



Department for
Communities and
Local Government

Technical consultation on planning

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Ministerial Foreword

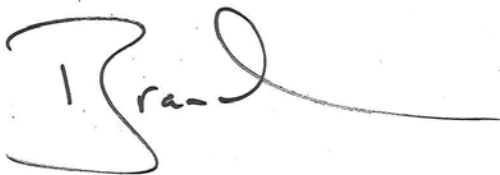
This Government has made a priority of reforming a planning system that had become convoluted, confusing, expensive and in many cases ineffective.

We have put communities in the driving seat with neighbourhoods plans, and sought to unlock vital economic and housing growth while maintaining the environmental protections that help preserve our environment for future generations.

We have some proud achievements: the National Planning Policy Framework replaced 1,300 pages with just 50. Another landmark is making planning guidance truly accessible, with the online planning portal enabling anyone to access the most relevant and up-to-date planning guidance.

But there is more we can do, for example helping many more neighbourhoods and communities reap the benefits of their own neighbourhood plan, learning from the 900 who have already started on that journey. We can also build on our progress in expanding permitted development and help people to make the best use of existing buildings.

So we are proposing here practical improvements that build on earlier reforms, to help more people benefit and, overall, help us get the development and housing our future growth depends upon. I hope as many people, businesses and organisations as possible will respond to these proposals and help us shape our reforms.

A handwritten signature in black ink, appearing to read 'Brandon', with a long horizontal flourish extending to the right.

Brandon Lewis MP

Minister of State for Housing and Planning

Introduction

This consultation document presents a range of proposals for how Government wishes to improve the planning system.

- [Section 1](#) focuses on proposals to make it even easier for residents and business to come together to produce a neighbourhood plan or neighbourhood development order, drawing on the experience gained from over 900 neighbourhood areas that have already been designated by local authorities.
- [Section 2](#) sets out proposals to expand permitted development rights, further reducing red tape and supporting housing and growth. These proposals will help ensure the planning system is proportionate and a planning application is only required where this is genuinely justified.
- [Section 3](#) seeks views on four proposals to improve the use of planning conditions and enable development to start more quickly on site after planning permission is granted.
- [Section 4](#) focuses on improving engagement with statutory consultees so they are consulted in a proportionate way on those developments where their input is most valuable.
- [Section 5](#) outlines proposals to raise the environmental impact assessment screening thresholds for industrial estate and urban development projects which are located outside of defined sensitive areas. Raising the threshold will reduce the number of projects that are not likely to give rise to significant environmental effects that are screened unnecessarily. This will remove unnecessary bureaucracy, and reduce both the cost and time taken to get planning permission for these projects.
- [Section 6](#) sets out proposals for making improvements to the nationally significant infrastructure planning regime as identified as part of the 2014 Review of the regime. We are seeking views on proposals to amend regulations for making changes to Development Consent Orders, and to expand the number of non planning consents which can be included within Development Consent Orders.

We have structured this document so as to allow respondents to comment on those consultation proposals which are most relevant to them. We look forward to receiving your views.

Basic Information

To:	This is a public consultation and anyone with an interest in the proposals may respond.
Responsibility:	This consultation is being run by the Planning Consultation Team in the Department for Communities and Local Government.
Duration:	This consultation will run from 31 July and will conclude on 26 September 2014.
Enquiries:	planning.consultation@communities.gsi.gov.uk
After the consultation:	A summary of responses to each of the consultations contained within this document will be published on the Department's website within three months of the closing date.

How to respond to this consultation

Please respond to the questions in this consultation by **26 September 2014**.

We would ideally prefer to receive responses via the online SurveyMonkey at <https://www.surveymonkey.com/s/JKMX63K>.

Alternatively you can email your response to the questions to planning.consultation@communities.gsi.gov.uk. We have provided a template for you to use on our website at <https://www.gov.uk/government/consultations/technical-consultation-on-planning>

If you need to provide a written response **please make it clear which questions you are responding to**. Written responses should be sent to:

Planning Consultation Team
Department for Communities and Local Government
1/H3 Eland House
Bressenden Place
London SW1E 5DU

When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of organisation (if applicable),
- an address (including post code),
- an email address, and
- a contact telephone number

Section 1: Neighbourhood planning

Scope

Topic of this section:	This section of the consultation is about proposed regulatory changes to the neighbourhood planning system introduced by the Localism Act 2011.
Scope of this section:	This section of the consultation seeks views on proposals to introduce time limits within which local planning authorities must take decisions on certain applications for a neighbourhood area to be designated. It also seeks views on changes to the pre-submission consultation and publicity process for neighbourhood plans and neighbourhood development orders, and the documents that must accompany a neighbourhood plan when submitted to a local planning authority.
Geographical scope:	These proposals relate to England only.
Impact assessment:	An impact assessment is not required because the impact on business is considered to be minimal.
Getting to this stage:	<p>The Localism Act 2011 can be viewed at: http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted</p> <p>The Neighbourhood Planning (General) Regulations 2012 can be viewed at: http://www.legislation.gov.uk/ukpga/2011/20/contents.</p> <p>The National Planning Policy Framework and planning guidance can be viewed at: http://planningguidance.planningportal.gov.uk/.</p>
Previous engagement:	The reforms have been informed by significant engagement with a range of communities preparing neighbourhood plans and with the organisations delivering the government's neighbourhood planning support programme. We have also sought the views of a practitioner reference group convened to support our work to review neighbourhood planning.

Background

- 1.1 Our reforms have already given significant new power to communities in deciding the scale, location and form of development in their areas. Through neighbourhood planning, the government is supporting people who care about their communities and want to get involved in improving them. For the first time residents and individuals in businesses can produce neighbourhood plans that have real statutory weight in the planning system and can grant planning permission for development they want to see through neighbourhood development orders (including community right to build orders).
- 1.2 It is clear that communities have positively embraced these new powers. Across England more than 1,000 communities have applied for a neighbourhood planning area to be designated; more than 900 of these neighbourhood areas have been designated by local planning authorities¹. We estimate that 1.9 million English households (8.7%) live in a designated neighbourhood area.
- 1.3 It is important that communities have confidence in positively prepared neighbourhood plans. The government's view is that neighbourhood plans, once made (and so part of the development plan), should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question; for example to ensure that the best located sites are developed. Therefore the government's view is that the adverse impact of allowing development that conflicts with key policies in a neighbourhood plan is likely to be substantial. This should be taken into account by decision-makers, even where the local planning authority cannot demonstrate a five-year supply of housing land.
- 1.4 The regulations covering neighbourhood planning are intended to be appropriate but with a light touch. This allows flexibility and innovation, whilst avoiding undue complexity. This approach is intended to increase the accessibility of the planning system at a neighbourhood level and encourage community engagement, while keeping an appropriate balance in the provision of a real and powerful tool for influencing planning decisions. This consultation proposes amendments to the current regulations that will make the neighbourhood planning process simpler and speedier. These changes are part of a wider set of planned improvements that will help more communities that want to take up the new powers to do so, and ensure individual neighbourhood plans and Orders can complete more quickly.

What are we proposing?

- 1.5 We are proposing to set a statutory time limit of 10 weeks (70 days) within which a local planning authority must make a decision on whether to designate a neighbourhood area that has been applied for by a parish or town council or prospective neighbourhood forum (or community organisation bringing forward a

¹ Based on intelligence from informal monitoring using automatic reporting of updates from local authority websites, media and other sources (data as at June 2014).

community right to build proposal²). This time limit will apply where the area applied for follows parish or electoral ward boundaries and there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought.

- 1.6 We propose removing the current statutory requirement for a minimum of six weeks of consultation and publicity by those preparing a neighbourhood plan or Order.
- 1.7 We propose to require those preparing a neighbourhood plan to consult certain landowners.
- 1.8 We intend to introduce a new statutory requirement (basic condition) to test the extent of the consultation undertaken during the preparation of a neighbourhood plan or Order (including a community right to build order).
- 1.9 We intend to clarify the information that should be submitted with a neighbourhood plan in order that its compatibility with obligations under the Strategic Environmental Assessment Directive³ can be assessed. We will do this by setting out in regulations that a neighbourhood plan proposal, when it is submitted to a local planning authority, must be accompanied by either:
 - a statement of reasons why the proposed plan is unlikely to have significant environmental effects (a screening opinion);
 - an environmental report;
 - an explanation of why the proposed plan does not require screening or environmental assessment.

Time limit for taking decisions on the designation of a neighbourhood area

- 1.10 A fundamental principle of neighbourhood planning is that communities are in the driving seat. Parish or town councils, designated neighbourhood forums or community organisations (in the case of community right to build orders) decide whether and when to bring forward proposals for a neighbourhood plan or Order (including a community right to build order). However, the local planning authority must provide advice or assistance and make decisions at key stages. Timely and well-considered decisions by local planning authorities are therefore a key part of delivering effective neighbourhood planning.
- 1.11 Local communities should be confident that where a local planning authority has responsibility, decisions will be reached within a reasonable time. This is why our planning guidance has been clear that we expect local planning authorities to fulfil

² See Schedule 4C to the Town and Country Planning Act 1990 and in regulation 13 of the Neighbourhood Planning (General) Regulations 2012.

³ Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.

their duties and take decisions as soon as possible, particularly regarding applications for neighbourhood area and forum designation⁴.

- 1.12 We estimate that local planning authorities are taking on average 126 days to designate a neighbourhood area. But within this there is considerable variation, with some taking only 45 days and others up to 400⁵. In many of the authorities we talk to, the Executive has delegated decisions on designating neighbourhood areas to others in the authority. This has resulted in a positive improvement in the speed with which neighbourhood areas are designated.
- 1.13 In order to incentivise all local planning authorities to take timely decisions that enable communities to move forward on plan making and developing Order proposals, we propose to require an application for a neighbourhood area designation to be determined by a prescribed date.
- 1.14 We recognise that there will be circumstances where greater flexibility is required, particularly where there may be a number of competing applications for neighbourhood areas to be designated. Therefore it is our intention initially to prescribe a date only in the circumstances where:
- the boundaries of the neighbourhood area applied for coincide with those of an existing parish or electoral ward; and
 - there is no existing designation or outstanding application for designation, for all or part of the area for which the new designation is sought.
- 1.15 We propose setting a period of 10 weeks (70 days) from when a valid application for neighbourhood area designation is made within which a local planning authority must make a decision on whether to designate the area applied for. Our intention is to incentivise improvements in the administration of the process, therefore we do not propose changes to the time available for representations to be made on applications for an area to be designated. Local planning authorities will still be required to publicise area designation applications and to invite representations for a minimum of six weeks⁶. We also do not propose to change the requirement to publish details of a designation that has been made or reasons for refusing to designate an area⁷.
- 1.16 Local planning authorities receive funding to enable them to meet their neighbourhood planning duties. Following this consultation we will consider whether changes should be made to the local planning authority new burdens funding criteria to reflect our expectation that local planning authorities take timely decisions, specifically whether funding should be reduced where decisions are not made within the prescribed time.

⁴ <http://planningguidance.planningportal.gov.uk/blog/guidance/neighbourhood-planning/the-role-of-the-local-planning-authority-in-neighbourhood-planning/>

⁵ Figures for designation times use data sourced from local authority websites on designated areas together with application and designation dates. Sample size of 572 designated neighbourhood planning areas (May 2014).

⁶ Regulation 6 of the Neighbourhood Planning (General) Regulations 2012.

⁷ Regulation 7 of the Neighbourhood Planning (General) Regulations 2012.

Question 1.1: Do you agree that regulations should require an application for a neighbourhood area designation to be determined by a prescribed date? We are interested in the views of local planning authorities on the impact this proposal may have on them.

Question 1.2: If a prescribed date is supported do you agree that this should apply only where:

- the boundaries of the neighbourhood area applied for coincide with those of an existing parish or electoral ward; and
- there is no existing designation or outstanding application for designation, for all or part of the area for which a new designation is sought?

Question 1.3: If a date is prescribed, do you agree that this should be 10 weeks (70 days) after a valid application is made? If you do not agree, is there an alternative time period that you would propose?

Question 1.4: Do you support our proposal not to change the period of six weeks in which representations can be made on an application for a neighbourhood area to be designated? If you do not, do you think this period should be shorter? What alternative time period would you propose?

1.17 We propose requiring an application for a neighbourhood area designation to be determined by a prescribed date in specified circumstances. But guidance is clear that we expect local planning authorities in all cases to set out a clear and transparent decision making timetable and share this with those wishing to prepare a neighbourhood plan or neighbourhood development order. Local planning authorities should engage constructively with the community throughout the process of designating neighbourhood areas and in non-parished areas, neighbourhood forums.

Further measures

1.18 It is our longer term intention to introduce measures whereby neighbourhood areas are automatically designated if a local planning authority does not take a decision within a specified time period.

1.19 It is also our intention to keep under review the wider use of time limits within which local planning authorities must take certain decisions for neighbourhood planning. We are interested in views on whether there are other stages in the process where similar time limits may be beneficial. Any such requirement would need to strike a careful balance between ensuring neighbourhood plans or Orders can progress in a timely fashion without placing unnecessary burdens on local planning authorities. We would also welcome views on what might be an appropriate time period for local planning authority decision taking at each stage.

Question 1.5: We are interested in views on whether there are other stages in the neighbourhood planning process where time limits may be beneficial. Where time limits are considered beneficial, we would also welcome views

on what might be an appropriate time period for local planning authority decision taking at each stage.

Pre-submission consultation

- 1.20 The wider community should be kept fully informed during the preparation of a proposal for a neighbourhood plan or Order and be able to make their views known throughout the process. It is for the parish or town council or designated neighbourhood forum (or community organisation) to decide who and how to consult, guided by the scope and nature of the proposals they are developing.
- 1.21 Once a parish or town council or designated neighbourhood forum (or community organisation) has prepared its neighbourhood plan or Order proposal, it must publicise that proposal in a manner likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area and invite representations for a period of at least six weeks. The parish or town council or designated neighbourhood forum (or community organisation) must also consult any consultation body whose interest it considers may be affected by the proposals for a neighbourhood plan or Order and an owner or tenant of any of the land which is proposed to be developed under an Order proposal⁸.
- 1.22 Once the neighbourhood plan or Order proposal is submitted to the local planning authority, that authority will then publicise the proposal for a further six weeks, and invite representations⁹. The representations are sent to the independent examiner to consider alongside the neighbourhood plan or Order proposal and other prescribed documents¹⁰.
- 1.23 Experience so far is that parish and town councils and designated neighbourhood forums have been undertaking effective, extensive and continuous consultation during the preparation of neighbourhood plan or Order proposals. It is therefore no longer considered necessary to prescribe in regulations a minimum period of pre-submission consultation and publicity. We therefore propose removing the current requirement for a minimum of six weeks of pre-submission consultation and publicity by those preparing a neighbourhood plan or Order. This furthers our ambition to ensure that regulations are proportionate.
- 1.24 Parish and town councils and designated neighbourhood forums (or community organisations) would still be expected to consult with the community and others whose interests they consider may be affected by the proposals. We therefore do not propose making changes to the requirement for a consultation statement to be submitted to the local planning authority together with the proposed neighbourhood plan or Order and other prescribed documents¹¹. The consultation statement must:

⁸ Regulations 14 and 21 of the Neighbourhood Planning (General) Regulations 2012. The consultation bodies are set out in Schedule 1 to the Regulations.

⁹ Regulations 16 and 23 of the Neighbourhood Planning (General) Regulations 2012.

¹⁰ Regulations 17 and 24 of the Neighbourhood Planning (General) Regulations 2012.

¹¹ Regulations 15 and 23 of the Neighbourhood Planning (General) Regulations 2012.

- contain details of the persons and bodies who were consulted about the proposed neighbourhood development plan or Order;
- explain how they were consulted;
- summarise the main issues and concerns raised by the persons consulted;
- describe how these issues and concerns have been considered and, where relevant, addressed in the proposed neighbourhood development plan or Order.

Question 1.6: Do you support the removal of the requirement in regulations for a minimum of six weeks consultation and publicity before a neighbourhood plan or Order is submitted to a local planning authority?

- 1.25 One option open to us is to make parish or town councils or designated neighbourhood forums (or community organisations) responsible for publicising a neighbourhood plan or Order after it has been submitted to the local planning authority for submission to an independent examination. We could also transfer responsibility for inviting representations on the neighbourhood plan or Order at that stage and notifying consultation bodies that the proposal has been submitted. This would increase community ownership of the neighbourhood planning process. However, such a change would introduce an additional administrative, and possibly financial, burden on those preparing neighbourhood plans and Orders.
- 1.26 This stage in the process is intended to enable wide publicity in order that all those that wish to make representations on the submitted neighbourhood plan or Order proposal have an opportunity to do so. After this point, the neighbourhood plan or Order will not be subject to further change unless the independent examiner (and subsequently the local planning authority) considers modifications are required either to correct errors or in order to secure that it meets the basic conditions or other legal requirements. Therefore we see limited benefits to transferring responsibilities for seeking representations ahead of examination to the parish or town council or designated neighbourhood forum (or community organisation).
- 1.27 On balance therefore we do not propose to make this change. Local planning authorities have experience of managing publicity and consultation for their own Local Plans and for planning applications and are well placed to undertake this activity.

Question 1.7: Do you agree that responsibility for publicising a proposed neighbourhood plan or Order, inviting representations and notifying consultation bodies ahead of independent examination should remain with a local planning authority? If you do not agree, what alternative proposals do you suggest, recognising the need to ensure that the process is open, transparent and robust?

Consulting landowners

- 1.28 We recognise that by no longer prescribing a minimum period for pre-submission consultation and publicity there may be concerns that all those with an interest in a

neighbourhood plan or neighbourhood development order proposal will not have an opportunity to engage in the process. Where neighbourhood plans are intended to be used to allocate specific sites for development there have been some instances where owners of potential sites have raised concerns over the extent to which they have had an opportunity to be involved in the process of site selection.

- 1.29 Those with an interest in land which may be allocated for development in the neighbourhood plan should be directly consulted during the neighbourhood plan's preparation. By involving such land owners, parish and town councils and designated neighbourhood forums will be better placed to produce plans that provide for sustainable development which benefits the local community, while avoiding placing unrealistic pressures on the cost and deliverability of that development.
- 1.30 Regulations already include a requirement to consult the owners and tenants of any of the land which is proposed to be developed under a neighbourhood development order proposal¹². We propose to introduce a similar requirement for neighbourhood plans so that where a neighbourhood plan is seeking to allocate specific sites for development, those preparing the neighbourhood plan should consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process.

Question 1.8: Do you agree that regulations should require those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process? If you do not agree, is there an alternative approach that you would suggest that can achieve our objective?

Question 1.9: If regulations required those preparing a neighbourhood plan proposal to consult the owners of sites they consider may be affected by the neighbourhood plan as part of the site assessment process, what would be the estimated cost of that requirement to you or your organisation? Are there other material impacts that the requirement might have on you or your organisation? We are also interested in your views on how such consultation could be undertaken and for examples of successful approaches that may have been taken.

Introducing an additional basic condition to test the extent of consultation

- 1.31 It is important that parish and town councils and designated neighbourhood forums (and community organisations) ensure that the wider resident and business community and those with an interest in the development of a neighbourhood area are:
- kept fully informed of what is being proposed

¹² Regulation 21(b)(iii) of the Neighbourhood Planning (General) Regulations 2012.

- are able to make their views known throughout the process
- have opportunities to be actively involved in shaping an emerging neighbourhood plan or Order
- are made aware of how their views have informed the draft neighbourhood plan or Order.

1.32 Independent examiners currently have to consider whether a draft neighbourhood plan or Order proposal complies with statutory provisions.¹³ An examiner will consider whether the consultation and publicity requirements referred to above have been met and whether a consultation statement has been submitted. While we propose removing the requirement in regulations for a six week minimum pre-submission consultation and publicity period, we wish to ensure that there remains confidence in the robustness of the consultation process underpinning proposals for neighbourhood plans and Orders. To achieve this we intend to introduce an additional basic condition¹⁴ that neighbourhood plan and Order proposals will be tested against. Our intention is to ensure that the scope and nature of the consultation has been adequate and that the results of the consultation have been considered in developing the final neighbourhood plan or Order proposal.

Question 1.10: Do you agree with the introduction of a new statutory requirement (basic condition) to test the nature and adequacy of the consultation undertaken during the preparation of a neighbourhood plan or Order? If you do not agree, is there an alternative approach that you would suggest that can achieve our objective?

Strategic Environmental Assessment

1.33 One of the basic conditions that a neighbourhood plan is tested against by an independent examiner is whether the making of the neighbourhood plan is compatible with European Union obligations¹⁵, including obligations under the Strategic Environmental Assessment Directive¹⁶. The Strategic Environmental Assessment Directive is a European Union requirement that seeks to provide a high level of protection of the environment by integrating environmental considerations into the process of preparing certain plans and programmes.

1.34 The aim of the Directive is “to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development, by ensuring that, in accordance with this Directive, an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment.”

¹³ Paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990, as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.

¹⁴ Paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990, as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.

¹⁵ Paragraph 8(2)(f) of Schedule 4B to the Town and Country Planning Act 1990, as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004.

¹⁶ Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment.

- 1.35 We have used planning guidance to address directly the relationship between neighbourhood plans and the requirements under the Directive¹⁷, implemented in domestic law through the Environmental Assessment of Plans and Programmes Regulations 2004.
- 1.36 To decide whether a proposed neighbourhood plan is likely to have significant environmental effects, it should be screened at an early stage against the criteria set out in Schedule 1 to the regulations and the statutory consultation bodies should be consulted¹⁸. Where it is determined that the neighbourhood plan proposal is unlikely to have significant environmental effects (and, accordingly, does not require an environmental assessment), a statement of reasons for this determination must be prepared¹⁹. Where a proposed neighbourhood plan is likely to have a significant effect on the environment a strategic environmental assessment must be carried out and an environmental report prepared in accordance with Part 3 of the regulations.
- 1.37 We have considered the information that must accompany a neighbourhood plan proposal when it is submitted to a local planning authority. It remains our intention that this should be the minimum necessary to enable the public to make informed representations and for an independent examiner (and subsequently a local planning authority) to assess the neighbourhood plan's proposals against the basic conditions. However, we recognise that independent examiners must be confident that they have sufficient information before them to determine whether a neighbourhood plan is likely to have significant environmental effects. Evidence suggests that this has not always been the case. To provide this confidence we intend to set out in regulations that a neighbourhood plan proposal submitted to a local planning authority must be accompanied by either:
- a statement of reasons why the proposed plan is unlikely to have significant environmental effects (a screening opinion)
 - an environmental report
 - an explanation of why the proposed plan does not require screening or environmental assessment.

Question 1.11: Do you agree that it should be a statutory requirement that either: a statement of reasons; an environmental report, or an explanation of why the plan is not subject to the requirements of the Strategic Environmental Assessment Directive must accompany a neighbourhood plan proposal when it is submitted to a local planning authority?

Question 1.12: Aside from the proposals put forward in this consultation document are there alternative or further measures that would improve the understanding of how the [Environmental Assessment of Plans and Programmes Regulations 2004](#) apply to neighbourhood plans? If there are

¹⁷ <http://planningguidance.planningportal.gov.uk/blog/guidance/strategic-environmental-assessment-and-sustainability-appraisal/sustainability-appraisal-requirements-for-neighbourhood-plans/>

¹⁸ Regulation 9 of the Environmental Assessment of Plans and Programmes Regulations 2004. The consultation bodies for England are the Environment Agency, Natural England and English Heritage.

¹⁹ Regulation 9(3) of the Environmental Assessment of Plans and Programmes Regulations 2004.

such measures, should they be introduced through changes to existing guidance, policy or new legislation?

Further measures

1.38 We want to see more communities take forward neighbourhood planning in their areas. Our reforms are making the planning system simpler, clearer and easier for people to use. This allows local communities to shape where development should and should not go. We would like your views on what further steps we and others could take to encourage more communities to take up their right to produce a neighbourhood plan or neighbourhood development order.

Question 1.13: We would like your views on what further steps we and others could take to meet the Government's objective to see more communities taking up their right to produce a neighbourhood plan or neighbourhood development order. We are particularly interested in hearing views on:

- **stages in the process that are considered disproportionate to the purpose, or any unnecessary requirements that could be removed**
- **how the shared insights from early adopters could support and speed up the progress of others**
- **whether communities need to be supported differently**
- **innovative ways in which communities are funding, or could fund, their neighbourhood planning activities.**

Section 2: Reducing planning regulations to support housing, high streets and growth

Scope

Topic of this section:	Reducing planning regulations on businesses to increase their flexibility in adapting existing premises to meet changing demand. An increase in the number of uses which can change to residential to increase housing supply, and changes to support growth and re-invigorate the high street.
Scope of this section:	This section of the consultation seeks views on the Government's proposals to amend the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended) to grant permitted development rights to allow change of use from light industrial units, warehouses, storage units, offices and some sui generis uses to residential; more change of use within the high street, including a wider retail use class; some sui generis uses to restaurants and leisure uses; retailers to alter their premises; commercial filming; larger solar panels on commercial buildings; minor alterations within waste management facilities and for sewerage undertakers; and, extensions to houses and business premises. This section of the consultation also seeks views on the proposal to make a regulatory change to require a planning application for any change of use to a betting shop or pay day loan shop. The section also proposes changes to the Town and Country Planning (Compensation) Regulations to limit the compensation payable where an Article 4 direction is made to remove these permitted development rights. The Fees Regulations will be amended in respect of prior approval.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	A Regulatory Triage Assessment has been submitted to the Regulatory Policy Committee. The consultation contains an assessment of the impact of these proposals.
Getting to this stage:	The current framework for permitted development and change of use in planning is contained in the Town and Country Planning (General Permitted Development) Order 1995 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended).
Previous engagement:	This section of the consultation builds on previous reforms of the planning system.

Part 1: Introduction and background

Introduction

- 2.1 The Government is committed to building an economy that is competitive for business and which is building new housing to meet the need. To support these aims in England, the Government is proposing new permitted development rights, consolidating the legislation and simplifying the planning process, further reducing red tape and speeding up the planning system. This will provide a further boost to housing supply, revitalise the high street and make the best use of existing buildings.
- 2.2 This is the third package of new permitted development rights which have been brought forward by this Government. This underlines a desire to see a reduction in the number of developments for which a full planning application is required. The increased use of a prior approval allows a greater opportunity to grant national planning permissions for those areas of development that are likely to either be low impact or to assist meeting wider growth objectives.
- 2.3 We are committed to supporting increased housing supply. Improvements have already been made to the planning system to remove unnecessary delays to new housing development. To encourage further housing development, the Government is now seeking views on broadening the range of premises that can change use to housing through permitted development.
- 2.4 Our high streets are undergoing significant change. To support their sustainability, the Government is seeking views on increasing flexibility so that greater diversity can be brought to the high street. Views are also sought on increasing the flexibility of retail businesses to make better use of their existing premises.
- 2.5 We are also seeking views on a number of other flexibilities to support business and growth, including new permitted development rights for commercial filming, solar panels on non-domestic properties, waste management and sewerage undertakers' facilities. The consultation also seeks views on making permanent those permitted development rights which currently expire in May 2016.
- 2.6 The Government intends to introduce new legislation to implement any changes at the earliest opportunity, subject to the Parliamentary process.

Policy Context

- 2.7 The Government is committed to promoting growth, delivering housing and supporting Britain's high streets. We intend to make the planning system simpler, clearer and easier to use, so that appropriate development can take place more quickly and the planning application process is proportionate to the potential impact of any development.
- 2.8 The Government has already taken forward a programme of reform to improve the planning system including measures to speed up planning decisions and appeals,

deliver major infrastructure, and ensure that the information requirements of local planning authorities are proportionate. The National Planning Policy Framework and the new, online planning guidance assist the public, developers and local planning authorities to navigate national planning policy.

- 2.9 The Red Tape Challenge is the Government's commitment to reducing the burden of regulation on businesses. In meeting that commitment we are consolidating the Town and Country Planning (General Permitted Development) Order 1995. It has been amended over 20 times since 1995. The Government intends to include the new regulations in the consolidation of the Town and Country Planning (General Permitted Development) Order 1995. This will make the regulations more accessible and easier to use.
- 2.10 In the Autumn Statement 2013 the Government announced that, to support businesses and revitalise high streets, it would consult on proposals to allow shops to change their use to restaurant or leisure without the need to make a planning application, and that it would consult on proposals to allow larger mezzanine floors in retail premises. In the March 2014 Budget Statement the Government said that it would also consult on proposals to increase flexibility for retailers so that they have more rights to change the use of their premises, in response to changing business requirements, without the need for a planning application. The Government also proposed to consult on allowing additional uses to change to residential use, without the need for a planning application, to give a boost to housing supply.
- 2.11 The Budget signalled the Government's intention to make changes to the Town and Country Planning (Use Classes) Order 1987, to form a wider retail class, containing shops, banks and estate agents etc, but excluding betting shops and pay day loan shops. Our announcement on 30 April on gambling controls stated our intention that any change of use to a betting shop will in future require a planning application. Building on this we propose that the change of use to a pay day loan shop should also require a planning application. The UK Solar PV Strategy Part 2 (Solar Strategy) announced on 4 April that we would increase permitted development rights for solar panels on commercial buildings.
- 2.12 On 30 June, the Prime Minister announced further support for our successful film industry and that we would consult on new permitted development rights to allow companies to be able to film for longer on larger sites without the need to make a planning application.

The three-tier system

- 2.13 To support development we need a proportionate and fair planning system that boosts growth and reflects the changing nature of our economy and society. Developments vary in size and complexity and it is appropriate, therefore, that the consideration given by local planning authorities should be proportionate to the proposal.
- 2.14 The Government is committed to making it easier for applicants to navigate the planning system. The three-tier system helps to further focus the planning process

and recognises the role of local authorities in considering major developments and those with the greatest potential impact on localities. The three tiers are:

- **full planning application** – an application for planning permission is usually appropriate for large scale, complex developments, or those with greatest impact on neighbours, the wider community or the environment;
- **permitted development rights with prior approval** – an intermediary route, between permitted development and a full planning application. Prior approval is a lighter touch process that applies where the principle of the development has already been established, but certain specific planning issues still require local consideration. Unlike a planning application, when considering prior approval, local planning authorities should only consider specific planning issues such as visual amenity, highways and transport, traffic management, noise levels and flooding risks. Prior approval provides applicants with a less complex and less costly process, thus enabling growth. Prior approval in the context of this consultation grants automatic permission if the local planning authority has not responded in 56 days, other than the householder neighbour notification scheme which is 42 days
- **permitted development rights with no prior approval** – removes the need for a planning application as planning permission is granted nationally by the Secretary of State. This approach is more appropriate for small scale changes and some strategic development, providing freedom to carry out development which has less impact on neighbours, the community or environment

2.15 The proposals in this consultation and the consolidation of the General Permitted Development Order are a further step in simplifying the planning system and reducing bureaucracy and costs for developers.

Legal context

2.16 The Town and Country Planning Act 1990 states that development of land or buildings requires planning permission. Development includes any operational development (such as building works to the exterior of a building) and any material change of use. However, many types of development have only minor impacts, or impacts that can be controlled by standard conditions. It would be an unreasonable burden to require full planning applications for these developments, so they are given a national grant of planning permission via permitted development rights in the General Permitted Development Order.

Permitted development

2.17 Permitted development rights are set out in the Town and Country Planning (General Permitted Development) Order 1995²⁰ (as amended). Schedule 2

²⁰ <http://www.legislation.gov.uk/ukxi/1995/418/contents/made>

contains various Parts, each of which deals with a different aspect of permitted development. The Parts that are relevant to this consultation are:

- Part 1: Development within the Curtilage of a Dwelling house;
- Part 2: Minor Operations;
- Part 3: Change of Use;
- Part 4: Temporary Buildings and Use;
- Part 8: Industrial and Warehouse Development;
- Part 16: Development by or on Behalf of Sewerage Undertakers;
- Part 17: Development by Statutory Undertakers;
- Part 41: Office Buildings;
- Part 42: Shops or Catering, Financial or Professional Services Establishments;
- Part 43: Installation of Non-Domestic Microgeneration Equipment.

2.18 The General Permitted Development Order sets out both what is allowed under permitted development, and any limitations and conditions that apply. Where a proposed development falls outside of permitted development, an application for planning permission is required, so that the local planning authority can fully consider any impact.

2.19 Permitted development rights do not apply when the development is an Environmental Impact Assessment development (as defined in the Town and Country Planning (Environmental Impact Assessment) Regulations. Other areas, such as National Parks or listed buildings, may also be exempted, but this varies with individual rights.

2.20 Permitted development rights only cover the planning aspects of the development: they do not remove requirements under other regimes (e.g. building regulations, the Party Wall Act, habitats, species or environmental legislation) or consents, such as for listed buildings.

2.21 There is already scope for local planning authorities to switch off or extend permitted development rights to meet their own particular circumstances. They can be extended by means of local development orders or neighbourhood development orders, following local consultation. Alternatively, if there are local concerns in respect of amenity and the wellbeing of the area, local planning authorities can consult with the community about whether there are circumstances that merit withdrawal of permitted development rights in an area, using Article 4 directions.

Use Classes Order

2.22 The Town and Country Planning (Use Classes) Order 1987²¹ (as amended) categorises types of premises based on land use impact.

²¹ <http://www.legislation.gov.uk/ukxi/1987/764/schedule/made>

- 2.23 In the Schedule to the Town and Country Planning (Use Classes) Order 1987, uses fall within four main categories:
- Part A covers shops and other retail premises such as restaurants and bank branches;
 - Part B covers offices, workshops, factories and warehouses;
 - Part C covers residential uses;
 - Part D covers non-residential institutions and assembly and leisure uses.
- 2.24 Separate uses (e.g. shops (A1) and financial and professional services (A2)) are set out within each Part. In addition there are also uses that are 'sui generis' a term used to refer to those uses which are outside the use classes system. A small number of these are listed at Article 3(6) of the Town and Country Planning (Use Classes) Order 1987, but this list is not exhaustive.
- 2.25 The Town and Country Planning Act 1990 provides that a change of use to another use within the same use class does not require planning permission.
- 2.26 Some changes between use classes are also permitted under the Town and Country Planning (General Permitted Development) Order 1995 (as amended), because to require a planning application to change use would be unnecessarily burdensome.

Part 2: Consultation proposals

Increasing housing supply

- 2.27 It is generally recognised that there is a need to provide more new housing in England. The Government has worked with the housing industry to support an increase of new construction. The planning system has supported this strategy of increasing housing supply by simplifying the planning process and removing unnecessary regulation. This consultation sets out further deregulatory measures. This will help support housing supply, enabling more people to have their own home.

Proposal A: Creating new homes from light industrial and warehouse buildings

- 2.28 The aim of this proposal is to make the best use of existing underused light industrial, storage and distribution buildings to create much needed new homes.
- 2.29 Class B of the Schedule to the Use Classes Order covers business and commercial uses. The general business use class, Class B1, is split into three parts: offices B1(a); research and development B1(b); and light industrial B1(c). Light industrial uses B1(c) are premises which are used for any industrial process provided it is compatible with being carried out in any residential area without any detrimental impact to the area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Class B8 covers storage and distribution uses, including open air storage.

2.30 There are currently permitted development rights which allow for certain change of use within Class B, for premises up to 500 square metres. A separate permitted development right allows change of use from office (B1(a)) to dwelling houses (C3).

2.31 We propose to introduce a new permitted development right to allow light industrial buildings (B1(c)) and storage and distribution buildings (B8), which were in that use at the time of the 2014 Budget, to change use to residential (C3) use. This would:

- have a prior approval covering flooding, transport, contamination and noise. This prior approval provides the community with the assurance that an appropriate consideration of the impact can be made. Additionally, we are consulting on whether it would be beneficial for the prior approval to be able to take account of the impact of a residential use being introduced into an existing industrial/employment area
- exclude development on or in the following types of structures or areas as they raise issues requiring further consideration:
 - listed buildings and land within the curtilage;
 - scheduled monuments and land within the curtilage;
 - Sites of Special Scientific Interest;
 - safety hazard areas;
 - military explosives storage areas.

Question 2.1: Do you agree that there should be permitted development rights for (i) light industrial (B1(c)) buildings and (ii) storage and distribution (B8) buildings to change to residential (C3) use?

Question 2.2: Should the new permitted development right (i) include a limit on the amount of floor space that can change use to residential (ii) apply in Article 1(5) land i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites and (iii) should other issues be considered as part of the prior approval, for example the impact of the proposed residential use on neighbouring employment uses?

Proposal B: Creating new homes from sui generis uses

2.32 We want to deliver more homes, support high streets and make better use of existing buildings. This proposal would introduce permitted development rights for some uses which are in a class of their own (sui generis) on the high street to change use to residential.

2.33 Sui generis uses include types of development not found in any use classes. These include a diverse range of uses ranging from theatres through to scrap yards. Some developments with a mix of uses are also regarded as sui generis.

2.34 Being sui generis does not preclude a change of use; it just means that a planning application has to be made so that the local planning authority can consider the implications of that change of use in detail.

- 2.35 It is proposed to introduce a new permitted development right to allow some sui generis uses to convert to residential (C3) use, namely launderettes, amusement arcades/centres, casinos and nightclubs.
- 2.36 As with the recent permitted development right for change of use from shops to residential, limited physical works will be allowed to provide for conversion as reasonably necessary, such as new frontage, windows and doors.
- 2.37 We propose to introduce a new permitted development right for launderettes, amusement arcades/centres, casinos and nightclubs, in use at the time of the Budget 2014, to change to residential use (C3). It will:
- enable limited external modifications sufficient to allow for the conversion to residential use;
 - have a prior approval in respect of transport and highways impacts, contamination risks and flooding risks;
 - potentially include, subject to consultation, a prior approval in respect of the design and external appearance of the building;
 - potentially include, subject to consultation, a limit on the amount of floor space that can change to residential use;
 - not apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
 - exclude development on or in the following types of structures or areas as they raise issues requiring further consideration:
 - listed buildings and land within the curtilage
 - scheduled monuments and land within the curtilage
 - Sites of Special Scientific Interest
 - safety hazard areas
 - military explosives storage areas.

Question 2.3: Do you agree that there should be permitted development rights, as proposed, for laundrettes, amusement arcades/centres, casinos and nightclubs to change use to residential (C3) use and to carry out building work directly related to the change of use?

Question 2.4: Should the new permitted development right include (i) a limit on the amount of floor space that can change use to residential and (ii) a prior approval in respect of design and external appearance?

Proposal C: Office to residential permitted development rights

- 2.38 The aim of this proposal is to allow developers to continue making use of underused offices to create much needed new homes.
- 2.39 Permitted development rights for change of use from offices (B1(a)) to residential (C3) were introduced for a period of three years from 30 May 2013 to 30 May 2016. This permitted development right built on the policy set out in paragraph 51 of the National Planning Policy Framework which states:

“Local planning authorities... should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use classes) where there is an identified need for additional housing in that area, provided there are not strong economic reasons why such development would be inappropriate.”

2.40 Following an exemption exercise, where requests were made to the Department for exemption from the permitted development right, there are 33 areas within 17 local planning authorities that are exempt from the temporary permitted development right. These exemptions reflect the exceptional circumstances in these specific areas at the time the right was introduced. This was where the local planning authority had demonstrated that the permitted development rights would lead to the loss of a nationally significant area of economic activity or substantial adverse economic consequences at the local authority level which would not be offset by the positive benefits the new rights would bring.

2.41 The current permitted development right is subject to prior approval to consider the impact of the proposed development in relation to highways and transport, flooding and contamination.

2.42 To continue supporting the housing market, the Government proposes introducing an amended permitted development right for change of use from office to residential from May 2016. It will replace the existing right and the exemptions which apply to the current permitted development right will not be extended to apply to the new permitted development right. While the intention is that the new right will be legislated for at the earliest opportunity, it would not come into force until the existing permitted development right ends in May 2016. This will give local planning authorities over a year to prepare for the introduction of the new permitted development right. We propose that:

- the prior approval will continue to consider the impact of the proposed development in relation to highways and transport, flooding and contamination
- additionally prior approval will now consider the potential impact of the significant loss of the most strategically important office accommodation. To ensure that the ability of the policy to deliver much needed new housing is not undermined, this will be a tightly defined prior approval, and we would welcome suggestions about the specific wording
- development on or in the following types of structures or areas should be excluded as they raise issues requiring further consideration:
 - listed buildings and land within the curtilage
 - scheduled monuments and land within the curtilage
 - safety hazard areas
 - military explosive storage areas

2.43 In support of this policy, we will be making an amendment to the existing permitted development right to extend the time for completion for developments with prior approval from 30 May 2016 to 30 May 2019.

Question 2.5: Do you agree that there should be a permitted development right from May 2016 to allow change of use from offices (B1(a)) to residential (C3)?

Question 2.6: Do you have suggestions for the definition of the prior approval required to allow local planning authorities to consider the impact of the significant loss of the most strategically important office accommodation within the local area?

Proposal D: Extensions to dwellings

- 2.44 We intend to retain the relaxation which makes it easier for homeowners to improve and extend their homes without unnecessary bureaucracy or costs.
- 2.45 We introduced new permitted development rights for householders in May 2013, increasing the size limits allowed for single storey rear extensions on dwelling houses. To ensure the impact of larger extensions on the amenity of neighbours was considered, we introduced a light touch neighbours' consultation scheme. If adjoining neighbours object to a proposed extension the local authority then has to consider whether the impact on the amenity of the neighbours is acceptable before giving prior approval. The prior approval must be determined within 42 days, quicker than a householder planning application.
- 2.46 When these rights were introduced, initially for a three-year period, the Government committed to keep them under review to determine whether they should be extended. The rights to build larger extensions have now been in place for over a year, and many homeowners are taking advantage of the opportunity to improve and enlarge their properties.
- 2.47 To maintain that flexibility for homeowners we propose to make these permitted development rights permanent:
- a householder single storey rear extension or conservatory that extends beyond the rear wall by between four metres and eight metres for a detached house, and by between three metres and six metres for any other type of house, is permitted development;
 - there will be a neighbours' consultation scheme for these larger householder extensions requiring prior approval from the local planning authority;
 - neighbours' consultation will continue not to be required for the existing permitted development right for a single storey rear extension or conservatory that extend beyond the rear wall by four metres for a detached house and three metres for any other type of house;
 - the permitted development will not apply in Article 1(5) land, (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
 - development on or in sites of Special Scientific Interest will be excluded as they raise issues requiring further consideration;
 - the deadline to complete an extension using the existing temporary permitted development rights by May 2016 will be removed.

Question 2.7: Do you agree that the permitted development rights allowing larger extensions for dwelling houses should be made permanent?

Supporting a mixed and vibrant high street

- 2.48 The Government is committed to promoting diverse and vibrant high streets and town centres. These areas have changed and will continue to evolve as the community look to them to provide a wider range of social, leisure and residential uses as well as shopping, reflecting the way that people live today and their vision for the area.
- 2.49 The Government is taking forward a number of proposals to support the high street and town centres, to ensure they remain an essential part of community life. The proposals will enable premises to change to a wider range of uses more quickly to adapt to changing market demands. These proposals include extending rights to businesses to develop their existing premises and making better use of their existing premises, so that they can continue to operate in the same property with improved facilities. They also include changes to the use classes in respect of uses commonly found on the high street, and the introduction of new permitted development rights to enable the timely and less bureaucratic change of use.
- 2.50 Our proposals will help deliver our ambitions for a mixed and vibrant high street while ensuring local authorities retain sufficient powers to protect retail businesses and the place of the town centre in the heart of the community.

Proposal E: Increasing flexibilities for high street uses

- 2.51 We want to promote mixed and vibrant high streets by allowing a wider range of premises found on the high street and in town centres to change use more quickly without the need for a planning application.
- 2.52 The A1 and A2 use classes reflect premises commonly found on high streets and in town centres:
- **Shops (A1)** - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafés;
 - **Financial and professional services (A2)** - Financial services such as banks and building societies, professional services (other than health and medical services) including estate agents, solicitors, accountants, employment agencies and betting offices, where the services are provided principally to visiting members of the public.
- 2.53 A change of use is not considered to be development requiring planning permission where the existing use and the new use are both within the same use class. This flexibility allows for the timely change of use without the delay and expense of a planning application. As high streets evolve and businesses adapt to changes in shopping habits and the way that people use their high street, the

impacts of A1 and A2 use on an area have become increasingly similar, for instance in regard to banks.

- 2.54 Currently a premises used for any A2 use can become a betting shop or pay day loan shop without the need for a planning application. In addition, permitted development rights allow the change of use from restaurants and cafés (A3), public houses (A4), and hot food takeaways (A5) into betting shops or payday loan shops without the need for a planning application. Local planning authorities can make an Article 4 direction to remove these permitted development rights but in practice very few have chosen to do so.
- 2.55 As a key part of '*Gambling Protections and Controls*' published on 30 April²² the Government announced an intention that in future a planning application should be required for the change of use to a betting shop. Local communities and many local authorities have promoted this approach, including through a request under the Sustainable Communities Act 2007²³.
- 2.56 The Local Government Association in its report on the high street, 'Open for business'²⁴ has made similar suggestions in respect of pay day loan shops.
- 2.57 We propose that the retail offer is strengthened by incorporating into a revised wider A1 use class the majority of financial and professional services currently found in A2. It is proposed that the Use Class Order will be revised in respect of use classes A1 and A2, and the names of both uses classes revised to better reflect their new scope.
- 2.58 This will expand the flexibility for businesses to move between premises such as a shop to what would have been an A2 use such as an estate agent or employment agency without the need for a planning application. This will support local communities and growth by enabling premises to change use more quickly in response to market changes, reducing the numbers of empty premises that can contribute to blight in an area. Betting shops and pay day loan shops will not form part of the wider A1 retail use class, but will remain within the A2 use class.
- 2.59 Betting shops are named within the A2 use class as 'betting offices'. This reflects their traditional offer of placing bets over the counter. However, the industry has grown and the offer to customers has changed significantly in particular through the offer of high stakes gaming machines (fixed odds betting terminals). Their expanded offer and greater prominence on the high street mean that their land use impact could now be considered to be different from other uses within the current A2. It is therefore proposed that betting shops (defined as holding a betting premises license under section 150 of Gambling Act 2005) will remain in the A2 use class and not benefit from the flexibilities.

²²https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/307458/Gambling_Protections_and_Controls_.pdf

²³<http://www.hackney.gov.uk/Assets/Documents/SCA-submission.pdf>

²⁴http://www.local.gov.uk/publications/-/journal_content/56/10180/4051814/PUBLICATION

- 2.60 Pay day loan shops are not currently specifically named within the use class order. The high cost short term credit (pay day loan) market, as defined by the Financial Conduct Authority, has grown quickly in recent years. There are a variety of business models and products across the sector, and a key challenge will be to define the type of premises that are, or are not, in scope. Comment is invited on the definition of pay day loan shops. It is a matter of fact and degree into which use class a particular premises may fall. Where the primary purpose of such premises meets the agreed definition, we propose that they be considered to be in the A2 use class.
- 2.61 We propose that permitted development rights will enable the change of use to the wider retail (A1) class from betting shops and pay day loan shops (A2), restaurants and cafés (A3), drinking establishments (A4), and hot food takeaways (A5). The existing permitted development right to allow the change of use from A1 and A2 to a flexible use for a period of two years will remain, as will the right to allow for up to two flats above, and the change of use to residential (C3).
- 2.62 Building on this, the Government proposes to make changes to the General Permitted Development Order 1995 to remove the existing permitted development rights to the A2 use class. This will allow local planning authorities to consider individual applications for planning permission and the associated comments from consultees.
- 2.63 It is recognised that this proposal may add some costs and delay to business wishing to open new betting shops or pay day loan shops in premises that are currently within other use classes. While our overall aim is to simplify and streamline the planning system, we consider that this is an important way in which to support local communities and local planning authorities in shaping their local area.

Question 2.8: Do you agree that the shops (A1) use class should be broadened to incorporate the majority of uses currently within the financial and professional services (A2) use class?

Question 2.9: Do you agree that a planning application should be required for any change of use to a betting shop or a pay day loan shop?

Question 2.10: Do you have suggestions for the definition of pay day loan shops, or on the type of activities undertaken, that the regulations should capture?

Proposal F: Supporting a broader range of uses on the high street

- 2.64 We want to support communities in ensuring that our high streets flourish and reflect their expectations of the high street and town centres as locations for social and leisure activities as well as shopping.
- 2.65 In the Autumn Statement 2013 the Government announced its intention to introduce a permitted development right for the change of use from retail uses to restaurants and cafés. It is proposed that this is extended to existing A2 uses

(financial and professional services, including betting shops and pay day loan shops) reflecting the proposed wider A1 use class. There is also the opportunity to extend this measure even further to those sui generis uses which are suitable for conversion on the high street, namely laundrettes, amusement arcades/centres, casinos and nightclubs.

2.66 This proposal will support businesses and local planning authorities by enabling a streamlined change of use, and provide a wider range of social opportunities for the community.

2.67 We propose to introduce a new permitted development right for the change of use from existing A1 and A2 use classes, and some sui generis uses, in use at the time of the Autumn Statement 2013 announcement, to restaurants and cafés (A3) The right will:

- apply to any premises in A1 or A2 use and apply to laundrettes, amusement arcades/centres, casinos and nightclubs;
- have a size threshold of 150 square metres so as to focus on smaller premises found on the high street and in town centres;
- have a prior approval in the form of a neighbour notification scheme, which will allow those immediately adjacent to the property (next to, above and at the rear) to make representations to the local planning authority in respect of the impact of the proposed change of use on local amenity, covering issues such as noise, odours, traffic and hours of opening. The local planning authority will be able to consider such matters under prior approval only when neighbours object;
- provide safeguards where the retail premises is a local service, or its loss will have an adverse impact on the shopping area;
- exclude development on or in the following types of structures or areas as they raise issues requiring further consideration:
 - listed buildings and land within the curtilage
 - scheduled monuments and land within the curtilage
 - sites of Special Scientific Interest
 - safety hazard areas
 - military explosive storage areas.

Question 2.11: Do you agree that there should be permitted development rights for (i) A1 and A2 premises and (ii) laundrettes, amusement arcades/centres, casinos and nightclubs to change use to restaurants and cafés (A3)?

Proposal G: Supporting the diversification of leisure uses on the high street

2.68 We want to make it easier for businesses to provide a mixed range of leisure and entertainment uses on the high street and in our town centres.

2.69 In the Autumn Statement 2013 the Government announced the introduction of a new permitted development right to allow the change of use from shops to assembly and leisure uses. It is proposed that this would apply to all uses in the existing A1 and A2 use classes and to laundrettes, amusement arcades/centres and nightclubs.

2.70 The assembly and leisure (D2) use class focuses on social venues such as cinemas, music and concert halls, gyms, and swimming pools. By their nature these may be a range of sizes. However, more boutique venues are also emerging with “art house” cinemas and small fitness centres with personal trainers. The Portas Review²⁵ of the high streets recommended that it be made easier to change surplus retail space to leisure uses to support the diversification of the high street.

2.71 We are therefore proposing that a new permitted development right is introduced to enable the change of use from A1, A2 and some sui generis uses, which were in that use at the time of the Autumn Statement 2013, to assembly and leisure (D2) without the need for a planning application. The right will:

- apply to any premises in A1 or A2, laundrettes, amusement arcades/centres and nightclubs;
- exclude any size restriction;
- have a prior approval in respect of transport and highways, parking, and noise which would allow the local planning authority to consider the impacts of the change of use on local amenity;
- not apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
- exclude development on or in the following types of structures or areas as they raise issues requiring further consideration:
 - listed buildings and land within the curtilage
 - scheduled monuments and land within the curtilage
 - Sites of Special Scientific Interest
 - safety hazard areas
 - military explosives storage areas.

Question 2.12: Do you agree that there should be permitted development rights for A1 and A2 uses, laundrettes, amusement arcades/centres and nightclubs to change use to assembly and leisure (D2)?

Proposal H: Expanded facilities for existing retailers

2.72 We want to help high street retailers to have greater scope to improve their retail offer.

2.73 Greater online access has led to a rapid increase in online shopping as a viable alternative to traditional high street shopping. To facilitate this shift in purchasing behaviour some retailers want to find ways to adapt their existing premises so that they can be used more effectively to distribute online purchases, including more home delivery services and through ‘click and collect’ services (where consumers collect goods which have been purchased online at locally designated stores). There is an opportunity to help retailers with a physical presence to improve their consumer offer and attract people back to the high street.

²⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6292/2081646.pdf

Supporting retail facilities

2.74 Retailers are already able to reconfigure their car parks, provided that there are no planning conditions which specify parking numbers and layout. Where a condition exists a retailer can negotiate varying the terms of this condition with the local planning authority. We want go beyond rearranging parking layouts and give retailers more scope to use their parking facilities more effectively. Under existing permitted development rights retailers can extend their existing shops and build small trolley stores within the curtilage of existing shops, subject to certain conditions and limitations. The Government intends to build on these permitted development rights and allow the erection of small, ancillary buildings which could facilitate 'click and collect' services. To help retailers adapt to online shopping preferences we propose that:

- shops can erect ancillary buildings within the curtilage of their existing premises, including the car park;
- the buildings should not exceed four metres in height and have a cumulative gross floor space of up to 20 square metres;
- the buildings cannot be erected within two metres of a boundary of the curtilage of the shop;
- if the building is erected between the shop front and a highway the distance from the new building to the boundary must be more than five metres;
- there will be a prior approval to consider the design, siting and external appearance of any new structure;
- the permitted development should not apply in Article 1(5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
- development on or in the following types of structures or areas should be excluded as they raise issues requiring further consideration:
 - listed buildings and buildings within the curtilage
 - scheduled monuments and land within the curtilage
 - Sites of Special Scientific Interest.

2.75 We also want to make it easier for retailers to increase their back of house loading bay capacity, allowing them to store more goods for home delivery and 'click and collect'. We propose:

- to allow the installation of new loading bay doors and new loading ramps in existing shops;
- the size of an existing loading bay cannot increase by more than 20%;
- the permitted development right should not apply in Article 1(5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
- that development on or in the following types of structures or areas should be excluded as they raise issues requiring further consideration:
 - listed buildings and buildings within the curtilage;
 - scheduled monuments and land within the curtilage;
 - Sites of Special Scientific Interest.

Question 2.13: Do you agree that there should be a permitted development right for an ancillary building within the curtilage of an existing shop?

Question 2.14: Do you agree that there should be a permitted development right to extend loading bays for existing shops?

Mezzanine floors

2.76 Existing regulations allow most retailers to build an internal mezzanine floor in their premises up to 200 square metres without requiring a planning application. We propose to increase the limit to allow retailers to build a mezzanine floor and welcome views on what size would be appropriate. This will give greater opportunity for retailers to make best use of their existing premises and to diversify their retail offer to support the town centre.

Question 2.15: Do you agree that the permitted development right allowing shops to build internal mezzanine floors should be increased from 200 square metres?

Maximum parking standards

2.77 The Government supports the motorist and wants to see adequate parking provision for them. For this reason, we removed the previous administration's restrictions on the number of parking spaces for new developments. And in March this year we published new planning guidance, which encourages local authorities to improve the quality of parking in town centres and, where it is necessary to ensure their vitality, the quantity too. Parking standards are now matters for local authorities.

2.78 We are aware that some local authorities appear to have adopted a more flexible approach, and this is to be welcomed, but the Government now wishes to understand whether more action is needed to tackle on-street parking problems. We want to understand whether local authorities are stopping builders from providing sufficient parking space to meet market demand. We also want to ensure that local authorities in their Local Plans have properly reviewed their parking policies and brought them up to date.

Question 2.16: Do you agree that parking policy should be strengthened to tackle on-street parking problems by restricting powers to set maximum parking standards?

Supporting growth

2.79 The Government is committed to reducing the administrative burden on businesses. In addition to the proposals already covered in this document, the Government has some further proposals to support growth by freeing up businesses in a number of specific areas.

Proposal I: Permitted development right for the film and television industries

2.80 The aim of this proposal is to ensure it is easier to use buildings and land as temporary locations for commercial filming.

2.81 Feature films and television programmes often use indoor and outdoor locations for filming as well as in studios. When filming on location planning permission may be required for temporary change of use, physical development and associated remedial work. The permission needed depends on the scale and length of the filming. Even where the filming does not require planning permission, associated activities such as vehicle parking may.

2.82 Filming can generate local interest and many local authorities actively encourage such activity due to the economic benefits it can bring to the area. There is an opportunity to create greater certainty and support those looking to take advantage of the commercial skills available in this country by building on the experience of what has previously been approved.

2.83 We propose to introduce a new permitted development right to allow for commercial filming and the associated physical development on location. The product of commercial filming must be the sole purpose of the activity and not ancillary to other activities. The new permitted development right will grant permission for:

- location filming inside existing buildings and outside on single sites of up to one hectare, which can be split between buildings and land, and the construction and removal of associated sets. The right will be for a maximum period of nine months in any rolling 27 month period and will include a prior approval.

2.84 We propose that the new right will:

- be conditional on:
 - no demolition, excavation, physical alteration of an existing building or other engineering works;
 - no overnight temporary sleeping accommodation;
 - land and buildings to be reinstated to their original condition before the change of use as soon as it is reasonably practical to do so;
 - outside sets to have a maximum height limit in the region of 10 metres from the ground.
- have a prior approval to cover highways and transport, a travel plan, noise and light;
- not apply in Article 1 (5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
- exclude development on or in the following types of structures or areas as they raise issues requiring further consideration:
 - listed buildings and land within the curtilage;
 - scheduled monuments and land within the curtilage;
 - Sites of Special Scientific Interest;

- safety hazard areas;
- military explosives storage areas.

2.85 These proposals will work independently of the existing general permitted development rights for temporary use Part 4, Schedule 2, Class B of the General Permitted Development Order 1995 (as amended). We will amend Part 4 to ensure those rights cannot be added to the time limit proposed for the new filming right.

Question 2.17: Do you agree that there should be a new permitted development right for commercial film and television production?

Proposal J: Solar PV panels for commercial properties

2.86 The aim of this proposal is to expand on the existing permitted development rights for the installation of solar panels on the roofs of non-domestic buildings to allow commercial properties to make greater use of their roof space to provide renewable energy.

2.87 In April 2014 the Department for Energy and Climate Change published the UK Solar PV Strategy Part 2: Delivering a Brighter Future²⁶. The strategy explores ways to help encourage the UK's performance in solar PV for commercial and industrial buildings. The strategy identified the planning system as one of the barriers to the installation of solar panels in the mid-size commercial market.

2.88 Permitted development rights for the installation of microgeneration solar equipment on non-domestic buildings up to a capacity of 50kW were introduced in 2012. This permitted development right has helped support the provision of small scale solar power generation in the commercial sector. The installation of solar panels above 50kW currently requires a full planning application to the local planning authority. There is an opportunity to make more efficient use of our existing buildings and support the take up of much larger scale solar power generation across England. The use of roof space has the potential to reduce the demand on agricultural land to provide renewable energy: the roof of a large industrial unit could provide the same output as five acres of agricultural land as there is no need to leave a space between the panels.

2.89 The Government therefore proposes to introduce a new permitted development right to support the installation of photovoltaic panels (solar PV) on non-domestic buildings with a capacity up to one megawatt (20y times the current capacity) without a planning application to the local authority. This right would:

- apply to all non-domestic buildings, as with the existing permitted development rights for installation of solar PV;

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/302049/uk_solar_pv_strategy_part_2.pdf

- have a prior approval to consider the siting and design, in order to minimise the impact of glare on neighbouring or overlooking properties from the larger array of solar PV;
- apply only to the roof of non-domestic buildings. As with the existing right, there will be restrictions on the protrusion of the panel beyond the roof slope and the height of solar PV equipment;
- not be permitted (as with the existing permitted development right) on a roof slope which fronts a highway in Article 1(5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
- exclude development on or in the following types of structures or areas as they raise issues requiring further consideration:
 - listed buildings and buildings within the curtilage;
 - scheduled monuments and land within the curtilage.

Question 2.18: Do you agree that there should be a permitted development right for the installation of solar PV up to 1MW on the roof of non-domestic buildings?

Proposal K: Extensions to business premises

2.90 We intend to retain the relaxation which makes it easier for businesses to improve their property and expand.

2.91 We introduced new permitted development rights for businesses in May 2013, increasing the size limits allowed for extensions to shops, financial and professional services, offices, warehouses and industrial premises.

2.92 The rights to build larger extensions were initially introduced for a three-year period, and the Government committed to keep them under review to determine whether they should be extended. They have now been in place for over a year, giving businesses the opportunity to expand as the economy grows.

2.93 To maintain that flexibility for businesses we propose to make these permitted development rights permanent:

- shops (A1) and financial/professional services (A2) can extend their premises by up to 100 square metres provided the gross floor space of the building is not increased by more than 50%;
- these extensions to shops and financial services can be built up to the boundary, unless that boundary is with a dwelling house where a two metre gap must be left;
- offices (B1(a)) can extend their premises by 100 square metres, provided the gross floor space of the building is not increased by more than 50%;
- new industrial or warehouse buildings of up to 200 square metres can be built within the curtilage of an existing industrial or warehouse building;
- the gross floor space of the existing industrial or warehouse building can be increased by up to 50%;
- the permitted development right will not apply in Article 1(5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty,

- an area designated as a conservation area, and land within World Heritage Sites);
- we propose that development on or in the following types of structures or areas should be excluded as they raise issues requiring further consideration:
 - land within the curtilage of a listed building;
 - Sites of Special Scientific Interest;
 - the deadline to complete an extension using the existing permitted development rights by May 2016 will be removed.

Question 2.19: Do you agree that the permitted development rights allowing larger extensions for shops, financial and professional services, offices, industrial and warehouse buildings should be made permanent?

Proposal L: Permitted development rights for waste management facilities

- 2.94 The proposal seeks to introduce new freedoms for those waste management facilities which are covered under Use Class Order “sui generis”, and in particular landfill and energy recovery facilities.
- 2.95 Waste management facilities may fall under more than one Use Class or be sui generis, depending on the type of operation carried out and the type of facilities required. Facilities for bulking up waste for onward movement (such as waste transfer stations) or for the recycling of waste (such as material recovery facilities) may fall under general industry (B2) or storage/distribution (B8) and so are able to benefit from existing permitted development rights. In contrast those facilities such as waste disposal sites or energy recovery sites are considered to be sui generis and do not enjoy the permitted development rights. However, these sites can operate over long periods of time and on occasions new facilities may be required or old facilities replaced. Examples of such facilities include: weighbridges, portacabins, storage containers, soil screening and wheel washes. Furthermore, landfill gas provides a useful source of renewable energy, and there may be a need to replace the gas engines involved in extracting the gas.
- 2.96 We propose to introduce permitted development rights for those waste management facilities currently sui generis, by enabling the carrying out of operations for the replacement of any plant or machinery and buildings on land within the curtilage of a waste management facility and which is ancillary to the main waste management operation. Such development may only take place without the need for a planning application if:
- where equipment is being replaced, there is no more than a 15% increase in the footprint of the plant or machinery that is subject to replacement
 - the replacement building, plant or machinery does not exceed the existing facilities currently on site by more than 50% or 100 square metres, whichever is the smaller.

2.97 We propose that :

- the permitted development right will not apply in Article 1(5) land (i.e. land within a National Park, the Broads, an Area of Outstanding Natural Beauty, an area designated as a conservation area, and land within World Heritage Sites);
- development on or in the following types of structures or areas should be excluded as they raise issues requiring further consideration:
 - listed buildings and land within the curtilage;
 - scheduled monuments and land within the curtilage;
 - Sites of Special Scientific Interest.

Question 2.20: Do you agree that there should be a new permitted development right for waste management facilities to replace buildings, equipment and machinery?

Proposal M: Equipment housings for sewerage undertakers

2.98 The aim of this proposal is to remove some unnecessary restrictions on minor operational development by sewerage undertakers.

2.99 The main permitted development rights for water undertakers are very similar to those for sewerage undertakers. However, while water undertakers have a right for “the installation in a water distribution system of a booster station, valve house, meter or switch-gear house”, there is no equivalent right for sewerage undertakers.

2.100 There are no strong planning grounds why sewerage undertakers should have to make planning applications for equipment housings at sewage works but not for the equivalent housings at water treatment works. This causes unnecessary work and expense for both the sewerage undertakers and local planning authorities.

2.101 It is proposed that a permitted development right equivalent to that for water undertakers should apply to sewerage undertakers. This would allow sewerage undertakers to carry out the installation of a pumping station, valve house, control panel or switchgear house into a sewerage system. The rights will be subject to the same “development not permitted” limitation as set out for water undertakers, that is, a limit of 29 cubic metres in capacity for any installation that is carried out at or above ground level or under a highway used by vehicular traffic.

Question 2.21: Do you agree that permitted development rights for sewerage undertakers should be extended to include equipment housings?

Other comments

2.102 The Government is open to suggestions for any other deregulatory measures, to increase permitted development rights and decrease the administrative burden.

Question 2.22: Do you have any other comments or suggestions for extending permitted development rights?

Part 3: Implementing the proposals

Benefits and impact

- 2.103 The changes to the General Permitted Development Order and the Use Classes Order will provide greater opportunities to adapt existing premises and change use, which in turn will contribute to making better use of existing buildings, deliver additional homes and support vibrant high streets.
- 2.104 The introduction of further permitted development rights brings benefits to business by reducing the administrative cost of development and securing time savings. Businesses will additionally benefit from extended premises and changes to car parks and loading bays to accommodate the rise of 'click and collect' shopping. Specific industries such as commercial film and television, waste and sewerage will additionally gain from extended flexibilities. Savings will accrue to all businesses from the lower fee rates, and focusing the information required on the matters for prior approval.
- 2.105 The proposals aim to benefit business and local communities by supporting diverse and vital high streets and town centres, both through new permitted development rights and the creation of a wider retail (A1) use class. Broadening the retail (A1) use class will enable businesses to adapt more quickly to changes in the market and reduce the time that shops may be left empty. Businesses will directly benefit from a reduction in costs by no longer having to complete a planning application to move from a shop to what was previously an A2 use. Premises will be able to move use freely within the wider A1 retail class.
- 2.106 While the overall package of proposals will bring cost savings and other benefits, the removal of permitted development rights in respect of betting shops and pay day loan shops is a regulatory measure. Engagement with interested parties in the betting industry suggests that there will be an impact on the ease with which new premises can open. This is also likely to be true for pay day loan shops.
- 2.107 We believe that this significant package of proposals will add to the number of much needed homes, support mixed and vibrant high streets and town centres, and support our continued economic growth.
- 2.108 Comment is invited on these assumptions, and the likely costs and benefits. A validation impact assessment will be produced following the consultation.

Question 2.23: Do you have any evidence regarding the costs or benefits of the proposed changes or new permitted development rights, including any evidence regarding the impact of the proposal on the number of new betting shops and pay day loan shops, and the costs and benefits, in particular new openings in premises that were formerly A2, A3, A4 or A5?

Application of the proposals

Article 4 directions

- 2.109 The National Planning Policy Framework states Article 4 directions should only be used in limited situations where it is necessary to protect local amenity or the wellbeing of the area. The Government's planning guidance specifies that there should be particularly strong justification to withdraw permitted development rights where a direction applies to a wide area or where prior approval powers are available to control development. The local planning authority must consult with the local community and there should be strong justification for the withdrawal of a national permitted development right where prior approval powers are available to control permitted development. The Secretary of State has the power to modify or cancel most Article 4 directions and will intervene only when there are clear reasons for doing so.
- 2.110 Currently, where prior approval has been given for a change of use or to carry out works, but the change or works have not taken place when an Article 4 direction subsequently comes into force, the developer would have to submit a planning application. It is the Government's intention to amend the Article 4 direction so that permitted development rights cannot be removed from properties for which a prior approval has already been given, but the development has not yet taken place.
- 2.111 If a local planning authority makes an Article 4 direction it may, in certain circumstances, be liable to pay compensation to developers whose permitted development rights have been withdrawn.

Question 2.24: Do you agree (i) that where prior approval for permitted development has been given, but not yet implemented, it should not be removed by subsequent Article 4 direction and (ii) should the compensation regulations also cover the permitted development rights set out in the consultation?

Fees

- 2.112 Where the permitted development is for change of use only, and a prior approval is required, a fee of £80 will apply. Where the permitted development is for change of use and allows for some physical development and prior approval is required a fee of £172 will apply, including change of use from sui generis to residential. Where a prior approval is required to carry out physical development we intend to introduce a fee of £80, including for the erection of a structure in a retail car park or the installation of solar panels on a non-domestic building.
- 2.113 All applicants must ensure that they comply with other relevant planning, building and environmental legislation and regulations.

Timing

2.114 It is proposed that legislation to implement the new permitted development rights would be introduced at the earliest opportunity. The rights will apply to England only.

Section 3: Improving the use of planning conditions

Scope

Topic of this section:	This section of the consultation is about changes which will improve the use of planning conditions and is focused in two areas - the conditions which are placed by local planning authorities at the decision making stage and the delays in discharging conditions.
Scope of this section:	This section of the consultation seeks responses to both detailed proposals, as well as open ended questions.
Geographical scope:	These proposals relate to England only.
Impact Assessment:	A final Impact Assessment will be made should the proposed changes be taken forward. A brief summary of the impacts and benefits of the proposals can be found in the consultation paper.

Introduction

- 3.1 To complement the changes we have already made to the planning system, we are pursuing a programme of reforms to speed up and simplify the planning application process. This has already led to important changes that improve the mechanics of the application process including:
- introducing a new legal requirement that local planning authority requests for additional information to support planning applications at the validation stage must be reasonable;
 - removing the need to submit a design and access statement with most planning applications – focusing on those where they are needed;
 - re-introducing a right of appeal where discussions between applicants and local planning authorities about the information needed to validate planning applications break down.
- 3.2 It is important to acknowledge that the need for direct engagement with the local planning authority continues for many beyond the point at which a decision on a planning application is made. While planning conditions can perform an important function in shaping proposed developments, the Government is concerned that too many overly restrictive and unnecessary conditions are attached routinely to planning permissions, with no regard given to the additional costs and delays on sites which have already secured planning permission.
- 3.3 In particular, delays in discharging conditions which require the approval of details can mean that work is not carried out as quickly as it should. Delays in dealing with conditions can have a significant negative impact on all users of the planning

system, not least by holding up the delivery of housing development on sites which have already been granted planning permission. Where conditions have been met, and the local planning authority have been given a reasonable time to confirm this, development should be able to proceed without further administrative delays.

Background

- 3.4 A planning condition is a condition imposed on a grant of planning permission. Planning conditions can be a useful tool for both applicants and local planning authorities. They can ensure that development can go ahead which might otherwise have been refused and can enhance development. Conditions also offer flexibility that allows applicants to carry out detailed work after a decision on the principle of development has been taken.
- 3.5 Conditions generally fall into two broad types:
- controls over how the development is carried out or its onward operation (i.e. controlling hours of operation in the interests of preserving local amenity)
 - conditions requiring the submission and approval of something by the local planning authority before a prescribed part of the development goes ahead (sometimes imposed as a pre-commencement condition)
- 3.6 The main powers relating to local planning authority use of conditions are in Sections 70, 72, 73, 73A, and Schedule 5 of the Town and Country Planning Act 1990. Section 70(1)(a) of the 1990 Act enables the local planning authority in granting planning permission to impose 'such conditions as they think fit'. This power is broad but must be interpreted in light of material factors such as the National Planning Policy Framework, its supporting guidance on the use of conditions, and relevant case law.
- 3.7 The National Planning Policy Framework provides that planning conditions must comply with six tests (derived from long established case law and policy). Conditions should be :
- necessary;
 - relevant to planning;
 - relevant to the development to be permitted;
 - enforceable;
 - precise;
 - reasonable in all other respects.
- 3.8 Further guidance on the use of conditions and how to apply the six tests is set out on the Planning Guidance web based resource <http://planningguidance.planningportal.gov.uk>.

Issue under consideration

- 3.9 Despite the benefits of planning conditions and the important role they play in ensuring that the planning system operates efficiently and effectively, there are concerns that local planning authority practice around the use of conditions and

discharging conditions that need further approval can add unnecessary burdens and delays to the development process.

There are two main issues under consideration in this consultation that are explained in turn below.

Issue 1: a tendency of local planning authorities to impose too many conditions at the decision making stage

3.10 The cumulative impact of a local planning authority imposing a number of conditions at the decision making stage can present considerable burdens for applicants as well as the local planning authority itself. For example, recent submissions suggest it is common for planning decisions for larger housing schemes to be subject to numerous conditions, and in one instance, about one hundred conditions, with a significant proportion requiring further submission and approval of details by the local planning authority. It is therefore vital to ensure that conditions are only imposed where they meet the six tests in the National Planning Policy Framework. It is also important to have effective dialogue between the local planning authority and the applicant about how conditions will impact on the planned delivery of the development.

3.11 Particular care is needed when a local planning authority is considering using a pre-commencement condition that will prevent any development authorised by the planning permission from taking place until detailed aspects of the development have been approved and the condition has been formally discharged by the local planning authority. As pre-commencement conditions can have a significant impact on how a development is delivered in practice it is important to be clear that the trigger point (pre-commencement, pre-occupation etc.) for submission and approval of details in the condition is appropriate and that the details cannot instead be submitted to the local planning authority at a later stage in the development process, rather than before any development can take place.

Issue 2: local planning authority delays in discharging conditions

3.12 The feedback we receive suggests that where an applicant is required by condition to submit further details for approval and discharge, some local planning authorities do not prioritise this work. Evidence gathered in 2008 suggested that around half of the applications to discharge planning conditions looked at took longer than six weeks to determine²⁷. This can lead to substantial and unacceptable delays and costs at a stage in the development process where applicants are often close to starting on site or where the development is underway. Such delays can have severe practical implications for applicants – potentially impacting on the availability of finance, the sequencing of development, or resulting in unnecessary and costly down time where development could otherwise be taking place.

²⁷ WYG Planning & Design, Discharging Planning Conditions – Final Report

3.13 The Government has already taken action aimed at addressing these two issues. The recently published planning guidance²⁸ on use of planning conditions contains a number of new guidance messages that must be considered by local planning authorities each time they take a decision to grant planning permission subject to conditions. This includes important guidance on how the six tests in the National Planning Policy Framework should be interpreted in practice.

3.14 In addition to this, we now propose to go further and this consultation paper outlines four proposed measures that the Government would appreciate views on.

- the detail of where the deemed discharge of conditions should apply and what the appropriate time limits should be;
- reducing the time limit for return of the fee for applications for confirmation of compliance with conditions attached to planning permissions;
- requiring that draft conditions are shared with applicants for major development before planning permission is granted;
- adding a further requirement for local planning authorities to justify the use of and timings for discharge of pre-commencement conditions.

These four proposed measures are outlined in turn in the following section.

3.15 Where, in these proposals, changes to the Development Management Procedure Order are indicated, where relevant, it is likely this will also include an amendment to the Town and Country Planning (Section 62A Applications) (Procedure and Consequential Amendments) Order 2013 to apply the provision to special measures cases submitted to the Planning Inspectorate.

Proposed measures

Deemed discharge for certain types of conditions where the local planning authority does not make a timely decision

3.16 There is a justifiable expectation that where a local planning authority has decided to impose a condition requiring the submission and approval of further details after planning permission is granted, that they will seek to make a decision on an application to discharge the condition with the minimum of delay. Failure to do so does not in reality give the applicant an 'implementable planning permission'.

3.17 We are seeking enabling powers in the Infrastructure Bill²⁹, which is currently being considered by Parliament, to introduce a 'deemed discharge' that would give applicants a further option where a local planning authority has not responded within a reasonable time to an application to discharge certain types of planning condition - while maintaining existing controls for conditions designed to mitigate the most serious environmental and other risks. While the framework of the provision will be set out in primary legislation, we are interested in how you think

²⁸ <http://planningguidance.planningportal.gov.uk/>

²⁹ <http://services.parliament.uk/bills/2014-15/infrastructure.html>

the measure should work in practice to help us set out the detailed operation of the measure in secondary legislation.

- 3.18 A deemed discharge will mean that where an applicant has made an application for the authority's consent, agreement or approval to a matter required by a relevant condition, and the local planning authority has not notified the applicant of the decision within a specified time period, the applicant may regard that matter as having the approval or consent of the local planning authority.

Question 3.1: Do you have any general comments on our intention to introduce a deemed discharge for planning conditions?

- 3.19 We recognise that it will not be appropriate for a deemed discharge to be available for all types of conditions. For example, there will be circumstances where the risks to human or environmental wellbeing are such that a condition should only be regarded as discharged where a formal decision has been made. We propose that the following should be exempt from the deemed discharge:

- development which is subject to an Environmental Impact Assessment;
- development which is likely to have a significant effect on a qualifying European site;
- development in areas of high flood risk (e.g. where development is in flood zones 2 & 3 or where there are reported critical drainage issues);
- conditions that have the effect of requiring that an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended), Section 278 of the Highways Act 1980 to be entered into before an aspect of the development can go ahead;
- any conditions requiring the approval of details for outline planning permissions required by reserved matters.

- 3.20 In considering the case for exemptions we are seeking views on whether an exemption should apply to all the conditions requiring discharge in the planning permission (e.g. any condition requiring discharge attached to a planning permission where the development would be in flood zone 2) or only to those conditions that relate to the reason for the exemption (e.g. a condition requiring discharge attached to a planning permission where the development would be in flood zone 2 and where that specific condition relates to flooding).

Question 3.2: Do you agree with our proposal to exclude some types of conditions from the deemed discharge (e.g. conditions in areas of high flood risk)?

Where we exclude a type of condition should we apply the exemption to all the conditions in the planning permission requiring discharge or only those relating to the reason for the exemption (e.g. those relating to flooding)?

Are there other types of conditions that you think should also be excluded?

- 3.21 To give applicants flexibility and ensure that there is certainty for all parties as to when an applicant could rely on a deemed discharge, we propose that a deemed discharge would only be activated by the applicant serving a notice on the local

planning authority. We consider that providing for a process before an applicant can rely on the benefit of a deemed discharge is preferable to the deemed discharge automatically applying after a given period of time. A notice arrangement would leave the decision as to whether a deemed discharge is desirable, in the circumstances of the application, with the applicant. The notice would also provide an audit trail that will be of benefit to both the applicant and the local planning authority.

Question 3.3: Do you agree with our proposal that a deemed discharge should be an applicant option activated by the serving of a notice, rather than applying automatically? If not, why?

- 3.22 We propose that the applicant's option to notify the local planning authority that they intend to treat the condition as discharged would be available any time after the expiry of six weeks from the day after the application to discharge the condition was received by the local planning authority. The applicant's notice would inform the local planning authority that their approval of the application to discharge the condition will be deemed to have been given if no decision is reached within a further two weeks (or a longer timeframe as set out in the notice). As an alternative the applicant could, as now, appeal on grounds of non-determination (where no decision has been made within eight weeks). However, the option to appeal for non-determination would not be available where the applicant had started the process for deemed discharge.
- 3.23 It is considered that the timeframes set out above strike an appropriate balance between allowing a local planning authority a reasonable time to make a decision and allowing the applicant to proceed where no decision has been notified within a reasonable time.

Question 3.4: Do you agree with our proposed timings for when a deemed discharge would be available to an applicant? If not, why? What alternative timing would you suggest?

- 3.24 We also propose that the deemed discharge would not apply to the approval of details for outline planning permissions required by reserved matters. This is because reserved matters applications generally cover more complex matters with multiple planning considerations than single issue planning conditions such as approval of a landscaping plan.
- 3.25 The proposal would greatly improve the certainty for applicants that they will have a decision by a certain date and provide a strong incentive for local planning authorities to decide applications to discharge conditions within a reasonable period. It will also have the effect of extending the Planning Guarantee that applies to the determination of planning applications (and which establishes the clear expectation that applications should be decided in no more than 26 weeks – with the safeguard that applications not determined within this period are eligible for a fee refund, unless a longer period has been agreed in writing with the applicant). In future, as well as having this confidence that planning applications should be dealt with in no more than 26 weeks, applicants will also be able to ensure that

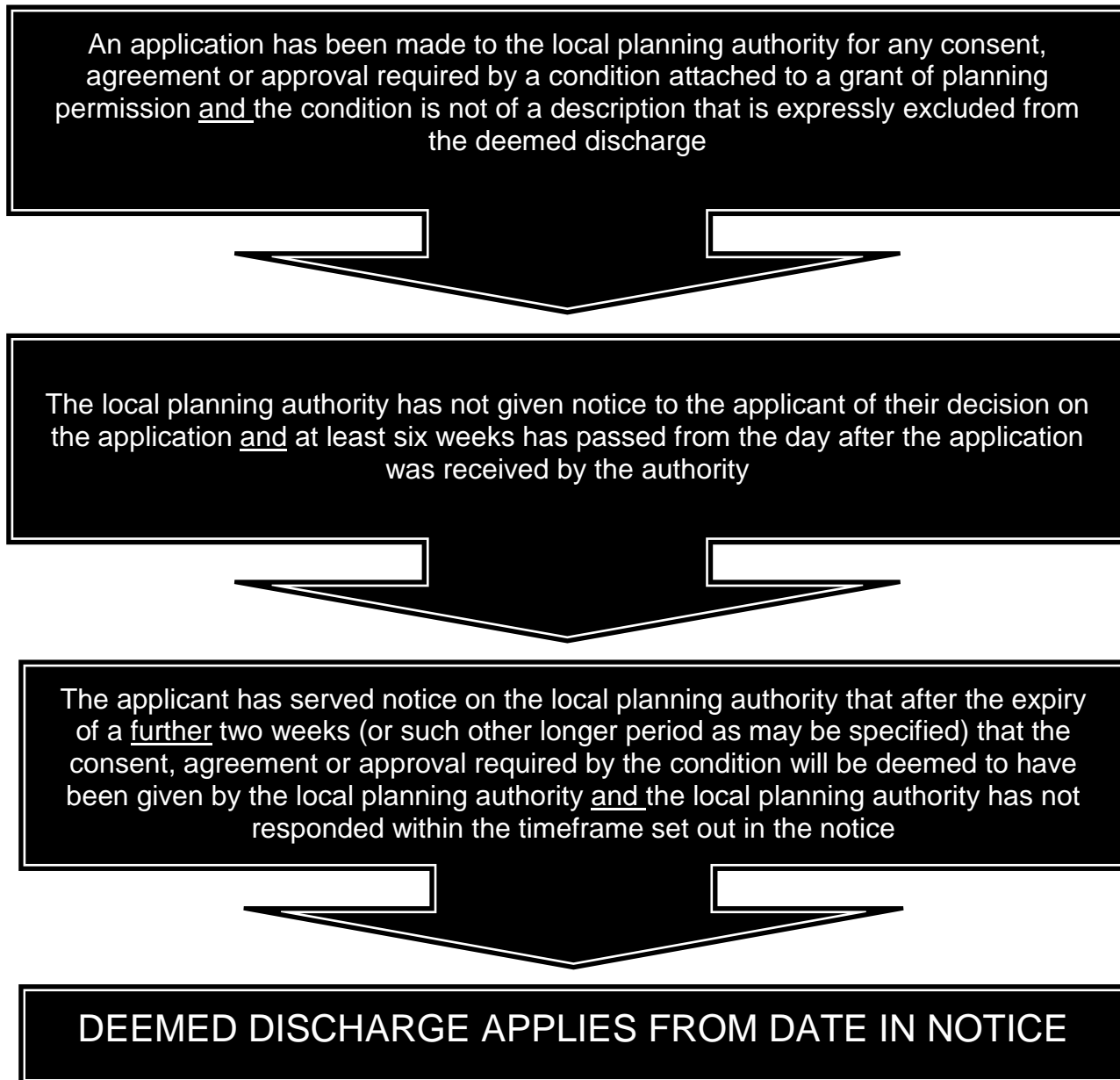
conditions to which the deemed discharge can be applied can be regarded as discharged at the earliest within eight weeks.

Question 3.5: We propose that (unless the type of condition is excluded) deemed discharge would be available for conditions in full or outline (not reserved matters) planning permissions under S.70, 73, and 73A of the Town and Country Planning Act 1990 (as amended).

Do you think that deemed discharge should be available for other types of consents such as advertisement consent, or planning permission granted by a local development order?

- 3.26 In some cases the local planning authority may choose to seek the views of a third party before making a decision on a request to discharge a condition. Where this is necessary, the Government expects views to be sought early to ensure that third parties have a reasonable time to consider the request. The deemed discharge will not impact on the ability of the local planning authority to act early to seek the views of third parties.
- 3.27 Where a deemed discharge applies, this would not prevent a local planning authority from taking enforcement action against development that does not comply with the details submitted to them in support of the request to discharge the condition.

3.28 In summary, we propose that a applicant would be able to rely on a deemed discharge in the following circumstances:



3.29 The Government wishes to ensure that where an application for confirmation of compliance with conditions is made to the local planning authority a decision is made within a reasonable time period. This includes conditions requiring the submission and approval of further details by the local planning authority.

3.30 Under regulation 16 of the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits)(England) Regulations 2012 applicants are entitled to a fee refund for confirmation of compliance with conditions after 12 weeks if the local planning authority has not notified them of their decision.

- 3.31 We propose to amend regulation 16 to reduce the time limit for return of the fee from 12 weeks to 8 weeks, beginning on the date on which the authority received the request. This measure will further encourage local planning authorities to determine applications for confirmation of compliance with conditions within a reasonable time period.
- 3.32 We propose that the return of the fee after 8 weeks should apply to all applications for confirmation of compliance with conditions attached to planning permissions, as presently specified in regulation 16. This will include those conditions for which a deemed discharge will be available. We are interested hearing views on whether there are there instances where the return of the fee after 8 weeks may not be appropriate.

Question 3.6: Do you agree that the time limit for the fee refund should be shortened from twelve weeks to eight weeks? If not, why?

Question 3.7: Are there any instances where you consider that a return of the fee after eight weeks would not be appropriate? Why?

Sharing draft conditions with applicants for major development before a decision is made.

- 3.33 Many local planning authorities already share draft conditions with applicants before a decision on a planning application is taken as a matter of routine. This practice is beneficial as it allows both parties to discuss issues such as whether the conditions meet the six tests in the National Planning Policy Framework (including the test of necessity), the timing triggers (pre-commencement, pre-occupation etc.) for any submission and approval of further details and how this impacts on plans to carry out the development, and what information is required to meet a condition.
- 3.34 We propose to build on this good practice and amend the Development Management Procedure Order to require that local planning authorities share a draft of the proposed conditions with an applicant before making a decision for all major developments³⁰.

Question 3.8: Do you agree there should be a requirement for local planning authorities to share draft conditions with applicants for major developments before they can make a decision on the application?

- 3.35 We propose that this new requirement would only apply in the case of planning applications for major development. Whilst sharing draft conditions could also be beneficial in the case of minor development, it is considered that mandating it for major developments offers the greatest potential benefits and has the additional advantage of the longer 13 week determination period to allow for draft conditions to be shared.

³⁰ Major development is defined in Article 2 of the Development Management Procedure Order 2010 (SI 2010:2184)

Question 3.9: Do you agree that this requirement should be limited to major applications?

3.36 We recognise that the timing of when the draft conditions are shared is critical. A requirement to share too early in the planning application process would be practically difficult as there is unlikely to be sufficient certainty around what conditions will be needed. A requirement to share too late in the process runs the risk of not allowing sufficient time for meaningful discussion to occur between the local planning authority and applicant. A potential approach is to require that a local planning authority shares draft conditions at least 10 working days before a planning permission is granted. Alternatively, we could shorten the period to five working days. We also propose to build some flexibility into the process by allowing a different period of time to be agreed in writing between the local planning authority and the applicant.

Question 3.10: When do you consider it to be an appropriate time to share draft conditions:

- **10 days before a planning permission is granted?**
- **5 days before a planning permission is granted? or**
- **another time?, please detail**

3.37 We are also interested to hear views on what approach should be taken where a local planning authority needs to change, or add to, the draft conditions after they have been shared with the applicant. An example of where this might happen is where an additional condition is imposed at a planning committee meeting after the conditions have already been shared.

3.38 There are two main options to address this issue:

- Option A – to allow late changes or additions to conditions without requiring those to be shared with the applicant. This would leave the discussion of any late changes to be dealt with through informal engagement between the local planning authority and the applicant;
- Option B – to require any subsequent changes or additions to conditions previously shared with the applicant to also be shared with the applicant before a final decision is made. While this would ensure all conditions are shared and gives the applicant a further period of time to consider the conditions, it runs the risk of adding complexity and delay into the process. To reduce the risk of delays, the applicant could choose not to see the conditions again, or shorten the time limit for the final decision.

Question 3.11: We have identified two possible options for dealing with late changes or additions to conditions – Option A or Option B. Which option do you prefer?

If neither, can you suggest another way of addressing this issue and if so please explain your alternative approach?

Requirement to justify the use of pre-commencement conditions

- 3.39 There are concerns about the number of conditions that local planning authorities impose on planning permissions that require certain actions to be undertaken before **any** development can start on site; such as submission and approval of matters of detailed landscaping design. Such conditions are known as ‘pre-commencement conditions’. These conditions effectively mean that development cannot start on site until all pre-commencement conditions have been discharged, even though planning permission has been given by the local planning authority.
- 3.40 The Government wishes to ensure that pre-commencement conditions are only used by local planning authorities where there is a genuine and justifiable reason to prevent any development until the matter covered by the condition has been addressed, and that these comply with the National Planning Policy Framework policy on conditions. Matters covered by pre-commencement conditions could also in some cases be dealt with at a later stage in the development process, rather than before construction starts.
- 3.41 To ensure that pre-commencement conditions are used effectively, and do not prevent development unnecessarily, we propose to add an additional requirement in the Development Management Procedure Order. Where a local planning authority has imposed a pre-commencement condition it is proposed to require a written justification from them as to why it is necessary for that particular matter to be dealt with before development starts. This requirement will be in addition to the general justification that local planning authorities are already required to provide for using conditions.

Question 3.12: Do you agree there should be an additional requirement for local planning authorities to justify the use of pre-commencement conditions?

- 3.42 It is recognised that all conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead can impact on how and when development can take place. This is true regardless of when the action is required to be undertaken; pre-commencement, prior to occupation, or any other time. The Government is keen to hear views on what more could be done to ensure that such conditions are used appropriately and that the timing is suitable and properly justified.

Question 3.13: Do you think that the proposed requirement for local planning authorities to justify the use of pre-commencement conditions should be expanded to apply to conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead?

Question 3.14: What more could be done to ensure that conditions that require further action to be undertaken by an applicant before an aspect of the development can go ahead are appropriate and that the timing is suitable and properly justified?

Impacts and benefits of the proposals

- 3.43 A final stage impact assessment will be produced should the changes proposed in this consultation be taken forward.
- 3.44 A key recommendation of Killian and Pretty's review of the planning application process pointed to the need to comprehensively improve the approach to planning conditions to ensure that conditions are only imposed if justified, and that the processes for discharging conditions are made clearer and faster.
- 3.45 The proposed measures are intended to build upon the work the Government has already done in this area, including sharpened policy in the National Planning Policy Framework and new planning practice guidance. The measures will benefit all types of businesses applying for planning permission, as well as local planning authorities. These benefits will be felt in two main ways.
- 3.46 Firstly, by ensuring that draft conditions are shared with applicants for major development, by increasing the scope for removal of conditions which are unnecessary, unjustified or otherwise inappropriate before the decision is made. Conditions will still need to pass the six tests in the National Planning Policy Framework, but a discussion taking place before a decision is made can for example help to ensure that the timing of discharge is appropriate. Such dialogue has the potential to reduce the number of conditions imposed overall.
- 3.47 Secondly, by reducing the number of conditions imposed, and introducing a deemed discharge and a quicker refund of fees, the process for handling conditions will be more efficient and the time frames more certain for applicants³¹.
- 3.48 Applicants will benefit from the reduced number of conditions which are attached to a grant of planning permission due to the greater focus on addressing issues before a decision is made. A reduced number of conditions could lead to a reduction in the fees and administrative costs that an applicant incurs when they apply for a condition to be removed, varied or discharged. A more efficient system for the discharge of planning conditions should again lead to reduced delays for applicants with benefits of greater certainty and reduced financial risk, as well as less waste of productive staff time.
- 3.49 Local planning authorities should also benefit as the proposals should lead to fewer conditions being attached to grants of planning permission, and therefore they will need to dedicate fewer resources to dealing with applications related to the discharge of conditions. Those authorities who do not already share draft conditions with applicants for major development will need to address this requirement, however due to the reduced costs discussed above, essentially this amounts to a transfer of resources. Overall, local planning authorities will benefit from the greater efficiency in the use and discharge of planning conditions.

³¹ For research report on discharge of planning conditions see <http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/planningandbuilding/pdf/1419487.pdf>

Section 4: Planning application process improvements

Scope

<p>Topic of this section:</p>	<p>Programme of further simplification to improve the end-to-end planning application process.</p> <p>Part A – measures to change the thresholds for statutory consultee involvement in planning applications to achieve a more proportionate approach and changes in arrangements for notification and referral of applications to the Secretary of State on some heritage matters. In addition, some minor changes to other heritage related consultations and notifications.</p> <p>Part B – improving the process of notifying measures requiring that railway infrastructure managers are notified of planning applications for development near to railways.</p> <p>Part C – call for ideas for further changes that could be made to the planning application procedures in the Town and Country Planning (Development Management Procedure) (England) Order 2010 and measurement of the end to end planning process.</p>
<p>Scope of this section:</p>	<p>This section of the consultation seeks responses to both detailed proposals, as well as open ended questions.</p>
<p>Geographical scope:</p>	<p>England</p>
<p>Impact Assessment:</p>	<p>A final Impact Assessment will be made should the proposed changes be taken forward. A brief summary of the impacts and benefits can be found in the consultation paper.</p>

Introduction

- 4.1 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.
- 4.2 This government is pursuing an ambitious programme of reforms to speed up and simplify the planning application process. This has led to important changes that we have already made to improve the mechanics of the application process including:

- introducing a new legal requirement that local planning authority requests for additional information to support planning applications at the validation stage must be reasonable;
- removing the need to submit a design and access statement with most planning applications;
- re-introducing a right of appeal where discussions between applicants and local planning authorities about the information needed to validate planning applications break down.

4.3 Third parties (such as statutory consultees and other bodies) play an important role in delivering an effective planning application process. They often provide specialist advice that can help a local planning authority make a decision on a planning application. However, the need to consult third parties can also add complexity to the process, especially where it is centrally mandated rather than left to local discretion. It is important to ensure that such consultation operates effectively in the interests of all users of the process.

4.4 This chapter is split into three parts.

- **Part A** – focuses on the **involvement of statutory consultees** in the planning application process. It proposes measures to change the thresholds that govern when a statutory consultee must be involved in a planning application with the aim of achieving a more proportionate approach.
- **Part B** – involves a proposed requirement to notify **railway infrastructure managers** of planning applications for development located near to railways.
- **Part C** – asks for comments on our proposals to consolidate the Town and Country Planning (Development Management Procedure) (England) Order 2010 (Development Management Procedure Order). This section also asks for views **on improving the measurement** of all of the stages in the planning application process.

4.5 Where changes to the Development Management Procedure Order are indicated it is likely that this will also include 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.

4.6 The remainder of this chapter sets out these proposals in detail, along with a number of questions. We would welcome comments from any individuals or organisations with an interest in these proposals, which apply to England only.

Part A – Statutory consultee involvement in the planning application process

Background

What are statutory consultees?

- 4.7 Statutory consultees are those organisations and bodies, defined by statute, which local planning authorities are legally required to consult before reaching a decision on relevant planning and listed building consent applications. The main statutory consultees, in terms of the volume of applications they are consulted on, are the Environment Agency, English Heritage, Natural England, the Highways Agency and the Health and Safety Executive.
- 4.8 It is important to recognise that statutory consultees are not the only organisations that local planning authorities engage with in reaching decisions on planning applications. Local planning authorities will consider whether there are planning policy reasons (national or local) to engage other ‘non-statutory consultees’, which although not designated in law, are likely to have an interest in a proposed development. For example, a local planning authority may consult with a local wildlife trust on applications in proximity to local wildlife sites. Similarly, there is nothing to stop an organisation such as the Environment Agency or Natural England from commenting on a planning application for which it is not a statutory consultee.
- 4.9 Unlike non-statutory bodies, statutory consultees are under a duty to provide a substantive response to planning applications³² they are consulted on within 21 days. They are also required to report to the Secretary of State annually on their performance in relation to this duty.
- 4.10 The Government is seeking to improve the quality and timeliness of engagement by statutory consultees within the planning application process as part of its work on improving the end-to-end planning application process.
- 4.11 Wider work has been undertaken to improve the performance of the main statutory consultees, and the quality of service they offer applicants. We have developed a package of measures with the agencies which includes: the agreement of a common service commitment; the creation of a landing page on the Planning Portal³³ by which applicants will be able to access a standard Q&A page for each agency that provides details of the advice and services available to applicants in the planning application process; additional reporting on key measures to improve transparency in performance; and a process to help resolve issues, supported by a network of agency contacts, if advice from multiple agencies conflict.

This consultation

³² This duty does not apply to applications for listed building consent or applications that are subject to environmental impact assessment. The statutory duty allows the 21 day period to be varied if the consultor and consultee agree in writing.

³³ www.planningportal.gov.uk/planning/statcon

- 4.12 This section focuses on the legislative requirements that determine those applications which are consulted on in the first place. Statutory consultees report that in many cases they have no comment to make on the planning and listed building consent applications that they receive. Having been consulted on a planning application, however, statutory consultees are under a duty to issue a substantive response to the local authority. This results in unnecessary bureaucracy for consultees and reduces the efficiency and effectiveness of the planning application process.
- 4.13 This 'over-consultation' is partly a function of the way the current regulations are worded. In some instances, it stems from local planning authorities interpreting the requirements in an overly cautious way. In other cases, the requirements are simply out-of-date and do not reflect changes in agencies' responsibilities, or are unnecessary in the light of wider regulatory requirements.
- 4.14 In considering the existing statutory consultation requirements and the scope for changes, we have worked with the relevant statutory consultees and had particular regard to the following questions:
- is there is a clear legislative or planning policy basis for consultation?
 - would a failure to consult lead to harm to interests of acknowledged importance?
 - is there no more effective method (through other controls or through the plan making process) of achieving the same legislative or policy outcome?
 - is the type, scale and location of development to be consulted upon specified sufficiently and clearly to avoid unnecessary consultation?
- 4.15 The purpose of this exercise is to review the legislative requirements themselves, with the intention of removing or modifying the regulations to tackle instances of unnecessary consultation. Reducing such unnecessary regulatory burdens would allow statutory consultees to focus their resources and technical expertise on those applications where they can add most value to the decision-making process and other activities such as strategic planning. However, this would not prevent the agencies from commenting on individual applications where they saw fit, even where local authorities were no longer required to consult with them.
- 4.16 While the Environment Agency receives the largest number of consultations, we are not proposing to alter their consultation arrangements until decisions have been made regarding the commencement of Schedule 3 of the Flood and Water Management Act 2010 which establishes an approval mechanism for sustainable drainage systems. Having regard to those decisions, we then intend to review the consultation arrangements of the Environment Agency.
- 4.17 Given the range of current statutory consultees, we have focused this review on the requirements of the most frequently consulted agencies, with the exception of the Environment Agency as noted above. These are, by volume of consultations received:
- **English Heritage** (approximately 14,000 per year)
 - **Natural England** (approximately 13,000 per year)
 - **The Highways Agency** (approximately 3,000 per year)

- 4.18 By focusing on the requirements that generate the most consultations, we consider that this will have the greatest impact on tackling instances of unnecessary consultation. This section also explores whether unnecessary consultations could be further reduced by making it more practical for statutory consultees to make use of existing powers to advise local planning authorities not to consult them.
- 4.19 The Health and Safety Executive must be consulted on applications for development around hazardous installations, and the development of hazard installations themselves. We do not propose to alter the requirements for local planning authorities to consult the Health and Safety Executive, which are being considered more broadly in the context of implementing the Seveso III Directive (2012/18EU).

Legal context

- 4.20 Article 16 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (the “**Development Management Procedure Order**”) requires that local planning authorities must consult certain organisations (statutory consultees) before granting of planning permission. Schedule 5 of the Development Management Procedure Order specifies which statutory consultees local planning authorities must consult, depending on the type, location and scale of the development proposed. Under article 20 of the Development Management Procedure Order, statutory consultees are under a duty to provide the consultor with a substantive response within 21 days. Article 21 of the Development Management Procedure Order requires statutory consultees to report annually to the Secretary of State on their performance with regard to their duty to respond to consultations. Any changes to the statutory consultation requirements in Schedule 5 of the Development Management Procedure Order would also apply to applications submitted directly to the Secretary of State under section 62A of the Town and Country and Planning Act 1990.
- 4.21 The consultation requirements for, Natural England and the Highways Agency are set out in Schedule 5 of the Development Management Procedure Order. The requirements for consulting or notifying English Heritage are spread across a number of regulatory instruments, including the Development Management Procedure Order (for planning applications), but also the Listed Buildings Act, the Listed Buildings Regulations and a series of Directions made by the Secretary of State (in the case of listed building consent applications). As such, our proposals for altering the consultation and notification requirements for English Heritage are dealt with in a separate section.

Review of requirements for consultation with Natural England and the Highways Agency

Overview

- 4.22 This section considers the requirements for local planning authorities to consult:
- **Natural England**
 - **Highways Agency**

4.23 For each of the consultees, this section provides a high level summary of their current responsibilities under the Development Management Procedure Order and identifies those areas where we seek views on the scope for removing or modifying the existing requirements.

Natural England

4.24 Natural England is currently consulted on planning applications for developments likely to affect Sites of Special Scientific Interest, certain non-agricultural developments (which do not accord with a local plan) on best and most versatile agricultural land and developments involving hazardous installations, where an area of particular natural sensitivity or interest may be affected. In addition to these requirements under the Development Management Procedure Order, Natural England is a:

- Specific consultation body in the preparation of local plans – which provide the basis for decisions on individual applications;
- Consultation body for proposed developments that are subject to Environmental Impact Assessment – typically those developments which are likely to have a significant effect on the environment; and
- Statutory consultee on Development Consent Orders for nationally significant infrastructure projects.

4.25 Having reviewed the existing requirements, we have identified instances where unnecessary consultation with Natural England could be tackled by amending Schedule 5 of the Development Management Procedure Order. These are set out in Table 1 below. The proposals in the Table would not affect Natural England's status as a consultee in relation to local plans, Environmental Impact Assessment or nationally significant infrastructure projects.

Table 1: Proposed changes to the requirements for consulting Natural England before the grant of planning permission, under Schedule 5 to the Development Management Procedure Order		
Paragraph	Description of development on which Natural England is consulted	Proposal
(v)(ii)	Development within an area which has been notified to the local planning authority by Natural England, and which is within 2 kilometres of a site of special scientific interest.	Remove (see note 1.1)

Explanation of changes in Table 1

4.26 **Note 1.1 (v)(ii).** The 2km consultation zone relies on out of date paper-based maps and is considered to be unhelpfully arbitrary, the effect of which is that Natural England must be consulted on many small developments that have no effect on Sites of Special Scientific Interest yet it may not be consulted on some developments that are at a greater distance than 2km which could adversely affect Sites of Special Scientific Interest. Furthermore, the requirement of paragraph (v)(ii) is considered unnecessary given that under paragraph (v)(i), Natural England must

be consulted on proposed developments “in or likely to affect a site of special scientific interest”, which would be retained.

4.27 In retaining the requirement (paragraph v(i)) to consult Natural England on developments in or likely to affect a Sites of Special Scientific Interest, it is acknowledged that this is a broadly defined category. The judgement of whether developments are “likely to affect” a Sites of Special Scientific Interest is left to local planning authorities on a case-by-case basis. To aid local planning authorities in making this judgement, Natural England has published new online mapping which will give far greater clarity about what developments should be consulted on. This new mapping tool will help to significantly reduce unnecessary consultation with Natural England.

Question 4.1: Do you agree with the proposed change to the requirements for consulting Natural England set out in Table 1? If not, please specify why.

Highways Agency

4.28 The Secretary of State for Transport must be consulted on applications for development that are likely to affect the volume or character of traffic entering or leaving a trunk road. In practical terms, such applications are handled by the Highways Agency on the Secretary of State’s behalf.

4.29 In addition to its role as a statutory consultee on individual planning applications, the Highways Agency is a specific consultation body in the plan-making process, whose representations local planning authorities must take into account in preparing a local plan. It is also a statutory consultee on Development Consent Orders for nationally significant infrastructure projects. These strategic roles would not be affected by the proposals below.

4.30 Having reviewed the existing requirements, we have identified where unnecessary consultation with the Highways Agency could be tackled by amending Schedule 5 of the Development Management Procedure Order. These are set out in Table 2 below. The proposals in the Table would not affect the Highways Agency’s status as a consultee in relation to local plans or nationally significant infrastructure projects.

Table 2: Proposed changes to the requirements for consulting the Highways Agency before the grant of planning permission, under Schedule 5 to the Development Management Procedure Order

Paragraph	Description of development on which the Highways Agency is consulted	Proposal
(f)(i)	Development likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving a trunk road.	Change to: Development, other than minor development ³⁴ , likely to result in an adverse impact on the safety of, or queuing on a trunk road. (see note 2.1)

Explanation of proposed changes in Table 2

4.31 **Note 2.1 (f)(i)**. Whether the Highways Agency is consulted on a particular application is left to the local planning authority’s judgement of whether the proposed development is likely to result in a “material increase in the volume of traffic” or “material change in the character of traffic”, based on the site-specific circumstances of the case. The wording of this ‘test’ leaves considerable scope for inconsistent interpretation. The result is that the Highways Agency receives a large number of applications on which it has no comment to make, but is occasionally not consulted on proposed developments that would have considerable impacts on the operation of a trunk road.

4.32 The proposed new wording seeks to reduce unnecessary consultation by:

- specifically exempting very small developments; and
- applying a narrower ‘test’ focused on safety and queuing, which gives local planning authorities greater clarity about what developments the Highways Agency should be consulted on.

4.33 Safety and queuing are considered to better reflect the Highways Agency’s interest in new developments, as well as being simpler impacts to assess than ‘material increase in the volume of traffic’ and ‘material change in the character of traffic’.

Question 4.2: Do you agree with the proposed changes to the requirements for consulting the Highways Agency set out in Table 2? If not, please specify what change is of concern and why?

³⁴ As defined in paragraph (n) of article 1 in Schedule 5 (‘Interpretation of Table’):

- i. development of an existing dwellinghouse, or development within the curtilage of such a dwellinghouse, for any purpose incidental to the enjoyment of the dwellinghouse as such;
- ii. the extension of an existing building used for non-domestic purposes where the floorspace created by the development does not exceed 250 square metres; and
- iii. the alteration of an existing building where the alteration does not increase the size of the building.

Review of requirements for consultation with English Heritage

Overview

- 4.34 English Heritage must be consulted on, or notified of, certain applications for planning permission and listed building consent. These requirements are spread across the Development Management Procedure Order, the Listed Buildings Act, the Listed Buildings Regulations and a series of Directions made by the Secretary of State.
- 4.35 Having reviewed the current requirements we believe they are overly complex, inconsistent and confusing. There are different requirements in Greater London from the rest of England and different types of heritage assets are treated in different ways. We consider that there is scope to reduce and simplify the current arrangements while still ensuring an adequate level of protection for the historic environment.
- 4.36 We have also taken the opportunity to consider the current requirements for certain applications to be notified to the Secretary of State or referred to him for determination. And we have reviewed the arrangements for consultation and notification requirements for other bodies on heritage matters. A summary of the current requirements and where they can be found is set out in Planning Practice Guidance at:
<http://planningguidance.planningportal.gov.uk/blog/guidance/conserving-and-enhancing-the-historic-environment/consultation-and-notification-requirements-for-heritage-related-applications/>.

English Heritage

- 4.37 Table 3 sets out proposed changes to the requirements for consulting and notifying English Heritage. The distinction between the consultation and notification requirements set out in Table 3 is that with consultation, English Heritage are under a duty to provide a substantive response to the local planning authority within 21 days. If English Heritage fails to respond within that period and have not agreed an extension of time, a local planning authority may proceed to decide the application in the absence of their response. The notification requirements in Table 3 ensure that English Heritage is notified of the application; if they wish to make representations they should do so within 21 days because after that period the local planning authority may proceed to determine the application.
- 4.38 In developing these proposals we have sought to:
- streamline and simplify current arrangements;
 - adopt a consistent approach across the different types of heritage asset;
 - align the requirements inside and outside Greater London;
 - ensure English Heritage's resources and expertise are focused where they can add most value. Our view is that this should be where proposals involve the most important heritage assets (e.g. Grade I and II* listed buildings) or have the potential to cause greatest harm to a heritage asset (i.e. where demolition is involved);

- not change the approach that in many cases notification rather than consultation is required.

4.39 The table sets out (in the left column) the arrangements for consultations and notification we propose. It also sets out what the implication of these changes will be in terms of the current arrangements.

Table 3: Proposed requirements for consulting/notifying English Heritage of applications for planning permission and listed building consent	
Proposed new consultation/ notification requirement	Effect of change
Consult English Heritage before granting planning permission for development affecting Grade I and II* listed buildings, Grade I and II* registered parks and gardens, scheduled monuments and registered battlefields	This proposal would remove the following consultation requirements: <ul style="list-style-type: none"> ○ in Greater London, works affecting Grade II (unstarred) listed buildings ○ development within 3 km of Windsor Castle, Windsor Great Park or Windsor Home Park and within 800m of other palaces or parks It would also introduce a new consultation requirement on: <ul style="list-style-type: none"> ○ registered battlefields - these are important heritage assets and in the interests of consistency should be included
Notify English Heritage of applications for planning permission for development affecting the setting of Grade I and II* listed buildings	This reduces current notification requirements both inside and outside Greater London, by removing the need to notify English Heritage of applications for planning permission affecting the setting of Grade II (unstarred) listed buildings
Notify English Heritage of applications for planning permission for development affecting the character or appearance of a conservation area which involve the erection of a new building or extension of existing building where area of land which is subject of application is more than 1000 square metres	The current notification requirement is that local planning authorities notify English Heritage of all applications for planning permission for development affecting the character and appearance of conservation areas. This proposal reduces the current requirement to those applications which have potential for greatest impact.
Notify English Heritage of local authorities' own applications for planning permission for relevant demolition in conservation areas	This is a new requirement to reflect the proposed new arrangements for determination of these applications as set out in Table 4 below.
Notify English Heritage of all listed building consent applications and decisions for works affecting Grade I and II* listed buildings	No changes - this replicates current notification requirements

Table 3: Proposed requirements for consulting/notifying English Heritage of applications for planning permission and listed building consent

Proposed new consultation/ notification requirement	Effect of change
Notify English Heritage of all listed building consent applications and decisions for works affecting Grade II (unstarred) listed buildings which comprise/include the demolition of the principal building; or demolition of the principal external wall; or demolition of all/substantial part of interior	This brings the notification requirements in Greater London into line with those in the rest of England by removing the additional notification requirement on other Grade II (unstarred) listed buildings such as railway stations.
In Greater London, where a local planning authority intends to grant consent, it shall first notify English Heritage of listed building consent applications for works to Grade I and II* listed buildings and for works affecting Grade II (unstarred) listed buildings which comprise/include the demolition of the principal building; or demolition of the principal external wall; or demolition of all/substantial part of interior	This proposal reduces the current requirements in Greater London by removing the additional notification requirement on other Grade II (unstarred) listed buildings such as railway stations. (This proposal brings Greater London into line with outside Greater London as far as is possible without amending primary legislation (see paragraph 4.40 – 4.42 below).
Consult English Heritage on applications for planning permission for development likely to affect certain strategically important views in London	No change to the existing requirements

Removing English Heritage’s power of direction in London

4.40 In addition to the above, we are also seeking views on the proposal set out below. Unlike the proposals above this would require changes to primary legislation and therefore, it would only be taken forward when a suitable opportunity arises.

4.41 Under powers in Section 14 of the Planning (Listed Buildings and Conservation Areas) Act 1990, English Heritage can, in Greater London only, give directions as to the granting of the application (e.g. to grant them subject to conditions), authorise the authority to determine applications for listed building consent as they see fit, or direct the authority to refuse them. Where English Heritage authorise authorities to determine applications as they see fit or direct them to grant consent subject to conditions, English Heritage must then notify the Secretary of State who has the opportunity to call in the application.

4.42 English Heritage rarely exercises its power to direct that London authorities refuse applications and the arrangement differs from the rest of the country. In line with our general aim of bringing the requirements in Greater London into line with the rest of England we propose to remove English Heritage’s power of Direction.

Question 4.3: Do you agree with the proposed changes to the requirements for consulting and notifying English Heritage set out in Table 3? If not, please specify what change is of concern and why?

Do you agree with the proposed change to remove English Heritage’s powers of Direction and authorisation in Greater London? If not, please explain why?

Secretary of State

4.43 We have taken the opportunity to also review the arrangements for notification and referral of applications to the Secretary of State. These arrangements relate to the handling of applications by English Heritage and local planning authorities. As with the changes in relation to English Heritage above, the changes we propose here are designed to streamline and simplify arrangements, particularly in relation to London, whilst maintaining appropriate checks and balances in the process.

Table 4: Proposed requirements for notifying and referring applications to the Secretary of State	
Proposed new consultation/ notification requirement	Effect of change
English Heritage’s own applications for listed building consent for properties of any grade in its ownership, guardianship, under its control or of which it is the prospective purchaser shall be determined by the local planning authority rather than the Secretary of State as is currently the case. Only those applications affecting Grade I and II* listed buildings and Grade II (unstarred) listed buildings involving demolition where the National Amenity Societies or English Heritage object would be referred to the Secretary of State for determination.	This reduces the current requirements where all English Heritage’s applications are determined by the Secretary of State.
In Greater London, English Heritage notify the Secretary of State where they intend to authorise local planning authorities to determine listed building consent applications for works to Grade I and II* listed buildings or for works affecting Grade II (unstarred) listed buildings and involving the demolition of the principal building; or demolition of the principal external wall; or demolition of all/substantial part of interior, as they see fit or direct them as to the granting of consent.	This reduces the current requirements by removing the additional requirement to notify on other Grade II (unstarred) listed buildings such as railway stations. (This proposal brings Greater London into line with outside Greater London as far as is possible without amending primary legislation (see paragraph 4.40 – 4.42 above).

Table 4: Proposed requirements for notifying and referring applications to the Secretary of State

Proposed new consultation/ notification requirement	Effect of change
<p>Outside Greater London, local planning authorities notify the Secretary of State of listed building consent applications, where they intend to grant consent but the National Amenity Societies or English Heritage maintain an objection, affecting Grade I and II* listed buildings and Grade II (unstarred) listed buildings involving demolition where English Heritage and National Amenity Societies are notified</p>	<p>This replicates current requirements.</p>
<p>Local authorities' own applications for planning permission for relevant demolition of local authority's buildings in a conservation area (formerly conservation area consent) where the authority intend to grant permission but English Heritage maintain an objection should be referred to the Secretary of State for determination</p>	<p>This reduces the current requirements where all local authority applications are determined by the Secretary of State.</p>
<p>Local authorities' own applications for listed building consent affecting Grade I and II* listed buildings and Grade II (unstarred) listed buildings involving demolition which it owns where the authority intend to grant consent but English Heritage or National Amenity Societies maintain an objection should be referred to the Secretary of State for determination</p>	<p>This reduces the current requirements where all local authority applications are determined by the Secretary of State.</p>
<p>Applications for planning permission where the local planning authority intends to grant permission for proposals to which English Heritage objects because it would have an adverse impact on a World Heritage Site should be referred to the Secretary of State</p>	<p>No change to existing requirement.</p>

Question 4.4: Do you agree with the proposed changes to the requirements for referring applications to the Secretary of State set out in Table 4? If not, please specify what change is of concern and why.

Other heritage related consultations/notifications

4.44 There are further requirements to notify the National Amenity Societies (Society for the Protection of Ancient Buildings, Ancient Monuments Society, the Council for

British Archaeology, the Georgian Group, the Victorian Society and the Twentieth Century Society) on certain listed building consent applications and to consult the Garden History Society on planning applications affecting registered parks and gardens. We do not propose any material changes to these arrangements. We believe these organisations bring a level of independent expertise to the consideration of applications which is helpful for local planning authorities. We are not aware of concerns being raised by applicants about their input. However, we intend to make two minor amendments to:

- clarify that the current requirement to notify the National Amenity Societies is on listed building consent applications involving the demolition of the whole or **substantial** part of any grade of listed building; and
- move the requirement to consult the Garden History Society into the Development Management Procedure Order rather than have it set out in a Secretary of State Direction as is the case currently.

Question 4.5: Do you agree with the proposed minor changes to current arrangements for consultation/notification of other heritage bodies? If not, please specify what change is of concern and why.

Further measure to streamline statutory consultation arrangements

The value of pre-application engagement

4.45 The National Planning Policy Framework stresses the role of pre-application engagement in improving the efficiency and effectiveness of the planning application process. Resolving technical issues with statutory consultees at the pre-application stage can help to avoid unnecessary delays and costs later in the process. This provides greater certainty for applicants and helps local planning authorities to make more timely decisions.

4.46 We are interested in exploring how an existing flexibility within the Development Management Procedure Order could be used to encourage more meaningful pre-application engagement, while reducing unnecessary consultation at the application stage. Specifically, we are considering whether pre-application discussions could be used to encourage greater use of the power for statutory consultees already have to indicate that they do not wish to be consulted on applications.

Exemptions from the requirement to consult

4.47 Article 16 of the Development Management Procedure Order requires local authorities to consult with the relevant statutory consultees for the type of development proposed before granting planning permission. The article contains a series of exemptions to the requirement to consult, including paragraph (1)(c) which allows a statutory consultee to advise the local planning authority that it does not wish to be consulted.

4.48 Where technical issues are resolved between a statutory consultee and an applicant at the pre-application stage, it is considered reasonable that for some applications (and subject to the scheme remaining the same), the statutory

consultee may not need to view and comment on the proposed development again at the application stage. However, we are not aware that the flexibility in article 16(1)(c) is regularly utilised at present. In practice, it relies on a statutory consultee:

- knowing about applications which are about to be submitted to a local planning authority; and
- having sufficient information about specific applications to be confident it has no comment to make.

4.49 We are considering how pre-application discussions could provide the 'trigger' for statutory consultees to invoke the existing discretionary power not to be further consulted on an application.

4.50 Where a statutory consultee was satisfied that it had no further comment to make on a scheme, it could choose to issue an applicant with a confirmation that it did not wish to be consulted. Such a confirmation could then accompany the subsequent planning application and act as the 'article 16(1)(c) notice' advising the local planning authority not to consult the statutory consultee in question. If the scheme had changed since the notice was issued, consultation would take place as normal. Similarly, if the particular circumstances of the case meant that a statutory consultee was not comfortable issuing an article 16(1)(c) notice following pre-application discussions, it would not have to.

Considerations for implementation

4.51 We do not believe a change to the Development Management Procedure Order is required in order for this flexibility to be used more frequently. However, we are interested in what practical changes need to be made to facilitate more frequent use of this existing discretionary power. As noted above, we consider that the benefits would be to: a) encourage higher quality pre-application engagement; and b) further reduce unnecessary consultations with statutory bodies. As a minimum, we think that it would be helpful for us to update planning guidance and the 1APP form.

4.52 Clearly it would be unacceptable for a statutory consultee not to be consulted on a planning application where the proposed development had changed since the statutory consultee indicated it was content not to be consulted. The confirmation sent to the applicant would therefore need to enclose a sufficiently detailed description of the development in question (including a plan or plans), as well as details of any mitigation measures necessary to address concerns that the statutory consultee in question might have raised. If the proposed development had altered since the issue of the notice, the local planning authority would need to consult the statutory consultee as normal. We consider that this point could be clarified in planning guidance. In addition, we could amend the 1APP form so that where an article 16(1)(c) notice accompanies a planning application, the applicant would be asked to confirm that the letter related to the same development as proposed in the application.

4.53 We also envisage that a statutory consultee's confirmation that it did not wish to be consulted would be time-limited. The confirmation would need to require submission of the planning application within a reasonable period (such as six months). If the application was submitted after the period had elapsed, the local planning authority would consult the statutory consultee as normal. We would welcome views on how

long this time period should be. The issue of timings could also be clarified in updated guidance.

Question 4.6: Do you agree with the principle of statutory consultees making more frequent use of the existing flexibility not to be consulted at the application stage, in cases where technical issues were resolved at the pre-application stage?

Do you have any comments on what specific measures would be necessary to facilitate more regular use of this flexibility?

Impacts and benefits of the proposals

Overview

- 4.54 A final stage impact assessment will be produced should the changes proposed between paragraphs 4.22 and 4.44 be taken forward.
- 4.55 The main savings to statutory consultees will arise from having fewer applications for planning permission and listed building consent to consider and respond to. By enabling consultees to focus scarce resources more strategically, the proposals would help to improve the efficiency of the planning application process. The proposed changes would also complement wider non-regulatory initiatives (see paragraph 4.11 to improve the quality and timeliness of statutory consultation.
- 4.56 Improvements in the speed and quality of engagement by statutory consultees will clearly be of benefit to business applicants too. As well as providing applicants with greater certainty through the application process, such improvements may enable agencies to put more resources into pre-application discussions with applicants. As the National Planning Policy Framework makes clear, early engagement by statutory consultees assists local planning authorities in issuing timely decisions and can prevent unnecessary delays and costs later in the process. However, we do not think these indirect benefits to business can be robustly quantified.
- 4.57 Paragraph 4.17 provides an indication of how many planning applications are handled by the main statutory consultees annually. The extent of the savings to the statutory consultees (and indirect benefits to business) will of course depend on the final scope of the changes taken forward. In preparing the final impact assessment, we will work with the statutory consultees to estimate approximately how many fewer applications they would be consulted on.
- 4.58 Statutory consultees have a key role in ensuring that local planning authorities have the necessary information and technical expertise to make sound decisions on planning and listed building applications. In considering the scope of the proposed changes in this document, we have sought to tackle cases of unnecessary consultation, where the involvement of statutory consultees adds little value to the process. The proposals seek to reduce instances of statutory consultees being involved where they routinely have no comment to make, but having been consulted, are under a duty to respond. By reducing unnecessary consultation, we do not consider that this will place additional burdens on local planning authorities.

Question 4.7: How significant do you think the reduction in applications which statutory consultees are unnecessarily consulted on will be? Please provide evidence to support your answer.

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

Overview

- 4.59 The current statutory consultation provisions require that operators of railways are consulted on development that “is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway”³⁵. Although applicants should notify railway infrastructure managers of planning applications for which they have an interest in the land, applicant notification and the current statutory consultation requirement fails to take account of development in the vicinity of a railway, including development above railway tunnels, which may affect the safe operation of the railway.
- 4.60 On 13 February the Rail Accident Investigation Branch published its final report³⁵ into an incident in March 2013, when a construction drill penetrated a Network Rail tunnel in Hackney. One of the recommendations of the report is that the Department for Communities and Local Government should “*introduce a process to ensure that Railway Infrastructure Managers [such as Network Rail and Transport for London] are made aware of all planning applications in the vicinity of railway infrastructure. This process should at least meet the intent of the statutory consultation process*”.

Notification proposal

- 4.61 In addition to the railway level crossing statutory consultation requirement, local planning authorities often consult railway infrastructure managers on a non-statutory basis where they are aware of the existence of railway infrastructure and consider it appropriate to consult the relevant body. We recognise that it may be beneficial to strengthen notification requirements for planning applications to ensure that railway infrastructure managers are made aware of applications that are close to the railway to take account of public safety.
- 4.62 We propose to extend requirements to ensure that railway infrastructure managers are notified of all planning applications where development is proposed near a railway. We consider that this requirement should be in the form of notification by the local planning authority, which would require an amendment to the Development Management Procedure Order.
- 4.63 This new provision would make railway infrastructure managers aware of proposed development near the railway. It is considered that this would adequately meet the Rail Accident Investigation Branch’s recommendation. The

³⁵ Schedule 5 (Para. (f)(ii)) of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (SI 2010/2184)

³⁵ http://www.raib.gov.uk/publications/investigation_reports/reports_2014/report032014.cfm

proposal would help to meet the safety concerns of railway infrastructure managers as they would be informed of development that may affect the safe operation of their network, without putting them under the duty to respond associated with statutory consultation.

4.64 We propose that local planning authorities should notify railway infrastructure managers of all planning applications where any part of a proposed development is within 10 metres of a railway. Given railway infrastructure managers' interest in the safe operation of their railway, we would expect them to ensure that local planning authorities were aware of the location of all railways, including railway tunnels.

Question 4.8: In the interest of public safety, do you agree with the proposal requiring local planning authorities to notify railway infrastructure managers of planning applications within the vicinity of their railway, rather than making them formal statutory consultees with a duty to respond?

Question 4.9: Do you agree with notification being required when any part of a proposed development is within 10 metres of a railway? Do you agree that 10 metres is a suitable distance? Do you have a suggestion about a methodology for measuring the distance from a railway (such as whether to measure from the edge of the railway track or the boundary of railway land, and how this would include underground railway tunnels)?

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

The Town and Country Planning Development Order 2010

4.65 The Town and Country Planning (Development Management Procedure) (England) Order 2010³⁶ and its subsequent amendments is an Order made by the Secretary of State under various powers contained in the Town and Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004.

4.66 The original order has now been amended several times. In the interests of clarity and certainty we propose to consolidate these amendments to produce a single order.

Question 4.10: Do you have any comments on the proposal to consolidate the Town and Country Planning (Development Management Procedure) Order 2010?

³⁶ <http://www.legislation.gov.uk/uksi/2010/2184/contents/made>

Measurement of the end-to-end planning process

- 4.67 The end-to-end planning process for delivering development is recognised as a number of distinctive stages, including pre-application consultation or discussion, submission of a planning application and its validation, public consultation, determination period and post-permission approvals such as conditions requiring further submission of details.
- 4.68 At present, we only have comprehensive information about the timescales from the submission of applications until their determination. The Government is keen to improve the information it has about the total time it takes for developments to be delivered including the pre-application and post-permission stages so that we can more accurately measure the time it takes to deliver development. Therefore the Government is keen to hear views on how other stages, outside of the determination period, could be measured without adding unnecessary burdens or distracting from the delivery of development.

Question 4.11: Do you have any suggestions on how each stage of the planning application process should be measured? What is your idea? What stage of the process does it relate to? Why should this stage be measured and what are the benefits of such information?

Section 5: Environmental Impact Assessment Thresholds

Scope

Topic of this section:	Environmental impact assessment is a European Union requirement which imposes costs on the planning system which are over and above those of the long-standing domestic environmental safeguards in planning law. We propose to make changes to the size thresholds for some project categories listed in Schedule 2 to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 to reduce the number of projects which are unnecessarily subject to screening for the need for an assessment.
Scope of this consultation:	The purpose of this section of the consultation is to seek views on our proposals to raise some of the size thresholds for screening projects for the need for an environmental impact assessment. New thresholds have been proposed for industrial estate development and urban development projects including housing. We would like to go further in reducing unnecessary bureaucracy and we would welcome suggestions for how further deregulation consistent with the European Directive's requirements can be achieved. This section therefore also seeks evidence which would enable further changes to screening thresholds to be made.
Geographical scope:	England
Impact Assessment:	The proposals are deregulatory. A fast-track validation impact assessment will be made should the proposed changes be taken forward.

Introduction

- 5.1 The Government is committed to taking forward a series of measures to simplify and streamline the arrangements for making and determining planning applications in England. An important aim is to secure a proportionate approach to the information that local planning authorities can require with planning applications.
- 5.2 Environmental impact assessment is a requirement of European law. It applies a procedure for the assessment of the environmental effects of projects which are likely to have a significant effect on the environment³⁷. It requires that

³⁷ Recital 6 of the Directive refers to 'major' effects, which helps give context to the meaning of the term 'significant' used within the Directive.

development consent (in the case of this consultation, planning permission) for projects which are likely to have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of those projects has been carried out. The assessment, by the consenting authority (in this case, the local planning authority), should be carried out on the basis of the appropriate information supplied by the developer in an environmental statement, which may be supplemented by the 'consultation bodies' with environmental responsibilities (for example, the Environment Agency) and by the public.

- 5.3 The environmental impact assessment procedures go beyond those normally required for a planning application. This increases the workload of local planning authorities, the consulting bodies and developers. This can add significantly to the cost of making a planning application and adds time to the decision making process. Therefore subjecting projects, which are not likely to give rise to significant environmental effects, to an environmental impact assessment unnecessarily adds to the time and cost of preparing an application and obtaining planning permission. While it is important that local planning authorities meet their legal obligations, we believe that concern about the risk of legal challenge has led some local planning authorities to require environmental impact assessment for projects which are not likely to give rise to significant effects. Additionally, some developers undertake assessments voluntarily to avoid the risk of a legal challenge or seek confirmation from the Secretary of State that an assessment is not required. It also appears to be the case that developers are carrying out increasingly large and overly complex environmental assessments.
- 5.4 The over-implementation of the European Directive's requirements is apparent from an analysis of the requests for screening directions to the Secretary of State³⁸. A significant majority of requests were determined not to require an environmental impact assessment. Between 2011 and 2014, for example, of the 160 urban development projects screened by the Secretary of State, only 20% were determined to require an assessment. Of these, 97 requests were for proposals relating to residential development (and exclude proposals for mixed use including residential development). Of these only 17 (18%) were determined to require assessment. 15 of these projects were within 'sensitive areas' while the other two were above five hectares. Our proposed changes would therefore not have affected these cases.
- 5.5 The Government is therefore concerned that too many development proposals which are not likely to give rise to significant environmental effects are being subject to the more onerous requirements of the European Directive. It is considered likely that this is leading to unnecessary delays in the delivery of new homes and jobs in local communities. The Government announced measures to improve the application of environmental impact assessment in England in the 2012 Autumn Statement. It included a commitment to update and simplify the guidance on the requirements of the legislation, so as to help developers and local

³⁸ A developer can request a screening direction if the local planning authority fails to adopt an opinion within three weeks (or within an extension agreed in writing) or more commonly where the local planning authority's opinion is that environmental impact assessment is required. Third parties can also request that the Secretary of State issues a screening direction.

planning authorities to understand better when an assessment is required, to ensure that the procedural steps are followed correctly and that when an assessment is required, a proportionate approach is taken on the scope and level of detail of the information to be brought together. The updated guidance has now been published and is incorporated into the new web-based planning guidance³⁹.

- 5.6 The Autumn Statement also announced that we would consult on proposals to change the thresholds for certain types of development, below which significant effects on the environment within the meaning of the Directive are not considered likely. Projects that fall below the threshold do not need to be automatically screened by the local planning authority to determine whether an environmental impact assessment is needed. We propose to focus our changes on "urban development projects" and "industrial estate development"⁴⁰. There is overlap between these project categories, and collectively they represent the most common project type subject to environmental impact assessment in England. This is where changes are likely to have most impact in reducing costs through not requiring unnecessary compliance with the assessment requirements set out in the Directive. Our ambition, while ensuring that environmental impact assessment continues to be required where a project is likely to have significant environmental effects, is for further deregulation. We are also hoping to use this consultation to develop our evidence base to enable us to consider further opportunities for deregulation.
- 5.7 This paper sets out our proposals for raising thresholds. Your comments on our proposals and suggestions about how to achieve our aim of further deregulation would be welcome. Details of how to contribute are at the end of the document.

Legal and policy background

Introduction

- 5.8 The European Directive on *'the assessment of the effects of certain public and private projects on the environment'* (usually referred to as the Environmental Impact Assessment Directive) is implemented through the planning system in England by the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (the "2011 Regulations"). The Directive also applies, through separate regulations, to other consenting regimes in England and in the devolved administrations. These are outside the scope of this consultation.
- 5.9 The 2011 Regulations require that an environmental impact assessment is carried out for projects which are likely to have a significant effect on the environment by virtue, inter alia, of their nature, size or location, before planning permission is given. An assessment is obligatory for projects which are listed in Schedule 1 of the 2011 Regulations⁴¹ as they are considered likely to give rise to significant effects on the environment in every case⁴². These include projects such as the

³⁹ <http://planningguidance.planningportal.gov.uk/blog/guidance/environmental-impact-assessment/>

⁴⁰ These project types are listed in paragraphs 10(b) and 10(a) in Schedule 2 of the 2011 Regulations.

⁴¹ <http://www.legislation.gov.uk/uksi/2011/1824/schedule/1/made>

⁴² Schedule 1 repeats the project categories listed in Annex I of the Directive.

construction of nuclear power stations, long-distance railway lines, larger airports and installations for the disposal of hazardous waste⁴³.

5.10 Schedule 2 lists more than 80 project types which only require an environmental impact assessment if they are likely to give rise to significant environmental effects⁴⁴. It covers a diverse range of sectors including agriculture, energy, manufacturing and infrastructure development. The infrastructure category includes projects such as the construction of smaller airfields, roads and rail which fall below thresholds in Schedule 1. The infrastructure category also includes urban development projects (such as housing, hospitals and schools) and industrial estate development.

Identifying whether Schedule 2 projects should be subject to environmental impact assessment

5.11 The Directive gives us some discretion in determining whether a project listed in Schedule 2 should be subject to an environmental impact assessment. We can set thresholds or criteria for the purpose of determining which projects should be subject to assessment on the basis of the significance of their environmental effects. In England, projects below those thresholds or outside those criteria do not need to be subject to case-by-case examination.

5.12 When setting such thresholds or criteria, or examining projects on a case-by-case basis, we must take account of relevant selection criteria which are set out in Annex III of the Directive⁴⁵;

5.13 The European Court has clarified the discretion available in setting thresholds or criteria. The Court has set out a number of overriding principles in its case-law, including;

- the limits of the discretion are to be found in the obligation in Article 2(1) of the Directive that projects likely, by virtue inter alia of their nature, size or location, to have significant effects on the environment are to be subject to an impact assessment;
- thresholds/criteria cannot be set at a level such that, in practice, all projects of a certain type would be exempted in advance from the requirement of an impact assessment, unless all the projects excluded could, when viewed as a whole, be regarded as not likely to have significant effects on the environment;
- when setting thresholds/criteria the relevant criteria listed in Annex III of the Directive must be taken into account;

⁴³ Most Schedule 1 projects are likely to be consented through the national significant infrastructure regime.

⁴⁴ <http://www.legislation.gov.uk/ukxi/2011/1824/schedule/2/made>

⁴⁵ These are repeated in Schedule 3 of the 2011 Regulations.

- a small-scale project can have significant effects on the environment if it is in a location where the environmental factors protected by the Directive are sensitive to the slightest alteration.

5.14 The 2011 Regulations use a combination of case-by-case examination, thresholds and criteria for determining whether a proposal should be subject to environmental impact assessment. All projects which are located in, or partly in, defined 'sensitive areas' must be screened by the local planning authority (or the Secretary of State) for likely significant environmental effects to determine whether an environmental assessment is required. For projects outside of these areas, the Government established regulatory screening thresholds and criteria for each project category which are listed in the second column of Schedule 2. Projects which fall below these thresholds and are not within a sensitive area are not considered likely to have significant effects for the purpose of the Directive, and do not need to be considered any further for environmental impact assessment.

5.15 The Government has also published as planning guidance advisory 'indicative' thresholds and criteria⁴⁶ to help local planning authorities, when screening projects, to determine whether they are likely to give rise to significant environmental effects. The guidance makes it clear that when considering the indicative thresholds it is important to also consider the location of the proposed development. In general, the more environmentally sensitive the location, the lower the threshold will be at which significant effects are likely.

Proposals for change

Introduction

5.16 The Government remains committed to protecting the environment. We are not proposing any changes for projects which are located in, or partly in, sensitive areas. All such projects, irrespective of their size, will continue to be subject to case-by-case screening.

5.17 The changes proposed below will reduce the number of projects that are not likely to give rise to significant environmental effects that are screened unnecessarily. This will bring savings to both developers and local planning authorities, and will free up local authority time so that they can focus on those projects which are genuinely likely to have significant environmental effects. In coming forward with higher screening thresholds we have been careful to ensure that they generally remain much lower than the long-standing indicative thresholds and take account of possible cumulative effects of a number of similar sized projects coming forward at the same time. As now, projects that are determined likely to have significant environmental effects should be subject to an environmental impact assessment.

5.18 Projects which are outside of sensitive areas and which fall below the new thresholds because they are not considered likely to give rise to significant

⁴⁶ <http://planningguidance.planningportal.gov.uk/blog/guidance/environmental-impact-assessment/considering-and-determining-planning-applications-that-have-been-subject-to-an-environmental-impact-assessment/annex/>

environmental effects within the meaning of the European Directive, will not need to be screened. They will however continue, as appropriate, to be subject to the strong environmental protection provisions of the National Planning Policy Framework and other relevant environmental legislation.

5.19 The focus of this consultation is on industrial estate and urban development projects, which are listed at paragraphs 10(a) and 10(b) of Schedule 2 respectively. These are the project types where we think that the existing screening thresholds are unnecessarily low. Collectively, they constitute the majority of infrastructure projects which are subject to environmental impact assessment. Therefore the effects of unnecessary screenings of projects which are not likely to have significant effects are likely to impact most on these project types. We have looked at other infrastructure project types listed under paragraph 10 of Schedule 2, such as quarries and wind energy developments, but given the potential for significant environmental effects of such developments even from relatively small sites, it is considered appropriate to retain the existing thresholds.

Raise the screening threshold for industrial estate development

5.20 Industrial estate development covers a wide range of project types including manufacturing, trading, and distribution/transport. Many manufacturing industries are listed separately in Schedules 1 and 2 depending on the nature of their activities and they would be caught by separate provisions.

5.21 The indicative threshold for industrial estate development is 20 hectares. The guidance advises that in determining whether significant effects are likely, particular consideration should be given to the potential increase in traffic, emissions and noise.

5.22 The current screening threshold is 0.5 hectare. As it is unlikely that industrial estates will be smaller than 0.5 hectare, all such development will currently be screened. We propose raising the screening threshold to five hectares. Having considered the Schedule 3 criteria, we do not consider that industrial estate development of this scale, which is outside sensitive areas, is likely to give rise to significant environmental effects within the meaning of the Directive. This would mean that the smallest projects would not need to be screened.

Raise the screening threshold for urban development projects

5.23 The urban development category is probably the most diverse of all those listed in Schedule 2. The 2011 Regulations give the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas as examples. However, the European Court has made it clear that all forms of urban development (including those outside of urban areas which can have an urbanising effect) which can give rise to significant environmental effects fall within its scope. This includes residential dwellings.

5.24 The current screening threshold for all urban development projects set out in the 2011 Regulations is 0.5 hectare. The indicative thresholds for urban development projects differ for different types of development. The guidance states that environmental impact assessment is "unlikely to be required for the

redevelopment of land unless the new development is on a significantly greater scale than the previous use, or the types of impact are of a markedly different nature, or there is a high level of contamination. The indicative thresholds for sites which have not previously been intensively developed are:

- the site area of the scheme is more than five hectares; or
- it would provide a total of more than 10,000 square metres of new commercial floorspace; or
- the development would have significant urbanising effects in a previously non urbanised area (e.g. a new development of more than 1,000 dwellings)".

5.25 We propose to raise the screening threshold for the development of dwelling houses of up to five hectares, including where there is up to one hectare of non-residential urban development.

5.26 Based on an average housing density of 30 dwellings per hectare, the new higher threshold will equate to housing schemes of around 150 units. Having considered the Schedule 3 criteria, we do not consider that housing schemes of this scale, which are outside of sensitive areas, are likely to give rise to significant environmental effects within the meaning of the Directive. It is anticipated that raising the threshold for housing will reduce the number of screenings of proposals for residential development in England from around 1600 a year to about 300.

5.27 Our objective is to move closer to the existing indicative threshold for 'likely significant effects' for housing of 1000 dwelling units (around 30 hectares at average density). However, we would want to be reassured from the available evidence that to do so would be consistent with the requirements of the Directive. We welcome contributions to this consultation which will help make the case for further reform. Conversely, we welcome evidence which shows that moving substantially closer to the indicative threshold than proposed would risk housing projects which give rise to likely significant environmental effects not being subject to assessment.

Question 5.1: Do you agree that the existing thresholds for urban development and industrial estate development which are outside of sensitive areas are unnecessarily low?

Question 5.2: Do you have any comments on where we propose to set the new thresholds?

Question 5.3: If you consider there is scope to raise the screening threshold for residential dwellings above our current proposal, or to raise thresholds for other Schedule 2 categories, what would you suggest and why?

Section 6: Improving the nationally significant infrastructure planning regime

Scope

Topic of this section:	Improving the nationally significant infrastructure planning regime by amending procedures to change Development Consent Orders and to streamline the consenting process.
Scope of this section:	We are seeking views on two proposals: amending regulations for making changes to Development Consent Orders; and, further increasing the number of consents and licences that can be included within a Development Consent Order.
Geographical scope:	The proposal to amend regulations to make changes to Development Consent Orders applies to infrastructure projects in England and Wales. The proposal to further streamline consents and licenses applies to England only.
Impact Assessment:	The measure concerning changes to Development Consent orders is a “low cost” measure. The streamlining of consents is a de-regulatory measure. A validation impact assessment will be produced after consultation and before any changes are introduced.
Previous Engagement:	<p>During 2013, the Government launched a review of the nationally significant infrastructure planning regime:</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262984/Reviewing_the_National_Significant_Infrastructure_Planning_Regime_-_Discussion_document.pdf</p> <p>In April 2014, the Government’s response to consultation on the discussion document was published:</p> <p>https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/306404/Government_response_to_the_consultation_on_the_review_of_the_Nationally_Significant_Infrastructure_Planning_Regime.pdf</p> <p>The response indicated Government’s intention to undertake a further consultation on revised processes for making changes to Development Consent Orders and to further streamline consents.</p>

Introduction

- 6.1 Ensuring that the planning regime for infrastructure operates effectively and efficiently is crucial to the delivery of economic growth. The Planning Act 2008 (“the 2008 Act”) created a new regime for consenting certain types of nationally significant infrastructure, for example major energy projects, railways, ports, major roads, airports, water and waste projects. The aim of the regime is to simplify and speed up planning consent for such projects by reducing the number of separate applications and permits and enabling faster decisions while ensuring consultation with communities and other interested parties.
- 6.2 Obtaining consent under the 2008 Act involves a front loaded process where the developer consults on a proposed project before submitting an application. If the application is accepted, it is then examined by a single inspector or a panel of inspectors from the Planning Inspectorate known as the Examining Authority. Following completion of the examination, the Examining Authority will provide a report and recommendation to the Secretary of State. Where the Secretary of State proposes to grant consent for a project, this is through a Development Consent Order which is normally made as a statutory instrument.
- 6.3 The Development Consent Order provides planning consent for the project and may also incorporate other consents including authorisation for the compulsory acquisition of land. The Order details will detail the nature of the development consented and its location (including a detailed works plan) and any requirements (conditions) that must be met in implementing the consent.
- 6.4 In its response to the recent review of the nationally significant infrastructure regime, Government agreed with respondents who had requested a more flexible approach to making changes and to further streamline the consenting process. Government set out its intention to consult on proposals to introduce more proportionate procedures for handling applications for non-material and material changes to Development Consent Orders. It also committed to consulting on proposals to further streamline the process by allowing additional non-planning consents to be included within a Development Consent Order.

Making Changes to Development Consent Orders

- 6.5 The level of precision in a Development Consent Order means that if a change needs to be made to a project, for example during its construction, it may not be capable of being made within the remit of the existing consent. That will mean an application will have to be made to the Secretary of State for an Order to amend the existing Development Consent Order.
- 6.6 The process for changing a Development Consent Order once consent has been granted is currently set out in 2008 Act and in the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations

2011⁴⁷ (“the 2011 Regulations”). The detailed procedures for making an application for a change, and how that is then handled, are set out in these regulations.

Non-material and material changes to Development Consent Orders

- 6.7 The 2008 Act allows consent to be granted by the Secretary of State for both non-material and material changes to an existing Development Consent Order. Different procedures apply to applications for each type of change and are set out in the 2011 Regulations. The procedures for making a non-material change have substantially fewer requirements than those for a material change.
- 6.8 The 2008 Act and the 2011 Regulations do not provide any definition of a material or non-material change. There is also no guidance in place at present on what might constitute a non-material as opposed to a material change for a nationally significant infrastructure project.
- 6.9 There was substantial support expressed in the consultation responses to the 2014 Review for providing advice on what would constitute a material or non-material change. Given the range of infrastructure projects that are consented through the 2008 Act, and the variety of changes that could theoretically be proposed for a single project, it is not possible to set out precise guidance on whether a change would be material or non-material in a particular case. Such decisions will inevitably depend on the circumstances of the specific case.
- 6.10 However, there may be certain characteristics of a change that means there will be a greater likelihood of it being non-material, for example, if it does not involve:
- an update to the Environmental Statement (from that at the time the original Development Consent order was made) to take account of likely significant effects on the environment;
 - a need for a Habitats Regulations Assessment, or the need for a new or additional licence in respect of European Protected Species;
 - compulsory acquisition of any land that was not authorised through the existing Development Consent Order.

Question 6.1: Do you agree that the three characteristics set out in paragraph 6.10 are suitable for assessing whether a change to a Development Consent Order is more likely to be non-material? Are there any others that should be considered?

- 6.11 Subject to responses received to the above question, the Government proposes to include guidance on the assessment of whether changes might be material or non-material in any guidance note that accompanies any new procedures for making changes to Development Consent Orders.

⁴⁷ See: <http://www.legislation.gov.uk/ukxi/2011/2055/contents/made>

Making a non-material change

The current process

6.12 For non-material changes to a Development Consent Order, the current procedures for making changes are set out in Part 1 of the 2011 Regulations. The main stages in the process are:

- an application is made to the Secretary of State with a fee payable with the application;
- the Secretary of State then publicises the application through a notice in a local newspaper in the area where the infrastructure project is situated, as well as in any other publication that the Secretary of State considers necessary. Anyone is then able to make representations on the application during a period set out in the notice (a minimum of 28 days);
- the Secretary of State must also consult persons listed in the 2011 Regulations by sending them a copy of the notice that is published;
- after the end of the period for making representations, and having considered any representations received, the Secretary of State can make a decision on the application.

What are we proposing to change and why?

Responsibility for publicising the application and consultation

6.13 At present the 2008 Act and the 2011 Regulations require the Secretary of State to publicise and consult on an application for a non-material change. The Government believes that there is potential to improve the process for making non-material changes by placing responsibility for publicity and consultation solely on the applicant. This would bring the non-material changes application process in line with the rest of 2008 Act.

6.14 At present, the process of publicising and consulting on the application can only start once the Secretary of State has received an application. Given the lead-in time necessary for publishing the notice of the application in a local newspaper, consideration of the application is likely to be delayed. It is this notice that invites representations on the application and these representations will need to be considered before a decision on the application can be made by the Secretary of State.

6.15 We therefore propose to amend the 2011 Regulations so the applicant is required to publicise and consult on their application rather than the Secretary of State. This would allow preparations for the publication and consultation to be undertaken by the applicant while preparing their application. The notice could then be published and sent out to fulfil the consultation duty at the same time as the application is submitted to the Secretary of State.

6.16 If the proposal set out in paragraph 6.15 is taken forward, some further minor amendments to the regulations on publicising the application and the duty to consult would be needed. These would include:

- an amendment to the regulations on publicising the application to make clear that, in addition to publicising the notice for at least two successive weeks in one or more local newspapers, the applicant will also need to publish the notice of the application in other publications to ensure that notice of the application is given in the vicinity of the local area;
- an amendment to the regulation covering the duty to consult so that the applicant will have to consult other persons or bodies who could be directly affected by the proposed change, in addition to those currently specified in the regulations;
- new requirements on the applicant to supply a copy of the notice used in respect of publicity and consultation requirements to the Secretary of State and to send a statement to the Secretary of State setting out details of how they have met the necessary requirements in the regulations on publicity and consultation.

6.17 The Government will provide guidance on the process that applicants would need to follow in undertaking the publicity and consultation requirements for a non-material change.

6.18 The applicant currently has to pay a fee for an application comprising a fixed fee of £6,891 plus the costs incurred by the Secretary of State in publicising the application. Moving responsibility for publicising the application should therefore have no cost implications for applicants.

6.19 The applicant would incur a small additional cost in sending the notice of the application to those persons and bodies necessary to meet the consultation requirement. But there will be a potential benefit to applicants as earlier publication of the notice and consultation could result in earlier receipt of any representations. This, in turn may enable the Secretary of State to make a decision on the application more quickly than at present.

Other Changes

6.20 The Government is also proposing to make some other minor changes to the 2011 Regulations covering non-material changes to Development Consent Orders. These are:

- an amendment to the regulation that specifies the scale of maps to be provided by the applicant with their application. The Government has indicated that it will amend the requirements for maps for applications for Development Consent Orders for offshore projects⁴⁸. This amendment would ensure that applications for change are treated in the same way.
- an amendment to the regulation on fees to remove the requirement for an applicant to pay the Secretary of State's costs for publicising the application (the applicant would be responsible for publicity under the Government's new proposals).

⁴⁸ See paragraphs 27 and 36 of the Government's response to consultation on the 2014 review

Question 6.2: Do you agree with:

- (i) **making publicising and consulting on a non-material change the responsibility of the applicant, rather than the Secretary of State?**
- (ii) **the additional amendments (see above) to regulations proposed for handling non-material changes?**

Making a material change

The current process

6.21 At present, the process for making a material change requires an applicant to go through broadly the same process as if they were making a full application for a Development Consent Order. The current procedures for making a change are set out in Part 2 of the 2011 Regulations. The main steps are:

- a pre-application consultation process;
- a duty on the applicant to publicise the proposed application;
- before making an application, the applicant must have regard to relevant responses;
- an application is made to the Secretary of State;
- the developer is required to publicise and give notice of the application to specified persons and invite representations to be made on the application;
- an Examining Authority will then be appointed to hold an examination into the application for change, and provide a report and recommendation to the Secretary of State;
- the Secretary of State will then make a decision on the application for a material change.

What we are proposing to change and why?

6.22 The Government does not consider that it should be necessary for an application for a material change to go through the same process as if it were a full application for a Development Consent Order. The process for handling a change should be simpler and quicker than that for handling a full application and proportionate to the nature of the change being proposed. It is therefore proposing to make a series of amendments to the procedures for making material changes to consents.

Consultation and pre-application procedures

6.23 The Government recognises that it is important that people who may be affected by a change to a project, or bodies who have wider interests, should continue to have an opportunity to be consulted on any changes proposed. They should also continue to have the right to make formal representations on a proposed change and have those representations taken into account before any decision is made.

6.24 Currently, applicants seeking a material change are required to consult a wide range of bodies listed in the 2011 Regulations. This includes every person who was consulted on the original application for a Development Consent Order for which a material change is now being sought.

- 6.25 Many applications for material changes will be small-scale and will have a direct impact on a very limited number of people. For example, in the case of a linear project such as a road, an application for a material change may be required that only involves a small part of the overall route of the road. In such a situation, only a very limited number of people might be directly affected by the change.
- 6.26 The Government is therefore proposing to amend the 2011 Regulations covering the duty to consult on a proposed application. Instead of the current requirement to consult each person consulted about the original application for a Development Consent Order for which a change is being sought, the applicant would be required to consult those persons who could be directly affected by the change proposed if consent for the change was given.
- 6.27 Other consultation requirements, for example the need to consult local authorities and the bodies listed in Schedule 1 of the 2011 Regulations would remain unchanged.
- 6.28 The 2011 Regulations currently require that an applicant prepare a statement setting out how the applicant proposes to consult people living in the vicinity of the land about the proposed application (usually known as a “statement of community consultation”). Once this has been prepared and published locally, the applicant is required to carry out consultation in accordance with the statement. This requirement for a statement of community consultation replicates the requirements for when an application is proposed to be made for a Development Consent Order for a new nationally significant infrastructure project.
- 6.29 Whilst supporting the use of such statements where a new project is proposed, the Government does not consider that they are necessary in cases where changes are being proposed to projects that already have development consent. Where material changes are proposed to a project, the Government’s proposal for developers to consult persons who could be directly affected by the change should provide a sufficient basis for consultation with local communities.
- 6.30 The Government therefore proposes to remove the requirement to prepare a statement of community consultation where an application is being proposed for a material change.
- 6.31 The 2011 Regulations currently require the applicant to publish a notice that publicises their proposed application in local and national newspapers and other publications. Again, this requirement is the same as if a completely new application for a new infrastructure project was being brought forward.
- 6.32 The Government does not consider that the current regulatory requirement for publicising a proposed application for a material change to a Development Consent order is necessary. Amending consultation requirements, so that an applicant consults those persons who could be directly affected by the change, is considered sufficient to ensure that people are given the opportunity to make their views known about a change before an application is submitted. The Government

therefore proposes to remove the current requirement for formally publicising proposed applications in advance of them being made.

Question 6.3: Do you agree with the proposals:

- (i) to change the consultation requirements for a proposed application for a material change to a Development Consent Order?**
- (ii) to remove the requirement on an applicant to prepare a statement of community consultation for an application for a material change?**
- (iii) to remove the current requirement to publish a notice publicising a proposed application where an application for a material change is to be made?**

Submission of application and representations

- 6.33 The Government is not proposing to make any changes to the current procedure for giving notice of an application and publicising it when an application for a material change to a Development Consent Order is made. Minor amendments will however need to be made to the requirements for publicising an application. The current requirement for publicising an application is that it should be made in the same manner as when a proposed application is publicised. If the Government's proposal for removal of the requirement to publicise a proposed application is taken forward (see paragraphs 33-34 above), then the regulation on publicising an application will need to be amended so that it sets out details of which publications the notice of application should be published in.
- 6.34 No changes are being proposed to the process by which representations can be made on an application for a material change to a Development Consent Order.

Need to hold an Examination

- 6.35 The 2011 Regulations currently provide all applications for a material change will be subject to an examination. There is no flexibility to not require an examination, if, for example, there are only a very limited number of representations made in respect of an application for a material change.
- 6.36 There will be circumstances where an examination will always be required, for example, the Government considers that in cases involving the compulsory acquisition of land the right to an oral hearing in an examination must be retained.
- 6.37 However, the Government considers that there may also be situations where an examination into a change to a Development Consent Order may not be needed, even if the change is material. There may, for example, be only a very limited number of representations received about a change. Or there may be situations where the representations received may be considered not to be directly relevant to the change being proposed because they only relate to the principle of the consented project.

6.38 The Government is therefore proposing that the 2011 Regulations should be amended to provide for a new regulation that allows the Secretary of State not to hold an examination into an application for change if he considers that one is not necessary (e.g. because a decision could be reached on the sole basis of relevant representations received). Where the Secretary of State does decide that an examination is not required, it is proposed that the 2011 Regulations should allow an opportunity for anyone who has made a relevant representation to submit further representations before the Secretary of State reaches a decision on the application.

Question 6.4: Do you agree with the proposal that there should be a new regulation allowing the Secretary of State to dispense with the need to hold an examination into an application for a material change?

Statutory Timetable

- 6.39 The 2011 Regulations currently set out statutory time periods for the examination of an application for a material change (six months), the period for the Examining Authority to produce a report and recommendation following the examination (three months) and the time period for the Secretary of State to reach a decision (three months). These are exactly the same statutory periods as those under the 2008 Act for a full application for development consent for a new infrastructure project.
- 6.40 Although there have been no applications for material changes to a Development Consent Order made to date, the Government does not consider that an application for a material change should take as long to examine, report and reach a decision on as a full application for development consent. With that in mind, it is proposing to amend the 2011 Regulations so that the examination of a project has a maximum period of four months. There will then be a maximum period of two months for the Examining Authority to prepare their report and recommendation and a further two months for the Secretary of State to reach a decision.
- 6.41 The Government expects that many applications will take less time to reach a decision than the total of eight months proposed above. It will therefore review these timescales once sufficient applications for material changes have been made and decided, with a view to amending the new statutory periods if appropriate.

Question 6.5: Do you agree with the proposal to reduce the statutory time periods set out in the 2011 Regulations to four months for the examination of an application for a material change, two months for the examining authority to produce a report and their recommendation and two months for the Secretary of State to reach a decision?

Safeguards

- 6.42 At present, an application for a material change to a Development Consent Order has to follow virtually all the same procedures as an application for a Development Consent Order for a new project. In providing more proportionate and quicker

procedures for handling applications for material changes to Development Consent Orders, the Government wants to ensure that the new procedure is not used for projects that should more properly be subject to the full application process under the 2008 Act.

6.43 With this in mind, the Government has included an amendment to the 2008 Act in the Infrastructure Bill⁴⁹ which would provide a power to refuse to determine an application for material change if, in particular, the Secretary of State considers that the development that would be authorised as a result of the change should properly be subject to a full application for development consent. Should the proposal in the Bill be enacted, the Government will set out in future guidance the circumstances in which this power may be used.

Guidance on procedures

6.44 There is currently no guidance on the operation of the process for making non-material and material changes to Development Consent Orders. Subject to the outcome of this consultation and the enactment of the proposals set out in the Infrastructure Bill, the Government proposes to introduce procedural guidance when any amendments to the 2011 Regulations come into effect. This will mainly be aimed at applicants for change and is likely to cover:

- the assessment of whether changes are material or not;
- practical details on submitting applications for non-material and material changes;
- the pre-application stage for material changes and consultation requirements, including the role of statutory consultees;
- examples of the circumstances when the Secretary of State may decide not to hold an examination into a material change;
- the circumstances where the Secretary of State may decide to use the power to decline to determine an application for a material change.

It is not proposed to undertake any formal consultation on draft guidance, but the Government would welcome further views on the issues that the guidance should cover.

Question 6.6: Are there any other issues that should be covered if guidance is produced on the procedures for making non-material and material changes to Development Consent Orders?

Impact Assessment

6.45 The majority of the proposals set out in this consultation chapter are likely to deliver either time or costs savings to applicants. For material changes to Development Consent Orders, all the changes the Government is proposing will lead to shorter time periods for processing applications. In some cases, there will also be direct cost savings to applicants - for example, by not being required to

⁴⁹ See: <http://services.parliament.uk/bills/2014-15/infrastructure.html>

undertake all the current publicity requirements when an application for a material change is being proposed. For non-material changes, there will be small additional costs placed on applicants by changing responsibility for the duty to consult from the Secretary of State to the applicant. But there may be benefits to applicants to counteract this as decisions may be quicker.

6.46 A Validation Impact Assessment, setting out in more detail the costs and benefits, will be produced before any implementation of the proposals set out in this consultation.

Streamlining the consenting process

6.47 Government wishes to offer developers more choice over how they seek approval to build nationally significant infrastructure projects, by streamlining the way in which they can apply for consents.

6.48 Government proposes to streamline arrangements so that ten more non-planning consents can be included within just one nationally significant infrastructure planning application process instead of requiring separate applications to be submitted to different consenting bodies. This would be more efficient for all and provide developers (and other interested parties including statutory consultees) with greater certainty over the timetable once an application for a Development Consent Order has been accepted.

6.49 Specifically, this consultation outlines Government's proposal to remove a further ten non-planning consents from regulations⁵⁰ which prevent consents being dealt with as part of a Development Consent Order unless a consenting body agrees to their inclusion (see Annex A). Through this consultation we are seeking views on this proposal.

6.50 Development Consent Orders lie at the heart of the nationally significant infrastructure planning regime, enabling an applicant to group together a range of planning and non-planning consents into one application, examination and decision-making process.

6.51 The Development Consent Order process was created by the Planning Act 2008 as subsequently amended. This Government most recently streamlined the consenting regime through the Growth and Infrastructure Act 2013, which removed the need for separate applications to be made to the relevant Secretary of State for five more non-planning consents relating to compulsory purchase and statutory undertakers' land.

6.52 During the 2014 Review⁵¹ of the nationally significant infrastructure planning regime, the Government consulted on the general principle of further streamlining

⁵⁰ Under section 150 of the Planning Act 2008 and the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010.

⁵¹ Government response to the review of the Nationally Significant Infrastructure Planning regime is available at <https://www.gov.uk/government/consultations/reviewing-the-nationally-significant-infrastructure-planning-regime-a-discussion-document>

consents. The response was positive, with some developers reporting that they would like to be able to include more consents within a Development Consent Order.

- 6.53 The Government proposes to continue with the broad direction of travel by increasing the number of non-planning consents that can be included in a Development Consent Order without the consent of the relevant consenting body. Ten non-planning (Section 150) consents (listed below) concerning water abstraction and impoundment, flood defence, land drainage and European Protected Species are being considered. Other non-planning consents are not considered suitable for inclusion at this time.
- 6.54 Through this consultation, Government seeks views on the proposals and any suggestions for ways in which such a change can best be effected.

Current situation

- 6.55 Currently, developers of nationally significant infrastructure projects have two main options for obtaining one or more of these ten consents:
- (a) apply direct to the relevant consenting body (i.e. Natural England, the Environment Agency, Marine Management Organisation, local authority or Internal Drainage Board). This can happen in advance of, alongside or after consideration of a Development Consent Order application;
 - (b) request that the consenting body agrees that the consent be dealt within the draft Development Consent Order.

The proposal we are consulting on

- 6.56 In widening the Development Consent Order process to include a further ten consents, this Government is guided by two important principles: choice and rigour.
- 6.57 **Choice:** There would be no compulsion for developers who need these consents to include them within their Development Consent Order. It would be a choice, with applicants able to seek advice from the Planning Inspectorate and relevant consenting bodies on what approach may work best for their project.
- 6.58 **Rigour:** Development Consent Orders and consents are the outcomes of rigorous processes. As far as is practicable, we would wish to replicate features of the current consenting regime (for these ten consents) within the Development Consent Order process, so as to minimise any confusion that might arise from there being two systems applicable to the same consents. The process would be as stringent, whichever route is chosen.
- 6.59 This reform would make it a matter of choice for the developer (rather than for the consenting body) as to whether to include any of these ten consents in a Development Consent Order. To illustrate, if a developer wishes to address the need for a European Protected Species licence as part of their Development Consent Order they would not need the permission of Natural England to do so.

- 6.60 Under our proposals, developers would be able to progress their application using one of the two routes, but not use both regimes simultaneously for the same consent.
- 6.61 For six of the ten consents shown below (concerning water discharge, trade effluent and flood defence) we are consulting on a proposal to enable developers to address all the relevant stages of a project within their Development Consent Order, as required, without the prior consent of the Environment Agency, local authorities or internal drainage boards. In the case of European Protected Species, at the point of the Development Consent Order application, the requirement to obtain a licence would apply (if at all) to the construction phase. The Development Consent Order could not usefully address the need for a licence post construction.
- 6.62 For the other three consents shown below (concerning water abstraction and impoundment) we are consulting on a proposal enabling developers to address the construction stage of the project within their Development Consent Order, unless the Environment Agency agrees to a request to also include the operational stage. The Environment Agency requires scope to deal flexibly with unpredictable events, including drought, and therefore the operational stage of projects is dealt with outside the Development Consent Order. The Consents Service Unit within the Planning Inspectorate provides free advice on how to co-ordinate licence applications for the operational as well as the construction stages of a project.

What would the changes mean?

- 6.63 The principal difference this change would bring about is that developers would have a choice of whether or not they wish to wrap-up these ten consents within a Development Consent Order. A very similar degree of preparation would be necessary to ensure that the application meets the required standards, which would be unchanged. A major advantage to developers, however, would be greater certainty, as once the Development Consent Order is granted they could proceed without the need to apply for further consents.
- 6.64 Another difference would be in who issues the consent. Currently these consents are granted by the relevant agency, i.e. the Environment Agency, Natural England, relevant local authority, Internal Drainage Board or Marine Management Organisation. For a Development Consent Order, the consent is issued by the Secretary of State in response to a recommendation from an Examining Authority.
- 6.65 Under our proposals, the Examining Authority would be expected to seek expert advice and the organisations who would otherwise have been the consenting bodies (Natural England and the Environment Agency, and/or the relevant local authority and Internal Drainage Board, or Marine Management Organisation) would remain statutory consultees. In reaching their overall recommendation on the Development Consent Order, the Examining Authority would have taken all relevant information, assessment and advice into account in determining whether the draft Development Consent Order includes all relevant conditions and

provisions and, in the case of European Protected Species, that the relevant tests have been met.

- 6.66 For flood defence and land drainage consents⁵², the Examining Authority would consider the impact of the proposed works on flood risk, land drainage and the wider environment when looking at the terms of the Development Consent Order. They would also have the benefit of the expertise of the Environment Agency and relevant local authority/Internal Drainage Board who would remain statutory consultees.
- 6.67 For water abstraction and impoundment licences, the Examining Authority would consider the impact of the proposed works on lawful water users within the catchment, the river system and the wider environment, including impacts on designated sites. They would have the benefit of the expertise of the Environment Agency as a statutory consultee. The Environment Agency holds relevant data, details of existing abstraction licences which must be protected, models and specialist local knowledge.
- 6.68 There are other features of the Development Consent Order process that are worth noting. The process places considerable emphasis on preparation (sometimes called “front loading”), so applicants undertake significant local consultation and technical preparation before submitting their application. Also, there is quite limited scope to change a draft Development Consent Order once it is accepted for examination, so it is important that applicants are sufficiently prepared at the point at which they submit their application.
- 6.69 Currently, where a developer needs a European Protected Species licence, the developer can obtain a “letter of no impediment” from Natural England prior to applying for a Development Consent Order. The full application will typically follow once their Development Consent Order has been granted. However, if the developer chooses to deal with European Protected Species matters as part of their Development Consent Order, a “letter of no impediment” would not be an option.
- 6.70 Developers can obtain free initial advice from Natural England when preparing to apply for a European Protected Species licence, although beyond a certain point that advice becomes a chargeable service. Where an applicant uses the Development Consent Order route, we are proposing that a new report – *an Assessment of Preparedness* - could be obtained from Natural England as part of its chargeable services.
- 6.71 The new Assessment of Preparedness would help a developer gauge how well prepared they are to submit their application from a European Protected Species perspective and what if any additional tests or work might be necessary or beneficial. The Assessment of Preparedness would be purely for the benefit of the

⁵² There are plans to move water impoundment licences, Section 109 flood defence consents, and the Environment Agency flood defence and drainage byelaws into Environmental Permitting Regulations by 2017.

developer and would have no formal status or weight within the Development Consent Order process and would not be an equivalent to a “letter of no impediment”.

- 6.72 Monitoring, compliance and enforcement arrangements will be the responsibility of the relevant agency or agencies, i.e. Environment Agency, Natural England, local authorities, internal drainage boards and/or the Marine Maritime Organisation. The Development Consent Order will specify which organisations are responsible for monitoring and enforcement of the conditions and provisions within it.
- 6.73 The Planning Inspectorate would, as currently, offer advice to developers on how best to phase their preparations for a Development Consent Order application. It is important to underline the element of “front loading” within the Development Consent Order process, and the need for developers to ensure they have undertaken the necessary preparatory work (**including if necessary obtaining any prior permissions or licences required to then undertake the necessary technical work and tests**) prior to submitting their full application.
- 6.74 Developers who wrap-up these ten consents within the Development Consent Order can save some money on application fees, by paying just one application fee to the Planning Inspectorate instead of a number of fees to the various consenting bodies. Application fees form a very small proportion of the overall costs a developer can incur in preparing and obtaining a Development Consent Order. This potential saving on fees is best understood as a collateral result of the proposed reforms rather than being part of the policy rationale for the reform.

Questions for Consultation

6.75 We are seeking responses to the following questions:

Question 6.7: Do you agree with the proposal that applicants should be able to include the ten consents (listed below) within a Development Consent Order without the prior approval of the relevant consenting body?

Question 6.8: Do you agree with the ways in which we propose to approach these reforms?

Question 6.9: Are there any other ideas that we should consider in enacting the proposed changes?

Question 6.10: Do you have any views on the proposal for some of the consents to deal only with the construction stage of projects, and for some to also cover the operational stage of projects?

Question 6.11: Are there any other comments you wish to make in response to this section of the consultation?

Impact Assessment

6.76 The main benefit to developers and others is expected to be greater certainty as, by including these ten consents within one Development Consent Order, they can in some circumstances move swiftly into development once their Development Consent Order has been granted without the need to apply for and obtain subsequent consents. There are also some potential application fee savings to developers from submitting just one rather than a number of separate applications. The Regulatory Policy Committee has confirmed the deregulatory nature of the proposed changes. Following the consultation, and prior to any policy changes being made, a validation Impact Assessment will be produced.

Annex A: Consents being consulted on for removal from the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010

1. **European Protected Species:** Licence under regulation 53 of the Conservation of Habitats and Species Regulations 2010 - issued to allow for necessary movement or disturbance of a protected species*.
2. **Flood Defence:** Consent under section 109 of the Water Resources Act 1991 – for works that affect flood risk of main rivers.
3. **Flood Defence:** Consent under section 23 of the Land Drainage Act 1991 (prohibitions of obstructions in watercourses) - consent for works that affect the flow of ordinary watercourses.
4. **Flood Defence:** Consent under byelaws (paragraphs 5, 6 or 6A of Schedule 25 of the Water Resources Act 1991) - for works affecting sea defences/land drainage on main rivers, washlands and floodplains.
5. **Discharge for works purposes:** Consent under section 164 of the Water Resources Act 1991 – an operational consent required only in some cases.
6. **Discharge for works purposes:** Consent under section 166 of the Water Industry Act 1991 – concerns discharge from water company works and assets.
7. **Trade effluent consents:** Notice of determination of a reference by a sewerage undertaker (water company) under Chapter 3, Part 4 of Water Industry Act 1991 – concerns effluent discharge.
8. **Water Abstraction:** Licence under section 24 of the Water Resources Act 1991 (restrictions on abstraction) - issued to ensure maintenance and preservation of water resources**.
9. **Water Impoundment:** Licence under section 25 of the Water Resources Act 1991 (restrictions on impounding) - to allow the construction of dams, weirs and engineering works during construction of a project**.
10. **Water Abstraction:** Consent under section 32 of the Water Resources Act 1991 - to allow testing for the presence and quality of ground water before applying for a water abstraction licence**.

* *In the case of European Protected Species, at the point of the Development Consent Order application, the requirement to obtain a licence would apply (if at all) to the construction phase.*

** *Proposal is for these three licences to be included within the Development Consent Order for construction phase of project only unless the Environment Agency agree to a request for it to also cover the operational stage.*

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

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

If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2001, 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 for Communities and Local Government will process your personal data in accordance with Data Protection Act and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact:

DCLG Consultation Co-ordinator.

Zone 4/J1

Eland House

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or by e-mail to: consultationcoordinator@communities.gsi.gov.uk