach the Agency will give favourable consideration to participation in the PPA insofar as this would not have adverse affect on the Agency's ability to safeguard the Secretary of State's interests. It cannot place itself in the position of agreeing to deadlines, which allow inadequate opportunity to give appropriate consideration to the transport impacts of the development proposals on the SRN.***

- (iv). **Introduction of Highways Agency Contract Frameworks for Special (sic) Planning Services - increasing collaboration between the Highways Agency, the planning system and developers**

10. Obviously, this self-explanatory provision is quite specific to the Highways Agency.

***This commitment was fulfilled in May 2011 when the Highways Agency agreed a new national framework for its planning work. This appointed several contractors to provide support to the Agency's planning obligations including responding to Local***

*Planning Authority consultations, regarding specific applications or Plan formation involving highways issues.*

*Contractors may also act for all parties to a development which will help foster a more collaborative approach to Planning and Highways consenting as recommended in the Penfold Review.*

*In reality, there have been very few approaches made to the Agency regarding such collaborative working. Certain contractors have worked jointly for the Agency and a LPA in connection with the preparation of a Development Plan Document. However the Agency is unaware of any developer having sought such an arrangement in respect of a planning application.*

*However, the Agency's ability to appoint contractors to undertake collaborative work will be dependent on future funding provisions.*

**(v). Streamlining application processes for renewable energy development consents to remove administrative burdens**

11. This section is not relevant to the Highways Agency

**(vi). Using the Planning Portal to support developers (D1, D4, D5)**

12. This section is not relevant to the Highways Agency

**2. Simplifying development consents**

13. The Review also recommended simplifying and streamlining specific consenting regimes. In response, the Government is bringing forward the measures based upon the principles of good regulation – i.e. regulation that is transparent, accountable, proportionate, consistent and targeted.

14. The Review identified a number of measures, but the Government's Red Tape Challenge process goes further in aiming to remove or simplify regulations (including development consents) with a default presumption that regulations that are shown to be burdensome will be removed.

**(i). Expanding the simplified Environmental Permitting framework (E3)**

**(ii). Environment Agency extending simplified permits to more activities (F4)**

**(iii). New Natural England procedures for low impact licensing (F2)**

**(iv). Launching a joint Government and industry taskforce to remove development consent burdens in renewable energy projects**

**(v). Merging conversation areas consents with planning permission (E2)**



- (vi). Reviewing the administration of applications for scheduled monument consent (E2)**
- (vii). Revoking two unnecessary energy development consents**

15. None of these provisions is relevant to the Highways Agency

- (viii). Cutting red tape in the planning system (E1) and consulting on what small-scale applications can be removed from it (F1)**
- (ix). Ensuring proportionality and removing low-risk, small-scale applications from development consent regimes (F1)**

16. In response to these recommendations, DCLG has introduced a number of changes to permitted development rights, extending the range of development that is exempted from the need to apply for planning consent (e.g. the conversion of office buildings to housing use).

***Although the Highways Agency provided input to the DfT response to the changes that have been proposed, no other action was required.***

17. BIS and DCLG are working work with other Departments to examine the case for introducing a similar light touch approach for other consenting regimes that would lift developments of certain categories and size out of consenting in a fashion similar to permitted development rights in the Planning sphere.

18. As yet, no specific proposals of this kind relating to Highways consents have been identified. However, given that most development-led highway alterations/improvements may be delivered through a combination of Planning consent plus the Secretary of State's general powers, such change would have only minor consequences for the SRN.

- (x). Improving the appeals process for planning and development consents (F3)**

19. The Planning Inspectorate (PINS) is considering whether changes could be made to planning and non-planning appeal procedures which would help to achieve greater consistency and speed up determination.

20. No actions are required of the Highways Agency. However, the Agency will need to take on board any procedural changes to the Inquiry process that may be introduced.

### **3. Improving the interaction between planning and ‘non-planning’ development consent regimes**

21. Developers often face applying for both planning permission and further associated development consents depending on the nature of the development proposed. Save for the case of highway works promoted as associated development to a NSIP, this includes any required Highways consents, which, under current legislative provision, cannot be promoted unless and until a valid Planning consent is in place.
22. BIS is working with a group of consenting bodies and local government representatives to identify and share best practice that can improve the relationship between Planning and Non-Planning consents with the aims of stripping out duplication and reducing costs and burdens for both developers and the public agencies granting consents.
23. Additionally, in line with recommendation J of the Penfold Review, relevant Government Departments have been examining the scope and potential of the existing Development Consent Order (DCO) regime under the Planning Act 2008. This work will consider which other consents might be rolled into a DCO and the potential to extend the lessons learnt from major infrastructure development to a more widely applicable ‘Unified Consent Order’ for smaller developments.
24. The measures taken so far fall into two categories, those related to best practice and behaviour change, and those based upon changes to policy.

#### **Behavioural changes**

##### **(i). Improving the interaction between environmental permits and the planning system through a new protocol (G4, G5)**

25. This section is not relevant to the Highways Agency.

##### **(ii). Merging highways consents into the Planning system (H4)**

26. The Review highlighted the duplication inherent in a process by which the Planning system considers whether a proposed development can be connected to the highways system – and, should the application be approved, the developer subsequently being required to apply for a highways consent that considers the same issues.

*Prior to the publication of the Government’s response to the Penfold Review, guidance already had been issued to the Agency’s Planning teams that, wherever and whenever possible, highway measures associated with development, where the Secretary of State for Transport is the decision maker, should be*

*authorised through the planning approvals process with any works within the trunk road boundary being delivered using the Secretary of State for Transport's general powers of improvement.*

*This approach eliminates the need for any separate highways consent and, although, in a few cases, it may not be possible to avoid the need to promote certain complementary Traffic Regulation Orders, these are not subject to Inquiry procedures thus sparing developers any lengthy delay or significant cost.*

*With the publication of the Government response to the Review these arrangements ceased to be guidance and instead acquired the status of ministerial instruction.*

*This approach will be reflected in the draft of the new DfT Policy which is being prepared to replace Circular 02/2007.*

*Unfortunately, in a small number of cases, where the associated highway works are remote from the development site (e.g. improvements to the junction of a local road with the strategic road network when a development accesses the local road in a separate local authority area), it may not be possible to secure authorisation to the changes through the Planning system.*

*Although such cases are rare, when they arise, there currently will be no alternative to the promotion of a separate Highways DCO following the grant of planning permission.*

**(iii). Improving the interaction between 'Rights of Way' consents and the planning system (H2)**

27. This section requires no action on the part of the Highways Agency. All 'rights of way' terminate at the boundary of a trunk road.

**(iv). Improving the interaction between the planning system and consent regimes through pre-application discussions (G3)**

28. The Government is seeking to encourage pre-application discussion to resolve issues and achieve agreements between developers, LPAs and key stakeholders prior to the submission of any planning application.

29. To this end, the public consultation draft of the NPPF sets out detailed provisions regarding 'pre-application engagement and front loading'. It is unlikely that there will be any watering down of those proposals in the final published version.

30. Included within the provisions is the expectation that:

*Statutory planning consultees also need to take the same early, proactive approach, and provide advice in a timely manner throughout the development process. The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle. Consents relating to how a development is built or operated can be dealt with at a later stage.*

Of course, the Highways Agency is both a statutory consultee and a consenting body (insofar as the Penfold Review is concerned). Consequently, it will need to react accordingly.

**(v). Spreading existing good practice on development management across local authorities' planning and consenting activities (I1)**

31. This section is not relevant to the Highways Agency.

**Policy changes**

**(vi). Establishing a National Planning Policy Framework and clarifying the boundary between the planning system and other consent regimes (G1)**

32. The National Planning Policy Framework confirms the centrality of the planning process in determining whether a development should go ahead, while recognising that non-planning consents may also have a critical role in this.

33. Throughout the process of developing the NPPF, the Agency acted as advisor to DfT in respect of the potential interaction between the proposed policy changes and the operation of the SRN.

**(vii). Other initiatives to improve the interaction between the planning system and development consent regimes (H7)**

34. DCLG has been discussing with other Government Departments the extent to which planning permission and other development consents (e.g. licensing/ highways/ rights of way) overlap or inter-relate, to identify what scope there is for streamlining the administrative requirements.

35. So far, those discussions haven't generated the need for actions by the Highways Agency.

**(viii). "Barrier-busting"**

**(ix). Reviewing the operation of species licensing (H3)**

**(x). Reforming Town and Village Greens regulation (H1)**

**(xii). Update on building regulations review – including on work to review the relationship between the planning system and building control (H5)**

36. These sections are not relevant to the Highways Agency.

**4. Managing the landscape**

37. Paragraphs 6 to 36 above describe the measures that the Government is taking to streamline the administration of development consents, remove and simplify development consents, and improve the interaction between planning permission and development consents.

38. These relate to current practice and the existing stock of development consents. However, the Government has identified a further need to ensure that the improvements made are 'locked in' and not undermined by new development consents that are burdensome to comply with.

39. In its initial Response to the Review, the Government set out an approach to regulation based upon the principle of "one in, one out". This principle extends to the sphere of development consents: i.e. no new development consents will be introduced without a corresponding removal. BIS is monitoring and reporting on the mechanisms introduced to deliver this commitment.

42. In addition, the NPPF includes provisions to ensure that local authorities will not be able to adopt plans that block the delivery of required development by imposing unsupportable burdens on developers.

Ian Askew  
Planning and Economic Development  
Network Services NPPD  
Highways Agency

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Tel.: 0121 678 8366  
GTN: 6189 8366

## Annex A: Table of Penfold Review recommendations and the initial Government Response

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)
<b>Changing Working Practices</b>	
A1 Recognise, at an appropriate level in their business objectives , the contribution they make to sustainable development through the decisions they take on non-planning consents;	Accepted
A2 Publish a 'Quality Development Code' containing: - indicators of 'satisfaction with the non-planning consent application service' for their non-planning consent activity; - a clear statement about the availability of guidance and opportunities to access pre-application advice; - Information about complaint processes; - information about technical and other standards expected of consent applicants (and their agents) and appropriate means of fulfilling these;	(i) BIS will produce a single Quality Development Code to consolidate existing information and advice from relevant bodies.  (ii) The Planning Inspectorate will publish its internal casework targets online and extend its annual statistical report to cover non-planning consent work. The Inspectorate will also review its provision of advice to ensure that this meetings standards expected by developers. Improvements will be measured by peer review and an annual survey of business stakeholders.
A3 Publish annual statistics of performance against their 'satisfaction' indicators and the operation of the complaints processes	(i) The Government will encourage councils and other public bodies to publish performance data and supports the Local Government Association's work to develop benchmarking tools.  (ii) Agencies and Government Departments involved in granting non-planning consents will work to publish data on their websites (where they do not already do so) relating to their performance against timescales and customer satisfaction.
A4 Undertake periodic surveys of customer satisfaction	Government Departments and Agencies involved in granting of consents provide applicants with means by which to provide feedback on the application process. Government will consider the extent to which this, and other customer survey information, may be made public.
B1 Encourage local authorities to adopt 'development management' good practice, including: (i) appointment of a designated development co-ordinator for major projects to monitor and manage the taking forward of all non-planning consent applications in a systematic manner; and (ii) extending the use of Planning Performance	(i) Accepted  (ii) DCLG will hold discussions with the LGA, the PAS and ATLAS to explore how best to

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)
Agreements (PPAs) for major developments by enabling non-planning consent issues to be included within them and reinforcing the principle that a more proportionate approach to PPAs is acceptable for smaller proposals	implement this recommendation.
B2 Take steps to ensure that non-planning consenting bodies, including local authorities, include a clear statement in their 'Quality Development Code' (see Recommendation A) about the guidance and advice that they offer at the pre-application stage.	Accepted
C1 Requiring Departments to encourage local authorities to fully exploit opportunities for joint working with other councils and the private sector	Accepted  (i) BIS and OGDs will convene a workshop of relevant bodies, to explore opportunities to break down cultural and practical barriers to closer working.  (ii) The Highways Agency's contract frameworks for special planning services provide for joint working between Local Planning Authorities (LPAs). New frameworks will be in place by the end of 2010.
C2 Expecting that non-planning consenting authorities should continue to seek ways, alongside and working with professional bodies, to address the shortage of resources and skills in relevant non-planning consenting departments; and	Accepted.
C3 Encouraging consenting bodies to make more extensive use of powers to charge for discretionary services ('premium services') such as the development co-ordination role, over and above minimum standards (such services should be optional for developers).	Accepted – Government believes it is appropriate that consent issuing bodies should have the freedom to charge for premium services where these do not affect minimum standards and will seek opportunities for this in tandem with consenting bodies.
D1 The Planning Portal should identify and publicise existing good practice by local planning authorities around provision of information about planning and non-planning consents	BIS and CLG will examine the role for both the Planning Portal and Business Link in delivering this recommendation.
D2 Local planning authorities should be encouraged to review the information they provide in light of identified good practice to ensure they give the advice that applicants need, or a suitable signposting service, in a readily accessible form	Accepted. Government will examine the good practice by the 'barrier-busting' team established by DCLG.
D3 The Planning Portal should take forward its	Not accepted

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)
programme of work to allow greater consultation electronically on non-planning consent applications, rather than by paper	
<p>D4 Business Link and the Planning Portal should work together to support and encourage the development of a high quality internet based information system, which allows developers to establish accurately and quickly whether and, if so, what non-planning consent applications are required for commercial development</p>	<p>BIS and CLG will examine the role for both the Planning Portal and Business Link in delivering this recommendation.</p>
<p>D5 DCLG should actively explore with non-planning consenting bodies the extent to which it is possible to further develop the 1App planning application facility to provide for the concurrent submission of additional non-planning consent applications alongside planning applications.</p>	<p>(i) Defra is currently in discussion with the Planning Portal Team and the Welsh Assembly Government regarding the potential use of 1App for drainage applications to the Sustainable Drainage Systems Approving Body.</p> <p>(ii) DCLG, DCMS and English Heritage will consider the practicality of making use of 1App for scheduled monument consent applications.</p>
<b>Simplifying the Landscape</b>	
<p>E1 Carrying out a 'light touch' review of all those non-planning consents which have not been the subject of substantive review for more than 10 years to consider whether they are still needed and, if so, whether the protection they offer could be achieved by other means that reduced or removed the regulatory burden</p>	<p>(i) Defra will actively look at Public Path Orders and how the regulatory burden might be reduced.</p> <p>(ii) DCLG are actively considering suggestions from their 'Cut Red Tape' and will report on this initiative in spring.</p>
<p>E2 Bringing forward legislation, at the earliest opportunity, to merge conservation area consent with planning permission; and to combine listed building consent and scheduled monument consent into a single historic assets consent, determined by local authorities</p>	<p>DCMS will work with CLG to seek to identify an appropriate legislative opportunity to merge conservation area consent with planning permission. In the absence of legislation to create a new heritage protection system, DCMS and English Heritage will work together to ensure that the existing heritage consent regimes operate as effectively and efficiently as possible.</p>
<p>E3 Going ahead, as soon as possible, with the next phase of the Environmental Permitting Programme to amalgamate water abstraction and impoundment consents, amongst others, with the environmental permit</p>	<p>(i) Defra will publish proposals to bring water abstraction and impoundment licensing into the environmental permitting (EP) framework once the necessary Ministerial powers to regulate in this area have been secured.</p> <p>(ii) Defra will also continue to examine whether other consent regimes can be brought within the EP framework and will implement permitting aspects of upcoming EU Directives via EP regulations.</p>
<p>E4 Actively considering whether other groups of related consents, such as those dealing with species licensing; highways orders; creation,</p>	<p>Defra and Natural England have looked into the scope for applying the EP principles to wildlife species licensing and rights of way orders but have not identified any other related consents or permits which these consents might logically</p>



<b>Original Penfold Review recommendation (July 2010)</b>	<b>Initial Government Response (November 2010)</b>
diversion or extinguishment of public rights of way; or categories of business specific licensing, are capable of being reformed using the same principles and approach as the Environmental Permitting Programme	align with.
F1 In appropriate cases, substantially increasing the number of small scale, commercial developments and other minor non-residential developments that are treated as de minimis (falling below designated thresholds requiring a consent application)	The Government will consider how to meet this recommendation and report back in spring 2011.
F2 Identifying those current consent requirements suitable for a process below formal consent application (for example, simple registration); or where 'deeming' consent is appropriate; or where the use of self-certification or prior authorisation would reduce the need for applications relating to low impact activities	Natural England is currently exploring the potential for using class licensing and associated registration schemes to reduce the burdens of applications for low impact activities.
F3 Reviewing the operation of inquiry and appeal processes for planning and non-planning consents, with a view to standardising and simplifying related processes;	DCLG and the Planning Inspectorate are actively examining planning appeals processes to make these swifter and more straightforward. More details will be provided in spring 2011.
F4 Seeking further opportunities to standardise and simplify application, consultation and determination processes.	(i) The National Planning Policy Framework will simplify processes. We will be able to provide further details in the spring update.  (ii) Natural England is exploring opportunities for reducing the information requirements for wildlife licence applications with a low impact on protected species.  (iii) DCMS and English Heritage are investigating the scope for improving the transparency of the scheduled monument consent regime by: considering the merits and practicality of publishing applications and decisions online; and exploring the feasibility of consulting the Council for British Archaeology on relevant applications.
<b>Improving Interaction between Planning and Non-Planning Consents</b>	
G1 Ensuring that the revised national planning policy framework being developed by DCLG confirms the centrality of the planning process in determining whether a development should go ahead, while recognising that non-planning consents may also have a critical role in this	DCLG has ambitious plans to reform planning policy and publish a simple and consolidated policy framework covering all forms of development. DCLG will report on progress in spring 2011.
G2	The reforms to the planning system outlined in the Government publication <i>Local Growth</i> :

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)
Ensuring that local authorities have robust local development plans in place to inform businesses about the types of proposals that are likely to be acceptable in specific locations	<i>realising every place's potential</i> and the forthcoming Localism Bill outline the role for Local Development Plans.
G3 Promoting the use of pre-application discussions, which bring together the planning authority, other consent decision makers and the applicant, as a means to identify and resolve areas of potential controversy associated with the application and stop inappropriate applications going forward	DCLG will work with the Local Government Association and the Planning Advisory Service to decide how best to implement this recommendation, and will report on progress in spring.
G4 Putting in place clear rules of engagement between planning authorities and the different non-planning consent decision makers to ensure that, where appropriate, the latter give substantive advice to the planning decision-maker(s), identifying 'show-stoppers' and significant mitigation costs to inform their decision of principle	The Government will consider how best to encourage local authorities and non-planning consenting bodies to collaborate in ways that are helpful to would-be applicants.
G5 Emphasising that, so long as all the non-planning consent issues which might affect the 'if' decision have been considered by the relevant decision-maker in parallel with planning permission, and have informed the decision on planning permission, then the decision in principle as to whether the development can proceed should be considered to have been dealt with. Thereafter, the determination of non-planning consents should be concerned with 'how' a development is built or operated rather than whether it can go ahead, unless the factors listed in paragraph 4.8 apply.	Defra and DCLG have commissioned a project to draft a protocol and guidance to improve the interface between environmental permitting and planning permission.  The Government Programme Board established to drive implement these recommendations will also consider this issue further.
H1 Reviewing the operation of registration of town and village greens in order to reduce the impact of the current arrangements on developments that have received planning permission	We will consider whether any changes to the village greens registration system are required as part of the Government's commitment to create a new designation to protect green areas of particular importance to local communities.
H2 Ensuring that the impact of a planning application on Rights of Way is considered as part of the planning process to reduce the risk of delay arising from challenge to any subsequent diversion (or other) order	The Government will work closely with local authorities to consider how planning processes and supporting guidance and information can be further strengthened to ensure that the impact of rights of way on a planning application are considered routinely at an early stage in the process and how local authorities can be supported in achieving that.
H3 Reviewing the operation of species licensing to assess whether it is appropriate to reduce or	The Government will review the process with key interested parties exploring whether a division of responsibilities along the lines

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remove duplication in the respective roles of the planning authorities and Natural England by enabling the former to determine the 'over-riding public interest' and 'no satisfactory alternative' tests and the latter to focus on the 'favourable conservation test';	suggested would provide a more effective regime that adequately balances user needs against the legislative obligations. We anticipate full conclusions being reached in July 2011.
<b>H4</b> <b>Exploring the options for merging highways consents with planning permission;</b>	The Government will continue to look at options for reforming these arrangements. CLG and DfT will report back in the spring update.
<b>H5</b> <b>Clarifying the roles of planning authorities (setting objectives and standards) and building control (ensuring objectives and standards are met) in relation to energy efficiency to reduce the need for applicants to carry out detailed design work at the planning permission stage; and</b>	DCLG is undertaking an extensive review of the Building Regulations. This includes the relationship between planning and building control. The review is at an early stage at present. DCLG will provide an update in the spring update.
<b>H6</b> <b>Removing the legal barriers to the flexible sequencing of non-planning consents in relation to planning whilst taking account of constraints such as underpinning EU regulations</b>	The Government will consider the issue of sequencing further in light of the protocol and guidance for the planning/permitting interface currently being developed in Defra and DCLG's project described in the response to recommendation G5. We will provide an update on progress of the likely areas for consideration by spring 2011.
<b>H7</b>  In addition, Government should pro-actively consider whether there are other opportunities, not mentioned above, that could be taken to remove duplication between planning and non-planning consents and to reduce the need for detailed design work to obtain planning permission.	Ministers have also established a 'barrier-busting' team which supports the Big Society agenda across government. The team works with 'vanguard communities' to identify and overcome individual bureaucratic barriers, including those relating to planning and non-planning consents regimes. DCLG will consider how the lessons learned can be applied more widely.
<b>I1</b>  Actively promoting the adoption of existing good practice in development management across all authorities that take planning decisions;	DCLG will hold initial discussions with the Local Government Association, the Planning Officers Society and the Royal Town Planning Institute to establish a way of doing this. DCLG will report back on progress in the spring update.
<b>I2</b>  Inviting local authorities that want to attract investment to volunteer to pilot the further integration of planning and non-planning consents by extending the 1App approach offered through the Planning Portal to include more non-planning consents, with the facility for developers to opt for consideration of related consents in parallel with their planning	DCLG supports this recommendation in principle, but it will not be possible to implement it in the near future, beyond the work on Sustainable Drainage Consents, due to the prohibitive cost of developing the necessary IT solution.

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application;	
<p>I3</p> <p>Creating the necessary powers that would enable local authorities to take on a wider role in determining what are currently non-planning consents as part of the planning process.</p>	<p>The Government Response outlined an approach that started by finding existing practice of local authorities taking a role in determining or advising on what falls into non-planning consent regimes; rather than moving straight to legislation.</p>
<p><b>J</b></p> <p><b>Extending 'unification' of planning and non-planning consents (paragraph 4.57)</b></p> <p>Government should look for opportunities to extend the benefits, if realised, of the introduction of Development Consent Orders by reviewing their operation after 2 years experience and actively considering extending their use to a wider range of projects and / or extending decision-making powers to appropriate local authorities (potentially by building on any future aims to increase local decision making more generally).</p>	<p>DCLG will be monitoring the introduction of DCOs through the IPC and MIPU and will be in a position to review how they are working once more have been passed – likely to be in 2 years.</p>
<p><b>Managing the Landscape and Making Change Happen</b></p>	
<p>K1</p> <p>Give developers advance notice of changes to planning and non-planning consent regimes;</p>	<p>Accepted. The process is handled under the Impact Assessment process within Government.</p>
<p>K2</p> <p>Scrutinise potential new consents or changes to the planning regime to ensure that they are necessary and that they are developed and implemented into the landscape with minimal additional burden and with full consideration given to their interaction with related consents and regimes;</p>	<p>Accepted.</p>
<p>K3</p> <p>Continuously scrutinise the existing landscape for possible barriers / inappropriate burdens and making proposals for periodic improvements made; and</p>	<p>Accepted. The process is handled through the Reducing Regulation Committee and DCLG's cutting red tape initiative.</p>
<p>K4</p> <p>Monitor the cumulative burden of regulation on developers with a view to reducing the overall burden.</p>	<p>Accepted – through adopting a one-in, one-out approach to consenting.</p>
<p>L1</p> <p>Agree a cross-Whitehall 'Action Plan' setting out exactly how each of the recommendations will be delivered, by whom and in what timescale; and</p>	<p>Accepted</p>

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<p>L2</p> <p>As part of that 'Action Plan', make clear how wider planning reforms will take account of / incorporate specific Penfold Review recommendations.</p>	<p>Accepted.</p>