



Impact Assessment

Planning Act 2008 – Town and Country Planning



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Department for Communities and Local Government
Eland House
Bressenden Place
London SW1E 5DU
Telephone: 020 7944 4400
Website: www.communities.gov.uk

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Contents

	Page
Introduction and Ministerial sign off	4
Summary: Analysis and Evidence	6
Impact Assessments:	9
(a) Improving the Local Development Framework process	
i. Removing the requirement of SPDs to be listed in the LDS	9
ii. Removing the requirement of SPDs to undergo a sustainability appraisal	17
iii. Removing the the requirement for independent examination of Statement of Community Involvement	27
iv. Enabling the High Court to remit a development plan to an intermediate stage in the preparation process	37
(B) Helping address climate change	
v. Statutory requirements on a regional spatial strategy for a region and on a local planning authority’s development plan documents (taken as a whole) for their area, to include policies designed to secure that the development and use of land contribute to the mitigation of and adaptation to climate change	46
(C) Making the planning application process more efficient	
vi. Changes to the Requirement for Making a Local Development Order (LDO)	59
vii. Amending the compensation arrangements for changes for permitted developments	70
viii. Granting local planning authorities the discretion to allow minor amendments to existing planning permissions	79
ix. Introduction of power to decline to determine repeat deemed applications	89
x. Simplification of the statutory rules relating to Tree Preservation Orders (TPOs)	97
xi. Amending s237 Town and Country Planning Act 1990 and equivalents	105
xii. Transfer the whole double deemed fee to local authorities	115
xiii. Statutory “design duty” on those exercising regional/local development plan functions	124
(D) Improving the appeal process	
xiv. Changes to procedures for the correction of errors in appeal decisions	135
xv. MIPs appeals: provision to require appeals to the High Court against planning decisions on MIPs to be made within 6 weeks of the decision	143
xvi. Provision to secure the transfer of additional appeals to Inspectors	152
xvii. Allowing the Planning Inspectorate to determine the procedure for appeals and call-in cases	165
xviii. Introducing fees for planning appeals	190
xix. Granting SoS power to regulate time limit for appealing against a refusal to issue a LDC	214

Introduction

The Planning Act, as a whole, takes forward many key elements of the planning white paper, *Planning for a Sustainable Future*, published in May 2007. There are broadly three elements to the Act:

1. Nationally Significant Infrastructure Projects:

In particular, the Act establishes an independent Infrastructure Planning Commission to take decisions on major infrastructure projects (eg major airports, ports, strategic rail network).

2. Community Infrastructure Levy:

It also introduces the Community Infrastructure Levy, which will help to harness the value of an increased range of planning permissions to generate additional infrastructure funding and thereby unlock housing growth.

3. Town and Country Planning reform:

The Act also implements many of the Town and Country Planning (TCP) reform proposals stated in *Planning for a Sustainable Future* and a number of consultation papers published alongside the White Paper.

The TCP Act amendments, 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 overall outcomes. The TCP measures in the Planning Act fall into one of four groups:

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

There are three Impact Assessment (IAs) related to the Planning Act as a whole:

- Nationally Significant Infrastructure Projects IA
- Community Infrastructure Levy IA
- Town and Country Planning IA

This is the town and country planning IA. It is a composite of separate Impact Assessments, each of which deals with the separate costs and benefits of a specific measure of the Act. The town and country planning element of the Planning Act (at Part 9, Chapter 2) contains 23 sections, for which there are 19 Impact assessments. The apparent disparity between these numbers is because although, legislatively, some measures (such as local development documents) can be implemented by a single clause, they have differing social and economic impacts and require separate impact assessments. Similarly, other measures (such as climate change) although legislatively more complex, requiring two sections of the Act, have economic and social impacts which can be assessed within a single impact assessment. Furthermore, some sections had practically no social or economic impact and, in consequence, do not require an impact assessment.

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

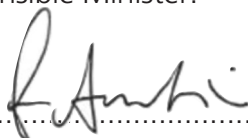
The Act includes contains a number of measures which will impact on Wales. In some instances the town and country planning measures outlined below will apply directly to both England and Wales. Where this is the case the relevant impact assessment reflects this. In other instances, measures will apply 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. Measures in the Act also confer legislative competence, limited to specified matters, on the National Assembly for Wales. This will enable Assembly Measures to be enacted in accordance with the Government of Wales Act 2006. Impact assessments will be carried out in respect of draft measures brought forward, in accordance with relevant Assembly procedures.

Ministerial sign off box

Ministerial Sign-off For 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 Table of Annual Monetised Impacts <i>continued</i>										
IA	Benefits			Costs			Total			
	Applicants Appellants	LPAs	PINS	CLG + OGDs	Applicants Appellants	LPAs	PINS	CLG + OGDs	Monetised Impact	
xi. Power to override easements and other rights	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	
xii. Fees [Doubled deemed]	£0.0 m	£0.3 m	£0.1 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.3 m	£0.1 m	
xiii. Design	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	
xiv. Correction of errors in appeal decisions	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	
xv. Validity of orders, decisions and directions	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	
xvi. Transfers of appeals to Inspectors	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	
xvii. Determination of procedure	£1.4 m	£0.7 m	£2.1 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£4.2 m	
xviii. Fees for Appeals	£0.0 m	£0.0 m	£2.6 m	£0.0 m	£2.6 m	£0.0 m	£0.2 m	£0.0 m	-£0.2 m	
xix. Granting SOS power to regulate time limit for appealing against a refusal to issue LDC	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	£0.0 m	
TOTAL	£9.6 m	£4.3 m	£4.9 m	£0.0 m	£2.6 m	£0.0 m	£0.2 m	£0.3 m	£15.7 m	

Figures used are £ millions

Note:

This table does not give the 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 impacts, unless stated otherwise, are nationwide per year.

Technical Notes

Net Present Values (NPVs) are calculated in this report in light of Better Regulation Executive guidance¹ and the 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 Act 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 Act 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.

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of removing the requirement of SPDs to be listed in the LDS.
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Stage: Act	Version: Final	Date: 27 November 2008
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Related Publications: Planning for a Sustainable Future: white paper

Available to view or download at:

<http://www.>

Contact for enquiries:

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 initiate 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 cut costs and ensure more responsive and timely plan making.

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, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence			
Policy Option: B		Description: Withdraw 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'. Possibility that measure will reduce scope for consultation. However, no new policy should be introduced in SPDs.			
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 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 and Wales			
On what date will the policy be implemented?		DN			
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 focused on the specific measure of the Planning Act 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 cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- costs
- benefits
- the status quo is also stated as a benchmark to enable analysis of the costs and benefits of the proposal

Context

Local Development Frameworks (LDFs) include 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'.⁴

Question 36 of the Planning white paper asked: *'Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme?'*

The proposal to remove the requirement to list supplementary planning documents in the local development scheme was welcomed by a large majority of those who answered the question (423) particularly government bodies. Approximately one-quarter of those agreeing included comments.

⁴ As taken from the Local Development Framework database on 30 August 2007

The main points were:

- concern at the loss of the informative role of the local development scheme; need for an informal list in its stead; the change should not be a back door route to bad policy
- respondents suggested that due process of local consultation and scrutiny would still need to take place

The potential loss of the informative role of the local development scheme was also raised in our discussions with some stakeholder groups

Sectors and groups affected

Local authorities

The public and stakeholders involved in SPD production.

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 is 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 and Local Government	Title: Impact Assessment of removing the requirement of SPDs to undergo a sustainability appraisal.
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Stage: Act

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:

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. This is not always necessary however because:

- the necessary SA work undertaken on higher tier Development Plan Documents (DPDs) (such as a Core Strategy) will be wide ranging and cover much of what is 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:

..... **Date:**

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'	
	One-off (Transition)	Yrs	None	
	£ 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' LPAs:	
	One-off	Yrs	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.	
	£ 0			
	Average Annual Benefit (excluding one-off)			
	£ 1,690,000	10	Total Benefit (PV)	£ 14,055,000
Other key non-monetised benefits by 'main affected groups'.				
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				
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 Act 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?		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 focused on the specific measure of the Planning Act 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 cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- costs
- benefits
- the status quo is also 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'.

Question 37 of the Planning White Paper asked: *'Do you agree in principle that there should not be a blanket requirement for supplementary planning documents to have a sustainability appraisal, unless there are impacts that have not been covered in the appraisal of the parent DPD or an assessment is required by the SEA Directive?'*

A large majority of those who answered the question (395) supported the proposals for the blanket requirement for sustainability appraisal of all supplementary planning documents to be dropped, with just over one-fifth of those agreeing making comments. The weakest support was from the public.

The main points were:

- there could be less onerous processes and less repetition of appraisals if carried out at a higher level
- the proposal would result in increased flexibility and improved accessibility of supplementary planning documents to community groups
- uncertainty about how the proposals would work in practice, and need for clear guidance on when a sustainability appraisal would be needed
- development plan documents provide the generic context for any supplementary planning documents and thus cannot ensure that all aspects of the supplementary planning documents have been fully appraised

The community engagement work by Planning Aid revealed support for the continuance of Sustainability Appraisal as a mechanism to ensure full and up-to-date discussion of sustainability issues.

Sectors and groups affected

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 £1.69m. 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:

$$(1265 * £4000) / 3 = £1.69m$$

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 and Local Government	Title: Impact Assessment of removing the requirement for independent examination of Statements of Community Involvement.
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Stage: Act

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.

Option A: Do Nothing

Option 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:

..... **Date:**

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' LPAs: Savings from not having to hire an inspector and the costs of running two consultations. Based on each local authority saving between £680 and £1,700 per SCI.	
	One-off	Yrs		
	£ 0			
	Average Annual Benefits (excluding one-off)			
	£54,000-£135,000	10	Total Benefit (PV)	£450,000 to £1,125,000
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 to £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 Act 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 focused on the specific measure of the Planning Act which proposes to end the statutory requirement for an independent examination of Statements of Community Involvement.

For purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- costs
- benefits
- the status quo is also 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 2005,⁵ 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

⁵ This can be found at: www.communities.gov.uk/index.asp?id=1162337

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.

Question 34 of the Planning White Paper stated: 'We think it is important to enable a more joined up approach to engagement locally. We propose to use the new Duty to Involve to ensure high standards but remove the requirement for the independent examination of the separate planning Statements of Community Involvement. Do you agree?'

A large majority of those who answered the question (415) agreed that the use of the 'duty to involve' process would be an improvement over the present system, particularly government bodies and businesses.

The main points were:

- the proposal would speed up the process because the examination of Statements of Community Involvement had added little to the process
- the 'duty to involve' must provide a clear standard approach that would allow all participants to fully engage with the system
- clarification was needed on the definition of 'duty to involve', and guidance was sought on the protocol for local authorities

The community engagement work by Planning Aid revealed strong opposition to this proposal in the questionnaire responses; with scepticism that general 'duties' are strong enough to ensure effective consultation. A similar concern also emerged in discussions with a number of stakeholder groups

Sectors and groups affected

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 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 effect. There will however be savings in the future as SCIs should be updated approximately every five 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.

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 likely to be addressed in more detail in its accompanying manual.

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 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 and Local Government	Title: Impact Assessment of enabling the High Court to remit a development plan to an intermediate stage in the preparation process.
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Stage: Act

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.

Option A: Do Nothing

Option 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.

Option B is the preferred option.

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:**

Summary: Analysis & Evidence				
Policy Option: B		Allow the High Court to return the development plan document to a specified point in the plan making 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, upon implementation by WA. See note below.)			
On what date will the policy be implemented?	Commencement (Spring 2009).			
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 focused on the specific measure of the Planning Act 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 cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- costs for local authorities and businesses
- benefits for local authorities and businesses

The status quo is also 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 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.

Question 35 of the Planning White Paper asked: *'Do you agree that the High Court should be able to direct a plan (both at the local and regional level) to be returned to an earlier stage in its preparation process, rather than just the very start?'*

Almost all of those who answered the question (382) agreed with the proposed increased High Court flexibility with greatest support from business

and professionals and academics. Of those who agreed, less than one-quarter had comments.

The main points were:

- the proposal could save a significant amount of time and resources, as a lot of repetitive work could be omitted
- importance of identifying an appropriate earlier stage in the process that the plan could be returned to and remain a sound basis for further work

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 cost 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 £1m 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, five per cent (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 per cent of the average costs of preparing a Development Plan Document. It is therefore estimated that £1m 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 and Local Government	Title: Impact Assessment of the statutory requirements on a regional spatial strategy for a region and on a local planning authority's development plan documents (taken as a whole) for their area, to include policies designed to secure that the development and use of land contribute to the mitigation of and adaptation to climate change.	
Stage: Act	Version:	Date: 24 November 2008
Related Publications: Planning Policy Statement on Climate Change - Impact Assessment (published January 2008). Building A Greener Future – Regulatory Impact Assessment		

Available to view or download at:

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

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 Planning Policy Statement on Climate Change (CCPPS) sets 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 in primary legislation a statutory obligation to have climate change policies in regional spatial strategies and local development plan documents sends a powerful signal of the Government's commitment to see regional and local planning used positively to help tackle both the causes and consequences of climate change.

What are the policy objectives and the intended effects?

The objective is to use primary legislation to support Government planning policy on climate change and its ambitions for an effective response from the planning system on climate change.

The intended effects are to secure action on climate change through regional and local planning.

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

A) do nothing

B) placing statutory requirements on regional and local plans to include policies designed to secure that the development and use of land contribute to the mitigation of and adaptation to climate change. Plans would be expected to be drawn up in accordance with guidance prepared by the Secretary of State

C) placing specific and detailed actions on regional and local plans consistent with the detail of the energy supply policy in Building a Greener Future and the CCPPS

Option A) is unacceptable. Option C) risks building in inflexibilities. Option B) is favoured because of the imperative to take action without being prescriptive on the face of legislation.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The impact of the statutory obligation will be assessed as part of the evaluation of the CCPPS. This is expected within three years.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence			
Policy Option: B		Placing statutory requirements on regional and local plans to include policies designed to secure that the development and use of land contribute to the mitigation of and adaption to climate change. Plans would be expected to be drawn up by the Secretary of State	
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 IA for the CCPPS. This estimated the net costs to planning authorities (local planning authorities and regional planning bodies) in England as a total average cost per year (over 10 years) of £7,475,000 and total costs for developer representations on plans of £1,700,000. Figures are averages. All costs are estimates by consultants (see section on costs).
	One-off (Transition)	Yrs	
	£ 0	N/A	
	Average Annual Cost (excluding one-off)		
	£ 0	N/A	
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 CCPPS.			
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	
Other key non-monetised benefits by 'main affected groups'. Greater clarity should lead to less wasted effort and quicker decisions within the planning system.			
Key Assumptions/Sensitivities/Risks That the statutory requirement is implemented in line with the CCPPS.			
Price Base Year 2008	Time Period Years 10	Net Benefit Range £	NET BENEFIT (NPV Best estimate) £

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	Spring 2009			
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)

This Impact Assessment is focused on the requirements in primary legislation for a regional spatial strategy for a region and for a local planning authority's development plan documents (taken as a whole) for the local planning authority's area, to include policies designed to secure that the development and use of land contribute to the mitigation of and adaptation to climate change.

For the purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- sectors and groups affected
- costs
- benefits
- the status quo is also stated as a benchmark to enable analysis of the costs and benefits

Effective spatial planning has a significant contribution to make in the response to climate change. The CCPPS sets 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. Spatial planning, regionally and locally, provides the framework for integrating new development with other programmes that influence the nature of places and how they function. This means it has central part to play in enabling local action and in creating an attractive environment for innovation and investment by the private sector.

Costs and benefits

The statutory duty on regional and local plans to include policies designed to secure that the development and use of land contribute to the mitigation of and adaptation to climate change is set within the general expectation that plan-makers have regard to guidance prepared by the Secretary of State.

Sectors and groups affected

The IA for the 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
- 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 (eg NGOs); ultimately the general public and wider business, both through purchase and use of property and through climate change impacts; and
- vulnerable groups – low income households, elderly people, individuals with poor health, residents of housing in areas liable to flooding

Costs

No additional costs have been identified over and above those which have already been identified for implementing the policy in the CCPPS. The CCPPS IA 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 CCPPS
- additional project preparation and planning costs for developers and
- changes to construction, operation and maintenance costs for developers

The IA anticipated that the majority of the costs will be incurred by regional and local planning authorities, specifically:

- assessing, testing and monitoring the performance of planning strategies on mitigating climate change and adapting to the impacts of likely changes to the climate
- undertaking regional vulnerability assessments
- gaining an evidence-based understanding of the feasibility and potential for decentralised and renewable or low-carbon technologies
- conducting scoping reports for opportunities for linking development sites in terms of energy, and utilising waste heat
- additional time spent assessing planning applications for climate change impacts and
- setting up and maintaining the data collection necessary to support effective monitoring and review

The IA estimates the net costs to planning authorities in England as a total average cost per year (over 10 years) of £7,475,000. This is based on estimated costs to regional planning bodies (x 9) of £100,000 per year in 2008, dropping to £50,000 per year from 2013; and to local planning authorities (x 340) of £22,500 per year in 2008, dropping to £8,125 per year

from 2013. Two factors were applied to these assessed gross costs of implementing the PPS:

- the 'policy' costs have been reduced to 50 per cent of the cost in 2008 by 2013 after which they remain constant, to take account of accumulated information and studies informing future policy development and
- the 'application handling' costs in 2008 are reduced to 25 per cent of that value in 2018, to take account in particular of the implementation of more stringent Building Regulations, accumulated expertise, adoption of 'standardised' solutions by applicants and real increases in planning application fees of RPI plus three per cent

Introducing the statutory requirement gives emphasis to the expectation on regional and local plan-makers to apply the planning policy set out in the CCPPS but would not ask them to do anything more than is already expected.

The primary additional impacts of the CCPPS on developers were anticipated by the IA to be an increase in the:

- uptake of on-site and off-site renewable and low carbon energy projects
- creation of decentralised energy systems
- more effective and positive support for renewable and low-carbon energy supplies and
- changes to the type, form and density of development

It is not anticipated that there would be any extra impact on developers incurred by placing a statutory requirement on regional and local plans in respect of climate change. The CCPPS IA notes that landowners and developers incur costs in making representations on planning policies and in development control. It estimates that the estimated additional representation costs to developers from the existence of the PPS will be £1.7m. It notes that the majority of additional costs to development control associated with the CCPPS are being incurred already and that these costs will be more than offset by savings from focusing and clarifying the role of the planning system in addressing climate change.

Overall the impacts are not anticipated to be over and above those identified for the CCPPS. The statutory requirements on the content of regional spatial strategies and local development plan documents would set in statute, albeit at a much higher level and without the detail of the CCPPS, the expectations that are already set out in the CCPPS. By requiring regional and local planners to take action on climate change in their plan-making the statutory requirements send out a powerful signal on the expectations placed on the planning system on climate change, by the CCPPS.

Benefits

Benefits would come through the statutory requirements putting weight behind the CCPPS but would not add significantly to the potential benefits

identified by the CCPPS IA. This identified that the primary benefit of the CCPPS would be to enable the planning system to support the implementation of the Government's other climate change policies (including the Climate Change Act, *Building a Greener Future* and the *Energy White Paper*). Without a supportive planning system, the costs of the Government's climate change policies would be higher.

The CCPPS IA predicts the following benefits to accrue from the introduction of the CCPPS:

- greater clarity for all users of the planning system
- energy savings through decentralised energy schemes
- expanded markets and demand for renewable and low carbon technologies
- broader environmental benefits, through reductions in the impacts of climate change
- reduction in the demand for conventionally generated electricity, leading to the reduction of non-carbon atmospheric emissions from fossil fuel power stations (for example particulate matter and oxides of sulphur and nitrogen)
- benefits in terms of increased security of supply to the national and regional energy system, arising from reduced energy demand (and therefore reduced fossil fuel imports)
- potential reduction of energy costs with associated benefits for fuel poverty and business competitiveness
- improvements to health and productivity through occupying buildings with better temperature control and more natural light
- improvement to local air quality by reducing the need to travel, especially by car, and health benefits associated with walking and cycling and
- improved resilience of communities to the climate change now accepted as inevitable, and clearer expectations on protection from flooding

The benefits are unlikely to increase substantially as plan-makers would not be expected to go beyond what they are already expected to do in respect of the policy in the CCPPS. The CCPPS IA identified that the CCPPS will provide benefit through greater clarity for users of the planning system particularly in relation to the role of spatial planning in tackling climate change. This clarification should help both regional and local plan-makers and applicants for planning permission have greater confidence 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 and confidence 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 development plan 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 both the public sector and developers.

While the IA 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.

Placing statutory requirements on the climate change content of regional and local plans gives extra emphasis to the delivery of the CCPPS which will lead to a greater awareness of the need to apply the CCPPS thoroughly and consistently. It would have the benefit of bringing greater weight to the policy and result in a greater focus by regional and 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 policies in the CCPPS and fail to make good use of the potential to tackle climate change offered by the planning system.

Building on the statutory requirements by placing specific and detailed actions on regional and local plans consistent with the detail of the energy supply policy in Building a Greener Future and the 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 CCPPS. 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 Assessments

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 IA.

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 IA.

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.

Any impact from this proposal would not in any case be over and above that identified by the CCPPS IA.

Legal Aid Impact Test

Any impact from this proposal would not be over and above that identified by the CCPPS IA. The CCPPS IA states that there will be no legal aid impact.

Sustainable Development, Carbon assessment, other Environmental

There would be no additional impacts from the proposal to those identified in the CCPPS IA.

The CCPPS IA states that the CCPPS will have positive impacts in all of these areas by ensuring that spatial planning makes a full contribution to delivering the Government's Climate Change Programme and energy policies, and doing so contributes to global sustainability. It is also expected to shape places that are resilient to climate change and which conserve and enhance biodiversity, with a new emphasis on green spaces and the importance of community infrastructure in adaptation.

Health Impact Assessment

Will the proposal have an impact on health, wellbeing or health inequalities?
 Not in itself. But options other than the 'do nothing' option would give extra emphasis to delivering the requirements, and associated benefits, 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 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 and any reduction in congestion.

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.

Race, Disability, Gender and Other Equality

There would be no additional impacts from the proposal to those identified in the CCPPS IA.

The CCPPS IA considered equality impacts and concluded that the CCPPS will not have any significant impact on any of the equality strands. 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.

Human Rights

Any impact from this proposal would not be over and above that identified by the CCPPS IA. The CCPPS IA states that there will be no human rights impact.

Rural Proofing

The proposal goes no further than the CCPPS and the impacts will not differ. The CCPPS IA identified that the CCPPS was not expected to have any impact on the *amount* of development that is brought forward. It notes that the CCPPS reinforces and clarifies 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). 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 sustainable rural development, including employment and affordable housing opportunities to meet the needs of local people, planning authorities should recognise that a site may be accessible even though it may not be readily accessible by means of travel other than the private car.

The IA 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.

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 and Local Government	Title: Impact Assessment on Changes to the Requirement for Making a Local Development Order (LDO)
Stage: Act	Version: Date:
Related Publications: DCLG Circular 01/2006 – Guidance on Changes to the Development Control System	

Available to view or download at:
<http://www.>

Contact for enquiries: Graham Davis

Telephone: 0207 944 3952

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

Local planning authorities have been able to make a Local Development Order (LDO) since 10 May 2006, but so far no LDOs have been made. LDOs grant planning permission for specific developments which are specified within the order.

The Government is keen that local authorities can use the discretionary powers at their disposal to amend permitted development rights at the local level. The problem is that a restriction currently exists on local authorities issuing LDOs as they have to be used to implement a policy in a Development Plan Document (DPD).

What are the policy objectives and the intended effects?

The objective is to make it easier for local authorities to exercise the powers at their disposal by removing the requirement that an LDO can only be made to implement a policy contained in a development plan document, or a local development plan in Wales.

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

A) Do Nothing.

Option B: Amend primary legislation to remove the requirement that an LDO can only be made to implement a policy in a development plan document, or a local development plan in Wales.

Option B is preferred as we believe that requiring LDOs to be linked to DPDs causes unnecessary delay in the making of an LDO. It could also discourage their use given the time and resources that would be needed to see one adopted in the relevant DPD.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Three years at which time LDOs that have come forward independently of DPDs will need to be examined.

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

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence			
Policy Option: B		Description: Changes to the requirement for making an Local Development Order.	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' No additional costs for local planning authorities (LPAs) or developers.
	One-off (Transition)	Yrs	
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 0		
Other key non-monetised costs by 'main affected groups'.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised One-off benefits by 'main affected groups' Benefits can not be quantified as no Local Development Order (LDO) has yet been made and it is therefore not possible to determine how this measure will affect their uptake.
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£0		
Other key non-monetised benefits by 'main affected groups'. Benefits can not be quantified as no Local Development Order (LDO) has yet been made and it is therefore not possible to determine how this measure will affect their uptake.			
<p>Key Assumptions/Sensitivities/Risks Time savings to LPAs when they wish to implement LDO without an accompanying Development Plan Document (DPD).</p> <p>Cost savings to developers that do not have to apply for planning permission as an LDO has come into force earlier than would otherwise be the case.</p>			
Price Base Year	Time Period Years	Net Benefit Range £	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			
Which organisation(s) will enforce the policy?		N/A			
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)

Background

A key aim of the Government is to provide a speedier and more efficient planning system. The power for a local authority to make an LDO was part of a package of measures contained in the Planning and Compulsory Purchase Act 2004 to assist in the speeding up of the planning system. LDOs grant planning permission for the type of development specified in the LDO and by so doing, negate the need for a planning application to be made by the developer. Local planning authorities (LPAs) received almost 650,000 applications for planning permission in 2006-07⁶.

Certain types of development are already permitted without the need to apply for planning permission. These permitted development rights are set out in the Town and Country Planning (General Permitted Development) Order 1995 (the GPDO). The GPDO grants a general permission for various types of relatively small-scale and normally uncontentious development without the need to make a planning application to the local authority. These provisions are designed partially to ensure that people have a reasonable degree of freedom to improve their properties. They also relieve local planning authorities of the need to determine numerous, routine planning applications. The Government has already consulted on proposals to extend householder permitted development and introduced changes on 6 April 2008 that allow most types of householder microgeneration to be installed without the need to apply for planning permission. It will be consulting on non-householder proposals in the summer.

However, these rights are set nationally by Government. LDOs can therefore be seen as an extension of permitted development, but decided upon locally in response to local circumstances. It is at the discretion of a local authority as to whether to make an LDO. The LDO can relate to the whole of the local authority area, parts of the area or apply to a specific site. The scope of any LDO would reflect local circumstances and might be used to reduce the burden of having to determine applications for types of development that are locally uncontentious. Alternatively they might be used to encourage a particular type of development by reducing cost and increasing certainty for potential developers by putting in place planning permission.

Rationale for Government intervention

Local planning authorities have been able to make an LDO since 10 May 2006 in England, but so far no LDOs have been made. As well as the requirement that they can only be used to implement a policy in a development plan document, we believe it is likely that a further significant reason for the lack of activity in relation to LDOs is the fact that the Government has made clear that it intends to amend permitted development rights nationally (as referred to above) and that local authorities may be

⁶ <http://www.communities.gov.uk/publications/planningandbuilding/developmentcontrolstats>

awaiting the outcome of that that before deciding whether they want to make any changes to that locally. The provisions have also yet to be commenced in Wales.

Rules specifying the procedures for making an LDO and what they can be used for are set out in both primary and secondary legislation. The Government is keen that local authorities can use the discretionary powers at their disposal to amend permitted development rights at the local level and we have considered, therefore, whether there is scope to simplify any of these procedures.

Section 61A of the Town and Country Planning Act 1990 requires that an LDO can only be made to implement a policy in a development plan document, or a local development plan in Wales. We believe that making this a pre-requisite can cause unnecessary delay in the making of an LDO or discourage their use given the time and resources that might be needed to see one adopted in the relevant development plan.

Sectors and groups affected

- LPAs
- any individual, business or organisation that might benefit from not having to apply for planning permission because an LDO came into force earlier than it would have done or who would benefit because an LDO might not previously have been made

Options

A - Do Nothing.

B - Amend primary legislation to remove the pre-requisite that an LDO can only be made to implement a policy in a DPD. An LDO could, therefore, be made to grant planning permission for most types of development (except for those specifically exempted, for example, for development affecting a listed building). However, the other existing procedures set out in legislation would still have to be followed; in particular, the requirement to publicise and consult on the draft LDO and take into account representations that were made would remain. LPAs could still use LDOs to implement policy that is in DPDs if they wish.

Costs and benefits

A quantified assessment is not possible as no LDOs have been made as of December 2007. It is therefore not possible to identify what impact this measure will have on the uptake of LDOs.

Option A:

No additional costs or benefits have been identified from this option. LDOs will however still have the potential to be delayed by the requirement for them to implement policy in a DPD. Potential benefits to developers from LDOs being implemented will therefore continue to be delayed.

Option B - Costs

Although there might be costs to local authorities who make an LDO, there is no additional cost from the change that this Impact Assessment relates to. In addition, there should be no impact on public consultation as LDOs are subject to their own process of consultation and publicity which mirrors that for a DPD.

This proposal should also not lead to any new additional environmental costs from development as it simply provides an alternative way to grant planning permission and similar safeguards exist to those for “normal” planning permission. See Specific Impact Tests

There should also be no cost from the proposal to make an LDO, not being examined by inspectors when it is part of a development plan. It is expected that if a policy of making an LDO was included in a DPD, the proposal would not be very detailed at that stage. Inspectors would not therefore have been able to carry out an examination of the detail of the policy.

Option B – Benefits

Benefits for LPAs

LPAs would benefit in two ways. First, by not being required to only make an LDO that implements a policy in a development plan document (or a local development plan in Wales) they would be able to bring into force the planning permission contained in the LDO more quickly. Although there are clear requirements around the publication of a draft LDO, consultation with those likely to be affected by an LDO and consideration of any representations they might make, this process is likely to be significantly quicker than that around the adoption of development plan document which also requires independent examination before it can be adopted. We believe that a reasonable estimate of the time it might take to make a relatively straightforward LDO, for example, one extending permitted development rights for householders, might be around six months. A similarly straightforward development plan document is likely to take longer – perhaps around 18 months to adopt. Therefore, even if the LDO-making process ran alongside that for the development plan document (as we recommend so as to minimise the resources required for the making of an LDO), it is likely that an LDO could come into effect around a year earlier than under the current regime.

This is based around the assumption that an LDO might on average take (under this proposal) around six months to make. This is based on an estimate of how long it might take to go through the various procedures before an LDO can be made. These include: initial policy consideration of a proposal; the requirement to produce a Statement of Reasons explaining what would be permitted and justifying the proposal; a requirement to produce a draft LDO; the requirement to publicise their intention to make an LDO and consult statutory consultees; the requirement to allow a minimum of 28 days for representations to be made; the requirement to consider any representations made.

Secondly, there might be a reduced cost involved in bringing the LDO into force by removing the link to a planning development plan document. This would be the case even where the LDO was developed and consulted on alongside the development plan document it relates to as there would be time savings from the LDO within the DPD no longer being subject to independent examination. In addition this could speed up the independent examination process as there would be no need for the Inspector to have to consider any representations on the LDO alongside the representations on the DPD. Whilst this is difficult to specifically quantify as it would change on a case-by-case basis, the time savings would be made in two places. Firstly, the local authority would not be required to summarise the representations on the LDO for the Inspector. Secondly, the Inspector would not be required to consider them as part of the examination into the DPD. Both these time savings could save approximately three months of total submission and examination time, and would assist in one of the key aims of streamlining the local development framework system, set out in revisions to Planning Policy Statement 12 (*Local Development Frameworks*) and changes to the regulations.

Benefits to Potential Developers

Other than local planning authorities the other main beneficiaries of this proposal are those individuals, organisations or businesses that would potentially no longer have to apply for planning permission.

There are two ways in which a developer might benefit. First, by being able to make an LDO more quickly an LDO might come into force earlier than it would have done and therefore there could be a period (of perhaps around 18 months) where developers would no longer have to bear the costs associated with applying for planning permission. Secondly, there could be marginally more LDOs as they will be slightly easier for LPAs to make.

As no LDOs have been made it is not possible to estimate the benefit to developers. The impact of the proposal on any future increase in uptake of LDOs can not be determined and consequently savings to developers are unknown.

We believe that this change is most likely to be significant for LDOs covering more minor types of development as these LDOs will be the easiest, quickest and cheapest to produce and therefore any time or cost saving is likely to be relatively more significant. Work carried out on behalf of the Government to assess the administrative costs of regulation⁷ showed that the average administrative cost of a minor application was £1,450 and the administrative cost of a householder application was £725.

⁷ See Communities and Local government's administrative burdens measurement report and simplification plan: <http://www.communities.gov.uk/publications/corporate/simplification-plan>.

In addition an application for planning permission must be accompanied by a fee. Examples of the fees that have applied since April 2008⁸ are set out in the table below.

Application Type	Fee
For a new dwelling	£330
Householder consent (eg home extension)	£150
Change of use	£330
An advertisement application	£95

In addition to the reduced cost associated with not having to apply for planning permission, one further benefit is the increased certainty provided by the LDO ie that development that accords with the LDO can go ahead and there is therefore not the potential risk of incurring the costs of applying and then having the application turned down.

Competition Assessment

An LDO is a planning permission, but one granted voluntarily by the local authority rather than at the request of a developer. We do not believe that the procedural change considered under Option 2 would: directly or indirectly limit the number or range of suppliers; limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Small Firms' Impact Test

There should be no adverse impact on smaller firms. Small firms involved in development could benefit from LDOs being brought forward earlier under this proposal as they could save the costs involved in applying for planning permission.

Legal aid

The policy does not have a legal aid impact.

Sustainable development/ other environment/ carbon assessment

There is no significant environmental impact. LDOs enable development without further scrutiny at development control, but are subject to restrictions on what they can be used to permit and what needs to be considered before they can be made. For example, an LDO cannot be made at all to allow the type of large-scale development covered by Schedule 1 of the "EIA regulations"⁹. More relatively minor types of development that are covered by these regulations can be permitted through an LDO, but can only do so if the requirements specified in the regulations have first been complied with. More minor development, that might be encouraged under this option, is unlikely to have a significant environmental affect.

⁸ See The Town and Country Planning (Fees for Applications and Deemed Applications) (Amendment) (England) Regulations 2008 [SI 2008/958]: http://www.opsi.gov.uk/si/si2008/uksi_20080958_en_1

⁹ The Town and Country Planning (Environmental Impact Assessment etc)(England and Wales) Regulation 1999.

Health impact assessment

The policy does not have a health impact. Development under an LDO will still have to comply with appropriate health legislation and building regulations.

Race equality assessment

As required by the Race Relations (Amendment) Act 2000 we have also examined whether any of the options would affect any groups or communities (e.g. black and ethnic minority (BME) groups) differentially. We believe that they would not.

Disability Equality

The policy is not believed to have a disability equality impact.

Gender Equality

The policy is not believed to have a gender equality impact.

Human Rights

The policy is not believed to have a human rights impact.

Rural proofing

The policy is not believed to have a specific impact on rural 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	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options	
Department /Agency: Communities and Local Government	Title: Impact Assessment on Changes to the compensation arrangements for changes for permitted developments
Stage: Act	Version: Date:
Related Publications: Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders	

Available to view or download at:
<http://www.>

Contact for enquiries: Graham Davis

Telephone: 0207 944 3952

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 remove the current deterrent to amend PDRs by allowing changes to be made to them subject to sufficient notice (12 months) being given so that potential developers do not incur abortive costs. The Government is currently looking to generally extend PDRs, but would like the ability to make restrictions where necessary. A much more permissive system than currently exists would also be facilitated (and be more acceptable) by the ability of LPAs to make amendments locally to PDRs where there is a strong reason to do so. These amendments will apply to sectors specified by regulations, after consultation. Initially, measure would apply to householders.

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

A): Do Nothing.

Option B: Amend primary legislation to remove the requirement for compensation when changes are made as long as 12 months notice has been given. To apply to sectors as specified in regulations. Initially, this will mean householders.

Option B is the preferred option.

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

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

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence			
Policy Option: B		Description: Remove the requirement for compensation when changes are made as long as 12 months notice has been given, applicable to sectors as specified via regulations.	
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		
Other key non-monetised costs by 'main affected groups'. Not necessarily any cost from withdrawing compensation. Previously, developers only benefited from compensation for 12 months after a change in PDR. Under the proposal PDRs only come into effect 12 months after the "notice" period.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised One-off benefits by 'main affected groups'
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£ Unknown		
Other key non-monetised benefits by 'main affected groups'. Local authorities would not have to pay compensation for necessary changes to PDRs. Also enable a more ambitious PDR regime to operate in the future in the knowledge that it could be subsequently refined – benefiting potential developers.			
<p>Key Assumptions/Sensitivities/Risks Time savings to LPAs when they wish to implement LDO without an accompanying Development Plan Document (DPD).</p> <p>Cost savings to developers that do not have to apply for planning permission as an LDO has come into force earlier than would otherwise be the case.</p>			
Price Base Year	Time Period Years	Net Benefit Range £	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?		April 2010			
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 focused on the specific measure of the Planning Act 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. Measure is applicable to sectors as specified in regulations. Initially, this measure would apply only to householder – for whom there has already been consultation.

For purposes of this assessment, the cost benefit analysis adopts the following format:

- sectors and groups affected
- costs
- benefits

The status quo is the benchmark so as to enable analysis of the costs and benefits of the proposal.

Background

PDRs 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 express 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 in exceptional circumstances 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.

Sectors and groups affected

- LPAs.
- any householder 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

Householders 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. This is difficult to estimate as it is difficult to know how Government or individual LPAs might want to amend PDRs in the future.

In practice, we believe there is not necessarily any cost. Previously, applicants only benefited from compensation for 12 months after a change in PDR. Under the proposal PDRs only come into effect 12 months after the "notice" period. This means that in the 12 months after a restrictive change to PDR is announced, applicants/householders will be able to proceed with the development instead of receiving compensation. 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 to know 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 absolutely necessary as they will longer be restricted by the fear of compensation claims. A survey by Roger Tyms identified that 31 per cent of local authorities were reluctant to apply article 4 directions because of the threat of compensation. This will not only apply to restrictive changes as Local Authorities will know that they will not face compensation claims if they have

to reverse a permissive change. 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 would not be possible without 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 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

An Equalities impact screening assessment was applied to this proposal and stakeholders were consulted to determine the potential for equalities impact. There has been a little concern that if there was an increased likelihood that LPAs would be more likely to restrict householder PDRs there could be a potential adverse impact. 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. In addition, the 12 month period provides that no real rights would be lost in practice. Overall, therefore, we do not expect any adverse impacts as a result of this proposal.

Human Rights

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

Rural Proofing

Having engaged the views of Commission for Rural Communities, we believe this measure will not have a negative impact on rural 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.

5151	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 and Local Government	Title: Impact Assessment of granting local planning authorities the discretion to allow minor amendments to existing planning permissions
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Stage: Act

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: Graham Davis

Telephone: 0207 944 3952

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.

Option 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? Three 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:**

Summary: Analysis & Evidence			
Policy Option: B		Description: Allow Local Planning Authorities discretion to decide whether an amendment to what was previously built requires planning permission	
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		
Other key non-monetised costs by 'main affected groups'. 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.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised One-off benefits by 'main affected groups' Saving to developers: Estimate cost saving of no longer having administrative costs involved in new applications caused by minor amendments. This is estimated at £1,400,000 They will also save application fees estimated at £6,755,000
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£ 8,155,000		
Other key non-monetised benefits by 'main affected groups'. Benefits 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.			
Key Assumptions/Sensitivities/Risks			
Price Base Year 2007	Time Period Years 10	Net Benefit Range £	NET BENEFIT (NPV Best estimate) £ 67,822,000

What is the geographic coverage of the policy/option?		England			
On what date will the policy be implemented?		April 2010			
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) (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 focused on the specific measure of the Planning Act which proposes to grant LPAs the power to make minor amendments to existing planning permissions.

For purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- costs
- benefits

The status quo is also stated as a benchmark to enable analysis of the costs and benefits.

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 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.

Question 40 of the Planning White Paper asked: 'Do you agree that it should be possible to allow minor amendments to be made to a planning permission? Do you agree with the approach?'

A large majority of those who answered the question (417) supported the proposed flexibility for local planning authorities to make minor amendments to planning permissions. Of those who agreed, under half made comments. Support for the proposal was greatest from the business sector.

The main points were:

- detailed suggestions about how a scheme could be made to work effectively and be fair for those affected by minor amendments
- concern about cumulative impacts, particularly in designated areas

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 suggests 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 per cent of major applications are repeat applications to deal with minor amendments. Communities and Local Government 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 per cent 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

Department /Agency: Communities and Local Government	Title: Impact Assessment of introduction of power to decline to determine repeat deemed applications	
Stage: Act	Version:	Date:
Related Publications: Improving the Planning Appeals System - Making it more proportionate, customer focused and well resourced.		
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? <p>At present when a deemed planning application arising from an enforcement appeal notice is rejected by the Planning Inspectorate (PINS) it is possible for the application to be repeated forcing PINS to consider it again. These repeat applications are almost invariably rejected and the reconsideration is wasteful.</p>		
What are the policy objectives and the intended effects? <p>The objectives are to stop unnecessary delay in the planning system. The intended effects are to save PINS resources by preventing them from having to consider repeats of deemed planning applications by giving LPAs the power to dismiss them out of hand.</p>		
What policy options have been considered? Please justify any preferred option. <p>A): Do Nothing.</p> <p>Option B: Grant power to PINS to decline repeat deemed applications.</p> <p>Option B is preferred as it will save money by preventing PINS from considering repeats of deemed applications.</p>		

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, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence			
Policy Option: B		Description: Grant power to LPAs to decline repeat applications and repeat deemed applications	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' None
	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'. None			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised One-off benefits by 'main affected groups' Benefit to PINS of not having to reconsider rejected applications. £75,000
	One-off	Yrs	
	£0		
	Average Annual Benefit (excluding one-off)		
	£ 75,000		
			Total benefit (PV) £ 624,000
Other key non-monetised benefits by 'main affected groups'. LPAs: minimal savings from not having to consider repeats of deemed planning applications.			
Key Assumptions/Sensitivities/Risks The above saving is based on there having previously been around 30 cases per year and each case taking one and a quarter administrative days for PINS and a one day enquiry.			
Price Base Year 2007	Time Period Years 10	Net Benefit Range £	NET BENEFIT (NPV Best estimate) £ 624,000

What is the geographic coverage of the policy/option?		England and Wales			
On what date will the policy be implemented?		April 2009			
Which organisation(s) will enforce the policy?		LPAs			
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?		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)		(Decrease)			
Increase of £		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 focused on the specific measure of the Planning Act which will grant local planning authorities the power to decline to determine repeat deemed applications.

For purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- sectors and groups affected
- costs for local authorities and businesses
- benefits for local authorities and businesses

The status quo is also stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Background

At present the Planning Inspectorate(PINS) must consider repeated applications where, within the last two years, the Secretary of State has refused a similar deemed application arising from an enforcement notice appeal under section 174(2)(a) of the Town and Country Planning Act 1990.

These repeats of deemed applications almost invariably fail and are a waste of PINS resources.

Sectors and groups affected

- LPAs
- PINS
- planning applicants who repeatedly hand in the same application to LPAs

Costs and benefits: *Grant power to LPAs to decline a repeat of a deemed application*

Benefits

Savings to PINS

Currently there are approximately 30 repeat planning applications each year. These applications cost PINS approximately £2,500 per case. This is based on the administrative costs of processing the application which takes one and a quarter admin days on average and the costs of the enquiry which generally last for one day. We therefore estimate that PINS should benefit by £75,000 per year.

Savings to LPAs

Local planning authorities will no longer have to consider repeats of deemed planning applications. They will however still be able to consider ones to which they wish to grant planning permission. Since they will still have to view the application to determine that it is a repeat of a deemed application the cost savings to LPAs will be minimal.

Costs

None. Since LPAs will still be able to consider repeats of deemed planning application when they consider that there is a chance that the application will be successful, there will be no cost to planning applicants

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

We have not identified any additional costs or benefits by 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

An Equalities impact screening assessment was applied to this proposal and stakeholders were consulted to determine the potential for equalities impact. We do not expect any adverse impacts as a result of this proposal.

Human Rights

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

Rural Proofing

Having engaged the views of Commission for Rural Communities, we do not believe this measure will have a negative impact on rural 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	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Simplification of the statutory rules relating to Tree Preservation Orders
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Stage: Act

Version:

Date:

Related Publications: 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.

Option 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:**

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		
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		
	£			
	Average Annual Benefit (excluding one-off)			
	£ 514,000	10		
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 three per cent 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 2008	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 Act and publication of the regulations (2010)		
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?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)		
Increase of £	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 focused on the specific measure of the Planning Act 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 II*¹⁰ 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.

Add in results of previous consultation.

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.

¹⁰ Communities and Local Government (forthcoming). *Trees in Towns II*

This saving is difficult to quantify. In Arup's 2003 fees research¹¹ the total cost of the service was estimated at £15.5 to £18.8m. 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 three 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.

¹¹ 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 and Local Government	Title: Impact Assessment of amending s237 Town and Country Planning Act 1990 and equivalents.
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Stage: Act

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 Seagall

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

Option 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:**

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	
	£	N/A	
	Average Annual Cost (excluding one-off)		
	£	N/A	
Other key non-monetised costs by 'main affected groups'. Developers: more compensation - relatively small. Rights owners: loss of ability to sue for damages - possibly relatively large.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Developers: lower development costs, removal of risk of being sued for damages - relatively large. Rights owners: more compensation - relatively small.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£		
Other key non-monetised benefits by 'main affected groups'. Developers: time saved, less complexity (monetised as lower development costs?)			
Key Assumptions/Sensitivities/Risks Assumption: no change in the amount of development as a result of change in s237.			
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 (Spring 2009)		
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?		Yes/No		
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 £		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 focused on the specific measure of the Planning Act 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 cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- costs for local authorities and businesses
- benefits for local authorities and businesses

The status quo is also 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 rights¹². 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.

¹² The proposal is to amend section 237 Town and Country Planning Act 1990 (for local planning authorities) and its equivalents in Schedule 6 paragraph 2 Regional Development Agencies Act 1998 for RDAs; Schedule 20 paragraph 5 Leasehold Reform, Housing and Urban Development Act 1993 for the URA (EP); section 19 New Towns Act 1981 for New Towns; and Schedule 28 paragraph 6 Local Government, Planning and Land Act 1980 for UDCs.

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 over 30 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 equivalents following commencement of the Planning Act, 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 ie 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 and Local Government	Title: Impact Assessment of proposal to transfer whole double deemed fee to local authorities
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Stage: Act

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 Seagall

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: Do nothing

Option 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? Three years.

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

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence			
Policy Option: B		Provide the entire double deemed application fee to the LPA.	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The Consolidated Fund will lose double deemed application fees equivalent to a loss in resources of approximately £311,000.
	One-off (Transition)	Yrs	
	£	10	
	Average Annual Cost (excluding one-off)		
	£311,000		
Other key non-monetised costs by 'main affected groups'.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' LPAs will gain the portion of double deemed fees that previously went to PINS this is equivalent to gain in resources of approximately £311,000. PINS will benefit from no longer having to process double deemed fees this is equivalent to approximately £72,000 per year.
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
	£383,000	10	
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 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 599,000

What is the geographic coverage of the policy/option?		England (and Wales, upon implementation by WA. See note below.)		
On what date will the policy be implemented?		Post assent of the Act 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?		No		
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 £		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 focused on the specific measure of the Planning Act which will enable the transfer of the whole double deemed fee to the local planning authority.

For purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- costs for local authorities and businesses
- benefits for local authorities and businesses

The status quo is also 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.¹³

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	124.67	£16,795	£5,717	£22,512
Procedure					
EOs	£29,638	53.73	£7,283	£2,486	£9,769
AOs	£22,322	89.55	£9,086	£4,144	£13,230
Income Processing					
HEOs	£39,385	12	£2,148	£555	£2,703
AOs	£22,322	36	£3,653	£1,666	£5,318
Account Management					
HEOs	£39,385	12	£2,148	£555	£2,703
EOs	£29,638	48	£6,467	£1,823	£8,290
Payment Processing					
EOs	£29,638	24	£3,233	£1,111	£4,344
AOs	£22,322	38.18	£3,873	£1,766	£5,639
AAAs	£19,878	6.36	£575	£294	£869
Totals			£55,261	£20,117	£75,378

¹³ 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 and Local Government	Title: Impact Assessment of a statutory “design duty” on those exercising regional/local development plan functions	
Stage: Act	Version: Final	Date: 27/11/08
Related Publications: Planning Policy Statement 1: <i>Delivering Sustainable Development</i>		

Available to view or download at:

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

Contact for enquiries: Andrew Gough Telephone: 0207 944 6511

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

Good design is a fundamental aspect of sustainable development. However, despite this fact, and the emphasis placed on the need for design within Planning Policy Statement 1, much development is accepted where the design is poor. Placing a ‘design duty’ in legislation; setting out what is expected from planning authorities, in their development plans, to “have regard to the desirability of achieving good design” would send a powerful signal of the Government’s commitment to see good design embedded within the planning system, thus making a full and proper contribution to the attainment of sustainable development.

What are the policy objectives and the intended effects?

The objective is that local authorities should take greater account of good design in both their plan-making and development control responsibilities as laid out in PPS 1, thus leading to better quality design of development proposals coming forward and being accepted. This will ensure good design plays a full and positive role in the delivering of sustainable development.

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

A: do nothing

ii) Placing a statutory duty on plan-makers to have regard to desirability of achieving good design with the objective of contributing to the achievement of sustainable development. LPAs would be expected to act in accordance with guidance prepared by the Secretary of State.

Option i would achieve nothing.

Option ii would raise the profile of design and ensures it is properly taken into consideration by plan-makers and thus better contributes to the achievement of sustainable development.

Option ii is the preferred option.

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 within PPS 1 more widely.

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: ii Placing a statutory duty on plan-makers to have regard to desirability of achieving good design with the objective of contributing to the achievement of sustainable development.	
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 IA for the Climate Change PPS. This estimated the net costs to planning authorities (local planning authorities and regional planning bodies) in England as a total average cost per year (over 10 years) of £7,475,000 and total costs for developer representations on plans of £1,700,000. Figures are averages. All costs are estimates by consultants (see section on costs).
	One-off (Transition)	Yrs	
		N/A	
	Average Annual Cost (excluding one-off)		
		N/A	
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 PPS on Planning and Climate Change.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' No one-off or annual benefits have been monetised.
	One-off	Yrs	
	£ 0	N/A	
	Average Annual Benefit (excluding one-off)		
	£ 0	10	
Other key non-monetised benefits by 'main affected groups'. Greater clarity relating to the importance of design should lead to speedier decisions and less wasted effort later in process. Increased realisation of importance of design/need for higher quality levels of design in proposals will lead to improvements in quality of developments.			
Key Assumptions/Sensitivities/Risks			
Price Base Year	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 599,000

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	Commencement			
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 focused on the specific measure in the Planning Act which proposes to set out in primary legislation the role of planning authorities in having regard to the desirability of achieving good design in pursuing the objective of contributing to the achievement of sustainable development.

We want to place a high level commitment on planning authorities to take action on good design but do not wish to prescribe this in greater detail.

For the purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- sectors and groups affected
- costs
- benefits
- the status quo is also stated as a benchmark to enable analysis of the costs and benefits of the proposal

Background

Planning Policy Statement 1: Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development through the planning system. PPS 1 policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.

PPS 1 set out four aims for sustainable development in its 1999 strategy. These are:

- social progress which recognises the needs of everyone
- effective protection of the environment
- the prudent use of natural resources and
- the maintenance of high and stable levels of economic growth and employment

These aims should be pursued in an integrated way through a sustainable, innovative and productive economy that delivers high levels of employment, and a just society that promotes social inclusion, sustainable communities and personal well being, in ways that protect and enhance the physical environment and optimise resource and energy use.

PPS 1 states that planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by, amongst other things, *“ensuring high quality development through good and inclusive design, and the efficient use of resources.”*

Costs and benefits

Placing a statutory duty on plan-makers to “have regard to the desirability of achieving good design” in contributing to sustainable development will require LPAs to act in accordance with guidance prepared by the Secretary of State.

Sectors and groups affected

We have identified the following sectors and groups as likely to be directly affected by the introduction of the new policy:

- regional and local planning authorities
- relevant Government Departments and agencies
- building and infrastructure developers (housing and other developments, transport etc)

This provision will raise the profile of design for planning authorities in development plans. Consequently, the principal impact will be on planning authorities. Whether there will be a consequential impact on applicants/developers would largely depend on the design quality of their development proposals. Improvements in design and the quality of the built environment have an impact on the public in general and on wider business, both through purchase and use of property, although the impact is relatively small and variable from sector to sector.

Costs

No additional costs to local planning authorities and regional planning bodies have been identified over and above those which have already been identified for implementing the policy within PPS 1 on sustainable development. However, any impact as a result of this provision is likely to be marginal, since PPS 1 already indicates the importance of good design. Nonetheless, such costs could include:

- convening and attending meetings with advisory bodies on design
- additional time spent assessing planning applications for design impacts

There may be some concomitant costs to applicants/developers as a result of the design duty, although these are not likely to be significant, as PPS 1 already clearly stated design policies. Such costs are likely to be due to:

- additional project preparation to improve design quality for developers;
- modifications to development or construction plans, as a result of design considerations
- an increase in the requirements for developments of high design quality, with perhaps a greater potential for refusals on grounds of insufficient design quality. However, we do not anticipate that this would be particularly significant in the long term

The Regulatory Impact Assessment for the PPS on Climate Change estimates the net costs to planning authorities in England as a total average cost per year (over 10 years) of £7,475,000. This is based on estimated costs to regional planning bodies (x 9) of £100,000 per year in 2008, dropping to £50,000 per year from 2013; and to local planning authorities (x 340) of £22,500 per year in 2008, dropping to £8,125 per year from 2013. Two factors were applied to these assessed gross costs of implementing the PPS:

- the 'policy' costs have been reduced to 50 per cent of the cost in 2008 by 2013 after which they remain constant, to take account of accumulated information and studies informing future policy development and
- the 'application handling' costs in 2008 are reduced to 25 per cent of that value in 2018, to take account in particular of the implementation of more stringent Building Regulations, accumulated expertise, adoption of 'standardised' solutions by applicants and real increases in planning application fees of RPI plus three per cent

Introducing the statutory requirement gives emphasis to the expectation on regional and local plan-makers to apply the planning policy set out in the PPS on Climate Change but would not ask them to do anything more than is already expected.

Benefits

The benefits of the design duty stem from the greater likelihood of planning authorities to consider design as a key factor in achieving sustainable communities as laid out in PPS 1. This should lead to:

- greater regard given to design (from planning authorities and developers) leading to a general improvement of design standards overall
- added consideration given to high quality of design could impact positively on consideration of other factors, including greater insulation, water-harvesting, CHP, and microgeneration

Whilst there are benefits of good design, they are hard to quantify. PPS 1 states that good design ensures attractive, usable, durable and adaptable places and is a key element in achieving sustainable development. Any positive impact with regards to design quality for houses or other buildings, as a result of this provision, is likely to be long term.

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 issue of design.

Reliance would instead be placed on the use of planning policy statements by local authorities in how design is taken into consideration. This would not raise the profile of design in relation to the other planning policy requirements that 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.

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 PPS 1 RIA.

Competition assessment

The design duty will not have a major impact on the business sectors affected (namely developers and suppliers of materials for houses/buildings/infrastructure). 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 PPS 1 RIA.

Small Firms Impact Test

The proposal does not have any additional negative impacts on small businesses. The design policies are largely those which are already required of planning authorities in PPS 1. Thus, there would be no additional impacts.

Any administrative costs or impacts from this proposal would not be over and above of PPS 1.

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 a planning system in which the need for good design is given due regard in development plans.

Will it impact on the costs, quality or availability of goods or services? No.

Will it impact on public sector, the third sector, consumers?

Planning authorities should already consider the need for good design as a key component of sustainable communities, as stated within PPS 1. There should therefore be no – or minimal – additional administrative costs for authorities as a result of the design duty.

Neither the third sector nor consumers will be directly affected by this proposal.

Will the proposal result in new technologies?

This is unlikely, but, if so, would largely be the indirect application of technologies relating to other factors which form an element of good design. For example, changes to improve design could incorporate other measures in relation to, for example, climate change or waste management technologies.

These 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?

Not as far as can be determined. Again the impact of the options under discussion here would not be additional to the impact of PPS 1.

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 good design without increasing costs.

Other (DEFRA) Environmental Impact Assessment

There would be no additional impacts from the proposal to those identified in PPS 1.

[Though it should be noted that there was not a requirement to carry out a separate assessment for that RIA].

Health Impact Assessment

Will the proposal have an impact on health, wellbeing or health inequalities?

We consider that this is unlikely. Indeed, given the importance of good design to general well-being, however indefinable, it is likely to have positive health consequences, although the effects are likely to be modest.

Race, Disability, Gender and Other Equality

As the proposal largely takes forward that policies already contained in PPS 1, we do not consider there to be any equality impacts and have therefore 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

We do not believe that clarifying the role of local planning authorities to the need to have regard to the desirability of achieving good design in contributing to the achievement of sustainable development would add further impacts on other groups.

Human Rights

We have not identified any human rights impacts.

Rural Proofing

As the proposal largely takes forward that policies already contained in PPS 1 we do not consider there to be any *prima facie* reason for concern about this proposal from a rural perspective. The proposal goes no further than the PPS 1 and the impacts will not differ.

Sustainable Development

This specific impact test did not form part of the PPS 1 RIA. However the key planning objectives set out in PPS 1, 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

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of changes to procedures for the correction of errors in appeal decisions	
Stage: Act	Version:	Date: November 2008
Related Publications: Consultation Document: "Improving the Appeal Process in the Planning System - Making it proportionate, customer focused, efficient and well resourced" (May 2007); Summary of Responses (November 2007); Government Response to Consultation Replies (November 2007).		

Available to view or download at:

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

Contact for enquiries: Katie Jones/Siobhan Fox

Telephone: 0207 944 6530/4817

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

The Secretary of State and the Planning Inspectorate have the power to issue a notice correcting an error in an appeal decision that is not part of the reasoning on which that decision is based. To be able to exercise this power, the unconditional written consent of the appellant and the landowner(s) is needed. Obtaining consent can prove problematic and identifying landowners can be difficult. Failure to obtain necessary consents can lead to High Court challenges that might otherwise be avoided. This proposal would improve the effectiveness of procedures which allow for correction of errors.

What are the policy objectives and the intended effects?

To improve the efficiency of the procedures by which errors in appeal decisions can be corrected. The intended effect is to allow errors which are inconsequential to the decision itself to be corrected easily and simply, without unnecessary delay.

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

A: Do nothing. The current process would be maintained.

Option B: Introduce amendments to procedures for the correction of errors in appeal decisions. This would require changes to primary legislation to enable the Secretary of State or the Planning Inspectorate to issue a Correction Notice without obtaining the consent of the appellant/landowner(s), providing that any such correction would not change the substance of the decision.

Option B is the preferred option.

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: Introduce amendments to procedures for the correction of errors in appeal decisions.	
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)		
	£ Neg		
Other key non-monetised costs by 'main affected groups'. No right of consent - the proposed procedural changes may be viewed as taking away a right of consent. This is however only currently used by 20 parties per year.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Cost savings for the Planning Inspectorate: 150 hours reduction in administrative time to deal with corrections, costed at £3000 / year.
	One-off	Yrs	
	£	10	
	Average Annual Benefit (excluding one-off)		
	£ 3,000		
Other key non-monetised benefits by 'main affected groups'. Cost savings to all responding to the Planning Inspectorate: Parties would no longer be required to consider and respond to matters of little consequence. Less risk of cases going to the High Court.			
Key Assumptions/Sensitivities/Risks			
Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ 25,000

What is the geographic coverage of the policy/option?		England		
On what date will the policy be implemented?		April 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?		Yes/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)

This Impact Assessment relates to the measure in the Planning Act which proposes the introduction of amendments to procedures for the correction of errors in appeal decisions.

For the purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- policy options considered and preferred option
- costs and benefits of each option

The status quo is used as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

The Secretary of State (and the Planning Inspectorate on her behalf) has the power to issue a formal notice correcting an error in an appeal decision that is not part of the reasoning on which that decision is based. The errors that can be corrected under this power are those that would not change the substance of the decision and therefore they would not put any party at a disadvantage. Examples of such errors include incorrect house numbers, incorrect appeal and application numbers, and obvious errors in measurements and compass points.

To be able to exercise such powers, the Secretary of State or the Planning Inspectorate must first obtain the unconditional written consent of the appellant and the relevant landowner(s). Obtaining consent can prove problematic in practice (ie where the error is perceived to be to the applicant's advantage) and, if land ownership changes after an appeal is submitted, the Secretary of State or Planning Inspectorate's information becomes out of date and identifying the current landowner(s) can be difficult. Failure to obtain the necessary consent can in some circumstances lead to a High Court challenge that might otherwise be avoided (for example, where one of the parties feels there may be an opportunity to have the case redetermined in their favour). Government intervention is necessary to reduce unnecessary delays in the correction of errors in appeal decisions.

Sectors and groups affected

- applicants/appellants
- landowners
- local planning authorities
- Planning Inspectorate

Policy options considered and preferred option

Option A –Do nothing

The current process would be maintained.

Option B - Introduce amendments to procedures for the correction of errors in appeal decisions

We propose that changes be made to primary legislation to enable the Secretary of State (and the Planning Inspectorate on her behalf) to issue a Correction Notice without obtaining the consent of the applicant / landowner(s).

Preferred option

Option B is our preferred option as it would allow for increased efficiency in the correction of errors process.

Costs and benefits

Option A - Do nothing

There are no new or additional costs and benefits with this option.

Option B - Introduce amendments to procedures for the correction of errors in appeal decisions

Costs

No right of consent: (Non-monetised) Whilst this measure may be regarded as taking away a right of consent, this right is currently only used by less than 20 parties a year. In addition, correcting a decision without first seeking consent would not affect anyone's fundamental rights or prejudice their position since legal recourse through the High Court would remain as an option.

Benefits

Cost savings for the Planning Inspectorate: (Monetised) 150 hours reduction in the amount of administrative time to deal with these corrections to appeal decisions, costed at approximately £3000 per year.

This estimate is based on: 100 cases per year; 1.5 hours of executive officer time per case for writing to landowner and applicant, following up, recording responses; executive officer costs are £23,168 a year, £13.92 an hour, plus pensions, National Insurance and overheads equals £22.81 per hour.

Cost savings to all responding to the Planning Inspectorate: (Non-monetised) In 80 per cent of cases the parties are content with the changes made. Under this proposal parties will no longer be required to consider and respond to matters of little consequence to them.

Less risk of cases going to the High Court: (Non-monetised) Approximately 20 per cent of the 100 cases fail and so approximately 20 cases a year have the risk of proceeding to the High Court. High Court proceedings result in costs for the appellant, for the Planning Inspectorate, for third parties and the Court itself.

Specific Impact Tests

Small Firms Impact Test

It is possible that there may be some loss of consultancy and legal business to small firms, but this impact will be very minimal, given the small number of cases that this proposal would relate to.

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, 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.

Environmental impact

This proposal would not result in any significant environmental impacts.

Race, disability and gender equality impacts

We have considered these possible effects and carried out the required screening assessments. We do not consider that there would be disproportionate impacts to different groups from this proposal in terms of race, disability or gender equality.

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 change in process.

Rural, health and other social effects

We have considered these possible effects. We do not consider that there would be disproportionate impacts to different groups from this proposal in terms of rural, health or other social effects.

Human Rights

As the errors that would be subject to correction under these provisions will be unrelated to the reasons for the decision, we do not believe that these provisions would have ECHR (human rights) implications. Any corrected decision carries a fresh date and is therefore subject to a new High Court challenge timescale, therefore anyone who felt aggrieved by the amendment would have legal recourse through the High Court.

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

All appellants and other parties would have a 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	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of MIPs appeals: provision to require appeals to the High Court against planning decisions on MIPs to be made within 6 weeks of the decision
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Stage: Act	Version: v1	Date: 07 August 2007
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Related Publications:

Available to view or download at:
<http://www.>

Contact for enquiries: Christabel Myers Telephone: 020 7944 3985

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

Appeals on Major Infrastructure Project decisions are out of line with other planning appeals. They are carried out in judicial reviews instead of high court hearings which take longer (three months as opposed to six weeks) and therefore impose a cost on applicants who have to delay the time they can go ahead with a development.

What are the policy objectives and the intended effects?

We are changing the clause to ensure challenges are made more speedily through the High Court and so within a period of six weeks as opposed to three months through judicial review.

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

Option A: Keeping the current provisions and having any challenges to MIPs through a judicial review which takes 3 months.

Option B: Changing the policy to enabling challenges to be made through the High Court, therefore having a maximum challenge period of 6 weeks.

Option B is the preferred option: bringing MIPs in line with other planning decision challenges and ensuring the challenge is through the High Court.

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

7 years:

A longer than standard review period is preferred as there are not many MIPs cases (about 4 known cases since 2002 and therefore likely to be even fewer appeals). When the Planning Act comes into effect, more cases will be made under the NSIP (Nationally Significant Infrastructure Project) procedures and therefore there is likely to be even less MIPs cases under the TCPA.

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

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence					
Policy Option: B		Description: Change the policy to enabling challenges to be made through the High Court, therefore having a maximum challenge period of 6 weeks.			
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' None		
	One-off	Yrs			
	£ Neg				
	Average Annual Benefit (excluding one-off)				
	£ Neg			Total Benefit (PV)	£ Neg
	Other key non-monetised benefits by 'main affected groups'. Time saving for developers in waiting for appeal decisions. Savings to the Royal Courts of Justice.				
<p>Key Assumptions/Sensitivities/Risks The impact will depend on the number of appeals taking place. We expect this number to be small however.</p>					
Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £ Neg		

What is the geographic coverage of the policy/option?	England and Wales			
On what date will the policy be implemented?	April 2009			
Which organisation(s) will enforce the policy?	Courts			
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?	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?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)		
Increase of £ 0	Decrease of £ 0	Net	£ 0	
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focused on the specific measure of the Planning Act which will put into place a provision to require appeals to the High Court against planning decisions on MIPs to be made within six weeks of the decision.

For purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- sectors and groups affected
- costs for local authorities and businesses
- benefits for local authorities and businesses

The status quo is also stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Background

Currently Major Infrastructure Projects (MIPs) that are called-in or are a recovered appeal are referred to the Secretary of State for decision. The Planning white paper proposes to establish a single consent regime under the Infrastructure Planning Commission (IPC) for nationally significant infrastructure regimes (NSIPs). There will be clear directions to what projects will come under NSIPs and these will cover transport, energy, water and waste. We consider there will still be a need to retain some form of the MIPs rules in the town and country planning act as there will be some projects that are of regional or national importance that are not included in the NSIPs procedures i.e. inland waterways and quarries. Some refinement of the definitions of what comes under the IPC and what comes under the town and country planning act are expected following consultation on the white paper.

Currently appeals on decisions on Major Infrastructure Projects under the TCPA are lodged through judicial review which takes three months. There are two sets of rules for dealing with inquiries of Major Infrastructure Projects (MIPs). These are the Town and County Planning (Major Infrastructure Project Inquiry Procedure) (England) Rules 2002 and 2005. The 2002 rules deal with appeals and the 2005 rules deal with call-in cases.

Section 44 of the Planning and Compulsory Purchase Act 2004 amended the TCPA 1990 to include reference to MIPs at section 76A. It however neglected to change the way MIPs were challenged, to be in line with other planning decisions contained within Section 288. In consequence, in most planning decisions a legal challenge must be lodged within 6 weeks where as in the case of MIPs it can be lodged within three months.

There have only been three known recovered appeal cases on MIPs and there is one call-in (Stansted). The number of cases will further reduce when the procedure for the IPC is set up as it will take some projects away from MIPs under the Town and Country Planning Act

A challenge against a MIP decision under these rules has never occurred and therefore the likelihood of an appeal happening and so affected by this provision occurs is negligible.

Sectors and groups affected

- parties challenging Secretary of State's decision on MIPS through the TCPA
- Royal Courts of Justice

Costs and benefits: six week period for High Court MIPS appeals

Changing the policy to enabling challenges to be made through the High Court, therefore having a maximum challenge period of six weeks

Benefits

Time savings for developers

Decisions on appeals will be quicker and so this is in line with the Planning white paper proposals and Kate Barker's recommendations to speed up the town and country planning system and make it more simple and efficient. These time savings will affect very few cases as there are so few of these appeals and they are likely to be less in future with the transfer to the planning commission. The saving for the individual cases could be significant however as they may only have to wait 6 weeks before being certain that the developer could proceed. This cost cannot be monetised as there is no information about what sort of cases will be appealed in this way in future.

Savings for the court service

Shorter court cases should result in smaller costs for the Royal Courts of Justice.

Costs

There will be no real costs and the benefits of this are that the time period for these challenges will be brought into line with other challenges to planning decisions and there will be benefits in time saved for applicants to go ahead with the development and time saved for the courts.

Costs and benefits: *the Status Quo*

Keep the current provision and have any challenges to MIPS through a judicial review which takes three months.

Costs and benefits

No additional costs and benefits have been identified from 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. The proposal is only in relation to developments of nationally significant infrastructure projects.

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

An Equalities impact screening assessment was applied to this proposal and stakeholders were consulted to determine the potential for equalities impact. We do not expect any adverse impacts as a result of this proposal.

Human Rights

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

Rural Proofing

Having engaged the views of Commission for Rural Communities, we believe this measure will not have a negative impact on rural 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	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options	
Department /Agency: Communities and Local Government	Title: Provision to secure the transfer of additional appeals to Inspectors
Stage: Act	Version: Date: November 08
Related Publications: Consultation paper on Transfer of Appeals to Inspectors	

Available to view or download at:
<http://www.>

Contact for enquiries: Jean Nowak Telephone: 0207 944 3958

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

The problem is that there are some categories of planning appeals which have to be decided by the Secretary of State (SoS). For the majority of categories of appeals the SoS has powers to transfers the decision to the Planning Inspectorate, but for historical reasons the SoS does not have the power to do so for the categories under consideration in this proposal.

The government identified this problem in the Planning white paper and set out its intention to rectify it.

What are the policy objectives and the intended effects?

The objective of the policy is to simplify the appeals process by extending the range of categories of appeal that can be determined by the Planning Inspectors. The ability of the SoS to recover individual appeals will be maintained.

The intended effects are to speed up the decision-making process, make more efficient use of resources and ensure that all decisions are taken at the appropriate level.

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

Option A: Do nothing

Option B: To make the appropriate adjustments to primary and secondary legislation to facilitate the transfers.

Option B is preferred. The justification for the proposed action is to reduce the level of direct ministerial involvement in the determination of planning appeals, thereby saving time and resources. Many of the cases which fall within the categories of appeals excluded from the current general power are relatively minor in scale or significance so that the processes to which they currently have to be subjected are disproportionate to their policy implications.

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 a year to measure their efficacy.

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: Facilitate the Transfers.	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' No transitional costs or annual costs, only net savings.
	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'.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' None
	One-off	Yrs	
	£ 0	N/A	
	Average Annual Benefit (excluding one-off)		
	£ Neg	10	Total Benefit (PV) £
Other key non-monetised benefits by 'main affected groups'. Small savings to CLG and other departments as the PCC team and divisions in other departments would not need to be involved in cases. Benefit to appellants who would receive decisions up to 9 weeks earlier.			
Key Assumptions/Sensitivities/Risks Savings likely to be small due to the creation of the Nationally Significant Infrastructure Projects Category. Savings will depend on number of appeals that are brought and on whether other Government Departments wish to retain their right to be involved in appeals.			
Price Base Year 2007/08	Time Period Years 10	Net Benefit Range (NPV) £ Neg	NET BENEFIT (NPV Best estimate) £ Neg

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	not before 01.04.08			
Which organisation(s) will enforce the policy?	No enforcement			
What is the total annual cost of enforcement for these organisations?	£ savings			
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?	£ 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 N/A	Decrease of N/A	Net	N/A	
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

This Impact Assessment is focused on the specific measure of the Planning Act which proposes to transfer decision making on all planning appeals to Inspectors, except where there are specific policy reasons for not doing so on an individual case by case approach.

For purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- sectors and groups affected
- costs
- benefits

The status quo is also used as a benchmark to enable analysis of the costs and benefits.

The current system uses up staff resources within Communities and Local Government which could otherwise be used for more significant cases/other high priority work. It also means that officials in planning central casework (PCC) can sometimes be faced with working on types of cases for which they have no expertise as they relate to matters which do not arise very frequently. It also means that the appellants have to wait for a further period of approximately nine weeks before receiving a decision (with potential opportunity costs caused by that delay).

The time and resource taken by an Inspector to write a report to the Secretary of State making recommendations on an appeal as per the current system, is very similar to the time and resource required to write an actual decision letter as per the proposed system. However, under the current system, PCC are then required to analyse the Inspector's report, write a submission to Ministers and draft a decision letter. Savings in terms of time and resource can be made under the proposed system.

When an appeal relates to a statutory undertakers¹⁴ operational land the decision at present must be taken jointly by Communities and Local Government and the relevant government department. The historical justification for this was these appeals were assumed to be major infrastructure projects. Other measures in the Planning Act will however shift the responsibility for all Major Infrastructure projects to the Infrastructure Planning Commission. Therefore if our proposed measures were not taken into affect the decisions taken in the future by both Communities and Local Government and the relevant Government Department would relate to small cases only and hence be even more disproportionate. There is therefore a strong case to transfer these cases to the Planning Inspectorate except where recovery is justified for policy reasons.

¹⁴ Statutory Undertakers are as defined by section 262 of the Town and Country Planning Act 1990. They are sponsored by Government Departments.

The following categories of appeals are affected:

- planning and enforcement appeals involving statutory undertakers' operational land
- appeals against the determination of conditions for old mineral workings

Sectors and groups affected

- Communities and Local Government
- Government Departments which are responsible for the relevant statutory undertaker in appeal decisions
- The Planning Inspectorate
- appellants

Costs and benefits: *transfer decision making on all planning appeals to Inspectors*

Make the appropriate changes to primary and secondary legislation to enable all categories of appeals to be transferred to inspectors whilst maintaining the ability of the SoS to recover appeal decisions where appropriate for policy reasons.

Benefits

Cost Savings to Communities and Local Government and other Government Departments

The PCC team will no longer have to deal with all appeals in these categories, but only those specifically recovered by the SoS. There will also be cost savings for other departments when they are responsible for sponsoring a statutory undertaker whose operational land is affected by an appeal. These costs are hard to quantify given that the amount of time staff spend on these cases varies with the workload. They are likely to be small however as once Nationally Significant Infrastructure Projects are transferred to the new commission there are unlikely to be many appeals left in the categories mentioned above.

Cost Savings to Appellants

Appellants will get their decisions quicker as these will be issued directly by PINS without additional consideration by the SoS. This could involve decisions being received up to nine weeks earlier.

Costs

No additional costs have been identified. The Planning Inspectorate will have responsibility for sending the appeal outcomes to appellants. This is however now done by Communities and Local Government and as the Planning Inspectorate is an agency of CLG there will be no net effects from this.

Costs and benefits: *the Status Quo*

Maintain the current process where some categories of appeals cannot be transferred to the Planning Inspectorate.

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 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, nor have a negative impact on the Environment.

Health Impact Assessment

There are no detrimental health impacts 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. 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 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

Equality Impact Assessment

Part 1: Screening

<p>1 Name of Policy</p> <p><i>Transfer of decisions on a wider range of planning appeals to Planning Inspectors</i></p>	<p>This is:</p> <p><input type="checkbox"/> New policy</p> <p><input checked="" type="checkbox"/> A change to existing policy</p> <p><input type="checkbox"/> Existing policy</p> <p><input type="checkbox"/> A pilot or programme</p>
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2 Screening undertaken by:	
Director or Divisional Manager	<i>Helen Colchester</i>
Policy Writer/Lead	<i>Jean Nowak</i>
Other people involved in the screening	<i>Commission for Rural Communities Race Equalities Commission Inclusive Environment Group</i>

<p>3 Brief description of policy,</p> <p><i>To simplify the process by which a range of categories of planning appeal are determined by enabling them to be decided by Inspectors in line with the overwhelming majority of types of planning appeals, many of which are much more complex than those for which there are currently no powers of transfer. This will enable decisions to be made more quickly, thus reducing the delay and uncertainty for appellants. However, it will not affect their right to be heard at a public inquiry.</i></p>	
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4 Relevance to Equality and Diversity Duties

Does the policy have relevance to the department's:

- Race Equality Scheme?
- Disability Equality Scheme?
- Gender Equality Action Plan?
- Other (departmental or national) equality priorities?

We cannot identify any relevance of the policy change to the department's equality and diversity duties.

Think about the policy from the perspectives of different groups in society. Will the policy affect any group(s) differently to others? Will it differentially affect:

- black, Asian or other ethnic minority and/or cultural groups?
- disabled people?
- women or men or transgender people?
- lesbians, gay men and/or bisexual people?
- different religious communities/groups?
- older people or children & young people?
- any other groups?

No

Are any of these groups likely to have different needs?

Yes / No

No. None of these groups are likely to have different needs as a result of the policy change, nor will the policy change adversely impact on their existing different needs

5 Evidence Base for Screening

List the evidence sources used to make the screening assessment (ie the *known evidence*).

We have invited examples of equality impacts in our consultation paper and have not so far received any.

Consider whether there are any significant gaps in the known evidence base and list here your recommendations for how those gaps will be filled.

We have not identified any significant gaps in our evidence base which would indicate the need for further research.

6 Remembering the requirements of the equality duties:

- elimination of discrimination and harassment
- tackling disadvantage and promoting equality of opportunity
- promoting good relations between different racial groups
- promoting positive attitudes towards disabled people
- increasing the participation of disabled people and other under-represented groups in civic and community life and the general equality and human rights principles for good policy-making:

- Will there be/has there been consultation with all interested parties?

There has been consultation in the context of the whole Planning Act package with the Commission for Rural Communities, the Race Equalities Commission and Reeves Associates.

- Are proposed actions necessary and proportionate to the desired outcomes?

Yes. The proposal amends existing legislation to ensure that planning appeal decisions are made at a proportionate and appropriate level.

- Where appropriate, will there be scope for prompt, independent reviews and appeals against decisions arising from the proposed policy?

It is not appropriate in this case. This proposal will not affect either the right to appeal against a decision on a planning application made by a local planning authority or the right of an aggrieved appellant to challenge the appeal decision in the Courts.

- Does the proposed policy have the ability to be tailored to fit different individual circumstances?

Yes. Its application will be discretionary and the Secretary of State will still be able to recover individual decisions for her own decision.

- Where appropriate, can the policy exceed the minimum legal equality and human rights requirements, rather than merely complying with them?

Not appropriate. The proposal has no impacts on legal equality or human rights.

From the known evidence and strategic thinking, **what are the key risks (adverse impacts) and opportunities (positive impacts & opportunities to promote equality) this policy might present?**

	Risks	Opportunities
Race	None	None
Disability	None	None
Gender	None	None
Sexual Orientation	None	None
Age	None	None
Religion/Belief	None	None
Human Rights	None	None

7 Proportionality

Describe the scale and likelihood of these risks and opportunities:

We have not identified any circumstances where this policy amendment would have any adverse or positive impacts or bring about opportunities to promote equality.

8 Decision

Set out the rationale for deciding whether or not to proceed to full impact assessment (refer to guidance notes)

We have concluded that these proposals do not merit proceeding to the full impact assessment. The proposals do not have any adverse impacts on race, gender, disability or other equality priorities.

Summary: Intervention & Options

Department /Agency: Communities and Local Government	Title: Impact Assessment of allowing the Planning Inspectorate to determine the procedure for appeals and call-in cases
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Stage: Act	Version:	Date: November 2008
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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" (May 2007); Summary of Responses (November 2007); Government Response to Consultation Replies (November 2007).

Available to view or download at:

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

Contact for enquiries: Katie Jones / Siobhan Fox

Telephone: 020 7944 6530 /4817

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

There are 3 methods by which appeals and call-in cases can be determined - inquiry, hearing and written representations. The current system allows the principal parties (being the appellant/applicant and the local planning authority) the opportunity to appear before and be heard by an appointed person, which means that the principal parties can insist upon an oral hearing even for the least complex of cases. We believe that some of the existing procedures are disproportionately complex for some types of cases, 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 all appeals and call-in cases are decided by the most appropriate and proportionate procedure. This would allow for the better allocation of the Planning Inspectorate's resources, which in turn would make the system more efficient and improve handling times. It will also ensure that other parties would not be subject to complex procedures if it is considered that a simpler procedure would be just as effective for the subject case.

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

Option A: Do nothing. The Planning Inspectorate already use criteria to encourage the principal parties to select the most appropriate appeal method. However if a principal party insists upon appearing before or being heard by a person appointed by the Secretary of State for that purpose, then a hearing or inquiry must be held.

Option B: Allow the Planning Inspectorate (on behalf of the Secretary of State) to apply Ministerially approved criteria to decide the procedure for determining appeals and call-in cases. Principal parties would no longer be able to insist upon an oral hearing.

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 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: Allowing the Planning Inspectorate (on behalf of the Secretary of State) to determine the procedure for appeals and call-ins.	
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'. The principal parties would no longer be able to insist upon appearing before and being heard by an appointed person.			
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: £1.4 million. Cost saving to local authorities: £0.7 million.
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 4,200,0		Total Benefit (PV) £34,930,000
Other key non-monetised benefits by 'main affected groups'.			
Key Assumptions/Sensitivities/Risks The removal of the 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 a case.			
Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ £34,930,000

What is the geographic coverage of the policy/option?		England		
On what date will the policy be implemented?		April 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?	N/A	N/A	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (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 relates to the measure within the Planning Act which proposes to allow the Planning Inspectorate to decide the procedure by which appeals and call-in cases are determined.

For the purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- policy options considered and preferred option
- costs and benefits of each option

The status quo is used as a benchmark to enable analysis of the costs and benefits of the proposal.

Context

There are three methods by which appeals and call-in cases can be determined – inquiry, hearings and written representations.

The vast majority of cases called in for Secretary of State determination are dealt with via inquiry, given their significance and complexity. Call-in cases have been included in this proposal for consistency. In practice, it is highly likely that the vast majority of call-in cases will continue to be dealt with via inquiry, and therefore it is unlikely that there would be any significant changes in terms of costs and benefits in regard to call-in cases.

With regard to appeals, the current system allows the principal parties to insist upon an oral hearing even for the least complex of cases. For example, in one appeal 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 criteria to encourage parties to select the most appropriate appeal method. This practice is proving somewhat successful, but more could be done. During 2006-07 the Planning Inspectorate sent over 1200 letters suggesting written representations instead of an inquiry or hearing and 73 per cent were not converted. In addition, the Planning Inspectorate sent over 200 letters requesting a change to hearings from inquiries and 83 per cent were not converted.

Question 3 of the consultation paper *Improving the Appeal Process in the Planning System* asked “*Do you agree with the proposal to allow the Planning Inspectorate, on behalf of the Secretary of State, to determine the appeal method for each case by applying ministerially approved and published indicative criteria?*” Overall 67 per cent of respondents viewed this proposal positively. There were many positive responses regarding the improved efficiency that this proposal could deliver, although there were also concerns that the overall quality of the appeals process should not be compromised. Providing strict and transparent criteria that would reduce the burden of inquiries was seen as fundamental for the achievement of improving efficiency without impacting on the quality of the service.

Many Government respondents commented that an important consideration was that there were sometimes exceptional circumstances where the public interest was so acute that a public inquiry or hearing was necessary for third parties. Both Government and business respondents considered it important that principal parties had the opportunity to put forward a case for a particular appeal method to be followed. In addition, some respondents suggested that it would be important for the Planning Inspectorate to demonstrate that representations from the principal parties regarding their appeal method preferences had been taken into account.

Negative comments pointed out that this proposal might remove the right to be heard. Such respondents highlighted the importance of inquiries which allow for cross-examination in complex cases. There were also concerns raised about the perception that the Planning Inspectorate may develop a tendency to select written representation procedures because of the greater cost implications of inquiries and hearings.

Similar points emerged from the consultation responses to the Planning white paper and in our discussions with stakeholders. The work by Planning Aid suggested some support for the Inspectorate determining the procedure for cases.

Sectors and groups affected

- appellants making appeals to the Secretary of State
- applicants on planning applications which are called in for Secretary of State determination
- local authorities
- Planning Inspectorate
- third parties

Policy options considered and preferred option

Option A - Do nothing

The Planning Inspectorate would continue with its practice of using criteria to encourage parties to select the most suitable procedure for appeal cases.

Option B: Allow the Planning Inspectorate, on behalf of the Secretary of State, to apply Ministerially approved criteria to decide the procedure to be used to determine appeals and call-in cases

Acting on behalf of the Secretary of State, the Planning Inspectorate would use criteria to determine the most appropriate procedure by which appeals and call-in cases would proceed. Principal parties would no longer be able to insist upon appearing before and being heard by a person appointed by the Secretary of State for that purpose.

Preferred option

Option B is our preferred option, as it would increase proportionality by making sure that the most suitable procedure is selected for each appeal and call-in case.

Costs and benefits

Option A – Do nothing

Costs - No additional costs of this option, although the Planning Inspectorate would retain the cost of participating in disproportionately complex procedures for simple cases.

Benefits

Right to be heard: (Non-monetised) Principal parties would retain the right to insist upon appearing before and being heard by a person appointed to determine their case.

Option B – Allow the Planning Inspectorate (on behalf of the Secretary of State) to determine the procedure for appeals and call-ins

Following Government amendments at HoC Committee stage, this proposal was extended to apply to call-in cases as well. This was principally done to achieve consistency, as it is highly likely that the vast majority of call-in cases would continue to be dealt with via the inquiry method. Accordingly, we believe that this proposal would only really affect the procedure selected for appeal cases, and therefore have based all costs and benefits on appeal cases.

Costs

Right to be heard: (Non-monetised) All parties would lose their right to insist upon an oral hearing. With regard to appeals, there is no evidence to suggest that the appeal procedure is related to a difference in appeal outcome, and so no monetary value has been attributed to this loss of right. In 2006-07 the percentage of appeals allowed was 33 per cent for written representations, 36 per cent for hearings and 47 per cent 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 procedure.

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)/220x(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)x120% + £10,180 / 174.5	(9)	(10) =(4)+(8)+ (9)
Written Reps	1 day	£44,156	£253.04	£361.99	£12.22****	£520
Hearing	3 days	£55,126**	£947.72	£1,195.61	£220	£1,562
Inquiry	5 days	£55,126**	£1,579.54	£1,953.79	£440	£2,565

* Being 20 per cent 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 via a different procedure. 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) Taken from (10)	(12)	(13) =(11)x(12)
Inquiry to hearing	187	£1,003.12	£187,584
Inquiry to written reps	114	£2,044.52	£233,076
Hearing to written reps	800	£1,041.40	£833,119
		Total saving	£1,253,779

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 per cent of current enforcement hearings could be dealt with by written representations. The remaining 10 per cent would be the cases where a party has advised of something that would prevent the use of written representations as a procedure (eg 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%+ Accommodation)	Savings in cost of inspector
(1)	(2) =(1)x90%	(3)	(4) =(2)x(3)	(5) =(4)/174.5	(6)	(7) =(5)x(6)
781	703	2.34	1645	9.4	£77,331	£717,513

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

* 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 £1.4m 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 procedure.

Planning appeals - costs to appellants

Appeal procedure	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 procedure	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 procedure 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 savings are difficult to quantify.

Time savings for third parties: (non-monetised) They would potentially be time and convenience savings to third parties who may not be required to make arrangements to attend inquiries or hearings on allocated days, instead of being able to rely on written representations to put forward their views. These savings 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 £700,000 per year.

Planning appeals – costs to local authorities

Appeal procedure	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
Hearing	£141.23	1.5	None	£212
Inquiry	£141.23	3	£2,000	£2,424

Change in appeal procedure	Change in no. of cases	Cost difference per case	Total cost saving
Inquiry to hearing	187	£2,211.84	£413,614
Inquiry to written representations	114	£2,282.46	£260,200
Hearing to written representations	800	£70.62	£56,496
			£730,311

Specific Impact Tests

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 applicants/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 would not result in any significant environmental impacts.

Race, Disability and Gender Equality Impacts

A full race, disability and gender equality assessment was carried out for this proposal. This is attached at **Annex A**.

Evidence gathered anecdotally via discussions with stakeholders and 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 indicates 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 per cent compared to 62 per cent 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 of 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 or on what the appeal outcomes are.

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. Built into the procedure selection process would be the opportunity for the principal parties to make a

case for their preferred procedure. The principal parties would be given the opportunity to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the procedure selection process. For example, an appellant 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.

Furthermore, the criteria which would be used to determine the procedure would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would 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 criteria to guide the selection of the most appropriate procedure should ensure that all principal parties receive a level of service proportionate to the complexity of their case while also ensuring that vulnerable groups would not be disadvantaged.

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/appellant would not receive a "fair and public hearing" for the purposes of article 6(1) of ECHR. However, case law suggests 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 procedure for any particular case will be determined by applying published criteria approved by ministers. These criteria would 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

Annex

Annex A

Equality Impact Assessment

Full Assessment

1 Name of Policy

Enabling the Planning Inspectorate, on behalf of the Secretary of State, to determine the procedure by which appeals and call-in cases are dealt with (written representations, hearing or inquiry).

2 Full Assessment undertaken by:

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

3 Scope of the assessment

There are three methods by which appeals and call-in cases can be determined – inquiry, hearing and written representations.

The vast majority of cases called in for ministerial determination are dealt with via inquiry, given their significance and complexity. Call-in cases have been included in this proposal for consistency – in practice, it is highly likely that the vast majority of call-in cases will continue to be dealt with via inquiry.

With regard to appeals, the current system allows the principal parties to insist upon an oral hearing, which means that a hearing or inquiry may be required even for the least complex of cases. 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 for both appeals and call-in cases is suited 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 procedure for each case.

3 Scope of the assessment (*continued*)

This proposal should enable all cases to be decided by the most appropriate and proportionate procedure, and should assist in speeding up processes. It should still be possible to ensure that all applicants / appellants receive the same level of service, based on the nature of their case and not on their access to 'expert' advice. The outcome of a case will depend upon how convincing the inspector finds the planning merits, not the method of presentation.

Evidence gathered anecdotally via discussions with stakeholders and 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 other minority ethnic applicants proceed to appeal, however it is noted that the Planning Inspectorate has begun collecting data for diversity monitoring purposes. Evidence indicates 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 per cent compared to 62 per cent 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 Gypsies and Travellers and other minority ethnic groups. There is no data available regarding which groups are more likely to pursue enforcement appeals or on what the appeal outcomes are.

For this proposal, it is considered that appropriate safeguards and monitoring arrangements can be implemented to mitigate against disproportionate impacts on particular groups. Built into the procedure selection process would be the opportunity for the principal parties to make a case for their preferred procedure. The principal parties would be given the opportunity to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the procedure selection process. For example, an appellant 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 procedure (ie hearing or inquiry) could be pursued even if it would not normally be justified by the complexity of the case.

Furthermore, the criteria which would be used to determine the procedure 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 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: <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) and 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:

<p>4.3 Consultation</p> <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 May and 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		
eg minority ethnic communities (if general), black African, refugee communities etc. (if specific)	<p>Evidence gathered anecdotally via discussions with stakeholders and 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 has begun collecting data for diversity monitoring purposes. Evidence indicates 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 per cent compared to 62 per cent overall (<i>Source: Birmingham City Council Development Directorate, Equality Impact Needs Assessment Report, March 2005</i>).</p>	<p>It is considered that appropriate safeguards and monitoring arrangements can be implemented to mitigate against this potential disproportionate impact on particular groups. Built into the procedure selection process would be the opportunity for the principal parties to make a case for their preferred procedure. The principal parties would be given the opportunity to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the procedure selection process. For example, an appellant 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. Furthermore, the criteria which would be used to determine the procedure would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would be dealt with in this way.</p>

5 Summary of Key Insights, by Equality Group (<i>continued</i>)		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
RACE		
eg minority ethnic communities (if general), black African, refugee communities etc. (if specific)	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.	The overall impact of this proposal should be positive. By increasing proportionality and ensuring cases are dealt with by the most suitable procedure, the appeal service should become more efficient –this is advantageous to all involved.
DISABILITY		
eg Disabled people (if general), people with learning disabilities, Blind/Visually Impaired people	Some disabilities, illiteracy and/or poor English skills may prevent some people from being able to use written representations as a procedure.	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. The overall impact of this proposal should be positive. By increasing proportionality and ensuring cases are dealt with by the most suitable procedure, the appeal service should become more efficient – this is advantageous to all involved.

5 Summary of Key Insights, by Equality Group (<i>continued</i>)		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
GENDER		
eg 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 the written representations method.	The overall impact of this proposal should be positive. By increasing proportionality and ensuring cases are dealt with by the most suitable procedure, the appeal service should become more efficient – this is advantageous to all involved.
AGE		
eg People over state retirement age, 16-21 year olds, Children.	No issues were raised.	
SEXUAL ORIENTATION		
eg Lesbians, Gay men, Bisexual People.	No issues were raised.	
RELIGION/BELIEF		
eg Lesbians, Gay men, Bisexual People.	No issues were raised.	

5 Summary of Key Insights, by Equality Group (<i>continued</i>)		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
HUMAN RIGHTS		
Who is affected? Which human rights are engaged?	Perception that the removal of a right to an oral hearing would mean that an applicant/appellant would not have a fair 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. 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>The overall impact of this proposal should be positive. By increasing proportionality and ensuring cases are dealt with by the most suitable procedure, the appeal service should become more efficient – this is advantageous to all involved.</p>

<p>6 Proportionality</p> <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 any 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 appeals and call-ins, 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 cases. • 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 most appropriate procedure
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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:

- 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 to mitigate against disproportionate impacts on particular groups. Built into the procedure selection process would be the opportunity for the principal parties to make a case for their preferred procedure. The principal parties would be given the opportunity to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the procedure selection process. For example, an appellant 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. Furthermore, the criteria which would be used to determine the procedure would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would be dealt with in this way.

Parties would have recourse to the High Court in the event they wished to challenge the procedure chosen for their case. In the event of legal challenge, the Secretary of State (the Planning Inspectorate) would have to demonstrate that she has 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 procedure 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				
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				
Built into the procedure selection process would be the opportunity for the principal parties to make a case for their preferred procedure. The principal parties would be given the opportunity to advise the Planning Inspectorate of any circumstances which they would wish to be taken into account in the procedure selection process.	To ensure that the principal parties have the opportunity to bring factors to the attention of the Inspectorate which should be taken into consideration when determining the procedure.	The principal parties.	Upon commencement of relevant legislation.	Planning Directorate, Communities and Local Government; The Planning Inspectorate.
The criteria which would be used to determine the procedure would ensure that any case that is complex, controversial or would benefit from the scrutiny offered by a hearing or inquiry would be dealt with in this way.	To ensure that those cases which would benefit from a hearing or inquiry would be dealt with by such procedures.	The principal parties.	The criteria will be published in advance of the proposal being implemented.	Planning Directorate, Communities and Local Government; The Planning Inspectorate.
Parties would have recourse to the High Court in the event they wished to challenge the procedure selected for their case. In the event of legal challenge, the Planning Inspectorate would have to demonstrate that they have acted reasonably in applying the criteria.	To ensure that aggrieved parties have a means of redress, and to ensure fairness in the system.	The principal parties.	Will take effect when the proposal is implemented.	Planning Directorate, Communities and Local Government; The Planning Inspectorate.

9. Action Plan <i>continued</i>				
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 (eg 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 – ie 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 and Local Government	Title: Impact Assessment of introducing fees for planning appeals	
Stage: Act	Version:	Date: November 2008
Related Publications: Consultation Document: "Improving the Appeal Process in the Planning System - Making it proportionate, customer focused, efficient and well resourced" (May 2007); Summary of Responses (November 2007); Government Response to Consultation Replies		

Available to view or download at:

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

Contact for enquiries: Katie Jones / Siobhan Fox

Telephone: 020 7944 6530 /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 considers that there are opportunities to direct further funding towards the appeal service 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 service 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.

Option A: Do nothing.

Option B: Introduce an administration fee.

Option 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:**

Summary: Analysis & Evidence			
Policy Option: B		Description: Introduce an administration fee for planning appeals	
COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups' Cost to appellants: A flat fee of £120 per planning appeal would total an estimated £2.6m per year.</p> <p>Cost to the Planning Inspectorate: An additional six administrative officers and one executive officer would be required to administer this system. This would have an annual cost of approximately £231,000.</p>
	One-off (Transition)	Yrs	
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 2,381,000		
		Total Cost (PV)	£ 23,544,000
Other key non-monetised costs by 'main affected groups'. Fees could deter genuine appeals.			
BENEFITS	ANNUAL BENEFITS		<p>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.</p>
	One-off	Yrs	
	£ 0		
	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 run a better resourced appeals service. Funds could be used to train more Inspectors. Reduce burden of funding on the Exchequer.			
<p>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".</p>			
Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ -1,921,000

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	April 2010			
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?	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	

Summary: Analysis & Evidence			
Policy Option: B		Introduce fees to cover a proportion of the service provision costs	
COSTS	ANNUAL COSTS		<p>Description and scale of key monetised costs by 'main affected groups' Cost to appellants: For planning appeals, the costs would total an estimated £7m a year, on current application fee rates.</p> <p>Cost to Planning Inspectorate: An additional six administrative officers and one executive officer would be required to administer this system. This would have an annual cost of approx £231,000.</p>
	One-off (Transition)	Yrs	
	£ 0		
	Average Annual Cost (excluding one-off)		
	£ 7,231,000		
		Total Cost (PV)	£ 60,137,000
<p>Other key non-monetised costs by 'main affected groups'. Fees could deter genuine appeals.</p>			
BENEFITS	ANNUAL BENEFITS		<p>Description and scale of key monetised benefits by 'main affected groups' Cost savings for the Planning Inspectorate: An appeal fee that charged 20% of the planning application fee per appeal, with a minimum charge of £50, would generate an estimated income of £7 million a year for planning appeals.</p>
	One-off	Yrs	
	£ 0		
	Average Annual Benefit (excluding one-off)		
	£ 7,000,000		
		Total Benefit (PV)	£ 58,216,000
<p>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 run a better resourced appeals service. Funds could be used to train more Inspectors. Reduce burden of funding on the Exchequer.</p>			
<p>Key Assumptions/Sensitivities/Risks Uncertainty over whether fees would deter genuine appeals. Perception amongst some stakeholders that fees are unfair and that people should not have to "pay for justice".</p>			
Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £ N/A	NET BENEFIT (NPV Best estimate) £ -1,921,000

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	April 2010			
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	No	No
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	

The costings for Option C are based on 2005-06 receipts of s.78 planning appeals in England, and therefore the planning application fee costs for the purpose of this exercise are in line with those that were in place at that time. Planning application fees were increased in April 2008.

We intend to consult publicly again on the detail of this proposal - a revised Impact Assessment will be produced to accompany the consultation

Evidence Base (for summary sheets)

Introduction

This Impact Assessment relates to the measure in the Planning Act which proposes the introduction of fees for planning appeals.

For the purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- context
- sectors and groups affected
- policy options considered and preferred option
- costs and benefits of each option

The status quo is used as a benchmark to enable analysis of the costs and benefits of the proposal.

Wales

The figures and evidence base used in this Impact Assessment relate to England only. The Planning Act also confers powers on Welsh Assembly Ministers to apply this measure in Wales. Should Wales decide to implement this proposal, a separate Impact Assessment will be carried out to determine the extent of the impacts 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 £30.1m 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.

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 appeal service. The Government considers that there are other ways of contributing funding to the appeal service 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 service to the Exchequer and to establish means of funding the system which will reduce the pressure on the Planning Inspectorate's resources. 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 May 2007 in the consultation paper *Improving the Appeal Process in the Planning System – making it proportionate, customer focused, efficient and well resourced*. Overall, 71 per cent of respondents gave a positive response to this proposal, and when the two fee options were compared, 80 per cent of respondents favoured a proportionate fee over an administration fee.

Sectors and groups affected

- appellants who make appeals to the Planning Inspectorate
- local planning authorities
- Planning Inspectorate

Policy options considered and preferred option

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 per cent) 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.

Justify any preferred option

Option C is our preferred option, as it would meet the objectives of reducing the cost of the appeals service 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.

Costs and Benefits

Option A – Do nothing

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

Option B – Introduce an administrative fee

Costs

Cost to appellants: (monetised) For planning appeals, the costs to appellants would total an estimated £2.6m* 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 $22,017 \times £120 = £2.6m$.*

Costs to the Planning Inspectorate: (monetised) 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 per cent for pensions and National Insurance. Administrative officer salary is £18,293 + 20 per cent for pensions and National Insurance. Plus a GO tariff for each employee of £10,180.*

Benefits

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

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

The Planning Inspectorate's performance: (non-monetised) If the full or part of the revenue was 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.

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

Note: The costings for Option C are based on 2005-06 receipts of s.78 planning appeals in England, and therefore the planning application fee costs for the purpose of this exercise are in line with those that were in place at that time. Planning application fees were increased in April 2008.

We intend to consult publicly again on the detail of this proposal - a revised Impact Assessment will be produced to accompany the consultation.

Costs

Cost to appellants: (monetised) For planning appeals, the costs to appellants would total an estimated £7m a year****, based on 2005-06 application fee rates. Under this option, the cost would be more for those appellants who were proposing larger developments.

****: See table at **Annex A**.

Costs to the Planning Inspectorate: (monetised) 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

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

The Planning Inspectorate's performance: (non-monetised) If the full or part of the revenue was 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 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. 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.

Further detailed work needs to be undertaken on this proposal. We intend to consult publicly again and a revised Impact Assessment will be produced to accompany the consultation.

Specific Impact Tests

Small Firms Impact Test

Although this proposal will affect small firms it is unlikely that this effect will be disproportionate. While a number of 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 would not result in any significant environmental impacts.

Race, disability and gender equality impacts

Full race, disability and gender equality assessments were carried out for this policy proposal – see **Annex B**. 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 black and minority ethnic groups, different age groups, religious groups or people of different disabilities to appeal compared to other social groups. The Planning Inspectorate has begun collecting data on ethnicity, age, gender, religion, disability status etc. of appellants, using information provided voluntarily, and this data will be used 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 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 on 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 may be considered to restrict 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

ANNEX A to Impact Assessment of introducing appeal fees

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			£6,945,100

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 per cent of the planning application fee or £50, whichever is the greater.
- f. The costings for Option C are based on 2005-06 receipts of s.78 planning appeals in England, and therefore the planning application fee costs for the purpose of this exercise are in line with those that would have been in place at that time. Planning application fees were increased in April 2008.

We intend to consult publicly again on the detail of this proposal - a revised Impact Assessment will be produced to accompany the consultation.

Annex B to Impact Assessment of introducing appeal fees

Equality Impact Assessment

Full Assessment

<p>1 Name of Policy Resourcing the appeals service – introducing a fee for planning appeals</p>							
<p>2 Full Assessment undertaken by:</p> <table border="1"> <tr> <td>Director or Divisional Manager</td> <td>Michelle Banks</td> </tr> <tr> <td>Policy Writer/Lead</td> <td>Katie Jones</td> </tr> <tr> <td>Other people involved in the assessment</td> <td>Siobhan Fox This screening has been informed by consultation responses and information obtained from pro-active engagement with a range of representative bodies and experts on equalities issues.</td> </tr> </table>		Director or Divisional Manager	Michelle Banks	Policy Writer/Lead	Katie Jones	Other people involved in the assessment	Siobhan Fox This screening has been informed by consultation responses and information obtained from pro-active engagement with a range of representative bodies and experts on equalities issues.
Director or Divisional Manager	Michelle Banks						
Policy Writer/Lead	Katie Jones						
Other people involved in the assessment	Siobhan Fox This screening has been informed by consultation responses and information obtained from pro-active engagement with a range of representative bodies and experts on equalities issues.						
<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 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 considers that there are other ways of contributing funding to the system which would have less burden on public funds whilst also being sustainable.</p> <p>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.</p> <p>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.</p>							

3 Scope of the assessment (*continued*)

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, an appellant would have the option of applying for an award of costs, which could include a claim for the appeal fee paid.

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.

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) and 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:

<p>4.3 Consultation</p> <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 May and 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		
eg minority ethnic communities (if general), black African, refugee communities etc. (if specific)	<p>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.</p> <p>A fee might be a further disincentive for black and minority ethnic groups to appeal. We do not currently know whether black and minority ethnic groups are already less inclined to appeal. The Planning Inspectorate has begun collecting data on the ethnicity of appellants and we will use this to monitor the situation.</p>	<p>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 fee. 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.</p>

5 Summary of Key Insights, by Equality Group (<i>continued</i>)		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
RACE (<i>continued</i>)		
eg minority ethnic communities (if general), black African, refugee communities etc. (if specific)	A fee might be a further disincentive for black and minority ethnic groups to appeal. We do not currently know whether black and minority ethnic groups are already less inclined to appeal. The Planning Inspectorate has begun collecting 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 deemed 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.
DISABILITY		
eg 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 eg 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.
GENDER		
eg 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, eg women's refuge centres.	As above.

5 Summary of Key Insights, by Equality Group (<i>continued</i>)		
Equality Groups	Key Insights	Assessment of scale of potential impact – positive or adverse
AGE		
eg People over state retirement age, 16-21 year olds, Children.	No issues were raised.	
SEXUAL ORIENTATION		
eg Lesbians, Gay men, Bisexual People.	No issues were raised.	
RELIGION/BELIEF		
eg Muslims, Hindus.	A fee could be a disincentive to appealing. This could impact upon proposals for religious centres such as mosques, churches, synagogues, etc.	As above
HUMAN RIGHTS		
Who is affected? Which human rights are engaged?	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 may be considered to restrict 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).

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 service should benefit all parties in the long run.
- Is the policy necessary? The policy is necessary to ensure an adequately resourced appeals service 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 fee would go some way towards better resourcing the appeals service.
- 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 application 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

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.

7. Summary of the assessment (*continued*)

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 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 appeals service 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 outweigh the costs, we propose to continue with the implementation of this proposal. However, the Planning Inspectorate will continue to monitor the characteristics of appellants through their voluntary diversity monitoring, and we will review the policy and further consider the impact of this proposal in the 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 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				
<p>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.</p>	<p>To ensure that appellants are not unfairly penalised for the unreasonable actions of a local planning authority.</p>	<p>Appellants whose applications have been the subject of an unreasonable decision by a local planning authority.</p>	<p>The Award of Costs Circular will be updated in 2009 to extend cost awards to planning appeals dealt with via written representations, in time for the introduction of the appeal fee.</p>	<p>Planning Directorate, Communities and Local Government; the Planning Inspectorate.</p>

Summary: Intervention & Options	
Department /Agency: Communities and Local Government	Title: Impact Assessment of granting SoS power to regulate time limit for appealing against a refusal to issue a LDC
Stage: Act	Version: Date:
Related Publications: Improving the appeal process in Planning System – Making it proportionate, customer focused and well resourced	
<p>Available to view or download at: http://www.communities.gov.uk/corporate/publications/impact-assesments</p> <p>Contact for enquiries: Robert Segall Telephone: 020 7944 3913</p>	
<p>What is the problem under consideration? Why is government intervention necessary?</p> <p>At present when a request for a Lawful Development Certificate (LDC) has been declined there is no time limit for an appeal to be lodged. This is not in line with all other planning appeals processes and means that appeals can be considered a long time after the rejection. This can mean more work in identifying the initial reasons why an application was rejected.</p>	
<p>What are the policy objectives and the intended effects?</p> <p>To bring LDC appeals in line with other planning appeals and therefore to ensure that appeals are timely and decisions are efficient.</p>	
<p>What policy options have been considered? Please justify any preferred option.</p> <p>Option A: No change – no time limit on LDC appeals.</p> <p>Option B: Introducing a six months time limit on appeals for LDC applications.</p> <p>Option B is preferred as it will ensure more timely appeals and efficient decisions.</p>	

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

Three years

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

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... **Date:**

Summary: Analysis & Evidence			
Policy Option: B		Introducing a 6 months time limit on appeals for LDC applications	
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		
Other key non-monetised costs by 'main affected groups'. None			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ Neg		
	Average Annual Benefit (excluding one-off)		
	£ Neg		
Other key non-monetised benefits by 'main affected groups'. PINS will benefit from being able to consider appeals for LDC applications on a more timely and more efficient basis. LPAs will benefit by not having to be involved in LDC appeals after six months.			
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		
On what date will the policy be implemented?		Commencement (subject to regulations)		
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?		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 £	Decrease of £		Net Impact £ 0	
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Introduction

This Impact Assessment is focused on the specific measure of the Planning Act which will introduce a time limit of 6 months for appeals to be made when LDCs have been rejected.

For purposes of this Impact Assessment, the cost benefit analysis adopts the following format:

- sectors and groups affected
- costs for local authorities and businesses
- benefits for local authorities and businesses

The status quo is also stated as a benchmark to enable analysis of the costs and benefits of the proposal.

Background

At present there is no time limit on making an appeal after a refusal to grant a Lawful Development Certificate (LDC).

Sectors and groups affected

- LPAs
- PINS
- planning appellants who have had their request for LDCs rejected

Costs and benefits: six month limit for appeals when LDCs have been rejected

Benefits

Savings to PINS

PINS will no longer have to consider LDC appeals older than six months. This should save time for the PINS as they will no longer have to consider cases where the information on the initial application is not easily and readily available.

Savings to LPAs

LPAs will no longer have to provide information on LDC appeals which are over six months old. This should save them from having to send information on the appeal which is not easily and readily available.

Costs

None. Six months is plenty of time for planning applicants to appeal against a refusal to grant a LDC so there should be no costs for appellants.

Costs and Benefits: *the Status Quo*

Maintain current policies of no limit on the time to make an appeal after a request for a LDC has been rejected.

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

Costs and benefits

No additional costs and benefits have been identified from 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

An Equalities impact screening assessment was applied to this proposal and stakeholders were consulted to determine the potential for equalities impact. We do not expect any adverse impacts as a result of this proposal.

Human Rights

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

Rural Proofing

Having engaged the views of Commission for Rural Communities, we believe this measure will not have a negative impact on rural areas.

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