



Planning Bill – Impact Assessment



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Introduction

The Bill establishes an independent Infrastructure Planning Commission to take decisions on major infrastructure projects (major transport, energy, water and waste) and improves a number of procedures under the town and country planning system.

The Bill takes forward many key elements of *Planning for a Sustainable Future*, the planning white paper published in May 2007, in particular in relation to the proposals for improving the way nationally significant infrastructure projects are dealt with.

Planning for a Sustainable Future contained a number of consultation questions and, in addition, four additional consultation documents were published alongside the White Paper. The Bill provisions and this impact assessment have been drafted taking into account the Government's response to the consultation replies.

This impact assessment is divided into two main parts. Part A sets out an assessment of impact of the provisions in relation to a new system for handling nationally significant infrastructure projects. Part B addresses the impact of the provisions for the improvement of the town and country planning system.

Technical Notes

Net Present Values (NPVs) are calculated in this report in light of Better Regulation Executive guidance¹ and the HM Treasury Green Book². NPVs are used to calculate the costs and benefits that will accrue over a number of years. Discounting is used to reflect the fact that society as a whole prefers to receive goods and services sooner rather than later, and to defer costs to future generations. This is known as 'social time preference'; the 'social time preference rate' (STPR)³ is the rate at which society values the present compared to the future.

The discounting rate that is used in this IA is the 3.5% rate recommended in the Green Book. For the Town and Country Planning half of the bill, a time period of 10 years has been used as this is the standard recommended in Better Regulation Executive guidance. A longer time period is used for the Nationally Significant Infrastructure half of the bill to reflect the long term impact of large infrastructure projects.

¹ http://bre.berr.gov.uk/regulation/ria/toolkit/over_time.asp

² <http://greenbook.treasury.gov.uk/>

³ The STPR is made up of two components. Firstly the rate at which individual discount future consumption over present consumption and secondly an adjustment to reflect the fact that per capita consumption will be more plentiful over time due to economic growth.

PART A – Nationally Significant Infrastructure Projects

Summary: Intervention & Options		
Department /Agency: Communities & Local Government	Title: Impact Assessment of Planning Bill proposals for nationally significant infrastructure	
Stage: Introduction of Bill	Version:	Date: November 2007
Related Publications:		

Available to view or download at:

<http://www.communities.gov.uk>

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What is the problem under consideration? Why is government intervention necessary?

The current development consent process for nationally significant infrastructure projects (NSIPs) is overly long, complex and lacks a clear national strategy for each infrastructure type.

This has adverse impacts on the quality of life of citizens – through inhibiting economic growth and prosperity, threatening the security of our energy supplies and inhibiting our efforts to curb climate change.

More details on the rationale for government intervention are provided in the evidence base.

What are the policy objectives and the intended effects?

Policy objective is to ensure that the planning system for nationally significant infrastructure in England is prepared to meet future challenges. Intended effects:

- Create a planning system responsive to our economic, social and environmental priorities
- Increase transparency and accountability
- Provide full and fair opportunities for public consultation and community engagement.
- Create a streamlined, efficient and predictable system

What policy options have been considered? Please justify any preferred option.

Three options were considered:

- Option A – Do nothing.
- Option B – National Policy Statements, better project development and independent commission for decision making.
- Option C – Improving the current system.

After considering consultation responses to the white paper *Planning for a Sustainable Future*, the Government has decided to pursue Option B, which was estimated to yield the largest benefits in the partial RIA.

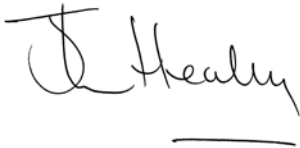
When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Five years after implementation of the policy.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 26 November 2007

Summary: Analysis & Evidence			
Policy Option: B		Description: National policy statements, better project development and independent decision making	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' [undiscounted]
	One-off (Transition)	Yrs	
	£5m	22	One-off cost setting up Infrastructure Planning Commission £5m
	Average Annual Cost (excluding one-off)		Costs of producing NPSs and reviews £2m p.a.
	£11m		Cost of running IPC £9.3m p.a.
		Total Cost (PV)	£200m
Other key non-monetised costs by 'main affected groups'			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' [undiscounted]
	One-off	Yrs	
	£0	22	Benefits to society of earlier completion of NSIPs: £280m p.a.
	Average Annual Benefit (excluding one-off)		Reduced administrative costs: promoters (£20.4m p.a.), central government (£0.6m p.a.) and Planning Inspectorate (£0.3m p.a.)
	£300m		Total Benefit (PV)
Other key non-monetised benefits by 'main affected groups'			
Greater accountability of national policy; improved procedures for involving the public; greater consistency for promoters.			
Key Assumptions/Sensitivities/Risks Uncertainties over: to what extent the proposed reductions in time to process applications will be realised under the new regime (risk of delays due to, for example, Judicial Reviews); to what extent time savings would result in earlier completion of NSIPs.			
Price Base Year	Time Period Years	Net Benefit Range (NPV)	NET BENEFIT (NPV Best estimate)
2007	22	£3,800m–£4,800m	£4,300m

What is the geographic coverage of the policy/option?		Varies by sector		
On what date will the policy be implemented?		2009		
Which organisation(s) will enforce the policy?		Govt, IPC, Local authorities		
What is the total annual cost of enforcement for these organisations?		£ N/A		
Does enforcement comply with Hampton principles?		Yes		
Will implementation go beyond minimum EU requirements?		N/A		
What is the value of the proposed offsetting measure per year?		£ N/A		
What is the value of changes in greenhouse gas emissions?		£ N/A		
Will the proposal have a significant impact on competition?		Yes		
Annual cost (£–£) per organisation (excluding one-off)	Micro N/A	Small N/A	Medium N/A	Large £20.4m
Are any of these organisations exempt?	No	No	No	No
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0		Decrease of £19.5m		Net Impact £–19.5m
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Background

To help it understand how the planning system could best respond to some of the key challenges of the future, the Government commissioned Kate Barker to consider how, in the context of globalisation, and building on the reforms already put in place in England, planning policy and procedures could better deliver economic growth and prosperity in a way that is integrated with other sustainable development goals.

The Government also asked Rod Eddington, who had been commissioned to advise on the long-term links between transport and the UK's economic productivity, growth and stability, to examine how delivery mechanisms for transport infrastructure might be improved within the context of the Government's commitment to sustainable development.

Rod Eddington and Kate Barker published their findings in December 2006. In May 2007 the Government published its response, the White Paper, *Planning for a Sustainable Future*. The Government consulted on the proposals in *Planning for a Sustainable Future* for 12 weeks, and a summary and analysis of consultation responses was published in November 2007. The Planning Bill, introduced to Parliament in November 2007, creates the legislative framework implementing these proposals, the impacts of which are assessed in this document.

Rationale for government intervention

Problems with the current system include:

- The overly long and complex system delays completion of projects in the national interest.
- A lack of consistency in the time taken to gain planning permission. The national need for a project is often established late in the process. By this point promoters have invested a significant amount of money preparing an application for a project, and other parties have invested time in considering the project's impacts.
- The national need for infrastructure is often debated in the context of individual projects, instead of being debated nationally.
- Necessary preparatory work on the impacts of a project is not always carried out in a timely manner. This can cause delays and nugatory work.

- The quality of project promoter’s local consultation at the early stages varies. This limits the opportunity for local communities to influence the development of projects in their area. Local people can offer valuable information on the impacts of a project, so inadequate consultation can also lead to applications being submitted for sub-optimal projects. Inadequate consultation can also potentially exclude certain groups. For instance, it could mean that only well-resourced organisations that have the capacity to proactively look out for upcoming developments become aware that a promoter is consulting on a project. This could mean that members of the public and less well resourced groups do not have the opportunity to comment.
- A number of approvals are often necessary for an individual project, which are often granted by a number of different decision-makers. Completing multiple applications is time-consuming for the promoter. The complexity also makes the system less accessible and limits the ability of members of the public or organisations unfamiliar with the consent regimes to understand which decision-makers are involved and over what timescales.
- Under current inquiry processes, evidence is usually probed by means of the oral cross examination of witnesses by counsel. This can be time consuming and expensive, and make it difficult to estimate how long an inquiry is likely to take, adding to the costs of participating. The legalistic and adversarial approach can also make it intimidating and difficult for members of the public to engage effectively in the process.

This has a number of negative effects:

- Detrimental effects on quality of life in terms of services such as reliable water supplies, efficient transport, clean and affordable energy and effective disposal of waste.
- Reducing economic growth and prosperity, by increasing energy and transport costs, and by reducing flexibility to adapt to changing markets.
- Inhibiting efforts to curb climate change by delaying the construction of renewable energy and low carbon energy generation.
- Undermining efforts to secure energy supplies by delaying the construction of gas and electricity infrastructure.

Description of proposals

There are four main elements to the proposals:

- a single consent regime for all nationally significant infrastructure projects (NSIPs);
- national policy set by Government;

- better project development by promoters;
- examination of applications, and decisions, by an independent infrastructure planning commission (IPC).

National policy statements (NPSs) would be produced by government following a thorough consultation process. They would provide a clear long-term strategic direction for nationally significant infrastructure development, and would provide the framework for the commission's decisions. Whether a project was needed nationally could therefore be established early on, and would no longer need to be discussed at the project application stage. The Government, in producing NPSs, would be subject to a duty to contribute to sustainable development.

Promoters would develop proposals for infrastructure projects against the background of clear national policy. There would be new legislative requirements which require promoters to prepare their applications thoroughly, and to consult with the public and engage with key parties early on, preventing costly delays later in the process.

The new commission would advise project promoters and other parties during the project development stage on the application process, procedural requirements and consultation. It would follow propriety rules to ensure these interactions do not prejudice its subsequent decision. The application would be submitted to the commission who would operate using a new, streamlined infrastructure consent process, which removes the need to apply to multiple decision makers. The commission would examine the application and take evidence according to new inquiry procedures. The majority of evidence would be submitted in writing and the commission would test the evidence through direct questions rather than through cross examination.

The commission would weigh the national need, as set out in the relevant NPS, against the local impacts of individual proposed projects. Where local adverse impacts outweighed the local and national benefits, the commission would have powers to refuse a project.

There would be an opportunity for people to give oral evidence directly in the course of the commission's examination, within an overall time limit on the examination of the application and a decision. The proposals for the strategic project development stage and the decision stage should further mean that public hearings would take less time, and therefore be more accessible to members of the public and other interested parties. Direct questioning by the commission, rather than cross examination by lawyers, would also increase accessibility.

Geographical scope

Responsibility for nationally significant infrastructure planning is currently largely devolved to Scotland, Wales and Northern Ireland, but the arrangements differ between nations and between infrastructure sectors. The policy on reservoirs, non-energy-generating waste facilities, and road, rail and ports are devolved. So for these sectors, our proposals would be limited to England.

Air transport policy remains with the UK Government. However the planning decisions on airports are taken by the Devolved Administrations (or their local authorities) in all three nations, as are decisions on energy projects in Scotland and Northern Ireland. Energy policy is more complex. Some elements are Great Britain-wide and some are UK-wide. Planning decisions on major energy infrastructure projects in Wales are presently made by the Secretary of State for Business, Enterprise and Regulatory Reform, and would therefore be transferred to the IPC.

Costs and benefits of the proposals

Three types of impacts of the new regime are considered:

1. Net benefits to society from reducing delays in delivery of some NSIPs;
2. Changes in structures of accountability (non-monetised);
3. Changes in administrative costs.

Impacts are considered relative to a 'do nothing' scenario under which the existing arrangements for determining NSIPs applications would continue.

1. Net benefits to society from reducing delays in delivery of some NSIPs

A consent process that is faster, more transparent, and subject to less uncertainty will in all cases save costs to the promoter (see section 3). In some cases it will also lead to the project being completed earlier than it would have been under the current regime. This depends upon the extent to which the timing of the submission for planning approval has taken into account the expected duration of the approval process. In practice, allowance for the expected duration of the planning inquiry process in this way is more feasible for an expenditure programme such as roads, which have a fairly continuous succession of projects, than it is for investments that are much more lumpy, such as facilities for electricity generation, gas supply, or for airport infrastructure. These last three cases are the largest of their kind. They alone are therefore taken below as the basis for a broad

estimate of the benefit to society of such projects' being brought forward by a few years.⁴

A key uncertainty around the benefits of reducing delays is the extent to which time savings in the planning process would be realised under the new regime. It might take time to adjust to the new system. For example, an increase in judicial reviews could delay the construction of NSIPs. We assume there will be no net change in the number and length of judicial reviews over the 22 year period considered. There is additional uncertainty around promoter behaviour under the new regime, in terms of the timing of their applications depending on the timing of NPSs. Again, we have assumed a neutral effect over the period to 2030.

Electricity generation

Adequate electricity generation is an important element of the security of the UK's energy supply. A restricted supply of generating capacity has significant adverse impacts. First, through inducing higher wholesale electricity prices than otherwise (particularly given the low price elasticity of demand for electricity), there is an adverse impact on fuel poverty and competitiveness of UK businesses. Secondly, by leading to a greater reliance on relatively polluting peak plant, there are environmental costs.

Shorter and more certain planning processes would lead in many cases to earlier commissioning of generating capacity and related infrastructure. This should bring large renewable capacity on line more quickly than otherwise, so improving progress towards national greenhouse gas emission targets. Overall, the reforms would increase the medium- to long-run price elasticity of supply in the British generation market. We have modelled the benefits in terms of avoiding spikes in wholesale electricity prices, and reducing CO₂ emissions. Our estimates vary over time, with significant consumer benefits in six to ten years' time when new infrastructure comes onstream more quickly in response to the decommissioning of many coal and nuclear plants, and at other times significant producer benefits.

Our estimates do not account for the possible differential impact on the local environment – natural habitats, the historic environment, noise and landscapes. Such an evaluation would require much more detailed knowledge about specific schemes than is possible for us to have. But given the assumption of earlier completion of new build at certain points in the cycle, rather than increasing overall volume, we would not expect the impacts to differ greatly under the new regime.

⁴ There may be some benefit even for projects that in the new regime would be completed at much the same time but submitted for planning approval a little later, insofar as this would allow closer optimisation of the design to the requirement and possibly some later, better technology. However no attempt has been considered justified to value such effects.

We adopt a conservative assumption that there will be no new nuclear power generation infrastructure applications before 2030 under either scenario, so as to avoid pre-empting the results of BERR's consultation on nuclear power.

A less conservative assumption would generate larger benefits to consumers and producers, and through reducing CO₂ emissions.

Our modelling suggests, over the period 2008-2030, net benefits equivalent to about £200-250m p.a. [See Annex for description of modelling methodology and assumptions]

Gas supply infrastructure

Gas supply infrastructure is another key element of the security of the UK's energy supply. A restricted supply of infrastructure results in higher wholesale gas prices, again with adverse impacts on fuel poverty and competitiveness of UK businesses.

Shorter and more certain planning processes for gas supply infrastructure would lead to a higher responsiveness of supply to demand – and hence a lower risk of the system being unable to meet demand at a time in which the market is exceptionally tight, in the sense of gas demand approaching or even exceeding short term available supply from UK and imported sources. The last time the UK experienced a tight gas market was in winter 2005/6, reflected in a rapid increase in wholesale prices, which returned to previous levels in late spring 2006.

We have modelled the benefits of reform, as they accrue to consumers and producers. Our estimates do not account for the possible differential impacts on CO₂ emissions. They also do not account for the possible differential impacts on the local environment – natural habitats, the historic environment, noise and landscapes. Such an evaluation would require much more detailed knowledge about specific schemes than is possible for us to have. Again given the assumption of earlier completion of new build at certain points in the cycle, rather than increasing overall volume, we would not expect the local impacts to differ greatly under the new regime.

Our modelling suggests net benefits equivalent to about £35m p.a. [See Annex for description of modelling methodology and assumptions]

Aviation:

As set out in the 2003 Air Transport White Paper, Britain's economy increasingly depends on air travel for exports, tourism and inward investment. Transport infrastructure increases access to employment/business and leisure activities, as well as facilitating trade of goods.

Shorter planning processes for airport and related infrastructure would lead to a higher capacity of this infrastructure and hence a transport system that is able more effectively to meet rising demand. We have modelled the benefits of an earlier second runway at Stansted, as they accrue to producers and consumers. Our estimates include allowances for the external costs imposed by air transport – local environmental costs such as noise and landscape, as well as global environmental costs such as CO₂ emissions.

Our modelling suggests net benefits equivalent to about £23m p.a. [See Annex for description of modelling methodology and assumptions]

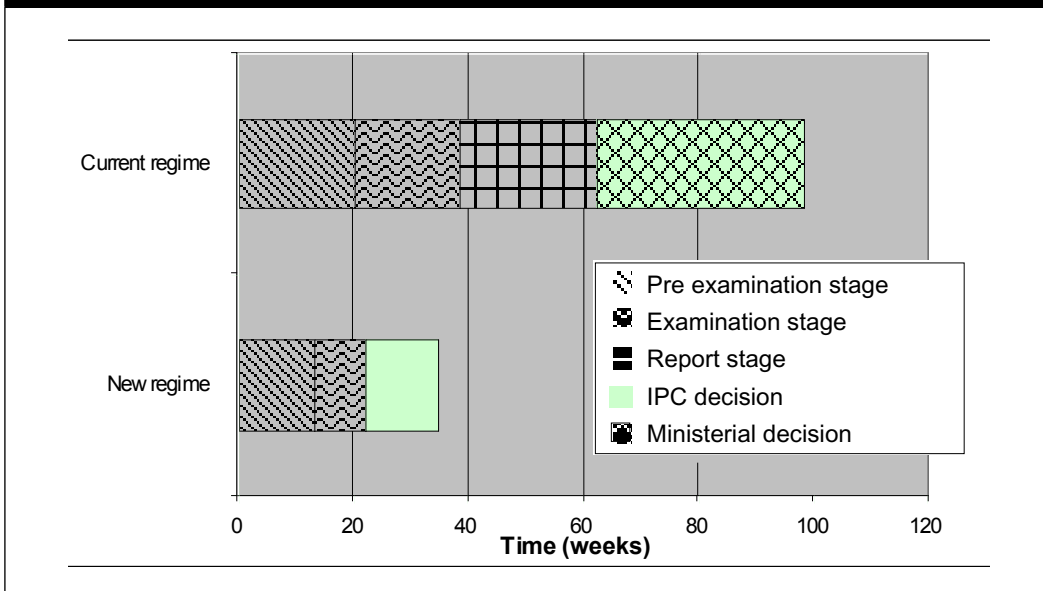
2. Changes in structures of accountability (non-monetised):

- Accountability of national policy decisions: There would be national consultation and debate on the country's infrastructure needs. Currently, national policy is often in practice decided on an ad hoc basis through local decisions on individual projects.
- Involvement of local communities: The proposals require public consultation to be carried out by the promoter at the project development stage. This would allow the local community to raise objections early on, enabling the project promoter to better develop its application to take account of local concerns. This should help identify and mitigate negative impacts of a project on health, the environment, and social or equality impacts earlier in the process. For instance, it could help projects to be designed in such a way that they do not exclude disabled people from working on the operation of an infrastructure project. The move towards written representations would make the process more accessible, as members of the public who cannot attend public hearings could put their views across. Direct questioning would allow the inquiry to focus on key issues, and would make the process more accessible. It would help members of the public to engage on a more equal footing with the professional advocates who currently dominate the process.
- Significant decisions would be taken nationally. Currently, the national case for significant underground gas storage projects can be decided at the local level. The proposals would set clear thresholds so that strategic decisions on the national need for infrastructure facilities are decided nationally.
- Consistency for promoters: The proposals ensure national policy is consulted on and more clearly established, so promoters would be able to plan better their investments consistently with national policy.

3. Changes in administrative costs [see Annex for description of underlying assumptions]

- Costs for promoters (net benefit: £20.4m p.a.)
 - There would no longer be a need for promoters to devote resources to establishing the national need.
 - Time and cost savings at examination stage, including a move towards written representations.
 - Overall, applications would typically take 12 months or less from the time applications are submitted up to IPC’s decision. Fig.1 below shows indicative timings of the various stages of the consent process, comparing current and reformed regimes. The pre-examination phase is defined as the time between submission of an application and the start of the examination period. Estimates of timings under the current regime are based on taking averages from 18 recent NSIPs for which there have been public inquiries. To estimate timings under the new regime, we apply to these past schemes caps of 3 months, 6 months, and 3 months, on the lengths of, respectively, pre-examination, examination and IPC decision stages.

Fig 1: Estimated duration of consent process



- Costs for central government (net cost: £1.4m p.a.):
 - Transfer of responsibility for determining NSIPs to IPC enables reductions in staff and accommodation costs in central government.
 - Cost of developing NPSs, and reviewing them at approximately 5-year intervals.
- Costs for local authorities:
 - Negligible.
- Costs for Planning Inspectorate (net benefit: £0.3m p.a.):
 - Costs of examining NSIPs are transferred to IPC.
- Cost of setting up and running the infrastructure planning commission:
 - Setting up IPC – one-off cost £5m;
 - Accommodation and staffing costs of IPC – £9.3m p.a.

Competition Assessment

Under the new regime, promoters would no longer have to make a case for national need. Thus, the reform should increase promoters' incentives to compete on providing schemes that most effectively meet the national need.

Small Firms Impact Test

There is currently a bias in the system towards larger promoters who are more able to absorb the considerable administrative costs. Through reducing these costs, the reforms should create a more level playing field between smaller and larger firms.

Enforcement, sanctions and monitoring

Local authorities would continue to enforce conditions attached to the consent for NSIPs, and would be encouraged to do this in line with the Hampton principles of risk-based enforcement.

New requirements would be enforced in a light-touch way. The performance of the commission would be monitored via a requirement that the commission report to Ministers and Parliament on its performance. This would ensure the accountability of the commission.

Summary

Our estimates show that our proposals should deliver significant benefits, primarily through the earlier construction of some NSIPs, but also through reduced administrative costs for project promoters.

Specific Impact Tests: Checklist

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	Yes
Sustainable Development	No	Yes
Carbon Assessment	No	Yes
Other Environment	No	Yes
Health Impact Assessment	No	Yes
Race Equality	No	Yes
Disability Equality	No	Yes
Gender Equality	No	Yes
Human Rights	No	Yes
Rural Proofing	No	Yes

Annexes

Assumptions underpinning assessment of costs and benefits

Note that the assessment is based on a range of assumptions that do not necessarily reflect Government policy. Estimates of costs and benefits are purely illustrative.

1. Net benefits to society from reducing delays in delivery of NSIPs

i. Electricity Generation

An in-house generation market model of Great Britain, to which BERR subscribes, was employed to estimate societal benefits, building on modelling for the 2007 Energy White Paper. These benefits are defined as the sum of net changes in producer surplus, consumer surplus and external impacts (here, the impact of changes in CO₂ emissions) in the period up to 2030.

Impacts have been modelled on the assumptions that, with the new planning process, relative to the current regime:

- All new renewable generators (such as wind farms) begin producing two years earlier, from 2010 onwards, but ultimately producing the same volume of renewable electricity.
- The de-rated Great Britain capacity margin trigger to stimulate the delivery of new generators would increase from 10% to 15%.⁵
- Three year acceleration in any other profit-driven new entry by non-nuclear conventional generators.⁶

The rationale underlying the assumptions is as follows: (i) renewables are not favoured to the extent that the reforms result in more renewable generation by the end of the period than would otherwise be the case; (ii) a favourable impact on generators' cost of capital due to more certain planning inquiry outcomes which leads to an improved 'natural' equilibrium in the generation market since wholesale electricity prices do not have to rise as high during periods of relative scarcity in order to stimulate new build and overcome the rigidities in the current planning regime; (iii) faster addition of "infra-marginal" generators that are attracted by the opportunity to earn profits whenever they arise.

⁵ De-rated capacity is the amount of installed generating capacity adjusted for typical levels of technical availability during the year – this is to ensure that the growth in intermittent generating capacity does not bias the modelling results

⁶ This is known as "entrepreneurial" new entry. Basically, the model assesses the potential profitability of a pre-specified list of new power stations for each year in turn; the most profitable enter the generation market one-by-one until no more can profitably enter during that year.

The main assumptions common to the modelling of both the current and proposed future regimes are as follows.

- The level of electricity demand is independent of the electricity price (i.e., demand is perfectly inelastic). The market-clearing wholesale price at any moment depends upon the variable costs of the “marginal” generator, which of course increases as the level of demand rises such that price increases become exponential as the available supply of generating capacity is exhausted.
- Electricity demand and fossil fuel prices taken from BERR’s Nov 2006 Updated Energy Projections at 2007 prices; carbon prices based on separate internal modelling.
- Six new power stations begin generating on dates previously announced by developers (i.e. Langage, Marchwood, Staythorpe C, Grain, Immingham 2 and Severn). Five year life extension for Hinkley Point B nuclear power station; other nuclear plant closes as currently scheduled; all other power stations remain open until end of study period. No new nuclear stations are built under any scenario.
- All Large Combustion Plant Directive “opt-out” power stations close at the end of 2015 because of their emissions levels; pro-rated annual operation from 2008 consistent with 20,000 hours as per Directive. Eggborough, Ferrybridge 1, Fiddlers Ferry, Uskmouth and Longannet operate at 27% load factor from 2016 due to restrictions on NO_x emissions.
- New 0.5GW interconnector with Irish Republic from 2012 operating as continuous baseload importer. 2GW French interconnector which exports electricity to Britain when latter’s wholesale prices > £35/MWh and imports when prices < £35/MWh. New 1.3GW Dutch interconnector in 2010 which both imports and exports depending on a hypothetical profile of Continental wholesale prices relative to British prices.

ii. Gas Supply Infrastructure

The effect of infrastructure schemes being brought forward by one year has been modelled by BERR, the benefits of increased supply being estimated as the sum of producer and consumer surplus. The main assumptions are as follows.

- Notional demand and supply curves are estimated from historic market data.
- It is assumed that the benefit arises only in years where the market is tight; and that tightness in the market occurs once every ten years – here assumed to be 2015 and 2025.
- No account is taken of investment incentives and signals to, and hence behaviour of, market players; electricity prices; tax take to the UK

Government; or of distributional issues – from producers to consumers; nor of environmental implications of schemes such as CO₂ emissions and local noise/landscape impacts.

The benefits, in 2007 prices, are estimated as £400m in 2015 and £400m in 2025.

iii. Aviation

We draw upon an assessment by DfT economists of the impact of bringing forward a Stansted 2nd runway by three years, from 2015 to 2012. Estimates were generated using DfT's in-house SPASM model of air transport use, building on modelling carried out for the 2003 Aviation White Paper.

The assessment involves a number of stages:

- a) forecast the level of 'unconstrained' national demand using an econometric model, essentially extrapolating past trends;
- b) allocate the national demand, airport by airport, using a discrete model of airport choice which reflects airport capacity constraints and journey-to-airport times;
- c) estimate the net benefits to consumers and producers of additional capacity at specific airports.⁷

The estimated benefits of the earlier runway availability in 2007 prices are £212m in 2012 rising to £356m in 2014. About 20 per cent of these benefits accrue to producers, 40 per cent to users (mainly new users) and 40 percent as extra Air Passenger Duty to Government.

The present value of these benefits, discounted to 2007 prices is £689m, from which must be subtracted the social cost of earlier expenditure on the runway construction, which has a present value of £324m, giving a net present value of £366m.

The model includes allowances for the extent that air traffic would be reduced by measures to ensure that aviation pays for the external costs that it imposes, but it does not include valuations of the external costs imposed by the traffic that does fly – local environmental costs such as noise and landscape, as well as global environmental costs such as CO₂ emissions. Applying a crude approximation to these external costs as the discounted value of the Air Passenger Duty, we arrive at a net present value of earlier runway availability of about £100m. Note that this is a conservative estimate, as there are other, non-valued impacts that are positive.

⁷ For more information on the modelling methodology, see pp.72-80:
<http://www.dft.gov.uk/about/strategy/whitepapers/air/docs/passengerforecastsadditional5673>

2. Changes in administrative costs

A. Central Government Costs

i) Staffing Costs

Guidance has been sought from BERR, Defra and DfT on the numbers, and organisational structure, of central Government staff dealing with NSIP consents business under the current arrangements, and on anticipated changes under the new regime.

Status Quo

The number of central Government staff engaged on NSIP business is the equivalent of 32.6 full-time employees:

Department	Number of staff (full-time equivalents)
BERR (energy infrastructure ⁸ consents)	21
BERR (wayleaves/overhead lines)	4
DfT (Highways Act)	1
DfT (Transport and Works Act)	1
DfT (Harbours Act)	1
DfT (aviation)	3
Defra	1
Communities and Local Government	0.6

New regime

The number of central Government staff dealing with NSIP consents would be reduced to 17 full-time equivalents (note that the role of these staff will evolve from decision-making to policy co-ordination):

⁸ This includes consents managers, lawyers, engineering inspectors and other related staff.

Department	Number of staff (full-time equivalents)
BERR (NSIP consents)	10.5
BERR (wayleaves/overhead lines)	2
DfT (Highways Act)	0
DfT (Transport and Works Act)	1
DfT (Harbours Act)	1
DfT (aviation)	2
Defra	0.5
Communities and Local Government	0

In addition to central Government staff dealing with NSIP consents, we also assume the ongoing sponsorship of the IPC by a team within Communities and Local Government. Amongst other tasks, the sponsor team would prepare and review management statements and financial memoranda for, as well as monitor the “value for money” performance of, the IPC. Having sought guidance from the Business Decision Support Division within Communities and Local Government, we assume the following structure for the IPC sponsorship team:

Grade	Number of full-time equivalents
SEO	1
Grade 7	1
Grade 5	0.5

Given the above, and using pay information provided by the Policy Programmes and Innovation (PPI) Local Management Accountant Team at Communities and Local Government, annual central Government staffing costs are estimated to fall from £1.6m under the status quo to £1.0m under the new regime.

ii) Accommodation Costs

These have been estimated using the Government Office Tariff for 2007/08. Based upon an efficiency recommendation of the Lyons Review, we assume an 8:10 (workstations to members of staff working) ‘flexible desking’ ratio.

Given this, the annual cost of accommodating central Government staff engaged on NSIP-related business is estimated at £270k under the status quo, and £160k under the new regime.

iii) NPSs

Guidance has been sought from colleagues in BERR, Defra and DfT.

Status quo

We assume that 3 policy documents would be produced under a status quo scenario – one each by BERR, DfT and Defra – indicatively at 5-yearly intervals starting in 2009. Each document would cost £3m.

Thus, we estimate an annual average cost to Government of producing policy documents of £2m, over the 2008-30 period.

New regime

Past costs of producing both the 2007 Energy White Paper and the 2003 Aviation White Paper have been used to inform indicative estimates of the cost of producing NPSs in future.

“Full” NPSs for each sector are assumed to be ready for publication in 2009, except for water supply and waste water treatment ready in 2010. Each full NPS will set out policy for the subsequent 25 years, and is assumed to be reviewed at on average 5-year intervals. Every second review is assumed to consider policy in more depth, acquiring the status of a full NPS.

Indicative NPS schedule over 2009-30				
Year	Number of 'full' NPSs per year	Number of 'review-type' per year	Number of reviews per year	Cost per year
2009	5 from BERR (one overarching NPS, and; one each for fossil fuel electricity generation, renewable electricity generation, gas supply infrastructure and electricity networks) 1 from DfT (national networks)	2 from DfT (aviation and ports) 1 from Defra (waste)		£16m
2010	2 from Defra (water supply and waste water treatment)			£4m
2014			9 (reviews of the NPSs published in 2009): 5 from BERR 3 from DfT 1 from Defra	£10m
2015			2 from Defra (of NPSs published in 2010)	£2m
2019	5 from BERR (as in 2009) 3 from DfT (one each for national networks, aviation and ports) 1 from Defra (waste)			£20m
2020	2 from Defra (as in 2010)			£4m
2024			9 (as in 2014) – 5 from BERR 3 from DfT 1 from Defra	£10m
2025			2 from Defra (as in 2015)	£2m
2029	5 from BERR 3 from DfT 1 from Defra (all as in 2019)			£20m
2030	2 from Defra (as in 2020)			£4m

The cost of producing NPSs will vary with their level of detail, complexity and locational specificity across sectors – it will include costs of consultation. We assume:

- The cost of producing a full NPS is £4m for aviation and £2m for all other sectors.
- The cost of each NPS review is 50% of that of the original NPS – so £2m for aviation and £1m for all other sectors.

The number of new, full NPSs produced under the new regime is assumed to be 8. Of these:⁹

- BERR produces 5 (one overarching NPS, and one each for fossil fuel electricity generation, renewable electricity generation, gas supply infrastructure and electricity networks);
- DfT produces 1 (one national networks, covering road and rail) and;
- Defra produces 2 (one for each of water supply and waste water treatment, both produced in 2010).

In addition to the full NPSs above, we assume that three full NPSs for aviation, ports and waste would be worked up from earlier policy documents (respectively, the Aviation White Paper, Ports Policy Review and Waste Strategy):

- As with new full NPSs, each ‘review-type’ NPS will be reviewed subsequently at 5-year intervals, with each second review considering policy in more depth.
- The waste and ports NPS will cost £1m to produce, and aviation £2m.

Overall, we estimate an annual average cost to Government of producing NPSs of £4m, over a 2008-30 appraisal period.

B. Costs to Planning Inspectorate

Under the status quo, we estimate annual NSIP-related costs to the Planning Inspectorate of £250k, based on an average of NSIP-related costs incurred over the last 3 full financial years.

We assume that under the new regime, the Planning Inspectorate would no longer be involved in NSIP inquiries, and hence would incur zero NSIP-related costs.

⁹ Note that these numbers are subject to confirmation.

C. Costs to Local Government

Having sought guidance from the Business Decision Support Division in Communities and Local Government, as well as BERR, on the issue of the likely change in the administrative burden placed upon local government under the new regime, the following assumptions have been used:

- Any loss in fee income to local authorities is offset by the reduced administrative burden associated with the transfer of NSIP consent responsibility to the IPC.
- The decision-making responsibility transferred from local authorities to the IPC on gas storage consents will involve a small reduction in the administrative burden for local government.
- The new role of relevant local authorities as statutory consultees on spatially-specific NPSs will be a negligible new administrative burden.
- The proposed requirement for scheme promoters to seek the views of the relevant local authority will also be a negligible new administrative burden for local government.

The overall change in local government administrative burden is assumed to be negligible.

D. Number of future NSIPs

Guidance has been sought from BERR, Defra and DfT. It is assumed that there are only negligible changes in the number of anticipated NSIPs under the status quo as compared to under the new regime – the reforms result in earlier completion of some new build at certain points in the cycle, but do not raise overall capacity in the long run.¹⁰ Note that the estimates reported below are annual averages over 2008-30, and in practice there is high variability in numbers of NSIPs from year to year as supply will depend on market conditions.

¹⁰ In our generation market modelling, the higher equilibrium de-rated capacity margin can have varying impacts on the rate of gas/coal new build, but not of nuclear (pending Government announcement) or of renewables (a function of external support).

Scheme Type	Number of future NSIPs per annum
Gas- and coal-fired electricity generation	0.9
Onshore wind electricity generation	6.8
Offshore wind electricity generation	4.2
Biomass electricity generation	1.4
Wave electricity generation	0.2
Tidal electricity generation	0.3
Hydro electricity generation	0.9
Gas storage	2
Gas distribution	2
Water supply, waste water, and waste	0.1 each
Aviation	0.1
Harbours Act	1
Transport and Works Act	1
Highways Act	25

E. Costs of setting up and running IPC

i) Staffing Costs and Organisational Structure

The following assumptions have been used:

- The IPC is located outside of London (this affects the salaries of staff members).
- Number of staff employed by the IPC will be 75, in addition to 35 Board members.
- Board members are not members of an occupational pension scheme.

The IPC would consider a range of NSIPs, varying from more complex schemes overseen by a panel of commissioners, to more straightforward schemes overseen by a single commissioner.

Based upon guidance from BERR, Defra and DfT on the nature of future NSIPs, we assume the following structure and staffing costs of the IPC Board:

Salary (including employer National Insurance contributions)			
Position	Number	Salary (including employer National Insurance contributions)	Total
Chief Executive	1	£135,048	£140k
Chair	1	£153,874	£150k
Deputy Chair	3	£129,058	£390k
Commissioner	30	£111,010	£3.3m
Total	35		£4m

The structure and staffing costs of the main body of the IPC is assumed to be as follows (all figures are taken from the average salaries tables supplied by the PPI Local Management Accountant Team, and include salary, employer National Insurance contributions and superannuation):

Grade and Average Salary at each grade (including employer National Insurance and superannuation contribution)			
Position	Number	Grade and Average Salary at each grade (including employer National Insurance and superannuation contribution)	Total
Secretariat	75	5 AA (each earning £19690 per annum), 35 EO (£31,010), 7 SEO (£43,686), 10 HEO (£36,389), 14 Grade 7 (£57,604) and 4 Grade 5 (£97,687)	£3.1m

Overall, the cost of salaries at the IPC, including employer National Insurance and superannuation contributions for staff, is estimated to be £7.1m per annum.

ii) Accommodation Costs

These have been estimated using the Government Office Tariff for 2007/08, accounting for efficiency recommendations of the Lyons Review. The following assumptions are used:

- The IPC will be housed outside of central London.
- There will be no need either for extra security, or for additional conference-sized meeting space.
- Operation of the IPC will require the purchase of IT equipment, which is estimated at £1390 per workstation.
- The IPC will use an 8:10 (workstations to members of staff) 'flexible desking' ratio.

Total accommodation, and related, costs are £10,180 per workstation per annum. Overall, we estimate the annual cost of accommodating the IPC to be £1m.

iii) Other operational costs

We assume a contingency fund for the IPC to cover miscellaneous operational costs such as auditing and travel and subsistence. This is estimated to be 15% of the IPC accommodation and staffing costs, and amounts to £1.2m per annum.

iv) One-off start-up costs

These are estimated at £5m. This includes the cost of marketing and communications start-up activities, recruitment, and contingencies.

F. Costs to promoters

i) Costs incurred during the consent process, excluding application fees

Status quo

Following consultation with other Departments, and based on reported costs to promoters of a wide range of recent schemes, we have estimated costs incurred by promoters during the consent process. We allocate our estimates of overall costs to promoters between 2 stages of the consent process, according to the following split: 75% is incurred in the preparation of applications, and 25% at examination stage (including time between submission of application and start of examination) – although in practice this proportion is likely to vary substantially between schemes. We assume that no cost is incurred during the reporting and decision-making stages of the process.

Costs to promoters vary greatly between sectors – and indeed within sectors. The following estimates are intended to represent ‘typical’ schemes:

Scheme Type	Cost of preparing application
Aviation	£75m
Gas storage	£7.5m
Transport and Works Act	£6m
Harbours Act	£5.7m
Gas- and coal-fired electricity	£4.4m
Gas pipelines; water supply, waste water and waste	£1.5m
Biomass, onshore/offshore wind, tidal/ hydro/wave electricity generation	£0.8m
Highways Act	£0.4m

Scheme Type	Cost of examination
Aviation	£25m
Gas storage	£2.5m
Transport and Works Act	£2m
Harbours Act	£1.9m
Gas- and coal-fired electricity	£1.5m
Gas pipelines; water supply, waste water and waste	£0.5m
Biomass, onshore/offshore wind, tidal/hydro/wave electricity generation	£0.3m
Highways Act	£0.1m

New regime

Our estimates of savings to promoters are based on the assumption that, under the new regime, costs at examination stage would fall in proportion to reductions in time taken at this stage resulting from the reform. We assume there is no change in time taken, and in costs, for promoters to prepare applications. Note that new requirements on promoters to consult on their proposals prior to submitting applications would mean that a minority of promoters would face higher costs of preparing applications under the new regime, but these costs would be offset by benefits of reduced delays later on in the process.

Under the status quo, lengths of examination for different scheme types are based upon guidance from Departments, plus evidence from a range of past schemes. To estimate lengths of examination for different scheme types under the new regime, we apply a 9-month cap on the length of the examination stage estimated under status quo (including a 3-month cap on the time between submission of application and start of examination):

Scheme Type	Length of examination under status quo¹¹	Length of examination under new regime
Aviation	24 months	9 months
Gas storage; Transport and Works Act; Harbours Act; Water supply; waste water and waste.	12 months	6 months
Biomass, onshore/offshore wind, tidal/hydro/wave electricity	9 months	4.5 months
Gas- and coal fired electricity; Highways Act	6 months	3 months
Gas pipelines	3 months	3 months

Under the new regime, with promoter costs at examination stage falling in proportion to the above reductions in time taken at this stage, we arrive at the following cost estimates:

Scheme Type	Cost of examination
Aviation	£9.4m
Gas storage	£1.3m
Transport and Works Act	£1m
Harbours Act	£1m
Gas- and coal-fired electricity generation	£0.7m
Gas pipelines	£0.5m
Water supply, waste water and waste	£0.3m each
Biomass, onshore/offshore wind, tidal/hydro/wave electricity generation	£0.1m each
Highways Act	£0.1m

Overall, this implies a £20.4m reduction in administrative costs for promoters following the reform (excluding changes to promoter fees).

¹¹ Note that these estimates of length of examination: include the time between submission of application and start of examination; do not include the time taken either for promoters to prepare applications or for the time between end of examination and decision, and; are intended to represent 'typical' schemes, with considerable variability in practice.

ii) Application fees

We assume a flat fee of £40,000 per proposal under the status quo. Under the new regime, promoter fees are assumed to cover the IPC’s annual running costs of £9.3m, although the level of fees may be less than this in practice.

Legal aid

We expect that the number of legal challenges in relation to NSIPs would increase initially after the introduction of the new regime, but would reduce once the new system becomes established. We do not expect an overall change in the number of legal challenges pursued over the 22 year period, and therefore do not expect claims for legal aid to change.

Human rights

The Minister has certified that the Planning Bill is compatible with the European Convention on Human Rights.

Impacts on sustainable development, including the environmental and carbon emissions, and health

Under the reformed regime, the Government, in producing NPSs, would continue to have a duty to promote sustainable development. The IPC would use these NPSs as the framework for its decisions.

Economic, social and environmental impacts would be carefully considered when the Government develops national infrastructure policy, and by the commission in evaluating applications.

Impacts on particular groups

We have considered the impacts our proposals could have on:

- Race equality
- Disability equality
- Gender equality
- Rural communities

We do not expect our proposals to have a differential impact on any particular group.

It is important to ensure that people from all groups have the opportunity to influence decisions on NSIPs. Our proposals ensure that the public can give their views at each of the three stages in the new process. National policy on infrastructure would be consulted on publicly and scrutinised in Parliament, which would allow all groups to contribute. Promoters would consult the local community on their project proposals. Guidance will be issued to advise promoters on how best to engage with hard to reach groups, and the Government will provide extra funding to local organisations enabling them to support such groups in engaging with the planning process.

The IPC will refuse to consider a promoter's application if it believes that the promoter has not consulted adequately. Once an application is submitted, it will be examined by the commission. The commission will be subject to the same equality duties as other public bodies. The commission will take evidence from the local community, and should ensure its examination is fair and takes into account the needs of hard to reach groups.

The Government's proposals should make the decision-making process shorter and less expensive to engage with. This will particularly benefit members of the community from lower income groups.

PART B – Town and Country Planning Considerations

Summary: Intervention and Options

What is problem under consideration?

The Government commissioned Kate Barker to consider how, in the context of globalisation, and building on the reforms already made in England, planning policy and procedures could better deliver economic growth and prosperity in a way that is integrated with other sustainable development goals. Kate Barker's *Review of Land Use Planning* concluded that 'planning is a valued and necessary activity' and welcomed the progress that had been made with reforms to date. Despite this progress, Barker concluded that further action was needed to deliver an efficient planning system, by reducing delays, addressing unnecessary complexity and increasing certainty. In addition, Barker recognised that the planning system was facing ever more demanding challenges and argued that the responsiveness of the system also needed to be improved.

Kate Barker recommended further wide-ranging reforms, these included:

- streamlining policy and process through reducing policy guidance, unifying consent regimes and reforming plan-making;
- updating national policy on planning for economic development;
- introducing a new system for dealing with major infrastructure projects;
- promoting a positive planning culture within the plan-led system;
- a more risk-based and proportionate approach to regulation;
- removing the need for minor commercial developments to require planning permission;
- improving skills and ensure sufficient resources for planning; and
- reducing delays at appeals and call-in.

The Government set out its response to Kate Barker's report in the White Paper – *Planning for a Sustainable Future* which was published in May 2007.

Why is Government intervention necessary?

Planning is of fundamental importance to the quality of people's lives. It shapes the places where people live; allows us to create vibrant, healthy sustainable communities; protects and enhances our natural and historic environment; ensures everyone has access to green space and unspoiled countryside; and supports the economic development which is vital to creating jobs and ensuring our continuing prosperity. Long term challenges are increasing, such as climate change; rapid economic change; increasing population and protecting and enhancing the environment and natural resources.

Further reforms are needed to ensure that the planning system is able to meet these challenges and provide a high quality of service to individuals, communities and businesses.

What are the policy objectives and intended effects?

There are five core principles that underpin the proposals in *Planning for a Sustainable Future*

- planning must be responsive, particularly to longer term challenges such as increasing globalisation and climate change, and properly integrate our economic, social and environmental objectives;
- the planning system should be streamlined, efficient and predictable;
- there must be full and fair opportunities for public consultation and community engagement;
- the planning system should be transparent and accountable; and
- planning should be undertaken at the right level of government – national, regional and local.

The White Paper sets out a range of reforms and these will be delivered through changes in primary and secondary legislation, policy and guidance. Comparatively few of the proposals to improve the town and country planning system in *Planning for a Sustainable Future* require primary legislation and many of these changes relate to very specific elements of the system.

There are 13 measures to improve the town and country planning system included in the Bill. Impact assessments for each measure, where an impact assessment is required, are set out later in this document.

The measures fall into four main groups:

- (a) Improving the Local Development Framework process;
- (b) Making the planning application process more efficient and effective ; and
- (c) Improving the appeal process;
- (d) Helping address climate change

The bill proposals, which build on reforms we have recently put in place, are intended to deliver a range of benefits including:

- more efficient and timely systems in which controls are proportionate to impact and unnecessary costs are eliminated;
- a more transparent and accountable planning system in which national and local government work together to ensure decisions at every level deliver the best outcomes for all; and
- help to address climate change.

A brief summary of the analysis of the measures is set out below. Our initial screening of measures identified one measure – to correct an unintended error in respect of powers to decline to determine repeat planning applications – which would have negligible impact and therefore required no further analysis, so does not form part of the IA.

Wales

The Bill includes contains a number of measures which will impact on Wales. In some instances the town and country planning measures outlined below will apply directly to both England and Wales. Where this is the case the relevant impact assessment reflects this. In other instances, measures will apply directly in England but powers will be conferred on the Welsh Ministers to apply the measures in Wales. On exercise of those powers, an impact assessment would be carried out in conjunction with the making of the relevant statutory instrument.

What policy options have been considered?

Identification of options considered in relation to each measure is set out in the individual IAs.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of desired effects?

Reviews of the effectiveness of measures will take place at different times depending on range of factors including date of introduction. In line with the guidance of the Better Regulations Executive reviews will normally be undertaken 3 years after introduction.

Ministerial Sign-off For Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read "Gordon Brown". The signature is written in a cursive style with a horizontal line underneath.

Date: 23 November 2007

Summary: Analysis & Evidence

Summary Table of Monetised Impacts

Figures used are £millions

Annual Monetised Benefits					Annual Monetised Costs					Net Monetised Benefit
Applicants/ Appellants	Local Authorities	PINS	CLG + Government Departments	Total Benefits	Applicants/ Appellants	Local Authorities	PINS	CLG + Government Departments	Total Cost	
£9.6	£5.2	£12.9	£0.9	£28.6	£7.0	£4.0	£0.2	£0.3	£11.6	£17.0

Note this table does not give full picture as some impacts cannot be monetised. It also does not include monetised costs or benefits below £50,000 or one off costs or benefits.

A brief summary of the principal benefits and costs of each proposal is set out below. All costing unless stated otherwise are nationwide per year.

(i) Improving the Local Development Framework process

Removing the statutory requirement for Supplementary Planning Documents (SPDs) to be listed in a local planning authority's Local Development Scheme:

At present SPDs have to be listed in the Local Development Scheme which is a public statement which must be submitted to, and agreed by, the Secretary of State. Should a local planning authority wish to adopt a new SPD, a formal alteration of the Local Development is required, together with Secretary of State approval. The change will eliminate the formal process, but SPDs will still be listed in the Local Development Scheme.

Benefits: Allow more responsive and timely plan making. Devolve more responsibility to local planning authorities. Would reduce the time and resources required by a local planning authority to produce an SPD.

Costs/risks: No monetised costs. Risk of less public transparency about SPDs, but this risk will be addressed by ensuring, through new guidance, that SPDs are listed in the LDS.

Removing the requirement for Supplementary Planning Documents (SPDs) to undergo a sustainability appraisal:

At present Supplementary Planning Documents (SPDs) are subject to a full sustainability appraisal. These are not always necessary however because:

- the necessary SA work undertaken on higher tier Development Plan Document (DPDs) (such as a Core Strategy) will be wide ranging and cover

much of what's required for SPDs, and does not add value to the decision making process;

- SPDs are not part of the statutory development plan and are simply designed to expand on policies set out in Development Plan Documents.

The proposal is to ensure that sustainability appraisals are required for SPDs only when necessary. The intended effects are to save resources for Local Planning Authorities (LPAs) by removing the need to carry out unnecessary sustainability appraisals.

Benefits: This will reduce some unnecessary processes from the system which will benefit both local authorities and consultees in the SPD process. Local authorities will save approximately £1.7 million.

Costs: No monetised costs.

Removing the requirement for Statements of Community Involvement (SCI) to be assessed by an independent Inspector: SCIs are a statutory part of Local Development Frameworks that currently have to be subject to independent examination by an inspector. SCIs have hardly ever been amended by inspectors and it is hard for inspectors to judge the suitability of a public consultation. Removal of the independent examination and associated period of consultation will enable the SCI to fit within a more integrated and consistent approach to community involvement across all of their functions.

Benefits: Flexibility benefits from being able to update SCIs when necessary. Annual savings for local planning authorities of approximately £95,000 from not having to hire the inspector. The authorities would also save money by not having to administer the separate SCI.

Costs: Administrative costs in transferring to new procedures. Less opportunity to challenge the SCIs, however, changes will allow closer alignment of SCI with other local authority engagement strategy.

Allowing the High Court to remit a development plan to a specified point in the preparation process: Should a development plan be found to be unsound, following a legal challenge, the entire document is quashed and plan making process must recommence from the start. This new provision would allow the plan to be remitted back to a particular stage in the process at the judge's discretion.

Benefits: Reduction in the delay in implementing a plan and reduction in the risk of being left with a policy vacuum. There will also be monetary savings for planning authorities preparing the plans of about £1 million.

Costs: no significant additional costs have been identified.

(ii) Making the planning application process more efficient and effective

Changing Permitted Development Rights: changes to compensation provisions:

At present, when restrictive changes are made to permitted development rights, there is a requirement for local planning authorities to pay compensation where a subsequent application for planning permission (that is submitted with 12 months of the change) is refused, or granted subject to condition, and that imposes costs on the developer. The new provision would remove the requirement for compensation as long as 12 months notice of the change has been given.

Benefits: Local planning authorities would no longer have to pay compensation for changes to permitted development rights when appropriate notice had been given. Land owners and developers would have 12 months notice of any restrictive changes to take forward development.

Costs/risks: There is risk that local planning authorities will introduce more restrictions on permitted development rights, however, there will continue to be the need to demonstrate why restricting permitted development rights is justified and the need to provide 12 months notice of any change.

Granting local planning authorities the discretion to allow minor amendments to existing planning permissions:

Sometimes developers find they need to make very minor changes to the development for which they have planning permission. This new provision would allow local planning authorities the discretion to decide whether an amendment to development that has planning permission is so minor that a further planning application is not required.

Benefits: There would be savings for local planning authorities from not having to consider planning applications in these cases. And savings for applicants in not having the administrative costs of submitting a planning application of £1.4 million, or pay application fees of £6.8 million.

Costs/risks: No direct costs. There is a risk that matters that should have been subject to consultation and detailed examination might be allowed without planning permission, although the changes that this provision would permit are ones that are not material changes to the proposed development.

Amending Section 237 of the Town and Country Planning Act 1990 and equivalents:

Section 237 of the Act allows easements and other rights (generally restrictive covenants) to be overridden during the construction phase, but not permanently for the new use of the site. This situation is a threat to the ongoing effectiveness of regeneration projects. This new provision would allow rights to continue to be overridden after construction for the new use of the site.

Benefits: Developer is freed from the owners of covenant or other rights being able to sue for compensation after the development has finished, or bearing

the costs of avoiding infringing such rights. The owner of the rights should be allowed more compensation to reflect the permanent overriding of these rights.

Costs: Owners of rights will have them overridden indefinitely and will not be able to sue for their loss. Developers will have to pay slightly higher compensation.

Rationalising Tree Preservation Order (TPO) rules: Current legislation requires TPOs to contain too much detail (eg on a range of procedural matters). In addition, different rules apply to different TPOs depending on when they were made. The objective is to produce a shorter, simpler TPO and to set out in Regulations a common procedure which would govern all TPOs irrespective of their age. This measure does not affect the level of protection of trees. Important trees will continue to enjoy strong protection under town and country planning legislation.

Benefits: There would be administrative saving from having to apply only one set of rules and having to produce a shorter TPO document. In addition, a single set of rules should give rise to fewer legal queries. Estimated administrative costs savings of approximately £514,000 per year.

Costs: Local authorities will have to notify people about this change through advertisements or mail outs.

(iii) Improving the appeal process

Entirety of double deemed fee to be paid to local authorities: At present double deemed appeal fees are split between local authorities and the Planning Inspectorate who pay their half into the Consolidated Fund. This new provision would ensure the entire fee is paid to local authorities.

Benefits: Planning Inspectorate save resources by no longer having to process double deemed application fees: £72,000. Local authorities gain the other half of the double deemed application fee: £311,000.

Costs: Loss of double deemed fees to central government: £311,000.

Introduction of fees for planning appeals: This would be a percentage of the cost of the original application.

Benefits: Reduction of burden of appeals service on public funds. Reduced pressure on the Planning Inspectorate budget of (approximately £7 million per year, based on 2005/06 appeal figures, if a 20% proportion of the planning application fee were charged).

Costs/risks: Cost to appellants (approximately £7 million per year, if a 20% proportion) and cost to the Planning Inspectorate administering the fee (estimated at £231,000). Risk that fees might deter genuine appeals, although

if an appellant considered that they had been forced to appeal because a local planning authority had behaved unreasonably in coming to its decision or through non-determination, they would have the option of applying for an award of costs which could include a claim for the appeal fee paid.

Establishment of Local Member Review bodies: this new provision would allow some appeals to be determined locally, rather than by the Secretary of State (or the Planning Inspectorate on her behalf).

Benefits: Devolution of decisions to a local level. Simplified and quicker appeals process for appellants. Savings for the Planning Inspectorate of £3.7 million, and Communities and Local Government and other Government Departments of £0.9million. Local authorities save £0.9 million through not processing appeals under the old system.

Costs/risks: Cost of setting up and running Local Member Review Bodies, incurred by local planning authorities of £3.1 million. Risk that the quality of decision making would fall without adequate support and training for members of the review body.

Allowing the Planning Inspectorate (on behalf of the Secretary of State) to determine the appeal method: Principal parties would no longer have the right to insist on a particular appeal method (inquiry, hearing or written representations). This new provision would allow the Planning Inspectorate, after seeking the views of the principal parties, the final say on which appeal method would be used, having regard to ministerially approved and published criteria.

Benefits: Better allocation of the Planning Inspectorate's resources which would in turn make the system more efficient (with saving for the Planning Inspector of £2.1 million) and improve handling times. There would also be savings for local planning authorities of £0.7 million, because of a reduction in the number of inquiries. Appellants would benefit from reduced appeal costs with savings of £1.3 million.

Costs/risks: The loss of the right of appellants to insist upon an oral hearing and the risk of a number of legal challenges regarding the method of determination, although the risk will be reduced with a reasonable application of the published criteria for deciding the most appropriate appeal method.

(iv) Helping address climate change

The proposal will place a statutory requirement in the form of a duty on planning authorities. In effect this places a statutory obligation to deliver, albeit at a much higher level and without the detail of the draft Planning Policy Statement on Climate Change, the expectations on local authorities that are already set out in that document.

Benefits: Benefits will come from reducing the contribution of development to climate change, increasing the ability of development to adapt to effects of climate change and from the increased uptake of renewable and low-carbon technologies. These will not add significantly to those benefits identified by the Climate Change Planning Policy Statement Partial Regulatory Impact Assessment.

Costs: No extra costs over and above those identified by the Partial Regulatory Impact Assessment for the draft Climate Change Planning Policy Statement.

Specific impact tests including equality impact assessment

In addition to the quantification of cost and benefits: economic, environmental and social, the impact of each measure has also been assessed against a range of broad policy objectives and statutory requirements. The individual impact assessments set out the results of our further testing of the impact of measures.

An important element of this work has been to undertake an equality impact assessment of each measure. In order to assist in this work, we included a wide range of representative stakeholder groups in those we consulted on the Planning White Paper and associated town and country planning consultation documents. In addition, we held a series of meetings with groups and individuals who were representative of, and or highly experienced in assessing matters in relation to race, gender and disability considerations. We also commissioned Planning Aid to undertake a community consultation exercise on a number of key elements of the Planning White Paper, including the proposals for changes to the appeals process and local development framework process. The feedback we received from this engagement has helped inform our assessment of the equality impact of the proposals.

From our assessment, including equality impacts, of each measure and our discussions with stakeholder groups we identified 3 measures in relation to improving the appeals process which merited undertaking a full equality impact assessment. In relation to the other measures we concluded that the level of adverse impact on any group was minimal and a full assessment was not required. The measures that have been subject to a full assessment are the proposals for the introduction of Local Member Review Bodies, introducing a fee for planning appeals and enabling the Planning Inspectorate, on behalf of the Secretary of State, to determine the method by which an appeal is dealt with (written representations, hearing or inquiry).

In relation to the proposal for Local Member Review Bodies, a range of stakeholder groups indicated their concern about the potential or perceived impact such a proposal could have on the interests of particular groups. We consider that there are potential equality benefits in having decisions taken by a

board who have a good understanding of a local area and the needs of different groups, rather than an Inspector who may have limited or no local knowledge. In addition, the full assessment sets out the range of safeguards that will be put in place (or already exist) to avoid an adverse impact for any group. These safeguards include: that controversial or sensitive cases will not be dealt with by the Local Member Review Body; that strict rules and procedures ensure the propriety of the decision making process; and that there is scope for challenging a decision in the High Court.

In relation to the proposal for the Planning Inspectorate, on behalf of the Secretary of State, to determine the method by which an appeal will be dealt with (written representations, hearing or inquiry), our discussions with stakeholders and review of evidence highlighted that both refusal rates for planning applications (which might then lead to an appeal) and dismissal rates for appeals can be higher for Black, Asian and other Minority Ethnic applicants/appellants. There was concern expressed that certain groups, for a range of reasons, might find one of the 3 methods disadvantageous. Our proposals include measures to ensure that this proposal will not result in an adverse impact on any particular group, in particular: providing an opportunity for the appellant and the local planning authority to make a case for their preferred appeal route and publication of ministerially approved criteria which the Planning Inspectorate will need to have regard to in determining the appeal method. The criteria will, for example, ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would normally be dealt with in this way.

In relation to the proposal to charge a fee for a planning appeal, the initial screening assessment highlighted the need to consider further the impact of fees on vulnerable groups who may be less able to afford an appeal fee. We do not consider this proposal will have an adverse impact on particular groups for a number of reasons: it is proposed that the fee for a planning appeal will be less than a planning application fee or the double deemed fee associated with enforcement notice appeals (which is an option commonly taken in relation to Gypsy and Traveller cases). Furthermore, if the appellant considered that they had been forced to appeal because a local planning authority had behaved unreasonably in coming to its decision, there is the option for the appellants to apply for an award of costs, which could include the appeal fee. The scope of this measure will be increased by another element of our proposals to improve the appeal process, which is to extend the award of cost provisions to all methods of determining the appeal (currently it only applies to hearings and inquiries).

Copies of the full equality impact assessments for each of these measures are appended to the relevant impact assessment.

Part B: Town & Country Planning Considerations

List of Impact Assessments

(i) Improving the Local Development Framework process

- Impact Assessment of removing the formal requirement of SPDs to be listed in the local development scheme
- Impact Assessment of removing requirement of SPDs to undergo a sustainability appraisal.
- Impact Assessment of removing the requirement for independent examination of Statements of Community Involvement.
- Impact Assessment of enabling the High Court to remit a development plan to an intermediate stage in the preparation process

(ii) Making the planning application process more efficient and effective

- Impact Assessment of changes to compensation rights when changes are made to permitted developments.
- Impact Assessment of granting local planning authorities the discretion to allow minor amendments to existing planning permissions.
- Impact Assessment of amending s237 Town and Country Planning Act 1990 and equivalents.
- Impact Assessment of simplifying the statutory rules relating to Tree Preservation Orders

(iii) Improving the appeal process

- Impact Assessment of proposal to transfer whole double deemed fee to local authorities
- Impact Assessment of introducing Fees for Planning Appeals
- Impact Assessment of establishing Local Member Review Bodies to determine minor appeals
- Impact Assessment of allowing the Planning Inspectorate (on behalf of the S of S) to determine the appeal method

(iv) Helping address climate change

- Impact Assessment of proposals to set out the role of local authorities in tackling energy efficiency and climate change.

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment of removing the formal requirement of SPDs to be listed in the local development scheme	
Stage: Bill	Version:	Date:
Related Publications: Planning for a Sustainable Future: White Paper		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Richard Blyth

Telephone: 020-7944-5269

What is the problem under consideration? Why is government intervention necessary?

Supplementary Planning Documents (SPDs) at present are required to be listed in a Local Authority's Local Development Scheme, which must be submitted to, and agreed by, the Secretary of State (SoS). As SPDs provide additional detail and supplement existing policies, the ability to respond to local policy issues as they arise is reduced by the need to have SPDs listed in the LDS. Should a Local Authority wish to adopt a new SPD to expand upon an issue already set out in a DPD, a formal alteration to the LDS is required and subsequent SoS approval is necessary. This causes unnecessary cost and delay, and limits the flexibility and effectiveness of Local Authorities to respond to changes in circumstances or policy direction.

What are the policy objectives and the intended effects?

To ensure responsive and timely plan making by reducing the time and resources required to produce Supplementary Planning Documents (SPDs).

What policy options have been considered? Please justify any preferred option.

A) do nothing.

B) remove the requirement of SPDs to be listed in the local development scheme.

Option B is preferred as it will ensure more responsive and timely plan making whilst saving money.


When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read 'Gordon Brown', is written over a faint horizontal line.

Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option: B	Description: Remove requirement for SPDs to be listed in the Local Development Scheme		
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' None
	One-off (Transition)	Yrs	
	£0		
	Average Annual Cost (excluding one-off)		
	£0		Total Cost (PV)
Other key non-monetised costs by 'main affected groups'			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£ Neg		Total Benefit (PV)
Other key non-monetised benefits by 'main affected groups' Local Authorities will be able to respond more quickly to changing circumstances. They will also save time and resources as they will no longer have to write committee reports to their respective Councils or seek the Secretary of State's approval for amendments to their Local Development Scheme if new SPDs are proposed.			
Key Assumptions/Sensitivities/Risks			
Price Base Year N/A	Time Period Years N/A	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ Neg

What is the geographic coverage of the policy/option?		England		
On what date will the policy be implemented?		Post assent of the Bill and publication of the regulations (2009)		
Which organisation(s) will enforce the policy?		No Enforcement		
What is the total annual cost of enforcement for these organisations?		£ None		
Does enforcement comply with Hampton principles?		N/A		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£ None		
What is the value of changes in greenhouse gas emissions?		£ None		
Will the proposal have a significant impact on competition?		No		
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0		Decrease of £0		Net Impact £0
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to increase flexibility for local planning authorities by removing the requirement for Supplementary Planning Documents to be listed in the Local Development Scheme.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

Local Development Frameworks (LDFs) includes Development Plan Documents (DPDs), and Supplementary Planning Documents (SPDs). SPDs expand upon or provide additional detail on those policies set out in a DPD. All policies contained within SPDs are required to be consistent with those policies contained within DPDs. SPDs can be undertaken for many reasons including offering design guidance and explaining the approach to a particular area development or a specific local issue.

Currently, all proposed Supplementary Planning Documents (SPDs) have to be listed in the Local Development Scheme. The Local Development Scheme is a public statement of the local planning authority's programme for the production of Local Development Documents. Local planning authorities must submit their first Local Development Scheme to the Secretary of State and any subsequent revisions must be agreed by the Secretary of State.

Currently there are an estimated 1,850 Supplementary Planning Documents (SPDs) being produced by local planning authorities. Of these, around 900 are Issue Based Documents, 550 are Area Development Briefs, 350 are Design Guides, 35 are Master Plans and 15 are classified as 'other'.¹¹

The Government consulted on this proposed measure in *Planning for a Sustainable Future*, and the Government's response to the White Paper consultation was published in November 2007.

Sectors and groups affected

- Public sector (local authorities).
- The public and stakeholders involved in SPD production.

¹¹ As taken from the Local Development Framework database on 30 August 2007

Costs and Benefits: *Remove the requirement for Supplementary Planning Documents to be listed in the Local Development Scheme.*

Remove the requirement for all proposed SPDs to be listed in the Local Development Scheme. This means that LPAs would be able to start the production of SPDs without reference to government, although authorities would still be expected to publicise their plan making programmes, including SPDs, to the public and stakeholders to ensure maximum engagement. Transparency and consistency will be secured through recommending the listing of all SPDs in an annex to the Local Development Scheme.

Costs

There has been concern that the measure will reduce the possibility for consultation on planning policy. This concern is unfounded given requirements to consult the public on SPDs will remain. In addition, SPDs supplement higher order policy, it is not in the scope of a SPD to introduce new policy not already broadly covered at the Development Plan Document level. The influence of an SPD being limited in that it is to be used in conjunction with its higher order DPD.

Benefits

Devolution

Local authorities are best placed to decide when there are local issues that they need to respond to through SPD. This measure would ensure they have the appropriate decision making power by enabling SPDs to be produced faster without any need for the Secretary of State's approval.

Time savings

The time taken for local authority officers to prepare a report and get the matter to committee for consideration can take several months depending on meeting schedule and lag time for completing agendas.

Cost savings to public sector

This modification would save local planning authority officers from having to write committee reports asking for council support and subsequently writing to the Secretary of State to amend the programme of SPDs in the Local Development Scheme. The Department does not have any figures on how many times a year this occurs; it is likely to be rare and therefore any cost savings would be marginal.

Costs and Benefits: *the Status Quo*

Maintain the current requirement for SPDs to be listed in the local development scheme.

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs

No new costs have been identified from this option.

Benefits

No benefits have been identified from this option.

Specific Impact Tests

Competition assessment

There is no impact on competition from this proposal.

Small Firms' Impact Test

There is no impact on small firms from this proposal, this being verified through stakeholder engagement.

Legal Aid Impact Test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not lead to increased carbon and other green house gas emissions, nor have a negative impact on the Environment.

Health Impact Assessment

There are no detrimental health impacts from this proposal. The sustainability appraisal of the higher order policy would have considered all of the potential affects as part of the required appraisal work. Under both options local planning authorities would still need to ensure they were in line with the Strategic Environmental Assessment Directive which includes health impacts.

Race, Disability, Gender and Other Equality

The policy amendment will present minimal risks of adverse impact as it will be recommended that all SPDs be listed in an annex to the LDS. In addition, statutory consultation procedures will still take place on both the higher order DPD and the SPD. We do not expect any adverse impacts as a result of this proposal.

Human Rights

We do not expect a negative impact on human rights from this proposal.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities. Stakeholders broadly supported the proposal as greater flexibility would assist preparation of community led plans.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options		
Department /Agency: Communities & Local Government	Title: Impact Assessment of removing requirement of SPDs to undergo a sustainability appraisal.	
Stage: Bill	Version:	Date:
Related Publications: Planning for a Sustainable Future: White Paper		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Richard Blyth

Telephone: 020-7944-5269

What is the problem under consideration? Why is government intervention necessary?

At present Supplementary Planning Documents (SPDs) are subject to a full sustainability appraisal. These are not always necessary however because:

- the necessary SA work undertaken on higher tier Development Plan Document (DPDs) (such as a Core Strategy) will be wide ranging and cover much of what’s required for SPDs, and does not add value to the decision making process;
- SPDs are not part of the statutory development plan and are simply designed to expand on policies set out in Development Plan Documents.

What are the policy objectives and the intended effects?

The policy objective is to ensure that sustainability appraisals are required for SPDs only when necessary. The intended effects are to save resources for Local Planning Authorities (LPAs) by removing the need to carry out unnecessary sustainability appraisals.

What policy options have been considered? Please justify any preferred option.

Option A): Do Nothing

Option B): Remove Requirements For 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.

Option B is preferred as it will save unnecessary Sustainability Appraisals.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read 'Gordon Brown', is written over a horizontal line.

Date: 23 November 2007

Summary: Analysis & Evidence			
Policy Option: B		Description: Remove Requirements For 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.	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' None
	One-off (Transition)	Yrs	
	£0		
	Average Annual Cost (excluding one-off)		
	£0		Total Cost (PV)
Other key non-monetised costs by 'main affected groups' None			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' LPAs: Reduction in the number of sustainability appraisals that a LPA has to carry out for a SPD. We have estimated that this should save an approximate £1.69 million per year.
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£1,690,000		Total Benefit (PV)
Other key non-monetised benefits by 'main affected groups'			
<p>Key Assumptions/Sensitivities/Risks The savings per year for LPAs are based on the assumption that in a three year period there will be approximately 1265 SPDs that no longer need sustainability appraisals and each sustainability appraisal costs an authority approximately £4,000.</p>			
Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £14,055,000

What is the geographic coverage of the policy/option?		England			
On what date will the policy be implemented?		Post assent of the Bill and publication of the regulations (2009)			
Which organisation(s) will enforce the policy?		LPAs			
What is the total annual cost of enforcement for these organisations?		£ None			
Does enforcement comply with Hampton principles?		N/A			
Will implementation go beyond minimum EU requirements?		N/A			
What is the value of the proposed offsetting measure per year?		£ No			
What is the value of changes in greenhouse gas emissions?		£ None			
Will the proposal have a significant impact on competition?		No			
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large	
Are any of these organisations exempt?	N/A	N/A	N/A	N/A	
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)					
Increase of £0		Decrease of £0		Net Impact £0	
Key:	Annual costs and benefits: Constant Prices			(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to increase flexibility for local planning authorities in the way they produce Supplementary Planning Documents by removing the requirement to complete a Sustainability Appraisal except in specific circumstances.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

Local Development Frameworks (LDFs) include Local Development Documents, which comprise Development Plan Documents (DPDs), and Supplementary Planning Documents (SPDs). SPDs expand upon or provide additional detail on those policies set out in a DPD. All policies contained within SPDs are required to be consistent with those policies contained within DPDs.

At present all Local Development Documents are required to undergo a Sustainability Appraisal. The purpose of a Sustainability Appraisal is to appraise the social, environmental and economic effects of the strategies and policies in a local development document from the outset of the preparation process. This will ensure that decisions are made that accord with sustainable development principles. The findings from a Sustainability Appraisal form an essential part of the reasoned justification for policies in plan documents.

Current policy states that local planning authorities must undertake Sustainability Appraisal throughout the preparation process of a Supplementary Planning Document. The Sustainability Appraisal of the development plan document to which the Supplementary Planning Document conforms, may already meet the requirements for a Sustainability Appraisal of the Supplementary Planning Document. However, where the Supplementary Planning Document contains further detail of policies and proposals not already covered by the sustainability appraisal of the higher level DPD, it will be necessary to undertake sustainability appraisal of those matters.

The requirement for a Sustainability Appraisal incorporates the requirements from the Strategic Environmental Assessment Directive (SEA) (EC Legislation). In cases where an SEA of the SPD is required the LPA would need to do an SA. These are not thought to be numerous.

The applicability of the SEA Directive is considered as part of the early plan preparation process to determine whether the proposed plan is caught by the Directive or not as a separate assessment usually included with a Sustainability Appraisal. SEA is an environmental based assessment, whereas Sustainability Appraisals are inclusive of economic and social considerations, as well as environmental matters.

Currently there are an estimated 1,800 Supplementary Planning Documents (SPDs) being produced by local planning authorities. Of these, around 900 are Issue Based Documents, 500 are Area Development Briefs, 350 are Design Guides, 35 are Master Plans and 15 are classified as 'other'.

The Government consulted on this proposed measure in *Planning for a Sustainable Future*, and the Government's response to the White Paper consultation was published in November 2007.

Sectors and groups affected

- the public sector (local authorities and the Planning Inspectorate);
- the public, community groups and other bodies.

Costs and Benefits: *Remove the requirement for a Sustainability Appraisal for Supplementary Planning Documents*

The LPA would establish whether the SEA Directive was applicable, whether there would be a significant social, economic or environmental impact from the SPD, and whether or not the SA work of the parent DPD sufficiently appraised the subject matter of the proposed SPD. If the LPA determine that a sustainability appraisal was not warranted for any of these reasons then the LPA would not be required to produce one.

Costs:

No costs have been identified.

Benefits

Cost savings to local authorities

Of the four types of SPDs that can be produced, we anticipate that Design Guides and Issue Based Document type SPDs are considerably less likely to require sustainability appraisal than Master Plans and Area Development Briefs.

We estimate that this option could save local authorities approximately £1.69 million. This is based on the Issue Based Documents (900), the Design Guides (350) and the Unclassified Documents (15) no longer needing an SA. It is estimated that the cost of a SA for a SPD is approximately £4000. The numbers of SPDs currently in production are typical for a 3 year period.

The estimated annual savings are therefore:

$$(1265 * £4000) / 3 = £1.69 \text{ million}$$

Time savings to consultees

Where no Sustainability Appraisal is required, consultees would not need to read and comment on Sustainability Appraisal documents. Given that each document represents at least 10 hours reading time, and is seen multiple times throughout the current consultation process the potential time savings to consultees is considerable.

Costs and Benefits: *the Status Quo*

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs:

There would be no additional costs, except that the current process for producing sustainability appraisals for every SPD would be unnecessarily maintained.

Benefits

There would be no benefits from maintaining the status quo.

Specific Impact Tests

Competition assessment

This proposal will have no impact on competition.

Small Firms' Impact Test

There is no impact on small firms and relevant stakeholders agree in principle with this proposal.

Legal Aid Impact Test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

We do not expect this proposal to be of detriment to the principles of sustainable development and the spirit of section 39 of the Planning and Compulsory Purchase Act 2004.

This proposal will not lead to an increase in carbon or other green house gas emissions.

There are no environmental risks from this proposal in cases where SPDs do not need sustainability appraisal. A sustainability appraisal will still take place on the parent development plan document.

Health Impact Assessment

In cases where SPDs do not need sustainability appraisal health impacts would be assessed through the sustainability appraisal of the associated higher order development plan document.

Race, Disability, Gender and Other Equality

The risks of a materially adverse impact on particular groups are minimal and safeguards are in place and continue to be developed to ensure effective involvement in both planning and governance reform. SA will still take place on all DPDs and application of SEA still applies (see brief description of policy above). Community involvement and equalities groups are considered in the revision of PPS12 and accompanying Manual and work is ongoing to integrate consultation procedures for community strategies and spatial plans, as proposed in both the Local Government and Planning White Papers.

Human Rights

There will not be an impact on human rights from this proposal.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities. Stakeholders broadly supported the proposal as removal of sustainability appraisal would help the continued development of community led plans.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options		
Department /Agency: Communities & Local Government	Title: Impact Assessment of removing the requirement for independent examination of Statements of Community Involvement	
Stage: Bill	Version:	Date:
Related Publications: Planning for a Sustainable Future: White Paper		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Richard Blyth

Telephone: 020-7944-5269

What is the problem under consideration? Why is government intervention necessary?

Intervention is necessary as new arrangements are being put in place to help local authorities take a more integrated and consistent approach to community involvement across all of their functions. And LDF production is regarded as over regulated and falling behind schedule.

The requirement for Statements of Community Involvement (SCI) to be independently examined by a planning inspector has led to few changes being made to them. It is hard for inspectors to judge the suitability of the community involvement for planning being taken by a Local Planning Authority. It is also very hard for inspectors to judge whether the appropriate level of resources is being allocated to community involvement in planning.

What are the policy objectives and the intended effects?

To encourage an integrated approach to involvement and minimise expenditure on producing the SCI.

What policy options have been considered? Please justify any preferred option.

A) Do nothing.

B) Remove the requirement for statements of community involvement to be independently examined by repealing section 18 (4) of the 2004 Planning and Compulsory Purchases Act.

Option B is preferred as it will minimise unnecessary expenditure on statements of community involvement.


When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read 'Gordon Brown', is written over a horizontal line.

Date: 23 November 2007

Summary: Analysis & Evidence				
Policy Option: B		Description: Removing the requirement of independent examination for Statements of Community Involvement.		
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'	
	One-off (Transition)	Yrs		
	£ Neg			
	Average Annual Cost (excluding one-off)			
	£0		Total Cost (PV)	£ Neg
Other key non-monetised costs by 'main affected groups'				
Less opportunity to challenge the SCIs. However, removal of independent examination and the associated period of consultation will help align the SCI with other Local Authority community involvement policy.				
LPAs: Small costs involved in familiarising and training staff in new procedures.				
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'	
	One-off	Yrs		
	£0			
	Average Annual Benefit (excluding one-off)			
	£54,000–£135,000		10	Total Benefit (PV)
Other key non-monetised benefits by 'main affected groups'				
LPAs savings from only running one consultation. Flexibility benefits from being able to update SCIs when necessary. Greater opportunity to align the SCI with other local authority involvement strategies.				
Key Assumptions/Sensitivities/Risks				
Price Base Year 2007	Time Period Years N/A	Net Benefit Range (NPV) £450,000–£1,125,000	NET BENEFIT (NPV Best estimate) £788,000	

What is the geographic coverage of the policy/option?		England			
On what date will the policy be implemented?		Post assent of the Bill and publication of the regulations (2009)			
Which organisation(s) will enforce the policy?		Local Authorities			
What is the total annual cost of enforcement for these organisations?		£ None			
Does enforcement comply with Hampton principles?		N/A			
Will implementation go beyond minimum EU requirements?		N/A			
What is the value of the proposed offsetting measure per year?		£ None			
What is the value of changes in greenhouse gas emissions?		£ None			
Will the proposal have a significant impact on competition?		No			
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large	
Are any of these organisations exempt?	N/A	N/A	N/A	N/A	
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)					
Increase of £0		Decrease of £0		Net Impact £0	
Key:	Annual costs and benefits: Constant Prices			(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to end the statutory requirement for an independent examination of Statements of Community Involvement.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

A key element of the Government's modernising planning agenda is to increase community involvement in plan making. This aim was implemented partly through the Planning and Compulsory Purchase Act 2004 (PCPA) which requires local planning authorities to prepare a statutory Statement of Community Involvement (SCI). SCIs set out the local planning authority's policies on how and when the public can expect to be involved in the preparation of Local Development Documents and on planning applications.

The SCI is subject to independent examination. The Inspector considers the "soundness" of the statement of community involvement.

Inspectors have now examined the majority of SCIs that will need to be examined. The examinations of SCIs have resulted in very few changes being made by Inspectors. This calls into question the appropriateness of using the Planning Inspectorate for this work. This is a quasi-legal process and it is not surprising that Inspectors have had little to say regarding the suitability of the approach being taken to public consultation by a local planning authority. In particular it is extremely difficult for an Inspector to assess whether the right level of resources is being applied to the task.

The modernising planning agenda also includes moving planning from being a peripheral reactive and regulatory function within local authorities to being a central part of the long term decision making of the council. As part of this initiative, the PCPA obliges the plans produced by local authorities to have regard to the community strategies for the area. In a consultation paper on local strategic partnerships in December 2005,¹² the Government sought views on greater integration between the two kinds of strategies including within the area of public engagement (draft 'Place Shaping' guidance, which takes on board the LSP consultation responses, is expected to be published in Autumn 2007.) Removal of the Independent examination and associated period of consultation will enable the SCI to fit with in broader approaches to engagement.

¹² This can be found at: www.communities.gov.uk/index.asp?id=1162337

The Government consulted on this proposed measure in *Planning for a Sustainable Future*, and the Government's response to the White Paper consultation was published in November 2007.

Sectors and groups affected

- the public sector (local authorities and the Planning Inspectorate);
- the public, community groups and other bodies that may have commented on SCIs at a public examination

Costs and Benefits: *Remove the requirement for Supplementary Planning Documents to be independently inspected*

Repealing Section 18(4) of Planning and Compulsory Purchase Act 2004 would remove the requirement for the statement of community involvement to be independently examined by the Planning Inspectorate.

Benefits

Cost and Resource Savings to LPAs

Co-ordinated consultation and engagement. It would allow for the development of a comprehensive engagement strategy integrating the consultation across authorities and their partners on the Sustainable Community Strategy, Local Area Agreements (LAA) and Local Development Framework (LDF), and where possible combining activity. This should enable more meaningful consultation with local residents reducing the risk of consultation overload and fatigue.

Cost savings for local authorities: It would provide a saving of around £680-£1,700 per local authority on direct expenditure on the Inspector, including the costs of running two consultations which currently cost staff time and materials. Of the 398 local authorities SCIs to be examined, as of 1 September 2007, 340 have been examined. It is likely that a large proportion of the remaining SCIs will be inspected before this legislation comes into affect. There will however be savings in the future as SCIs should be updated approximately every 5 years.

The estimate for annual savings is therefore:

Lower End: $(398 * £680) / 5 = £54,128$

Higher End: $(398 * £1700) / 5 = £135,320$

Mid Point: £94,724

In addition, and of equal importance, the work of administering the consultation on the SCI would free up scarce professional staff time to concentrate on plan making in many authorities.

Flexibility Benefits

Flexibility benefits for councils include ability to update SCIs more quickly and therefore improve process of engagement.

Costs

Administration Costs

There would be some administration costs for local authorities in familiarising and training their staff in the new procedures. These are likely to be relatively small as the new procedures should be simpler. The Government would give as much notice of the changes and their implications as is possible to minimise these.

There would also need to be transitional provisions for those authorities who have already submitted their SCI. The Government would seek to minimise transitional costs by allowing current plans that are in preparation to continue to adoption, ensuring that work done in their preparation is not wasted.

Affect on Consultation on SCIs

There has been concern that the removal of independent examination would result in less opportunity to comment through consultation on the content of the SCI. The SCI will still be required to go through at least one statutory period of consultation which is likely to align it more closely with other involvement strategies across the authority or Local Strategic Partnership.

Costs and Benefits: the Status Quo

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs

No additional costs have been identified from this option.

Benefits

The 'do nothing' option would retain the requirement for statements of community involvement to be subjected to independent examination.

Specific Impact Tests

Competition assessment

The competition filter test was applied. This proposal will not effect competition.

Small Firms' Impact Test

We assume that the measures proposed will impact proportionally across business sectors and that impacts on business will be marginal. The Small Business Service acknowledges this approach.

This proposal will not have an impact on small business and stakeholders agreed with the proposal.

Legal Aid Impact Test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

We do not expect this proposal to be of detriment to the principles of sustainable development. There will be no increase in carbon or other green house gas emissions as a result of this proposal, nor will there be any impact on the environment.

Health Impact Assessment

There are no health implications to this proposal.

Race, Disability, Gender and Other Equality

The removal of the independent examination will not have a materially adverse impact on different groups. Evidence suggests the current scrutiny by Planning Inspectorate results in few material changes. Furthermore, as proposed in both the Local Government and Planning White Papers, removal of independent examination of the SCI will help local authorities and LSPs take a more strategic and integrated approach to engagement, the intention is to reiterate this in both the revision to PPS12 on Local Development Frameworks and in emerging Place Shaping Guidance.

Removal of independent examination will not result in less involvement in planning as the new best value duty to appropriately involve, inform and consult will also apply to planning in addition Comprehensive Area Assessment is likely to consider community engagement. The draft revision to PPS12 on Local Development Frameworks refers to the need to involve 'the hard to reach', an issue which will be addressed in more detail in its accompanying manual.

Human Rights

There is no impact on human rights from this proposal.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities. Stakeholders agreed with the proposal subject to ongoing planning and governance reform.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment of enabling the High Court to remit a development plan to an intermediate stage in the preparation process	
Stage: Bill	Version:	Date:
Related Publications: Planning for a Sustainable Future: White Paper		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Richard Blyth

Telephone: 020-7944-5269

What is the problem under consideration? Why is government intervention necessary?

When a judge considers a regional spatial strategy, the Mayor of London's spatial development strategy, a development plan document, the Wales Spatial Plan or a local development plan [hereafter collectively referred to as the plan] in a judicial review or a high court hearing there is no reference in the legislation providing anything other than a complete quashing of the plan, even where the challenge referred only to part of the document. Should a regional spatial strategy, the Mayor of London's spatial development strategy, a development plan document, the Wales Spatial Plan or a local development plan be found unsound at a particular point in the process, the entire document is quashed and the plan making process must recommence from the start.

When a plan is quashed, a 'vacuum' (or policy deficiency) is left behind creating uncertainty for the community affected by the plan. This may lead to significant social, economic or environmental impacts on the area concerned. It also leads to a significant delay in implementing the plan for the area, which may run into several years. The process of rewriting a plan is timely and resource intensive for both local authorities and consultees.

What are the policy objectives and the intended effects?

The ability to return a plan to a key stage in the process will reduce the risk of being left with a policy vacuum. It will also reduce unnecessary delay and avoid wasteful repetition of work including repetition of consultation exercises.

What policy options have been considered? Please justify any preferred option.

A) Do nothing

B) Amend the Challenge Function (S.113 of the Planning and Compulsory Act 2004) by allowing the High Court to return the Regional Spatial Strategy, Development Plan Document, the Wales Spatial Plan or a local development plan document back to an earlier point in the plan making process rather than the start.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 23 November 2007

Summary: Analysis & Evidence			
Policy Option: B		Description: Enable the High Court to remit a development plan to an intermediate stage in the preparation process	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' None
	One-off (Transition)	Yrs	
	£0		
	Average Annual Cost (excluding one-off)		
	£0		Total Cost (PV) £0
Other key non-monetised costs by 'main affected groups' None			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Local planning authorities, regional planning bodies, the Mayor for London and the Welsh Assembly Government [hereafter collectively referred to as the planning body] will potentially make savings from not having their plans quashed in their entirety. This should save significant resources as the authority will not have to recommence the plan making process from the beginning.
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£1,000,000	10	Total Benefit (PV) £8,316,000
Other key non-monetised benefits by 'main affected groups' None			
Key Assumptions/Sensitivities/Risks Assumption: judges will sometimes take the opportunity of not quashing a DPD.			
Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £8,316,000

What is the geographic coverage of the policy/option?		England and Wales		
On what date will the policy be implemented?		Commencement (Summer/ Autumn 2008)		
Which organisation(s) will enforce the policy?		High Court		
What is the total annual cost of enforcement for these organisations?		£ None		
Does enforcement comply with Hampton principles?		N/A		
Will implementation go beyond minimum EU requirements?		No		
What is the value of the proposed offsetting measure per year?		£ None		
What is the value of changes in greenhouse gas emissions?		£ None		
Will the proposal have a significant impact on competition?		No		
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0		Decrease of £0		Net Impact £0
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which will enable the High Court to remit a development plan back to a key stage in the decision process.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

The plan making process is a resource intensive exercise. Plans are taking planning bodies significant periods of time and resources to produce. There are several stages of consultation that the planning body must undertake before submission to the Planning Inspectorate.

Plans and the policies contained within them can be challenged under provisions in the legislation and through judicial review. At present when a judge makes a determination on a legal challenge there is no reference in the legislation providing anything other than a complete quashing of the document, even where the challenge referred only to part of the plan. Should a plan be found unsound at a particular point in the process, the entire plan is quashed and the plan making process must recommence from the start.

The Government consulted on this proposed measure in *Planning for a Sustainable Future*, and the Government's response to the White Paper consultation was published in November 2007.

Sectors and groups affected

- Public sector (particularly local authorities).
- The public and stakeholders involved in DPD production or affected by the lack of certainty caused by a delay in DPD production.

Costs and benefits: Amend Challenge Function

The Government will increase the powers of the High Court enabling it to order that a plan is sent back to an earlier stage of its process rather than back to the start.

Benefits

The principal benefit of this proposal derives from the potential for costs-saving as a result of not having to recommence the development plan-making process from the start.

However, it is very hard to measure the potential savings from amending the challenge function as there is little data on the costs of quashing plans and it is unclear to what extent the powers to revert the plan to a specific stage of the process will be used. It can take between £100,000 and £1 million of a local authority's resources to prepare a Development Plan Document. As the volume of new plans being produced and found sound under the new system increases in coming years, there is an increased likelihood of a challenge as stakeholders are more willing to test the new system to see what determinations may be made.

For Development Plan Documents we estimate that of the approximate 200 DPDs in production per year, 5% (10) will be successfully challenged. The potential savings from this will depend on which stage (if any) the plan will be sent back to. A conservative estimate would be that this measure would save 20% of the average costs of preparing a Development Plan Document. It is therefore estimated that £1 million could be saved per year.

In addition there are potential savings for regional spatial strategies, the Mayor of London's spatial development strategy, the Wales Spatial Plan and local development plans

Costs

There are no costs with this option. Challengers would still have the same rights as they do now. The only change would be that there would be a more proportionate response to amend a quashed plan.

Costs and Benefits: *the Status Quo*

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs

Under this option, the current process would be maintained. No new or additional costs or benefits have been identified under this option. Challengers would still have the same rights as they do now. The only change would be that there would be a more proportionate response to amend a quashed plan.

Benefits

However, any potential for savings would be missed under this option.

Specific Impact Tests

Competition assessment

There is unlikely to be an impact on competition from this proposal.

Small Firms' Impact Test

There is unlikely to be an impact on small firms from this proposal. Relevant stakeholders support the proposal.

Legal Aid Impact test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not result in increased carbon and other green house gas emissions, or have a negative impact on the Environment

Health Impact Assessment

There are no detrimental health impacts arising from this proposal

Race, Disability, Gender and Other Equality

We do not envisage any material adverse effects on different groups. On the contrary, this change will result in quicker resolution of plans and a reduction in the prospect of a policy vacuum which may benefit the delivery of policy objective to tackle disadvantage.

Human Rights

This proposal will not have a negative impact on human rights.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities. Relevant stakeholders broadly agreed with this proposal.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment of changes to compensation rights when changes are made to permitted developments	
Stage: Bill	Version:	Date:
Related Publications: Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Shayne Coulson

Telephone: 020-7944-8716

What is the problem under consideration? Why is government intervention necessary?

At present when restrictive changes are made to permitted development rights (PDRs) there is a requirement for local planning authorities (LPAs) to pay compensation where a subsequent application for planning permission (that is submitted within 12 months of the change) is refused, or granted subject to condition, and that imposes costs on the developer. Legislation is required to amend the existing compensation provisions.

What are the policy objectives and the intended effects?

The objective is to reduce the potential restraints on amending Permitted Development Rights (PDRs) by allowing changes to be made to them subject to sufficient notice (12 months) being given so that potential developers are given sufficient notice of any change. The Government is currently looking to generally extend PDRs but, as a balancing measure, we propose to strengthen the local authority's ability to make restrictions where justified.

What policy options have been considered? Please justify any preferred option.

A) Do nothing

B) Amend primary legislation to remove the requirement for compensation when changes are made as long as 12 months notice has been given.


When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read 'Gordon Brown', is written over the signature line.

Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option:	Description: Changes to compensation rights when changes are made to permitted development developments
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'	
	One-off (Transition) Yrs		
	£0		
	Average Annual Cost (excluding one-off)		
	£0	Total Cost (PV)	£0

Other **key non-monetised costs** by 'main affected groups'

In practice, we believe there is not necessarily any cost. Previously, developers only benefited from compensation for 12 months. Under the proposal PDRs would continue to exist for 12 months after the "notice". Any potential cost in the longer-term, due to greater restrictions being imposed, has to be offset against the proposal to provide for an extended permitted development regime. Without the ability to subsequently amend PDRs the scope of extension might well be less.

We believe there is not necessarily any cost from this change. Previously, developers only benefited from compensation for 12 months after a change in PDR. Under the proposal PDRs only come into effect after the "notice" period of 12 months.

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'	
	One-off Yrs		
	£		
	Average Annual Benefit (excluding one-off)		
	£	Total Benefit (PV)	£

Other **key non-monetised benefits** by 'main affected groups'

Benefits to Local authorities through not having to pay compensation for necessary changes to PDRs. More generally, the change would enable a more permissive PDR regime to operate in the future if there were the knowledge that it could be subsequently refined – benefiting developers

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £	
What is the geographic coverage of the policy/option?		England (and Wales, upon implementation by Welsh Assembly Ministers. See note below.)		
On what date will the policy be implemented?		Commencement (Summer/Autumn 2008)		
Which organisation(s) will enforce the policy?		LPAs		
What is the total annual cost of enforcement for these organisations?		£ None		
Does enforcement comply with Hampton principles?		N/A		
Will implementation go beyond minimum EU requirements?		N/A		
What is the value of the proposed offsetting measure per year?		£0		
What is the value of changes in greenhouse gas emissions?		£0		
Will the proposal have a significant impact on competition?		N/A		
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0		Decrease of £0		Net Impact £0
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to remove the requirement for compensation when changes are made to the GPDO or when local LPAs make changes under Article 4 directions as long as 12 months notice has been given.

For purposes of this assessment, the status quo is the benchmark so as to enable analysis of the costs and benefits of the proposal.

Wales

The figures and evidence base stated in this Impact Assessment relate to England only. However, this provision also confers powers on Welsh ministers to apply these measures in Wales. Upon exercise of those powers, a separate Impact Assessment will be carried out in conjunction with the making of the relevant Statutory Instrument which will determine the impact in Wales.

Context

Permitted Development Rights are granted by the Town and Country Planning (General Permitted Development) Order 1995 (GPDO). The GPDO grants planning permission for certain types of development, for example, for certain household extensions, and thereby removes the need to apply for the specific approval of the LPA.

Section 108 of the Town and Country Planning Act 1990 provides that compensation is payable, for a period of 12 months, where a change to the GPDO restricts what was previously permitted and a subsequent application is refused or granted subject to conditions.

Compensation is potentially payable where central government makes an amendment to the GPDO that restricts what can be done under PDRs. It is also payable where an LPA chooses to use its powers under article 4 of the GPDO (so-called "article 4 directions") to restrict PDRs locally.

Planning authorities can already restrict permitted development rights where this is justified by making an article 4 direction. However, there are some potential constraints on the use of directions by local authorities where the imposition of them would be justified. These include the possibility of compensation payable following loss of permitted development rights.

The Government's aim is to provide for a generally more permissive regime. Without amendment of the compensation provisions, the desire to extend PDRs might be undermined by a cautionary approach, given the potential financial consequences of a subsequent restrictive change (either nationally or locally). The ability of LPAs to decide what is appropriate locally is also very much in keeping with Government's desire to devolve decision making to the local level.

The Government consulted on compensation issues in the consultation paper: *Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders*, and the Government's response to this consultation – *Permitted Development Rights for Householders: Government response to consultation replies* – was published in November 2007.

Sectors and groups affected

- LPAs.
- Any individual, business or other person that might be able to utilise PDRs.
- The wider public who might be affected by someone else's proposed development.

Costs and Benefits: *Ending compensation provision for removal of change to PDRs*

Costs

Costs to Potential Developers

Individuals and organisations who find that their desired development is no longer permitted will no longer be entitled to compensation – subject to 12 month's notice having been given.

In practice, we believe there is not necessarily any cost. Previously, developers only benefited from compensation for 12 months. Under the proposal PDRs would continue to exist for 12 months after the "notice". We see, therefore, no cost in the short-term.

Any potential cost in the longer-term, due to greater restrictions being imposed, has to be offset against the proposal to provide for an extended permitted development regime. Without the ability to subsequently amend PDRs, the scope of extension might well be less and, therefore, the additional benefits from proposed extension to PDRs diminished.

Benefits

Savings to local authorities from not having to pay Compensation

LPAs will save the compensation payments that they would have otherwise have had to pay for proposed changes to the GPDO and any article 4 directions that they make. Again this cannot be estimated as it is not possible how Government or individual LPAs might want to amend PDRs in the future.

Devolutionary Benefits for local authorities

LPAs will benefit from have greater ability apply article 4 directions where justified as they will no longer be restricted by the fear of compensation claims. Earlier work by Roger Tym and Partners identified that 31 % of Local Authorities were reluctant to apply article 4 directions because of the threat of compensation. The increased discretion to apply Article 4 directions should allow changes to permitted development in line with local need.

Benefits to the Public

As changes to permitted development rights will become easier to restrict both nationally and locally, appropriate changes can be made depending on the circumstances and evidence. This should mean that developments that are inappropriate for national or local reasons are no longer permitted. This could benefit communities more generally as social or environmental costs from the inappropriate development would be reduced.

Benefits to Potential Developers

On balance, we believe potential developers would benefit from a generally more permissive planning regime that will be introduced alongside amendments to current compensation arrangements.

Costs and Benefits: the Status Quo

These are the reverse of those costs and benefits identified above.

Specific Impact Tests

Information from stakeholders and the responses to consultation has informed the content of this Impact Assessment. The majority of respondents agreed with this proposal.

Competition assessment

There is unlikely to be an impact on competition from this proposal.

Small Firms' Impact Test

There is unlikely to be an impact on small firms from this proposal.

Legal Aid Impact test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will have no negative impact on future generations.

This proposal will not result in increased carbon and other green house gas emissions, or have a negative impact on the Environment

Health Impact Assessment

There are no detrimental health impacts arising from this proposal

Race, Disability, Gender and Other Equality

An Equalities impact screening assessment was applied to this proposal and stakeholders were consulted to determine the potential for equalities impact. There was concern about the potential for adverse impacts given the increased likelihood of LPAs restricting householder PDRs. However, this change has to be set in the context of it being necessary to assist in the provision of a generally permissive regime that would benefit these groups. Overall, therefore, we do not expect any material adverse impacts as a result of this proposal.

Human Rights

This clause might be said to raise issues under Article 1 of Protocol 1. The control of permitted development via development orders would appear to be a "control" on the use of property with the meaning of the second paragraph of A1P1. However, the ECtHR has held that authorities enjoy a "wide margin of appreciation" in "striking the fair balance required between the general interest of the community and the requirements of the protection of the individual's fundamental rights". Our view is that these proposals are a proportionate means

of protecting the general interest. Protection for the rights of the individual is provided by the 12 month notice period before any restrictive change to permitted development comes into effect, during which time development can go ahead without the need to apply for planning permission.

Deprivation of property without compensation will normally infringe A1P1. However, restrictions on the use of property in the public interest without compensation, which fell short of de facto expropriation, would not normally do so unless the detrimental effect upon the individual far outweighed the public benefit. Any detriment to the individual as a result of these proposals is significantly reduced by the 12 month notice period and is outweighed by the public benefit of having the means to control permitted development where necessary, and the reduction in cost to the public purse as a result of reduced compensation payments. In our view, therefore, this clause is compatible with Article 1 of the First Protocol.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment of granting local planning authorities the discretion to allow minor amendments to existing planning permissions	
Stage: Bill	Version:	Date:
Related Publications: Planning for a Sustainable Future		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Shayne Coulson

Telephone: 020-7944-8716

What is the problem under consideration? Why is government intervention necessary?

There is potential for cost and delay when there is a need to make minor amendments to existing planning permissions. In the past, such changes were generally dealt with locally between local planning authorities (LPAs) and the developer – the LPA making a judgment as to whether they were so minor that they could be allowed without any formal procedure. However, recent case law has led many LPAs and developers to doubt whether such an approach is legally acceptable.

What are the policy objectives and the intended effects?

To prevent unnecessary delay, cost and uncertainty for developments where minor amendments to proposals are required after planning permission has been granted.

What policy options have been considered? Please justify any preferred option.

A: Do Nothing

B: Allow Local Planning Authorities discretion to decide whether an amendment to what was previously permitted is non material and should not require further planning permission.

Option B is preferred as it will save time and money for LPAs and applicants.


When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read 'Gordon Brown', is written over a faint horizontal line.

Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option: B	Description: Grant local planning authorities the discretion to allow minor amendments to existing planning permissions
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£0		
	Average Annual Cost (excluding one-off)		
	£ Neg		Total Cost (PV) £ Neg
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Lack of Public Consultation: There is a potential cost to members of the public from there not being consultation on these amendments. This should be mitigated by the fact that the amendments are minor.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£8,155,000	10	Total Benefit (PV) £67,822,000
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Benefit for Local Planning Authorities: They will no longer have to process planning applications for some minor amendments. These would have been paid for by fees but take up resources.</p> <p>Benefit for Applicants:</p>			

Key Assumptions/Sensitivities/Risks
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Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £67,822,000
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What is the geographic coverage of the policy/option?	England (and Wales, upon implementation by Welsh Assembly Ministers. See note below.)			
On what date will the policy be implemented?	Commencement (Summer/ Autumn 2008)			
Which organisation(s) will enforce the policy?	LPAs			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £N/A Decrease of £1,300,000 Net Impact £1,300,000				
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to grant LPAs the power to make minor amendments to existing planning permissions.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits.

The figures and evidence base stated in this Impact Assessment relate to England only. However, this provision also confers powers on Welsh ministers to apply these measures in Wales. Upon exercise of those powers, a separate Impact Assessment will be carried out in conjunction with the making of the relevant Statutory Instrument which will determine the impact in Wales.

Context

The Town and Country Planning Act 1990 sets out the legislative framework within which the planning system operates. The Act, amongst other things, sets out what work requires planning permission and provides for, for example, how this is sought and how it might be approved. However, representations have been made to the department about how recent case law has impacted on how the planning system works in practice.

The issue revolves around whether flexibility exists in the planning system to allow minor amendments to be made to a planning permission that has already been granted. When developers seek to implement their permissions they can often find that minor changes to their original proposal are necessary for a variety of reasons, such as new building regulations or additional information coming to light about the physical nature of the site. An example, would be where it was necessary to accommodate an additional fire escape on a relatively large-scale town centre building. Such issues are particularly common for large scale developments that are complex and take long periods of time to be built.

In practice, it appears that in the past in such instances how such changes were dealt with was decided on locally with planning authorities making a judgment as to whether they were so minor that they could be allowed without any formal procedure. However, recent case law has thrown into doubt whether such an approach is legally acceptable. In particular, the Sage judgment is often cited as removing flexibility. The judgment interpreted planning legislation to mean that “if a building is not carried out, both externally and internally, fully in accordance with the permission, the whole operation is unlawful” (Lord Hobhouse, House of Lords, *Sage v Secretary of State for the Environment, Transport and the Regions*, 2003).

In Scotland a provision has been introduced to deal with this issue (as section 31A of the then Town and Country Planning (Scotland) Act 1972) by section 46 of the Local Government and Planning (Scotland) Act 1982. Section 46 gives planning authorities a new power to vary any planning permission granted by them, on the request of the grantee or of a person acting with his consent, if they consider that the variation sought is not material. Planning authorities are considered best placed to judge in what circumstances a variation requested would be material. In cases where a developer wishes to change the terms of a permission granted to him in a way that goes beyond non-material variation, a new application is required.

A more cautious approach resulting from cases such as Sage means that potentially minor and insignificant changes to how a permission is delivered could require a new full planning application. In many cases, the minor amendments required after permission has been granted have no or very small effects on public amenity. The current arrangements therefore exert disproportionate demands on local authorities and developers. In addition, the views of members of the public and other consultees will again have to be sought on an almost identical proposal to that which has already been granted planning permission. The situation leads, therefore, to unnecessary cost, delay and uncertainty and hinders delivery of major developments.

The Government consulted on this proposed measure in *Planning for a Sustainable Future*, and the Government's response to the White Paper consultation was published in November 2007.

Sectors and groups affected

- Public sector (particularly local planning authorities)
- Applicants (particularly businesses that are involved in large scale developments)
- The general public

Costs and Benefits: *enabling LPAs to make minor amendments*

Local planning authorities would be provided with a power to enable them to decide whether a proposed amendment to what was originally permitted was sufficiently insignificant so as to not require the submission of a further full application for planning permission. The planning authority might also be able to require further public consultation on particular cases where this was merited.

Benefits

Savings for local authorities

Local planning authorities currently have to treat minor amendments as new applications. It is difficult to quantify the absolute number of new applications caused by this issue. The British Property Federation suggest that a very significant proportion of planning permissions for major applications will require minor amendments. Development control statistics for 2006/07 show there were 19,300 major applications that year.

While the cost of processing subsequent applications should be covered through planning application fees, this process ties up planning authority resources, potentially diverting them from considering new proposals or forward planning.

Administrative Savings for developers

These savings are difficult to quantify but likely to be substantial. The developments affected will often be the largest and most complex. There are costs associated with preparing new applications, application fees (which may exceed £50,000 per development) and delay to projects. In addition, there is uncertainty about how different local planning authorities treat amendments of this type. For the basis of an approximation it is assumed that 50% of major applications are repeat applications to deal with minor amendments. CLG also estimates that the average administrative costs of a major application for developers are £1450 on average. Applications that are sent for a second time with minor changes should be cheaper for developers as the majority of the work should be done. If we conservatively estimate that the costs of submitting a repeat application are 10% of the costs of submitting a normal major application then the savings can be calculated as:

$$9,650 \times (£1,450/10) = £1,399,250$$

Fee Savings to developers

It is conservatively estimated that the average fee for a major application mentioned above is £700. This would lead to a savings in fees for developers of approximately:

$$9650 \times £700 = £6,755,000$$

Costs

Lack of public consultation

There could be concern that local communities were not being given the opportunity to consider decisions that might affect them if minor amendments to proposals could be just agreed between the developer and the planning authority. We are considering what guidance might be necessary, in terms of publicity, to ensure that is seen to be transparent. However, we believe that generally these amendments should be insignificant enough to make further consultation unnecessary. Indeed many separate consultations might mean that many people may find the need to respond several times to very similar proposals wasteful of their own time, particularly in cases where the amendments have no impact on public amenity.

Alternative options

We have considered whether it would be possible to change the legislation to prescribe exactly what type of minor amendment would be acceptable to make after the initial grant of planning permission rather than leave this to planning authorities to decide. However, in practice, it would not be possible to prescribe exactly what should or should not be acceptable given the potential range of amendments that could be made to a development and the fact that whether it would be significant could depend on the context of the overall proposal.

Costs and Benefits: *the Status Quo*

The current arrangements will continue, and a new application will be required to make minor amendments after planning permission has been granted.

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs and benefits

No new or additional costs and benefits have been identified for this option.

Specific Impact Tests

Information from stakeholders has informed the content of this Impact Assessment.

Competition assessment

The competition filter test has been applied to this proposal. Many businesses that will be affected are from the development industry where a few firms have a large market share. However, the proposal will not have a substantially different effect on firms, affect the market structure, penalise new firms or place restrictions on the services or products that firms provide.

Small Firms' Impact Test

Most significant benefit is likely to be achieved by large firms because such firms are involved in the large scale developments that typically require minor amendments to permissions more often. However, there is not believed to be any negative impact on small or medium sized businesses. Indeed, smaller businesses should similarly benefit from these.

Legal Aid Impact test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not result in increased carbon and other green house gas emissions, or have a negative impact on the Environment.

Health Impact Assessment

There are no detrimental health impacts arising from this proposal.

Race, Disability, Gender and Other Equality

The degree of discretion available to local planning authorities will be limited and relate to 'non-material changes'. We do not envisage that the proposals will adversely impact on different groups but, as part of the guidance to local planning authorities will make it clear that, in exercising this power, they must take into account any differential impacts a proposed change might make.

Human Rights

This proposal will not have a negative impact on human rights.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities. The type of development that will benefit most is likely to be found in larger, urban areas. However, there is a risk that redevelopment and regeneration projects might be affected adversely if we do nothing and this would have a negative social impact.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options Results of public consultation		
Department /Agency:	Title:	
Communities & Local Government	Impact Assessment of amending s237 Town and Country Planning Act and equivalents	
Stage: Bill	Version:	Date:
Related Publications: Consultation Document and Impact Assessment for Amendments to S237 of the Planning Act		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Robert Segall

Telephone: 020-7944-3913

What is the problem under consideration? Why is government intervention necessary?

Section 237 of the 1990 Act allows easements and other rights to be overridden to enable building or other works to be erected, constructed, carried out or maintained on that land where it is held “for planning purposes”. This means that the easements etc can only be overridden during the construction phase and not permanently for the new use of the site. This situation is a threat to the ongoing effectiveness of regeneration projects. This causes doubt, uncertainty and inevitable delay as well as considerable scope for expensive litigation if the matter is not resolved.

What are the policy objectives and the intended effects?

The objective is to create certainty for development on land held “for planning purposes”. The proposed legislation would transform section 237 into a positive mechanism to deliver certainty on land acquisition and provide a “clean title” to a development site: i.e. a title uninhibited by encumbrances which might impede the achievement of the development. It was believed that section 237 did this until the judgment in “Thames Water Utilities v Oxford City Council” [1999].

What policy options have been considered? Please justify any preferred option.

A: do nothing;

B: amend section 237 to allow rights to continue to be overridden after construction for the new use of the site.

Option B would solve the identified problem and allow for more efficient design of projects and eliminate the threat of litigation.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

In five years.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 23 November 2007

Summary: Analysis & Evidence			
Policy Option: B		Description: Amend s237 TCPA and equivalents	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£		
	Average Annual Cost (excluding one-off)		
	£		Total Cost (PV)
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Developers: more compensation – relatively small.</p> <p>Rights owners: loss of ability to sue for damages – possibly relatively large.</p>			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£		Total Benefit (PV)
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Developers: time saved, less complexity (monetised as lower development costs?)</p>			
<p>Key Assumptions/Sensitivities/Risks Assumption: no change in the amount of development as a result of change in s237.</p>			
Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £

What is the geographic coverage of the policy/option?		England and Wales		
On what date will the policy be implemented?		Commencement (Summer/ Autumn 2008)		
Which organisation(s) will enforce the policy?		no enforcement		
What is the total annual cost of enforcement for these organisations?		£		
Does enforcement comply with Hampton principles?		N/A		
Will implementation go beyond minimum EU requirements?		N/A		
What is the value of the proposed offsetting measure per year?		£		
What is the value of changes in greenhouse gas emissions?		£		
Will the proposal have a significant impact on competition?		No		
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0		Decrease of £0		Net Impact £0
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which will amend section 237 (of the Town and Country Planning Act 1990) to allow rights to continue to be overridden after construction for the new use of the site.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

On some land there are easements or other rights (generally restrictive covenants) which affect land owned by other people. When development on land held for planning purposes takes place (often following compulsory purchase) it is often necessary to override these rights and allow appropriate compensation for the owners of the rights.

Section 237 of the Town and Country Planning Act 1990 was intended to allow the overriding of these covenant rights¹³. However a court decision has held that the Act only applied during development and so rights revived once the completed development is in use. This means that the owners of the original rights, the most troublesome being restrictive covenants, can claim them again. The problem can arise in relation to any land taken, and it affects the acquiring authority, developer, its funding institution, future investors and former owners of the benefit of the revived covenants. The local authority (or other acquiring authority) is not normally affected financially because any developer deriving title from it indemnifies it for any liabilities (such as compensation) that may arise.

The problem was not apparent until the case of *Thames Water Utilities v. Oxford City Council*, [1999] 1 E.G.L.R. 167 where it was held that the express words in section 237 did not justify impliedly overriding such rights by a material change of use as distinct from the carrying out of works etc. as stated in section 237. The *Thames Water* case brought the problem to light. Only in Wales does it seem not to have been a problem, at least as far as developments under the auspices of WDA were concerned.

¹³ COPY TO COME

Government Consultation

Questions 1 and 2 of the Consultation Paper, *'Overriding Easements and Other Rights: Possible Amendment to Section 237 Town and Country Planning Act 1990'* asked:

1. *'Do you agree that section 237 of the Town and Country Planning Act 1990 should be amended such that the overriding of easements etc will apply to the use of the land after construction?'* and

2. *'Do you have any comments or information about the potential costs and benefits of this?'*

There were around 65 responses to the consultation. The vast majority supported the proposed amendment to s237 of the Town and Country Planning Act 1990, with a few of the responses making suggestions about how the compensation provisions should work. In addition, the Department has held a meeting with key stakeholders.

Sectors and Groups Affected

- Developers on land which is subject to rights.
- The owners of rights on land which is being developed.
- The broader public

Costs and benefits: Section 237 amendment

Introduce legislation to amend section 237 of the Town and Country Planning Act and other relevant acts in order to allow easements and other rights to be overridden after a development has taken place.

Costs and Benefits

It is not possible to estimate annual costs and benefits as this would depend on the amount of development being undertaken on sites subject to section 237 and equivalent following commencement of the Planning Bill, which is unknown, and how much of that land is subject to restrictive covenants etc, which is also unknown.

For the final Impact Assessment we propose to illustrate the effect of amending section 237 by case studies of developments which have encountered difficulties because of its provisions to see what would have happened if the amendment had been in force. The Annex contains some brief descriptions of schemes where the operation of section 237 has caused problems for the developer and users of the new developments.

Benefits

Benefits to the Developer

The development benefits through not having to be designed so as to avoid breaches of covenant – for example, in a mixed development, a pub or restaurant would have to be located on a part of the site which did not have a covenant that restricted the sale of alcohol. This in turn reduces development costs and the funding institution's assessment of risk. When the completed development comes to market, uncertainty as to title will not have a downward effect on values. As things are, a great deal of work has to be done to seek to identify potential covenants with potential for breach, and therefore actions for damages, and introducing the amendment will save these costs. Another benefit is that there is no need for an application to the Lands Tribunal to remove the covenant from the title. This can be a time-consuming process.

Benefits to the broader public

Many of the developments under consideration will have social and economic benefits to the public. The public should therefore benefit from there being fewer restrictions in the design and reduced costs. There should also be general benefits from certainty, reduced legal costs and developments being completed quicker.

Benefits to the owner of the rights

The owner of the rights should benefit from being compensated for the fact that they will not be reinstated once the work is complete instead of just for the temporary overriding of the rights during construction. Compensation for the overriding of rights is assessed under sections 7 and 10 of the Compulsory Purchase Act 1965 i.e. on the same basis as compensation for severance and injurious affection. This means an owner will be compensated for any depreciation in the value of their land as a consequence of the overriding of the covenant. This is a narrower basis for assessing compensation than applies in respect of the extinguishment of rights where compensation is assessed under the Land Compensation Act 1961. Here the principle of equivalence applies and consequential losses unrelated to the value of the owner's land can also be recovered.

Costs

Costs to developers

Developers would, however, have to pay more compensation to the owners of the overridden rights.

Costs to the owner of the rights

It is possible that the loss of damages that may be payable to the owners of rights revived and infringed could exceed, possibly substantially, the compensation for overriding them once the development is in use.

Costs and Benefits: *the Status Quo*

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs and Benefits

No new costs or benefits have been identified under this proposal.

Specific Impact Tests

Competition assessment

There is unlikely to be an impact on competition from this proposal.

Small Firms' Impact Test

There is unlikely to be an impact on small firms from this proposal. Relevant stakeholders support the proposal.

Legal Aid Impact test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not result in increased carbon and other green house gas emissions, or have a negative impact on the Environment

Health Impact Assessment

There are no detrimental health impacts arising from this proposal

Race, Disability, Gender and Other Equality

A number of stakeholders were consulted to determine the potential for equalities impact. We do not expect any adverse differential impacts as a result of this proposal.

Human Rights

This proposal is compatible with the European Convention Human Rights.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

1. Scheme at Dereham, Norfolk – this concerned local authority owned land needed for a town centre redevelopment scheme where the land was subject to a right of way in favour of a third party. The Council appropriated the land for planning purposes to take the benefit of section 237 but because of the *Thames Water v Oxford* judgment, ongoing use of the land interfering with the right of way was not protected and alternative arrangements had to be negotiated with those having the benefit of the right of way.
2. Land at Chatham Street, Reading – this is a major town centre regeneration scheme promoted by the local authority and being undertaken by a private developer. There are restrictive covenants on some of the land. The Council appropriated the land for planning purposes to take the benefit of section 237. Because of the limitations of the section as a consequence of the *Thames Water v Oxford* judgment, it has been necessary for the developer to secure title indemnity insurance at a cost of £25,000.
3. Land situated in a London Borough – land acquired by compulsory purchase order and appropriated for planning purposes. This was a town centre redevelopment where there were covenants on the land about alcohol use, retail use and various other uses, all of which would be infringed by the implementation of the development. The developer was initially prepared to proceed on a risk basis, but because a prospective occupier of one of the retail units was not prepared to do so, the developer had to secure title indemnity insurance at a cost of £80,000.

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment for the simplification of the statutory rules relating to Tree Preservation Orders	
Stage: Bill	Version:	Date:
Related Publications: Partial Regulatory Impact Assessment: Planning for a Sustainable Future		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Tom Simpson

Telephone: 020-7944-5624

What is the problem under consideration? Why is government intervention necessary?

Local planning authorities (LPAs) protect trees in the interests of amenity by making Tree Preservation Orders (TPOs). Current legislation requires TPOs to contain too much detail (eg on a range of procedural matters). In addition, different rules apply to different TPOs depending on when they were made. This creates anomalies, for example, in relation to the extent of protection offered by TPOs. Their length and complexity make TPOs difficult for LPAs to administer and the public to understand. Government intervention is necessary (ie amendment of primary and secondary legislation) to put in place a single set of rules for all TPOs.

What are the policy objectives and the intended effects?

As part of the drive towards more streamlined processes, the objective is to produce a shorter, simpler TPO and to set out in Regulations a common procedure which would govern all TPOs irrespective of their age. This will make TPOs easier for LPAs to administer and to make them simpler for owners and interested third parties to understand.

These changes do not affect the level of protection of trees. Important trees will continue to enjoy strong protection under town and country planning legislation.

What policy options have been considered? Please justify any preferred option.

A: do nothing;

B: amend primary legislation to simplify the rules for TPOs and the information required in them.

Option B is preferred as it will streamline the legislation and save LPA resources. To do nothing would retain an inefficient and unnecessarily complex system, despite recognition over the last 20 years that simplification of the rules, which requires changes to primary legislation, would provide significant improvements.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

Three years after implementation of the policy.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option: B		Description: Simplification of the statutory rules relating to Tree Preservation Orders (TPOs)	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£0	N/A	
	Average Annual Cost (excluding one-off)		
	£0	N/A	Total Cost (PV)
Other key non-monetised costs by 'main affected groups' Small costs for LPAs to advertise the new rules.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Administration costs to Local Planning Authorities estimated to be approximately £514,000 per year.
	One-off	Yrs	
	£	N/A	
	Average Annual Benefit (excluding one-off)		
	£514,000	10	Total Benefit (PV)
Other key non-monetised benefits by 'main affected groups' Savings to tree owners and others affected by TPOs by virtue of operating within a simpler system.			
Key Assumptions/Sensitivities/Risks The assumed savings to LPAs is based upon a saving of 3% of the total cost of administering the TPO service. The estimated total cost of the TPO service is between £15.5m and £18.8m.			
Price Base Year 2007/08	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £4,275,000

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	Post assent of the Bill and publication of the regulations (2009)			
Which organisation(s) will enforce the policy?	LPAs			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£None			
What is the value of changes in greenhouse gas emissions?	£nil			
Will the proposal have a significant impact on competition?	No			
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0	Decrease of £0	Net Impact £0		

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to simplify the rules regarding tree preservation orders.

For purposes of this Impact Assessment, the status quo is also stated as a benchmark to enable analysis of the costs and benefits.

Context

Under the current system, authorities have powers to protect trees where it is expedient in the interests of amenity by making tree preservation orders (TPOs). Each TPO currently comes complete with its own set of rules on procedural matters such as applications for consent and appeals. Once made, the Order remains fixed, unless the LPA uses its powers to vary it. Any subsequent changes to the governing regulations which specify the content of tree preservation orders apply only to new Orders.

The *Trees in Towns III*¹⁴ research estimates that each LPA makes about 17 new TPOs a year, although there is great variability within LPAs. In 2003/4, while most LPAs made less than 20 Orders, a small number made over 100.

Sectors and groups affected

- Public sector (local authorities).
- Tree owners (including business, voluntary sectors, charities and the public).
- Third parties (including business, voluntary sectors, charities and the public).

Costs and benefits: *simplifying TPO (Tree Preservation Order) rules*

Amend primary legislation to simplify the rules for TPOs and the information required in them.

Benefits

Cost savings for local authorities

There will be administrative savings from only having to apply one set of rules and having to produce a shorter TPO document (eg, 2 instead of 10 pages). In addition, a single set of rules should give rise to fewer legal queries; the complex nature of current TPOs means there is a wide scope for legal uncertainties.

¹⁴ Communities and Local Government (forthcoming). *Trees in Towns II*

This saving is difficult to quantify. In Arup’s 2003 fees research¹⁵ the total cost of the service was estimated at £15.5 to £18.8 million. If this proposal saves 3 per cent of the total cost of the service, there is a potential saving of approximately £514,000 a year. Savings of up to 3 per cent are considered reasonable as past consultations have shown considerable support for this measure.

Time savings for tree owners and third parties

With a single set of rules, the system is more accessible and user friendly. The new rules should also be more robust in legal terms, so they should provide the answer straight away and without professional assistance.

Costs

Notification of change

Local authorities will have to notify people about this change through advertisements or mail outs.

Costs and Benefits: *the Status Quo*

The current TPO rules would be maintained.

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs

No new costs have been identified from this option.

Benefits

No benefits have been identified from this option.

¹⁵ ODPM (November 2003) The Planning Service: Costs and Fees. This can be found at: www.communities.gov.uk/publications/planningandbuilding/planningservice

Specific Impact Tests

Competition assessment

There is no impact on competition from this proposal.

Small Firms' Impact Test

There is no impact on small firms from this proposal; this was verified through stakeholder engagement.

Legal Aid Impact Test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not lead to increased carbon and other green house gas emissions.

This proposal has no effect on the environment. These changes do not affect the level of protection for trees. Important trees will continue to enjoy strong protection under town and country planning legislation.

Health Impact Assessment

There are no detrimental health impacts from this proposal.

Race, Disability, Gender and Other Equality

A number of stakeholders were consulted to determine the potential for equalities impact. We do not expect any adverse differential impacts as a result of this proposal.

Human Rights

We do not expect a negative impact on human rights from this proposal.

Rural Proofing

We do not expect this proposal to have a negative impact on rural areas. Stakeholders broadly supported the proposal.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment of proposal to provide whole double deemed fees to local authorities	
Stage: Bill	Version:	Date:
Related Publications: Review of the Planning Enforcement System in England – consultation Documents and Improving the Planning Appeals System.		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Robert Segall

Telephone: 020-7944-3913

What is the problem under consideration? Why is government intervention necessary?

At the moment double deemed planning application fees are split equally between the LPA and the Planning Inspectorate (PINS). PINS then pays this money into the Consolidated Fund. The cost of PINS processing these fees is disproportionately high compared to the revenue raised.

What are the policy objectives and the intended effects?

The primary objective is to provide resources to LPAs. The Secondary objective is to save administration costs for PINS.

What policy options have been considered? Please justify any preferred option.

A: No change.

B: Provide the entire of double deemed planning application fees to LPAs.

Option B is preferred as it will allow more revenue for LPAs and save PINS the costs of processing the double deemed fees which are disproportionate to the revenue raised.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

3 years

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

A handwritten signature in black ink, appearing to read 'Gordon Brown', is written over the signature line.

Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option: B		Description: Provide the entire double deemed application fee to the LPA	
COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups'</p> <p>The Consolidated Fund will lose double deemed application fees equivalent to a loss in resources of approximately £311,000.</p>
	One-off (Transition)	Yrs	
	£0	10	
	Average Annual Cost (excluding one-off)		
	£311,000		Total Cost (PV)
Other key non-monetised costs by 'main affected groups'			
BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>LPA's will gain the portion of double deemed fees that previously went to PINS this is equivalent to gain in resources of approximately £311,000.</p> <p>PINS will benefit from no longer having to process double deemed fees this is equivalent to approximately £72,000 per year.</p>
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£383,000		Total Benefit (PV)
Other key non-monetised benefits by 'main affected groups'			
<p>Key Assumptions/Sensitivities/Risks The processing fees savings are based on the time in taken for individual staff in previous years.</p> <p>The revenue fees are based on the amount of receipts that PINS receives in a year minus the refunds that they pay out.</p>			
Price Base Year	Time Period Years	Net Benefit Range (NPV)	NET BENEFIT (NPV Best estimate)
	10	£	£599,000

What is the geographic coverage of the policy/option?	England (and Wales, upon implementation by Welsh Assembly Ministers. See note below)			
On what date will the policy be implemented?	Post assent of the Bill and publication of the regulations (2009)			
Which organisation(s) will enforce the policy?	None			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ None			
What is the value of changes in greenhouse gas emissions?	£ None			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0	Decrease of £0	Net Impact £0		
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which will enable the transfer the whole double deemed fee to the local planning authority.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Wales

The figures and evidence base stated in this Impact Assessment relate to England only. However, this provision also confers powers on Welsh ministers to apply these measures in Wales. Upon exercise of those powers, a separate Impact Assessment will be carried out in conjunction with the making of the relevant Statutory Instrument which will determine the impact in Wales.

Context

At present half of the double deemed fee which is payable when an applicant successfully appeals against an enforcement notice on the grounds set out at section 174(2)(a) of the Town and Country Planning Act 1990 is paid to the local planning authority and half to the Secretary of State.

LPAs could usefully use the whole of the double deemed application fee to fund planning and other activities.

Sectors and Groups affected

- PINS
- LPAs
- Central Government

Costs and benefits: *Double Deemed Fees*

Provide the entirety of double deemed planning application fees to LPAs.

Benefits

Benefits to LPAs

Since all the double deemed fee will be sent to the LPAs in future rather than half their double deemed application revenue should double. It is hard to estimate this directly as different councils receive different revenue from this fee. Instead we have looked at the amount of money currently raised for the consolidated fund by

PINS for their half of the fee. This is complicated by the varying amounts of funds received per year and the fact that refunds are sometimes payable for withdrawn appeals and some successful appeals. These refunds are sometimes paid in a different financial year. This means that the £311,000 that we have calculated as the average revenue from fees raised minus refunds paid for the last two years should only be regarded as an approximation.¹⁶

Benefit to PINS

PINS will no longer have to process double deemed fees which costs PINS approximately £76,000 per year for England and Wales. The English portion of this is approximated at £72,000 This is based on a calculation of the time involved from different members of staff involved in procedure, income processing, account management and payment processing. Accommodation costs are based on the government office tariff as an approximation.

	Gross Salary (including National Insurance and Pension Contributions)	No of Days Involved in processing Double deemed Fees	Cost	Accommodation Costs	Total Cost
Procedural Policy					
EOs	£29,638.30	124.67	£16,795.04	£5,716.85	£22,511.89
Procedure					
EOs	£29,638.30	53.73	£7,283.44	£2,486.22	£9,724.67
AOs	£22,321.53	89.55	£9,085.83	£4,143.70	£13,229.53
Income Processing					
HEOs	£39,384.58	12	£2,148.25	£555.27	£2,703.52
AOs	£22,321.53	36	£3,652.61	£1,665.82	£5,318.43
Account Management					
HEOs	£39,384.58	12	£2,148.25	£555.27	£2,703.52
EOs	£29,638.30	48	£6,466.54	£1,822.92	£8,289.45
Payment Processing					
EOs	£29,638.30	24	£3,233.27	£1,110.55	£4,343.81
AOs	£22,321.53	38.18	£3,873.36	£1,766.49	£5,639.85
AAAs	£19,877.70	6.36	£574.88	£294.42	£869.30
Totals			£55,216.48	£20,515.68	£75,732.16

¹⁶ This is based on figures from the Finance department at PINS.

Benefits to double deemed applicants

Double deemed applicants will in the future only have to send the fees to one body rather than two saving small amounts in postage and administration.

Costs

Costs to Central Government

PINS will no longer receive any revenue from double deemed application fees and hence no longer pay that money into the consolidated fund. This is equivalent to the approximate £311,000 discussed above. This is a transfer from central government to local government.

Costs and Benefits: the Status Quo

The status quo is used here as a benchmark against which costs and benefits of the proposal can be measured.

Costs

Under this option, the current process would be maintained. No new or additional costs or benefits have been identified under this option. However, any potential for increased funding or savings would be missed under this option.

Benefits

We have not identified any benefits.

Specific Impact Tests

Competition assessment

There is unlikely to be an impact on competition from this proposal.

Small Firms' Impact Test

There is unlikely to be an impact on small firms from this proposal. Relevant stakeholders support the proposal.

Legal Aid Impact test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not result in increased carbon and other green house gas emissions, or have a negative impact on the Environment

Health Impact Assessment

There are no detrimental health impacts arising from this proposal

Race, Disability, Gender and Other Equality

A number of stakeholders were consulted to determine the potential for equalities impact. We do not expect any adverse differential impacts as a result of this proposal.

Human Rights

This proposal will not have a negative impact on human rights.

Rural Proofing

We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options		
Department /Agency: Communities & Local Government	Title: Impact Assessment of introducing Fees for Planning Appeals	
Stage: Bill	Version: #	Date:
Related Publications: Consultation Document: “Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced”		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Alison Edwards/Siobhan Fox **Telephone:**
020-7944-3942/4817

What is the problem under consideration? Why is government intervention necessary?

The Planning Inspectorate is a publicly funded agency. Rising demand for the appeals service has put the Planning Inspectorate’s resources under considerable pressure. The Government is considering whether there are ways of directing further funding towards the appeals system which would have less burden on public funds while also being sustainable.

What are the policy objectives and the intended effects?

The objective of this policy is to reduce the cost of the appeals system to the Exchequer and to reduce pressure on the Planning Inspectorate’s resources. This proposal will also ensure that the cost burden falls on the beneficiary.

What policy options have been considered? Please justify any preferred option.

A: Do nothing.
 B: Introduce an administration fee
 C: Introduce a fee to cover a proportion of the cost of the service
 Option C is the preferred option, as it would contribute to the cost of running the appeals service and would most accurately reflect the size of the development and consequently the likely complexity of the case.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be reviewed 3 years after implementation.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option: B	Description: Introduce an Administration Fee for Planning Appeals
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Costs to appellants: A flat fee of £120 per planning appeal would total an estimated £2.6 million per year. Cost to the Planning Inspectorate: An additional 6 administrative officers and one executive officer would be required to administer this system. This would have an annual cost of approximately £231,000.
	One-off (Transition)	Yrs	
	£0		
	Average Annual Cost (excluding one-off)		
	£2,831,000		
		Total Cost (PV)	£23,544,000
Other key non-monetised costs by 'main affected groups' Fees could deter genuine appeals.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Cost savings for the Planning Inspectorate: A flat fee of £120 per planning appeal would generate approximately £2.6 million per year.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£2,600,000		
		Total Benefit (PV)	£21,623,000
Other key non-monetised benefits by 'main affected groups' The Planning Inspectorate's performance: If the full or part of the revenue was directed to the Inspectorate, it would be able to distribute resources more appropriately and enable a more efficient and professional service. Funds could be used to train more Inspectors. Reduce burden of funding on the Exchequer.			

Key Assumptions/Sensitivities/Risks Uncertainty over whether fees would deter genuine appeals. There is also the perception amongst some stakeholders that fees are unfair and that people should not have to "pay for justice".

Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £-1,921,000
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What is the geographic coverage of the policy/option?	England (and Wales, upon implementation by Welsh Assembly Ministers. See note below)			
On what date will the policy be implemented?	Post assent of the Bill and publication of the regulations (2009)			
Which organisation(s) will enforce the policy?	Planning Inspectorate			
What is the total annual cost of enforcement for these organisations?	£0			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£0			
What is the value of changes in greenhouse gas emissions?	£0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0		Decrease of £0		Net Impact £0
Key:	Annual costs and benefits: Constant Prices			(Net) Present Value

Summary: Analysis & Evidence

Policy Option: C	Description: Introduce fees to cover a proportion of the service provision costs
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Cost to appellants: For planning appeals, the costs would total an estimated £7 million a year, on current application fee rates. Costs to Planning Inspectorate: An additional 6 administrative officers and one executive officer would be required to administer this system. This would have an annual cost of approx £231,000.
	One-off (Transition)	Yrs	
	£0	10	
	Average Annual Cost (excluding one-off)		
	£7,231,000	Total Cost (PV)	£60,137,000
Other key non-monetised costs by 'main affected groups' Fees could deter genuine appeals.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Cost savings for the Planning Inspectorate: If we introduced a fee that charged 20% of the planning application fee per appeal, with a minimum charge of £50, this would generate an estimated income of £7 million a year for planning appeals.
	One-off	Yrs	
	£	10	
	Average Annual Benefit (excluding one-off)		
	£7,000,000	Total Benefit (PV)	£58,216,000
Other key non-monetised benefits by 'main affected groups' The Planning Inspectorate's performance: If the full or part of the revenue was directed to the Inspectorate, it would be able to distribute resources more appropriately and enable a more efficient and professional service. Funds could be used to train more Inspectors. Reduce burden of funding on the Exchequer.			

Key Assumptions/Sensitivities/Risks Uncertainty over whether fees would deter genuine appeals. Perception that fees are unfair – that people should not have to “pay for justice”.

Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £-1,921,000
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What is the geographic coverage of the policy/option?	England (and Wales, upon implementation by Welsh Assembly Ministers. See note below)			
On what date will the policy be implemented?	Post assent of the Bill and publication of the regulations (2009)			
Which organisation(s) will enforce the policy?	Planning Inspectorate			
What is the total annual cost of enforcement for these organisations?	£0			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	Yes/No			
What is the value of the proposed offsetting measure per year?	£0			
What is the value of changes in greenhouse gas emissions?	£0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices)		(Increase – Decrease)		
Increase of £0	Decrease of £0	Net Impact £0		
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to introduce fees for planning appeals.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Wales

The figures and evidence base stated in this Impact Assessment relate to England only. However, this provision also confers powers on Welsh ministers to apply these measures in Wales. Upon exercise of those powers, a separate Impact Assessment will be carried out in conjunction with the making of the relevant Statutory Instrument which will determine the impact in Wales.

Context

The Planning Inspectorate is a publicly funded agency. Under the existing system, no fees are charged for making planning appeals – they rely entirely on public funds to be pursued. With the cost of running planning appeals now in the region of £30.1 million per annum, they represent a substantial cost to the tax payer. The cost to the Planning Inspectorate of running each appeal is individual to each case. The real cost differences lie in the appeal method – inquiries and hearings are considerably more expensive to conduct than written representation appeals. Rising demand for the appeals service has put the Planning Inspectorate's resources under considerable pressure.

In her Review of Land Use Planning, Kate Barker recognised the pressure that the Planning Inspectorate's resources are under, and recommended that the Government consider the case for additional public funding to be directed towards the appeals system. While the Government is considering this option, it must also consider whether there are other ways of contributing funding to the system which would have less burden on public funds whilst also being sustainable.

The objectives of this policy are to reduce the cost of the appeals system to the Exchequer and to establish means of funding the system which will allow for the pressure on the Planning Inspectorate's resources to be reduced. By reducing pressure on resources, the Planning Inspectorate should be able to improve performance, efficiency and speed of decision making.

The Government consulted on this proposed measure in the consultation paper *Improving the Appeal Process in the Planning System – making it proportionate, customer focused, efficient and well resourced*, and the Government's response to this consultation *Improving the Appeal Process in the Planning System – making it proportionate, customer focused, efficient and well resourced: Government response to consultation replies* was published in November 2007.

Policy options that have been considered

Option A – Do nothing

The current appeals system would be maintained and no fees charged.

Option B – Introduce an administration fee

This would be a fixed administrative fee, applied across all appeal types. As a minimum, the fee would have to cover the cost of an administrative officer for one day (approximately £120).

Option C – Introduce a fee to cover a proportion of service provision costs

Under this option, the fee would pay a proportion of the costs of processing the appeal (both administrative and Inspector decision time). The appeal fee would be calculated as a percentage of the original planning application fee (for example, 20%) but with a minimum charge to ensure that revenue from the fee adds real value (for example, £50).

If the proportionate fee type were to be introduced, we propose that householder appeals would be set at the minimum fee or the lower end of the fee range so as not to unduly deter such people from proceeding to appeal. Taking into account the numbers of appeals received by development type, we envisage that most appellants would pay appeal fees at the lower end of the range. In 2005-06, householder appeals accounted for 28% of all appeals, and minor development appeals 54%.

Justify any preferred option

Option C is our preferred option, as it would meet the objectives of reducing the cost of the appeals system to the Exchequer and if all or part of the funding is directed towards the Planning Inspectorate this should ease pressure on resources. It is considered this option would allow the most accurate reflection of the size of the development and consequently the likely complexity of the case.

Option A – Costs and Benefits

There are no new or additional costs or benefits of this option.

Option B – Costs and Benefits

Costs

(Monetised) Cost to appellants: For planning appeals, the costs to appellants would total an estimated £2.6 million a year*. Under this option, the cost would be the same for all appellants (£120) regardless of the size of the development.

* *This estimate is based on: Number of s.78 planning appeals received in 2005-06: 22,017. Therefore $22,017 \times £120 = £2.6 \text{ million}$*

(Monetised) Costs to the Planning Inspectorate: The Planning Inspectorate estimate that it will take an additional six administrative officers and one executive officer to administrate a fees system for planning appeals. This would have an annual cost of approximately £231,000**.

** *This estimate is based on: Executive officer median salary is £23,168 + 20% for pensions and National Insurance. Administrative officer salary is £18,293 + 20% for pensions and National Insurance. Plus a GO tariff for each employee of £10,180.*

Benefits

(Monetised) Cost savings for the Planning Inspectorate: If we introduced a flat fee of £120 per planning appeal, this would generate an estimated income of £2.6 million a year***.

*** *This estimate is based on: Number of s.78 planning appeals received in 2005-06: 22,017. Therefore $22,017 \times £120 = £2.6 \text{ million}$*

(Non-monetised) The Planning Inspectorate's performance: If the full or part of the revenue were to be directed to the Planning Inspectorate, it would be able to distribute resources where it felt necessary, and be better able to respond to peaks and troughs in work. This would enable a more efficient and professional service. It is possible that the funds could be used to recruit and train more inspectors. It could also reduce the burden on funding on the Exchequer. An appeal fee might discourage half-hearted appeals lodged opportunistically to try to obtain a different outcome.

Conclusion

While the monetised costs calculated exceed the monetised benefits, we consider the non-monetised benefits to be sufficient to justify these costs.

Option C – Costs and Benefits

Costs

(Monetised) Cost to appellants: For planning appeals, the costs to appellants would total an estimated £7 million a year****, on current application fee rates. Under this option, the cost would be more for those appellants who were proposing larger developments.

****: See table at Annex A.

(Monetised) Costs to the Planning Inspectorate: The Planning Inspectorate estimate that it will take an additional six administrative officers and one executive officer to administrate a fees system for planning appeals. This would have an annual cost of approximately £231,000.

Benefits

(Monetised) Cost savings for the Planning Inspectorate: If we introduced a fee that charged 20% of the planning application fee per appeal, with a minimum charge of £50, this would generate an estimated income of £7 million a year for planning appeals.

(Non-monetised) The Planning Inspectorate's performance: If the full or part of the revenue was directed to the Inspectorate, it would be able to distribute resources where it felt necessary, and be better able to respond to peaks and troughs in work. This would enable a more efficient and professional service. It is possible that the funds could be used to recruit and train more Inspectors. It could also reduce the burden of funding on the Exchequer. An appeal fee might discourage half-hearted appeals lodged opportunistically to try to obtain a different outcome.

Conclusion

While with both Options B and C the monetised costs calculated exceed the monetised benefits, we consider the non-monetised benefits to be sufficient to justify these costs.

Under both options, no fee would be levied on the local authority as in inquiries and hearings they either provide or cover the cost of the venue. If an appellant felt that they had been forced to appeal because a local authority had behaved unreasonably in coming to its decision or through non-determination, they would have the option of applying for an award of costs, which could include a claim for the appeal fee paid.

Option C is our preferred option, as it would meet the objectives of reducing the cost of the appeals system to the Exchequer and if all or part of the funding is directed towards the Planning Inspectorate this should ease pressure on resources. It is considered this option would allow the most accurate reflection of the size of the development and consequently the likely complexity of the case.

Specific Impact Test

Small Firms Impact Test

Although this proposal will affect small firms it is unlikely that this effect will be disproportionate. While many businesses expressed an in principle objection to having to pay for an appeal, it is not considered that the appeal fees would be set at such a level that it would dissuade genuine appeals from small firms. The Small Business Service and Federation of Small Businesses were consulted on this proposal.

Competition Assessment

The competition filter was applied to this proposal. There are many appellants from the development industry where few firms have a large market share. However, this proposal would not have a substantial different effect on firms, affect market structure, penalise new firms or place restrictions on the services or products that firms provide.

Environmental Impact

This proposal has no impact on the environment.

Race, disability and gender equality impacts

Full race, disability and gender equality assessments were carried out for this policy proposal. On balance, we do not believe that the introduction of an appeal fee should be sufficiently large as to restrict access to the appeals system by vulnerable or minority groups any more than the population as a whole or to dissuade genuine appellants from appealing.

In the consultation responses, it was argued by a couple of respondents representing Gypsies and Travellers that this might impact upon this group disproportionately as they use the planning appeals system regularly and are generally more impoverished than the rest of the population as a whole. In 2005/06 PINS dealt with 96 Gypsy and Traveller s.78 (planning) appeals and 152 Gypsy and Traveller s.174 (enforcement) appeals. Anecdotal evidence from Inspectors suggests that a lot of the s.78 cases are where local planning authorities have encouraged applications to try to avoid enforcement action. Enforcement cases where the appellant is seeking deemed planning permission

usually incur a fee which is double that of the equivalent planning application. Therefore applying for planning permission and then appealing a refusal would still work out cheaper than the enforcement route which appears to still be the most common route taken by Gypsies and Travellers.

We do not have reliable data available which shows the propensity of BME groups, different age groups, religious groups or people of different disabilities to appeal compared to other social groups. While the Planning Inspectorate has recently begun collecting data on ethnicity, age, gender, religion, disability status etc. of appellants, using information provided voluntarily, it is too early in the data collection process to produce conclusive results. We will use this data to monitor both the propensity to appeal and the appeal outcome by such groups. The Planning Inspectorate will also monitor the effectiveness and impact of implementing this proposal, including any complaints made by those who feel aggrieved by this process.

If an appellant felt that they had been forced to appeal because a local authority had behaved unreasonably in coming to its decision and this had resulted in unnecessary expense, they would have the option of applying for an award of costs, which could include a claim for the appeal fee paid. This might further encourage local authorities to take care in ensuring that they reach a fair decision, without discrimination.

There are legal and administrative safeguards to ensure fair and proper decision making by a local authority – these being a right to challenge in the High Court, the use of the local authority formal complaints procedures and the ability to complain to the Local Government Ombudsman.

Rural, health and other social effects

We have considered these possible effects. We do not consider that there will be disproportionate impacts on health or other social effects. We do not believe this proposal will have a negative impact of rural areas and this view was shared by the Commission for Rural Communities.

Human Rights

A claimant might seek to argue that this clause is in breach of article 6(1) because the imposition of a fee for an appeal constitutes a restriction on the right of access to justice. In the context of claims in civil courts, the European Court of Human Rights has held that the requirement to pay fees in connection with claims cannot be regarded as a restriction on the right of access to a court that is incompatible per se with article 6(1) of the ECHR. The level of fee assessed in the light of the particular circumstances of a given case and the ability of the applicant to pay the

fee are material factors in determining whether there has been an infringement. The level of fee for planning appeals will be prescribed in regulations but we do not propose to set the fee at an excessive level. In our view, therefore, this clause is compatible with article 6(1).

Other impact tests

We have considered other impact tests – legal aid, sustainable development and carbon assessment. We consider that there would be no demonstrable impact arising from this proposal in these areas.

Other risks

Whilst there is a possibility that fees could deter genuine appeals, the fee levels proposed are not believed to be high enough to do so. In Northern Ireland where appeal fees have been used in recent years, the number of appeals has actually increased.

Enforcement, sanctions and monitoring

Appeals would not be validated for processing until the required fee had been paid.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

Annex A

Table relating to Option C – Introducing fees for Planning Appeals
 Fee calculations, based on 2005–06 receipts of s.78 planning appeals in England

Development Type	Appeals received in 2005/06	Assumed planning application fee rate ^a	Planning application fee cost for purposes of exercise ^{b,c,d}	Appeal fee income (20% of planning application fee with minimum £50) ^e
Change of use	1,805	10 (a)(i)	300 ¹	90,250
Householder development	5,854	6 (a)	300 ¹	292,700
Major dwellings	1,713	1(b)(i)	13,250 ²	4,539,450
Major manufacturing, storage and warehousing	29	2(b)(v)	13,250 ²	76,850
Major offices	18	2(b)(v)	13,250 ²	47,700
Major retail distribution and servicing	46	2(b)(v)	50,000 ³	460,000
Mineral working	9	9(a)(ii)	20,250 ²	36,450
Minor dwellings	7,654	1(b)(i)	300 ¹	382,700
Minor manufacturing, storage and warehousing	144	2(b)(iii)	300 ¹	7,200
Minor offices	117	2(b)(iii)	300 ¹	5,850
Minor retail distribution and servicing	187	2(b)(iii)	300 ¹	93,500
Other major development	269	2(b)(v)	13,250 ²	712,850
Other minor development	3,775	2(b)(iii)	300 ¹	188,750
Development type unknown	397	2(b)(iii)/12	300 ¹	19,850
Total	22,017			£6,954,100

Fee assumptions and caveats:

- a. We have been unable to identify any data that directly records the number of applications or appeals received by their fee category, consequently the calculations are based on an approximate alignment between the above Development Description categories and the fee rates of Schedule 1 of *The Town and Country Planning (Fees for applications and Deemed Applications) Regulations 1989 (amended)*. The above table illustrates the fee rate chosen for each Development Description category.
- b. "1" indicates application fee rates that start at £135–£265, and increase depending on the number of additional hectares and/or units. We have chosen to represent these rates at £300.
- c. "2" indicates application fee rates at the starting range for high fee scales, and increases depending on the number of additional hectares and/or units. We have chosen to represent these rates at the starting point for the range.
- d. "3" indicates the application fee rate ceiling under category 2(b)(v) for the erection of buildings "where the area of gross floor space to be created exceeds 3750 ..." where additional fees are charged "for each 75 square metres in excess of 3650 square metres, subject to a maximum in total of £50,000." We have chosen this to capture very large developments, but there is a risk that the resultant figure overstates likely income.
- e. We assume that a minimum appeal fee of £50 pounds would be imposed. The appeal fee would then be 20% of the planning application fee or £50, which ever is the greater.

Annex B

EQUALITY IMPACT ASSESSMENT

Part 2: Full Assessment

1 Name of policy

Resourcing the appeals service – introducing a fee for planning appeals.

2 Full Assessment undertaken by:

Director or Divisional Manager	Michelle Banks
Policy Writer/Lead	Alison Edwards
Other people involved in the assessment	Siobhan Fox. This screening has been informed by consultation responses to the White Paper, and information obtained from pro-active engagement with a range of representative bodies and experts on equalities issues.

3 Scope of the assessment

Summarising from the initial screening (Part 1), please set out the scope and focus of the full assessment.

The Planning Inspectorate is a publicly funded agency. With the cost of running planning appeals now in the region of £30.1m per annum, they represent a substantial cost to the tax payer. Rising demand for the appeals service has put the Planning Inspectorate’s resources under considerable pressure. The Government must therefore consider whether there are other ways of contributing funding to the system which would have less burden on public funds whilst also being sustainable.

The appeal fee would either be an administration fee charged at a flat rate across all appeal types, or a proportionate fee, calculated as a percentage of the original planning application fee, which would cover a proportion of the costs of the processing the appeal. The latter option would ensure that the appeal fee was differentiated to reflect the complexity of the case and the administrative costs involved.

3 Scope of the assessment (*continued*)

The screening assessment highlighted the need to consider further the impact of fees on vulnerable groups who may be less able to afford an appeal fee. The screening assessment led us to the initial conclusion that the fee would not be sufficiently large to dissuade those parties who disagree with a planning decision from appealing. We also considered that any potential (but currently unknown) disproportionate impacts on different groups might be resolved by another proposal within our appeals package to extend costs awards to cover written representations cases as well as inquiries and hearings – which would mean that if it were found that a local authority had behaved unreasonably in its decision on an application, it may be subject to an award of costs which could include paying for the appellant’s appeal fee. We also felt that this would have the effect of improving the quality of decision making, by ensuring that local authorities make sound, well reasoned decisions. Nonetheless, we still felt it would be beneficial to carry out a full equality impact assessment to ensure that we have thoroughly considered all the equality issues raised by this proposal and how they can be addressed.

<p>4 Evidence Sources</p> <p>Please itemise evidence sources, stating when the evidence was conducted/ gathered. State also which equality target areas (race, gender etc) were considered</p>	
<p>4.1 Data</p>	
<p>Sources (with dates):</p> <ul style="list-style-type: none"> • Birmingham City Council Development Directorate – Equality Impact Needs Assessment Report on Planning Applications, Enforcement and Appeals. March, 2005. • University of Central England (Patrick Loftman) & University of Birmingham (Mike Beazley) – Joint authors on report titled “Race, equality and planning”. Prepared for the Local Government Association. February 1998. <p>Birmingham City Council’s 2005 study on equality impacts found that planning application refusal rates for Black and Minority Ethnic applicants was significantly higher than average. A separate study prepared for the Local Government Association in February 1998 by Mike Beazley (University of Birmingham) and Patrick Loftman (University of Central England) reported that the reasons for higher refusal rates for certain groups was a combination of the type of application, the locality, and in-house procedures in the way applications were handled.</p>	<p>Equality Target Areas:</p> <p>Black, Asian and Minority Ethnic groups, including Gypsies and Travellers.</p>
<p>4.2 Research</p>	
<p>Sources (with dates):</p> <p>The Planning Inspectorate has recently begun collecting data on ethnicity, age, gender, religion, disability status etc. of appellants, using information provided voluntarily. However, it is too early in the data collection process to produce conclusive results. In the future we will use this data to monitor both the propensity to appeal and the appeal outcome by such groups. The Planning Inspectorate will also monitor the effectiveness and impact of implementing this proposal, including any complaints made by those who feel aggrieved by this new requirement to pay an appeal fee.</p>	<p>Equality Target Areas:</p> <p>Race, religion, age, gender, sexual orientation.</p>

4.3 Consultation	
<p>Existing Consultation Evidence (with dates):</p> <ul style="list-style-type: none"> • Internal (Staff, Unions etc) • Stakeholder Groups • The Public 	<p>Equality Target Areas:</p>
<p>New Consultation (with dates):</p> <p>The Appeals Consultation Paper <i>“Improving the Appeals Process in the Planning System: Making it proportionate, customer focused, efficient and well resourced”</i> was consulted on between 21 May and 17 August 2007. Copies were sent to a wide range of stakeholders. Anecdotal evidence was also gathered through discussions held with stakeholders (including the Gypsy and Traveller Taskforce, Inclusive Environmental Group, Race Equality Advisory Group, gender equality professionals, planning professionals, developers, community representatives) over the same time period.</p>	<p>Equality Target Areas:</p> <p>Black, Asian and Minority Ethnic groups, including Gypsies and Travellers, gender, disability.</p>
<p>4.4 Does the evidence gathering comply with the principles set out in Civil Service guidance on evidence-based policy making and Regulatory Impact Assessment?</p> <p>Yes</p>	

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
RACE		
e.g. EM Communities (if general), Black African, Refugee Communities etc. (if specific)	In the consultation responses, it was argued by a couple of respondents that introducing an appeal fee might impact upon Gypsies and Travellers disproportionately as they use the planning appeals system a lot and are generally more impoverished than the rest of the population as a whole.	We believe that the scale of the potential impact on Gypsies and Travellers and their propensity to appeal will be small. In 2005/06, the Planning Inspectorate dealt with 96 Gypsy and Traveller planning (s.78) appeals and 152 Gypsy and Traveller enforcement (s.174) appeals. Anecdotal evidence from Inspectors suggests that a lot of the Gypsy and Traveller planning appeals are where local planning authorities have encouraged applications in an effort to avoid enforcement action. Gypsy and Traveller enforcement cases where the appellant is seeking deemed planning permission usually incur a fee which is double that of the equivalent planning application. Therefore applying for planning permission and then appealing a refusal would still work out cheaper than the enforcement route which appears to still be the most common route taken by Gypsies and Travellers.
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse

5. Summary of Key Insights, by Equality Group		
	A fee might be a further disincentive for BME groups to appeal. We do not currently know whether BME groups are already less inclined to appeal. The Planning Inspectorate has recently begun to collect data on the ethnicity of appellants and we will use this to monitor the situation.	The fee would be less than a planning application fee or an enforcement application fee and should not be sufficiently large to dissuade those parties who disagree with a planning decision from appealing. If an appellant felt that they had been forced to appeal because a local authority had behaved unreasonably in coming to its decision, with our proposal to extend costs awards to planning appeals proceeding by written representations as well as hearing and inquiries, the option for appellants to apply for an award of costs, which could include a claim for the appeal fee paid, would be available. This might further encourage local authorities to take care in ensuring that they reach sound, well reasoned decisions, without discrimination.
DISABILITY		
e.g. Disabled people (if general), people with learning disabilities, Blind/Visually Impaired people	A fee might be a disincentive to appealing. This could impact upon proposals for alterations to enable people to cope with a disability e.g. in the home or in public spaces.	The fee should not be sufficiently large to dissuade those parties who disagree with a planning decision from appealing. If it is found that the local authority has acted unreasonably in refusing the original planning application, the appellant could apply for an award of costs, which could include a claim for the appeal fee.
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
GENDER		

5. Summary of Key Insights, by Equality Group		
e.g. Women, Female headed households, Men, Transgender people	A fee could be a disincentive to appealing. This could impact upon proposals for developments for vulnerable people such as women’s refuges, etc.	As above.
AGE		
e.g. People over state retirement age, 16-21 year olds, Children	No issues were raised.	
SEXUAL ORIENTATION		
e.g. Lesbians, Gay men, Bisexual People	No issues were raised.	
RELIGION/BELIEF		
e.g. Muslims, Hindus	A fee could be a disincentive to appealing. This could impact upon proposals for religious centres such as mosques, churches, etc.	As above.
HUMAN RIGHTS		
Who is affected? Which human rights are engaged?	No issues were raised.	

6. Proportionality

- How are you balancing the rights of those people positively or adversely affected? We believe that the overall effect of the fee on these groups is not sufficiently adverse to justify non-implementation. Furthermore, a better resourced appeals system should benefit all appellants in the long-run.
- Is the policy necessary? The policy is necessary to ensure an adequately resourced planning appeals system that will be better able to cope with the demands of its workload.
- Is the policy proportionate to its desired outcomes? The introduction of an appeal for would go some way towards better resourcing the appeals system.
- Is the policy "one size fits all" or can it be tailored to fit different individual circumstances? If a proportionate fee is introduced, it would be calculated as a percentage of the original planning applications fee (although a minimum fee would be set), thereby more accurately reflecting the size of the development and consequently its likely complexity.

7. Summary of the Assessment

Summarising the conclusions drawn from this assessment process, setting out clearly: what the adverse impacts are and how these will be addressed; and what the positive impacts are and how these will be maximised. i.e.

- Whether the policy has the potential to cause unlawful direct or indirect discrimination
- How the policy will:
 - deal with existing discrimination and harassment
 - promote equality of opportunity
 - promote good relations between different racial groups and good community relations more generally
 - promote positive attitudes towards disabled people and towards other groups discriminated against in society
 - increase the participation of disabled people and other under-represented groups in civic and community life

A summary of consultation responses to the paper *"Approving the appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced"* is included in the main Impact Assessment.

7. Summary of the Assessment (*continued*)

There have been some concerns raised that vulnerable groups will be adversely affected by an appeal fee as they are generally more impoverished than the rest of the population. However, the appeal fee would remain less than a planning application fee or the double deemed fee associated with enforcement appeals and should not be sufficiently large to dissuade those parties who disagree with a decision from appealing. With regard to Gypsies and Traveller cases, if a planning appeal fee were introduced then applying for planning permission and then appealing against a refusal would still work out cheaper than the enforcement route which appears to be the most common route taken by Gypsies and Travellers.

If an appellant felt that they had been forced to appeal because a local authority had behaved unreasonably in coming to its decision, they would have the option of applying for an award of costs, which could include a claim for the appeal fee paid. This might further encourage local authorities to take care in ensuring that they reach a fair decision, without discrimination, so adding to the benefits of this proposal. Furthermore, there are legal and administrative safeguards to ensure fair and proper decision making by a local authority – these being a right to challenge in the High Court, the use of the local authority formal complaints procedures and the ability to complain to the Local Government Ombudsman.

The introduction of an appeal fee will ensure that we have a well resourced planning appeals system which can meet the needs of those appealing against decisions on planning applications.

Based on the screening assessment above, which suggests that the benefits of the proposal should outweigh the costs, we propose to continue with this proposal.

However, the Planning Inspectorate will continue to monitor the characteristics of appellants and we will review the policy and further consider the impact of this proposal in light of their findings.

8. Monitoring and Review

How will the impact of the policy be monitored and how may stakeholders and the target equality groups continue to be involved/engaged in this area of policy?

The Planning Inspectorate has recently begun collecting data on ethnicity, age, gender, religion, disability status etc. of appellants, using information provided voluntarily. We will use this data in the future to monitor both the propensity to appeal and the appeal outcome by such groups. The Planning Inspectorate will also monitor the effectiveness and impact of implementing this proposal, including any complaints made by those who feel aggrieved by the introduction of an appeal fee.

9. ACTION PLAN

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
Changes made: Changes that have been made to policy as a result of the Impact Assessment				
Mitigation: For areas where a policy may have a differential impact on certain groups, what arrangements are in place or proposed to mitigate these effects				
If an appellant felt that they had been forced to appeal because a local authority had behaved unreasonably in coming to its decision, they would have the option of applying for an award of costs, which could include a claim for the appeal fee paid.	To ensure that appellants are not unfairly penalised for the unreasonable actions of a local planning authority.	Appellants whose applications have been the subject of an unreasonable decision by a local planning authority.	The Award of Costs Circular will be updated by October 2008 to extend cost awards to planning appeals dealt with via written representations, in time for the introduction of the appeal fee.	Planning Systems Improvement Division, Communities and Local Government, and the Planning Inspectorate.
Justification: For areas where a policy may impact negatively (but not illegally) on certain groups but mitigation is not possible (e.g. where there is an overriding societal driver for proceeding with a policy) there needs to be a strategy for handling issues of unfairness.				
Opportunities: Please state actions designed to maximise positive effects – i.e. where opportunities are identified for: promoting equality, good relations between groups or knowledge about groups; increasing civic and democratic participation; or addressing current inequalities				

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility

Summary: Intervention & Options Information from consultation responses

Department /Agency: Communities & Local Government	Title: Impact Assessment of establishing Local Member Review Bodies to determine minor appeals
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Stage: Bill	Version: #	Date:
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Related Publications: Consultation Document: “Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced”

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Alison Edwards/Siobhan Fox **Telephone:**
020-7944-3942/4817

What is the problem under consideration? Why is government intervention necessary?

The existing appeals system is not equipped to handle the large and increasing volumes of appeals efficiently. This has led to delays in decision making. It is considered that more bespoke, simplified and quicker processes for householder and other minor types of planning appeals would benefit the functioning of the appeals system and its users.

In the current system, an executive agency (the Planning Inspectorate), acting on behalf of the Secretary of State for Communities and Local Government, works throughout the country to make decisions on appeals that have only local impacts.

What are the policy objectives and the intended effects?

In line with the Government’s wish to devolve decision making powers to the local level, we propose to allow some appeals to be determined locally. Furthermore, Local Member Review Bodies (LMRBs) would reduce the demands on the Planning Inspectorate by removing the processing of the more minor appeals, thereby freeing its inspectors to concentrate efforts and resources on more complex appeals.

What policy options have been considered? Please justify any preferred option.

A: Do nothing. Under this option, all minor planning appeals would continue to be processed by the Planning Inspectorate.

B: Minor appeals to be determined by a board of local councillors, known as a Local Member Review Body. The right of appeal to the Secretary of State for such appeals would be repealed.

Option B is preferred as it will enable local decisions to be determined locally and will reduce the demands on the Planning Inspectorate so inspectors can concentrate efforts on more complex cases.


When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be reviewed 3 years after implementation.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date:

Summary: Analysis & Evidence			
Policy Option: B		Description: Establish Local Member Review Bodies to determine minor appeals	
COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups'</p> <p>Local authorities would have to pay for member time, expert advice and meeting rooms to process minor appeals. We estimate that the total cost of this for tree preservation order appeals will be £1.1m and householder and other minor appeals will be £2.8m a year. Total cost £4.0m (rounding difference). There will also be one off initial training costs of £0.4m.</p>
	One-off (Transition)	Yrs	
	£500,000	10	
	Average Annual Cost (excluding one-off)		
	£4,000,000	1	Total Cost (PV)
<p>Other key non-monetised costs by 'main affected groups'</p> <p>Third parties would have less time to contribute to the appeals process, although any representations made at the application stage would be taken into account at appeal stage.</p>			
BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups'</p> <p>The Planning Inspectorate estimate that householder appeals cost £2.7m a year and other minor appeals that would be appropriate for an LMRB cost £1m a year. Currently, tree preservation order appeals are undertaken by Government Offices at an annual cost of £0.9m. There will also be £0.9m saving from the old system costs to Local Authorities.</p>
	One-off	Yrs	
	£0	10	
	Average Annual Benefit (excluding one-off)		
	£5,500,000		Total Benefit (PV)
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>The Planning Inspectorate would be able to redistribute resource and expertise to concentrate on the more complex cases. The average time for all householder appeals to be decided will decrease from approx. 17 weeks to 10 weeks. Decisions with local impacts would be made at the local level.</p>			

Key Assumptions/Sensitivities/Risks While councillors on LMRBs would be expected to undertake training, would still be a difference in level of expertise compared with planning inspectors. Quality of decision making could decrease, increasing complaints to the Local Government Ombudsman. There may also be more cases going to the High Court.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £11,975,000
2007	10		

What is the geographic coverage of the policy/option?	England (and Wales, upon implementation by Welsh Assembly Ministers. See note below.)			
On what date will the policy be implemented?	Post assent of the Bill and publication of the regulations (2009)			
Which organisation(s) will enforce the policy?				
What is the total annual cost of enforcement for these organisations?	£			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£0			
What is the value of changes in greenhouse gas emissions?	£0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£–£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)
 Increase of £0 Decrease of £0 **Net Impact £0**

Key:	Annual costs and benefits: Constant Prices	(Net) Present Value
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Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to establish Local Member Review Bodies to determine minor planning appeals.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

The figures and evidence base stated in this Impact Assessment relate to England only. However, this provision also confers powers on Welsh ministers to apply these measures in Wales. Upon exercise of those powers, a separate Impact Assessment will be carried out in conjunction with the making of the relevant Statutory Instrument which will determine the impact in Wales.

The figures and evidence base stated in this Impact Assessment relate to England only. However, this provision also confers powers on Welsh ministers to apply these measures in Wales. Upon exercise of those powers, a separate Impact Assessment will be carried out in conjunction with the making of the relevant Statutory Instrument which will determine the impact in Wales.

Context

Around 6000 householder appeals are made each year. These account for around 28% of the total number of planning appeals, and typically comprise the simplest cases such as house extensions and garages. For this proposal, the other minor appeals include cases such as changes to shop fronts and small changes of use. There are over 2000 of these appeals a year – nearly 10% of all planning appeals.

Householder and other minor planning appeals are made to the Secretary of State and, in the vast majority of cases, decided on his/her behalf by appointed planning inspectors. Tree preservation order appeals (of which there are approximately 750 a year) are made to the Secretary of State and decided by the Government Offices for the Regions.

Under the current system, minor appeals are dealt with in the same way as all other development types, meaning that they are subject to the same rules, timescales and procedures than larger and potentially more controversial schemes. In 2005/06 only 40.9% of householder appeals made through written representations were processed by the target time of 16 weeks, while the average processing time was 17 weeks. Only 13.5% of hearings and 24.4% of inquiries were processed within the target time of 30 weeks.

The existing appeals system is not equipped to handle the large and increasing volumes of appeals efficiently. This has led to delays in decision making. It is

considered that more bespoke, simplified and quicker processes for householder and other minor types of planning appeals would benefit the functioning of the appeals system and its users. The proposals set out here are intended to improve the efficiency of the planning appeals process.

In the current system, The Planning Inspectorate, acting on behalf of the Secretary of State for Communities and Local Government, works throughout the country to make decisions on minor appeals that have only local impacts. We propose to introduce Local Member Review Bodies to allow appeals with local impacts to be determined at the local level. Local Member Review Bodies would reduce the demands on the Planning Inspectorate by removing the processing of the more minor appeals, thereby freeing its inspectors to concentrate efforts and resources on more complex appeals.

The Government consulted on this proposed measure in the consultation paper *Improving the Appeal Process in the Planning System – making it proportionate, customer focused, efficient and well resourced*, and the Government's response to this consultation *Improving the Appeal Process in the Planning System – making it proportionate, customer focused, efficient and well resourced: Government response to consultation replies* was published in November 2007.

Sectors and Groups affected

- Appellants of minor appeals whose appeal would be heard by LMRB
- Local Planning Authorities
- Planning Inspectorate

Policy options considered and preferred options

Option A. Set up Local Member Review Bodies

This option would allow minor appeals to be made to and determined by a board of local councillors. Each local authority would be required to implement a mandatory Scheme of Delegation to enable officers to determine certain planning and tree preservation order applications outright. For these applications, applicants would be able to request a review of the officer's determination by the board of councillors, to be known as a Local Member Review Body, and we would repeal the right of appeal to the Secretary of State. We envisage that most of these appeals could be dealt with via written representations, although it would be for the LMRB to decide whether or not to allow parties to present their case orally.

It is envisaged that each Review Body would comprise of say three to five elected councillors who would be expected to undertake training on planning and arboriculture matters to assist them in their decision making. Should the Review Body wish to seek professional advice, they would be able to do so from independent experts – such as planners, solicitors or arboriculturalists. Such experts could also be tasked with writing the decision letter.

Option B Do nothing – Status Quo

Under this option, all minor planning appeals would continue to be processed under the current system.

Preferred option

Option A is preferred as it will enable local decisions to be determined locally, in line with the principles of devolution, and will reduce the demands on the Planning Inspectorate so inspectors can concentrate efforts on more complex cases.

Costs and Benefits – Set up Local Member Review Bodies

Summary Box – Annual Costs and Benefits

	Planning Inspectorate	CLG/ other departments	Local authorities*	Appellants	Third parties	Overall monetised
Costs			£4.0m		Less opportunity to comment	£4.0m
Benefits	£3.7m and ability to concentrate resources elsewhere	£0.9m	0.9m	Time Saving		£5.5m
Net Annual Monetary Benefits	£3.7	£0.9m	-£3.1m			£1.5m

* Local Authorities will also have a £0.4m one off cost.

Benefits

- Cost savings for the Planning Inspectorate: The Planning Inspectorate estimate that householder appeals cost approximately £2.7 million a year to process, and other minor appeals that would be appropriate for Local Member Review Boards cost them approximately £1 million a year to process.
- The Planning Inspectorate’s performance: The Planning Inspectorate would be able to redistribute resource and expertise to concentrate on the more complex cases.
- Cost savings to Communities and Local Government/Government Offices: Currently, tree preservation order appeals are undertaken by Government Offices at an annual cost of £900,000.
- Time savings for appellants: The average time for all household appeals to be decided will decrease from approximately 17 weeks to approximately 10 weeks.
- Proportionality: This is a devolutionary measure that would allow decisions with local impacts to be made at local level.
- Savings for Local authorities from old system estimated at £0.9m.

Costs

- Opportunity for third party comments: Third parties would have less time to contribute to the appeal process, although any representations they made at the application stage would be taken into account at appeal stage.
- Costs to local authorities: Local authorities would have to pay for member time, expert advice and meeting rooms to process these minor appeals. Based on the assumption that each local planning authority would set up its own LMRB, we estimate that this would have an additional annual cost of £3.8 million (see tables below). For tree preservation order cases, we estimate an additional annual cost of £1.1 million. Total annual cost is £4.0m (rounding difference). There will also be a one off cost estimated to be £0.4m. (Some consultation respondents suggested that local authorities get together to establish cross-authority joint LMRBs. If this alternative model were adopted, it is likely that the costs to local authorities would be reduced due to sharing of training, facilities, etc).

One-off costs

Training councillors and officers on the concept of Local Member Review Bodies

Staff	No. of staff	Salary per hour + 20% (Assuming 1,665 hours per year)	Accommodation* (per hour)	No. of hours on training course	Cost of training (per person)	Cost per authority
Councillor	3	£18.02	£6.11	3	£100	£517.17
Planning Officer Manager	4	£22.35	£6.11	3	£100	£741.52
				Total cost per authority		£1,258.69

* Accommodation costs are based on the government office tariff as an approximation.

Total cost per LA for 2006/07	£1258.69
Total cost for 2006/07	£455,645.78

Annual costs for local government of using Local Member Review Bodies for householder and other minor development appeals

Time spent on appeals

Staff	No. of staff	Salary in 2006/07	Cost per hour	+20% ¹	Accommodation (per hour)	No. of hours per case	Cost per case
Admin	1	£15,000	£9.01	£10.81	£6.11	1	£16.92
Councillor	3	£25,000	£15.02	£18.02	£6.11	1	£72.39
Expert Advice	1	£116,550	£70.00	£84.00	£6.11	1.5	£135.17
						Total cost per case	£227.47
						Total cost per authority²	£4,938.34

¹ 20% for pensions and national insurance.

² There are 22 cases per authority (5854 householder appeals and 2130 other minors; 362 authorities)

Training costs

Staff	No. of staff	Salary per hour + 20	Accommodation (per hour)	No. of hours on training course	Cost of training (per person)	Cost per authority
Councillor	3	£18.02	£6.11	16	£500	£2,658.24

Meeting room costs

Cost of meeting room per hour	Number of cases	Meeting hours required per case	Cost per authority
£10.00	22	1	£220.00

Total costs

Total cost per LA for 2006/07	£7,816.58
Total cost for 2006/07	£2,829,600.88

Annual cost savings for local government from not using current appeals system for householder and other minor development appeals

Time spent by local authorities on appeals

Staff	No. of staff	Salary in 2006/07	Cost per hour	+20% ¹	Accommodation (per hour)	No. of hours per case	Cost per case
Planning Officer	1	£18,200	£10.93	£13.12	£6.11	4	£76.91
Planning officer manager	1	£31,000	£18.62	£22.34	£6.11	0.5	£14.23
Admin	1	£15,000	£9.01	£10.81	£6.11	0.5	£8.46
					Total cost saving per case		£99.60
					Total saving per authority²		£2,191.09

¹ 20% for pensions and national insurance.

² There are 22 cases per authority (5854 householder appeals and 2130 other minors; 362 authorities)

Total savings

Total savings 2006/07	£793,174.94
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Annual costs to local government of processing tree preservation order appeals

Time on review board

Staff	No. of staff	Salary in 2006/07	Cost per hour	+20% ¹	Accommodation (per hour)	No. of hours per case	Cost per case
Admin	1	£15,000	£9.01	£12.61	£6.11	1	£16.92
Councillor	3	£25,000	£15.02	£21.02	£6.11	1	£72.40
Independent Arboriculturalist	1	£116,550	£70.00	£98.00	£6.11	1.5	£135.17
					Total cost per case		£224.49
					Total cost per authority²		£471.43

¹ 20% for pensions and national insurance.

² There are 2.1 cases per authority (750 TPO appeals; 362 authorities)

Training costs

Staff	No. of staff	Salary per hour +20		No. of hours on training course	Cost of training (per person)	Cost per authority
Councillor	3	£18.02	£6.11	16	£500	£2,658.24

Meeting room costs

Cost of meeting room per hour	Number of cases	Meeting hours required per case	Cost per authority
£10.00	2.1	1	£21

Total costs

Total cost per LA for 2006/07	£3,150.67
Total cost for 2006/07	£1,140,541.42

NB. There is a potential additional cost if additional site visits were required.

Annual cost savings for local government from not using current appeals system for tree preservation order appeals

Time spent by Local Authorities on current tree preservation order appeals

Staff	No. of staff	Salary in 2006/07	Cost per hour	+20% ¹	Accommodation (per hour)	No. of hours per case	Cost per case
Case Officer	1	£18,200	£10.93	£13.12	£6.11	3.5	£67.29
Case manager	1	£31,000	£18.62	£22.34	£6.11	0.5	£14.23
Admin	1	£15,000	£9.01	£10.81	£6.11	1	£16.92
					Total cost saving per case		£98.44
					Total saving per authority²		£206.72

¹ 20% for pensions and national insurance, 20% for overheads

² There are 2.1 cases per authority (750 TPO appeals in 2005/06; 362 authorities)

Total savings

Total savings 2006/07	£74,834.09
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Net annual cost of using Local Member Review Bodies for tree preservation order appeals

	Householder and Other Minor Appeals	Tree Preservation Order Appeals	Total
Costs of new system	£2,829,600.88	£1,140,541.42	£3,970,142.30
Savings from old system	£793,174.94	£74,834.09	£868,009.03
Net costs	£2,036,425.95	£1,065,707.33	£3,102,133.27

Potential impact of introducing appeal fees on Local Member Review Body proposal

The Government also proposes to introduce an appeal fee, payable to the Planning Inspectorate. This is being taken forward under the same primary legislation as that being used to implement Local Member Review Bodies. This appeal fee could be extended to those minor appeals, to be payable to the Local Member Review Body.

- If we assume £120 per appeal would go to the Local Authority this would decrease the annual net cost by $((5854+2130) \times 120) = \text{£}958,000$.
- If we assume that £50 minimum per appeal would go to the Local Authority this would decrease the annual net cost by $((5854+2130) \times 50) = \text{£}400,000$.
- TPO appeals are not included in the proposal for fees. If the fee was set at £120 per TPO appeal, the annual net cost would decrease by $(\text{£}120 \times 750) = \text{£}90,000$.

Costs and Benefits – *The Status Quo*

Benefits

Familiarity – appellants and public sector workers would not need to learn a new set of procedures.

Independence and expertise of Planning Inspectors.

Costs

There are no additional costs with this option, but a resource intensive and disproportionate system would continue, and appellants would continue to experience delay.

Specific impact Test

Small Firms Impact Test

Small companies are more likely to be proposing minor developments of the types that will be eligible for review by a Local Member Review Body. While consultation responses received from groups who represent small business raised general concerns with this proposal, they were no specific issues raised regarding the impacts of this proposal on small firms. We consider that small firms who might have their appeals decided by LMRBs may benefit from faster decision making through this proposal. The Small Business Service and Federation of Small Businesses were consulted on this proposal.

Competition assessment

The competition filter was applied to this proposal. There are many appellants from the development industry where a few firms have a large market share. However, this proposal would not have a substantial different effect on firms, affect the market structure, penalise new firms or place restriction on the services or products that firms provide.

Environmental impacts

There are no environmental effects expected from this proposal.

Race, disability and gender equality impacts

Full race, disability and gender equality assessments were carried out for this policy proposal and is attached at Annex A.

Evidence gathered both anecdotally via discussions with stakeholders and also through studies/reports indicates that there is a higher refusal rate for planning applications submitted by Black, Asian and other Ethnic Minority applicants (including Gypsies and Travellers) than for White applicants. Birmingham City Council's 2005 study on equality impacts found that planning application refusal rates for Black and Ethnic Minority applicants was significantly higher than average within the range of 25-31%, compared to 17% for others and 14% for Whites. For householder planning applications, the overall refusal rate was 17%, while for Whites the rate was 12%, for Black and Indian applicants – 23%, and for Pakistani – 29%. For change of use applications, the overall refusal rate was 25%, whilst for White applicants the rate was 18%, but for Black and Indian applicants it was 33%, Pakistani – 43% and Bangladeshi – 55%. A separate study noted in an academic publication dated February 1998 reported that the reasons for higher refusal rates for certain groups was a combination of the type of application, the locality, and in-house procedures in the way the applications were handled.

Anecdotal evidence cited in consultation responses highlighted the controversial nature of some planning applications submitted by Gypsies and Travellers, racial, religious and other groups. Given this, and the evidence cited above, we do not consider that it would be appropriate for any appeals relating to particularly controversial or sensitive planning applications to be dealt with locally. We will therefore specify, in secondary legislation, that these types of planning applications including those which involve vulnerable groups such as Gypsies and Travellers would not be suitable for delegation and subsequent consideration on appeal by a Local Member Review Body.

It is determined that robust safeguards and monitoring arrangements can be put in place to mitigate against disproportionate impacts on particular groups. Local Member Review Bodies will be subject to the strict rules and procedures which are already established to ensure propriety of the decision making process. Local authorities and their Members are under a duty to act fairly in relation to persons affected by planning decisions and to adopt decision making procedures which provide adequate fairness safeguards to comply with the Human Rights Act. They are also bound by equalities duties. There are legal and administrative safeguards to ensure fair and proper decision making – these being a right to challenge in the High Court, the use of the local authority formal complaints procedures and the ability to complain to the Local Government Ombudsman.

Rural, health and other social effects

We have considered these possible effects and carried out the required screening assessments. We do not consider that there will be disproportionate impacts on rural areas, health or other social effects. We have also spoken to the Commission for Rural Communities who did not raise any issues relating to this proposal. Local Member Review Bodies would only have responsibility for determining minor appeals. The larger and more complex types of planning applications would be caught out by the scheme of delegation, which would not allow such applications to be determined outright by Officers and therefore not allow them to proceed to the Local Member Review Body in the event of an appeal. These larger and more complex planning applications would continue to be determined as per existing processes and would retain a right of appeal to the Secretary of State.

Human rights

It is accepted that these clauses engage article 6(1) of the ECHR. It is also accepted that a review of a local authority officer's decision by a Local Member Review Body (LMRB) would not by itself be independent and impartial for the purposes of article 6(1). However, in the light of the House of Lords decisions in *R (oao Alconbury) v Secretary of State for the Environment Transport and the Regions (2001)* and *Begum v LB of Tower Hamlets (2003)*, our view is that the combination of the review by an LMRB together with the power of the High Court to review the legality of the decision is sufficient to ensure secure compliance with article 6(1).

Other impact tests

We have considered other impact tests – legal aid, sustainable development, and carbon assessment, and consider that there would be no demonstrable impact arising from this proposal in these areas.

Enforcement, sanctions and monitoring

The strict rules and procedures which are already established to ensure the propriety of the decision making process and the decisions taken would apply. Local authorities and their Members are under an obligation to act fairly in relation to persons affected by planning decisions and to adopt decision making procedures which provide adequate fairness safeguards to comply with the Human Rights Act. There are legal and administrative safeguards to ensure fair and proper decision making. If someone considered the Review Body had had not applied the law properly or had treated them unfairly, they they would be able to use the local authority's formal complaints procedure and/or complain to the Local Government Ombudsman. They would also retain the right to challenge in the High Court.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

Annex A

EQUALITY IMPACT ASSESSMENT

Part 2: Full Assessment

<p>1 Name of policy</p> <p>Local Member Review Bodies (LMRBs)</p>
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2 Full Assessment undertaken by:	
Director or Divisional Manager	Michelle Banks
Policy Writer/Lead	Alison Edwards
Other people involved in the assessment	<p>Siobhan Fox.</p> <p>This screening has been informed by consultation responses to the White Paper, and information obtained from pro-active engagement with a range of representative bodies and experts on equalities issues.</p>

<p>3 Scope of the assessment</p> <p>Summarising from the initial screening (Part 1), please set out the scope and focus of the full assessment.</p> <p>Evidence gathered both anecdotally via discussions with stakeholders and also through studies/reports indicates that there is a higher refusal rate for planning applications submitted by Black, Asian and other Minority Ethnic applicants (including Gypsies and Travellers) than for White applicants. Birmingham City Council's 2005 study on equality impacts found that planning application refusal rates for Black and Minority Ethnic applicants was significantly higher than average, within the range of 25-31%, compared to 17% for others and 14% for Whites. For householder planning applications, the overall refusal rate was 17%, while for Whites the rate was 12%, for Black and Indian applicants – 23%, and for Pakistani – 29%. For change of use applications, the overall refusal rate was 25%, whilst for White applicants the rate was 18%, but for Black and Indian applicants it was 33%, Pakistani – 43% and Bangladeshi – 55%. A separate study referred to in an academic publication dated February 1998 reported that the reasons for higher refusal rates for certain groups was a combination of the type of application, the locality, and in-house procedures in the way the applications were handled.</p>

3 Scope of the assessment (continued)

Anecdotal evidence cited in consultation responses highlighted the controversial and/or sensitive nature of some planning applications submitted by Gypsies and Travellers, and this could also be said for racial, religious and other groups. Some minority stakeholders and representatives are concerned that appeals by specific groups may not be fairly reviewed by a Local Member Review Body (LMRB). We believe that there are sufficient safeguards in place to mitigate against improper and unjustified decisions, including the strict rules and procedures already established for local authorities, and we propose to specify in secondary legislation that planning applications for controversial or sensitive developments, in particular those submitted by or on the behalf of racial, religious and other groups (including Gypsies and Travellers) would not be suitable for delegation under the new arrangements and subsequent consideration on appeal by LMRBs.

A summary of consultation responses to the paper “Approving the appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced” is included in the main Impact Assessment.

Nevertheless, it was thought to be useful to carry out a full equality impact assessment to ensure that we have thoroughly considered all the equalities issues raised by this proposal and how they can be addressed.

4 Evidence Sources

Please itemise evidence sources, stating when the evidence was conducted/ gathered. State also which equality target areas (race, gender etc) were considered.

4.1 Data

Sources (with dates):

The data referred to above on application refusal rates was gathered from the following sources:

- **Birmingham City Council Development Directorate – Equality Impact Needs Assessment Report on Planning Applications, Enforcement and Appeals. March, 2005.**
- **University of Central England (Patrick Loftman) & University of Birmingham (Mike Beazley) – Joint authors on report titled “Race, equality and planning”. Prepared for the Local Government Association. February 1998.**

Equality Target Areas:

Black, Asian and other Minority Ethnic groups, including Gypsies and Travellers.

4.2 Research

Sources (with dates):

Equality Target Areas:

4.3 Consultation	
<p>Existing Consultation Evidence (with dates):</p> <ul style="list-style-type: none"> • Internal (Staff, Unions etc) • Stakeholder Groups • The Public 	<p>Equality Target Areas:</p>
<p>New Consultation (with dates):</p> <p>The Appeals Consultation Paper “Improving the Appeals Process in the Planning System: Making it proportionate, customer focused, efficient and well resourced” was consulted on between 21 May and 17 August 2007. Copies were sent to a wide range of stakeholders. Anecdotal evidence was also gathered through discussions held with various stakeholders (including the Gypsy and Traveller Taskforce, Inclusive Environmental Group, Race Equality Advisory Group, gender equality professionals, planning professionals, developers and community representatives) over the same time period.</p>	<p>Equality Target Areas:</p> <p>Black, Asian and other Minority Ethnic groups, including Gypsies and Travellers, gender, disability.</p>
<p>4.4 Does the evidence gathering comply with the principles set out in Civil Service guidance on evidence-based policy making and Regulatory Impact Assessment?</p> <p>Yes</p>	

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
RACE		
<p>e.g. EM Communities (if general), Black African, Refugee Communities etc. (if specific)</p>	<p>Evidence indicates that there is a higher refusal rate for planning applications submitted by Black, Asian and other Minority Ethnic applicants (including Gypsies and Travellers) than for White applicants.</p> <p>Concern that LMRBs may be less objective and more open to political pressures than Planning Inspectors when assessing the planning merits of appeals and this concern was raised by a range of equality stakeholders and representatives.</p>	<p>The impact should be positive.</p> <p>Planning applications for controversial or sensitive developments, particularly those submitted by or on the behalf of racial, religious and other groups (including Gypsies and Travellers) would not be suitable for delegation under the new delegation arrangements and therefore not eligible for review by a LMRB, so therefore would not be affected. These applications would still proceed to the Planning Inspectorate on appeal, and the benefit here would be that as the more minor cases had been removed from the system, the Planning Inspectorate would be able to deal with its cases more quickly and efficiently.</p> <p>For those decisions that are reviewed by a LMRB, a LMRB may have a better knowledge and understanding of the local area and the needs of different local groups than a Planning Inspector from outside of the area. This may assist in decision making.</p> <p>The LMRB would be subject to the strict rules and procedures which are already established for local authorities as well as the existing complaint routes.</p>

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
DISABILITY		
e.g. Disabled people (if general), people with learning disabilities, Blind/ Visually Impaired people	No specific concerns were raised. It is worth noting that, if councils opted to allow review meetings to be open to the public, they would be bound by their existing duties with regard to making the venue accessible to those with disabilities, etc.	The impact should be positive. LMRBs may have a better knowledge and understanding of the local area and the needs of different local groups than a Planning Inspector from outside of the area, which may assist in decision making.
GENDER		
e.g. Women, Female headed households, Men, Transgender people	Some proposed developments which might have a specific impact on a particular group, such as a women’s refuge, might be controversial or sensitive and there might be concern that local political pressure might affect the decision of a LMRB.	<p>Planning applications for controversial or sensitive developments, particularly those submitted by or on the behalf of vulnerable groups would not be considered suitable for review by a LMRB.</p> <p>The LMRB would be subject to the strict rules and procedures which are already established for local authorities as well as the existing complaint routes.</p> <p>The overall impact should be positive. LMRBs may have a better knowledge and understanding of the local area and the needs of different local groups than a Planning Inspector from outside of the area, which may assist decision making.</p>
AGE		
e.g. People over state retirement age, 16-21 year olds, Children	No specific impacts were raised.	

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
SEXUAL ORIENTATION		
e.g. Lesbians, Gay men, Bisexual People	<p>No specific impacts were raised.</p> <p>However, there was concern that LMRBs may be less objective and more open to political pressures than Planning Inspectors when assessing the planning merits of appeals and this concern was raised by a range of equality stakeholders and representatives.</p>	<p>For those decisions that are reviewed by a LMRB, a LMRB may have a better knowledge and understanding of the local area and the needs of different local groups than a Planning Inspector from outside of the area. This may assist in decision making.</p> <p>The LMRB would be subject to the strict rules and procedures which are already established for local authorities as well as the existing complaint routes</p>
RELIGION/BELIEF		
e.g. Muslims, Hindus	<p>No specific evidence was put forward.</p> <p>However, there was general concern that LMRBs may be less objective and more open to political pressures than Planning Inspectors when assessing the planning merits of appeals and this concern was raised by a range of equality stakeholders and representatives.</p>	<p>The impact should be positive. LMRBs may have a better knowledge and understanding of the local area and the needs of different local groups than a Planning Inspector from outside of the area, which may assist in decision making. Furthermore, controversial or sensitive development proposals submitted by or on the behalf of racial, religious and other groups (including Gypsies and Travellers) would not be considered suitable for review by a LMRB.</p> <p>The LMRB would be subject to the strict rules and procedures which are already established for local authorities as well as the existing complaint routes.</p>

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
HUMAN RIGHTS		
Who is affected? Which human rights are engaged?	Some may believe that LMRBs would not be sufficiently impartial to reach a fair decision on review cases. However, we have obtained legal advice on this and it is considered that, taken as a whole (including the right to challenge in the High Court), what is proposed would be compatible with Article 6(1) of the ECHR. The existing rules, procedures and processes for complaint are again relevant here.	Again, LMRBs may have a better knowledge and understanding of the local area and the needs of different local groups, and this may assist in decision making.

<p>6. Proportionality</p> <ul style="list-style-type: none"> • How are you balancing the rights of those people positively or adversely affected? The overall balance appears to be positive. • Is the policy necessary? We believe that the policy will enable local decisions to be taken at the local level by those with local knowledge of the area and its people. Furthermore, it should speed up the appeals system as a whole by taking minor appeals away from the Planning Inspectorate and freeing up their time to spend on the more complex cases. • Is the policy proportionate to its desired outcomes? This policy is about increasing proportionality, as it is only taking the most minor appeals away from the Secretary of State/Planning Inspectorate, and allowing these minor appeals, which only really impact at the very local scale, to be determined locally. • Is the policy "one size fits all" or can it be tailored to fit different individual circumstances? The policy will be tailored to fit individual circumstances, as the suitability of each case for consideration by a LMRB will be considered on its merits. Those applications for developments by/for vulnerable groups, for example, will not be considered suitable for consideration by a LMRB.

7. Summary of the Assessment

Summarising the conclusions drawn from this assessment process, setting out clearly: what the adverse impacts are and how these will be addressed; and what the positive impacts are and how these will be maximised. i.e.

- Whether the policy has the potential to cause unlawful direct or indirect discrimination
- How the policy will:
 - deal with existing discrimination and harassment
 - promote equality of opportunity
 - promote good relations between different racial groups and good community relations more generally
 - promote positive attitudes towards disabled people and towards other groups discriminated against in society
 - increase the participation of disabled people and other under-represented groups in civic and community life

The impact of this policy should be positive. LMRBs should have a better knowledge and understanding of the local area and the needs of different local groups than a Planning Inspector from outside of the area, which should assist in decision making. Furthermore, councillors have been elected to represent their constituents, including those that tend to be otherwise under-represented in civic and community life.

For some vulnerable groups, such as Gypsies and Travellers, their planning appeals may be too sensitive and/or controversial to be dealt with by a LMRB. Such sensitive, complex, or controversial cases will therefore not be dealt with by LMRBs but will continue to be handled on appeal by the Secretary of State (or a Planning Inspector on her behalf).

LMRBs will only review minor appeals which are uncontroversial and relatively straightforward. In reviewing cases, LMRBs will be subject to the strict rules and procedures which are already established to ensure the propriety of the decision making process. Local authorities and their councillors are under a duty to act fairly in relation to persons affected by planning decisions and to adopt decision making procedures which provide adequate fairness safeguards to comply with the Human Rights Act. There are legal and administrative safeguards to ensure fair and proper decision making – these being a right to challenge in the High Court, the use of the local authority formal complaints procedures and the ability to complain to the Local Government Ombudsman.

8. Monitoring and Review

How will the impact of the policy be monitored and how may stakeholders and the target equality groups continue to be involved/engaged in this area of policy?

We will need to set up evaluation and monitoring arrangements for Local Member Review Bodies, working with local authorities and stakeholder groups.

9. ACTION PLAN

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
Changes made: Changes that have been made to policy as a result of the Impact Assessment				

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
Mitigation: For areas where a policy may have a differential impact on certain groups, what arrangements are in place or proposed to mitigate these effects				
<p>Planning applications for controversial or sensitive developments, including those submitted for or on the behalf of racial, religious and other groups (including Gypsies and Travellers) would not be suitable for delegation under the associated, new delegation arrangements and therefore these appeals would not proceed to LMRBs. These controversial/ sensitive cases will continue to be handled on appeal by the Secretary of State (or Planning Inspectorate on her behalf).</p>	<p>This is to mitigate against the possible perception by such groups that LMRBs might be too heavily influenced by lobbying by other constituents around these sensitive issues.</p>	<p>Vulnerable groups.</p>	<p>This will be set out in secondary legislation before the establishment of any LMRBs.</p>	<p>Planning Systems Improvement Division, Communities and Local Government.</p>

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
<p>Local authorities and their Members are under a duty to act fairly in relation to persons affected by planning decisions and to adopt decision making procedures which provide adequate fairness safeguards to comply with the Human Rights Act. There are legal and administrative safeguards to ensure fair and proper decision making – these being a right to challenge in the High Court, the use of local authority formal complaints procedures and the ability to complain to the Local Government Ombudsman.</p>	<p>These safeguards already exist to ensure fair treatment for everyone.</p>	<p>All those who have dealings with their council. In this instance, all those who submit a planning application to be reviewed by a LMRB as well as third parties who may have an interest in a case.</p>	<p>Already in existence.</p>	<p>Local Government and the Local Government Ombudsman.</p>

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
<p>Justification: For areas where a policy may impact negatively (but not illegally) on certain groups but mitigation is not possible (e.g. where there is an overriding societal driver for proceeding with a policy) there needs to be a strategy for handling issues of unfairness.</p>				
<p>Opportunities: Please state actions designed to maximise positive effects – i.e. where opportunities are identified for: promoting equality, good relations between groups or knowledge about groups; increasing civic and democratic participation; or addressing current inequalities</p>				

Summary: Intervention & Options		
Department /Agency: Communities & Local Government	Title: Impact Assessment of allowing the Planning Inspectorate (on behalf of the S of S) to determine the appeal method	
Stage: Bill	Version: #	Date:
Related Publications: Consultation Document: “Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced”		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Alison Edwards/Siobhan Fox **Telephone:**
020-7944-3942/4817

What is the problem under consideration? Why is government intervention necessary?

There are 3 methods by which planning and enforcement appeals can be determined – inquiry, hearing and written representations. The current system allows the principal parties to select the appeal method, which means a party can insist upon an inquiry or a hearing even for the least complex of appeal cases. We believe that some of the existing appeal methods can be disproportionately complex for some types of appeals, and that resource is being wasted as a result.

What are the policy objectives and the intended effects?

The objective of this policy is to ensure that each appeal is decided by the most appropriate and proportionate appeal method. This would allow for the better allocation of the Planning Inspectorate’s resources, which in turn would make the system more efficient and improve appeal handling times. It will also ensure that other parties would not be subject to complex appeal methods if it is considered that a simpler appeal method would be just as effective for the subject case.

What policy options have been considered? Please justify any preferred option.

- A: Do nothing. The Planning Inspectorate already use indicative criteria to encourage parties to select suitable appeal methods. However if a party insists upon appearing before or being heard by a person appointed by the SofS for that purpose, then a hearing or inquiry must be held.
- B: Allow the Planning Inspectorate (on behalf of the SoS) to apply Ministerially approved indicative criteria to determine the appeal method. Principal parties would no longer be able to select or insist upon a specific appeal method.

Option B is preferred as it will allow for more proportionality and efficiency.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

This policy will be reviewed three years after implementation.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option: B	Description: Allowing the Planning Inspectorate (on behalf of the SofS) to determine the appeal method
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£0		
	Average Annual Cost (excluding one-off)		
	£0		
Total Cost (PV)			£0
Other key non-monetised costs by 'main affected groups' All parties would lose their right to insist upon an oral hearing.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Cost savings to the Planning Inspectorate: We estimate £1.3 million a year for planning appeals and £0.8 million per year for enforcement appeals. (Total: £2.1 million) Cost saving to appellants: £1.4million. Cost saving to local authorities: £0.7 million.
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£4,200,000		
Total Benefit (PV)			£34,930,000
Other key non-monetised benefits by 'main affected groups'			

Key Assumptions/Sensitivities/Risks The removal of a right to insist upon an oral hearing could be seen as being in conflict with Article 6 of ECHR. That there will be a higher number of cases going to the High Court to challenge the procedure selected for an appeal.

Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £N/A	NET BENEFIT (NPV Best estimate) £34,930,000
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What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	Commencement (Summer/ Autumn 2008)			
Which organisation(s) will enforce the policy?	Planning Inspectorate			
What is the total annual cost of enforcement for these organisations?	£0			
Does enforcement comply with Hampton principles?	N/A			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£0			
What is the value of changes in greenhouse gas emissions?	£0			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £N/A Decrease of £1,300,000 Net Impact £1,300,000				
Key:	Annual costs and benefits: Constant Prices			(Net) Present Value

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure of the Planning Reform Bill which proposes to allow the Planning Inspectorate (on behalf of the Secretary of State) to determine the appeal method.

For purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

There are three methods by which planning and enforcement appeals can be determined – inquiry, hearings and written representations. The current appeal system allows the principal parties to select the appeal method, which means a party can insist upon an inquiry or a hearing even for the least complex of appeal cases. For example, in a recent appeal case relating to minor alterations to an approved roof extension on a dwelling house, the appellant insisted on an inquiry, or at least a hearing, while the case could have been dealt with just as effectively via written representations.

The Planning Inspectorate currently uses non-statutory indicative criteria to encourage parties to select suitable appeal methods. This practice is proving somewhat successful, but more could be done. During the 2006/07 financial year the Planning Inspectorate sent over 1200 letters suggesting written representations instead of an inquiry or hearing and 73% were not converted. In addition, the Planning Inspectorate sent over 200 letters requesting a change to hearings from inquiries and 83% were not converted.

The Government consulted on this proposed measure in the consultation paper *Improving the Appeal Process in the Planning System – making it proportionate, customer focused, efficient and well resourced*, and the Government's response to this consultation *Improving the Appeal Process in the Planning System – making it proportionate, customer focused, efficient and well resourced: Government response to consultation replies* was published in November 2007.

Sectors and groups affected

- Applicants who make planning appeals to the Planning Inspectorate
- Planning Inspectorate
- Local Planning Authorities.

Policy options considered and preferred option

Option A: Allow the Planning Inspectorate, on behalf of the Secretary of State, to apply Ministerial approved indicative criteria to determine the appeal method.

Acting on behalf of the Secretary of State, the Planning Inspectorate would have the power to determine the most suitable appeal method for both planning and enforcement cases, having first considered them against the indicative criteria. Principal parties would no longer be able to select the appeal method.

Option B: Do nothing.

The Planning Inspectorate would continue with its practice of using indicative criteria to encourage parties to select the most suitable appeal method for their case.

Preferred option

Option A is our preferred option, as it would increase proportionality by making sure that the most suitable appeal method is used for each appeal.

Costs and Benefits – Planning Inspectorate to decide appeal method

Costs –

Right to be heard: (Non-monetised) All parties would lose their right to insist upon an oral hearing. There is no evidence to suggest that the appeal route is related to a difference in appeal outcome, and so no monetary value has been attributed to this loss of right. In 2005/06 the percentage of appeals allowed was 33% for written representations, 36% for hearings and 42% for inquiries. The reason for this difference is due to the difference in the cases being seen through inquiries and hearings (they tend to be more soundly based) rather than a difference that can be attributed to the route.

Benefits –

Cost savings to the Planning Inspectorate: (Monetised) Based on the number of appellants who chose an alternative method from that recommended by the Planning Inspectorate in 2006:

Planning appeals

Appeal method	Administrative Officer time	Administrative Officer salary	Administrative Officer salary per day	Administrative Officer costs (salary per day+ 20%* +Accommodation*)
	(1)	(2)	(3) = (2)/220 x (1)	(4) = (3) x 120% + £10,180/220
Written Reps	1 day	£18,293	£83.15	£146.05
Hearing	1 day	£18,293	£83.15	£146.05
Inquiry	1.25 days	£18,293	£103.94	£171.00

Appeal method	Inspector time	Inspector salary	Inspector salary per day***	Inspector costs (salary per day+ 20%* +Accommodation*)	Costs for overnight stay	Total costs (Administrative Officer and Inspector)
	(5)	(6)	(7) = (7)/174.5 x (6)	(8) = (7) x 120% + £10,180/174.5	(9)	(10) = (4) + (8) + (9)
Written Reps	1 day	£44,156	£253.04	£361.99	£12.22****	£520.26
Hearing	3 days	£55,126**	£947.72	£1,195.61	£220	£1,561.66
Inquiry	5 days	£55,126**	£1,579.54	£1,953.79	£440	£2,564.79

* Being 20% for National Insurance and pensions and the government office tariff of £10,180 (2006/07) used as an approximation for accommodation

**Senior planning inspectors are required for hearings and inquiries.

***Inspectors have 174.5 working case days a year (ie. this excludes time spent on administration, training etc.)

****Based on one overnight stay (£110) for every nine written representations cases.

The Planning Inspectorate has estimated the number of appeals that could have been carried out with a different method. This is based on the number of cases between April 2006 and March 2007 where the Planning Inspectorate wrote to appellants encouraging them to change to a more appropriate appeal method, but the method did not change as a result:

Change in appeal method	Change in no. of cases	Cost difference per case	Total cost difference
	(11)	(12) Taken from (10)	(13) = (11) x (12)
Inquiry to hearing	187	£1,003.12	£187,584.36
Inquiry to written reps	114	£2,044.52	£233,075.65
Hearing to written reps	800	£1,041.40	£833,118.67
		Total saving	£1,253,778.69

Enforcement appeals

For enforcement appeals, a hearing is an alternative only to a written representations case, not an inquiry. The Planning Inspectorate estimates that 90% of current enforcement hearings could be dealt with by written representations. The remaining 10% would be the cases where a party has advised of illiteracy (or where all parties including the Planning Inspectorate agreed that a hearing was the best option).

Number of cases in 2005/6	Number of cases that could have been dealt with by written representations	Average extra days for inspectors for enforcement appeal inquiries*	Number of inspector days saved	Equivalent pro rated to inspector years	Cost of inspector (Salary + 20% + Accomodation)	Savings in cost of inspector
(1)	(2) = (1) x 90%	(3)	(4) = (2) x (3)	(5) = (4)/174.5	(6)	(7) = (5) x (6)
781	703	2.34	1645	9.4	£77,331.2	£717,513.28

Travel savings	Average overnight savings*	Total overnight savings	Total savings
(8)	(9)	(10) = (2) x (9)	(11) = (7) + (8) + (10)
£30,000	£134	£94,202	£841,715.28

* Based on average length of enforcement appeal inquiries

**Based on one overnight stay (£110)

The policy will therefore save the Planning Inspectorate an estimated £1,400,000 in planning appeals and £800,000 in enforcement appeals per annum.

Performance of the Planning Inspectorate: (non-monetised) The Planning Inspectorate will be able to redistribute resources in the way it considers most efficient and proportionate. The saved resource could be used to help deal with casework for which there is insufficient administrative and inspector resource available at present.

Cost savings to appellants: (monetised) It is difficult to estimate the full costs of appeals to appellants. Our indicative estimates suggest there could be a saving of £1.4 million a year for appellants with less use of more time-consuming options such as inquiries and hearings. Whilst there is the potential for these financial savings, experience of using the appeal method criteria on a non-statutory basis shows that some appellants choose to pay this cost to secure their selected appeal method.

Planning appeals – costs to appellants

Appeal method	Estimated consultancy fees	Estimated legal fees	Total Costs
Written representations	£500	None	£500
Hearing	£1,000	None	£1,000
Inquiry	£2,000	£2,000	£4,000

Change in appeal method	Change in no. of cases	Cost difference per case	Total cost saving
Inquiry to hearing	187	£3,000	£561,000
Inquiry to written representations	114	£3,500	£399,000
Hearing to written representations	800	£500	£400,000
		Total saving	£1,360,000

Time savings to appellants: (non-monetised) The time savings for determining an appeal would be equivalent to a reduction from over 30 weeks to 17 weeks for 1500 appeal cases. There are also potential savings to appellants who do not have their appeal method changed but would now not be subject to the delay caused by appeal backlogs. This could have a monetary benefit if it allowed individuals and business to deliver at lower cost and /or gain revenue from the development in the intervening period. These costs are difficult to quantify.

Cost savings for local authorities: (monetised) Local authorities would be likely to spend less time at inquiries and hearings, and have less need to hire legal representation at inquiry. Our indicative estimate of this saving is £0.7 million per year.

Planning appeals – costs to local authorities

Appeal method	Planning officer costs per day (Salary + 20% +Accommodation)	Number of Days that Planning Officer is needed	Legal fees	Total cost
Written representations	£141.23	1	None	£141.23
Hearing	£141.23	1.5	None	£211.85
Inquiry	£141.23	3	£2,000	£2,423.69

Change in appeal method	Change in no. of cases	Cost difference per case	Total cost saving
Inquiry to hearing	187	£2,211.84	£413,614.08
Inquiry to written representations	114	£2,282.46	£260,200.44
Hearing to written representations	800	£70.62	£56,496
			£730,310.52

Costs and Benefits – *The Status Quo*

Costs

No additional costs of this option, although the Planning Inspectorate would retain the cost of participating in complex methods for simple appeal cases.

Benefits

Right to be heard: (Non-monetised) Principal parties would retain the right to select the appeal method.

Specific Impact Test

Small Firms Impact Test

While consultation responses received from groups who represent small business raised general concerns with this proposal, they were no specific issues raised regarding impacts on small firms. The Small Business Service and Federation of Small Businesses were consulted on this proposal.

Competition Assessment

The competition filter was applied to this proposal. There are many appellants from the development industry where few firms have a large market share. However, this proposal would not have a substantial different effect on firms, affect market structure, penalise new firms or place restrictions on the services or products that firms provide.

Environmental Impacts

This proposal will not have any environmental impacts.

Race, Disability and Gender Equality Impacts

A full race, disability and gender equality assessment was carried out for this policy proposal. This is attached at Annex A.

Evidence gathered both anecdotally via discussions with stakeholders and also through studies/reports indicates that there is a higher refusal rate for planning applications submitted by Black, Asian and other Ethnic Minority applicants (including Gypsies and Travellers) than for White applicants. It is not known what proportion of Black, Asian and Ethnic Minority applicants proceed to appeal, however it is noted that the Planning Inspectorate have recently begun collecting data for diversity monitoring purposes. Evidence does indicate that some Ethnic Minority groups experience a higher dismissal rate at appeal – Birmingham City Council's analysis of their Council's planning appeals decisions between January and October 2004 revealed that Asian applicants experienced a higher dismissal rate, this being 76% compared to 62% overall (*Source: Birmingham City Council Development Directorate, Equality Impact Needs Assessment Report, March 2005*).

We also have evidence to indicate that, in terms of enforcement, a higher proportion on enforcement notices are served on Ethnic Minority groups. Evidence indicates that Gypsies and Travellers are served a disproportionate number of enforcement notices, while there is also evidence to suggest that a higher proportion of enforcement notices are served on some ethnic groups, for example, Asians. There is no data available regarding which groups are more likely to pursue enforcement appeals nor on what the appeal outcomes are.

Some disabilities, illiteracy and/or poor English skills may prevent some people from being able to use written representations as an appeal method.

For this proposal, it is considered that appropriate safeguards and monitoring arrangements can be implemented in order to mitigate against disproportionate impacts on particular groups. In built into the appeal method selection process would be the opportunity for appellants (and the Council) to make a case for their preferred appeal route. Appellants would be given the opportunity at this stage to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the appeal method selection process. For example, persons whose disability or illiteracy would prevent them from being able to prepare and present a case via written representations would be given the opportunity to advise the Planning Inspectorate of this in advance, so that an alternative method (ie. hearing or inquiry) could be pursued even if it would not normally be justified by the complexity of the case. We propose that, for example, Gypsies' and Travellers' cases will normally be dealt with by a hearing or an inquiry.

Furthermore, the criteria which would be used to determine the appeal route would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would normally be dealt with in this way.

Rural, health and other social effects

We have considered these possible effects. We do not consider that there will be disproportionate impacts on rural areas, health or other social effects. We have spoken to the Commission for Rural Communities who did not foresee any problem with this proposal from a rural perspective. The use of indicative criteria to guide appeals into being processed by the most appropriate appeal method should ensure that all principle parties receive a level of service proportionate to the complexity of their appeal and that vulnerable groups will not be disadvantaged as a result.

Human Rights

This clause could be subject to challenge on the ground that the removal of the right to an oral hearing would mean that an applicant would not receive a "fair and public hearing" for the purposes of article 6(1). However, case law shows that a "fair" hearing does not necessarily require an oral hearing. Whether a particular procedure is fair will depend on all the circumstances, including the nature of the claimant's interests, the seriousness of the matter for him and the nature of any matters in dispute. We are proposing that the appropriate appeal method in any particular case will be determined by applying published criteria approved by Ministers. These criteria are likely to set out the circumstances in which an oral hearing would be appropriate. We anticipate that proper application of these criteria would ensure compliance with article 6(1) in a given case.

Other impact tests

We have considered other impact tests – legal aid, sustainable development, and carbon assessment. We consider that there would be no demonstrable impact arising from this proposal in these areas.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

Annex A

EQUALITY IMPACT ASSESSMENT

Part 2: Full Assessment

<p>1 Name of policy</p> <p>Enabling the Planning Inspectorate, on behalf of the Secretary of State, to determine the method by which an appeal will be dealt with (written representations, hearing or inquiry)</p>
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2 Full Assessment undertaken by:	
Director or Divisional Manager	Michelle Banks
Policy Writer/Lead	Alison Edwards
Other people involved in the assessment	<p>Siobhan Fox.</p> <p>This screening has been informed by consultation responses to the White Paper, and information obtained from pro-active engagement with a range of representative bodies and experts on equalities issues.</p>

<p>3 Scope of the assessment</p> <p>Summarising from the initial screening (Part 1), please set out the scope and focus of the full assessment.</p> <p>The current appeals system allows the principle parties to select the appeal method – written representations, hearing or inquiry. However, appellants often choose a hearing for appeals which could just as appropriately be determined by written representations, or an inquiry for appeals which could be considered at a hearing. We want to ensure that the procedure used is best matched to the complexity of the subject matter. We therefore propose that the Planning Inspectorate, acting on behalf of the Secretary of State, should be empowered to apply Ministerially approved and published criteria to determine the most appropriate appeal method.</p> <p>This proposal should enable all appeals to be decided by the most appropriate and proportionate appeal method, and should assist in speeding up the appeals process. It should still be possible to ensure that all appellants receive the same level of service, based on the nature of their appeal and not on their access to ‘expert’ advice. The outcome will depend upon how convincing the inspector finds the planning arguments, not the method of their presentation.</p>

3 Scope of the assessment (*continued*)

Evidence gathered both anecdotally via discussions with stakeholders and also through studies/reports indicates that there is a higher refusal rate for planning applications submitted by Black, Asian and other Minority Ethnic applicants (including Gypsies and Travellers) than for White applicants. It is not what proportion of Black, Asian and other Minority Ethnic applicants proceed to appeal, however it is noted that the Planning Inspectorate have recently begun collecting data for diversity monitoring purposes. Evidence does indicate that some Minority Ethnic groups experience a higher dismissal rate at appeal – Birmingham City Council’s analysis of their Council’s planning appeals decisions between January and October 2004 revealed that Asian applicants experienced a higher dismissal rate, this being 76% compared to 62% overall (*Source: Birmingham City Council Development Directorate, Equality Impact Needs Assessment Report, March 2005*).

A summary of consultation responses to the paper “*Approving the appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced*” is included in the main Impact Assessment.

We also have evidence to indicate that, in terms of enforcement, a higher proportion on enforcement notices are served on Gypsies and Travellers and other Minority Ethnic groups. There is no data available regarding which groups are more likely to pursue enforcement appeals nor on what the appeal outcomes are.

Some disabilities, illiteracy and/or poor English skills may prevent some people from being able to use written representations as an appeal method.

For this proposal, it is considered that appropriate safeguards and monitoring arrangements can be implemented in order to mitigate against disproportionate impacts on particular groups. Inbuilt into the appeal method selection process would be the opportunity for appellants (and the Council) to make a case for their preferred appeal route. Appellants would be given the opportunity at this stage to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the appeal method selection process. For example, persons whose disability or illiteracy would prevent them from being able to prepare and present a case via written representations would be given the opportunity to advise the Planning Inspectorate of this in advance, so that an alternative method (ie. hearing or inquiry) could be pursued even if it would not normally be justified by the complexity of the case. We propose that, for example, Gypsies’ and Travellers’ cases will normally be dealt with by a hearing or an inquiry.

Furthermore, the criteria which would be used to determine the appeal route would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would normally be dealt with in this way.

Despite our initial conclusion that the safeguards set out above would ensure that different groups were not unfairly disadvantaged by this proposal, we still felt it would be beneficial to carry out a full equality impact assessment to ensure that we have thoroughly considered all the equality issues raised by this proposal and how they can be address.

4 Evidence Sources	
Please itemise evidence sources, stating when the evidence was conducted/ gathered. State also which equality target areas (race, gender etc) were considered	
4.1 Data	
Sources (with dates): The data referred to above on application refusal rates was gathered from the following sources:	Equality Target Areas:
<ul style="list-style-type: none"> • Birmingham City Council Development Directorate – Equality Impact Needs Assessment Report on Planning Applications, Enforcement and Appeals. March, 2005. • University of Central England (Patrick Loftman) & University of Birmingham (Mike Beazley) – Joint authors on report titled “Race, equality and planning”. Prepared for the Local Government Association. February 1998. 	Black, Asian and other Minority Ethnic groups, including Gypsies and Travellers.
4.2 Research	
Sources (with dates):	Equality Target Areas:
4.3 Consultation	
Existing Consultation Evidence (with dates):	Equality Target Areas:
<ul style="list-style-type: none"> • Internal (Staff, Unions etc) • Stakeholder Groups • The Public 	
New Consultation (with dates):	Equality Target Areas:
The Appeals Consultation Paper <i>“Improving the Appeals Process in the Planning System: Making it proportionate, customer focused, efficient and well resourced”</i> was consulted on between 21 May and 17 August 2007. Copies were sent to a wide range of stakeholders. Anecdotal evidence was also gathered through discussions held with various stakeholders (including the Gypsy and Traveller Taskforce, Inclusive Environmental Group, Race Equality Advisory Group, gender equality professionals, planning professionals, developers and community representatives) over the same time period.	Black, Asian and other Minority Ethnic groups, including Gypsies and Travellers, gender, disability.
4.4 Does the evidence gathering comply with the principles set out in Civil Service guidance on evidence-based policy making and Regulatory Impact Assessment?	
Yes	

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
RACE		
e.g. ME Communities (if general), Black African, Refugee Communities etc. (if specific)	Evidence gathered both anecdotally via discussions with stakeholders and also through studies/reports indicates that there is a higher refusal rate for planning applications submitted by Black, Asian and other Minority Ethnic applicants (including Gypsies and Travellers) than for White applicants. It is not known what proportion of Black, Asian and Minority Ethnic applicants proceed to appeal, however it is noted that the Planning Inspectorate have recently begun collecting data for diversity monitoring purposes. Evidence does indicate that some Minority Ethnic groups experience a higher dismissal rate at appeal – Birmingham City Council’s analysis of their Council’s planning appeals decisions between January and October 2004 revealed that Asian applicants experienced a higher dismissal rate, this being 76% compared to 62% overall (<i>Source: Birmingham City Council Development Directorate, Equality Impact Needs Assessment Report, March 2005</i>).	It is considered that appropriate safeguards and monitoring arrangements can be implemented to mitigate against this potential disproportionate impact on particular groups. Inbuilt into the appeal method selection process would be the opportunity for appellants (and the local planning authority) to make a case for their preferred appeal route. Appellants would be given the opportunity at this stage to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the appeal method selection process. For example, persons whose disability or illiteracy would prevent them from being able to prepare and present a case via written representations would be given the opportunity to advise the Planning Inspectorate of this in advance, so that an alternative method (ie. hearing or inquiry) could be pursued even if it would not normally be justified by the complexity of the case. We propose that, for example, Gypsies’ and Travellers’ cases will normally be dealt with by a hearing or an inquiry.

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
<p>e.g. ME Communities (if general), Black African, Refugee Communities etc. (if specific) <i>(continued)</i></p>	<p>We also have evidence to indicate that, in terms of enforcement, a higher proportion of enforcement notices are served on Gypsies and Travellers and other Minority Ethnic groups. There is no data available regarding which groups are more likely to pursue enforcement appeals nor on what the appeal outcomes are.</p>	<p>Furthermore, the criteria which would be used to determine the appeal route would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would normally be dealt with in this way.</p> <p>The overall impact of this proposal should therefore be positive as, by ensuring that cases that did not warrant a hearing or inquiry were dealt with by written representations, all cases should be dealt with as efficiently as possible, to the advantage of the appellant, the council and the Inspectorate.</p>
DISABILITY		
<p>e.g. Disabled people (if general), people with learning disabilities, Blind/Visually Impaired people</p>	<p>Some disabilities, illiteracy and/or poor English skills may prevent some people from being able to use written representations as an appeal method.</p> <p>Conversely, some disabilities (eg. deafness) may prevent some people from being able to partake easily in hearing or inquiry proceedings, and these persons may prefer to use written representations as a appeal method.</p>	<p>As above. In particular, persons whose disability or illiteracy would prevent them from being able to prepare and present a case via written representations would be given the opportunity to advise the Planning Inspectorate of this in advance, so that an alternative method (ie. hearing or inquiry) could be pursued even if it would not normally be justified by the complexity of the case. People whose disabilities would also prevent them from partaking easily in hearings or inquiries would also be given the opportunity to raise this as an issue with the Planning Inspectorate in advance of the appeal method selection.</p>

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
e.g. Disabled people (if general), people with learning disabilities, Blind/Visually Impaired people <i>(continued)</i>		The overall impact of this proposal should therefore be positive as, by ensuring that cases that did not warrant a hearing or inquiry were dealt with by written representations, all cases should be dealt with more efficiently, to the advantage of the appellant, the council and the Planning Inspectorate.
GENDER		
e.g. Women, Female headed households, Men, Transgender people	In discussions with experts on gender equality, it was suggested that some women may prefer to have their appeal dealt with by written representations as hearings and inquiries can be intimidating. Such appellants would welcome the opportunity to deal with more appeals by this method.	The overall impact of this proposal should therefore be positive. Not only will it ensure that cases that do not warrant a hearing or inquiry are dealt with by written representations; it should also mean that all cases are dealt with more efficiently, to the advantage of the appellant, the council and the Planning Inspectorate.
AGE		
e.g. People over state retirement age, 16-21 year olds, Children	No issues were raised.	
SEXUAL ORIENTATION		
e.g. Lesbians, Gay men, Bisexual People	No issues were raised.	

5. Summary of Key Insights, by Equality Group		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
RELIGION/BELIEF		
e.g. Muslims, Hindus	No issues were raised.	
HUMAN RIGHTS		
Who is affected? Which human rights are engaged?	Perception that some people would lose their “right” to an oral hearing.	<p>Previous case law suggests that the right to a fair hearing under Article 6(1) of the ECHR does not necessarily require an oral hearing, nor an opportunity to cross-examine.</p> <p>Our view is that the existence of a right of appeal to an independent and impartial judicial body with sufficient jurisdiction to review the determination will suffice to secure compliance with Article 6(1).</p> <p>This should speed up the appeal system, leading to quicker decisions. This should enable people to exercise their right of appeal more quickly.</p>

6. Proportionality
<ul style="list-style-type: none"> • How are you balancing the rights of those people positively or adversely affected? Given the mitigation measures proposed, the positive benefits appear to outweigh the potential negative impacts for each of the groups discussed above. • Is the policy necessary? We believe this policy is necessary to ensure a proportionate approach to planning appeals and to make the system operate more efficiently. • Is the policy proportionate to its desired outcomes? Yes. It is about introducing a more proportionate approach to dealing with appeals. • Is the policy "one size fits all" or can it be tailored to fit different individual circumstances? As noted above, the policy can be tailored to fit individual circumstances, and each case will be considered on its own merits when determining the appropriate appeal method.

7. Summary of the Assessment

Summarising the conclusions drawn from this assessment process, setting out clearly: what the adverse impacts are and how these will be addressed; and what the positive impacts are and how these will be maximised. i.e.

- Whether the policy has the potential to cause unlawful direct or indirect discrimination
- How the policy will:
 - deal with existing discrimination and harassment
 - promote equality of opportunity
 - promote good relations between different racial groups and good community relations more generally
 - promote positive attitudes towards disabled people and towards other groups discriminated against in society
 - increase the participation of disabled people and other under-represented groups in civic and community life

For this proposal, it is considered that appropriate safeguards and monitoring arrangements can be implemented in order to mitigate against disproportionate impacts on particular groups. Inbuilt into the appeal method selection process would be the opportunity for appellants (and the Council) to make a case for their preferred appeal route. Appellants would be given the opportunity at this stage to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the appeal method selection process. For example, persons whose disability or illiteracy would prevent them from being able to prepare and present a case via written representations would be given the opportunity to advise the Planning Inspectorate of this in advance, so that an alternative method (ie. hearing or inquiry) could be pursued even if it would not normally be justified by the complexity of the case. We propose that, for example, Gypsies' and Travellers' cases will normally be dealt with by a hearing or an inquiry.

Furthermore, the criteria which would be used to determine the appeal route would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would normally be dealt with in this way.

Parties would have recourse to the High Court in the event they wished to challenge the appeal procedure chosen for their appeal. In the event of legal challenge, the Secretary of State and her inspectors would have to demonstrate that they have acted reasonably in applying the criteria.

8. Monitoring and Review

How will the impact of the policy be monitored and how may stakeholders and the target equality groups continue to be involved/engaged in this area of policy?

The Planning Inspectorate has started to monitor appellants’ race, age, gender and disabilities through a confidential, voluntary questionnaire. This information will be used to inform policies, including this one, as they are taken forward. The Planning Inspectorate will also monitor the effectiveness and impact of implementing this proposal, including any complaints made by those who feel aggrieved by this policy, and will keep the criteria for determining the appeal method under review.

9. Action Plan

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
Changes made: Changes that have been made to policy as a result of the Impact Assessment				

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
Mitigation: For areas where a policy may have a differential impact on certain groups, what arrangements are in place or proposed to mitigate these effects				
<p>Inbuilt into the appeal method selection process would be the opportunity for appellants (and the local planning authority) to make a case for their preferred appeal route. Appellants would be given the opportunity at this stage to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the appeal method selection process.</p>	<p>To ensure that the appellant (and local planning authority) has the opportunity to bring factors to the attention of the Inspectorate which should be taken into consideration when determining the appeal route.</p>	<p>The appellant and potentially the local planning authority.</p>	<p>This will be part of the regulations to implement this proposal.</p>	<p>Planning Systems Improvement Division, Communities and Local Government, will be responsible for the regulations. The Planning Inspectorate will be responsible for their implementation.</p>

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
The criteria which would be used to determine the appeal route would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would normally be dealt with in this way.	To ensure that those cases which would benefit from a hearing or inquiry would be dealt with by this method.	Appellants and, potentially, the local planning authority.	The criteria will be published in advance of the proposal being implemented.	Planning Systems Improvement Division, Communities and Local Government and the Planning Inspectorate.

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
<p>Parties would have recourse to the High Court in the event they wished to challenge the appeal procedure chosen for their appeal. In the event of legal challenge, the Secretary of State and her inspectors would have to demonstrate that they have acted reasonably in applying the criteria.</p>	<p>To ensure that aggrieved parties have a means of redress, and to ensure fairness in the system.</p>	<p>Appellants and local planning authorities.</p>	<p>Will take effect when the proposal is commenced.</p>	<p>Planning Systems Improvement Division, Communities and Local Government.</p>
<p>Justification: For areas where a policy may impact negatively (but not illegally) on certain groups but mitigation is not possible (e.g. where there is an overriding societal driver for proceeding with a policy) there needs to be a strategy for handling issues of unfairness.</p>				

Actions taken or proposed	Rationale for the Action	Beneficiaries of the Action	Timing	Responsibility
<i>Opportunities:</i> Please state actions designed to maximise positive effects – i.e. where opportunities are identified for: promoting equality, good relations between groups or knowledge about groups; increasing civic and democratic participation; or addressing current inequalities				

Summary: Intervention & Options

Department /Agency: Communities & Local Government	Title: Impact Assessment of proposals to set out the role of local authorities in tackling energy efficiency and climate change	
Stage: Bill	Version:	Date:
Related Publications: Draft Planning Policy Statement on Climate Change – Regulatory Impact Assessment (published December 2006). Building A Greener Future – Regulatory Impact Assessment.		

Available to view or download at:

<http://www.communities.gov.uk/corporate/publications/impact-assessments/>

Contact for enquiries: Anne Wood

Telephone: 020-7944-6276

What is the problem under consideration? Why is government intervention necessary?

Effective spatial planning has a significant contribution to make in the response to climate change. The draft Planning Policy Statement on Climate Change set out how spatial planning, in providing for the new homes, jobs and infrastructure needed by communities, should help shape places with lower carbon emissions and resilient to the climate change now accepted as inevitable. Setting out what is expected from local planning authorities in primary legislation would send a powerful signal of the Government's commitment to see local authority planning used positively to help tackle both the causes and consequences of climate change. The government signalled its intention to legislate in this area in the Planning White Paper.

What are the policy objectives and the intended effects?

The objective is to set out in primary legislation what is expected of local planning authorities in tackling energy efficiency and climate change.

The intended effects are to secure effective action on climate change by local planning authorities by putting in place a high level commitment on local planning authorities to take action to tackle energy efficiency and climate change when discharging their planning responsibilities

What policy options have been considered? Please justify any preferred option.

- i) do nothing
- ii) Placing a statutory objective on climate change on local planning authorities in England with the objective of contributing to the achievement of sustainable development including the mitigation of and adaptation to climate change'. LPAs would be expected to act in accordance with guidance prepared by the Secretary of State.
- iii) Placing a statutory duty on plan-makers in drawing up plans to do so with the objective of taking action on climate change with a view to mitigation of, or adaptation to, climate change. LPAs would be expected to act in accordance with guidance prepared by the Secretary of State.
- iv) Placing specific and detailed actions on local planning authorities consistent with the detail of the energy supply policy in Building a Greener Future and the PPS on Climate Change.

Option i) is unacceptable. Option iv) risks building in inflexibilities. Option iii) is favoured over option ii) because of the imperative to take action.

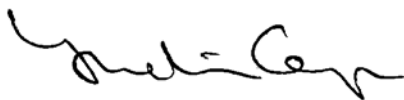
When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The proposals would need to have been in place for at least 3-4 years to measure their efficacy. This will be assessed as part of the review of the take up of the policies in the PPS on climate change.

Ministerial Sign-off For consul stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:



Date: 23 November 2007

Summary: Analysis & Evidence

Policy Option: iii	Description: iii) Placing a statutory duty on plan-makers in drawing up plans to do so with the objective of taking action on climate change with a view to mitigation of, or adaptation to, climate change.
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' No one-off costs. No extra costs over and above those identified by the PRIA for the Planning Policy Statement on Climate Change. This estimated costs to planning authorities based on costs to Regional Planning Bodies (x9) of £500,000 every 5 years and £50,000 per year and to Local Planning Authorities (x400) of £50,000 every 5 years and £500 per application.
	One-off (Transition)	Yrs	
	£0	N/A	
	Average Annual Cost (excluding one-off)		
	£0	N/A	
		Total Cost (PV)	£0
Other key non-monetised costs by 'main affected groups' No additional costs have been identified over and above those which have already been identified for implementing the policy in the Planning Policy Statement on Climate Change.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' No costed one off or annual benefits.
	One-off	Yrs	
	£0	N/A	
	Average Annual Benefit (excluding one-off)		
	£0	10	
		Total Benefit (PV)	£0
Other key non-monetised benefits by 'main affected groups' Greater clarity should lead to less wasted effort and quicker decisions within the planning system. Decreased carbon emissions are expected through increased uptake of renewable and low-carbon technologies and appropriately located and designed development.			

Key Assumptions/Sensitivities/Risks That the Planning Policy Statement on Climate Change and its associated impact assessment are published to support this proposal when comes into force.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £		
What is the geographic coverage of the policy/option?			England		
On what date will the policy be implemented?			Commencement (Summer/ Autumn 2008)		
Which organisation(s) will enforce the policy?			no enforcement		
What is the total annual cost of enforcement for these organisations?			N/A		
Does enforcement comply with Hampton principles?			N/A		
Will implementation go beyond minimum EU requirements?			No		
What is the value of the proposed offsetting measure per year?			£		
What is the value of changes in greenhouse gas emissions?			£		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices)			(Increase – Decrease)		
Increase of £N/A		Decrease of £N/A		Net Impact £N/A	
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value		

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focussed on the specific measure in the Planning Reform Bill which proposes to set out in primary legislation the role of local planning authorities in tackling energy efficiency and climate change. We want to place a high level commitment on local planning authorities to take action to tackle climate change but do not wish to prescribe this in detail should changes be required in the future.

For the purposes of this Impact Assessment, the status quo is stated as a benchmark to enable analysis of the costs and benefits of the proposal

Background

Effective spatial planning has a significant contribution to make in the response to climate change. The draft Planning Policy Statement on Climate Change (CCPPS) sets out how planning, in providing for the new homes, jobs and infrastructure needed by communities, should help shape places with lower carbon emissions and resilient to the climate change now accepted as inevitable. It is intended to focus, reinforce and clarify the role of the spatial planning system in meeting the objectives of UK Government's Climate Change Programme and energy policies. The PPS has three main aims. Firstly to ensure that developments brought forward reduce their carbon impact through appropriate choices of their location, their physical form and layout and the use of renewable and low-carbon energy. Secondly to ensure the planning process provides effective and positive support to proposals for renewable and low-carbon energy supplies. Thirdly to shape sustainable communities resilient to the impacts of climate change now accepted as inevitable, including more extreme weather events such as hotter and drier summers, periods of intense rainfall, flooding and rising sea levels. The government signalled its intention to legislate to set out the expectations on local planning authorities in the Planning White Paper.

Consultation on the draft Planning Policy Statement and its Partial Regulatory Impact Assessment (PRIA) took place at the end of 2006 as part of a wider package which included the Building a Greener Future initiative. This IA draws from the PRIA but also reflects consultation responses. When published the IA for the CCPPS will update these costs.

Costs and Benefits

Placing a statutory duty on plan-makers in drawing up plans to do so with the objective of taking action on climate change with a view to mitigation of, or adaptation to, climate change. LPAs would be expected to act in accordance with guidance prepared by the Secretary of State.

Sectors and Groups Affected

Legislating to set out the role of Local Planning Authorities in tackling energy and efficiency will have the greatest impact on Local Planning Authorities. The Partial Regulatory Assessment (PRIA) for the draft CCPPS identified the following sectors and groups as likely to be affected by the introduction of the new policy.

- regional and local planning authorities
- relevant Government Departments and agencies
- regional and local spatial planning authorities;
- building and infrastructure developers (housing and other developments, transport, water/waste etc);
- service providers (transport, water companies, waste management companies/contractors);
- technology providers and developers, such as suppliers of renewable, low carbon and decentralised energy systems, CHP, etc;
- home and land owners;
- financial providers, such as insurance and mortgage providers and development finance providers;
- special interest groups (e.g. NGOs);
- Vulnerable groups – low income households, elderly people, individuals with poor health, residents of housing in areas liable to flooding and, ultimately
- the general public and wider business, both through purchase and use of property and through the successful mitigation of climate change and provision of resilience to its unavoidable impacts.

Costs

No additional costs have been identified over and above those which have already been identified for implementing the policy on the draft CCPPS. The CCPPS PRIA identified that a number of additional costs would be imposed on authorities and other stakeholders, although in practice some of these costs may already be incurred as a result of existing planning policy and guidance addressing climate change. These costs can be broadly summarised as follows:

- costs to authorities of implementing the draft CCPPS;
- additional project preparation and planning costs for developers; and
- changes to construction, operation and maintenance costs for developers.

The PRIA anticipated that the majority of the costs will be incurred by the regional and local planning authorities, specifically:

- developing carbon emissions trajectories;
- undertaking regional vulnerability assessments;
- helping to realise potential for carbon capture and storage (CCS);
- conducting scoping reports for energy generation options;
- conducting scoping reports for opportunities for linking development sites in terms of energy, and utilising waste heat;
- convening and managing an advisory body on climate change;
- additional time spent assessing planning applications for climate change impacts; and
- setting up and maintaining a monitoring and review process, including data collection.

The PRIA estimated that the costs to planning authorities based on costs to Regional Planning Bodies (x9) of £500,000 every 5 years and £50,000 per year and to Local Planning Authorities (x400) of £50,000 every 5 years and £500 per application would be £15,350,000. The PRIA noted that when considered in the context of the overall cost of the spatial planning system, which is estimated to be well in excess of £1 billion per annum, these costs were not considered to be material. These costs have been provided for through the separate PRIA process associated with draft CCPPS.

Estimated Net Costs to Planning Authorities in England

Introducing this proposal would give emphasis to the requirement for planning authorities to apply the planning policy set out in the CCPPS but would not ask local authorities to do anything more than is already implicit in the planning process.

The primary additional impacts of the CCPPS on developers are anticipated to be an increase in the:

- uptake of on-site and off-site renewable and low carbon energy projects;
- approval of infrastructure for carbon capture and storage (CCS) schemes; and
- uptake of localised water treatment schemes.

The PRIA did not anticipate that there would be any extra impact on developers incurred by placing a statutory obligation or a duty on planning authorities in respect of climate change. The CCPPS PRIA stated that the costs to other stakeholders would depend very much on the types of projects that are submitted and accepted as a result of the CCPPS and that this could not be determined through the CCPPS PRIA. The PRIA anticipated that these costs would be minimal in the context of new developments.

Overall the impacts are not anticipated to be over and above those identified for the CCPPS. The proposal would place a statutory requirement in the form of a duty on planning authorities. In effect this places a statutory obligation to deliver, albeit at a much higher level and without the detail of the CCPPS, the expectations on local authorities that are already set out in the CCPPS. By requiring local planning authorities to take action in respect of their plan making responsibilities this proposal would send out a powerful signal to local planning authorities of the expectations placed upon them in respect of climate change and energy efficiency in the CCPPS.

Benefits

Benefits will come from reducing the contribution of development to climate change, increasing the ability of development to adapt to effects of climate change and from the increased uptake of renewable and low-carbon technologies but would not add significantly to those benefits identified by the CCPPS PRIA. The benefits have been modified slightly following consultation but do not change the overall picture and the following benefits have been identified as resulting from the introduction of the PPS:

- Greater clarity within the planning regime with respect to carbon and climate change issues.
- Reduced costs associated with climate change, both in the UK and internationally, due to the adoption of renewable and low-carbon energy technologies, and carbon capture and storage.
- Reduced environmental damage costs associated with non-carbon atmospheric emissions due to the reduced consumption of fossil fuels.
- Increased ability of developments to cope with higher temperatures without the need for expensive solutions such as air conditioning.
- Reduced health impacts associated with rising temperatures.
- Stimulation of the markets for renewable and low-carbon energy technologies

The benefits are unlikely to increase as planning authorities would not be expected to go beyond what they are already expected to do in respect of the policy in the CCPPS. The CCPPS PRIA identifies that the draft PPS will provide benefit through greater clarity for users of the planning system particularly in relation to the role of the land use planning system in carbon management. This clarification should help both planning authorities and applicants to have greater clarity around key issues such as the:

- remit of the planning system, for example with respect to how it complements Buildings Regulations;
- expectations of developers with respect to the carbon performance of new developments as they bring schemes forward; and
- the grounds on which the planning system may be used to influence the carbon performance of new development.

Greater clarity should lead to less wasted effort and quicker decisions within the planning system. The types of costs that this should save include:

- Removing ambiguity on the need for and type of policies that are appropriate with respect to the carbon performance of new development and standardising process but not outcomes.
- Fewer contested planning applications, potentially saving considerable amounts of time and money with respect to planning and legal advisors.
- More timely approval of planning applications. The CCPPS and the local policies that will be adopted will provide greater certainty for developers and reduce application processing times. These savings could outweigh the administrative costs of implementation to planning authorities and developers.

While the PRIA acknowledged that it was not possible to quantify the benefits associated with the greater clarity that will be provided by the CCPPS, it anticipated that the savings will, over time, be equal to or outweigh the administrative costs of implementation.

Providing clarity on the role of local planning authorities in tackling energy efficiency and climate change would give extra emphasis to the delivery of the policy which will lead to a greater awareness of the need to apply the CCPPS. It would have the benefit of bringing greater weight to the policy and result in a greater focus by local authorities on the need to take action in respect of climate change.

Costs and Benefits: *other options considered*

Do Nothing This would incur no direct extra costs but would miss the opportunity to give extra weight to the CCPPS. Doing nothing would not give teeth to the clear expectation to legislate. Reliance would be placed on planning policy statements to set out how local authorities should act to tackle energy efficiency and climate change. This would not raise the profile of energy efficiency and climate change in relation to the other planning policy requirements planning authorities are required to take into account when they draw up development plans or decide planning applications. Doing nothing would miss the opportunity to give extra weight to that policy.

Placing a statutory objective on climate change on local planning authorities in England with the objective of contributing to the achievement of sustainable development including the mitigation of and adaptation to climate change'. LPAs would be expected to act in accordance with guidance. This would have very similar costs and benefits to the preferred option but would not send as a strong a signal as the preferred option and would lend less weight to the delivery of the policy set out in the CCPPS.

Building on the proposed option this would place specific regulatory actions on local planning authorities which would support the energy supply policy in Building a Greener Future and the draft Planning Policy Statement on Climate Change (CCPPS). Adopting this option would place the planning policy contained in the CCPPS in primary legislation. The costs and benefits would be the same as for the preferred option. In effect it would require planning authorities to do no more than they would be required to do under the PPS. There would thus be no additional impacts. The option would however be less flexible should future changes be necessary to tackle climate change.

Specific Impact Tests

Specific assessment tests have been undertaken but we do not believe that the proposed changes would have any specific impacts on particular sectors of society. Any impact would not in any case be over and above that identified by the CCPPS PRIA.

Competition assessment

The CCPPS will not have a major impact on the business sectors affected (namely developers and suppliers of renewable and low carbon energy generation products). There will therefore be no change to the structure of the supply chain or demand, and hence no competition impacts. Any impact from this proposal would not in any case be over and above that identified by the CCPPS PRIA.

Small Firms Impact Test

The CCPPS is not expected to have any negative impacts on small businesses, as the greater focus and clarity on carbon issues should enable small developers to identify requirements more clearly. The benefits of improved clarity within the planning system will apply in particular to small developers.

By helping to develop markets for renewable, low carbon and decentralised energy technologies the CCPPS will also benefit the many small businesses active in this sector.

The administrative costs to developers from the additional cost associated with the CCPPS would be relatively small compared to the overall cost of preparing a planning application.

Any impact from this proposal would not in any case be over and above that identified by the CCPPS RIA.

Legal Aid Impact Test

The proposal doesn't introduce new criminal sanctions or civil penalties. There will be no impact on the workload of courts or legal aid costs.

Other economic issues

Will the proposal bring receipts or savings to Government? No direct receipts or savings to Government – broader environmental benefits will accrue from reduced climate change impacts.

Will it impact on the costs, quality or availability of goods or services? The CCPPS is drafted to ensure that non-deliverable technical solutions are not required – deliverable is intended to cover both technical and financial viability. There should be no impact on costs, quality or availability of goods and services as a result of this policy. The administrative costs to developers from the additional cost associated with the CCPPS would be relatively small compared to the overall cost of preparing a planning application.

Will it impact on public sector, the third sector, consumers? Planning authorities will incur additional administrative costs as a result of the CCPPS. Key tasks for Local Planning Authorities will be spatial growth testing, drafting policies, development briefs and codes, monitoring, presenting plans at public examinations, dealing with applications and appeals. The costs are not considered to be material in the overall context of the costs of the spatial planning system. None of the 4 options presented here will add to these costs.

Neither the third sector or consumers will be directly affected by this proposal.

Will the proposal result in new technologies? Adaptation measures in relation to climate change such as those to reduce flood risk or waste management options may well result in new technologies being developed but is not possible to predict what these might be. The overall impact of these would be expected to be beneficial within the anticipated costs to the national economy from the impact of climate change.

Will the proposal result in a change in the investment behaviour both into the UK and UK firms overseas and into particular industries? The primary additional impacts of the PPS are anticipated to be an increase in the:

- uptake of on-site and off-site renewable and low carbon energy projects;
- approval of infrastructure for carbon capture and storage (CCS) schemes; and
- uptake of localised water treatment schemes.

The quantity, type and scope of any projects that may occur as a result of the CCPPS, and that would not otherwise occur, are unknown and would be extremely hard to forecast with any degree of accuracy. It is therefore not possible to assess how investment behaviour might change.

Again the impact of the options under discussion here would not be additional to the impact of the CCPPS.

Carbon Impact

Will the proposal lead to a change in the emission of greenhouse gasses? Not in itself. But the proposal would give extra emphasis to delivering the requirements of the CCPPS without increasing costs. The CCPPS PRIA estimated the carbon abatement costs of technologies that are likely to become more common as a result of the CCPPS. At present, the majority of renewable and low carbon energy technologies whose adoption would be stimulated by the CCPPS produce electricity at a higher cost than conventional, grid based sources. These costs are predicted to decrease as renewable and low carbon technologies gain greater market share and become increasingly more cost efficient.

Other (DEFRA) Environmental Impact Assessment

There would be no additional impacts from the proposal to those identified in the CCPPS PRIA [though it should be noted that there was not a requirement to carry out a separate assessment for that PRIA].

The CCPPS is designed to help tackle the negative effects of climate change and would not in itself be vulnerable to the predicted effects of climate change. As such the CCPPS will contribute positively to the environmental and health impacts of waste management and also to air quality. Any financial costs would be outweighed by the benefits accrued through reducing the impacts of climate change.

Changes could affect the appearance of landscape or townscape where changes are needed to adapt or mitigate places too the effects of climate change. Where such changes occur they would have an overall positive effect.

The CCPPS is not directly concerned with water pollution, levels of abstraction of water or flood risk and is not likely to have an impact by itself. However the CCPPS will help planning authorities to take measures to adapt and mitigate places to the negative impacts of climate change which will include flood risk.

One of the CCPPS key planning objectives requires regional planning bodies and all planning authorities to sustain biodiversity, and in doing so recognise that the distribution of habitats and species will be affected by climate change. Habitats and wildlife should thus not be disturbed by the delivery of the CCPPS.

Health Impact Assessment

Will the proposal have an impact on health, wellbeing or health inequalities? Not in itself. But the proposal would give extra emphasis to delivering the requirements of the CCPPS. Rising summer temperatures are likely to have adverse health effects, particularly on those who are already in poor health. The CCPPS is likely to help alleviate summer heat stress through reductions in carbon

emissions, lessening of the urban heat island effect and improved ability of developments to cope with a warming climate. Although these beneficial effects are likely to be modest, they will nevertheless have positive health consequences. There may also be positive health, and in particular safety, benefits from reduced incidences and improved resilience to the impacts of severe weather.

In the longer term, climate change may increase the incidence of diseases that, for climatic reasons, are not common in the United Kingdom. This may include water borne and insect or wildlife borne diseases. Conversely, warmer winters may make a modest contribution to reducing cold weather and winter seasonal diseases.

By making clear expectations on protection from flooding, the CCPPS will also contribute to a reduction in the public health effects associated with flooding.

By ensuring full consideration is given to creating and securing opportunities for sustainable transport, the CCPPS may lead to a greater number of people choosing to walk and cycle on a regular basis, with associated health benefits due to exercise.

Overall, it can be concluded that the CCPPS is likely to have positive health effects, and the likelihood of negative health effects is very limited.

Doing nothing would lose the opportunity of clarifying local planning authorities' role in responding to climate change.

Race, Disability, Gender and Other Equality

The CCPPS PRIA considered equality impacts and concluded that no racial group should be adversely affected by this policy. An equality impact assessment screening exercise was carried out to assess whether a full equality impact assessment was required and it was concluded that the impacts would be minimal.

Other issues

Clarifying the role of local planning authorities in tackling energy efficiency and climate change would add no further impacts on other groups. The CCPPS PRIA identified that low income households were likely to be negatively affected by negative consequences of climate change. However the PRIA recognised that the effects of the CCPPS would be to reduce the impacts of climate change and improve the adaptability of new development to the effects of climate change and that this would benefit vulnerable groups.

The policy only applies to England.

Particular regions of the UK that are the most likely to be affected by the negative effects of climate change will see the most benefits from the policy introduced by the CCPPS. Clarifying the role of local planning authorities in tackling energy efficiency and climate change would place greater weight on authorities in meeting this challenge but the impacts are unlikely to change.

Human Rights

We have not identified any human rights impacts.

Rural Proofing

It has been identified that the Commission for Rural Communities do not think there is any prima facie reason for concern about this proposal from a rural perspective but it should be noted that DEFRA would keep CRC informed on this clause. The proposal goes no further than the CCPPS and the impacts will not differ. The PRIA identified that the CCPPS was not expected to have any impact on the amount of development that is brought forward. It did however, identify that the CCPPS will reinforce and clarify the need for new developments to be located in areas that encourage transport options other than private car use (for example public transport, walking and cycling) and that this may lead to less development being brought forward in some rural locations. However, the CCPPS contains no requirement that the total amount of development that occurs in rural areas should be reduced. Moreover, the CCPPS makes clear that when considering the need to secure affordable housing opportunities in rural areas to meet the needs of local people, planning authorities should recognise that an otherwise acceptable site may not be readily accessible by means of travel other than the private car.

The PRIA also identified that in the case of existing rural residents, they would be expected to experience the costs and benefits of the CCPPS in much the same way as urban residents. Therefore, no negative impacts were anticipated as a result of the CCPPS.

Sustainable Development

This specific impact test did not form part of the CCPPS PRIA. However the key planning objectives set out in CCPPS, expect that regional planning bodies and all planning authorities should prepare and deliver spatial strategies that conform to the five principle of sustainable development. The subsequent spatial strategies themselves would be subject to sustainability appraisal.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	Results in Evidence Base?	Results annexed?
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No



Annex to the Planning Bill Impact Assessment
Royal Assent



Annex to the Planning Bill Impact Assessment
Royal Assent

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Introduction

An Impact Assessment was published alongside the Planning Bill when it was introduced to Parliament on 27 November 2007.

Over the year since it was published a number of changes in policy have taken place. The most significant of these are changes to the machinery of government with the creation of the Department for Energy and Climate Change (DECC) and to energy policy resulting from the publications of the Renewables Strategy and the Nuclear White Paper. While these changes will undoubtedly impact on the work of the IPC, and in some respects reinforce the need for the IPC in addressing the changes required of the UK's energy infrastructure, it is too early to predict the numbers of projects that might come forward in these areas and what the associated costs and benefits will be.

The Impact Assessment published alongside the Planning Bill estimated net benefits from the proposals set out in the Bill to be up to almost £5bn. We believe that this remains a broadly accurate assessment of the costs and benefits of the proposals.

In light of policy developments in the intervening time, we now expect further benefits to accrue through earlier completion of some renewable energy and nuclear generation projects, though it is not possible to quantify these precisely at present.

No overall change is expected to administrative costs for Government or for business.

Because the original analysis set out in the Planning Bill Impact Assessment remains valid, this annex has been prepared for Royal Assent to detail the changes that have taken place over the past year, and indicate where possible how these could affect the overall costs and benefits as originally set out.

This update only affects part A – Nationally Significant Infrastructure Projects.

Annex

This annex should be read alongside the Planning Bill Impact Assessment, which can be found at:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/561912.pdf>

The Planning Bill Impact Assessment remains a broadly accurate and comprehensive assessment of the costs and benefits that are expected to accrue from the new regime which will be established by the Planning Act 2008.

However, over the year since it was published a number of changes in policy have taken place. The purpose of this update is to detail these changes, and indicate where possible how these could affect the overall costs and benefits as originally set out.

Headings and page number references in the text below refer to the headings and page numbers found in the Planning Bill Impact Assessment.

Net benefits to society from reducing delays in delivery of some NSIPs – Electricity Generation (Page 14)

Since the publication of the Impact Assessment in November 2007 the Government has published the Nuclear White Paper – the impact assessment that accompanied the Nuclear White Paper concluded that giving energy companies the option to invest in new nuclear power stations would:

- enable the UK to meet its energy policy goals at lower cost and with lower risk
- produce environmental benefits as a result of reduced UK CO₂ emissions from future electricity generation

Modelling work undertaken for the 2007 Energy White Paper¹ estimated that delivering the 60 per cent goal for CO₂ reduction in the scenario where we exclude new nuclear power stations, and all other technologies become available and are successfully deployed by 2050 at the cost assumed in the modelling, would by 2050 imply an additional annual cost to the UK economy of £1bn compared to a scenario where nuclear power is available.

As part of the impact assessment for the Climate Change Bill further analysis was conducted on achieving targets of 70 per cent and 80 per cent CO₂ emissions reduction by 2050. The costs of not allowing nuclear as an option would then rise to £3bn to £5bn per annum in the case of a 70 per cent reduction or £3bn to £11bn per annum in the case of an 80 per cent reduction target by 2050.

¹ <http://www.berr.gov.uk/files/file39387.pdf>

DECC has recently published updated energy and emissions projections for the period until 2025². This provides projections of new build in the electricity generation sector based on announced and funded policies. The table below shows projected new build for each type of generation technology in the period to 2025 in the central fossil fuel price scenario.

	2011–2015	2016–2020	2021–2025
Gas	5.8	5.7	0
Coal	1.7	1.5	2.0
Nuclear	0	1.5	6.0
Renewables	5.5	2.2	1.5

If the impact of the measures in the Planning Act is such that new nuclear build is advanced, as compared to a situation where current planning procedures continue, then there is benefit to the UK in terms of reduced electricity generation costs. Some of this cost saving will be in the form of carbon abatement (that is, the industry would need to buy fewer EU ETS allowances or could sell more to the market). Analysis building on modelling for the Energy White Paper, and reflecting the energy projections in Table 1, suggests that if a projected 7.5 GW of new nuclear capacity up to 2025 were to be brought forward by one year, there is a discounted benefit up to 2030 of around £500m in the central fossil fuel price scenario, compared with a scenario where the equivalent amount of electricity is generated from gas-fired stations.

As set out in the January 2008 Nuclear White Paper³, the Government is conducting a Strategic Siting Assessment process as part of the development of the Nuclear National Policy Statement. The Government has recently consulted on draft criteria that will be used to assess the suitability, at a strategic level, of appropriate locations nominated for new nuclear power stations. Following analysis of consultation responses the Government will invite nominations for suitable locations and assess the nominated locations against these criteria. A further public consultation will be held inviting views on those nominated locations judged by the Government to meet the criteria. The Government is also carrying out a Strategic Environmental Assessment (SEA) on the Nuclear National Policy Statement (NPS) to take further the consideration of high level environmental impacts in accordance with the SEA Directive. It is too early to predict the numbers of projects that might come forward and the associated costs and benefits.

The Government published in June 2008 a consultation on a Renewable Energy Strategy (RES) that will outline how we will meet our targets under the European Commission's Renewable Energy Directive. It is expected that as a result of the EU wide target of 20 per cent renewable energy by 2020 that a much higher proportion of the UK's electricity generation will come from renewable sources and that this may alter the balance of the type of projects coming to the IPC. It is too early to predict

² <http://www.berr.gov.uk/files/file48514.pdf>

³ <http://www.berr.gov.uk/files/file43006.pdf>

the numbers of projects that might come forward and the associated costs and benefits.

As noted above, DECC's recently published energy and emissions projections do not take account of the RES as it is not a firm and funded policy. Modelling for the consultation document on the RES, however, indicated that there would need to be a significant increase in the level of renewable generation capacity from the current level of around 5 GW to a range of between 35 and 40 GW by 2020. The largest increases in capacity would come in the form of wind generation.

No assumptions have been made about these projects happening more quickly as a result of the measures in the Planning Act. Investors will come forward with new renewable electricity projects based on the profitability of these projects and the framework to incentivise renewable electricity generation (currently the Renewables Obligation).

Not all renewable energy projects will fall under the auspices of the IPC as some will be smaller than the 50 MW threshold for onshore and 100MW for offshore. The measures in the Planning Act will, however, make it more likely that the UK will meet its proposed target of 15 per cent of energy from renewable sources by 2020 by reducing the risk to investors of projects being delayed or rejected. Greater certainty over planning may also have the effect of reducing the hurdle rate of return required by investors for renewable energy projects, which would reduce the cost to the UK economy of meeting the renewable energy target. We have not sought to quantify this effect.

Electricity Generation (Page 21)

Since the modelling was undertaken for the original Impact Assessment, a number of developments in energy policy have taken place which were not captured in the overall costs and benefits:

- the central case assumes a flat CO₂ price of €25/t CO₂
- the current Large Combustion Plant Directive (LCPD) applies
- Energy White Paper measures including a banded Renewables Obligation were included but the projections did not include any assumptions about targets under the Renewable Energy Directive as the strategy is still being consulted on
- some non opted-out coal-fired capacity closures are assumed

The prospects for individual technologies in the central projection show that in the years to 2011, coal generation in the central projection remains close to the levels seen in 2008. The precise impact of the LCPD will become clearer through time. Coal-fired generation falls away as generating units or stations close due either to having generated 20,000 hours or through reaching the end of their economic lifetimes. The exact timing of the former effect is uncertain, however, it is inevitable that there will be a steady and significant decline in coal-fired capacity between around 2011 and the end of 2015. A small build of new coal stations is projected, with the initial units commencing operations in 2013–14. The extent of new coal

capacity coming on stream is difficult to assess, particularly as there are a large number of significant influences. The central projections include new coal capacity of around 3GW in 2020, rising to around 4GW in 2023.

Gas-fired generation in the central projection indicates little change from 2008 levels through to around 2014 despite more gas-fired capacity coming on stream. The central projection suggests further new gas build by 2016 temporarily increasing gas-fired generation before falling away somewhat as a result of other base load generation such as nuclear and, when available, renewables coming on stream.

Although the exact profile of nuclear generation in the very short term is unclear, it is projected to recover from recent low levels to around 63TWh in 2010, before falling through time reflecting the expected profile of plant closures. It is assumed that by 2020 the equivalent of one new station will be available with further new capacity following thereafter. By 2023 around 5GW of new nuclear capacity is projected and by 2025 around 7.5GW.

Prospects for renewables in the short term are very much dependent on the rate at which capacity can physically be added to the system.

NPSs (Page 26)

It is now planned that 12 NPSs will be produced, covering the range of infrastructure sectors listed below.

- Overarching Energy – DECC (setting the context for the other five energy NPSs below)
- Renewables – DECC
- Fossil Fuel – DECC
- Electricity Networks – DECC
- Oil and Gas Infrastructure – DECC
- Nuclear Power – DECC
- Ports – DfT
- National Networks – DfT (roads and rail)
- Airports – DfT
- Waste Water – Defra
- Water Supply – Defra
- Hazardous Waste – Defra.

The first tranche – those NPSs on non-nuclear energy and Ports – are currently scheduled for publication for consultation in the summer and then designation in early 2010.

For later NPSs, we plan to start the consultation on the Nuclear NPS in 2009 following on from the package of non-nuclear NPSs, and we are aiming to designate this NPS in the spring of 2010. The National Networks NPS is scheduled for consultation and Parliamentary scrutiny in draft, alongside its AoS Report, in autumn 2009 with designation later in 2010. We expect consultation on the draft Waste Water NPS late in 2009, with the Hazardous Waste NPS published in draft in spring 2010, the Water Supply NPS later 2010, and the Airports NPS planned for publication in draft by 2011.

Number of future NSIPs (Page 29)

The original Impact Assessment estimated that around 45 major projects a year would be considered by the IPC, but made clear that that this figure would vary from year to year, because supply will depend on market conditions.

However, since publication of the Impact Assessment there have been further developments:

- DfT have reviewed the number of highway projects they were anticipating, and now expect a reduction to around 12 to 15 a year
- following publication of the draft Renewable Energy Strategy and the Nuclear White Paper, we would expect more renewable energy, and some nuclear projects, to come forward for IPC determination
- changes were made at Committee to bring gas transporter pipelines within the scope of the Bill, and reduce the number of electricity line projects

These changes will have an impact on the overall number of applications coming forward. It is too early to predict the numbers of projects that might come forward for IPC determination in the case of Renewables and Nuclear projects. However, taking these changes as a whole, the Government still believes that 45 major projects a year remains a fair reflection of the IPC's anticipated workload.

For some of the infrastructure types covered by the Bill, such as Energy and Ports, it is not possible to estimate the number of project applications by developers as these will depend on developers' commercial decisions based on their technology choices and types of projects. The assumption that an average of 45 projects per annum will fall to the IPC to determine should therefore be regarded as indicative only, not as predictive.

Costs of setting up and running the IPC (Page 30)

As of the date of publication of this Impact Assessment, a considerable amount of work is ongoing to establish the IPC. As the detailed planning for the set up of the IPC progresses, it is inevitable that there will be some differences with the assumptions originally made. Recruitment of the IPC's Chair is ongoing; this post was advertised with remuneration in the range £190,000–250,000. Following more detailed consideration, this is higher than that envisaged in the original Impact Assessment published when the Bill was introduced (c. £150,000). This reflects the need to recruit

a person of sufficient calibre to carry out this challenging role. Recruitment for the IPC's Deputy Chairs, remaining commissioners and CEO will be carried out during 2009. We envisage advertising these roles on ranges broadly consistent with the estimates given the original Impact Assessment. This change falls within the assumed error margin, and the overall assumptions originally made about the cost and size of the IPC and its Secretariat remain valid, and are the best current estimate of size and cost.

Costs to promoters – Costs incurred during the consent process, excluding application fees (page 32)

The original Impact Assessment gave estimations of costs, intended to represent 'typical' schemes, incurred by promoters during the consent process under the current regime. Based upon the cost of the Public Inquiry quoted in *Sizewell B: An Anatomy of the Inquiry* by O'Riordan, Kemp and Purdue (1988), and the subsequent BNFL/BE Sizewell B study in 2002, it is estimated that for Nuclear schemes, total promoter costs amount to £40m. We decompose this cost as follows: preparation of an application costs £30m, and cost at examination stage £10m.

The new regime will reduce the time taken for examination of an application. For a Nuclear scheme, examination under the current regime is estimated at 18 months, and we anticipate that this will be reduced to nine months under the new regime (three months from the point of submission to the start of examination, and six months for the examination itself). Assuming that promoter costs at examination stage fall in proportion to the time taken for examination, this represents a reduction in costs to promoters from £10m to £5m per application.

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