

# THE KILLIAN PRETTY REVIEW PLANNING APPLICATIONS: A FASTER MORE RESPONSIVE SYSTEM

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A Response by the Royal Town Planning Institute to  
the Killian Pretty Review Call for Solutions

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**RTPI**

mediation of space · making of place

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# 1. Introduction

This document responds to 'Planning Applications: A faster and more Responsive System', A Call for Solutions CLG consultation.

The Royal Town Planning Institute is the leading professional body for spatial planners in the United Kingdom. It is a charity with the purpose to develop the art and science of town planning for the benefit of the public as a whole. It has over 21,000 members who serve in government, local government and as advisors in the private sector. The RTPI hosts fifteen professional networks that are the repository of subject matter related expertise in the Institute and are also open to membership by interested individuals more broadly interested in planning and network subject matters. These include a network that specialises in development management and one that represents elected politicians serving planning functions.

This response has been formed drawing together internal consultations and the results of meetings and discussions with members through the RTPI's Development Management Network and its Politicians in Planning Network as well as broader responses from individual members. It has drawn on meetings held between members of the Killian Pretty review team and RTPI Secretary General Robert Upton, Director of Policy and Communications Rynd Smith and members of the Development Management Network.

## 2. Response in Principle

The RTPI had anticipated and supported the basis for the Killian Pretty review as an essential means of delivering detail in the government's response to recommendations in the Barker 2 report around development management. The RTPI commences its response to the call for solutions by indicating its strong support for the identification and smoothing away of avoidable obstacles in the development management process.

The identification and smoothing of avoidable obstacles is a significant task that will necessarily involve consideration of the following dimensions:

- the relationship between central government legislative and regulatory requirements and the ability of local government to develop more efficient working practices in development management service delivery;
- the relationship between local government structures and working practices and their implications for more efficient working practices in development management service delivery; and
- the relationship of both dimensions above to the needs of development management service customers, who are applicants for planning permission, affected communities in all of the various scales and forms and substantial third party stakeholders with relevant expertise (such as statutory consultees).

It will be important to ensure that any proposed solutions are measured in terms of their capacity to optimise benefit against each of these dimensions.

In commencing a response to a consultation seeking views on the potential future shape of development management or development control, it is important to state at the outset that the RTPI envisions and observes an ongoing change to policy and practice in this field. As part of this change, regulatory development control processes are increasingly transformed into positive and enabling decision making and management processes, taking into account the widened range of subject matters that in part describe the similar shift from land use to spatial planning. It follows that this response refers generally to development management, as the RTPI's desired vision for the future of the services under consideration in the Killian Pretty review. The term development control is only used where strictly necessary to do so, to highlight an element of existing practice that may not be desired future practice.

Development management has a particular significance to UK planning systems. To date, these systems have been based on a system of law, policy and administration supporting a system of decision-making in which very few outcomes are mandated or specified and the ability to exercise discretion is major means by which outcomes are generated. Development management has been the key means of exercising planning discretion, in contrast to the approaches taken in some other planning systems, where the key decision is taken at the point at which the plan is made, with the plan then endowing strong development rights that require the exercise of only the most limited or possibly even no further discretion in development management. This should not be taken to underplay the role of the development plan, which since 1990 has been subject to a statutory presumption favouring its implementation: however, it is axiomatic that English development plans do not endow development rights per se.

Under the current system, every planning application has to be considered on its merits, and an alternative approach to managing development would be based upon a legally binding plan (or a zoning system as it is sometimes referred to). Whilst there is abundant evidence from other countries and cultures that such approaches can work in their settings, the majority of respondents to the RTPI's own internal consultations were concerned to emphasise their view that the English planning system was primarily founded on discretionary decision making and that this function was of such centrality to its operation and to public and stakeholder conceptions of its operation and benefits, that moves away from it must be considered with the utmost care and caution.

There have been various attempts to redirect discretion in the English planning system from the development management system to other parts of the planning system. Simplified planning zones have been legislated for, as have local development orders. Zone approaches are not considered to have been successful and local development orders are still at such an early stage of development that a sensible evaluation of success or failure cannot be made. Further detailed consideration is given to local development orders below.

One key justification for the retention of discretion at the heart of a development management system is that it allows for different and distinctive solutions to be adopted in different areas. It also offers distinct economies of scale and detail in policy making. English planning policy is able to be strongly strategically directed and responsive to the opportunities emerging from rapidly changing social, economic and environmental circumstances precisely because there is not too much detail specified in the plan. Development management solutions must resist the danger of an unduly standardising or generic approach. Local planning authorities, communities, economies and environments differ in so many ways (size/rural/urban etc) that one solution will not fit all. There needs to remain a degree of flexibility in order to respect local distinctiveness and preserve responsiveness to change.

This approach of course carries uncertainty for some stakeholders. Complete certainty can never be achieved in a planning system that is based on the administrative discretion of the decision-maker. It is up to the decision-maker to decide how much weight to give to different considerations. Development control/management is not a simple regulatory system. This endows the decision maker with power and requires its exercise in a responsible and accountable manner.

These issues are not to say that there are not means by which some migration of decision making from the development management stage to other stages of the planning process cannot be beneficial in some circumstances. The RTPI has outlined below that whilst it does not support an 'intermediate consents' model as this would be (in our view) unduly over-complicating, there is a basis for a further and performance or impact based review of permitted development rights. There is room to streamline applications and improve the decision making process by further reducing the volume of minor scale input, whilst redeploying the saved resource of skilled development managers to deliver better, more proportional assessment and better outcomes in more significant proposals affecting larger numbers of people. We can ensure that development management does not deploy resources exercising discretion over minor matters, the impacts or performance of which are inconceivably likely to damage the achievement of public objectives stated in planning policies.

It follows that the RTPI matches the Government's desire to reduce paperwork and would welcome a more proportional approach to planning decision making and administration, which removes further forms of minor development from the planning process. In the RTPI's submission to the Barker review we called on government to make it easier for householders and businesses to make improvements to their properties by scrapping the need to gain planning permission for minor works which have little or no impact on neighbours. We believe this approach warrants further examination and it will be most important to ensure that the review team makes the connections between the volume of planning cases in the system, the scope of permitted development and the need for well-resourced planning teams, as contributors to better development management.

The RTPI also considers that there is a role for area specific policy driven specifications of development rights: local development orders, to assist in the efficient realisation of a supported strategic vision for a place undergoing rapid change, where there are relatively few stakeholders or issues affected by that change. However, if local development orders are to be promoted to achieve such ends, some government commitment will be required to ensure that they are promoted and that local planning authorities understand that developing them is likely to deliver significant benefits. As things currently stand, risk averse and cost limiting arguments are likely to delay or limit the development of development management benefits through the use of such innovative tools.

In initially responding to the Killian Pretty review to its members, the RTPI made clear that whilst it is important that decisions are made promptly, the planning system should be judged by the quality of its outcomes, not just the speed with which those outcomes are delivered. The products of planning decisions, places and spaces and the buildings and landscapes that form them typically last for generations. Ultimately, their worth will be measured against their value to the community over their lifespan, not whether individual buildings gained approval in eight weeks as opposed to say nine weeks. It will be a regressive step if, at the end of this review, we end up with another set of time-based performance indicators with little thought given to the means to assess the value and quality of the final decision. The RTPI had significant concerns about the former Planning Delivery Grant system in terms of its apparent incentivisation of perverse and insufficiently quality oriented outcomes. Whilst improvements have been made in the design of the recently implemented Housing and Planning Delivery Grant, the retention of time based development management targets as a basis for clawing back funding otherwise provided to reward development plan and housing delivery ensures that there are still structural incentives to poor quality and perverse development management outcomes. In this respect, it is important and heartening to note that RTPI and CLG have collaborated on a research project to examine the scope for developing measures of outcome quality. This research will provide a useful input into the Killian-Pretty Review and issues arising from it are developed further below.<sup>1</sup>

In conclusion, the Killian Pretty review team have been set a complex and challenging task. The success of this review relies on a thorough understanding of the current system. Being able to engineer improvements by removing unnecessary requirements and improving the management and flow of information is the key. Producing a raft of new time-based targets that are blind to the quality of outcomes is not.

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<sup>1</sup> See <http://www.rtpi.org.uk/item/1803>, 'Measuring the Outcomes of Spatial Planning in England', RTPI and CLG (2008).

### 3. Response to Review Questions

Responses to the consultation questions are set out below and include both issues and potential solutions for improving the planning system. We welcome feedback from the review team and the opportunity to discuss these proposals further.

#### *Proportionality*

***Q1 How much scope is there for introducing a more proportionate and tiered way of dealing with development proposals of different scale and complexity? In particular, what are the merits of developing an intermediate level of approach, between permitted development and full planning permission? What are the main barriers to the introduction of such an approach, and how could they be overcome? How could increased complexity be avoided?***

The RTPI does not support a separate intermediate tier of development consent due to the potential for such a tier to add complexity for both applicants and local planning authorities. The difficulties of implementing an intermediate consent level would be significant, could add to the complexity of the existing planning system and add time to the decision making process rather than simplifying and speeding it up.

However, the RTPI does suggest widening the current tier of permitted development to exclude additional householder and retail and business uses from the need for planning permission, where these relate to proposals that could not be said to conflict with government or plan policy or other clearly valued outcomes. Such extensions could take the form of performance-based design codes for housing and retail/business, including appropriate permitted development in conservation areas and national parks. Permitted outcomes' performance would be linked to nationwide standards (e.g. building, siting, access, etc) that would be enforceable as conditions to the implementation of permitted development. Clearly, a move in this direction would require stronger integration between planning, building control and enforcement as well as more commitment to site inspections.

If such an approach were to be adopted, there would need to be a systematic review of permitted development as currently provided for, supported by a public debate about the relative costs and benefits of options for change.

***Q2 How can local planning authorities be encouraged to take up the opportunities offered by Local Development Orders to free up development from the need to obtain planning permission in local areas?***

Whilst the RTPI has not carried out a systematic survey, at present we are unaware of any local planning authorities taking local development orders forward. The initiation of a pilot leading to best practice would encourage their use as discussed below.

The future use of local development orders will require local authority planners to develop new skills in drafting and implementing local development orders, as well as applicants understanding their roles and responsibilities. The first local development orders will be difficult

to assess for soundness and it will be equivalently difficult to assess whether or not they work well in practice until they have been in place for some time and can be properly evaluated.

If government wishes to make local development orders successful, the Government must lead in resourcing a research project and disseminating results in the form of an evaluation of particular local development order types and their value in achieving particular planning objectives. This is not advocating 'standard' local development orders per se, as there must be room for orders to be adapted to local circumstances. However, it is advocating that government should take some of the risk in early adoption away from local planning authorities, by developing and piloting a range of local development order types that could be adapted to serve similar circumstances on a range of sites.

The RTPI proposes that government should set up pilot programmes through the Planning Advisory Service/Atlas<sup>2</sup> to scope out a common approach and to work with some local authorities to develop local development orders. In particular, the RTPI sees local development orders as benefiting greenfield and large brownfield opportunities in place of a masterplan. However, such local development orders should be identified in and have a clear strategic relationship to the relevant LDF Core Strategy.

***Q3 Different types of planning applications require different skills. How can local planning authorities respond to the continuing skills and resources challenges efficiently? What scope is there for solutions such as sharing of resources/skills between local planning authorities?***

The recent CLG Select Committee noted the shortage of planning officers within local authorities. Increasing skills levels within the sector therefore involves recruiting and retaining officers, as well as improving the skill and, in many cases, morale of current employees. These are not separate activities, but are closely related, as a full complement of planning staff should decrease pressure on individuals and increase opportunities for training. The RTPI is supportive of the call to have a chief planning officer at the senior executive table in order to promote the training and development needs of planners within the local authority setting.

The RTPI agrees that different types of planning applications require different skills, which is why the Institute takes a flexible rather than prescriptive approach to its Continuing Professional Development (CPD) policies. Chartered Planners therefore have the opportunity to undertake training and other professional development activity which is most appropriate for them and their particular role, within a framework provided by the Professional Development Plan (PDP). The RTPI strongly encourages employer involvement in this process of personal and professional review and target setting, and this can be closely linked with appraisal and annual review. Discussion of objectives with a mentor or colleague plays a central role in the RTPI Assessment of Professional Competence (APC), the graduate route to Chartered Membership. It is also an important indicator when an organisation applies to become an RTPI Learning Partner – the RTPI's 'kite mark' of excellence for organisations who invest in training and professional development.

LPA spending on training is low and varies widely – a brief survey of twenty local authorities for the RTPI's submission to the recent CLG Select Committee indicated a range of £100-£500

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<sup>2</sup> See [www.atlasplanning.com](http://www.atlasplanning.com), Advisory Team for Large Applications

per head, per year. Concrete figures are difficult to obtain, and this is worthy of further investigation.

Much of the spending on post-qualification training is on events that are not always very effective at developing skills. Better post-qualification training opportunities and incentives to local planning authorities to increase their spending on training could help to address the problem. Much of the training provision comprises conferences and seminars/workshops delivered at a single event. These are useful for the dissemination of information and policy updates, but are less effective at developing skills and knowledge. Investment in the development of better post-qualification training and its encouragement by Government Departments and Agencies would help to develop planners' skills more effectively. Incentives could also help in encouraging local planning authorities to increase their spending on training, perhaps through local planning authority performance review systems.

Much training can take place 'on-the-job', and it is essential that all local government planners, regardless of career stage, are appropriately supported if they are not to be lost to the private sector or become demoralised and de-skilled. The importance of investing in structured schemes is noted by the recent CLG Select Committee. A framework for such a programme already exists in the RTPI Assessment of Professional Competence route to Chartered Membership, and employers are strongly encouraged to support their graduates in this route in order to smooth the way for a more accelerated route to Chartered status.

The RTPI supports the assertion that an expanded role for planning technicians in dealing with many of the minor planning applications, appropriately trained and supported, can relieve the pressure on professional planners and free them up to deal with more complex applications. This would also provide a good grounding for career progression for planning technicians who may wish to move into professional roles in the future.

There is some scope for the pooling of skills and resources and this is already happening in some local planning authority areas, but should be encouraged further. The RTPI's Collaborative Working Groups, part of the Planners in the Workplace initiative, are designed to aid planners to work in partnership with peers and other built environment professionals to find practical solutions to real problems. The sharing of knowledge and skills through (for example) county-wide monthly management groups can act as a good sounding board for new ideas and ways of working. This has previously been carried out across Shropshire County.

Any consideration of skills must include softer 'generic' skills as well as professional skills. In this, the RTPI has particularly in mind increased management and leadership capacities within local planning authorities. Strong management skills have an impact upon how a service delivers, but also on available opportunities for training and thus morale and retention of existing employees.

## ***Complexity***

***Q4 How can we ensure that all users of the system have access to the simple, customer-oriented information and guidance they need about how the process operates and what they need to do to put in an application that will satisfy the local authority?***

The RTPI suggests that there should be better plain English guidance provided to users of the planning system. However, care is needed in crafting guidance to ensure that it does not lead

users of the planning system into inaccurate understandings of planning policies, proposals or outcomes that could have unintended legal consequences.

Permitted development is currently generated at the national level by regulation. On this basis, there is a role for a single clear set of national definitive guidance on its application, not dissimilar in concept to the Highway Code. This should be illustrated where possible to aid comprehension and interpretation. Clear drafting conventions should distinguish between steps that must be taken to comply with permitted development requirements and guidance that indicates one or more of a range of possible techniques or approaches to undertaking best practice permitted development.

There are many examples of best practice being operated by local planning authorities. These need to be showcased in a way that allows other authorities to benefit thus avoiding the need to 'reinvent the wheel'. CLG should work with the main professional organizations to establish standardised best practice templates which could be adopted by local planning authorities with the minimum of refinement to reflect local circumstances. The PARSOL<sup>3</sup> project is a good example of standardised templates being available to local planning authorities in respect of e-planning and a similar approach has been pursued by the Planning Advisory Service in recent times in respect of online toolkits.

Local planning authority websites could be better used, including consistent and standard formatting of websites that relate to national and regional planning guidance and legislation. This would mean that applicants and the community have access to the same material no matter what local planning authority website they are using. The government website pages on planning should also be consistent with local planning authorities, this would also benefit local planning authority planners, particularly graduates and planners new to the local authority. The Planning Portal to an extent already provides a good foundation and many local planning authority websites link to this site. The Victorian Planning System<sup>4</sup> in Australia and its web portal to local development documents provides an example of consistent policy documentation and processes that could be used as a best practice example.

***Q5 What measures can be taken to improve the quality of applications made by developers, agents and applicants?***

To improve the quality of planning applications, the RTPI proposes pre-application certification that is undertaken by approved planners/consultants. This certification would not constitute or imply any raised likelihood of consent. It would however, ensure that quality planning applications are being submitted with all of the correct information being provided to the local authority. These planners/consultants could be on a register, approved and monitored by the local authority/RTPI as being suitable consultants that meet strict criteria.

The PARSOL project has already brought forward a system/procedure of accredited agents and this initiative has been implemented by a small number of local planning authorities. It is based on the principles of certain local agents being able to demonstrate a competency to submit quality and robust applications and in return benefit from an expedited validation procedure.

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<sup>3</sup> See <http://www.parsol.gov.uk>, Planning Regulatory Services Online.

<sup>4</sup> See <http://www.dse.vic.gov.au/planningschemes/index.html>, Victorian Planning Schemes online.

A 'quality applicants' agent' brand, irrespective of whether the application is paper based or electronic is needed for the public to have confidence that their agent is competent. The local planning authority also need to have confidence that a competent application needs fewer validation checks and can move straight into substantive the development management process. The RTPI does provide a web listing of RTPI accredited consultants, where members of the public can obtain paid for planning advice from qualified (as opposed to not necessarily qualified) agents.

RTPI, RIBA<sup>5</sup> and CABA<sup>6</sup> are also developing joint good practice guidance on local Design Review Panels. Local Design Review Panels can be used by local authorities to assess submissions from a design perspective and support the delivery of quality outcomes. They can provide independent advice free from political interference. They can also act as a peer review and be beneficial, particularly for large scale developments.

Subject to ongoing research, we propose to issue further guidance in 2009 and would be happy to discuss this further with the Killian Pretty review team and CLG.

***Q6 How can the information required to support planning applications be made more proportionate, while at the same time maintaining a necessary degree of flexibility to accommodate specific circumstances? What are the key areas where changes to the scale and nature of information requirements need to be made, and how might those changes be delivered?***

The RTPI feels that there is a need to reduce the requirements for non-major applications. In particular, the requirement to prepare a detailed design and access statement for non-major applications is seen to be excessive. The RTPI suggests that user friendly national guidance be prepared to assist applicants that outline the likely requirements of design and access statements for indicative types of proposals dependant.

There is a need to encourage more effective pre-application guidance and advice with resulting commitment from all parties to proceed on an agreed basis.

## ***Culture***

***Q7 What are the likely implications for the processing of applications of all sizes, from householder changes to proposals of strategic importance, of moving from a development control to a development management approach and how might they best be addressed?***

The move from development control to development management signals a major change from procedural decision-making that tends to treat development proposals in isolation, to decision-making that acts to maximise synergies and develop solutions to complex development challenges for an area. This is only possible with good evidence, monitoring and negotiation processes. Confidence in the transparency of the process becomes more reliant on agreement at the strategic and development framework levels, the quality of communications and the provision of data, as opposed to procedural conformity.

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<sup>5</sup> See [www.architecture.com](http://www.architecture.com). Royal Institute of British Architects.

<sup>6</sup> See [www.cabe.org.uk](http://www.cabe.org.uk), Commission for Architecture and the Built Environment.

Development management, if properly undertaken, will integrate complex proposals with better qualified staff to undertake assessment. There is a need for training and guidance for staff from other public services such as health, education, housing, transport – to ensure that the input and commitment of these services occurs at the plan preparation and pre-application negotiation stages of the process. Similarly, there is a need for planners to undertake training in planning for these more specialist sectors.

The Planning Advisory Service and Planning Officers Society are carrying out work in this area. The RTPI is also supporting the development of good practice, for example, through its research project Effective Practice in Spatial Planning<sup>7</sup> and through the preparation of good practice note guidance addressing the needs of planners and health professionals working together to achieve better planning and health outcomes.

***Q8 How might the current approach to targets be improved to help deliver the right outcome (decision) most efficiently?***

The RTPI's ongoing view is that the current time-target approach to assessing planning applications should be reviewed to focus on quality of outcome rather than on decision time. Decisions made in haste to meet statutory timeframes will inevitably produce a proportion of negative outcomes. These have the potential to impose greater economic costs to future generations, undermining the money saved by making quick decisions.

RTPI responses to Housing and Planning Delivery Grant<sup>8</sup> consultations provided recommendations for using targets to ensure quality outcomes. This advice notwithstanding, the Planning Delivery Grant link between funding and performance against 8 and 13 week targets for planning application decision making has been continued into the Housing and Planning Delivery Grant, where declines in quantitative application processing will lead to abatements of grant provided to otherwise reward good development plan document delivery. As such we still have a system which incentivises development management speed at a price.

Any system of targets that focuses on delivery speed, without a counterbalancing evaluation of outcome quality has the potential to drive a mechanical culture of service delivery in which applications for planning permission can be refused on the basis of the need to achieve targets, even where there appears to be broad agreement between planners, local politicians, the third party community and proponents that changes could make the underlying proposals sustainable and acceptable. Faced with a need to maintain or grow target performance for grant purposes, authorities can also permit schemes that otherwise they would have subjected to additional negotiation to achieve better design outcomes.

In this regard, we should not forget that buildings and townscapes often remain with us for many hundreds of years. During this timescale, people are not likely to weight the benefit of having the building for an additional 3 or 4 weeks over its lifetime as a product of a target culture, if this has also resulted in aspects of the building being poorly adapted to its environment for the entire duration of its lifetime.

It has been and remains our view that if quantitative outcome measures that focus on timeliness are to be used to assess planning funding allocation, qualitative outcome measures

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<sup>7</sup> See <http://www.rtpi.org.uk/item/281>, Effective Practice in Spatial Planning, RTPI (2007).

<sup>8</sup> See <http://www.rtpi.org.uk/download/189/pol20061051.pdf>, 'The Royal Town Planning Institute response: Housing and Planning Delivery Grant Consultation', RTPI (2006).

should also be developed as part of a funding formula to ensure that such distortions are reduced or eliminated.

Turning to the measures of service and outcome quality that should be considered for inclusion, the RTPI tenders some suggestions. Firstly, the RTPI suggests that a broad basket of national policy outcome measures should be used to develop integrated targets, which together act as a reasonable measure for the delivery of sustainable development and sustainable communities.

Planning systems outside the UK offer flexibility in their decision making timescales whereby a planning officer may, in prescribed circumstances outline issues of concern or request changes early on in the process. The onus is on the applicant to respond, the clock stops and a response triggers the time limits to recommence. This allows applicant to respond more appropriately and provides the officer an opportunity to negotiate, with the aim of producing a better informed scheme.

The recent report commissioned by RTPI and CLG, *Measuring the Outcomes of Spatial Planning in England*<sup>9</sup>, demonstrates that current targets do not reflect the outcomes of planning in terms of the economic, social and environmental functionality or the liveability of places. It highlights the importance of analysis and monitoring for effective planning. The report takes forward CLG's guidance on output indicators for development planning by recommending area-based frameworks of indicators that can be used to chart the achievement of regional and local objectives. A model framework is designed to be used within partnership processes across the local, sub-regional and regional levels. This can all help stakeholders in place-shaping (e.g.LSPs) build up a shared picture of the overall effect spatial policy will have on their communities, their economy and environment and to adjust it accordingly, not only at the level of policy, but also through development management processes.

It is important to note that the researchers highlight serious gaps in data collection, including quality and attitudinal indicators. This has serious implications for the soundness and accountability of development management processes. It also suggests that we cannot immediately call for the implementation of a qualitative assessment framework, until we have national agreement on the necessary data sets, and clear and consistent means of collecting and managing the necessary data.

If the current approach to targets is to be continued, average processing times could be measured as well as the achievement of a decision within 8 or 13 weeks. This would reduce two problems with the current absolute targets, including a tendency to place applications of over 8/13 weeks system duration 'to the bottom of the pile', reducing their priority for resource allocation as they can no longer contribute towards a virtuous target performance, and the tendency in some local planning authorities to avoid negotiations and either refuse applications if they cannot be determined in 8/13 weeks, or permit sub-optimal proposals in order to meet 8/13 week targets.

Another useful way forward is the Planning Performance Agreement concept, under which the appropriate time target for delivery is one that is mutually agreed between the applicant and the local planning authority. While it would be difficult to envision this approach being applied

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<sup>9</sup> See <http://www.rtpi.org.uk/item/1803>, 'Measuring the Outcomes of Spatial Planning in England', RTPI and CLG (2008).

to many hundreds of relatively minor applications, it clearly can render benefits for the management of larger or more complex proposals.

For all of the reasons above, Planning Performance Agreements should actively reflect the quality of data collection, management, analysis and monitoring processes in local and regional planning authorities.

Responses to the RTPI internal consultation suggest that schemes that require a legal agreement often go over the relevant development management target period. This will often be because agreement drafting requires legal services that may be provided by another department in the local authority or by a contractor. Service level agreements and contracts for legal services appear not always to specify the nature and timeliness of legal agreement services to meet public and planning service stakeholder expectations.

There are a number of ways in which this problem could be addressed. It is already accepted good practice that legal agreement development should commence during pre-application discussions, with heads of terms prepared long before the commencement of the relevant statutory target. Some RTPI members have suggested that statutory targets could be changed to apply to the date of the resolution to grant the application, rather than date when the legal agreement is concluded. However, rather than adopt such an approach, it would seem better to ensure that new means of specifying and managing the legal services necessary to support the preparation and conclusion of legal agreements are developed to reflect the statutory timelines for applications, whatever these might be. There may be a justification for legal services to support planning agreements to be separately specified in contracts or service level agreements from other local government legal services. There may also be a justification for co-locating a legally qualified person responsible for agreement drafting with the development management case officers that they directly serve.

### ***How might the use of Planning Performance Agreements (PPAs) be further encouraged?***

The RTPI strongly supports planning performance agreements and feel that this approach could be used more widely, particularly for major applications to provide greater certainty to planning application assessment and the decision making process. The Government may wish to investigate making planning performance agreements mandatory for all or an increased defined group of major applications rather than using the 13 week targets.

The RTPI acknowledge the current apparently limited use of planning performance agreements is likely to have emerged from a lack of understanding of the process of entering into and preparing such agreements. In this case, additional training and support by ATLAS or PAS could be provided to both agents/developers and local authority development management case officers. This could include the case study documentation of various types of planning performance agreements, and commentary from local planning authority and applicant participants, illustrating how agreements can be of benefit to those who have not used them before. They could also act as regulators of the planning performance agreement system including publishing best practice and case studies.

## *Engagement*

### ***Q9 How can the involvement of statutory and non-statutory consultees in the planning application process be improved?***

The RTPI propose this is where targets could be useful as there is a need to encourage consultees to become more involved in the full range of consultation processes, particularly in pre-application discussions for major applications. One option would be to charge the applicant at pre-application and application stages an additional fee where a statutory consultation is required. This would be held by the local authority as a guarantee for a timely response by the statutory consultee within a specified timeframe. If the statutory consultee responds within this timeframe, they will receive the additional fee and the application is not unduly held up. If a response is not provided within the timeframe, the statutory consultee will forfeit the payment and the fee will be returned to the applicant. Due regard will need to be taken to ensure quality responses are provided by the statutory consultee rather than rushed responses to gain monetary rewards.

There can be inconsistent approaches to pre-application discussions between different regional teams of the same national agency (i.e. Environment Agency, Highways Agency). Therefore, it is important for the statutory consultee to make clear their scope of involvement upfront as some anecdotal evidence suggests they can sometimes provide views outside their remit which may conflict with other advice.

The group supported the use of service level agreements to set out requirements for statutory consultees and local planning authorities. This is taking a project management approach to engagement and forges a more consistent approach for the regionally represented consultees across the country. Examples include the conclusion of heritage agreements between English Heritage and local planning authorities which strategically frame the nature of individual historic building related consultations that the authority agree to manage in house (where English heritage agree that appropriate in house expertise is present) and those that still require a direct English Heritage involvement.

### ***Q10 What do you consider to be best practice in the involvement of elected members in the planning application process? How could best practice be further encouraged?***

There need to be transparent mechanisms of enabling elected members to bring their and their constituents knowledge and views to bear on planning decision making. A balance must be struck, demonstrating that whilst planning decision making is timely and efficient and that members are not perceived as fettering their discretion in their potential decision making role (for non-delegated matters), the public can have confidence that their elected members act for them on planning matters and applicants can legitimately communicate with elected members about proposals. The following means of demonstrating transparent member involvement have been developed in dialogue with the RTPI Politicians in Planning Association.

The RTPI strongly supports the continuation of a high level of delegation to development management case officers, as the key means to ensure that development management decisions are timely and consistent with planning policy. This view underpins the planning role of the elected member as policy setter: making the local development documents that set the context for all planning decision-making.

However, elected member/political channels for the expression of views about prospective development management decisions do need to be retained as an essential component of local accountability. Developing appropriate channels to raise issues relating to the availability of planning information to elected members; the content and operation of schemes of delegation; the means by which elected members can become involved in discussions of a proposal at pre-application and application stage; the circumstances in which non delegated development management decision making should take place and particularly the role of committees in taking decisions. They also raise important issues about elected member training.

If elected members are to be effective and engaged supporters of the planning system and planning decision making, they must be able to access information about the application caseload about which decisions are to be taken. Whatever scheme of delegation is in force, elected members are likely to have some form of call-in power and for this reason, they need to be able to gain access to information about the applications that are being submitted that might be of interest to them, to ensure that they use this power in an informed and consistent manner. Discussions with the Politicians in Planning Network (PIPA) members suggest that the publication of weekly lists of applications and the summaries of applications available via Council web sites may not provide sufficient information: members value the ability to telephone officers and to receive an update on the progress of individual applications and to view progress, whether this be orally or using an adjunct to the ICT support system used in development management. For larger cases, Leeds City Council maintain a continuous data briefing service for members. Elected members consulted by the RTPI supported the concept of a standard officer report template to ensure clarity and consistency in communicating information about applications.

It is recognised that there are many different schemes of delegation. The RTPI does not seek to prescribe a single national scheme of delegation as views about the subject matters and scales of development that are seen as significant vary from place to place. However, there are some common principles. Delegation schemes should be by exception, set out in a single consolidated document and should be rigorously reviewed to ensure that they are clear and that councillors, officers and applicants can all fully understand how they operate. PIPA members expressed concerns about circumstances in which delegation schemes existed in various different forms and subject to amendments, making the delegated or indeed committee power of decision hard to diagnose and eventually affecting the lawfulness of decision-making.

PIPA members felt strongly that there should be a clear, unrestricted right for any elected member to require an application to be determined by a committee (member call-in). The RTPI emphasises that call-in should not be by fiat of an individual member: there need to be criteria that determine whether a case is eligible for call-in and these should be transparently set out: members and officers should be trained in their operation.

Irrespective of the provisions of a scheme of delegation, there is a need for clarity around the circumstances in which members can become directly involved in pre-application or application discussions. At the present time, there are divergences in practice, with the need to avoid apparent bias or prejudice ensuring that some authorities limit the role of members on planning matters; in some cases beyond what is strictly necessary to ensure propriety, lawfulness and good administration. Members and applicants value the ability to transparently communicate about policies and proposals for an area. What is critically important is to ensure that when

they do so, they understand the limits that must apply to such conversations. Members in particular must receive training in this aspect of their role.

The results of such conversations can legitimately be used in the pre-application stage to help members to understand the potential impacts of a proposal and for an applicant to understand what the potential concerns of the local community might be. At the application stage, they can be used to assist members to understand whether they might call a matter in, or to understand the issues likely to emerge at committee for a non-delegated matter.

It will remain important for elected members to take decisions on matters that satisfy local criteria for call-in and on strategically significant matters that are reserved for member decision. It will be important that members strongly appreciate that such decision making is still planning decision making and that they must have regard to the development plan and other material considerations in reaching their decision. Members' involvement in and ownership of development plan policy is key. Genuine ownership brings willingness to support and defend the policies, unless there are very sound reasons not to. Members should not view their decision-making role as a right to delay or as a right to import any considerations other than material considerations, as to do so will expose their authority to loss of grant and to avoidable appeal and legal costs. Again, member training is the key to achieving this understanding, as is the crafting of robust and succinct officer reports, which clearly advise members of the relevant issues.

***Q11 How might community engagement in the planning application process be made more effective? What role is there for different forms of engagement, such as dispute resolution and stakeholder dialogue approaches, e.g. 'Enquiry by Design', in the planning application process? How might any changes needed be implemented?***

The RTPi supports alternative consultation and engagement approaches such as Enquiry by Design, particularly at the plan making and pre-application stages. This gives the community and local stakeholders an opportunity to have some ownership into either the development plan or the design of a site specific application. The benefits at the plan making stage are that when planning applications are advertised, the community can make comment based on a plan they contributed to. Pre-application engagement would help to address the site specific issues that a community may have, including design and access, building height, etc. Community engagement needs preparation and some resources. The time spent at the beginning of a major development project will be more than repaid in terms of delivery and capacity at the end of the project.

Enquiry by Design can certainly raise the critical issues and ensure some measure of informed public debate. Community Engagement is probably more likely to be genuine and effective if it is led by a credible Forum or Umbrella of community based interests.

In the case of large scale applications, pre-application discussions should result in agreement of a communication strategy which would set out how and when the community will be engaged, thus avoiding consultation overload and mixed messages from the different parties involved. Where not a delegated decision, all consultees should be given reasonable notice of what date the Planning Committee is to determine the application and at least a week in which to study the officer's report to that Committee. Likewise, all local planning authorities should allow a reasonable length of time for an individual/delegation to address the Committee.

With major urban development projects, certainly in London, an up-front establishment of a tripartite Master Planning/Enquiry by Design process (public / private / community – voluntary sectors) from the outset may be beneficial. The benefits of overseeing the evolution of the project to eventual submission of a planning application and ideally onwards into aspects of design, management, implementation and even delivery would be positive. Here the relationship to the Local Strategic Partnership / Sustainable Community Strategy / Local Area Agreements will often be an integral part of the process.

There are many engagement and consultation techniques available that can be customized to meet the circumstances and the RTPI supports applicants and local authorities promotion and use of such techniques. Story telling, role play to simulation, and gaming techniques may also be of use, depending on the audience. Hard to reach and minority groups should also be actively sought out for inclusion in these engagement techniques such as Enquiry by Design.

Planning Aid provides casework support for people submitting applications, preparing appeals, making representations; capacity building – training and education; and community planning, to involve people in policy, strategy, regeneration proposals, etc. Many local planning authorities are keen for Planning Aid to be involved in the consultation phase of planning applications as they provide support, help to improve communication, and reduce conflict.

## *Process*

### ***Q12 How can the effectiveness of pre application discussions be improved in a way which improves the overall speed and quality of the process from start to finish?***

The RTPI supports the encouragement of pre-application discussion to enable some initial negotiation to be carried out prior to the application being submitted. Certain skills are needed to lead pre-application discussion by both the local authority and the applicant, which relates back to training. This would also include ensuring pre-application discussions are held with development management case officers and specialists of a sufficient level of experience in their field, as well as including graduate or inexperienced professionals to be involved in a mentored environment.

There is a need to be clear from the outset what documents are required to be submitted as part of the application. The triggers for information/detailed studies should be clearly set out and where additional information is requested, there should be sufficient grounds on the part of the local authority i.e. the proposal has been amended during the course of negotiations or the information provided was insufficient. Pre-application discussions would inevitably outline the information required and reduce the risk of additional information requests throughout the target timeframes.

There also appears to be considerable issues with the current “free go” system. This means that where local authorities will not meet their target, they have the opportunity to refuse an application knowing that the applicant can essentially re-submit without incurring further fees, and the timeframes start again. This is not a desirable practice although, while the current targets remain, the “free go” opportunity serves as a back-up to meeting these timeframes.

Part of the argument for having 'a free go' is that re-submission applications take less time and involve less work in their processing. Whilst this may be true in some cases, any new application will always use resources in its processing and determination and this is a cost to the local planning authority. There is an argument that the free go should be replaced with a discounted fee. There is a related argument that the strict application of target and grant criteria in ways that lead to refusals followed by the immediate submission of a 'free go' application should be reviewed.

***Q13 What would be the pros and cons of a change to allow local planning authorities to choose whether to advertise applications in a local newspaper?***

Before the requirement to publish application lists in newspapers is abandoned, research should be undertaken to determine whether this would exclude particular sections of the population from the process. This research could be undertaken by CLG or Planning Aid and should determine how excluded groups currently gain access to information around the planning process.

Weekly lists sent to interested bodies such as amenity societies (the main users of newspaper adverts) and published on local planning authority websites, together with email alerts sent to relevant groups, and combined with neighbour notification letters could provide an adequate replacement to traditional newspaper advertisements. In addition, adverts in local newspapers by a local planning authority could refer readers to a website for application details, rather than listing all applications individually. Local libraries (typically also a Council service) could be engaged to support access to planning information for those without ICT access.

***Are there other changes to the publicity process for applications which should be considered?***

Neighbour notification letters to all those adjoining each site should be mandatory. Wider dissemination of letters should be encouraged in Government policy, and greater use of editorial in local newspapers (as distinct from advertisements) should be encouraged, particularly for major schemes. Planning authorities should consider ways in which they can use the press to communicate positive messages about the future of their area.

Site notices are often abused/removed/hidden for a range of reasons and we suggest that a larger sign be adopted (i.e. AO) where proposals can be clearly seen and should include the site plan, elevations, and description of the proposal. All proposals should use a template designed by the Government to ensure consistency and procedures for the location, positioning (e.g. height) and number of signs (depending on size of site) on the site should be developed. Examples of structured advertising of proposals can be found in Australia<sup>10</sup>.

***Q14 What experiences have you had of electronic submission of applications? What more, if anything, could be done to further encourage the use of e-planning in practice? Are there other process improvements which could yield significant benefits for the efficient handling of applications?***

While the use of submitting planning applications electronically is relatively new, it has had a positive response from applicants with data depicting steady rises. A large issue in electronic

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<sup>10</sup> See <http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/I/IntegPlanA97.pdf>, *Integrated Planning Act 1997* (section 3.4.6).

submissions is the ability to read plans that have been submitted at low resolutions. The RTPI suggests that a standard be adopted for all documents being scanned to make the online viewing of documents more user friendly. In addition, where local authorities need to print a low resolution plan, they should be able to do so at a scale that is appropriate (i.e. A1).

In terms of the availability of applications online, it is important to link and improve systems with consultees, many of whom currently don't receive e-submissions.

One of the main hurdles to the greater use of e-planning processes is a reluctance of some statutory consultees in accepting non-paper forms of drawings and documents, as in many instances these are printed off at cost to the organisations concerned. As highlighted in the response to question 9, if a fee is collected for statutory consultees, it would cover the cost to the consultee.

***Q15 How can the process of negotiation of planning obligations be further improved?***

The RTPI strongly supports the use of pre-application discussion as a means of drafting planning obligation agreements rather than the often discussed "Grampian" condition which would allow the legal agreement to follow the planning approval. While no formal agreement can be put in place until the planning application has been submitted and assessed, a framework and draft agreement that can be negotiated during pre application discussions and can provide the applicant with clear guidance and enable changes to the plan prior to submission. This approach would create a good platform for the formal assessment period so as to grant permission with a planning obligation agreement in a timely manner.

The RTPI also advocates for both planners and applicants to have access to financial training as it directly relates to planning obligations. With the implementation of the Community Infrastructure Levy (CIL), much of the calculations for contributions will be done at the strategic level and therefore applicants will know much of contribution required at the outset. This will inevitably relieve the burden on development management case officers, reduce time spent on negotiating major infrastructure requirements, and provide applicants with certainty.

***Q16 How could the concerns about conditions be addressed? How can the discharge, enforcement and monitoring of conditions be improved?***

Ideally a proper dialogue between the applicant and local planning authority, including meaningful pre-application discussions should enable the issue of conditions (and their wording) to be properly dealt with prior to determination. There is no reason why the applicant should be surprised to see the conditions imposed. Anecdotal responses from some members suggest that in some cases conditions are imposed as a means of addressing inadequacies in the standard of application of documents and information. These issues could be resolved by pre application certification, as discussed in the response to question 5.

The Circular 04/08: Planning-related Fees currently allows up to 12 weeks to discharge conditions which the RTPI considers excessive. More LPA resources in this area would likely be required if the discharge of conditions could be significantly reduced to provide planning permissions to commence development. The discharge of conditions relates back to targets and also the adequacy of enforcement in the current system.