

**PROGRESS UPDATE ON  
IMPLEMENTATION OF THE  
PENFOLD REVIEW OF NON-  
PLANNING CONSENTS**

MAY 2011

# Contents

<b>Contents .....</b>	<b>2</b>
<b>Executive Summary .....</b>	<b>3</b>
<b>Introduction .....</b>	<b>5</b>
<b>1. The customer experience and working practices .....</b>	<b>7</b>
<b>2. Simplifying development consents.....</b>	<b>12</b>
<b>3. Improving the interaction between planning and ‘non-planning’ development consent regimes .....</b>	<b>17</b>
<b>4. Managing the landscape .....</b>	<b>22</b>
<b>Annex A: progress on each commitment given in the initial Government Response .....</b>	<b>23</b>
<b>Annex B: Quality Development Code of common customer service standards: English Heritage, Environment Agency, Natural England and the Highways Agency.....</b>	<b>33</b>

# Executive Summary

This publication reports upon progress implementing the Government's commitments in response to the Penfold Review of non-planning consents published in July 2010.

The Penfold Review examined the complex array of consents that are required by developers alongside or after planning permission, such as environmental permits, highways orders and heritage consents. These development consents deliver key economic, social and environmental benefits – for example protecting endangered species, tackling climate change, delivering a well functioning road-network and protecting the health and well-being of local communities.

But this landscape can prove time-consuming for businesses and often proves an additional and unplanned for burden. The Review found developers could face unnecessary complexity and administrative burdens when applying for consents, and that the various development consents regimes in their totality posed real problems for some businesses to navigate effectively.

The Review made recommendations for streamlining processes and improving the service which consenting organisations offer their customers. The Government's initial Response accepted the majority of these recommendations.

This progress update shows what these bodies will do to provide a more responsive and straightforward service to applicants, to make it easier for businesses to deal with relevant consents as part of the development process and plan for the future with increased certainty.

Steps taken so far to simplify and improve the process since the November Response include:

- Bringing 'customer service' amongst the major consenting bodies up to the highest standard. A set of aspirational standards has been established that aims to give, for example, clear guidance on when a consent is needed, advice when appropriate on how to handle the application, and a named point of contact to provide support through the application process. A commitment to transparency will allow users to see how well consenting bodies are performing.
- Cutting paperwork by merging several environmental consents into one application process, rather than several.
- Cutting costs to businesses by creating a lighter-touch process for low-impact environmental consents from the Environment Agency and Natural England. This will also allow better use of public sector resources to focus on higher risk areas.
- Piloting a simplified approach to enforcement visits by the Planning Inspectorate, whereby developers are not required to attend some site visits, which are often costly and time consuming.

- Save time and money for developers by reducing overlaps and removing duplicated work through a forthcoming protocol to guide relationships between the Environment Agency, local authorities and developers.
- Encouraging greater transparency of decision-making processes within local authorities which will allow businesses to better organise their applications.
- Giving developers the opportunity to comment on burdensome and unnecessary regulation including development consents through the new Red Tape Challenge. This complements the existing 'one-in, one-out' approach to introducing new development consents, ensuring that no new regulations are introduced without taking action to cut costs or remove burdens of a similar level.

The work to simplify development consent regimes is not simple or short-term, and this report details workstreams and actions that will continue beyond May 2011. This includes further work that will ensure a level of continuous improvement and better regulation to increase investor confidence and allow easier navigation for new entrants. The ultimate outcome is a simpler and more straightforward landscape which is both more accessible and more responsive to business needs. Future progress will be reported upon in an annual update on simplification measures in the planning system, the first of which will be published this autumn.

# Introduction

This publication reports upon progress in implementing the commitments made in the Government Response of 3 November 2010 to the Penfold Review of non-planning consents which was published in July 2010.

The Plan for Growth published alongside Budget 2011 highlighted the frustration and uncertainty businesses experience when navigating the planning system. Alongside the planning system there exist several further development consent regimes which become relevant depending on the nature of the development being proposed. Whilst these development consents deliver significant social, environmental and economic benefits, the original Penfold Review also found these consents were “numerous and complex” and could add unnecessary costs and burdens to business.

The Review established an agenda for change amongst the various development consent regimes aimed at removing burdens for business. The Government is taking forward workstreams aimed at:

- (a) building upon and improving the basic customer experience of applying for development consents – whilst at the same time allowing consenting bodies to direct resource where it is most valuable;
- (b) making development consents proportionate, simple to comply with, and merging or revoking consents when appropriate; furthermore we will remain open to suggestions from business on other necessary changes;
- (c) improving the inter-relationship between development consents and the planning system so the experience is smoother for the applicant, through facilitating best practice and identifying and delivering necessary legislative and policy changes; and
- (d) applying the principles of good policy-making and regulation, and a ‘one-in, one-out’ approach to new development consents.

The sections of this report correspond to each of these workstreams. Each section outlines measures taken so far and indicates what the next steps are for Government in this agenda.

## Growth policy

The Penfold Review recognised – and the Government agrees – that development consent regimes form a part of the UK business environment, and thus has a bearing on our competitiveness and economic growth potential.

Alongside the Budget on 23 March the Minister for Decentralisation, Rt Hon Greg Clark MP, laid a statement before the House of Commons outlining his ambition that the planning system be an enabler of economic growth:

*'When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development.'*<sup>1</sup>

He went on to note that:

*'Benefits to the economy should, where relevant, be an important consideration when other development-related consents are being determined, including heritage, environmental, energy and transport consents.'*<sup>2</sup>

This reflects the Government's determination to ensure development consents help support sustainable economic growth, rather than block it.

The statement therefore pledges that consenting bodies will in future lay particular weight on the economic potential of development in deciding outcomes, and mitigating action to the extent that it accords with the relevant statutory provisions and national policy.

This position is agreed across Government - supported by the Secretaries of State for Culture, Olympics, Media and Sport; Environment, Food and Rural Affairs; Transport; and Energy and Climate Change all with regard to development consents for which they or their agencies are responsible.

The four-point agenda set out above shows in greater detail how Government intends to deliver on that statement. Government wants this change of emphasis to foster more straightforward and collaborative behaviours within and between its agencies and in their interactions with the private sector.

## **This report**

This progress report is divided into four sections reflecting the agenda outlined above. These update on the progress made since the initial Government Response. All commitments made in that response for action by Spring 2011 are covered.

The Annex includes a summarised update on each Review recommendation and associated Government commitment. Looking ahead, the Government will continue to report on the progress of this agenda through annual 'simplification updates' showing progress made within the planning system. The first of these will be published in autumn.

---

<sup>1</sup> <http://www.communities.gov.uk/statements/planningandbuilding/planningforgrowth>

<sup>2</sup> *ibid*

# 1. The customer experience and working practices

The practical experience of applying for development consents matters. The processes involve administrative costs to the applicant and the experience helps shape the perceptions of regulation. From the perspective of the Departments and agencies granting development consents, getting the application and determination processes right can help lower their own costs. Learning lessons from the application process also helps inform Government policy thinking when determining the overarching framework within which development consents are delivered.

The Government's approach here is two-fold. Firstly we have built on and improved the customer focus of the major development consenting bodies by agreeing common standards. This section also outlines other measures taken at the national level to facilitate smoother processes that minimise burdens which in turn will facilitate better service.

The next steps are to extend this approach more widely, and consider how it should be applied at local authority level. Central Government's role here is to help identify best practice and to facilitate its dissemination, rather than over-burden local authorities with a directive approach from the centre. It is also to promote transparency around performance standards at local authority level with a view to incentivising higher standards.

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

In the initial Government Response BIS committed to co-ordinate a single, cross-consents Quality Development Code (QDC). Box A summarises the QDC agreed between the major consenting bodies. The QDC should prove a useful 'one stop' point for prospective developers to find out what to expect from different consenting bodies who handle their proposal.

In so doing we are seeking to foster, where appropriate, common standards across consenting bodies. These common standards will help develop closer, better working practices between consenting bodies. Box A overleaf applies to the major consenting bodies – English Heritage<sup>3</sup>, Environment Agency, Natural England and the Highways Agency.

---

<sup>3</sup> English Heritage is not a consenting body, but has a statutory role in advising the Secretary of State for Culture, Olympics, Media and Sport on the determination of applications for Scheduled Monument Consent, and a non-statutory role in administering the SMC applications process.

### Box A – Common customer service standards: English Heritage, Environment Agency, Natural England and the Highways Agency

- Consenting bodies will publish Code of Practice/ Customer Service standard documents setting out service timescales and outlining how they will engage with applicants.
- Consenting bodies will be transparent about their service standards, specifically the average time taken to respond to enquiries and to process applications. Consenting bodies will – where it is useful – include guidance on what information the developer can provide them to ensure these service standards are met.
- Consenting bodies will survey and provide an annual update on ‘customer satisfaction’.
- Consenting bodies will provide a named point of contact to applicants in the majority of cases. However, there will necessarily need to be an element of discretion in providing this service to ensure resources within consenting bodies are most effectively deployed – there will be some cases, for example small scale, low risk and low controversy applications, for which a dedicated named contact will be unnecessary. Consenting bodies will be transparent about the criteria applied to assess proportionality.
- Consenting bodies will provide material designed to assist developers to establish whether consent/ consents are necessary.
- Consenting bodies will operate on the general principle that pre-application engagement with applicants – be it through information, guidance or advice – is valuable and presents opportunity to smooth the application process for both parties. Where appropriate, consenting bodies will also contribute to pre-application discussion with applicants and planning officers to identify ways to phase applications in the most efficient way.
- Consenting bodies legally able to charge for premium services will test demand for premium services, that are charged for on a cost-recovery basis.
- Consenting bodies will provide clarity to applicants on what recourse they have if they are not satisfied with the decision made. The legal frameworks governing appeal mechanisms vary but at a minimum the applicant should be given information on why their application was not acceptable and invited to return a new application for another decision.
- Where relevant, and as a part of pre-application discussion, bodies should coordinate the determination of consent applications to allow for flexibility in timing – by determining whether a consent will be granted alongside or ‘through’ the planning application.



The Planning Inspectorate (PINS) has also taken steps to improve its service delivery by clarifying its performance measures for the non-planning consents and non-planning appeals it receives. Until recently there were no measures for either Commons consents or most of the Inspectorate's Environmental Appeals Casework. Performance measures for these types of casework have now been drawn up, and will shortly be published online. These measures are in addition to the Planning Inspectorate's commitments in its Business Plan 2011/ 12 and the need for cost savings and performance efficiencies. Performance data on these measures as they relate to non-planning consents will be included in the Inspectorate's annual statistical report.

PINS has also reviewed its published guidance on Rights of Way appeals procedures and environmental permitting appeals. This light touch review has identified some necessary improvements. PINS will contact external partners/ users to establish whether the procedural advice PINS publishes meets standards of clarity and accessibility expected by developers.

In designing the common standards in Box A BIS held and facilitated a workshop attended by representatives of the Highways Agency, the Environment Agency, Natural England, English Heritage, Department for the Environment Food and Rural Affairs, the Department for Communities and Local Government, the Department for Culture, Media and Sport and also from local government. This group examined how each agency could more closely align their regime with other consents and with planning.

In terms of next steps, the group will continue to meet throughout 2011, with a first meeting in summer, to consider successful implementation of their standards and to share best practice in handling developers and applicants. BIS will continue to facilitate this work and report on progress in future simplification reports. We will also expand this group to better consider delivery at local authority level, with a view to identifying and disseminating best practice at that level. An example of such practice is given in Box B.

### **Box B – Development consenting at the Royal Borough of Windsor and Maidenhead**

Royal Borough of Windsor & Maidenhead Council (RBWM) has acted to remove overlaps between consent regimes and provide a positive change in how customers interact with them. At the simplest level, it is fewer forms for residents and businesses, less data entry and processing for the Council and lower costs for all.

This has been facilitated by a change in working practices – staff are now focussed on the outcome and related task groups rather than on professional functions – this makes them more responsive and speeds up delivery. For example where a customer wants to create a dropped kerb they want the Council to assess, agree and guide in one step - whether the customer needs a highways licence, planning permission or both in association with the application is for the Council to manage and provide behind the scenes: taking the burden away from the applicant. We achieve this using technology and communication but also some administrative 'workarounds' to deal with current legislation. RBWM are working with national partners to explain these and identify solutions and remove legal barriers.

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

The Government is committed to a better transparency agenda for Local Government. DCLG recently consulted on a code of recommended practice for local authorities on data transparency<sup>4</sup>. This looked at increasing transparency on a range of local authority activities, including decision-making processes and records of decisions. DCLG is currently reviewing the responses and considering next steps. Outcomes of relevance to planning and consent regimes will be provided in the autumn.

**Other measures to drive customer service and better working practices**

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

Planning Performance Agreements (PPAs) were introduced into the planning system in 2008 and help to improve the quality of planning applications and the decision making process through collaboration. They bring together the local planning authority, developer and key stakeholders, preferably at an early stage, to work together in partnership throughout the planning process. PPAs are essentially a collaborative project management tool that provide greater certainty and transparency to the development of scheme proposals, the planning application assessment and decision making.

Following recommendations from the Penfold Review DCLG has been working with stakeholders from the Local Government Association, Planning Advisory Service (PAS) and the DCLG Advisory Team for Large Applications (ATLAS) to examine how Planning Performance Agreements (PPAs) could assist development schemes where multiple consents are required – essentially extending the PPA approach to cover more development consents.

ATLAS published research into PPAs on their website in December 2010, supported by several case studies<sup>5</sup>. They have undertaken an initial scoping exercise on extending PPAs to include other consents and PAS is currently considering next steps which will feed into a streamlined approach to PPAs which they expect to produce and promote by Autumn 2011.

**(iv). Introduction of Highways Agency Contract Frameworks for Spatial Planning Services - increasing collaboration between the Highways Agency, the planning system and developers** *(Review Recommendation C1)*

On 4 May 2011, the Highways Agency issued the award letters for its new National Spatial Planning Arrangement. These appoint contractors to provide support to land use planning and transport planning for the Agency's operational teams in developing their responses to

<sup>4</sup> Full details are available here: <http://www.communities.gov.uk/publications/localgovernment/codepracticeladataconsult>

<sup>5</sup> Available at: [www.atlasplanning.com/page/topic/index.cfm?coArticleTopic\\_articleId=98&coSiteNavigation\\_articleId=98](http://www.atlasplanning.com/page/topic/index.cfm?coArticleTopic_articleId=98&coSiteNavigation_articleId=98)

consultations received from local planning authorities, for example in relation to draft local development plans or individual applications.

These form a part of the Agency's new national framework for its planning work. Contractors may also act for all parties to a development which will help foster a more collaborative approach to planning and highways consenting as recommended in the Penfold Review.

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

Renewable energy projects can have complex effects and be located in some of our most sensitive environments which is why they are required by law to comply with conditions in permits to protect people and wildlife. Some require a range of environmental permissions. The Environment Agency has developed permitting approaches to support development of new projects whilst maintaining standards of protection. For example they adopt a 'virtual streamlining' approach to administer the several permissions needed for hydropower projects, so that it feels like a single process for the customer. An account manager co-ordinates pre-application discussions, processing of the permissions, and consultation on the planning application. They are developing a similar approach to facilitate permitting of ground source heat pumps and will report on progress by autumn 2011.

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

The Planning Portal has started work on a project to upgrade the 1APP standard application form - the Planning Portal's 1APP system allows applicants to apply for planning permission and other consents on a single form, saving time and reducing duplication. The work will be overseen by a board which includes representation from the local government and business communities, as well as DCLG. Progress will be reported on in the Government's autumn simplification report.

Defra is currently liaising with DCLG and the Planning Portal team to streamline sustainable drainage approval with the planning process, once provisions in the Flood and Water Management Act are commenced (anticipated in 2012). The Planning Portal team are developing an Impact Assessment for Defra to consider options and costs involved, which will feed into Defra's business case for enabling the work.

## 2. Simplifying development consents

The Review also recommended simplifying and streamlining specific consenting regimes, and the initial Government response set out a series of actions Government would take to begin this process. Following on from these actions, and building further upon the findings of the review, the Government is bringing forward the measures listed below. All of these are based upon the principles set out in the Penfold Review and of good regulation – i.e. regulation that is transparent, accountable, proportionate, consistent and targeted.

The Review identified a number of measures, but we would like to go further. The Red Tape Challenge sets out the Government's aim to remove or simplify regulations (including development consents) with the help of the public. The website ([www.redtapechallenge.cabinetoffice.gov.uk](http://www.redtapechallenge.cabinetoffice.gov.uk)) allows anybody to nominate regulations they think should be removed or changed. The site is focused upon particular sectors and themes that impact across sectors.

All environmental and health and safety regulations are set out on the site and open for comment, and there will be a sectoral focus upon regulations impacting construction and house-building later in 2011. For each suggestion, Ministers will have 3 months to respond with the Government's assessment on whether the regulation should be retained or not – but with a default presumption that regulations that are shown to be burdensome will be removed.

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

Government is progressively moving towards a common environmental permitting framework with the ultimate aim of developers needing one permit for a project rather than several. The next step is primary legislation to enable water abstraction and impoundment to come into the framework. Further detail will be provided in the Water White Paper at the end of this year; and subject to Parliament, we plan to have relevant legislation in place by 2013.

Defra is also considering whether flood defence consenting might be a suitable candidate for inclusion in the Environmental Permitting framework and will continue to work with BIS and other Government Departments to seek streamlining opportunities through this route. We will outline next steps in autumn.

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

The Environment Agency has standard rule sets for over 50 activities and published standard rules for four new activities in April. Standard rule sets and permits allow a simplified and light-touch procedure for regulating simple activities for which the risks and means of controlling them are readily defined.

The benefits to developers are that the charges are lower and they can see what the conditions are before they make an application. New activities to be added to the standard rule set are: composting biodegradable waste, metals recycling, vehicle storage, de-pollution and dismantling, and the treatment of waste wood for recovery.

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

Natural England is developing class licensing, codes of conduct and associated registration schemes to streamline applications for low impact activities. Natural England is also working with Defra to prepare statutory guidance which Courts must take into account in deciding whether to take forward a prosecution. It is intended that this will reduce the risks of prosecution for offences that are trivial in species conservation terms, thus reducing licence applications being made as a precaution against prosecution. The first element of this guidance is expected to be available in June 2011.

**(iv). Close working between environmental regulators and industry to simplify environmental permissions**

To support deployment of renewable energy infrastructure while maintaining standards of protection, environmental regulators will work closely with the renewables industry to streamline administrative processes for their permissions. Further detail will be announced in the Renewables Roadmap published in the Summer.

The Marine Management Organisation has established a coordination group that will work with the renewable energy sector and across a range of government departments and delivery organisations to enable group discussion to problem solve and share ideas in the delivery of renewable energy. The 'Offshore Renewables Energy Licensing Group' will meet for the first time in June to agree a programme for action.

**(v). Merging conservation areas consents with planning permission** *(Review Recommendation E2)*

In the initial Government Response we accepted the Review's recommendation that building conservation area consent should be merged with planning permission to reduce burdens upon developers, subject to finding Parliamentary time to change the appropriate legislation. Due to Parliamentary pressures it has not been possible to make the necessary changes. We are continuing to examine Parliamentary vehicles to take forward this simplification.

In the meantime, administrative changes we have made mean the savings associated with merging conservation area consent with planning permission are already accruing to developers. The Planning Portal's 1APP system allows applicants to apply for planning permission and listed building consent, or planning permission and conservation area consent for demolition, on a single form, saving time and reducing duplication.

**(vi). Reviewing the administration of applications for scheduled monument consent** *(Review Recommendation E2)*

In the initial Government Response we committed to ensuring that existing heritage consent regimes operate as effectively and efficiently as possible, with a progress update to be given in July 2011. There are two aspects to the work.

Firstly, English Heritage is currently undertaking a review of its casework procedures, including its procedures for providing statutory advice to the Secretary of State for Culture, Olympics, Media and Sport on applications for scheduled monument consent (SMC), and for providing non-statutory advice to applicants – including at the pre-application stage.

Secondly, as a part of this review, DCMS has asked English Heritage in conjunction with key stakeholders to explore how opportunities for public participation in the SMC process might be improved and brought into line with those inherent in the listed building consents (LBC) regime. These considerations will be informed by the findings of a pilot study that took place this spring, which involved English Heritage and the Council for British Archaeology.

**(vii). Revoking two unnecessary energy development consents**

*Gas transporter pipelines; approval pursuant to the gas transporter pipeline works (environmental impact assessment) regulations 1999*

Subject to it being possible to include such a clause in a future Energy Bill, DECC intends to correct a duplication of screening requirements in respect of gas transporter pipelines. At present, gas transporters proposing to construct pipelines that would qualify as Nationally Significant Infrastructure Projects (NSIPs) appear to need opinions from both the Secretary of State (DECC) and the Infrastructure Planning Commission (IPC). Although cost savings would be minimal, correction of this duality will ease the burden on developers by removing the possibility of confusion in the application process.

*Gas/ hydrocarbon fuelled generating stations notice under Section 14 (1) of the Energy Act 1976*

Subject to it being possible to include such a clause in a future Energy Bill, DECC intends to repeal Sections 14(1) and 14(2) of the Energy Act 1976. Section 14 (1) allows the Government to restrict development of oil and gas-fired power stations, reflecting UK and EU concerns following the oil crisis of the 1970s about future supplies of oil and gas; Section 14(2) allows the Government to restrict the use of gas through scrutiny of gas supply contracts.

Only a small number of these consents are required each year but both measures have been overtaken by subsequent events and are therefore redundant – DECC already work around the consents.

**(viii). Cutting red tape in the planning system** *(Review Recommendation E1)* **and consulting on what small-scale applications can be removed from it** *(Review Recommendation F1)*

DCLG has undertaken a “cutting red tape” initiative which involved a widespread consultation on ideas to simplify the planning regime. In a speech given earlier this month (linked to below<sup>6</sup>) the Housing Minister set out some of the actions that the Department is taking to alleviate burdens on the development industry, and housebuilders in particular.

The Plan for Growth published alongside the Budget 2011 announced that the Government would consider the possibility of exempting more minor commercial developments from the need to apply for planning consent by expanding permitted development rights. DCLG will consult on this in summer 2011.

**(ix). Ensuring proportionality and removing low-risk, small-scale applications from development consent regimes** *(Review Recommendation F1)*

National consenting bodies, including the Environment Agency and Natural England, take steps to ensure that consenting is as proportionate as possible by operating a ‘risk based’ determination process. This categorises different types of development and accords them a ‘class’ of permitting process applicable to the risk to the local environment. This ensures that the approach is as ‘light touch’ as possible. Some of these approaches are detailed in headings (i), (ii) and (iii) in this section.

Furthermore, in the case of waste regulation, the Environment Agency and the Waste and Resources Action Programme have an ongoing work programme to establish ‘Quality Protocols’ that set out criteria for establishing when certain types of waste have been processed to an extent that they are no longer considered to be waste and hence do not need to be regulated as such. Quality Protocols for the use of 9 waste materials have been issued in the last two years and 5 more will be completed this summer.

There are benefits to businesses as a permit may no longer be needed for the handling of the material, whilst the classification allows more waste to be recovered and resold. The Agency has also adopted a risk-based position not to regulate the handling of candidate wastes during development of the protocols. The total savings for business so far since introduction of the protocols are estimated at £184 million with a further £59 million benefit from increased sales.

In response to recommendation F1, and going beyond the measures to increase proportionality listed above, BIS will work with other departments to examine further light touch approaches to consenting. This will build on those currently in use and look specifically at the scope, and repercussions, of lifting developments of certain categories and size out of consenting in a fashion similar to permitted development rights in the planning sphere. We will report on options in autumn 2011.

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

The Planning Inspectorate has examined their appeals process with a view to streamlining these for planning and development consents. The Householder Appeals Service was introduced in 2009 providing simpler procedures and shorter decision times for

---

<sup>6</sup> Full speech available at: <http://www.communities.gov.uk/speeches/housing/1898431>

householder developments. Site visits that do not require all parties to attend (access required site visits) are being piloted for non-householder written representation appeals. PINS has also recently taken steps to introduce a pilot for these access only site visits in relation to Tree Preservation Order appeals that are determined by written representations across ten authorities.

PINS has also introduced a bespoke appeal process for larger inquiries of over 8 days duration. By negotiating and creating a particular timetable early in the appeal process, all parties are clear what is expected of them, have certainty over timescales and as a result inquiries should run more smoothly without delays, overruns or adjournments. From 1 April 2011 this has applied to appeals involving inquiries of 6 days duration or more.

Scope for further non legislative improvements will be examined. PINS is currently looking at what further changes could be made to planning and non-planning appeal procedures which would help to achieve greater consistency and speed up determination. This will include options which will require a legislative vehicle to enact them. We will update on progress in autumn 2011.



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

Developers often face applying for both planning permission and further associated development consents depending on the nature of the development proposed. The two are closely related as a part of general ‘development management’. In the initial Government Response we accepted that the boundary and inter-relationship between the planning system and associated consents regimes should be made as clear as possible. This is about removing unnecessary duplication so the same ‘tests’ are not imposed upon developers through both the planning system and other consent regimes.

The aim is to ensure that the planning and consent regimes work together in a complementary way, supporting each other where necessary, but without imposing unnecessary burdens. Furthermore by sharing information wherever possible between the planning system and development consent regimes there is potential to reduce costs and burdens for both developers and the public agencies granting consents.

Stripping out all duplication and creating optimum interaction between development consents and the planning system will be a long-term task that requires several incremental steps – this is inevitable given the breadth and complexity of the development consents regimes and the wide range of agencies who deliver them.

The measures taken to date are set out below and divided by those related to best practice and behavioural change, and those based upon changes to policy.

In terms of next steps BIS will continue to work with a group of consenting bodies and local government representatives to identify and share best practice that can improve the relationship between planning and consenting. In line with recommendation J of the Penfold Review, relevant Government departments will also examine the scope and potential of the existing Development Consent Order (DCO) regime under the Planning Act 2008, which is intended to help deliver major infrastructure projects and could be a means of better aligning regimes. A key milestone will be the point when a sufficient number of DCOs are delivered, and we can learn practical lessons from their impact.

This work will consider which consents could be rolled into a DCO and which should sit alongside the regime but be assessed separately. It will also acknowledge, and examine, the potential to extend the lessons learnt from major infrastructure development to a more widely applicable ‘Unified Consent Order’ for smaller developments.

## Behavioural changes

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

The initial Government Response outlined work commissioned by DCLG and Defra into the working relationships between planning authorities and consenting bodies, in respect of development applications that require environmental consents.

Defra, in conjunction with DCLG and the Welsh Assembly Government (WAG), have contracted Eunomia, the external consultants who undertook this research, to complete the follow-up work to prepare a protocol and supporting guidance directed at local authorities and the Environment Agency on the interface between planning and pollution control for environmental permits.

The protocol, which will only apply in England, focuses upon the interface between local planning authorities and the Environment Agency. However, as there is also an interface between local planning authorities and local authority pollution control authorities (especially where these are in different authorities) many of the procedures and steps outlined within the document will also be relevant to these parties.

The protocol reflects a view that there are certain areas of overlap between the roles and responsibilities of the consenting authorities. These can, in some circumstances, lead to confusion, difficulties and delays, particularly for applicants as they seek to obtain the relevant permissions to operate. The aim of the protocol is therefore to ensure smoother working and minimise conflict between planning permissions and environmental permits. Closer working will also ensure that the systems remain robust, straight forward and transparent for applicants and help them make informed choices about optimising the sequence of their applications.

Work on an Impact Assessment for the protocol is currently underway. Defra and DCLG expect a draft to be published over the summer months.

BIS will work with Defra to monitor the implementation of the protocol and take lessons learned which may be applied in other areas of consenting.

### (ii). **Merging highways consents into the planning system when the Secretary of State for Transport is the decision-maker** *(Review Recommendation H4)*

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

Guidance has already been issued to the planning teams at the Highways Agency that, wherever and whenever possible, highway measures associated with development should be authorised through the planning approvals process with any works within the trunk road

boundary being delivered using the Secretary of State for Transport's general powers of improvement.

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

With the publication of this Government progress update these arrangements will cease to be guidance and instead acquire the status of ministerial instruction.

This will apply in the majority of instances, however where the associated highway works are remote from the development site (e.g. improvements to the junction of a local road with the strategic road network when a development accesses the local road in a separate local authority area), it may not be possible to secure authorisation to the changes through the planning system.

Although such cases are rare when they arise, there currently is no alternative to the promotion of a separate Highways DCO following the grant of planning permission. This is an issue which could be solved by use of a 'Unified Consent Order' and will form one of the issues examined in the further work, following publication of this progress report.

**(iii). Improving the interaction between rights of way consents and the planning system** *(Review Recommendation H2)*

In the initial Government Response we accepted the Review's recommendation that Rights of Way issues should be considered early and as a part of the planning application. The twin aims are to ensure that existing rights of way are factored into the scheme design at the earliest possible stage and thereby to remove uncertainty for developers and the risk that planning applications that have been accepted are delayed whilst issues are resolved. Therefore both Defra and DCLG are examining options for highlighting best practice and the importance of early engagement on rights of way issues.

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

The Government is seeking to encourage pre-application discussion by requiring major developers to engage more widely at pre-application stage. DCLG will consider including a message on this in the revised National Planning Policy Framework which will be published for consultation this Summer.

At a workshop between Government and consenting bodies practical steps to support better pre-application discussions were discussed – we aim to facilitate greater sharing of 'best practice' ideas amongst consenting bodies. The Quality Development Code common standards listed in Box A includes agreement from consenting bodies to engage in pre-application discussions to smooth the interaction between consenting and planning.

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

The National Planning Policy Framework which will be published for consultation this Summer will provide the general framework and principles for good development management.

The Planning Advisory Service (PAS) has published material and case studies of good development management practice on their website. Promoting good development management principles is part of the PAS programme and of interest to local authorities, however their instant focus will be on ensuring continued good service regardless of cuts to local authority budgets.

## Policy changes

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

In the initial Government response, DCLG committed to ensure that the revised National Planning Policy Framework (NPPF) confirms the centrality of the planning process in determining whether a development should go ahead, while recognising that non-planning consents may also have a critical role in this.

In January 2011, DCLG Minister Greg Clark invited the public to comment on the proposed NPPF; detailed proposals are currently being worked up and are due to be published for consultation in summer 2011.

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

DCLG has been discussing with other Government departments the extent to which planning permission and other development consents (e.g. licensing/ highways/ rights of way) overlap or inter-relate, to identify what scope there is for streamlining the administrative requirements. Discussions will continue over the summer and further progress will be reported on in the autumn.

DCLG is preparing a package of further streamlining and simplification measures for the planning system, and will consult on these in the autumn.

**(viii). DCLG Barrier Busting Initiative** *(Review Recommendations D2 and H7)*

DCLG's 'barrier busting' team continues to work with vanguard communities, including the Royal Borough of Windsor and Maidenhead (see Box B), and will continue to identify and share good practice where applicable.

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

In line with the Review's recommendation, Government agreed to review European Protected Species licensing to see whether a division of responsibilities (between planning authorities and Natural England) along the lines suggested would provide a more effective regime to balance user needs against obligations under European legislation. Defra has initiated discussion with key interested parties to identify feasible options. Indications so far are that the potential for other initiatives to deliver the desired improvement, such as those outlined below, should also be considered.

These include developing opportunities for pre-application discussions (recommendation G3) to improve efficient and timely collaboration between planning authorities, Natural England and developers, launch of Natural England's streamlined system for low impact cases (recommendation F3); and building on current best practice to firstly identify development applications that either do not need a licence, or which are unlikely to be granted a licence. This should both reduce the proportion of development applications entering the licensing process, and improve the certainty and speed of decisions for those that do, providing early and timely certainty for developers. A progress update will be available in July 2011.

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

Government is currently considering whether changes to the Town and Village Greens registration system are required and we plan to make an announcement soon.

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

DCLG has launched a wide-ranging review of building regulations. This work will include consideration of how the planning system and building control inter-relate. On 16 December DCLG Minister Andrew Stunnell set out his programme of changes to the Building Regulations (2011-2013). Among the wider programme of changes, he announced that DCLG will consider how to improve the interface with the planning system and other standards regimes. Details are available on the DCLG website<sup>7</sup>

---

<sup>7</sup> <http://www.communities.gov.uk/statements/newsroom/buildingregschanges>

## 4. Managing the landscape

In this update we have set out measures the Government is taking to streamline the administration of development consents, remove and simplify development consents, and improve the interaction between planning permission and development consents.

These relate to current practice and the existing stock of development consents. There is a further challenge to ensure improvements made are locked in and not undermined by new development consents that are burdensome to comply with.

The initial Government Response set out an approach to regulation based upon the principle of “one in, one out”. This principle extends to the sphere of development consents: i.e. no new development consents will be introduced without a corresponding removal. The mechanisms to monitor the delivery of this commitment are now in place, and BIS is reporting on progress through bi-annual reports on the stock of regulation, available here:

<http://www.bis.gov.uk/assets/biscore/better-regulation/docs/o/11-p96a-one-in-one-out-new-regulation.pdf>

To help us identify ‘outs’ the Government has created a website to ensure we can hear from anyone with a suggestion to reduce regulation: ‘the red tape challenge’. This applies to development consents too, and we invite all stakeholders to input their ideas as to how the landscape of development consents can be improved further:

<http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/>

Furthermore, in the ‘Plan for Growth’ published in March we announced that the new National Planning Policy Framework (NPPF) will ensure that local authorities will not be able to adopt plans that block the delivery of required development by imposing unsupportable burdens on developers. The aim is that – alongside the work central Government is doing – local authorities also contribute to the effort to understand and minimise the cumulative cost of policies upon developers. Government will work with partners to ensure the cumulative impact of regulation and other costs can be assessed without adding complex and unwieldy bureaucracy to plans.

### Further reporting

The ‘Plan for Growth’ also announced an annual update on simplification measures in the planning system and amongst development consent regimes. The work implementing the Penfold Review will continue to be reported upon there.

## Annex A: progress on each commitment given in the initial Government Response

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
<b>Changing Working Practices</b>		
<b>A) Reinforcing a service culture (paragraph 2.27)</b>  In order to incentivise non-planning consenting bodies, applicants and their agents to demonstrate the behaviours needed to deliver timely, transparent and efficient consenting services, Government should take steps to ensure that non-planning consent decision makers:		
<b>A1</b> Recognise, at an appropriate level in their business objectives, the contribution they make to sustainable development through the decisions they take on non-planning consents;	Accepted.	See Introduction. A Written Ministerial Statement was issued in March 2011.
<b>A2</b> Publish a 'Quality Development Code' containing: <ul style="list-style-type: none"> <li>- indicators of 'satisfaction with the non-planning consent application service' for their non-planning consent activity;</li> <li>- a clear statement about the availability of guidance and opportunities to access pre-application advice;</li> <li>- Information about complaint processes;</li> <li>- information about technical and other standards expected of consent applicants (and their agents) and appropriate means of fulfilling these;</li> </ul>	(i) BIS will produce a single Quality Development Code to consolidate existing information and advice from relevant bodies.  (ii) The Planning Inspectorate will publish its internal casework targets online and extend its annual statistical report to cover non-planning consent work. The Inspectorate will also review its provision of advice to ensure that this meetings standards expected by developers. Improvements will be measured by peer review and an annual survey of business stakeholders.	(i) Complete with ongoing progress reviews - see section 1 (i)  (ii) Ongoing - see section 1 (i), more detail will be published in autumn 2011.
<b>A3</b> Publish annual statistics of performance against their 'satisfaction' indicators and the operation of the complaints processes	(i) The Government will encourage councils and other public bodies to publish performance data and supports the Local Government Association's work to develop benchmarking tools.  (ii) Agencies and Government Departments involved in granting non-planning consents will work to publish data on their websites (where they do not already do so) relating to	(i) Complete with ongoing progress - see section 1(i), update to be published autumn 2011.  (ii) Complete - see Section 1 (i & ii).

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
	their performance against timescales and customer satisfaction.	
<p><b>A4</b> Undertake periodic surveys of customer satisfaction</p>	Government Departments and Agencies involved in granting of consents provide applicants with means by which to provide feedback on the application process. Government will consider the extent to which this, and other customer survey information, may be made public.	Complete - see section 1 (i).
<p><b>B) Improving co-ordination and governance (paragraph 2.43)</b></p>		
<p>To make the development consenting process more effective and improve the co-ordination and governance of decisions involving multiple consenting bodies or consultees, Government should:</p>		
<p><b>B1</b> Encourage local authorities to adopt 'development management' good practice, including:</p> <p>(i) appointment of a designated development co-ordinator for major projects to monitor and manage the taking forward of all non-planning consent applications in a systematic manner; and</p> <p>(ii) extending the use of Planning Performance Agreements (PPAs) for major developments by enabling non-planning consent issues to be included within them and reinforcing the principle that a more proportionate approach to PPAs is acceptable for smaller proposals</p>	<p>(i) Accepted.</p> <p>(ii) DCLG will hold discussions with the LGA, the PAS and ATLAS to explore how best to implement this recommendation.</p>	<p>(i) Complete -see section 1 (i) and Annex B.</p> <p>(ii) Ongoing – see section 1 (iii), due to be completed in autumn 2011.</p>
<p><b>B2</b> Take steps to ensure that non-planning consenting bodies, including local authorities, include a clear statement in their 'Quality Development Code' (see Recommendation A) about the guidance and advice that they offer at the pre-application stage.</p>	Accepted.	Complete with ongoing progress reviews - see section 1 (i) and Annex B.
<p><b>C) Addressing resource pressures (paragraph 2.66)</b></p>		
<p>Recognising that additional resources will not be available, Government should explore ways to mainstream good working practices in resource sharing, behaviour and culture in order</p>		



Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
to optimise use of resources and skills currently available and promote use of fees for discretionary services by		
<b>C1</b> Requiring Departments to encourage local authorities to fully exploit opportunities for joint working with other councils and the private sector	Accepted.  (i) BIS and OGDs will convene a workshop of relevant bodies, to explore opportunities to break down cultural and practical barriers to closer working.  (ii) The Highways Agency's contract frameworks for special planning services provide for joint working between Local Planning Authorities (LPAs). New frameworks will be in place by the end of 2010.	(i) Complete - see section 1 (i).  (ii) Complete -see section 1 (iv).
<b>C2</b> Expecting that non-planning consenting authorities should continue to seek ways, alongside and working with professional bodies, to address the shortage of resources and skills in relevant non-planning consenting departments; and	Accepted.	Ongoing - see section 1 (i), the next workshop will be Summer 2011.
<b>C3</b> Encouraging consenting bodies to make more extensive use of powers to charge for discretionary services ('premium services') such as the development co-ordination role, over and above minimum standards (such services should be optional for developers).	Accepted – Government believes it is appropriate that consent issuing bodies should have the freedom to charge for premium services where these do not affect minimum standards and will seek opportunities for this in tandem with consenting bodies.	Complete - see section 1 (i) and Annex B.
<b>D) Accessibility of information (paragraph 2.83)</b>  To make the process of applying for non-planning consents simpler Government should ensure the following steps are taken to improve the quality of advice, information and e-transactions available for all users of the development consenting system		
<b>D1</b> The Planning Portal should identify and publicise existing good practice by local planning authorities around provision of information about planning and non-planning consents	BIS and CLG will examine the role for both the Planning Portal and Business Link in delivering this recommendation.	Ongoing - see section 1 (vi). The project will be reported on in autumn 2011.
<b>D2</b> Local planning authorities should be encouraged to review the information they provide in light of identified good practice to	Accepted. Government will examine the good practice by the 'barrier-busting' team established by DCLG.	Ongoing – see section 3 (viii).

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
ensure they give the advice that applicants need, or a suitable signposting service, in a readily accessible form		
<b>D3</b> The Planning Portal should take forward its programme of work to allow greater consultation electronically on non-planning consent applications, rather than by paper	Not accepted.	N/ A
<b>D4</b> Business Link and the Planning Portal should work together to support and encourage the development of a high quality internet based information system, which allows developers to establish accurately and quickly whether and, if so, what non-planning consent applications are required for commercial development	BIS and CLG will examine the role for both the Planning Portal and Business Link in delivering this recommendation.	See the service standards established in Annex B; and section 1 (i) and (vi).
<b>D5</b> DCLG should actively explore with non-planning consenting bodies the extent to which it is possible to further develop the 1App planning application facility to provide for the concurrent submission of additional non-planning consent applications alongside planning applications.	(i) Defra is currently in discussion with the Planning Portal Team and the Welsh Assembly Government regarding the potential use of 1App for drainage applications to the Sustainable Drainage Systems Approving Body.  (ii) DCLG, DCMS and English Heritage will consider the practicality of making use of 1App for scheduled monument consent applications	(i) Ongoing -see section 1 (vi). Currently awaiting commencement of Flood and Water Management Act, expected in 2012.  (ii) Ongoing -see section 1 (vi) and section 2 (vi), progress update due in July 2011.
<b>Simplifying the Landscape</b>		
<b>E) Simplifying the landscape (paragraph 3.20)</b>  Government should simplify the non-planning consents landscape and reduce the number of non-planning consents that apply to business developments by		
<b>E1</b> Carrying out a 'light touch' review of all those non-planning consents which have not been the subject of substantive review for more than 10 years to consider whether they are still needed and, if so, whether the protection they offer could be achieved by other means that reduced or removed the regulatory burden	(i) Defra will actively look at Public Path Orders and how the regulatory burden might be reduced.  (ii) DCLG are actively considering suggestions from their 'Cut Red Tape' and will report on this initiative in spring.	(i) Ongoing - see section 3 (iii). Further details expected in autumn 2011.  (ii) Ongoing - see section 3 (vii). They will consider policy recommendation in summer 2011 and report on findings in autumn.

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
<p><b>E2</b> Bringing forward legislation, at the earliest opportunity, to merge conservation area consent with planning permission; and to combine listed building consent and scheduled monument consent into a single historic assets consent, determined by local authorities</p>	<p>DCMS will work with CLG to seek to identify an appropriate legislative opportunity to merge conservation area consent with planning permission. In the absence of legislation to create a new heritage protection system, DCMS and English Heritage will work together to ensure that the existing heritage consent regimes operate as effectively and efficiently as possible.</p>	<p>Ongoing - see section 2 (v). DCMS will report in July 2011 on the administration of applications for scheduled monument consent.</p>
<p><b>E3</b> Going ahead, as soon as possible, with the next phase of the Environmental Permitting Programme to amalgamate water abstraction and impoundment consents, amongst others, with the environmental permit</p>	<p>(i) Defra will publish proposals to bring water abstraction and impoundment licensing into the environmental permitting (EP) framework once the necessary Ministerial powers to regulate in this area have been secured.</p> <p>(ii) Defra will also continue to examine whether other consent regimes can be brought within the EP framework and will implement permitting aspects of upcoming EU Directives via EP regulations.</p>	<p>Ongoing -see section 2 (i &amp; ii). Awaiting a legislative vehicle – expected in 2013.</p>
<p><b>E4</b> Actively considering whether other groups of related consents, such as those dealing with species licensing; highways orders; creation, diversion or extinguishment of public rights of way; or categories of business specific licensing, are capable of being reformed using the same principles and approach as the Environmental Permitting Programme</p>	<p>Defra and Natural England have looked into the scope for applying the EP principles to wildlife species licensing and rights of way orders but have not identified any other related consents or permits which these consents might logically align with.</p>	<p>N/ A</p>
<p><b>F) Improving proportionality (paragraph 3.27)</b> While acting within constraints, such as those imposed by underpinning EU legislation, Government should actively seek to improve the proportionality of widely used operational and permissive non-planning consents and to standardise and simplify common elements of the consenting process by</p>		
<p><b>F1</b> In appropriate cases, substantially increasing the number of small scale, commercial developments and other minor non-residential developments that are treated as de minimis (falling below designated thresholds requiring a consent application)</p>	<p>The Government will consider how to meet this recommendation and report back in spring 2011.</p>	<p>Initial streamlining measures are outlined in section 2 (ix). In line with the 'Red Tape Challenge' BIS will work with OGDs to take an in depth look at this specific recommendation and report on potential simplifications in autumn.</p>
<p><b>F2</b> Identifying those current consent requirements suitable for a process below formal consent application (for example,</p>	<p>Natural England is currently exploring the potential for using class licensing and associated registration schemes to reduce</p>	<p>Ongoing -see section 2 (iii), progress report in</p>

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
simple registration); or where 'deeming' consent is appropriate; or where the use of self-certification or prior authorisation would reduce the need for applications relating to low impact activities.	the burdens of applications for low impact activities.	autumn 2011.
<b>F3</b> Reviewing the operation of inquiry and appeal processes for planning and non-planning consents, with a view to standardising and simplifying related processes;	DCLG and the Planning Inspectorate are actively examining planning appeals processes to make these swifter and more straightforward. More details will be provided in spring 2011.	Ongoing - see section 2 (x).
<b>F4</b> Seeking further opportunities to standardise and simplify application, consultation and determination processes.	(i) The National Planning Policy Framework will simplify processes. We will be able to provide further details in the spring update.  (ii) Natural England is exploring opportunities for reducing the information requirements for wildlife licence applications with a low impact on protected species.  (iii) DCMS and English Heritage are investigating the scope for improving the transparency of the scheduled monument consent regime by: considering the merits and practicality of publishing applications and decisions online; and exploring the feasibility of consulting the Council for British Archaeology on relevant applications.	(i) Ongoing - see section 3 (vi) and forthcoming summer consultation.  (ii) Ongoing - see section 2 (iii) and section 3 (ix), first guidance due in June 2011.  (iii) Ongoing -see section 2 (vi), a progress report is due in July 2011.
<b>Improving Interaction between Planning and Non-Planning Consents</b>		
<b>G) Clarifying the boundary between planning and non-planning consents (paragraph 4.23)</b> Government should clarify the boundary between planning and non-planning consents by		
<b>G1</b> Ensuring that the revised national planning policy framework being developed by DCLG confirms the centrality of the planning process in determining whether a development should go ahead, while recognising that non-planning consents may also have a critical role in this	DCLG has ambitious plans to reform planning policy and publish a simple and consolidated policy framework covering all forms of development. DCLG will report on progress in spring 2011.	Ongoing – see section 3 (vi) and forthcoming summer consultation on the NPPF.
<b>G2</b> Ensuring that local authorities have robust local development plans in place to inform businesses about the types of	The reforms to the planning system outlined in the Government publication <i>Local Growth: realising every place's potential</i> and the forthcoming Localism Bill outline the role for	Ongoing - see section 3 (vi) <i>Local Growth</i> was

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
proposals that are likely to be acceptable in specific locations	Local Development Plans.	published in November 2010.
<b>G3</b> Promoting the use of pre-application discussions, which bring together the planning authority, other consent decision makers and the applicant, as a means to identify and resolve areas of potential controversy associated with the application and stop inappropriate applications going forward	DCLG will work with the Local Government Association and the Planning Advisory Service to decide how best to implement this recommendation, and will report on progress in spring.	Complete with ongoing progress reviews - see section 1 (i) and Annex B.
<b>G4</b> Putting in place clear rules of engagement between planning authorities and the different non-planning consent decision makers to ensure that, where appropriate, the latter give substantive advice to the planning decision-maker(s), identifying 'show-stoppers' and significant mitigation costs to inform their decision of principle	The Government will consider how best to encourage local authorities and non-planning consenting bodies to collaborate in ways that are helpful to would-be applicants.	Ongoing – see section 1 (i) and Annex B. This will form part of the discussions at future consenting body workshops.
<b>G5</b> Emphasising that, so long as all the non-planning consent issues which might affect the 'if' decision have been considered by the relevant decision-maker in parallel with planning permission, and have informed the decision on planning permission, then the decision in principle as to whether the development can proceed should be considered to have been dealt with. Thereafter, the determination of non-planning consents should be concerned with 'how' a development is built or operated rather than whether it can go ahead, unless the factors listed in paragraph 4.8 apply.	(i) Defra and DCLG have commissioned a project to draft a protocol and guidance to improve the interface between environmental permitting and planning permission.  (ii) The Government Programme Board established to drive implement these recommendations will also consider this issue further.	(i) Ongoing -see section 3 (i), a draft protocol will be published for consultation in the Summer.  (ii) Ongoing - see section 1 (i) and Annex B. This will form part of the discussions at future consenting body workshops.
<b>H) Changes to specific regimes (paragraph 4.37)</b> Government should improve the interaction between planning and non-planning consents in specific instances to clarify what should be viewed as material to planning and non-planning consent regimes, remove duplication and reduce the need for detailed design work to obtain planning by		
<b>H1</b> Reviewing the operation of registration of town and village greens in order to reduce the impact of the current arrangements on developments that have received planning	We will consider whether any changes to the village greens registration system are required as part of the Government's commitment to create a new designation to protect green	Ongoing – see section 3 (x). An announcement is expected shortly.

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
permission	areas of particular importance to local communities.	
<p><b>H2</b> Ensuring that the impact of a planning application on Rights of Way is considered as part of the planning process to reduce the risk of delay arising from challenge to any subsequent diversion (or other) order</p>	<p>The Government will work closely with local authorities to consider how planning processes and supporting guidance and information can be further strengthened to ensure that the impact of rights of way on a planning application are considered routinely at an early stage in the process and how local authorities can be supported in achieving that.</p>	<p>Ongoing - see section 3 (iii), a progress update will be provided in autumn 2011.</p>
<p><b>H3</b> Reviewing the operation of species licensing to assess whether it is appropriate to reduce or remove duplication in the respective roles of the planning authorities and Natural England by enabling the former to determine the 'over-riding public interest' and 'no satisfactory alternative' tests and the latter to focus on the 'favourable conservation test';</p>	<p>The Government will review the process with key interested parties exploring whether a division of responsibilities along the lines suggested would provide a more effective regime that adequately balances user needs against the legislative obligations. We anticipate full conclusions being reached in July 2011.</p>	<p>Ongoing - see section 3 (ix), a progress update will be provided by Natural England in July 2011.</p>
<p><b>H4</b> Exploring the options for merging highways consents with planning permission;</p>	<p>The Government will continue to look at options for reforming these arrangements. CLG and DfT will report back in the spring update.</p>	<p>Complete with ongoing progress reviews - see section 3(ii).</p>
<p><b>H5</b> Clarifying the roles of planning authorities (setting objectives and standards) and building control (ensuring objectives and standards are met) in relation to energy efficiency to reduce the need for applicants to carry out detailed design work at the planning permission stage; and</p>	<p>DCLG is undertaking an extensive review of the Building Regulations. This includes the relationship between planning and building control. The review is at an early stage at present. DCLG will provide an update in the spring update.</p>	<p>This programme was announced in September 2010 - see section 3 (xi).</p>
<p><b>H6</b> Removing the legal barriers to the flexible sequencing of non-planning consents in relation to planning whilst taking account of constraints such as underpinning EU regulations</p>	<p>The Government will consider the issue of sequencing further in light of the protocol and guidance for the planning/ permitting interface currently being developed in Defra and DCLG's project described in the response to recommendation G5. We will provide an update on progress of the likely areas for consideration by spring 2011.</p>	<p>Ongoing - see section 3 (i), a draft protocol will be published in the summer.</p>
<p><b>H7</b> In addition, Government should pro-actively consider whether there are other opportunities, not mentioned above, that could be taken to remove duplication between planning and non-planning consents and to reduce the need for detailed design</p>	<p>Ministers have also established a 'barrier-busting' team which supports the Big Society agenda across government. The team works with 'vanguard communities' to identify and overcome individual bureaucratic barriers, including those relating to planning and non-planning consents regimes. DCLG will consider how the lessons learned can be applied</p>	<p>Ongoing - see section 3 (vii).</p>

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
work to obtain planning permission.	more widely.	
<p><b>I) Facilitating integration of planning and non-planning consents (paragraph 4.49)</b>                      Government should encourage more local authorities to offer an improved, integrated and end-to-end planning and non-planning consents service by:</p>		
<p><b>I1</b>                      Actively promoting the adoption of existing good practice in development management across all authorities that take planning decisions;</p>	DCLG will hold initial discussions with the Local Government Association, the Planning Officers Society and the Royal Town Planning Institute to establish a way of doing this. DCLG will report back on progress in the spring update.	Complete with ongoing progress reviews - see section 1 (iii). This will form part of the discussions at future consenting body workshops.
<p><b>I2</b>                      Inviting local authorities that want to attract investment to volunteer to pilot the further integration of planning and non-planning consents by extending the 1App approach offered through the Planning Portal to include more non-planning consents, with the facility for developers to opt for consideration of related consents in parallel with their planning application;</p>	DCLG supports this recommendation in principle, but it will not be possible to implement it in the near future, beyond the work on Sustainable Drainage Consents, due to the prohibitive cost of developing the necessary IT solution.	Ongoing - see section 1 (vi), these provisions will form part of the Flood and Water Management Act expected in 2012.
<p><b>I3</b>                      Creating the necessary powers that would enable local authorities to take on a wider role in determining what are currently non-planning consents as part of the planning process.</p>	The initial Government Response outlined an approach that started by finding existing practice of local authorities taking a role in determining or advising on what falls into non-planning consent regimes; rather than moving straight to legislation.	Ongoing - see section 3 (viii) and section 3 (iii) regarding future activity. A progress report will be provided in autumn 2011.
<p><b>J) Extending 'unification' of planning and non-planning consents (paragraph 4.57)</b>                       Government should look for opportunities to extend the benefits, if realised, of the introduction of Development Consent Orders by reviewing their operation after 2 years experience and actively considering extending their use to a wider range of projects and / or extending decision-making powers to appropriate local authorities (potentially by building on any future aims to increase local decision making more generally).</p>	DCLG will be monitoring the introduction of DCOs through the IPC and MIPU and will be in a position to review how they are working once more have been passed – likely to be in 2 years.	Ongoing - see the introduction to section 3.
<p><b>Managing the Landscape and Making Change Happen</b></p>		

Original Penfold Review recommendation (July 2010)	Initial Government Response (November 2010)	Summary of progress
<p><b>K) Providing oversight of the planning and non-planning consents landscape (paragraph 5.7)</b></p> <p>Government should put in place a body or mechanism responsible for maintaining central oversight of the planning and non-planning consent landscape, tasked with ensuring individual and related regimes operate effectively and efficiently and with scrutinising potential new consents.</p> <p>To achieve this, the body or mechanism should:</p>		
<p><b>K1</b> Give developers advance notice of changes to planning and non-planning consent regimes;</p>	<p>Accepted. The process is handled under the Impact Assessment process within Government.</p>	<p>Continuing Government practice - see section 4.</p>
<p><b>K2</b> Scrutinise potential new consents or changes to the planning regime to ensure that they are necessary and that they are developed and implemented into the landscape with minimal additional burden and with full consideration given to their interaction with related consents and regimes;</p>	<p>Accepted.</p>	<p>Continuing Government practice - see section 4.</p>
<p><b>K3</b> Continuously scrutinise the existing landscape for possible barriers / inappropriate burdens and making proposals for periodic improvements made; and</p>	<p>Accepted. The process is handled through the Reducing Regulation Committee and DCLG's cutting red tape initiative.</p>	<p>Continuing Government practice - see section 4.</p>
<p><b>K4</b> Monitor the cumulative burden of regulation on developers with a view to reducing the overall burden.</p>	<p>Accepted – through adopting a one-in, one-out approach to consenting.</p>	<p>Continuing Government practice - see section 4.</p>
<p><b>L) Making change happen (paragraph 5.9)</b></p> <p>Government should develop an 'Action Plan' to drive implementation of this Review's recommendations and to ensure that reforms to the wider planning regime are delivered in a way that is complimentary to the aims of this review. To achieve this, Government should:</p>		
<p><b>L1</b> Agree a cross-Whitehall 'Action Plan' setting out exactly how each of the recommendations will be delivered, by whom and in what timescale; and</p>	<p>Accepted.</p>	<p>Complete - see section 4.</p>
<p><b>L2</b> As part of that 'Action Plan', make clear how wider planning reforms will take account of / incorporate specific Penfold Review recommendations.</p>	<p>Accepted.</p>	<p>Complete - see section 4.</p>



## **Annex B: Quality Development Code of common customer service standards: English Heritage, Environment Agency, Natural England and the Highways Agency**

The largest national consenting bodies – Natural England, the Environment Agency, the Highways Agency and English Heritage<sup>8</sup> have agreed to work towards implementing these standards from today. They are common ‘customer service’ principles each consenting body will deliver to developers, with a view to making the process of applying for development consents smoother and more certain.

### **Code of Practice and Customer Service Standards**

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

### **Specific service standards**

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

### **Customer Satisfaction' data**

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

### **Named Points of Contact**

- Consenting bodies will provide a named point of contact to applicants in the majority of cases. However there will necessarily need to be an element of discretion in providing this service to ensure resources within consenting bodies are most effectively deployed – there will be some cases, for example small scale, low risk and low controversy applications, for which a dedicated named contact will be unnecessary. Consenting bodies will be transparent about the criteria applied to assess proportionality.

### **Material to Assist Developers to Establish Whether Consent is Necessary**

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

---

<sup>8</sup> English Heritage is not a consenting body, but has a statutory role in advising the Secretary of State for Culture, Olympics, Media and Sport on the determination of applications for Scheduled Monument Consent, and a non-statutory role in administering the SMC applications process.

- Where permit/ licence requirements relate to geographic area rather than type of development activity those areas affected will be transparent to postcode level on the consenting body's website.

### Pre-Application Guidance

- Consenting bodies will operate on the general principle that pre-application engagement with applicants – be it through information, guidance or advice – is valuable and presents opportunity to smooth the application process for both parties. Where appropriate, consenting bodies will also contribute to pre-application discussion with applicants and planning officers to identify ways to phase applications in the most efficient way.
- Where relevant, and as a part of pre-application discussion, bodies will coordinate the determination of consent applications to allow for flexibility in timing – by determining whether a consent will be granted alongside or 'through' the planning application.
- There will be an element of discretion in providing this service to ensure resources are most effectively deployed on the basis of proportionality. Consenting bodies will be transparent about how they make judgements on this.

### Premium Services

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

### Appeals

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

© Crown copyright 2011

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

This publication is also available on our website at [www.bis.gov.uk/penfold](http://www.bis.gov.uk/penfold)

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills  
1 Victoria Street  
London SW1H 0ET  
Tel: 020 7215 5000

If you require this publication in an alternative format, email [enquiries@bis.gsi.gov.uk](mailto:enquiries@bis.gsi.gov.uk), or call 020 7215 5000.

**URN 11/933**