



# *Planning for a Sustainable Future*

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Consultation

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# Consultation on proposals contained in the Planning White Paper, *Planning for a Sustainable Future*

In May 2007, the Government published the planning White Paper, *Planning for a Sustainable Future*. The White Paper sets out an ambitious programme of proposed reforms to the planning system to be taken forward in the next three years. These reforms will, for the first time, embrace all development consent regimes, including those for major energy, water, transport and waste development, as well as the town and country planning system.

For key national infrastructure – such as major airport and port projects, major road improvements, major new power generating facilities and facilities critical to energy security, and major reservoir and waste water plant works – we propose to replace the multiple existing consent regimes with a new system. This will enable timely, efficient and predictable decisions, and improve the accountability of the system, the transparency of decisions and the ability of the public and communities to participate effectively in them.

For town and country planning, even while the reforms introduced in the Planning and Compulsory Purchase Act 2004 are bedding down, the system needs to adapt further to meet the challenges we now face. We propose to build on the improvements we have already made to ensure that there is a stronger approach to support sustainable economic development, alongside work to tackle climate change and cut carbon emissions and other environmental impacts from new economic development; strengthen the role of local authorities as place-shapers; and streamline the system to improve the accessibility and effectiveness of the planning system for all.

These are important and wide ranging proposals for reform. Some of the proposals will require legislation, others changes in policy and guidance. In further developing these proposals, we want to consult widely and work closely with stakeholders.

This consultation document asks questions on a number of the key proposals contained in the White Paper and other issues on which we wish to seek your views. In responding, please give reasons for your answers and include any evidence you have to support them. The consultation closes on **17 August 2007**. Details of how to respond to the consultation are set out in Section 3.

We are also consulting separately on a number of more detailed proposals, in relation to improving the planning appeals process, introducing planning performance agreements, changing permitted development rights for householders and new proposals for planning fees. These consultations, and where you can find them, are detailed in Section 2.

# Section 1: Consultation questions

## Proposed reforms to the development consent regime for nationally significant infrastructure projects

### 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?*

## **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 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?*

### **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?*

## **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;<sup>1</sup>
- 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?*

<sup>1</sup> 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?*

## **Proposals to reform the town and country planning system**

### **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?*

## **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 law<sup>2</sup> requires a Strategic Environmental Assessment.

2 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?*

## **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 published 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](http://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**

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](mailto: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](http://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](http://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](http://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](mailto: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.