

Annexes

Annex A: Consultation arrangements

Annex B: Schedule of government responses to Barker recommendations

Annex: Consultation arrangements



This White Paper sets out an ambitious programme of proposals to be taken forward in the next three years. Some of the proposals will require legislation, others changes in policy and guidance. In developing these proposals, we want to work closely with stakeholders, consulting where appropriate and when timely.

This document raises some important questions on which we are seeking input now. For ease of reference a summary of the proposals and the questions are repeated below. Please give reasons for your answers and include any evidence you have to support them.

We are also consulting separately on a number of more detailed proposals, primarily in relation to implementation of reforms to the town and country planning system. These consultations, and where you can find them, are detailed in Section 2 of this annex. Details of how to respond to the consultation are set out in Section 3.

Section 1: Consultation questions

1.a) Proposed reforms to the development consent regime for nationally significant infrastructure projects

Chapter 2: Improving the way key infrastructure projects are dealt with

Q.1 The proposed package of reforms

We propose to replace the multiple existing consent regimes for key national infrastructure with a new system that will enable us to take decisions on infrastructure in way that is timely, efficient and predictable, and which will improve the accountability of the system, the transparency of decisions, and the ability of the public and communities to participate effectively in them.

In particular, we propose to:

- produce, following thorough and effective public consultation and Parliamentary scrutiny, national policy statements to ensure that there is a clear policy framework for nationally significant infrastructure which integrates environmental, economic and social objectives to deliver sustainable development;
- provide greater certainty for promoters of infrastructure projects and help them to improve the way that they prepare applications by making better advice available to them; by requiring them to consult publicly on proposals for development; and by requiring early and effective engagement with key parties such as local authorities, statutory bodies, and relevant highway authorities;
- streamline the procedures for infrastructure projects of national significance by rationalising the different consent regimes and improving the inquiry procedures for all of them;
- clarify the decision making process, and achieve a clear separation of policy and decision making, by creating an independent commission to take the decisions on nationally significant infrastructure cases within the framework of the relevant national policy statement;
- improve public participation across the entire process by providing better opportunities for public consultation and engagement at each stage of the development consent process; improving the ability of the public to participate in inquiries by introducing a specific “open floor” stage; and, alongside the



introduction of the new regime, providing additional funding to bodies such as Planning Aid.

Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?

Do you agree, in principle, that the overall package of reforms proposed here achieve the objectives that we have set out?

If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?

Chapter 3: National Policy Statements

Q.2 Introduction of national policy statements

We propose that government would, where it deems appropriate and subject to public consultation and Parliamentary scrutiny, produce national policy statements for key infrastructure sectors to clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries.

Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries?

If not, do you have any alternative suggestions for helping to achieve these objectives?

Q.3 Content of national policy statements

The content of national policy statements should include certain core elements. They would:

- set out the Government's objectives for the development of nationally significant infrastructure in a particular sector and how this could be achieved in a way which integrated economic, environmental and social objectives to deliver sustainable development. Strategic Environmental Assessment (SEA) is a procedure for assessing the effects of certain plans and programmes on the environment and will be an important tool in some cases for ensuring the impacts of development on the environment are fully understood and taken into account in national policy statements. National policy statements would be subject to an appraisal of their sustainability to ensure that the potential impacts of the policies they contain have been properly considered. Wherever appropriate we would expect this to be in the form of an SEA;

- indicate how the Government’s objectives for development in a particular infrastructure sector had been integrated with other specific government policies, including other national policy statements, national planning policy, and any relevant domestic and international policy commitments;
- show how actual and projected capacity and demand are to be taken into account in setting the overall policy for infrastructure development. This would not necessarily take the same form in all national policy statements as the drivers of need for infrastructure vary and may be more complex and uncertain for some sectors than for others.
- consider relevant issues in relation to safety or technology, and how these were to be taken into account in infrastructure development;
- indicate any circumstances where it was particularly important to address adverse impacts of development;
- be as locationally specific as appropriate, in order to provide a clear framework for investment and planning decisions. Some national policy statements might, according to circumstances, be locationally specific, while for others where it would not be appropriate, or sensible, for the Government to direct where investment should take place, they might specify certain factors affecting location; and
- include any other particular policies or circumstances that ministers consider should be taken into account in decisions on infrastructure development.

Do you agree that national policy statement should cover the core issues set out above?

Are there any other criteria that should be included?

Q.4 Status of national policy statements

We propose that national policy statements would be the primary consideration for the infrastructure planning commission in determining applications for development consent for nationally significant infrastructure projects. The commission would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.



Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?

If not, what alternative status would you propose?

Q.5 Consultation on national policy statements

We propose that there should be thorough and effective public consultation on national policy statements. The precise means of consultation would depend on the proposed content of national policy statements. However to ensure consultation is to a high standard, certain principles would need to apply:

- before publishing national policy statements in draft, there should be thorough consideration of evidence, which may include informally consulting relevant experts or organisations;
- once published in draft, there should be thorough and effective public consultation, in line with best practice, on the Government's proposals for national infrastructure needs and policy;
- local, regional and national bodies and statutory agencies with a particular interest should be consulted;
- where proposals might have a particular bearing on local communities, there would need to be effective engagement to ensure that such communities understood the effect of and could express views on the government's proposals, in line with best practice on community involvement with planning;
- the Government would need to take the consultation responses into account and explain how they had influenced policy.

We propose that key requirements for consultation would be set out in legislation, so they have full statutory underpinning.

Do you agree, in principle, that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected?

Are there any additional measures that would improve public and community engagement in their production?

Q.6 Parliamentary scrutiny

We propose that, as ministers would no longer be taking decisions on individual applications, draft national policy statements should be subject to Parliamentary scrutiny.

Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements?

What mechanisms might ensure appropriate Parliamentary scrutiny?

Q.7 Timescale of national policy statements

We propose that national policy statements should, in principle, have a timeframe of 10-25 years, depending on the sector.

Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements?

If not, what timeframe do you consider to be appropriate?

Q.8 Review of national policy statements

The Government would consider whether national policy statements remain up to date, or require review, at least every five years. It should consider significant new evidence and any changes in circumstances where they arise and review national policy statements where there is a clear case for doing so.

Do you agree that five years is an appropriate period for the Government to consider whether national policy statements remain up to date or require review?

What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?

Q.9 Opportunities for legal challenge

We propose that there would be opportunity to challenge a national policy statement, or the process of developing it, when it had been published and that this opportunity would be set out in legislation. The opportunity to challenge would be open to any member of the public or organisation likely to be affected by the policy. The grounds for challenge would be illegality, procedural impropriety or irrationality. Any challenge would have to be brought within six weeks of publication.



Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statements is sound and that people have confidence in it?

If not, what alternative would you propose?

Q.10 Transitional arrangements

Where relevant policy statements already exist we propose that these should acquire the status of national policy statements for the purposes of decision making by the commission. However, in order for this to be possible, they will need to meet the core elements and standards for national policy statements with regard to both content and consultation.

Do you agree, in principle, that subject to meeting the core elements and standards for national policy statements set out in this White Paper, policy statements in existence on commencement of the new regime should be capable of acquiring the status of national policy statements for the purposes of decision making by the commission?

If not, what alternative arrangements do you propose?

Chapter 4: Preparing applications for nationally significant infrastructure projects

Q.11 The preparation of applications

To avoid delays during the decision making process, we propose that promoters of nationally significant infrastructure projects would be required to prepare applications to a defined standard before the infrastructure planning commission would agree to consider them.

Do you agree, in principle, that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?

Q.12 Consultation by promoters

We propose that promoters of nationally significant infrastructure projects should be required to consult the public and, in particular, affected landowners and local communities, on their proposals before submitting an application to the commission.

Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?

Do you think this consultation should take a particular form?

Q.13 Consulting local authorities

We propose that promoters of nationally significant infrastructure projects would be required to engage with affected local authorities on their proposals from early in the project development process.

Do you agree, in principle, that relevant local authorities should have special status in any consultation?

Do you think the local authority role should take a particular form?

Q.14 Consulting other organisations

We propose that promoters of nationally significant infrastructure projects would, depending on the nature of their project, also be required to consult other public bodies, such as statutory environmental bodies, on their proposals before submitting an application. For instance:

- Health and Safety Executive
- Relevant directors of public health
- Relevant highway authorities
- Civil Aviation Authority
- Coal Authority
- Environment Agency
- English Heritage
- Natural England
- Waste Regulation Authority
- British Waterways Board
- Internal Drainage Boards
- Regional and Local Resilience Fora
- Commission for Architecture and the Built Environment
- HM Railway Inspectorate
- Office of Rail Regulation
- National Parks Authorities
- Mayor of London
- Devolved Administrations



- Regional Development Agencies
- Regional Assemblies

Do you agree, in principle, that this list of statutory consultees is appropriate at the project development stage?

Are there any bodies not included who should be?

Q.15 Statutory consultees' responsibilities

We propose that legislation should impose an upper limit on the time that statutory consultees have to respond to a promoter's consultation.

Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to a promoter's consultation?

If so, what time limit would be appropriate?

Q.16 The infrastructure planning commission's guidance role

We propose that the commission would issue written guidance on the application process, the procedural requirements and consultation.

Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications, and consultation?

Are there any other issues on which it might be appropriate for the commission to issue guidance?

Q.17 The infrastructure planning commission's advisory role

The secretariat of the commission would advise promoters and other interested parties at the pre-application stage on whether the proposed project fell within its remit, on the application process, procedural requirements, and consultation.

Do you agree in principle that the commission should advise promoters and other parties on whether the proposed project falls within its remit to determine, the application process, procedural requirements, and consultation?

Are there any other advisory roles which the commission could perform?

Q.18 Rules governing propriety

The Government proposes that there should be propriety rules to govern the commission's interactions with promoters and other parties and ensure that the

commission did not engage with any party in a way which could be seen to prejudice its decision on an application.

What rules do you consider would be appropriate to ensure the propriety of the commission's interactions with promoters and other parties?

Q.19 The commission's role at the point of application

We propose that, before agreeing to consider an application, the commission would need to satisfy itself that:

- (a) the application fell within the commission's remit to determine;
- (b) the application had been properly prepared; and
- (c) appropriate consultation had been carried out.

In the event that an application had not been properly prepared or consulted on, the commission would direct the promoter to do further work before resubmitting their application. In the event that an application was not appropriate for the commission to determine, the commission would refuse to consider it. This would ensure that the commission only took cases that were appropriate for it to consider, and that it did not begin consideration of cases without adequate preparation or consultation having been carried out.

Do you agree, in principle, that the commission should have the powers described above?

Are there any other issues the commission should address before or at the point of application?

Chapter 5: Determining applications for nationally significant infrastructure projects

Q.20 Scope of infrastructure planning commission

We propose that the commission would deal with development consent applications for nationally significant transport, water, wastewater and waste infrastructure in England, and energy infrastructure in England and Wales, which exceeded statutory thresholds. Chapter 5 of the White Paper sets out some indicative thresholds:

Energy

- (a) Power stations generating more than 50 megawatts onshore – the existing Electricity Act 1989 threshold – and 100 megawatts offshore.



- (b) Projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network. This would be subject to further definition in the relevant national policy statement.
- (c) Major gas infrastructure projects (Liquefied Natural Gas terminals, above ground installations, and underground gas storage facilities). This would be subject to further definition in the relevant national policy statement.
- (d) Commercial pipelines above the existing Pipelines Act 1962 threshold of 16.093 kilometres/10 miles in length and licensed gas transporter pipelines necessary to the operational effectiveness, reliability and resilience of the gas transmission and distribution network.

Transport

- (e) Schemes on, or adding to, the Strategic Road Network requiring land outside of the existing highway boundary. This would be subject to further definition in the relevant national policy statement.
- (f) A new tarmac runway or infrastructure that increases an airport's capacity by over 5m passengers per year.
- (g) Ports – a container facility with a capacity of 0.5 million teu or greater; or a ro-ro (including trailers and trade-cars) facility for 250,000 units or greater; or any bulk or general cargo facility with a capacity for five million tonnes or greater.

Water and waste

- (h) Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
- (i) Works for the transfer of water resources, other than piped drinking water, between river basins or water undertakers' supply areas, where the volume transferred exceeds 100 million cubic metres per year.
- (j) Waste water treatment plants where the capacity exceeds 150,000 population equivalent, and wastewater collection infrastructure that is associated with such works.
- (k) Energy from waste plants producing more than 50 megawatts – the existing Electricity Act 1989 threshold.
- (l) Plant whose main purpose is the final disposal or recovery of hazardous waste, with a permitted hazardous waste throughput capacity in excess of 30,000 tonnes per annum, or in the case of hazardous waste landfill or deep storage

facility for hazardous waste, a permitted hazardous waste throughput or acceptance capacity at or in excess of 100,000 tons per annum.

Do you agree, in principle, that these thresholds are appropriate?

If not, what alternative thresholds would you propose?

Q.21 Electricity system

The inclusion of projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network is a particular issue. Each link of the network is critical to the effectiveness and resilience of the network as a whole, and thus to ensuring that we can sustainably and cheaply transport power from generating stations to customers. In the circumstances, there is no obvious way to draw a line between national and local projects, although we would be interested in views on where such a line could be drawn.

Do you agree in principle that all projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network should be taken by the commission?

If not, which transmission and distribution network projects do you think could be determined locally?

Q.22 Gas infrastructure

Gas supply infrastructure (eg Liquefied Natural Gas terminals, above ground installations, underground gas storage facilities and pipelines) is covered by a number of consenting regimes with decisions confusingly split between central and local government. As the UK's indigenous gas supplies decline and we move towards increasing import dependence on gas, this infrastructure is becoming more important to the national need for secure energy supplies. Whereas, for some other energy infrastructure, there are set thresholds for responsibility for decision making, this is not currently the case for gas supply infrastructure as their importance is not necessarily determined by size. We therefore propose that nationally significant gas supply infrastructure, as clarified in the relevant national policy statement, should be considered by the infrastructure planning commission.

Do you agree in principle that the consenting regime for major gas infrastructure should be simplified and updated, rationalising the regime to bring nationally significant decision making under the commission?



Q.23 Other routes to the infrastructure planning commission

We propose that, in addition to the projects which exceed the proposed statutory thresholds, the commission would deal with any applications for projects which:

- were specifically identified as being of national importance in the national policy statements
- ministers directed should be treated as nationally significant infrastructure projects. The ministerial power of direction would be exercised on the basis of clear criteria set out in a ministerial statement, or possibly in the national statement of policy itself.

Do you agree, in principle, that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission?

If not, how would you propose changing technology or sectoral circumstances should be accommodated?

Q.24 Rationalization of consent regimes

In order to simplify and streamline the statutory process for nationally significant infrastructure projects, and ensure that the infrastructure planning commission is able to grant the authorisations necessary to construct these projects, we propose to:

- rationalise the different development consent regimes and create, as far as possible, a unified, single consent regime with a harmonised set of requirements and procedures; and
- authorise the infrastructure planning commission, under this revised regime, to grant consents, confer powers and amend legislation, necessary to implement nationally significant infrastructure projects.
- these authorisations could include:
 - permission to carry out works needed to construct infrastructure projects;
 - deemed planning permission;
 - compulsory purchase of land;
 - powers to amend, apply or disapply local and public legislation governing infrastructure such as railways or ports;
 - powers to stop up or divert highways or other rights of way or navigating rights, both temporarily and permanently;

- permission to construct associated infrastructure and access land in order to do this (eg bridges, pipelines, overhead power lines and wayleaves);
- Listed Building Consent, Conservation Area Consent, and Scheduled Monument Consent;¹
- hazardous substances consent;
- creation of new rights over land, including rights of way, navigating rights and easements;
- powers to lop or fell trees; and
- powers to authorise any other matters ancillary to the construction and operation of works which can presently be authorised by ministerial orders.

Do you agree, in principle, that the commission should be authorized to grant consents, confer powers including powers to compulsorily purchase land and amend legislation necessary to implement nationally significant infrastructure projects?

Are there any authorisations listed that it would be appropriate to deal with separately, and if so which body should approve them, or that are not included and should be?

Q.25 The commission's mode of operation

We propose that the board of the commission would appoint a panel of members (usually three to five) to examine and determine the major applications but that, where it did not feel that a full panel would be required, the Board of the commission should have discretion to delegate the examination of smaller and less complex cases to a single commissioner with the commission's secretariat.

Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision?

If not, what changes or alternative mode of operation would you propose?

¹ The Department for Culture, Media and Sport's White Paper, *Heritage Protection for the 21st Century*, published on March 8th 2007, proposes an integrated range of measures for a new heritage protection system, including a single system of designation for historic assets and an associated unification of Listed Building and Scheduled Monument Consents as a new Historic Asset Consent. We envisage that, in advance of the legislative change needed to introduce the new system of heritage protection reform, the infrastructure planning commission would have appropriate powers to grant Listed Building Consent and Scheduled Monument Consent for nationally significant infrastructure projects subject to the infrastructure planning commission having in-house heritage expertise.



Q.26 Preliminary stages

Once an application was accepted, the commission would secure notification of and consultation with affected individuals, the public, relevant local authorities and, depending on the nature of the application, other public bodies such as:

- Health and Safety Executive
- Relevant directors of public health
- Relevant highway authorities
- Civil Aviation Authority
- Coal Authority
- Environment Agency
- English Heritage
- Natural England
- Waste regulation authority
- British Waterways Board
- Internal Drainage Boards
- Regional and Local Resilience Fora
- Commission for Architecture and the Built Environment
- HM Railway Inspectorate
- Office of Rail Regulation
- National Parks Authorities
- Mayor of London
- Devolved Administrations
- Regional Development Agencies
- Regional Assemblies

Do you agree in principle that the list of statutory consultees set out above is appropriate at the determination stage?

Are there any bodies not included who should be?

Q.27 Examination

We propose that

- the majority of evidence, given its likely technical nature, should be given in writing, although the commission would have discretion to call witnesses to give oral evidence where it felt that it would help it to understand the issues, or asking a witness to give evidence in writing might disadvantage them.
- the commission would test this evidence itself by means of direct questions, rather than relying on opposing counsel to test it via a process of cross-examination – though it would have discretion to conduct or invite cross-examination of witnesses, if it felt that this would better test the evidence.
- the commission would organise an “open floor” stage where interested parties could have their say about the application, within a defined period of time, where there was demand for it.
- the examination and determination process should be subject to a statutory time limit of no longer than nine months (six months for the examination and three for the decision), but that for particularly difficult cases, the commission might decide that it needed longer to probe the evidence before they could reach a decision.

Do you agree in principle that the procedural reforms set out above would improve the speed, efficiency and predictability of the consideration of applications, while maintaining the quality of consideration and improving the opportunities for effective public participation?

If not, what changes or other procedural reforms might help to achieve these objectives?

Q.28 Hard to reach groups

We recognise that some communities can find it hard to engage with formal inquiry processes and may not readily come forward, even though they may be affected by proposals. We are determined to ensure that affected groups and communities can participate effectively and make their views heard in the process. We propose to build upon the long and impressive tradition in planning of people who have found ways to reach out locally, to engage communities and give voice to people who are not usually heard. We propose that, alongside the introduction of the new infrastructure planning system, we will increase grant funding for bodies such as Planning Aid by up to £1.5 million a year so that they can extend their activities and help such groups get involved on site-specific proposals in national policy statements and in the planning inquiries on major infrastructure projects.



What measures do you think would better enable hard to reach groups to make their views heard in the process for nationally significant infrastructure projects?

How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?

Q.29 Decision

We propose that the commission would approve any application for development consent for a nationally significant infrastructure project which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

Do you agree that the commission should decide applications in line with the framework set out above?

If not, what changes should be made or what alternative considerations should it use?

Q.30 Conditions

We propose that the commission would, where it approved an application, specify any conditions, such as mitigation measures, that the promoter would have to comply with. Any conditions would need to be imposed for a purpose directly related to the project and not for any other purpose; would have to be fair and reasonably relate to the development permitted; would have to be precise and enforceable; and could not be so unreasonable that no reasonable authority could have imposed them. The commission would also be obliged to assess the costs, impacts and benefits of proposed mitigation options and satisfy itself that the required measures are a proportionate and efficient solution.

Do you agree in principle that the commission should be able to specify conditions in this way, subject to the limitations identified, and for local authorities to then enforce them?

If not what alternative approach would you propose?

Q.31 Rights of challenge

We propose that there would be opportunity to challenge a decision by the infrastructure planning commission or the process of reaching it, when the commission's decision had been published and that this opportunity would be set out in legislation. The opportunity to challenge would be open to any member of the public or organisation likely to be affected by the decision. The grounds for challenge would be illegality, procedural impropriety or irrationality (including proportionality). Any challenge would have to be brought within six weeks of publication.

Do you agree, in principle, that this opportunity for legal challenge to a decision by the infrastructure planning commission provides a robust safeguard that will ensure decisions are taken fairly and that people have confidence in them?

If not what alternative would you propose?

Q.32 Commission's skill set

We propose that commissioners would be appointed for their expertise in fields such as national and local government, community engagement, planning, law, engineering, economics, business, security, environment, heritage, and health, as well as, if necessary, specialist technical expertise related to the particular sector.

What experience and skills do you think the commission would need?

1.b. Proposals to reform the town and country planning system

Chapter 7: A positive framework for delivering sustainable development

Q.33 Delivering more renewable energy

There is an urgent need to make quick progress in extending permitted development on micro generation to non residential land uses. To help realise a further portion of the potential for renewable energy, we will review and wherever possible extend permitted development rights on microgeneration to other types of land use including commercial and agricultural development.

What types of non residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?



Chapter 8: Strengthening the role of local authorities in place shaping

Q.34 Joined up community engagement

We propose to seek legislation to remove the requirement for the independent examination of the separate planning Statements of Community Involvement, using instead the new “duty to involve” as the means of ensuring high standards across all local authority and local strategic partnership activities.

We think it is important to enable a more joined up approach to community engagement locally. We propose to use the new “duty to involve” to ensure high standards but remove the requirement for the independent examination of the separate planning Statements of Community Involvement. Do you agree?

Q.35 More flexible response to a successful legal challenge

Subject to finding a legally robust way forward, we propose to seek legislation to enable the High Court to order that a plan is sent back to an earlier stage of its process rather than back to the start. This proposal would also apply to a Regional Spatial Strategy.

Do you agree that the High Court should be able to direct a plan (both at local and regional level) to be returned to an earlier stage in its preparation process, rather than just the very start?

Q.36 Removing the requirement to list Supplementary Planning Documents in Local Development Schemes

We propose to seek legislation to remove the requirement that all SPDs must be listed in the local development scheme which means that local planning authorities will be able to produce them without reference to central government.

Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme.

Q.37 Sustainability appraisal and Supplementary Planning Documents

We propose to seek legislation to remove the requirement for a sustainability appraisal for every supplementary planning document but we will consult on guidance which makes it clear that a sustainability appraisal should be undertaken for SPDs which have significant social, environmental or economic effects which have not been covered in the appraisal of the parent DPD or where EU law²⁶ requires a Strategic Environmental Assessment.

26 The “SEA” Directive (2001/42/EC “on the assessment of the effects of certain plans and programmes on the environment”).

Do you agree in principle that there should not be a blanket requirement for supplementary planning documents to have a sustainability appraisal, unless there are impacts that have not been covered in the appraisal of the parent DPD or an assessment is required by the SEA directive?

Chapter 9: Making the planning system more efficient and effective

Q.38 Permitted development for non domestic land and buildings

We propose to extend the impact approach to permitted development to other types of development such as industrial or commercial buildings as appropriate subject to certain limitations and conditions.

Which types of non residential development offer the greatest potential for change to permitted development rights? What limitations might be appropriate for particular sorts of development and local circumstances?

Q.39 Neighbour Agreements

Kate Barker proposed the development of a voluntary system, probably for smaller developments, whereby if there was agreement between a developer and neighbours affected, a full planning application would not be required. Kate Barker argued that this could make the process easier for householders in situations where those affected by the development are content for it to proceed, and so avoid small applications unnecessarily placing a burden on local planning authorities. We have a number of concerns about how this might work in practice, but welcome views.

What is your view on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights and where the neighbours to the proposed development are in agreement?

Q.40 Minor amendments of planning permission

We propose to amend primary legislation so as to allow, at the request of the applicant, discretion for the local planning authority to vary an existing planning permission where they consider that the variation sought is not material.

Do you agree that it should be possible to allow minor amendments to be made to a planning permission?

Do you agree with the approach?



Section 2: Issues that we are consulting on separately

Alongside the White Paper we will publish the following documents for consultation:

1. Planning Performance Agreements: A new way to manage large-scale major planning applications;
2. Planning Fees in England: Proposals for Change;
3. Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders;
4. Improving the appeal process in the planning system – Making it proportionate, customer focused, efficient and well resourced.

The closing date for comments on these documents is **Friday 17th August**. These documents will be available from the Communities and Local Government website at www.communities.gov.uk

In April 2007, we published a consultation paper setting out our proposals in relation to householder microgeneration, entitled:

Changes to Permitted Development Consultation Paper 1: Permitted Development Rights for Householder Microgeneration.

The closing date for comments on this document is 27 June 2007.

Section 3: How to respond to the consultation questions in this White Paper

Please send your response, no later than **17th August 2007** to:

Planning Reform Team
 Department for Communities and Local Government
 3/J2 Eland House
 Bressenden Place
 London
 SW1E 5DU

Or by email to planningreformconsultation@communities.gsi.gov.uk

If you have any queries regarding the consultation please email the above address or contact the Planning Reform Team on 020 7944 6511.

Representative groups are asked to include a summary of the people and organisations they represent in their reply.

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 (FOIA), the Data Protection Act 1998 (DPA) 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 FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and in the majority of circumstances; this will mean that your personal data will not be disclosed to third parties.

Section 4: What will happen next

A summary of responses, including the next steps, will be published on the Communities and Local Government website at www.communities.gov.uk; within three months of the close of the consultation. Paper copies will be available on request.

Section 5: Regulatory impact assessment

A Partial Regulatory Impact Assessment for the proposed reforms can be found on the Communities and Local Government website at www.communities.gov.uk.

Do you have any comments to make on the analysis in the partial RIA? In particular, do you have any comments to make on the economic, social and environmental costs and benefits presented in the partial RIA? Do you have any comments to make on whether the proposals would impact differently on people from different groups?



Section 6: The consultation criteria

The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations on the basis of a document in electronic or printed form. They will often be relevant to other sorts of consultation. Though they have no legal force, and cannot prevail over statutory or other mandatory external requirements (eg under European Community Law), they should otherwise generally be regarded as binding on UK departments and their agencies, unless ministers conclude that exceptional circumstances require a departure.

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full consultation code may be viewed at
www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm

Are you satisfied that this consultation has followed these criteria? If not, or you have any other observations about ways of improving the consultation process please contact

Albert Joyce,
 Communities and Local Government Consultation Co-ordinator
 Zone 6/H10
 Eland House
 Bressenden Place
 London SW1E 5DU

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

Please note that **responses to the consultation itself** should be sent to the contact shown within the main body of the consultation.

Annex: Schedule of government responses to Barker recommendations

Recommendation 1 The decision-making framework	
<p>Communities and Local Government should revise the framework for decision-making, in the context of the plan-led system, to make clear that where plans are out-of-date or indeterminate applications should be approved unless there is good reason to believe the costs outweigh the benefits.</p> <p>One way of implementing this would be to make clear that where an application for development is in accordance with the relevant up-to-date provisions of the development plan, it should be approved unless material considerations indicate otherwise. Where development plan provisions are indeterminate or where they are not up-to-date, the application should be approved unless there is a significant probability that the likely environmental, social and economic costs of the development will outweigh the respective benefits.</p>	<p>The Government welcomes Kate Barker's support for the plan led system. The Government's view is that the planning system should respond positively to sustainable development proposals that bring significant local, regional or national economic benefits. The Government will bring forward proposals in this area when consulting on new planning policy statement: <i>Planning for Economic Development</i>.</p> <p>Our proposals for responding to this recommendation are set out in Chapter 7.</p>
Recommendation 2 Statement of Principles	
<p>The Statement of General Principles should be revised to make clear that in determining planning applications, due regard should be paid to the economic, social and environmental benefits of development, such as the benefits new development can bring through low average energy consumption, alongside other material considerations.</p>	<p>We propose to amend The Planning System: General Principles to bring it into line with Planning Policy Statement 1 which recognises the benefits that development can bring.</p>

Recommendation 3 New PPS4 – Economic Development	
<p>Communities and Local Government should update its national planning policy on economic development by the end of 2007. This should include:</p> <ol style="list-style-type: none"> 1. Emphasising the critical role economic development often plays in support of wider social and environmental goals, such as regeneration; 2. Strengthening the consideration given to economic factors in planning policy, so that the range of direct and indirect benefits of development are fully factored into plan-making and decision-making alongside consideration of any potential costs. 3. Emphasising the role that market signals, including price-signals, can play in ensuring an efficient use of land both in plan-making and in development management; 4. Requiring a positive approach to applications for changes to use class where there is no likelihood of demonstrable harm, to provide greater flexibility of use in the context of rapid changes in market conditions; 5. Making clear that where a Core Strategy is in place, decisions on commercial development should not be delayed simply on the basis of prematurity; 6. Ensuring that development in rural communities is not unduly restrained and allows for a wide range of economic activity; and <p>Ensuring that in general a more positive approach is taken to applications for tall buildings where they are of very high design quality and appropriately located, and where there is the transport infrastructure to support them.</p>	<p>NEW PLANNING POLICY STATEMENT</p> <p>The Government will consult on a new planning policy statement: <i>Planning for Economic Development</i> in Summer 2007.</p> <p>The issues raised in the recommendation will be explored in the context of preparing the new PPS and in the light of the Government's response to other report recommendations.</p> <p>Our proposals in relation to Planning for Economic Development are set out in the White Paper in Chapter 7.</p>

Recommendation 4 **General planning policies**

Wider planning policy should be made more responsive to economic factors. This should include:

1. building on the more flexible approach to car-parking spaces for housing, by applying this less prescriptive approach to commercial development in place of the current national maximum standards per square metre of floor space;
2. ensuring that any review of heritage policy builds on the recent reforms of the Heritage Review, by emphasising the critical importance of viability and proportionality, and by facilitating modernisation that does not damage the historic significance of buildings;
3. supporting the town centre first policy and the impact and sequential tests that help to deliver it, but removing the requirement to demonstrate need (the 'needs test') as part of the planning application process; and
4. if the Competition Commission concludes that there is a problem relating to the exercise of local monopoly power as part of its current grocery inquiry, to establish how best to address these issues, either through planning or through other means.

In general, there is the need to establish a more robust evidence base for national policy, so that the costs and benefits of the policy can be better assessed. Furthermore, the Government should ensure that planning is used as a tool for delivering policy only when it is an appropriate lever and provides an efficient and effective means of delivering objectives.

1. **Car Parking** – The Government is considering its approach to the provision of car-parking to serve commercial development, recognising the need to ensure sustainable travel choices. Following further consideration, we will bring forward proposals in the consultation draft of Planning for Economic Development.
2. **Heritage policy** – The planning policy on heritage is detailed in the Department for Culture, Media and Sport's White Paper, *Heritage Protection for the 21st Century* published on 8 March 2007.
3. **Town centre policy** – our proposals for responding to this recommendation are set out in Chapter 7.
4. **Competition considerations** – our proposals for responding to this recommendation are set out in Chapter 7.

Evidence Base: We are committed to evidence-based policy and to build up a common evidence base with specialists and stakeholders.

We are taking a number of steps to improve the evidence base to inform the development of planning policy. For example, Communities and Local Government has just completed a National Statistics Quality Review of our Local Authority Development Control statistics and in line with the recommendations, we will be making changes to the data we collect. English Partnerships and the Department have appointed Kingston University to carry out a study of data on previously developed land with the aim of recommending improvements to the collection, quality and fitness of the statistics.

Is planning the right tool for delivering policy? We will address these issues as part of our review of national policy. (See also recommendation 14).

Recommendation 5 **European policy**

The Government should engage more proactively at the policy development stage of European legislation with a potential planning impact. Communities and Local Government should resource and maintain close links with DEFRA, FCO and UKREP in particular, and other departments as necessary, in anticipating the domestic planning implications of emerging EU legislation. All departments should ensure that their negotiators take fully into account the implications of proposals for planning legislation, policy and the resulting outcomes for future development. Additions to existing domestic regulation should be avoided except where needed to address remaining areas of market failure. Where possible, transposition should use existing regulatory mechanisms.

There is already cross-Governmental activity in proactively engaging with policy development and Government collectively recognises the need to commit the staffing and other resources necessary to ensure the social and economic impacts of further environmental protection measures are fully reflected in UK negotiations and their outcomes. We are also working with fellow EU member states on spatial matters including how we might influence EU policy initiatives with spatial impacts. This is being pursued initially through the preparation of the Territorial Agenda for the EU, to be signed at an Informal ministerial meeting in May 2007.

Recommendation 6 Higher priority for economic development

Regional and local planning authorities should make planning for economic development a higher priority. To achieve this there should be:

1. better integration of the Regional Economic Strategies (RES) and Regional Spatial Strategies (RSS), including enhanced alignment of timescales and compatibility of evidence bases, so that the RES can fulfil its role of informing the RSS. The Secretary of State should have regard to RES policies as part of her adoption procedures for the RSS;
2. policies that set out how the drivers of productivity (competition, investment, skills, innovation and enterprise) will be supported. Care should be taken to ensure that plans represent the interests of small firms and potential new entrants to the market (who may not be in a position to engage with the plan);
3. policies that focus, wherever possible, on desired outcomes rather than imposing the means of delivering those outcomes – for example in terms of climate change – the outcome should be to reduce the carbon footprint, with the best means being flexible;
4. a stronger link between plans and infrastructure provision, so that there is greater confidence that the infrastructure necessary to deliver large development will be in place;
5. a marked reduction in the extent to which sites are designated for single or restricted use-classes – the need to ensure provision for live-work units is relevant in this context;
6. where employment land needs to be separately designated, ensuring that employment land reviews are conducted regularly, making full use of market signals, so that there is a suitable range of quality sites which provide for all sectors and sizes of firm; and
7. delivery of the Government's objective of avoiding rigid local landscape designations in the context of a robust network established at national level.

RSS RES – We accept the value of improving the alignment between RSS and RES. This issue is being explored further through the CSR review of sub-national economic development and regeneration and will also be considered when drawing up the draft Planning for Economic Development.

Drivers of productivity – we agree with the need to provide a positive framework to support improvements in productivity. We will explore the issues raised here in the context of preparing the new policy on Planning for Economic Development.

Outcome focused policy – Current Government policy already expects local authorities to set out in plans how they will achieve broad policy outcomes. This is best achieved by local planning authorities sitting down with key stakeholders including businesses to see what agreed strategy can be devised to achieve national policy outcomes in a local context. The new spatial plans, introduced under the 2004 planning reforms, are expected to be more than merely setting down policies for controlling development. The draft PPS on climate change sets out the key planning objectives in relation to climate change which should be taken into account in the preparation of development plans.

Infrastructure and planning – We agree that there needs to be stronger links between plans and infrastructure. See further commentary on this issue in Chapter 8.

Site designations – We will consider further the issues raised in the context of preparing the new Planning for Economic Development and our response to Recommendation 14.

Landscape designations – Current Government guidance states "carefully drafted, criteria-based policies in LDDs...should provide sufficient protection for these areas, without the need for rigid local designations that may unduly restrict acceptable, sustainable development..." PPS7: *Sustainable Development in Rural Areas*. Government will continue through its advice to local planning authorities on plan content to emphasise the need to take PPS7 guidance into account.

Recommendation 7 Cross-boundary working	
<p>Local authorities should be encouraged to work together in drawing up joint development plan documents and determining planning applications where there are significant spillovers which are likely to spread beyond the boundary of one authority. In the medium term, consideration should be given to how the London model, where strategic planning applications powers are being granted to the Mayor, could be applied elsewhere.</p>	<p>We already strongly encourage planning authorities to think and work across administrative boundaries. The planning system allows for cross boundary working both on plan-making and on taking planning decisions. In the Local Government White Paper we noted that a number of cities and towns are developing new governance arrangements to better manage and coordinate decisions across city-regions. Local Area Agreements at principal authority level may also mean that districts are drawn closer together in delivery mechanisms within LAA areas.</p>
Recommendation 8 Fiscal incentives	
<p>The Government should make better use of fiscal interventions to encourage an efficient use of urban land. In particular, it should reform business rate relief for empty property and consider introducing a charge on vacant and derelict brownfield land. This reform could be considered in the context of the broader set of issues in relation to local government finance being examined by the Lyons Inquiry.</p> <p>In parallel with the introduction of the proposed Planning-gain Supplement, the Government should consult on reforms to Land Remediation Relief to help developers bring forward hard-to-remediate brownfield sites.</p>	<p>The Budget announced a wider review of reliefs and exemptions in business rates. This review will include an assessment of the recommendations made in the recent Barker and Lyons reports for a charge on previously developed land, promoting incentives for bringing this land back into productive use. Previously developed land is not capable of beneficial occupation and as such it is currently outside the scope of business rates. We need more time to consider how to extend business rates to include these types of land. However, Government believes that there is considerable merit in creating an incentive to bring these sites forward for redevelopment.</p>

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Recommendation 9 Green Belt/Green Space

In the light of growing demand for land and the need to ensure that areas of high public value (such as sites with important or endangered wildlife) or areas at higher risk from flooding due to climate change are adequately protected:

1. regional planning bodies and local planning authorities should review green belt boundaries as part of their Regional Spatial Strategy/Local Development Framework processes to ensure that they remain relevant and appropriate, given the need to ensure that any planned development takes place in the most sustainable location;
2. local planning authorities should ensure that the quality of the green belts is enhanced through adopting a more positive approach towards applications that can be shown to enhance the surrounding areas through, for example, the creation of open access woodland or public parks in place of low grade agricultural land; and
3. The Government should consider how best to protect and enhance valued green space in towns and cities. In this context, the Government should review the merits of different models of protecting valued open space, including the “green wedge” approach.

Decisions on Green Belt boundaries should be made through the development plan process as current policy allows for. To ensure that future development takes place in the most appropriate and sustainable locations it is also important that planning authorities should, where appropriate, continue to review Green Belt boundaries when they are drawing up their development plans, as current planning policy allows them to do and as has already been undertaken in some areas.

The Government is committed to the principles of the Green Belt and will make no fundamental change to policy in this area.

Existing Government policy (PPG17) already asks planning authorities to proactively plan for the protection and enhancement of valued green space in towns and cities, including efficient and effective countryside.

Recommendation 10 MIPS procedures	
<p>To improve the framework for decision making for major infrastructure to support a range of objectives, including the timely delivery of renewable energy:</p> <ol style="list-style-type: none"> 1. Statements of Strategic Objectives for energy, transport, waste proposals (including energy from waste) and strategic water proposals (such as new reservoirs) should be drawn up where they are not in place presently. These should, where possible, be spatially specific to give greater certainty and reduce the time taken at inquiry discussing alternative sites. Regional Spatial Strategies and local plans should reflect these national Statements and indicate, in particular, where regional facilities are needed; 2. A new independent planning commission should be established which would take decisions on major infrastructure applications in the above areas. Decisions would be based on the national Statements of Strategic Objectives and policies set in the Regional Spatial Strategy, local development documents and other relevant considerations, including local economic, environmental and social impacts; 3. The planning commission would be comprised of leading experts in their respective fields. Proceedings would be based on a streamlined public inquiry model, using timetabling to ensure timely decision making. Full community consultation would be carried out and decisions would be taken in a fair, transparent and even-handed manner; and 4. Decisions which are of local importance only, including housing and commercial applications made under town and country planning legislation, should continue to be made by the local planning authority. Where appropriate, and in order to ensure successful delivery of major commercial and housing development with national or regional spillovers, Government should consider the scope for greater use of delivery bodies such as Urban Development Corporations. 	<p>Our proposals for taking forward the recommendations on nationally significant infrastructure projects are set out in the White Paper in Chapters 2-5.</p> <p>In terms of other delivery bodies, there already exist a number of partnership organisations, including Urban Development Corporations, which work to deliver sustainable development and provide effective decision making and leadership. These include UDCs in the growth areas and Thames Gateway, where there are significant requirements for growth. In deciding on the most appropriate type of organisation, it is important to take into account local issues and the scale of growth. A UDC may be the answer, but other options, such as smaller scale local delivery vehicles, or joint planning powers may be preferable.</p>

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Recommendation 11 **MIPS supporting measures**

In order to ensure that this new decision-making model is effective the Government should:

1. Rationalise consent regimes to ensure that infrastructure projects of major significance can be treated holistically and that the independent planning commission can take all the necessary planning decisions (if more than one is still required) on a particular scheme. Environmental consents would, however, remain separate from planning consents and be the responsibility of the Environment Agency;
2. Critically examine whether there are smaller infrastructure decisions currently made at the national level that should instead be determined by the local planning authority, or by the Planning Inspectorate on appeal;
3. End joint and linked decision making so that large infrastructure applications, or applications made by statutory undertakers, which would previously have been decided by two or more Secretaries of State will be transferred to the independent planning commission for decision. Non-strategic applications will be determined by local planning authorities or by the Planning Inspectorate on appeal; and
4. As an interim measure, all Government departments with responsibilities for planning decisions, should draw up timetables based on the Communities and Local Government model, for major applications decided by ministers before the introduction of the independent planning commission and to ensure that decision making is expedited in the short-term.

Our proposals for taking forward the recommendations on nationally significant infrastructure projects are set out in the White Paper in Chapters 2-5.

Recommendation 12 **Limiting ministerial decision-making**

Measures should be taken to limit ministerial decision making to only those cases where there are national or wider than local spillover effects and to reduce the time taken to decide planning applications made under the Town and Country Planning legislation. The Government should:

1. Review the Town and Country Planning Call-in Directions. This should involve:
 - revising the Departures Directions so that it more clearly indicates that only those proposals that are at significant odds with the core strategy of a new local development framework, or similarly significant provisions of the

Our proposals for responding to this recommendation are set out in Chapter 9.

Recommendation 12 Limiting ministerial decision-making *cont.*

Regional Spatial Strategy, could be considered a departure. The departures thresholds should also be tightened so that only those schemes of national and strategic significance which are at odds with the development plan, could lead to notification to the Secretary of State; and

- reviewing other directions, in particular the Density, Greenfield and Shopping Directions and withdrawing them if no longer necessary. The overall aim should be to reduce significantly the number of cases referred to the Secretary of State for possible call-in
2. Review the town and country planning call-in policy by the end of 2007/08 and implement tighter criteria to the cases that are subsequently called-in following referral. Call-in should be used only in exceptional circumstances for those cases where significant national or wider than local issues are raised (particularly where there is no clear framework at the regional and local level to enable appropriate decision making to be made). The aim should be to reduce the numbers called-in by 50 per cent by 2008/09;
 3. Review the recovered appeals policy by the end of 2007/08 and so govern more strictly the appeals that are recovered, with the result that only those cases where there are significant national or wider than local issues raised, are recovered for ministerial decision;
 4. Reduce the amount of time it takes to decide whether or not to call-in an application. In particular the Government Office’s secondary target of seven weeks should be reduced to no more than five weeks; and
 5. Amend secondary legislation to remove the remaining categories of transfer excepted appeals: Listed Buildings in receipt of Grant Aid, Enforcement appeals accompanied by Environmental Statements, Tree Preservation Order appeals and Hazardous Substances appeals.

This Review does not recommend that there should be a change to ministerial decision making under the town and country planning legislation. In the future, it may be appropriate for the Government to look again at the need for ministerial involvement in decision making on planning applications made under the town and country planning legislation.

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Recommendation 13 Consolidation of legislation	
<p>The Government should consolidate the secondary legislation related to planning. A priority is to consolidate the General Development Procedure Order and its subsequent amendments – this should be undertaken in 2007</p>	<p>Our proposals for responding to this recommendation are set out in Chapter 9.</p>
Recommendation 14 National planning policy review	
<p>There should be a substantial streamlining of national policy, delivering previous commitments. The Government should publish proposals by Summer 2007. This should include consideration of the potential to remove some of the current range of Planning Policy Guidance, and where necessary replace through an expanded PPS 1. Any new policy should be consistent with the green paper principles of being strategic, concise, and not mixing policy with guidance. Any new guidance should be published ideally alongside or otherwise within 4 months of publishing national policy. A desirable goal would be to reduce over 800 pages of policy to fewer than 200 pages.</p>	<p>Our proposals for responding to this recommendation are set out in Chapter 7.</p>
Recommendation 15 LDF processes	
<p>Local planning authorities and regional planning bodies should continue to develop their development plans as expeditiously as possible to provide a clear planning framework for decisions.</p> <p>Communities and Local Government should urgently review the regulations and guidance behind the new plan-making system to enable the next generation of development plan documents to be delivered in 18-24 months in place of the current 36-42 months, while ensuring appropriate levels of community involvement. Draft guidelines should be published by summer 2007, drawing on the views of other stakeholders including the Better Regulation Executive. This will involve:</p> <ol style="list-style-type: none"> 1. streamlining of Sustainability Assessment (SA) processes including removing or reducing requirements where a related higher tier policy has already been subject to SA and exploring how SA requirements can be streamlined for supplementary planning documents; 2. streamlining of local development scheme processes to a short program of intended development documentation by Local Planning Authorities; 	<p>We agree that the local development framework process can be improved. Our proposals for responding to this recommendation are set out in Chapter 8.</p>

Recommendation 15 LDF processes cont.	
<p>3. refashioning the Statement of Community Involvement into a corporate 'comprehensive engagement strategy' along with removal of the need for independent examination, as proposed in the Local Government White Paper 2006;</p> <p>4. increasing the speed with which supplementary planning documents can be delivered;</p> <p>5. regional and local planning authorities and inspectors should ensure that regional and local plans deliver against the original objective of being short documents that do not duplicate national policy;</p> <p>6. the removal of a formal requirement for an issues and options phase of plan-making, leaving the Preferred Options and Submitted stage. Preferred Options should be generated via effective and focused engagement with stakeholders, especially those vital to the delivery of the plan;</p> <p>7. a reform of the challenge provision so that if a plan or part of a plan is quashed in the Court the plan can be amended without the plan-making process having to begin from the start; and</p> <p>8. ensuring that the new examination in public process enables a effective scrutiny and a testing of the evidence base of policy.</p> <p>Local authorities should explore the potential for efficiency gains (which could be in excess of £100 million over a three year period) to be reinvested in enhancing the quality of their planning service provision.</p>	
Recommendation 16 Gradual unification of consent regimes	
<p>The Government should formally commit to the gradual unification of the various consent regimes related to planning following the proposed unification of scheduled monuments and listed building consents, and should set out proposals in 2007. One option would be to bring together the heritage and planning consents.</p>	<p>Our proposals for responding to this recommendation are set out in Chapter 9.</p>

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Recommendation 17 **Planning application information requirements**

The Government should, as a matter of priority, work with local planning authorities and other bodies such as the Better Regulation Executive to reduce substantially the information requirements required to support planning applications. The principle should be to move towards a risk-based and proportionate approach to information requests. Action should include:

1. a review of the guidance on validating planning applications including the introduction of proportionality thresholds and the phasing of information required at different stages of the application process;
2. the introduction of strict criteria to be fulfilled by Government, regional planning bodies and local planning authorities before any additional information requirements on applicants are introduced;
3. an examination of the potential to raise the thresholds for EIA applications and limit the paperwork associated with Environmental Statements;
4. a tighter enforcement of processes aimed at ensuring resource transfers and training provision occurs before other government departments implement policy via planning; and
5. formal monitoring of progress based on representative samples of volumes of information, and associated costs, for like-with-like cases for both major and minor developments across a range of sectors. The first assessment should be published in 2009, benchmarking against 2006 volumes and costs.

Our proposals for responding to this recommendation are set out in Chapter 9.

Recommendation 18 PDRs/Side agreements	
<p>There should be a rebalancing of the focus of planning on the cases that matter most, in line with the principles of risk-based regulation by:</p> <ol style="list-style-type: none"> 1. a widening of permitted development rights for minor consents by extending the “impact” principle of the Householder Development Consent Review, so that in future only those cases where there will be non-marginal third-party impact will require planning permission, with the objective of an appreciable reduction in volumes of applications. This should be completed within the next two years; and 2. the development of a voluntary new system of negotiated side-agreements between affected parties, so that where agreement can be reached a full planning application will not be required. This is likely to be most practical with smaller scale applications. <p>The permitted development rights should also be widened to help combat climate change. In particular, proposals to extend rights to domestic micro-generation should be extended to commercial settings.</p>	<p>We set out our proposals in relation to extending permitted development rights for non householder development and for non domestic micro generation, including commercial and agricultural development in the White Paper in Chapters 7 and 9.</p> <p>We have invited views on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights in Chapter 9</p>
Recommendation 19 More efficient planning applications	
<p>The planning application system should be made more efficient so that high quality outcomes are delivered through a value for money process. This should include:</p> <ol style="list-style-type: none"> 1. More widespread use of pre-application discussions, which are often of great value to both planning departments and applicants. Where appropriate these should be used as an opportunity for early community involvement. Local authorities should charge for these only when this is unlikely to significantly reduce demand for the service; 2. The roll-out of Planning Performance Agreements (PPAs), formerly Planning Delivery Agreements (PDA) to ensure all applications are dealt with in a reasonable time frame. There should be a requirement for local authorities to offer these for large applications – revising the current thresholds for “majors” here by separating them from medium sized applications would help here. Where a PDA has been agreed the application would be removed from the current national targets; 	<p>Pre Application Discussions – The Government already recognises in PPS1 the critical importance of pre-application discussions in the planning process. The Government also endorses the recent guidance produced by the Planning Advisory Service in collaboration with key stakeholders about how to maximise the benefits of pre-application discussions. Local planning authorities already have the ability to charge for discretionary services, and there are a handful of local planning authorities who already charge for pre-application advice under the powers of the LG Act 2003 s 93 (charging for ‘discretionary’ services).</p> <p>Planning Performance Agreements. Our proposals for responding to this recommendation are set out in Chapter 8. and the PPA consultation paper.</p> <p>Statutory consultees. We propose to consult on draft proposals to amend the arrangements for statutory consultees later in 2007. The outcome of the consultation exercise will help inform the wider review of the General Development Procedure Order. A revised circular on the Highway Agency’s role in the planning process was published in March 2007.</p>

Recommendation 19 **More efficient planning applications** *cont.*

3. A review of the statutory consultee arrangements to improve efficiency, to include consideration of the thresholds at which these bodies become involved with applications and better incentives to ensure a quicker response to enquiries;
4. Early engagement from statutory consultees such as Natural England, the Environment Agency and English Heritage. In particular, the Highways Agency should ensure it adopts this approach rather than relying on late use of Article 14 holding powers; and
5. Speeding up the final stages of the application process, in particular by earlier negotiation of Section 106 agreements or use of tariffs, and discharging planning conditions.

Businesses should engage with pre-application discussions to enable issues to be identified at an early stage and ensure that they submit complete applications.

Final stages of process. The Government supports the view that negotiation of section 106 agreements should not unnecessarily delay the planning process. Government guidance (Circular 5/05) and good practice guidance is relevant. The Government will work with the Law Society to update the model s106 agreement during 2007 to ensure that it remains useful to local planning authorities in negotiating planning obligations. The Government is committed to ensuring that any new procedures introduced as part of a possible future Planning-gain Supplement and a scaled-back planning obligation regime are efficient and do not unnecessarily delay the grant of planning permission.

The White Paper also seeks views on a proposal to allow minor amendments to be made to a planning permission without the need for a full planning application.

Business engagement. Pre-application discussions provide an ideal mechanism to identify and resolve issues early in the planning process and to ensure that an applicant is fully aware of the information required to support an application. The recent guidance by the Planning Advisory Service, *'Constructive Talk: pre-application discussions'* highlights clearly these benefits

27 Made under s106 of the Town and Country Planning Act 1990 as substituted by s12 of the Planning and Compensation Act 1991.

28 ODPM Circular 05/2005, *Planning Obligations*

29 *Planning Obligations: Practice Guidance* Department for Communities and Local Government, 2006

Recommendation 20 LPA resources	
<p>The Government should review current resource arrangements for local planning authorities, related authority services (such as conservation) and key agencies. This should take account of the efficiency gains to be derived from other recommendations. In particular it should explore:</p> <ol style="list-style-type: none"> 1. Raising the £50,000 threshold for fee payments on a tapered basis; 2. Making it easier for applicants to pay for a premium service or to pay for additional resource/consultants to help process their application expeditiously, if this can be done in a manner that avoids anti-competitive effects; and 3. Maintaining a form of Planning Delivery Grant beyond 2007-08, ensuring some form of benefit for commercial speed and delivery outcomes alongside other goals. <p>Any fee increase should only be allowed on the basis of a clear mechanism for indicating the higher quality of service that will be delivered as a result.</p>	<p>Our proposals for responding to this recommendation are set out in Chapter 8. A consultation document on fees is also being issued alongside the White Paper.</p>
Recommendation 21 Planning skills	
<p>The skills of decision-makers and others involved with the planning system should be enhanced and more effectively utilised. To achieve this:</p> <ol style="list-style-type: none"> 1. The Government should ensure continued funding for the Planning Advisory Service to promote continuous improvement, raise underperformance and facilitate joint-working; 2. The Government should work with the RTPI, TCPA and other bodies to ensure a continued focus on getting new entrants into the profession. Post-graduate bursaries funded by Communities and Local Government should be tied to a number of years public sector service, so that a return is provided for the public purse; 3. The Government should raise the status of the Chief Planner within local authorities, potentially on a statutory basis, to reinforce the status of the profession for all parties, including members; 4. Wider use of business process reviews and best practice guidance to ensure that the time of more qualified planners is freed up to focus on the most complex cases; 5. Compulsory training for planning committee members, focusing resources in the first instance on new members, with increased training for officers; and 6. The LGA and POS should establish a change management strategy/programme to help deliver culture change in local authorities. 	<p>Planning Advisory Service – Subject to the outcome of the Spending Review we will continue to fund the Planning Advisory Service.</p> <p>New entrants into the profession – We will continue to work with relevant bodies to ensure a continued focus on getting new entrants into the profession. We think the bursary scheme delivers a public good by increasing the pool of qualified planners, wherever they work. However, we propose in future to link bursaries to public sector working in two of the first five years of employment after qualifying.</p> <p>Chief Planning Officer – We support the recommendation to raise the status of the Chief Planning Officer and would expect local authorities to make planning a prime responsibility of one of the corporate directors, who should be professionally qualified. We will be consulting further with the LGA and other stakeholders to develop this idea further. At this stage, we do not, however, consider this should be a statutory matter as we do not view the role of the Chief Planning Officer to be commensurate with those statutory positions in the local authority and consider it is for each local authority to decide how best to organise its departmental structure.</p>

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Recommendation 21 **Planning skills** *cont.*

Process reviews – We will support the promotion of good practice through the Planning Advisory Service. Their programme for 2007/08 includes a study of the costs and benefits of end-to-end electronic handling of planning applications; and continuing advice for local planning authorities on improvement of business processes.

Training – We are committed to raising standards, and to ensuring access to appropriate training. We propose to work with organisations such as the LGA, IDeA and Planning Officers' Society on agreeing benchmarks for minimum standards and have an agreement with the Local Government Association to undertake the first tranche of this work in Spring 2007. This work would build on what is already accepted practice in many Local Planning Authorities, in particular, those recognised as delivering an excellent service.

Performance, improvement and capacity building – We have agreed to support a proposal for sector-led change management work to further support local authorities in driving improvement through planning. This will be led by the LGA working with partners such as the Planning Officers' Society, Royal Town Planning Institute and Planning Advisory Service. Our proposals for responding to this recommendation are set out in Chapter 8.

Recommendation 22 Improving LPA performance

Local planning authorities should enhance the quality of service provided by their planning department through more effective interaction with external organisations, via:

1. The introduction of more 'shared services' by local authority planning departments (or contracting to more efficient local planning authorities) to enable economies of scale and scope
2. Increased use of outsourcing and tendering for development control services, so that private sector expertise is more effectively leveraged; and
3. Exploring the potential for greater use of accredited consultants to carry out technical assessments for selected tasks.

The Government should also expand the role of ATLAS both in scope, to remove bottlenecks in the delivery of large commercial development as well as housing developments, and in geographic range, so that the benefits of this model can be felt beyond southern regions.

Shared services and use of the private sector

– The Audit Commission has found that in recent years local authorities have been increasing their use of the private sector³⁰ and a few authorities are beginning to explore the scope for pooling resources. Our own work suggests that there are significant untapped opportunities to challenge the current pattern of planning service delivery through the growth of alternative supply, exploiting the synergies with other regulatory services to provide for more integrated frontline services, through the realisation of greater scale and operational efficiencies and making the best use of scarce expertise across the planning service³¹.

We will be shortly publishing a discussion paper to explore these issues in further detail and how such approaches can be encouraged³². Working with PAS and other bodies we will consider ways to support the development of such initiatives and promote their take-up more widely through the National Improvement Strategy.

Accredited consultants PAS has created a pool of accredited consultants. We will support the promotion of good practice through the PAS.

ATLAS – Our proposals for responding to this recommendation are set out in Chapter 8.

30 *The Planning system, matching expectations and capacity*, Audit Commission, February 2006

31 *Developing the local government services market to support the long-term strategy for local government*, Communities and Local Government, November 2006.

32 *Developing the local government services market: new ways of working and new models of provision for regulatory services*, Communities and Local Government, forthcoming

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Recommendation 23 Addressing poor LPA performance

A robust system of performance management should be put in place to address continued poor performance, in line with proposals in the Local Government White Paper.

Communities and Local Government should:

1. conduct a review of measures to judge effectiveness of planning departments in the context of local government reform. A review should consider how best to measure the quality of service by the planning system, including consideration of development outcome measures and labour productivity figures, alongside a greater emphasis on customer satisfaction survey evidence. In addition, the end-to-end time taken to process the larger applications that fall outside current targets should be included in the Communities and Local Government annual publication of development management statistics;
2. encourage the development of stronger sector-led support and intervention models
3. use the new performance framework to set improvement targets in the worst performing authorities; and
4. encourage, and where necessary, direct local authorities that continue to under-perform to tender their planning function, along the lines of the successful Urban Vision model or to contract with other more successful authorities to provide or share services.

For 2007-08, Communities and Local Government should require the chief executives of persistent poor performers to discuss improvement programmes with senior officials and, where appropriate, ministers.

Proposals for a new national indicator set are being taken forward through CSR07, and the Barker proposals will be considered in that context. (Our proposals for responding to this recommendation are set out in Chapter 8).

Time taken to deal with major

applications – Following a review of our statistical returns we intend to collect and publish data on the length of time taken to determine “major” applications (10+ housing units) that take longer than 13 weeks. In addition we intend to identify separately larger applications as a sub-set of “major” applications.

Sector support – As set out in the Local Government White Paper *Strong and Prosperous Communities*, the Government believes that support and advice from the local government sector and other sectors involved in local service delivery should be the first source of external support for a local authority and its partners. The Planning Advisory Service already provides an important source of sector-led support. The Government is working with the LGA to agree a national strategy for supporting local improvement: the strategy will seek to make effective use of sector-led mechanisms such as regional improvement partnerships.

New performance framework – The set of 200 national indicators underpinning the new local government performance framework will be finalised later this year.

Intervention – Assuming planning is covered in the set of 200 national indicators we will use the ladder of intervention set out in the Local Government White Paper to ensure appropriate action is taken on under-performance.

Persistent under-performance – The chief executives of persistent poor performers have been asked to discuss improvement programmes with senior officials and, where appropriate, ministers in the last two years and we have set the process in train again for 2007/08.

See Chapter 8 for further commentary on addressing poor performance.

Recommendation 24 High design standards

Decision-makers should give higher priority to ensuring that new development has high design standards – both for function and appearance:

- 1 Design coding may be used strategically and carefully in the context of master-planning to assist good design. Care is needed to ensure that design codes do not become formulaic or exclude contemporary architecture so that innovation and originality are restricted;
- 2 Pre-application discussions should be acknowledged as one tool in ensuring good design
- 3 Design champions with high-level skills and expertise should be encouraged at all levels;
- 4 Design review panels should be facilitated at the local level and integrated within the pre-application discussion process; and

Local planning authorities and inspectors should be encouraged to turn down poorly designed proposals, particularly where the costs of bad design will be high

Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) is clear that the achievement of high quality design is a key principle that should be applied to deliver sustainable development. To help deliver this policy we have published good practice guidance such as *By Design- Urban Design in the Planning System -towards better practice*, *By Design: Better Places to Live* and *Safer Places- the planning system and crime prevention and Preparing Design Codes: a practice manual* which gives guidance on how design codes can help deliver consistently better quality development. We have introduced the requirement for Design and Access Statements to be submitted with most planning applications which will help to ensure development proposals justify the design and access rationale that underpins them.

Design coding. Our guidance on design coding makes clear that codes are style neutral and that care should be taken not to impose architectural styles or the particular tastes of the design coding team without good reason.

Pre application discussions – Circular 1/2006 makes clear that it is considered good practice to use Design and Access Statements as an aid to pre-application discussions.

Design champions and review panels. We will continue to support CABE in their work to encourage effective local design champions and to support and advise existing regional panels, as well promoting and supporting the development of new regional panels

Resisting poor design – Our policies in PPS1 and PPS3 already make clear that inappropriate designs which fail to improve an area and the way it functions should not be accepted.

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Recommendation 25 **Reducing the number of appeals/mediation**

Communities and Local Government should establish a planning mediation service to act as an alternative dispute resolution mechanism within the planning system

The Planning Inspectorate should also explore further means of reducing the demand for the appeals system. This should include greater use of powers to charge for unreasonable behaviour leading to unnecessary expenses.

CLG believe that efforts should be made to reduce demand for the appeal system. Some of the package of proposals for improving the appeal process, which are set out in the White Paper at Chapter 9 and detailed in the Consultation Document, should have this effect.

CLG support the principle of mediation, and will work with relevant professional bodies to promote voluntary mediation services by local authorities as part of good practice.

Recommendation 26 **Reducing non-appeal demands**

The Department of Communities and Local Government should reduce the non-appeal demands made on the Planning Inspectorate. This should include working with local planning authorities to reduce both the number and the length and complexity of their development plan documents, so that there is a reduction in the proportion of resources devoted to testing their soundness.

Reducing non appeal demands would have benefits not only for the Planning Inspectorate but also for local authorities and all stakeholders involved in plans.

Recommendation 27 **Efficiency of the appeals system**

There should be a series of reforms to improve the efficiency of the appeals system. These should include:

1. Planning Inspectorate (PINS) setting out further proposals for how to increase the productivity of inspectors, including ensuring appropriate use of support staff to free up inspector resource;
2. PINS being granted the right to determine the appeal route with a requirement to publish clear criteria for how this new power will be exercised; and

Communities and Local Government revising regulations on appeal processes to reduce the potential for case-creep. This would limit the issues and material considered to those that were before the local planning authority when it made its decision, subject to the inspector retaining the power to ask for additional information as he or she sees fit in order to make a proper decision.

We are proposing a package of measures aimed at making the appeals system more proportionate as well as improving its efficiency and effectiveness. Our proposals for responding to this recommendation are set out in Chapter 9 and are detailed in the appeals consultation document.

The Planning Inspectorate will continue to implement reforms to make working practices smarter and also to increase flexibility in their workforce to ensure that appropriate specialist knowledge and expertise is applied to all cases.

Recommendation 28 Resources for the Planning Inspectorate	
<p>Issues relating to the resourcing of PINS should be explored by:</p> <ol style="list-style-type: none"> 1. considering the case for an additional £2 million public funding for appeals conditional on the overall proportion of PINS funding on appeal work not being scaled back and on the delivery of stricter performance targets 2. introducing new powers to allow PINS to recover wasted administrative costs; and 3. the introduction of cost-recovery for foregone expenses as a result of withdrawn appeals, which could result in savings of up to £1.5 million per year, to be used for appeals. 	<p>The Government is considering the case for increasing the Planning Inspectorate's resourcing, but it must also consider whether there are other ways of funding the system which would have less burden on public funds while also being sustainable.</p> <p>Our proposals for responding to this recommendation are set out in Chapter 9 and detailed in the Consultation Document.</p>
Recommendation 29 Appeals targets	
<p>As a result of the efficiency and resource measures outlined, the targets for appeals processing should be tightened to bring about a step change in performance:</p> <ol style="list-style-type: none"> 1. the targets for 2007/08 should include a new requirement that 80 per cent of all written representations will be dealt with in 16 weeks; 2. the targets for 2008/09 should state that 80 per cent of written representations should be conducted in eight weeks and 80 per cent of all hearings within 16 weeks. Inquiries should be subject to bespoke timetabling, with 80 per cent conducted within 22 weeks; and 3. from 2008/09 all appeals should be processed within 6 months. Where it proves necessary to extend this period the Planning Inspectorate should make a public statement setting out the reasons for the delay (which may include appellants or other parties not being ready to meet timescales). 	<p>The package of measures we propose should allow the Planning Inspectorate to achieve tougher performance targets for the time taken to determine appeals – see Chapter 9 for further information.</p>

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Recommendation 30 **Fiscal incentives to promote economic growth**

That Government considers, in the context of the Lyons Inquiry into local government, further fiscal options to ensure that local authorities have the right fiscal incentives to promote local economic growth.

The Government agrees with the Lyons report's analysis on the crucially important role of local government in driving economic prosperity. The review of sub-national economic development and regeneration, which will report for the CSR, will examine this issue. The Government will examine how the local government grant system could give local authorities greater rewards for delivering increased economic prosperity in their areas, through reform of the Local Authority Business Growth Incentives scheme and will bring forward proposals before the summer.

Recommendation 31 **Community good-will payments**

Business should make use of the potential to offer direct community goodwill payments on a voluntary basis, when this may help to facilitate development.

Developers are not prevented from making goodwill payments to individuals; however, any such payment would be outside of the planning system and cannot directly influence or be taken into account by a local planning authority in its determination of any planning application.

Recommendation 32 **Progress report**

That DCLG should publish a progress report on delivery against these recommendations by the end of 2009, drawing on the views of key stakeholders and the users of the planning system.

The DCLG will publish a progress report in relation to the delivery of the reforms set out in *Planning for a Sustainable Future* by the end of 2009.

