

Development management: Proactive planning from pre-application to delivery

Consultation on a draft new planning policy statement on development management, and on draft policy annexes on the pre-application and determination stages



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Consultation summary

Topic of consultation	A new planning policy statement on development management
Scope of the consultation	To consider proposals to move from the traditional development control approach to handling development proposals to a new development management approach.
Geographical scope	England
Impact assessment	Consultation stage IA attached at Part 8
To	<p>This is a public consultation and anyone can respond. We would particularly welcome comments from:</p> <ul style="list-style-type: none"> • local planning authorities • civic and community groups • statutory consultees • developers and applicants • agents
Body responsible for the consultation	Communities and Local Government (Planning System Improvement Division)
Duration	12 weeks ending 19 March 2010
Enquiries	Tammy Adams 0303 444 1710
How to respond	<p>By email to: DMconsultation@communities.gsi.gov.uk</p> <p>Postal communication should be sent to:</p> <p>Development Management Consultation Communities and Local Government Floor 1, Zone A2 Eland House Bressenden Place London SW1 5DU</p>
Additional ways to become involved	This will be a largely written exercise, though we do intend to hold meetings with interested groups.

After the consultation	A summary of responses to the consultation and a statement of the Government's next steps on this matter will be published on the Department's website within 4 months of the end of the consultation period.
Compliance with the code of practice on consultation	The consultation complies with the code.
Getting to this stage	<p>The consultation follows the Government's response to the Killian Pretty Review. It specifically addresses the following review recommendations:</p> <p>Recommendation 17(c): <i>"As a part of the new national policy framework, a clear statement by Communities and Local Government about the key principles underpinning a move from development control to a development management approach"</i>.</p> <p>Recommendation 4(a): <i>"Government should strengthen and clarify national policy and guidance, so as to set out clearly its key expectations from applicants, statutory consultees and local planning authorities in the pre application process"</i>.</p> <p>This consultation also relates to:</p> <p>Recommendation 17(a) <i>"Government should substantially overhaul and simplify both the national planning policy framework and the secondary legislation for the processing of planning applications to provide a clearer framework for a more positive approach to development management and to reduce unnecessary complexity and burdens for all parties engaged in the process"</i>.</p> <p>Recommendation 17(b): <i>"Consolidation and simplification of the existing legislative framework for processing applications, principally the General Development Procedure Order (GDPO), which removes unnecessary prescription and detail"</i>.</p>
Previous engagement	Preliminary discussions with key stakeholders have been conducted both by CLG and indirectly by work undertaken by the PAS.

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Part 1

Introduction

- 1.1 The main purpose of this paper is to provide a clear national policy framework for development management, in response to recommendation 17(c) of the Killian Pretty Review, which was:

“As a part of the new national policy framework, there should be a clear statement by Communities and Local Government about the key principles underpinning a move from development control to a development management approach.”

- 1.2 It also provides national policy on pre-application engagement, as suggested in recommendation 4(a) of the Killian Pretty Review.

- 1.3 This document is structured in eight sections:

- Part 1: Introduction and context for consultation
- Part 2: Draft PPS on development management
- Part 3: Draft pre-application engagement policy annex
- Part 4: Draft determination policy annex
- Part 5: Towards a development management framework
- Part 6: About this consultation
- Part 7: Summary of consultation questions
- Part 8: Consultation stage impact assessment

What is development management?

- 1.4 Development management is a positive and proactive approach to shaping, considering, determining and delivering development proposals. It is led by the local planning authority (LPA), working closely with those proposing developments and other stakeholders. It is undertaken in the spirit of partnership and inclusiveness, and supports the delivery of key priorities and outcomes.

The need for change

- 1.5 Sustainable development can best be delivered through a positive and proactive planning system, operating in the public interest through good plan preparation and effective management of the development and use of land.
- 1.6 The traditional 'development control' approach to managing development proposals has focused on processing planning applications and enforcing contraventions, often taking a reactive and cautious approach. To enable each local authority to proactively fulfil their place-shaping role, and to actively promote sustainable development, local planning services need to:
 - facilitate development opportunities
 - influence development proposals to achieve quality outcomes and
 - solve problems to deliver sustainable development proposals
- 1.7 Local development frameworks (LDFs) have moved away from strictly land use based plans with a compendium of detailed policies and regulatory standards, towards plans which provide a strategic vision and objectives for the future of an area over time.
- 1.8 Adopting the development management approach will enable LPAs, with their local communities and stakeholders, to promote and achieve the vision and objectives agreed in their development plans and sustainable community strategies, as well as to deliver relevant regional and national objectives. This will assist them in shaping sustainable, prosperous, attractive and safe places where people want to live, work and relax. This will assist in meeting local area agreement targets and performing well under comprehensive area assessments.

Making the transition

- 1.9 Achieving the Government's objectives for development management will require local development management services to be more proactive and delivery focused, whilst being better aligned with other local authority strategic functions, including plan-making.
- 1.10 Many local authorities have already adopted aspects of development management in their planning services. For others, the transition may require a fundamental culture change across the authority, from the attitude and approach of senior management and elected members to the day-to-day working practices of staff working in planning functions.

- 1.11 However, it is important to note that development management retains the established practice of proper consideration and transparent determination of planning applications, and does not mean allowing development that is unacceptable.
- 1.12 For development management to be fully successful, the culture change that local authorities will be going through will need to be echoed by other relevant parties with an interest in development in their approach to submitting, shaping or commenting on planning applications.

The development management framework

- 1.13 The draft PPS in Part 2 of this document sets out the government's proposed overarching objectives and policies for development management. It provides strategic direction on how development management services should be framed for success, but allows flexibility for individual authorities to choose the most appropriate local approach, tailored to their area's circumstances and the resources available to them.
- 1.14 Over time, annexes to the PPS will provide detailed policy on specific stages and procedures involved in the handling of a development proposal. It is envisaged these annexes will be within eight themes:
- pre-application
 - application
 - consultation
 - determination
 - appeals
 - delivery
 - monitoring
 - special consent regimes
- 1.15 We began this process in July 2009, with a consultation paper on streamlining information requirements and sought views on whether to make changes to publicity arrangements for planning applications. Four further aspects of development management are being consulted on alongside this document:
- pre-application stage (Part 3 of this document)
 - determination of planning applications (Part 4 of this document)
 - statutory and non-statutory consultees (separate document)
 - use and discharge of planning conditions (separate document)

1.16 The PPS and its annexes will form the basis of a wider development management framework comprising:

- the wider national planning policy framework (this PPS fits within the context of PPS1 and alongside PPS12 and other national planning policies)
- the legal framework, mainly provided by the General Development Procedure Order 1995, which will be amended as necessary, to reflect updated policy and make it more accessible and
- national guidance on some aspects of development management and web-based information, including commentary and case studies to underpin the PPS and support the transition to development management, which will be provided by the Planning Advisory Service (PAS)

1.17 Part 5 of this document provides an update on progress made to date towards assembling the development management framework.

Draft pre-application engagement policy annex

1.18 Part 3 of this document sets out detailed policy on pre-application engagement. This has been prepared in response to recommendation 4(a) of the Killian Pretty Review, which stated that:

“Government, local planning authorities and others should take steps to substantially improve the critically important pre-application stage of the application process, in order to improve the quality of the application and to avoid problems and delays at later stages.”

1.19 Pre-application engagement brings advantages for all. For example it can:

- identify opportunities for scheme improvements at a stage when a proposal can still be modified, resulting in higher quality developments
- allow more opportunity to coordinate investment
- help to communicate the vision and objectives for the area
- develop a shared understanding of constraints, opportunities and context
- agree information requirements and weed out non starters
- establish timescales and explain administrative processes
- reduce delays through early engagement of key parties

1.20 Providing detailed policy on pre-application engagement complements other recent Government initiatives, in particular:

- planning performance agreements (PPAs), introduced in 2008, which are a key tool for collaborative working between local authority and applicant along agreed timescales and priorities

- the recent discussion paper on developing a new 'quality of planning service' indicator suggested an LPA's pre-application service could be one of the quality measures for the indicator.

1.21 Paragraphs PA5.1 and PA5.2 of the draft policy in Part 3 of this document reflect the current discretionary powers which LPAs can use to charge fees for pre-application services. Currently, LPAs set their own level of fees when charging for pre-application discussions and these can vary widely from one authority to another. The Killian Pretty Review (recommendation 4(b)), suggested that a more measured and consistent approach to charging across the country would be preferable. Their suggestion was that this consistency should be developed by professional bodies and authorities themselves. The Government supports this. However, an alternative means of achieving this consistency could be through the introduction of a specific, nationally-prescribed fee scale based on, for example, the size and complexity of the proposal under discussion. This could be established in planning legislation, and used instead of the current more general powers set out in the Local Government Act 2003. A consultation question on this point has been included in Part 3 of this paper.

Draft determination policy annex

- 1.22 The July 2009 Progress report *Taking Forward the Government's Response to the Killian Pretty Review* indicated the potential coverage for a 'determination' annex to the development management policy statement: decision making issues; improving the use and discharge of planning conditions; s106 and community infrastructure levy; role of the Secretary of State in determining planning applications. The first and last of these matters are dealt with in the draft policy annex on determination, as set out in Part 4 of this document. Conditions are the subject of a separate consultation paper. A brief update on work on s106 and CIL policy is included in Part 5.
- 1.23 Once finalised, the planning policy statement on development management, along with the policy annex on determination, will replace *The Planning System: General Principles*¹.

¹ *The Planning System: General Principles*, ODP, February 2004:
<http://www.communities.gov.uk/publications/planningandbuilding/planningsystem>

Part 2

Draft planning policy statement on development management

Introduction

Application of this planning policy statement

- 2.1 Planning policy statements (PPS) set out the Government's national policies on different aspects of spatial planning in England. This PPS sets out planning policies for development management. These policies complement but do not replace or override other national planning policies and should be read alongside other relevant statements of national planning policy.
- 2.2 The policies in this PPS, and in the policy annexes which supplement it, should be taken into account by local planning authorities in England in exercising their development management responsibilities, and they are material considerations which must be taken into account in development management decisions, where relevant².
- 2.3 The preparation of development plans should not be delayed to take the policies in this PPS and in the policy annexes into account.

The following policy and guidance documents are hereby cancelled³:

- *The Planning System: General Principles*
- DoE Circular 22/80: *Development Control – Policy and Practice* (remaining paragraphs)

The development management approach

- 2.4 Development management is not an end in itself, but a strategic service which supports the delivery of sustainable development consistent with the principles set out in planning policy statement 1.
- 2.5 Proactive and effective management of development opportunities and proposals, based on helpful, clear and flexible processes with a focus on outcomes, will best ensure the aspirations set out in the sustainable community strategy (SCS) and local development framework (LDF), and that the targets expressed in national policy and regional plans are realised.

² See section 38(6) of the Planning and Compulsory Purchase Act 2004.

³ These cancellations will only take place when this Planning Policy Statement is finalised.

Development management objectives

2.6 Development management should be used to promote timely, beneficial and sustainable development by ensuring the vision and objectives of the development plan, the spatial elements of other strategies such as the SCS, and relevant national and regional priorities and targets are effectively delivered on the ground by:

- using positive, transparent, inclusive and responsive processes, built on strong and effective partnership working and effective engagement with the local community
- effective facilitation and coordination of private and public investment and regeneration and
- adopting a positive, problem-solving approach to delivery issues wherever possible

2.7 It is the Government's intention to allow significant flexibility over the detailed approach each local authority takes to development management, tailored to their area's circumstances and the resources necessary and available. However, existing good practice indicates that achieving success requires local working practices to be based around seven key elements. These are:

- a positive and proactive approach to place shaping
- putting planning policy into action
- front loading
- taking a proportionate approach
- effective engagement
- proactive delivery
- monitoring and review of development management outcomes

Development management policies

DM1 A positive and proactive approach to place shaping

DM1.1 Local authorities should:

- a. encourage and facilitate collaborative working between parties with a key role in delivering strategically significant buildings, infrastructure, environments and other developments
- b. develop and maintain good communications with those bringing forward key proposals

- c. ensure developers understand the spatial vision and objectives for the area and the opportunities for development to support their delivery
- d. ensure that development by the local authority or by Local Strategic Partnership members is aligned with the spatial vision and objectives for the area
- e. develop effective communication between the officers and members of the authority and service delivery partners
- f. encourage the coordination of emerging development proposals to yield better value and outcomes, and ensure up to date information on development sites and opportunities is readily available
- g. ensure there are strong functional links between plan preparation and development management, so that strategies for delivering spatial priorities are robust and deliverable, and that development on the ground actually delivers the vision and priority outcomes

DM2 Putting planning policy into action

- DM2.1 The relationship between development management and plan making should be seamless. Both are integral pillars of spatial planning, and together they form a continuous cycle of planning activity which is essential for successful place shaping.
- DM2.2 The statutory development plan is the starting point for decision makers, followed by other material considerations. Statements of national planning policy are material considerations which must be taken into account in decisions on planning applications where relevant. They provide decision-making policies for the purposes of development management.
- DM2.3 In addition, to support the wider spatial planning approach, local authorities should:
- a. analyse the likely impacts and outcomes of the proposed development and judge whether it helps to implement the development plan and national planning policy
 - b. make decisions in the wider context of contributing to sustainable development having regard to the anticipated outcomes and quality of the development proposed, and
 - c. avoid a simply mechanistic testing of proposals against fixed criteria

DM3 Front loading

- DM3.1 Local authorities should encourage pre-application engagement, and provide clear advice, to:
- a. help the applicant to further develop or refine their proposals, in order to raise the quality of the proposed development
 - b. save time and money and increase efficiency for all users
 - c. avoid incomplete applications that cannot be validated, including by ensuring appropriate and adequate supporting information is provided
 - d. seek agreement on what matters will be dealt with at the planning application stage, to reduce the need to use planning conditions that could delay implementation, and seek consensus on appropriate conditions
 - e. identify who should be involved from the early stages
 - f. help reveal issues that could have a significant impact on the development or the prospects of achieving planning permission, at an early stage
- DM3.2 Though pre-application discussions are not compulsory for any party, they provide advantages for all, and LPAs should offer them wherever appropriate. Where a local authority has offered pre-application engagement applicants are urged to take this up, rather than deferring negotiations until their application has been submitted, at which point the authority will have less time and scope for collaboration.
- DM3.3 To maximise the benefits of front loading, local authorities should:
- a. clearly set out their approach to pre-application discussions for different scales of development
 - b. strongly encourage pre-application engagement, particularly for major or complex proposals, and those which could impact on other priority policy areas, taking a proportionate approach
 - c. take steps to ensure that in all forms of pre-application engagement:
 - advice is reliable, complete and consistent
 - processes are time conscious
 - procedures for engagement are inclusive
 - procedures are clearly set out for all participants to understand
 - processes ensure a transparency in decision-making

DM4 Taking a proportionate approach

- DM4.1 The approach taken to assessing a development proposal should be proportionate to its scale and impact, and should always be as transparent and as simple as possible, whilst having regard to statutory requirements.

DM4.2 Matters of principle that have been established through the plan-making process should not be revisited unnecessarily.

DM4.3 Local planning authorities should:

- a. actively consider opportunities for introducing local development orders which expand permitted development rights in a form appropriate to local priorities and circumstances
- b. ensure that local information requirements for applicants are clear, reasonable and proportionate⁴
- c. regularly examine the opportunities for business process improvements to the way planning applications are handled, to achieve improved customer service and financial savings
- d. keep their local schemes of delegation under review to ensure that the resources of planning committees are focused on applications of major importance and delegation rates of decisions to officers are maximised
- e. ensure that the statement of community involvement embodies a proportionate but effective approach to community engagement and consultation

DM4.4 Local planning authorities should maintain working practices that are efficient and effective, so that the time invested on smaller applications is limited to what is necessary in order to keep sufficient resources free to manage important schemes. They should consider the real costs of providing different aspects of their planning service. Through this, they should identify opportunities to make lasting improvements in order to concentrate resources on the development proposals that could make the best contribution to achieving the local vision and objectives, and on the stages in the planning process which offer the best opportunity to improve schemes.

DM5 *Effective engagement*

DM5.1 Local authorities should foster a culture of partnership and provide a problem solving approach to development proposals, while ensuring that the process remains fair and open, and that those with an interest in the outcomes of the proposals can have their views taken into account.

DM5.2 Active participation in the pre-application development of options and shaping of proposals by stakeholders and the community can be critically important. Local authorities should ensure that clear and proportionate arrangements to achieve this are identified⁵.

⁴ Add reference to annex on streamlining information

⁵ *Community Involvement in Planning: The Government's Objectives*; ODPM; 2004
<http://www.communities.gov.uk/archived/publications/planningandbuilding/communityinvolvement>

- DM5.3 Creative place-shaping requires early involvement by all relevant elected members, as well as officers. Local authorities should put appropriate mechanisms in place to ensure that elected members can take part in discussions on development proposals at all relevant stages, including when options are being scoped and plans shaped, without prejudicing their decisions or compromising the integrity of the process. Elected members should be positively encouraged to make use of these opportunities to maximise their role as local representatives and provide civic leadership⁶.
- DM 5.4 Local authorities should clearly set out their methods and processes for community involvement and publicity that will be used throughout the development management process, including at the pre-application and formal consultation stages. This could be done in the statement of community involvement.
- DM5.5 For major and complex schemes, local authorities should encourage and facilitate the engagement of relevant statutory and non-statutory consultees at the pre-application stage, as well as through the formal statutory process.

DM6 Proactive delivery

- DM6.1 Development management does not stop when a decision notice is issued. The local authority should support the implementation of approved developments, where necessary, particularly by helping to ensure that development is not unnecessarily delayed by pre-commencement or pre-occupation matters for which the local planning authority is responsible, for example pre-commencement planning conditions.
- DM6.2 To reduce the risk of slowing down delivery once planning permission has been granted, local planning authorities should:
- a. only use planning conditions where appropriate, in line with detailed national policy on conditions (see separate consultation paper on *Improving the Use and Discharge of Planning Conditions*)
 - b. ensure the terms of any planning obligation are agreed prior to the determination stage, and that they are in place prior to the issuing of the decision notice, other than in the very exceptional circumstances set out in the detailed national policy on conditions
 - c. ensure effective co-ordination and communication within the authority with all services which play a role during the delivery phase, such as building control, enforcement and environmental health

⁶ Guidance is set out in *Probity in Planning: The Role of Councillors and Officers – Revised Guidance Note on Good Planning Practice for Councillors and Officers Dealing With Planning Matter*; LGA; May 2009. <http://www.lga.gov.uk/lga/core/page.do?pageId=1940468>

DM6.3 Where appropriate and practicable, local authorities should use the wide ranging discretionary powers and tools available to them to facilitate proposals and ensure that developments with planning permission are delivered. Such opportunities include the use of compulsory purchase powers, coordinating and targeting investment in the infrastructure required to support new development and existing communities, preparing masterplans and development briefs, and bringing together potential planning and delivery partners⁷.

DM7 Monitoring and review of development management outcomes

DM7.1 As well as supporting plan delivery, local planning authorities should use development management as a means of monitoring and testing the implementation of adopted and emerging DPDs. The information gleaned through this will help to identify potential review points. It will inform the next round of plan making, and could form part of the evidence base. It will also help to identify how development management services could be further improved and made more effective.

DM7.2 Local authorities should identify the successful outcomes which development management helps to achieve, as this will guide further improvements to effectiveness. Annual monitoring reports (AMRs) provide a mechanism for monitoring and reporting back on the outcomes of development management and measuring these against plan objectives and targets.

Consultation questions on Part 2

1. Do you agree with the objectives we have identified for development management? If not, what amendments to these objectives would you suggest?
2. Do you consider that the seven key elements identified for development management suitably reflect the objectives and the role of development management in the local authority context? If not, what amendments to these elements would you suggest?
3. Do you agree that we should give each authority the discretion to tailor their development management service to local circumstances? If not, what alternative would you suggest? For example, should we provide a more prescriptive national policy?
4. Do you consider that the proposed development management policies provide a suitable overarching national policy framework within which local working practices can be framed?

⁷ Guidance on partnership working through LSPs, and practical tips to strengthen collaborative, corporate approaches, is set out in *Planning Together: Updated practical guide for local strategic partnerships and planners*; CLG; April 2009.

Consultation questions on Part 2 (*continued*)

5. Are any of the proposed policies too prescriptive? If yes, please indicate which ones, and suggest alternative wording or approaches.
6. Are there any topics relevant to development management which you would like to see in covered in:
 - (a) the detailed policy annexes to this PPS?
 - (b) guidance?
7. Overall, does the proposed new planning policy statement on development management provide an effective way of supporting existing local planning authority good practice in development management, and of guiding improvements where they are needed? If not what amendments or additional/alternative approaches should be considered?

Part 3

Draft pre-application engagement policy annex

Introduction

Application of this policy annex

- 3.1 This policy annex supplements the planning policy statement on development management and should be read in conjunction with it and its other policy annexes, and with other national policy, where relevant.
- 3.2 The policies in this policy annex should be taken into account by local planning authorities in England in exercising their development management responsibilities, and they are material considerations which must be taken into account in development management decisions, where relevant⁸.
- 3.3 This policy annex sets out the Government's objectives and policy for pre-application engagement.

Pre-application principles

- 3.4 The pre-application phase of development management is part of a positive and proactive planning process, although it is non-statutory.
- 3.5 Engagement prior to any planning application being formally submitted can be critically important and should provide the applicant and the local planning authority with the opportunity to gain a clear understanding of the objectives of and constraints on development. It also provides an opportunity for wider engagement, where appropriate, with other stakeholders, including the local community, which can deliver better outcomes for all parties.
- 3.6 Local planning authorities should therefore take active steps to encourage pre-application engagement with those considering development.

⁸ See section 38(6) of the Planning and Compulsory Purchase Act 2004.

- 3.7 The level of pre-application engagement will be dependent on a range of considerations, including:
- the scale and complexity of the proposals
 - the sensitivity and constraints of the development site and wider area
 - the resources available to the local planning authority and
 - the willingness of those proposing development to engage
- 3.8 It is for the local planning authority to judge how best to achieve this objective in a proportionate, efficient and effective way. However, where there is pre-application engagement, it is important that the advice provided by the local planning authority is clear and accurate and that the process of engagement is transparent.
- 3.9 Pre-application advice cannot bind the local planning authority to a particular outcome, in the event of a formal planning application. However, where advice has been provided at pre-application stage, local planning authorities should:
- ensure continuity in officer involvement or others acting on behalf of the council in determination of the application
 - determine the application in a way that is consistent with the advice given at the pre-application stage, or set out clearly why this is not possible and
 - seek to involve members in pre-application discussion

Pre-application policies

PA1 Pre-application planning service

- PA 1.1 Local planning authorities should clearly set out what their pre-application service provides, taking into consideration the appropriate level of service that should be provided for different types of planning application. In particular, they should explain clearly:
- a. the range of guidance available to those proposing development, and
 - b. the opportunities available for pre-application discussions
- PA 1.2 Local authorities should be mindful of the need to provide an inclusive service to all members of the community and should therefore ensure that guidance is transparent and accessible to all.

PA 1.3 Where appropriate, the pre-application stages should be used to establish a project management approach to the handling of development proposals and planning applications. Local planning authorities should be the facilitator of discussions and be primarily responsible for their instigation, inviting participants and recording discussions.

PA1.4 Developers and local planning authorities developing proposals for their area should take into consideration the need to engage as early as possible in the pre-application phase of development, and consider the potential to use a planning performance agreement where this would deliver improvements to the management of the process, particularly for major or complex proposals.

PA2 *Small scale development*

PA2.1 Local authorities should identify how best to provide pre-application advice for smaller scale developments, for which pre-application discussion may not be necessary. A pre-application service for smaller developments such as house extensions, changes of use, or minor works to commercial buildings could be provided in the form of readily accessible, good quality advice guides and supplementary guidance, supported by access to a planning officer. In all cases, the approach to pre-application engagement should be proportionate, whilst taking into account the impacts that can arise from such developments.

PA3 *Pre-application advice and discussions*

PA3.1 In order to ensure that pre-application advice and discussions are both efficient and effective, local planning authorities should set out clear guidance on:

- a. the minimum information that is expected from, and the other responsibilities incumbent on, those seeking pre-application advice or discussions
- b. the actions that the local planning authority will take to respond to properly framed requests for pre-application advice or requests for a meeting, including clear timescales and broad approach to be taken according to the scale/complexity of the proposals
- c. an indication of the approach to be taken to the involvement of third parties, including key consultees and the local community
- d. the charge, if any, for providing the pre-application service and clarity about what service levels and other support will be provided for that charge
- e. where needed, the involvement of multi-disciplinary teams and
- f. the circumstances where the local planning authority would recommend the use of a planning performance agreement or similar project management approach

PA4 Key participants at the pre-applications phase

- PA4.1 A key factor in effective pre-application discussions will be the engagement of a range of participants as well as the local community. Local authorities should ensure that their approach on pre-application discussions is consistent with its statement of community involvement.
- PA4.2 The developer/applicant's role in positive engagement is crucial to the success of the pre-application phase. The advantage to the developer of having a well run, proactive and effective process for engagement at an early stage, particularly on large development proposals, is that potential issues can be considered at a stage when all parties can be engaged in identifying solutions.
- PA4.3 Local authority members are encouraged to fulfil their roles as local authority representatives and civic leaders in the planning system and this includes involvement in the pre-application phase of development. The participation of elected members should be guided by the national code of conduct for members and any local code of conduct within the authority.⁹
- PA4.4 The effectiveness of pre-application discussions is enhanced by the engagement of statutory consultees and other relevant parties. It is important to bring such organisations into the process at the earliest opportunity as their input may be critical to the development of the proposal and local authorities and developers should identify which organisations should be engaged¹⁰.
- PA4.5 Similarly, local delivery partners in the area will also have an important place in many pre-application discussions, especially where the proposal relates specifically to a development that facilitates the delivery of services to the local community. For the purposes of effective pre-application engagement, these organisations should be expected to act in a similar way to statutory consultees and be prepared to invest adequate resources into discussions. Through a well managed process, the local community is well informed and has the opportunity of influencing development which shapes their community.

PA5 Fees for pre-application engagement

- PA5.1 A local planning authority has the power to charge for services provided in the form of pre-application discussions under Section 93 of the Local Government Act 2003. Where a local authority opts to charge a fee for the pre-application phase, any charge must be on a not for profit basis and over the course of each year, the income from charges for such services must not exceed the cost of providing them.

⁹ Specific advice in relation to planning is set out by the Standards Board for England and by the Local Government Association. The Communities and Local Government report on *Member Involvement in Planning Decisions* (CLG January 2007) provides advice on how member involvement can be managed without compromising the decision making process.

¹⁰ See also the development management policy annex on statutory and non statutory consultees

PA5.2 Where local authorities set charges for any pre-application service they should clearly set out their scale of fees and charges alongside the level of service that an applicant/developer will receive for that charge.

Consultation questions on Part 3

8. Do you agree with the pre-application principles? If not, what amendments to these principles would you suggest? Are there any additional principles which should guide local planning authorities to ensure a good quality and effective pre-application service?
9. Do you agree with the draft policy (PA1) on pre-application planning services? If not, what amendments would you suggest?
10. Do you agree with the draft policy (PA2) on the approach to be taken to pre-application advice for small scale development? If not, what amendments would you suggest?
11. Do you agree with the draft policy (PA3) on the need for clear LPA guidance on pre application advice and discussions? If not, what amendments would you suggest?
12. Do you agree with the draft policy (PA4) on the proposed scope for involvement of key participants at the pre-application stage?
13. Do you agree that the extra resources spent by applicants at the pre-application stage will be compensated by savings at the post-application stage? If not, please explain.
14. Should specific fees for pre-application engagement be established in planning legislation, or do the current powers under the Local Government Act 2003 make adequate provision?

Part 4

Draft determination policy annex

Introduction

Application of this policy annex

- 4.1 This policy annex supplements the planning policy statement on development management and should be read in conjunction with it and its other policy annexes, and with other national policy, where relevant.
- 4.2 The policies in this policy annex should be taken into account by local planning authorities in England in exercising their development management responsibilities, and they are material considerations which must be taken into account in development management decisions, where relevant¹¹.
- 4.3 This annex sets out draft detailed policy on the decision-making issues which local planning authorities must take into account when they determine planning applications. It also summarises the role of the Secretary of State in the determination of certain applications.

The policy framework

- 4.4 In England planning policy is provided at the local, regional and national levels.
- 4.5 The statutory development plan for each area consists of the relevant regional spatial strategy (RSS), or, in London the spatial development strategy¹² and the development plan documents (DPDs) of the relevant local authority's local development framework, within which the core strategy is the principal DPD.
- 4.6 At the national level, the Government prepares policy on different aspects of planning and the rules that govern the operation of the system. National planning policies are material considerations and are set out in:
- planning policy statements (PPS) and planning policy guidance notes (PPG)
 - minerals policy statements (MPS) and minerals planning guidance notes (MPG)
 - circulars
 - Parliamentary statements
 - national policy statements (NPS) (for infrastructure)

¹¹ See section 38(6) of the Planning and Compulsory Purchase Act 2004.

¹² This paragraph represents the regional planning system in place at the time of drafting; it will be updated at a later stage to reflect the provisions of the Local Democracy, Economic Development and Construction Act, when implemented.

Determination policies

DE1 The statutory development plan

DE1.1 Local planning authorities must determine planning applications in accordance with the statutory development plan, unless material considerations indicate otherwise¹³.

DE1.2 If RSS and DPD policies conflict, the most recently adopted plan will take precedence¹⁴.

DE2 Emerging DPD policies

DE2.1 The weight to be attached to emerging DPD policies depends upon the stage of preparation or review, increasing as successive stages are reached. At publication stage, a plan is in draft and its policies are subject to representation but the local planning authority will have consulted extensively with the community and stakeholders on its objectives and undertaken a sustainability appraisal. At submission, the plan is final and the local planning authority has in effect resolved to adopt it, subject to independent examination. Once examined as sound, but prior to adoption, the DPD has significant material weight.

DE3 Prematurity

DE3.1 Refusal of planning permission on grounds of prematurity, where a DPD is being prepared or is under review and not yet adopted, will not usually be justifiable unless approval would compromise the testing of alternatives for the DPD. An example of such compromise could be where a proposed development is so significant in its individual or cumulative effects that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which the DPD addresses. Refusal may also be necessary in order for phasing policies to have effect. In most other circumstances, planning applications should continue to be considered in the light of current policies.

DE3.2 Where planning permission is refused on grounds of prematurity, the local planning authority must demonstrate clearly how granting permission would prejudice the outcome of the emerging DPD.

DE4 Government statements of planning policy

DE4.1 The Government's statements of planning policy are material considerations which must be taken into account, where relevant, in decisions on planning applications. They provide generic decision making policies for the purposes

¹³ Section 38(6) of the Planning and Compulsory Purchase Act 2004

¹⁴ Planning and Compulsory Purchase Act 2004

of development management. These statements cannot make irrelevant any matter which is a material consideration in a particular case. But where such statements indicate the weight that should be given to relevant considerations, decision-makers must have proper regard to them. If they elect not to follow relevant statements of the Government's planning policy, they must give clear and convincing reasons.

- DE4.2 Emerging national policies, i.e. draft planning policy statements, can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review, and the circumstances which have led to that review may need to be taken into account.

DE5 Non-planning legislation

- DE5.1 Non-planning legislation may place statutory requirements on planning authorities, or may set out controls which need to be taken into account (for example, environmental legislation, or water resources legislation). Planning authorities, in exercising their functions, also need to have regard to the requirements of other legislation, for example legislation in relation to human rights or equalities.

DE6 Other material considerations

- DE6.1 *"In principle...any consideration which relates to the use and development of land is capable of being a planning consideration. Whether a particular consideration falling within that broad class is material in any given case will depend on the circumstances"* (Stringer v MHLG, 1971). Material considerations must be genuine planning considerations, i.e. they must be related to the development and use of land in the public interest. The considerations must also fairly and reasonably relate to the application concerned (R v Westminster CC ex-parte Monahan 1989).
- DE6.2 The courts are the arbiters of what constitutes a material consideration. All the fundamental factors involved in land-use planning are included, such as impact on the neighbourhood and the availability of infrastructure.
- DE6.3 The sustainable community strategy and other local authority strategies may also be relevant where these would help to deliver the vision and objectives of the community and are consistent with the spatial strategy set out in the development plan.

DE7 Private interests

DE7.1 The planning system does not exist to protect the private interests of one person against the activities of another, although private interests may coincide with the public interest in some cases. It can be difficult to distinguish between public and private interests, but this may be necessary on occasion. The basic question is not whether owners and occupiers of neighbouring properties would experience financial or other loss from a particular development, but whether the proposal would unacceptably affect amenities and the existing use of land and buildings which ought to be protected in the public interest.

DE8 The role of the Secretary of State

DE8.1 Circular 02/2009 sets out the requirements of the Town and Country Planning (Consultation) (England) Direction 2009, which obliges local planning authorities in England to consult the Secretary of State before granting planning permission for certain types of development. The Secretary of State can however choose to 'call-in' a planning application irrespective of whether it was referred to him under the terms set out in the Direction.

DE8.2 The Secretary of State can 'call-in' planning applications, for his determination. In general the Secretary of State will use these intervention powers selectively and will not interfere with the jurisdiction of local planning authorities unless it is necessary to do so. Criteria for calling-in planning applications were set out by the then Minister for Planning in June 1999.

"[The]... general approach of the [Secretary] of State, is not to interfere with the jurisdiction of local planning authorities unless it is necessary to do so. Parliament has entrusted them with responsibility for day-to-day planning control in their areas. It is right that, in general, they should be free to carry out their duties responsibly, with the minimum of interference".

"There will be occasions, however, when...[the Secretary of State] may consider it necessary to call in the planning application to determine himself, instead of leaving the decision to the local planning authority".

"His policy is to be very selective about calling in planning applications. He will, in general, only take this step if planning issues of more than local importance are involved. Such cases may include, for example, those which, in his opinion:

- *may conflict with national policies on important matters;*
- *could have significant effects beyond their immediate locality;*
- *give rise to substantial regional or national controversy;*
- *raise significant architectural and urban design issues; or*
- *may involve the interests of national security or of foreign Governments*

"However, each case will continue to be considered on its individual merits"¹⁵.

¹⁵ Extract from Hansard, 16 June 1999, col 138.

DE9 Propriety

- DE9.1 Part III of the Local Government Act 2000 introduced a comprehensive ethical framework for local government. A revised national code of conduct for councillors was introduced in 2007. Each authority is required to adopt a local code of conduct that sets out rules governing the behaviour of its members, based on a model code issued by Government. The model code sets out the expectations as to the conduct of elected members in carrying out their official duties. The Local Government Association (LGA) report *Probity in Planning* relates these requirements specifically to planning. This is regularly reviewed and was last updated in May 2009¹⁶. Bodies with a key role to play in regard to probity are the Standards Board for England, for breaches of codes of practice, and the Local Government Ombudsman, for maladministration issues.

Consultation questions on Part 4

15. Do you consider that the draft policy on determining planning applications is a good replacement for *The Planning System: General Principles*? If not, what amendments would you suggest?
16. Will the draft policy on determining planning applications be useful to LPAs in terms of applying a development management approach when making planning decisions? If not, what amendments would you suggest?

¹⁶ *Probity in Planning: the role of councillors and officers – revised guidance note on good planning practice for councillors and officers dealing with planning matter*, Local Government Association; May 2009. <http://www.lga.gov.uk/lga/core/page.do?pageld=1940468>

Part 5

The emerging development management framework

The Government proposes to prepare a suite of detailed policy annexes to the new planning policy statement on development management. The table below provides an update on progress made towards delivering these.

Key development management activity themes Commentary, progress and next steps by theme		
Key theme	Main topics/components	Commentary/progress/next steps
Pre-application	Pre-application matters	Draft policy covering pre-application discussion matters is included in the autumn 2009 consultation paper <i>Development management: Proactive planning from pre-application to delivery</i> .
	Planning performance agreements	CLG and ATLAS have commissioned consultants to undertake research on barriers.
Application	Information requirements	July 2009 consultation: <i>Streamlining Information Requirements</i> . Consultation ended 23 October 2009. Consultation responses are now being considered.
	Application fees	Research currently being undertaken on planning fees.
	Environmental assessment	EIA requirements stem from an EU directive, so are not being reviewed in the development management programme. Revised guidance to replace Circular 2/99 is intended to be published in 2010.

Key development management activity themes Commentary, progress and next steps by theme		
Key theme	Main topics/components	Commentary/progress/next steps
Consultation	Publicity requirements	July 2009 consultation: <i>Publicity for planning applications</i> sought views on possible changes to arrangements. Consultation ended 23 October 2009. See second KP progress report for decision.
	Statutory and non-statutory consultation	A draft policy statement is included in the autumn 2009 consultation paper <i>Improving engagement by statutory and non-statutory consultees</i> .
Determination	Decision-making issues	Draft policy set out in the 'determination' section of autumn 2009 consultation paper <i>Development management: Proactive planning from pre-application to delivery</i> . Covers decision making issues and the role of the Secretary of State. This would replace the existing <i>The Planning System: General Principles</i> document.
	Involvement of Secretary of State	
	Planning conditions	Autumn 2009 consultation document <i>Improving the use and discharge of planning conditions</i> sets out revised policy on the use of conditions and potential measures for improving the discharge of conditions stage.
	Planning obligations (S106) and community infrastructure levy (CIL)	Consultation on draft CIL regulations, including proposals for the possible scale back of the use of planning obligations (S106) took place in summer 2009. Consultation responses are now being considered. Regulations due to be introduced on April 2010.
Appeals	Appeals process	Ministerial statement 11 March 2009 sets out overview of current appeals policy.
	Appeal fees	No work currently planned.
	Award of costs	Updated Circular 03/09 was published April 2009.

Key development management activity themes Commentary, progress and next steps by theme		
Key theme	Main topics/components	Commentary/progress/next steps
Delivery	Greater flexibility for implementing planning permissions	Powers to apply to extend the timescales for existing planning permissions, and to apply for non material amendments to existing planning permissions, came into force on 1 October 2009. A guidance note was issued on 23 November 2009.
	Facilitation	Potential new policy or guidance area. Compulsory purchase is a key facilitation tool. However, we do not currently propose any changes on compulsory purchase policy, and the CPO legislative framework is not part of the KP programme.
	Enforcement	No changes to the enforcement legislative framework are currently planned. PPG18 (Enforcing Planning Control) remains extant until any later consolidation.
Monitoring outcomes	Monitoring and reviewing outcomes	Key policy issues are set out in the autumn 2009 consultation paper <i>Development management: Proactive planning from pre-application to delivery</i> .
	Measuring performance	Discussion paper on options to revise the performance framework was published in July 2009. Comments received are now being considered and will inform the development of a pilot scheme.
	Rewarding good performance	Housing and Planning Delivery Grant provisional allocations were announced by written statement to the House of Commons on 1 December 2009.

Key development management activity themes Commentary, progress and next steps by theme		
Key theme	Main topics/components	Commentary/progress/next steps
Special regimes	Permitted development	<p>Consultation on proposed changes to the GPDO in relation to non-domestic development closed on 23 October 2009. Consultation responses are now being considered.</p> <p>Consultation on proposed changes to the GPDO in relation to domestic and non-domestic renewables development was published on 17 November 2009, and consultation will close on 9 February 2010.</p>
	Local development orders	<p>Changes to secondary legislation and guidance consequential to the Planning Act 2008 were introduced in June 2008.</p> <p>CLG and PAS currently supporting LDO pilot projects.</p>
	Advertisement control	<p>No significant changes to legislation in respect of other special regimes are currently proposed.</p> <p>PPG19 (Outdoor Advertisement Control) remains extant until any later consolidation.</p>
	Local authorities' own development	
	Minerals and waste	
	Lawful development certificates	
	Crown development	
Development by statutory undertakers		

Part 6

About this consultation

- 6.1 This consultation document and consultation process have been planned to adhere to the code of practice on consultation issued by the Department for Business, Innovation and Skills and is in line with the seven consultation criteria, which are:
- formal consultation should take place at a stage when there is scope to influence the policy outcome
 - consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible
 - consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals
 - consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach
 - keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained
 - consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation
 - officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience
- 6.2 Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.
- 6.3 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 6.4 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could

explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the department.

- 6.5 The Department for Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.
- 6.6 Your opinions are valuable to us. Thank you for taking the time to read this document and respond.
- 6.7 Are you satisfied that this consultation has followed these criteria? If not or you have any other observations about how we can improve the process please contact:

CLG Consultation Co-ordinator
Zone 6/H10
Eland House
London SW1E 5 DU

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

Part 7

Summary of consultation questions

We would particularly welcome your views in response to the following questions:

Consultation questions on the draft planning policy statement on development management (Part 2)

1. Do you agree with the objectives we have identified for development management? If not, what amendments to these objectives would you suggest?
2. Do you consider that the seven key elements identified for development management suitably reflect the objectives and the role of development management in the local authority context? If not, what amendments to these elements would you suggest?
3. Do you agree that we should give each authority the discretion to tailor their development management service to local circumstances? If not, what alternative would you suggest? For example, should we provide a more prescriptive national policy?
4. Do you consider that the proposed development management policies provide a suitable overarching national policy framework within which local working practices can be framed?
5. Are any of the proposed policies too prescriptive? If yes, please indicate which ones, and suggest alternative wording or approaches.
6. Are there any topics relevant to development management which you would like to see in covered in:
 - (a) the detailed policy annexes to this PPS?
 - (b) guidance?
7. Overall, does the proposed new planning policy statement on development management provide an effective way of supporting existing local planning authority good practice in development management, and of guiding improvements where they are needed? If not what amendments or additional/alternative approaches should be considered?

Consultation questions on the draft pre-application engagement policy annex (Part 3)

8. Do you agree with the pre-application principles? If not, what amendments to these principles would you suggest? Are there any additional principles which should guide local planning authorities to ensure a good quality and effective pre-application service?
9. Do you agree with the draft policy (PA1) on pre-application planning services? If not, what amendments would you suggest?
10. Do you agree with the draft policy (PA2) on the approach to be taken to pre-application advice for small scale development? If not, what amendments would you suggest?
11. Do you agree with the draft policy (PA3) on the need for clear LPA guidance on pre-application advice and discussions? If not, what amendments would you suggest?
12. Do you agree with the draft policy (PA4) on the proposed scope for involvement of key participants at the pre-application stage?
13. Do you agree that the extra resources spent by applicants at the pre-application stage will be compensated by savings at the post-application stage? If not, please explain.
14. Should specific fees for pre-application engagement be established in planning legislation, or do the current powers under the Local Government Act 2003 make adequate provision?

Question on the draft determination policy annex (Part 4)

15. Do you consider that the draft policy on determining planning applications is a good replacement for *The Planning System: General Principles*? If not, what amendments would you suggest?
16. Will the draft policy on determining planning applications be useful to LPAs in terms of applying a development management approach when making planning decisions? If not, what amendments would you suggest?

Question on the consultation stage impact assessment (Part 8)

17. Do you agree with the assumptions made in the estimation of the costs and benefits in the consultation stage impact assessment? We welcome evidence from LPAs and applicants on the likely impacts of the proposal.

Part 8

Draft consultation stage impact assessment

Summary: Intervention & Options		
Department /Agency: Communities and Local Government	Title: Impact assessment of: Development management policy statement (including pre-application and determination policy annexes)	
Stage: Consultation	Version: 1.1	Date: 3 November 2009
Related Publications: Killian Pretty Review Final Report http://www.communities.gov.uk/publications/planningandbuilding/killianprettyfinal		

Available to view or download at:

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

Contact for enquiries: Tammy Adams (CLG)

Telephone: 0303 444 1710

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

Local government reforms have introduced more focus on partnership working to achieve locally agreed priority outcomes. This approach has partly extended into the local planning services through the introduction of LDFs. However, in order for LPAs to play a full and effective role there is a need for a culture change from traditional regulatory style development 'control' to a more outcome focussed development 'management' approach to the formulation, determination and implementation of sustainable development proposals. Government has never provided a national development control policy. Killian Pretty recommended that to underpin the move from development control to development management, CLG should set out the key principles of the new approach.

What are the policy objectives and the intended effects?

This draft PPS sets out an overarching framework to enable LPAs to shape their development management services around seven key principles. These are: positive and proactive place shaping; putting planning policy into action; front loading; proportionate approach; effective engagement; proactive delivery; monitoring outcomes.

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

- 1) Do nothing, continue to omit development management from the national policy framework
- 2) Provide detailed national policy
- 3) Provide overarching national policy on the key principles of development management

Option 3 is preferred as it will provide local LPAs with a clear framework for making the move from development control to the more proactive development management approach, without being overly prescriptive as to how they do so. This option is in line with Government's commitment on recommendation 17c of the Killian Pretty review.

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

Government undertakes to formally review the policy within four years of implementation, and will continue to liaise with stakeholders informally in the interim.

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: John Healy



Date: 16 December 2009

To comment on the consultation stage impact assessment see Question 17 in the 'Summary of Consultation questions' in Part 7 of this document.

Summary: Analysis & Evidence

Policy Option: 3		Description: Provide overarching national policy on the key principles of development management	
COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Zero net cost for LPAs. Though the move to development management will require more pre-application work, which could cost an extra £7m to £11m p.a., LPAs can make efficiencies at other stages in the process to offset any additional pre-application costs. LPAs have existing discretionary power to charge to cover the costs of pre-application services.
	One-off (Transition)	Yrs	
	£0	10	
	Average Annual Cost (excluding one-off)		
	£0		
		Total Cost (PV)	£0
Other key non-monetised costs by 'main affected groups'. Zero net costs are also predicted for developers. Additional pre-application service costs will be offset by a reduction in unnecessary costs associated with preparing unnecessary information, pursuing schemes likely to be refused, having to resubmit schemes, or having lots of conditions imposed.			
BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' £46m to £217m savings to LPAs arising from development-control related efficiencies.
	One-off	Yrs	
	£0	10	
	Average Annual Benefit (excluding one-off)		
	£5m to £25m		
		Total Benefit (PV)	£46m to £217m
Other key non-monetised benefits by 'main affected groups'. Less delay to sustainable development (including housing delivery), and increased certainty, benefiting applicants and developers. Value added to schemes by front loading, benefiting service providers and communities. Applicant cost savings from clearer information requirements.			
Key Assumptions/Sensitivities/Risks We assume that LPAs will use their existing fee charging powers to cover the costs of their pre application stage work. And that by following the new PPS and making use of existing support from PAS, 60 per cent of LPAs will make development control-related efficiency savings of 3 per cent to 14 per cent to 'cash' or reinvest in service improvements. See discussion in Evidence Base.			
Price Base Year 2010	Time Period Years 10	Net Benefit Range (NPV) £46m to £217m	NET BENEFIT (NPV Best estimate) £46m to £217m

What is the geographic coverage of the policy/option?	England			
On what date will the policy be implemented?	FY 2010/11			
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?	Yes			
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?	No	No	N/A	N/A
Impact on Admin Burdens Baseline (2005 Prices) (Increase – Decrease)				
Increase of £0	Decrease of £0	Net Impact £0		
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Evidence Base (for summary sheets)

Background

1. This impact assessment accompanies a new draft planning policy statement on development management, which describes Government's objectives for the new development management approach, and sets out seven key elements which LPAs should ensure their services are based around. This is in line with our commitment on Recommendation 17(c) of the Killian Pretty Review, which recommended the provision of clear national policy guidance on the new development management approach, setting out the key principles underpinning a move from development control to a development management approach.
2. 'Development control' is the term traditionally used to describe the work that an LPA does in shaping, receiving, considering, determining, monitoring and enforcing planning applications. The new PPS on 'development management' advocates a culture change to a more positive and proactive approach that makes more of opportunities at the pre application stage to shape development proposals. It advocates thinking more about whether the proposed development will result in outcomes that support the vision and objectives set out in the relevant LDF and sustainable community strategy. It also guides LPAs to do as much as they can to avoid delaying the delivery of sustainable development, for example by helping resolve issues at an early stage rather than having to impose a lot of planning conditions onto a planning permission, especially those which require further work to be done before development can start.
3. Government has not previously set out policy guidance on what development management is, what Government policy for it is, or the implications of the new approach for the processing of applications. Providing national policy that addresses these points, as an integral part of the national policy framework, is critically important if the development management approach is to be fully made clear to and taken on by LPAs.
4. Government has engaged with stakeholders in drafting this policy and, as with the Killian Pretty review itself, has identified clear evidence of good development management practice already emerging in many LPAs. This has been helped by support projects run by organisations such as the Planning Officers' Society (POS) and the Planning Advisory Service (PAS). Whilst good practice is already emerging, the development management approach has not been adopted by all local authorities.

Towards a development management framework

5. The draft development management policy statement will over time be complemented with a number of more detailed policy annexes covering:
 - pre-application
 - application
 - consultation
 - determination
 - appeals
 - delivery
 - monitoring
 - special consent regimes

6. We are making progress towards assembling the detailed policy annexes. The consultation paper includes detailed policy on pre-application discussions, and decision making issues relevant to the determination of planning applications. We are consulting separately on policy and other measures on the use and discharge of planning applications, and on the role of statutory and non-statutory consultees. Earlier this year we consulted on streamlining information requirement for planning applicants, and on possible changes to the publicity requirement for planning applications.

7. In addition, a number of independent bodies (such as PAS) are providing support for LPAs in relation to the skills, processes and activities relevant to development management.

Description of proposal

8. Development management is not the same as development control, and is not just a new name for traditional development control services. It is about putting spatial development plans into practice, and about authorities taking an active approach to place shaping, and positively promoting sustainable development and the delivery of their vision. Achieving this requires a change in culture – a move away from reactive control of development to a more positive and proactive role for planning. It will also necessitate changes in structure and the allocation of resources, with better interaction between development management and plan making teams, including through ongoing monitoring of the outcomes of development management and feedback into plan reviews. The development management approach does not mean

all developments have to be treated in the same way. It needs to be proportionate to the impact of each proposed development, with relevant stakeholders, including delivery partners, members, statutory consultees and the community, being effectively engaged at appropriate points.

9. The principles of development management reach beyond the scope of traditional development control services, and concern all stages in the life of a development proposal, from initial scoping work through to delivery on the ground. As such it takes in:
 - pre-application
 - receipt of application
 - validation of application
 - consultation on and notification of application
 - evaluation of the application proposals
 - decision making (with different processes for delegated and committee applications)
 - discharge of conditions attached to the planning permission
 - post decision amendment
 - general admin tasks
 - managing the overall process

10. The draft planning policy statement has been prepared to provide a clear framework for the new development management approach to the shaping, handling and implementation of development proposals. It sets out policies based on seven key elements which LPAs are expected to ensure are reflected in their local services:
 - a positive and proactive approach to place shaping
 - putting planning policy into action
 - front loading
 - taking a proportionate approach
 - effective engagement
 - proactive delivery
 - monitoring and review of development management outcomes

A positive and proactive approach to place shaping

11. The policy on taking a positive and proactive approach to place shaping focuses on the role LPAs can play in bringing together key parts of their authority and other stakeholders in their area to agree and plan for the delivery of local priorities, work in partnership on developing schemes, and maximise opportunities to share resources. This collaborative approach will increase the quality and local relevance of development proposals coming forward, and will result in better outcomes on the ground without adding additional burdens on the LPA or their stakeholders.

Putting planning policy into action

12. Focusing on the vision and objectives of the relevant local development framework when shaping development proposals and considering applications will help ensure the development and supporting infrastructure that the LPA have, with their stakeholders, identified for delivery, will be the right development in the right places and at the right time, without adding additional burdens on the LPA or their stakeholders.

Front loading

13. The policy on front loading is supplemented by a more detailed policy annex on the pre-application stage, as improving the work done in the early 'front loading' stages has been identified as having significant potential to improve the efficiency and effectiveness of the planning system for all parties. Advantages of good quality pre application discussions include:
 - providing for early notice of investment proposals enabling better coordination between public and private investment and outcomes for the community
 - ensuring applicants understand the range of considerations against which a planning application would be considered
 - allowing all parties to gain a better understanding of any constraints or opportunities, background and history to the site and any matters dealt with in the sustainability appraisal of the LDF that will shape the scheme, content of a planning application and mitigating measures to be considered
 - helping to avoid applicant costs associated with the preparation of unnecessary information or the wrong information, or with persevering with a proposal which carries a high risk of refusal
 - a chance to establish what the information requirements will be for any particular application, to ensure the resultant application can be validated, avoiding the need for further information requests when the application is being determined

- establishing a better understanding of timescales and administrative processes
- for major and complex proposals, early engagement with members, the community and other stakeholders should reduce or prevent delays at the determination stage

Taking a proportionate approach

14. Policy is designed to guide LPAs in applying a proportionality principle to the processes their planning departments use in order to free up resources to deal better with the larger developments which will make the biggest contribution to the future development of the area, and stages of the process at which there is most opportunity to add value to a scheme.

Effective engagement

15. As with pre-application work, effective engagement with the right people throughout the development management process (and not just at the statutory consultation and notification stage) will add greatly to the quality of the outcomes achieved through the proposed development. Planning application fees are designed to cover the work involved in processing the applications, including consultation work, though the proportionality principle does need to be followed in relation to engagement work so that the resources put in are in proportion to the importance and anticipated outcomes of the development proposed.

Proactive delivery

16. Encouraging LPAs to make more use of the tools already available to them to proactively supporting the delivery of development is another aim of the new PPS. A key aspect of this involves them avoiding creating unnecessary barriers to implementation, for example through more rigorously following policy relating to the use of planning conditions and section 106 agreements.

Monitoring and review of development management outcomes

17. Capturing the successful outcomes of the development management process will provide LPAs and other parties with an ongoing opportunity to improve their approach to development proposals, maximising the quality and value of the developments and outcomes achieved.

Sectors affected

- LPAs
- planning permission applicants
- service providers (such as education and health authorities)
- communities

Policy options

Option 1: Do nothing

Planning applications have been being submitted and determined for many years without the need for procedural policy to guide how LPAs deal with them. However, Government is now advocating a cultural change to move away from the regulatory style development 'control'. Some authorities have already been proactive and adopted aspects of a development management approach in anticipation of Government's proposed change of approach, and in order to maximise the contribution the planning system makes to the realisation of local priorities. However, failure by central Government to champion the new approach and to provide policy to help authorities to adopt it would mean development management would not be fully rolled out across England.

Costs and benefits

The do nothing option would fail to take advantage of the many and significant benefits – cost savings, service efficiency and quality, and outcome improvements – that could be achieved through helping LPAs to adopt the new development approach. Plan makers have been provided with comprehensive policy and guidance on how to make the most of the strategically-focused, flexible 'spatial planning' system. It would be helpful to be consistent by providing assistance to decision makers too.

Option 2: Produce detailed national policy

In order to ensure that all authorities quickly make specific changes to their services, in line with Government's view of development management, a detailed and prescriptive national policy could be prepared covering all stages in the lifecycle of a planning proposal. There is much good practice available that all local authorities could be required, through policy, to follow. However, Government feels such an approach would be too prescriptive. There is considerable flexibility built into the national planning system in order that local authorities can operate their planning services in a way that is appropriate to their circumstances and resources, whilst ensuring a clear national framework and overarching national policies where necessary. An overly prescriptive procedural policy for development management services would not be in line with the wider proactive and flexible development management ethos. As a one-size-fits-all approach it would also fail the test of proportionality.

Costs and benefits

Costs:

This option could impose considerable costs on LPAs as all would have to take on a range of new working practices, regardless of their suitability or necessity in the context of local circumstances. This option would also risk alienating local authorities from Government and would be at odds with devolutionary principles.

Benefits:

This option could be beneficial in terms of seeing quick and comprehensive roll out of practices deemed nationally to be 'development management' friendly. However, the planning system contains enough flexibility to enable local authorities to introduce beneficial working practices themselves without the need for a comprehensive set of prescriptive policies.

Option 3: Produce overarching national policy (preferred option)

The draft development management policy statement sets out Government's objectives for development management. It provides overarching policy on the key elements which Government believes must underpin the development management services provided by LPAs, but leaves flexibility for each LPA to shape their local services within this framework.

In developing the draft policy statement we have engaged key stakeholders who have detailed experience of development management. The discussions undertaken with LPAs and representatives of the development industry during the formulation of the draft policy statement have informed its content and back our preferred approach to provide an overarching national policy which allows LPAs the flexibility to shape their local services with the national framework.

Costs and benefits*Costs:*

It has been estimated that development control services cost LPAs around £300m per annum (CLG, *Planning Costs and Fees*, 21 May 2007¹⁷).

Internal analysis suggests that providing improved development management processes, specifically by undertaking more and better work at the pre application stage, could cost LPAs an additional £7m to £11m per annum, with an equal reduction in costs associated with development control services. This assumes that LPAs transfer 3.5 per cent of their resources from development control services to pre-application discussions.

The cost increases can be offset in two ways:

- taking advantage of discretionary fee charging powers wherever possible (e.g. on pre-application discussions); and/or
- transferring of resources from later stage work by making efficiency savings through use of process improvement techniques, and by reducing the need for corrective problem-solving work once the planning application has been submitted (as the pre-application stage work will improve the quality of the application).

¹⁷ See Table 3.2, p.22 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/324251.pdf>

Benefits:

Monetised benefits:

In 2008 CLG sponsored a pilot project in which four pathfinder authorities (East Riding of Yorkshire Council, Hambleton District Council, Leeds City Council and the London Borough of Lewisham) looked at how they could use business process improvement techniques to provide more efficient planning services and achieve better results from development, without the need for additional resources. The findings of the study are set out in the report *Transforming Local Planning Services*¹⁸.

Through their participation in the project the four pathfinder authorities found that improving their business processes meant they could make efficiencies of up to 14 per cent which could be reinvested in improved development management services, cashed as savings, or a mixture of the two. All of the pathfinders identified areas of non essential and non beneficial activity which could be removed, with the resources and time released channelled into activities such as pre applications, which added more value both for the authority and their applicants.

The (up to) 14 per cent savings made by the four pilot authorities came as a result of two factors:

Firstly, business process changes such as:

- reducing the time spent by chief planning officers or other senior staff routinely checking and amending planning officers' reports, even those of very experienced officers which results in double-working and does not encourage officers to get reports right first time
- reducing the number of decisions that went to committee rather than being delegated (decisions taken by committee have a greater administrative burden)
- planning officers undertaking validation of planning applications (which can be done by administrative or technical support staff)

Secondly, the improved development management approach which can be delivered by diverting planning officer time to activities such as better pre-application discussion. This can lead to additional cost savings from, for example:

- fewer applications having to be withdrawn prior to determination by which time the LPA may have already invested a lot of officer time in considering it, because pre application discussions have identified things that would need to be changed at an early stage
- fewer applications having to be refused. Again, good pre-application engagement can weed out non-starter applications. LPAs would benefit from not having to go through the administrative processes for an application that will most likely have to be refused

¹⁸ <http://www.pas.gov.uk/pas/aio/100533>

The availability of evidence-based learning points from the Transforming Local Planning Services work, and the follow up support and guidance which PAS are providing through their Managing Excellent Planning Services programme, means that other LPAs can identify potential improvements and savings without incurring costs.

Based on a range from 3 per cent to the maximum 14 per cent efficiency savings from the pilots, LPAs across England could potentially save between £9m and £42m per annum (based on the £300m annual cost of development control services identified above). Taking this potential saving, we assume that 60 per cent of LPAs make savings as a result of the new planning policy statement on development management, on the basis that PAS have estimated that 20 per cent of LPAs have already made some moves towards a development management approach, and assuming that about the same amount (i.e. another 20 per cent) may make minimal or no changes because they are content with current approaches.

This implies estimated savings to LPAs of £5m to £25m per annum. We welcome views from consultees' on the validity of our assumptions.

These savings would not only offset costs associated with improving development management services, but would also provide for considerable cashable savings. LPAs could choose how much to reinvest in improved services and how much to take as budget savings, depending on local priorities and circumstances.

Non monetised benefits:

The Transforming Local Planning Services pathfinder authorities noted a number of specific benefits arising from the changes they made, in addition to the savings detailed above:

- improved customer experience and satisfaction
- improved performance on LAA national indicator 14 'Avoidable Contact'
- reduced numbers of invalid applications
- improved consultation and notification process and
- reduced committee workload.

Moving from development control to development management will improve the quality of schemes, with earlier engagement allowing issues to be addressed at the formative stage of the proposal.

The development management approach is focused on shaping and managing development opportunities, allowing LPAs to more effectively fulfil their role as place-makers by:

- facilitating development opportunities
- influencing planning proposals to achieve quality outcomes and
- solving problems to deliver sustainable development proposals

These service improvements will assist LPAs in meeting their local area agreement targets and performing well under comprehensive area assessments. Service providers (such as health and education authorities) will benefit from opportunities to coordinate their investment plans with private sector investments, and local communities will benefit from better development which better meet their needs.

Good use of a development management approach can help local authorities and local strategic partnerships to promote and achieve the spatial outcomes agreed in their development plans, sustainable community strategies and other relevant strategies. It can also help to deliver relevant regional and national objectives such as those relating to climate change.

Applicants

There should be savings for applicants arising from the focus on pre-application discussions. There would be reduced costs associated with having to change and resubmit proposals post-submission as potential problems with a proposal will be picked up early on. Applicants would also benefit from not expending time or money on proposals that are very unlikely to be approved as these will be identified at pre-application stage.

Consultees are invited to provide evidence of the potential impacts of the new approach on applicants.

Further savings to applicants will come from two main sources:

- streamlining information requirements so that less information is needed overall, with greater clarity from the outset over what the particular information requirements are for each individual application. Government consulted on this proposal in the July consultation paper *Streamlining Information Requirements*, which was accompanied by a separate IA
- reducing costs that result from delays to development. A key aspect of this is reducing LPA imposed barriers to implementation by getting as much detail agreed as possible as part of the planning application itself – and so reducing post decision burdens relating to planning condition requirements (a key concern raised in the Killian Pretty Report). Conditions are the subject of a separate consultation paper and accompanying IA.

The proposals will also provide greater certainty for applicants, as timescales appropriate to the scale of the development can be agreed at pre-application stage.

Monitoring and review

The policy will be formally reviewed after four years. A new key performance indicator is being considered under another Killian Pretty implementation project. This would be a development management end-to-end service quality indicator, and would replace the current indicator on time targets for determining planning applications. This would be introduced when the new set of KPIs come out in 2011. There would then be a period of two years to let the new performance monitoring regime look at the implementation of DM by LPAs.

Specific impact tests

Competition assessment

The increased emphasis on transparency of the application process is likely to have a beneficial impact on competition through reducing 'insider power' of incumbent developers.

Small firms' impact test

No specific impact anticipated for small firms beyond the general benefits of improving the efficiency and transparency of the planning application process and minimising delays to the implementation of sustainable development.

Legal aid impact test

No anticipated impact on legal aid.

Sustainable development, carbon assessment, other environment

The proposals will remove barriers to the timely delivery of sustainable development.

Health impact assessment

No anticipated direct impacts for health.

Race, disability and gender equality

No anticipated impact on race, disability or gender equality.

Human rights

These proposals are not expected to impact negatively on human rights.

Rural proofing

No negative impacts on rural areas are anticipated.

Specific Impact Tests: Checklist

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

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