



**REPORT of
HEAD OF PLANNING SERVICES**

to
PLANNING AND LICENSING COMMITTEE
16 APRIL 2009

**KILLIAN PRETTY REVIEW – ‘PLANNING APPLICATIONS : A FASTER AND
MORE RESPONSIVE SYSTEM’**

1. PURPOSE OF REPORT

- 1.1 To advise the Committee of the findings of the Review which was the result of a detailed study, commissioned by the Government, of the process of seeking planning permission. The aim was to identify reasons for delay in deciding planning applications, and make recommendations for dealing with these and reducing unnecessary burdens for all parties involved in the process.

2. AREA FOR DECISION/ACTION

2.1 Background

- 2.1.1 The review was carried out by Joanna Killian, Chief Executive of Essex County Council, and David Pretty, former Group Chief Executive of Barratt Development plc. The review was asked to look objectively at the planning application process, to identify how it could be further improved, and in particular to consider ways to reduce unnecessary bureaucracy, making the process swifter and more effective for the benefit of all users. The views of a wide range of stakeholders who have first hand experience of the planning application process were sought.
- 2.1.2. A strong consensus emerged among all stakeholders, ranging from local authorities to businesses and civic groups, about what the planning system should deliver. It should be customer-focused, fair, proportionate and transparent. It should allow for local people to have a meaningful say. It should deliver the right decisions with appropriate speed.
- 2.1.3 Equally, a consensus soon became clear that, despite considerable improvements, the process was not working well enough. 10% of major developments are typically delayed by a year or more. In addition, the need to obtain planning permission for sometimes very minor changes can place unnecessary barriers in the way of expansion for businesses, large and small. These barriers include extra costs and delays and can be out of all proportion to the risks of development.

2.2 Key Areas of concern with the current process

2.2.1 The review sets out 17 detailed recommendations designed to make the application planning process swifter, more efficient and more effective for all users. Five key areas of concern were identified, namely:-

1. Proportionality – in particular, that the requirements and process in relation to many smaller scale developments were not proportionate or reasonable in relation to the scale of development or its impact;
2. Process – some stages in the process were particularly problematic, namely, the pre-application stage and discharging of conditions following the grant of planning permission;
3. Engagement – that the involvement of some key parties, in particular elected members and some statutory and non statutory consultees, was not working effectively;
4. Culture – in particular, that the current target regime is having some harmful, unintended, effects on behaviours and outcomes; and
5. Complexity – in particular, the national policy framework and the complexity of the legislation governing the consideration of applications.

The recommendations for each of these are dealt with in turn below.

2.3 Making the process more proportionate

2.3.1 Recommendations 1, 2 and 3 have two principal aims:

- to make the process simpler for small scale, low impact developments; and
- to free up resources to deal better with the larger developments which will make the biggest contribution to the future development of the area.

2.3.2 The vast majority of applications (97%) in England are for householder, minor, or other small scale development. These types of application dominate the caseload of most local planning authorities. There is concern that too much of the limited resources of local planning authorities is being spent on these, making the process excessively burdensome for low impact developments and leaving too few resources for the much smaller number of major developments.

2.3.3 **Recommendation 1** sets out measures for:

- considerably expanding the scope of permitted development for non householder development;
- revising and expanding the existing simpler consenting system (known as prior approval) to make obtaining planning permission simpler for minor commercial developments (including changes to shopfronts and automated teller machines);
- measures to encourage the use of Local Development Orders and to discourage the restriction of permitted development rights.

2.3.4 These measures are expected to remove nearly 40% of minor non-residential developments from the need to apply for full planning permission. The review also recommends financial incentives (possibly in the form of higher fees) for better performing local planning authorities.

- 2.3.5 Together with the recent extensions to permitted development for householder developments, the measures will reduce the demands on local planning authorities to deal with applications for full planning permission by nearly 20%.
- 2.3.6 **Recommendation 2** sets out measures to considerably reduce information and validation requirements, particularly for householder and minor developments, including:
- a revised and more proportionate approach to Design and Access Statements;
 - better guidance on the provision of drawings; and
 - substantial changes to the way local lists are drawn up.
- 2.3.7 These measures will reduce the burdens on applicants from having to provide unnecessary information, and reduce the numbers of applications previously considered to be invalid, thereby reducing the burdens on local planning authorities and speeding up the processing of applications.
- 2.3.8 **Recommendation 3** proposes a range of measures to improve the quality of advice available to users of the planning system. In particular, the Planning Portal and Planning Advisory Service should work closely together to support and encourage local planning authorities to develop a high quality internet based information system which allows members of the public to establish accurately and quickly whether or not planning permission is required for small scale householder and commercial development.
- 2.3.9 These measures will improve the quality of advice available to those proposing development, reduce the number of enquires local planning authorities have to deal with, and reduce the numbers of applications either for full planning permission or for a Certificate of Lawful Development from applicants unsure whether planning permission is needed.

2.4 Making the process more effective

- 2.4.1 Recommendations 4 to 8 address measures to make the whole end-to-end process work better, particularly for the larger developments, with a focus on identifying and addressing issues at pre-application stage.
- 2.4.2 **Recommendation 4** sets out a range of improvements to pre-application discussions, including:
- stronger and clearer national policy and guidance, incorporating improvements needed in use of resources, record keeping and consistency of advice;
 - a strong presumption that, for major developments, there will be formal pre-application discussions involving, where appropriate, all relevant parties, including elected members, statutory consultees and representatives of the local community greater encouragement of the use of Planning Performance Agreements for major applications;
 - better incentives, through revisions to the performance targets; and
 - a more consistent approach to charging.

- 2.4.3 The aim of these measures is to avoid problems later in the process by ensuring that issues are identified at pre-application stage
- 2.4.4 **Recommendation 5** supports continuing improvements to the processing of applications.
- 2.4.5 **Recommendation 6** seeks to improve the approach to planning conditions, so that unnecessary conditions are avoided and the process of discharging conditions is clearer and more efficient. More conditions are now being attached to planning permissions than in the past. This increase is for a number of reasons, including a lack of engagement at pre-application stage, the lack of time to resolve issues because of the time targets regime and the wish on the part of applicants to leave matters of detail until the principle has been agreed. However, the increasing number of conditions, and the breadth of issues that can be addressed with conditions, then place increasing demands on local planning authority resources to discharge the conditions.
- 2.4.6 **Recommendation 7** sets out measures to improve the negotiation and agreement of planning obligations. The Review recommends that the relationship between Community Infrastructure Levy (CIL) and planning obligations needs to be made clear. It also recommends addressing and agreeing issues that would need to be covered by planning obligations much earlier in the process, at pre-application stage, and greater use of standard agreements and clauses.
- 2.4.7 **Recommendation 8** proposes avoiding the need for a new full application for planning permission to deal with a small, but material change to an existing permission. This recommendation is likely to require primary legislation, but would allow a more proportionate approach to be taken for small changes.

2.5 Improving engagement

- 2.5.1 Recommendations 9 to 12 address where engagement with third parties needs to be improved, namely in relation to statutory and non-statutory consultees, elected members, and the wider community.
- 2.5.2 **Recommendation 9** sets out measures intended to improve the involvement of statutory and non-statutory consultees, including, in particular:
- a fundamental overhaul of the arrangements for nationally defined consultation – with all such consultees needing to meet a coherent, consistent set of criteria and all identified in a single list;
 - to reinforce the primacy of the decision making role of the local planning authority, and the ability of the local planning authority to make a decision after a defined timescale in the absence of a response from the statutory consultee;
 - introducing an expectation that planning authorities should only consult statutory consultees on those details that have not already been subject to consultation, where an application received is fully in line with the Local Development Framework;
 - clearer guidance provided by the consultee about when the local planning authority should undertake consultation and clearer expectations of how a consultee is expected to respond.

2.5.3 These measures can therefore be expected to:

- considerably reduce the demands placed on the resources of local planning authorities and statutory consultees from unnecessary consultation;
- free up the resources of statutory consultees to enable improvements in the quality of their responses, particularly by improving engagement at pre-application stage;
- reduce the need for unnecessary information and assessments in support of applications; and
- reduce the delays due to consultation.

2.5.4 **Recommendation 10** sets out measures to improve the engagement of elected members, to:

- ensure all councillors are empowered through appropriate training on planning matters;
- make absolutely clear that councillors can take part in pre-application discussions, provided these are conducted according to a clear and well structured format; and
- encourage delegation rates of at least 90% in every council.

2.5.5 In addition, in order to ensure the involvement of councillors is effective, there is considered to be scope for planning officers to improve their understanding of the role of councillors in planning and their skills in managing their relationships with councillors. This will:

- reduce inefficiencies because of confusion about the role of elected members;
- improve the quality of pre-application discussions and thereby improve the quality of applications; and
- help elected members focus their resources on the more significant developments.

2.5.6 **Recommendation 11** sets out measures to improve the engagement of the local community, specifically that:

- some of the funding proposed in the White Paper on empowerment should be used to improve community engagement in the planning application process, particularly at the pre-application stage;
- councils should be given greater freedom over how they should publicise new planning applications, by no longer being required to publish notices for certain applications in newspapers.

2.5.7 **Recommendation 12** sets out measures to encourage greater use of alternative dispute resolution approaches throughout the process proposes further study into the potential benefits of formal mediation as an alternative to appeal.

2.6 Achieving changes in culture

2.6.1 Recommendations 13 to 15 aim to provide better incentives to encourage the right behaviours among, applicants, agents and local planning authorities. Realising the full benefits of the recommendations will require changes in culture.

- 2.6.2 **Recommendation 13** sets out measures aimed at improving the standard of applications submitted, in particular the development of an “accredited agents” scheme for householder and minor developments. This will reduce the demands on local planning authority resources by reducing the numbers of unacceptable applications.
- 2.6.3 **Recommendation 14** addresses the shortage of resources and skills in council planning departments. It is also proposed to include encouraging better use of support staff, including technicians, and making the most use of opportunities for joint working. Local authorities are also strongly encouraged not to make any dramatic reductions in the number of planning staff in reaction to the changing economic conditions, but instead to refocus resources on reorganisation, to deliver a more positive and proactive approach to development management, and on the preparation of the Local Development Framework. This will ensure that local planning authorities are in a good position to respond to the recovery when it arrives, to the benefit of all.
- 2.6.4 **Recommendation 15** sets out proposals for revisions to the timescale based performance targets. It is right to maintain a target for the handling of planning applications, but this should also focus on the overall quality of service provided by councils in handling applications, rather than simply on the time taken. It is therefore recommended that the Government explores ways of providing financial incentives to councils that perform well and deliver high levels of satisfaction.

2.7 Tackling Complexity

- 2.7.1 Recommendations 16 and 17 deal with some of the key underlying causes, much of the unnecessary complexity of the planning application process is rooted in the national planning policy and legislative framework. There is strong concern at the ability of the planning system to cope effectively with the continued expansion of the Government objectives it must help deliver.
- 2.7.2 **Recommendation 16** sets out measures to prevent further unnecessary expansion of national policy objectives to be delivered through the planning system and to remove duplication with other regulatory regimes by:
- removing objectives which duplicate other controls;
 - more effective challenge of impact assessments; and
 - full funding of the additional burdens imposed by Government Departments.
- 2.7.3 **Recommendation 17** proposes to substantially overhaul and simplify both the national planning policy framework and the secondary legislation for the processing of planning applications. It proposes:
- national policy framework that is focused on the needs of the user;
 - clarity about the scope of elements of the policy framework and about whether requirements for supplementary assessments or information are proportionate;
 - consolidation and simplification of the legislative framework, in particular, the General Development Procedure Order (GPDO) to remove unnecessary prescription and detail;

- clear national policy guidance on the new development management approach; and
- effective, helpful and clear plan-based guidance for householder and minor developments, to be prepared once key Development Plan Documents are in place.

2.8 The Government's response

- 2.8.1 The Government published its response to the Killian Pretty Review in March 2009. It welcomes the report which it describes as providing a strong foundation for the next stage of planning reform. As a consequence the Government is undertaking a programme of measures to create what it considers will be a planning application process which is more proportionate, that operates more efficiently and effectively and is more easily understood by all involved.
- 2.8.2 In view of the time that this will take, the Government intends to take a phased approach with immediate priority being given to some key areas which will help deliver a more proportionate and effective process for a wide range of users of the system. The aim is to consult on the first tranche of proposals for improvement and deliver a progress report on other proposals in the summer.

3. LINKS WITH CORPORATE OBJECTIVES

The implementation of the Government's proposed amendments would support the internal priority of "Creating an Organisation which takes pride in itself", through contributing to the delivery of the following objectives:

- to be a high performing organisation;
- to be an efficient organisation which demonstrates effective environmental stewardship and use of resources;
- to be an organisation which communicates and consults effectively, and responds appropriately.

4. IMPLICATIONS

- (i) **Corporate Risk** – there is no identified corporate risks.
- (ii) **Sustainability** – the proposed revisions seek to accelerate the planning process and can therefore be expected to have a positive impact, particularly upon the economy, by reducing bureaucracy.
- (iii) **Resources** – successful implementation can be expected to release office time facilitating greater efficiency and effectiveness.

5. CONCLUSIONS

- 5.1 The overall recommendations are to be welcomed as a means of both accelerating the process of the determination of planning applications and facilitating concentration on the more important proposals which merit fuller consideration.

6. RECOMMENDATIONS

The Committee is recommended to:

- (i) Note the recommendations of the Killian Pretty Review aimed at providing a faster and more responsible system of determining planning applications.
- (ii) Note that the Government will be looking to implement these recommendations in due course.
- (iii) Note that steps have already been taken to refocus resources on the preparation of the Local Development Framework (Recommendation 14), as set out in the Planning Services Business Plan elsewhere on this agenda.

Background Papers:

The Killian Pretty Review, November 2008:

http://www.planningportal.gov.uk/killian_pretty_review

Government Response to the Killian Pretty Review, BERR, March 2007:

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/killianprettyresponse.pdf>

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