

Planning Reform Team
Department for Communities and Local Government
3/J2 Eland House
Bressenden Place
London
SW1E 5DU

Dear Sirs,
Planning White Paper Consultation.

The Landscape Institute (LI) is the Chartered Institute in the UK for Landscape Architects, incorporating designers, managers and scientists, concerned with enhancing and conserving the environment. The LI promotes the highest standards in the practice of landscape planning, design, management and research, representing members in private practice, at all levels of government and government agencies, in academic institutions and commercial organisations.

Following the Landscape Institute's response to the call for evidence for the Barker Review of Land Use Planning, and comments to the recommendations and detail of the final report, it now welcomes the opportunity to respond to the Planning White Paper and associated consultations. This letter responds to the White Paper and has appendices that relate to some of the wider consultations.

The Landscape Institute is committed to improving the quality of design of urban and rural environments and to the protection and enhancement of our natural and historic environments. The priority that is given to these in current government guidance is an important part of achieving worthwhile results. Accordingly, there should be no weakening of the government's resolve to continue to give a great deal of weight to these matters.

Section 1: Consultation questions

Proposed reforms to the development consent regime for nationally significant infrastructure projects

Improving the way key infrastructure projects are dealt with

Q.1 The proposed package of reforms

We propose to replace the multiple existing consent regimes for key national infrastructure with a new system that will enable us to take decisions on infrastructure in way that is timely, efficient and predictable, and which will improve the accountability of the system, the transparency of decisions, and the ability of the public and communities to participate effectively in them.

In particular, we propose to:

- a) produce, following thorough and effective public consultation and Parliamentary scrutiny, national policy statements to ensure that there is a clear policy framework for nationally significant infrastructure which integrates environmental, economic and social objectives to deliver sustainable development;
- b) provide greater certainty for promoters of infrastructure projects and help them to improve the way that they prepare applications by making better advice available to them; by requiring them to consult publicly on proposals for development; and by requiring early and effective engagement with key parties such as local authorities, statutory bodies, and relevant highway authorities;
- c) clarify the decision making process, and achieve a clear separation of policy and decision making, by creating an independent commission to take the decisions on nationally significant infrastructure cases within the framework of the relevant national policy statement;
- d) streamline the procedures for infrastructure projects of national significance by rationalising the different consent regimes and improving the inquiry procedures for all of them;

- e) improve public participation across the entire process by providing better opportunities for public consultation and engagement at each stage of the development consent process; improving the ability of the public to participate in inquiries by introducing a specific "open floor" stage; and, alongside the introduction of the new regime, providing additional funding to bodies such as Planning Aid;
- f) explore devolving decisions on smaller infrastructure projects, where appropriate to local authorities.

Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?

Yes there is a case.

Do you agree, in principle, that the overall package of reforms proposed here achieve the objectives that we have set out?

We consider the overall package achieves objectives, but the Institute wishes to see more detail set out, in particular we consider there should be specific reference to how design aspects are to be entrenched in the planning system, how sustainable development will be and to climate change adaptation and mitigation.

If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?

The Institute wishes to make the following points in relation to the items above.

- a) We agree with the need for National Policy Statements. However we feel the areas covered need to be identified in more detail. In particular we are concerned that Green Infrastructure (GI) is addressed. Our comments on this are elaborated in Q2. below.
- b) We consider there needs to be early engagement with a wider group than listed. In particular we would suggest that the following should be mentioned:
 - a. the role of design review (national via CABE or regional - depending on the nature of the development) needs to be addressed early on in the application process – this is shown to be good practice and the role of design champions needs better definition;
 - b. Wildlife Trusts that are regularly contacted at pre-application stage for data by consultants hold locally important data on sites and communities;
 - c. The proposed eventual managers of the landscape elements of the development – if not already included in the "community" consultation.
- c) We strongly advocate the inclusion of landscape architects – designers, managers and scientists - in the set of professional respected experts recruited as Commissioners. Landscape architects are trained to cover a wide range of cross-cutting themes and activities in the design and planning agendas, in particular they are often most suitable qualified to consider the wider climate change implications and consider both adaptation and mitigation.
- d) Speed should never become equated with efficiency in delivering worthwhile projects. The LI believes that the system should not put any greater emphasis on speed at the expense of the quality of decision-making.
- e) Greater simplicity is required, with clear guidance to businesses and communities on which documents are to affect local environments and how to engage meaningfully when relevant policy and development proposals are being formulated. The high levels of community engagement sought within the system are to be applauded as an aspiration but in reality may lead to situations where only the most dogged and single-voiced interests remain engaged throughout policy formulation and planning document production.
- f) Agree.

National Policy Statements

Q.2 Introduction of national policy statements

We propose that government would, where it deems appropriate and subject to public consultation and Parliamentary scrutiny, produce national policy statements for key infrastructure sectors to clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries.

Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries?

The LI agrees with the introduction of national policy statements for key infrastructure sectors. It will be important to decide how Green Infrastructure will be tackled. It does not fall into the type of infrastructure projects described. However if spatial aspects of other infrastructure are to be considered it is crucial that GI is also covered. Any development of other infrastructure will have a GI component. This is very closely linked with climate change, as GI is often best placed to provide multifunctional response to the needs of flood management, urban heat island mitigation etc

The Landscape Institute would wish to be consulted on national policy statements and wish to see landscape professionals involved in the drafting of appropriate ones.

If not, do you have any alternative suggestions for helping to achieve these objectives?

Q.3 Content of national policy statements

The content of national policy statements should include certain core elements. They would:

- set out the Government's objectives for the development of nationally significant infrastructure in a particular sector and how this could be achieved in a way which integrated economic, environmental and social objectives to deliver sustainable development. Strategic Environmental Assessment (SEA) is a procedure for assessing the effects of certain plans and programmes on the environment and will be an important tool in some cases for ensuring the impacts of development on the environment are fully understood and taken into account in national policy statements. National policy statements would be subject to an appraisal of their sustainability to ensure that the potential impacts of the policies they contain have been properly considered. Wherever appropriate we would expect this to be in the form of an SEA;
- indicate how the Government's objectives for development in a particular infrastructure sector had been integrated with other specific government policies, including other national policy statements, national planning policy, and any relevant domestic and international policy commitments;
- show how actual and projected capacity and demand are to be taken into account in setting the overall policy for infrastructure development. This would not necessarily take the same form in all national policy statements as the drivers of need for infrastructure vary and may be more complex and uncertain for some sectors than for others.
- consider relevant issues in relation to safety or technology, and how these were to be taken into account in infrastructure development;
- indicate any circumstances where it was particularly important to address adverse impacts of development;
- be as locationally specific as appropriate, in order to provide a clear framework for investment and planning decisions. Some national policy statements might, according to circumstances, be locationally specific, while for others where it would not be appropriate, or sensible, for the Government to direct where investment should take place, they might specify certain factors affecting location; and
- include any other particular policies or circumstances that ministers consider should be taken into account in decisions on infrastructure development.

Do you agree that national policy statement should cover the core issues set out above?

Yes, but they need to go further than described in addressing issues of design and function of GI.

They must provide strong and unambiguous policy steer to enable decisions to be made based on sustainability criteria, including the effect of the proposed development on the achievement of national carbon reduction targets.

Are there any other criteria that should be included?

We consider that the passing reference given to “protection of greenbelt or other designated areas, or in relation to design” is woefully inadequate with regard to setting out how these factors might be taken into account for infrastructure development.

One way of addressing this is to take a GI approach and create a GI national policy statement. This would need to cover a wide range of cross-cutting themes that GI can deliver such as: landscape character and distinctiveness, biodiversity, water and coasts, health and recreation, social inclusion, climate change – mitigation and adaptation including crop (biofuel) production.

We are concerned at the suggestion that national policy statements could indicate the “acceptability of different types of mitigation” especially as cost is then identified as one objective. Mitigation needs to be site specific and it would be impossible in our view to make national policy statements about theoretical mitigation without understanding a site’s characteristics. The list of circumstances where adverse impact (third bullet page 46) might be addressed is very limited. This could also include biodiversity loss, habitat fragmentation, water quality, landscape character and distinctiveness, views, access etc – to name but a few related to the landscape and environment.

In 3.9, reference is made to the Government’s objectives for development in a particular infrastructure sector being integrated with other specific government policies, given the nature and scale of infrastructure development, the Landscape Institute would wish to see landscape and visual impact assessments being a key criterion to be considered when assessing proposals. The LI publishes the Guidelines for Landscape and Visual Impact Assessment, which is used as a standard reference in dealing with applications and appeals. It would be helpful for reference to be made to this guidance as appropriate.

Q.4 Status of national policy statements

We propose that national policy statements would be the primary consideration for the infrastructure planning commission in determining applications for development consent for nationally significant infrastructure projects. The commission would approve any application for development consent for a nationally significant infrastructure project, which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?

Yes, but we reiterate the need for consideration of GI.

In 3.19, it is proposed that National Policy Statements might apply both to site specific development and wider-scale infrastructural installations. There will need to be distinction between NPS that is discretely located and that which may have widespread effects. It should also be clarified that National Policy Statements would be applied

solely to infrastructural development or installations – not to generic types of development such as housing. Where development such as networks requiring multiple and significant local development are proposed, special conditions may need to be applied at a local level. If this is not the case, then a procedure will need to be incorporated in the NPS to enable local circumstances to be fully taken into account and adverse impacts avoided or mitigated as far as possible.

If not, what alternative status would you propose?

Q.5 Consultation on national policy statements

We propose that there should be thorough and effective public consultation on national policy statements. The precise means of consultation would depend on the proposed content of national policy statements. However to ensure consultation is to a high standard, certain principles would need to apply:

- before publishing national policy statements in draft, there should be thorough consideration of evidence, which may include informally consulting relevant experts or organisations;
- once published in draft, there should be thorough and effective public consultation, in line with best practice, on the Government's proposals for national infrastructure needs and policy;
- local, regional and national bodies and statutory agencies with a particular interest should be consulted;
- where proposals might have a particular bearing on local communities, there would need to be effective engagement to ensure that such communities understood the effect of and could express views on the government's proposals, in line with best practice on community involvement with planning;
- the Government would need to take the consultation responses into account and explain how they had influenced policy. We propose that key requirements for consultation would be set out in legislation, so they have full statutory underpinning.

Do you agree, in principle, that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected?

Yes.

Are there any additional measures that would improve public and community engagement in their production?

Yes. In areas to be affected, where a Parish Plan exists or where a market town has undergone a health-check and has published its action plan, these local and non-statutory documents should be considered. Also if Village Design Statements and or Parish Landscape Assessments exist that have not been prepared into SPDs then they should also be considered.

We consider the Wildlife Trusts should be one of the "others" regularly consulted.

The Landscape Institute would wish to be included in any formal list of consultees for new NPSs. Landscape architects are expert in public and community engagement and could bring considerable value to consultation and engagement activities.

Q6 Parliamentary scrutiny

We propose that, as ministers would no longer be taking decisions on individual applications, draft national policy statements should be subject to Parliamentary scrutiny.

Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements?

Yes.

What mechanisms might ensure appropriate Parliamentary scrutiny?

The LI urges that the disinterested expert advice of the relevant chartered professions, including landscape architecture, be called on as evidence in the scrutiny process.

Q.7 Timescale of national policy statements

We propose that national policy statements should, in principle, have a timeframe of 10-25 years, depending on the sector.

Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements?

Yes. And we agree with the statement in 3.30 about needing to take account of the longer-term impacts of climate change.

But the overall sustainability concept of all future generations must also be born in mind.

And there needs to be an opportunity through the review process for change if exceptional circumstances prevail.

If not, what timeframe do you consider to be appropriate?

Q.8 Review of national policy statements

The Government would consider whether national policy statements remain up to date, or require review, at least every five years. It should consider significant new evidence and any changes in circumstances where they arise and review national policy statements where there is a clear case for doing so.

Do you agree that five years is an appropriate period for the Government to consider whether national policy statements remain up to date or require review?

Yes.

What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?

Links with other policy.

New technology.

Natural disaster.

Q.9 Opportunities for legal challenge

We propose that there would be opportunity to challenge a national policy statement, or the process of developing it, when it had been published and that this opportunity would be set out in legislation. The opportunity to challenge would be open to any member of the public or organisation likely to be affected by the policy. The grounds for challenge would be illegality, procedural impropriety or irrationality. Any challenge would have to be brought within six weeks of publication.

Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statements is sound and that people have confidence in it?

We consider more accessible opportunity for legal challenge to a decision than via judicial review. We would consider six weeks does not provide sufficient opportunity for members of the public, or other stakeholders to instigate a challenge. We would propose an 8-week period as a minimum.

If not, what alternative would you propose?

Q.10 Transitional arrangements

Where relevant policy statements already exist we propose that these should acquire the status of national policy statements for the purposes of decision-making by the commission. However, in order for this to be possible, they will need to meet the core elements and standards for national policy statements with regard to both content and consultation.

Do you agree, in principle, that subject to meeting the core elements and standards for national policy statements Paper, policy statements in existence on commencement of the new regime should be capable of acquiring the status of national policy statements for the purposes of decision making by the commission?

Yes.

Existing policy statements will need review before they can gain national status. Cross-cutting issues will need to be addressed.

We are concerned about the transition arrangements. We see that some will be necessary. However there would need to be transparency around those applications that went to ministers after the commission is set up. It would be helpful to have very early agreement on the national policy statements that will be prepared. In this again we urge consideration of a GI national policy statement.

If not, what alternative arrangements do you propose?

Preparing applications for nationally significant infrastructure projects

Q.11 The preparation of applications

To avoid delays during the decision making process, we propose that promoters of nationally significant infrastructure projects would be required to prepare applications to a defined standard before the infrastructure planning commission would agree to consider them.

Do you agree, in principle that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?

Yes.

And we think the commission should be robust in refusing to consider applications that do not make the mark.

Q.12 Consultation by promoters

We propose that promoters of nationally significant infrastructure projects should be required to consult the public and, in particular, affected landowners and local communities, on their proposals before submitting an application to the commission.

Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?

Yes.

Do you think this consultation should take a particular form?

If a Parish Plan, Village Development Statement, Parish Landscape Assessment or a Market Town health check and action plan exists (or in fact any other non-statutory plan that has been prepared using public consultation) it should be used as part of the applicant's consideration.

The consultation should be widely advertised, so local people and businesses know how to make their views known.

Relevant organisations should be targeted specifically – invited to presentations etc.

The consultation should include presentations to relevant audiences, using tools and language appropriate for that group. Consultation should not be limited to web-based views. Hard copies should be made available for groups that need them.

We are concerned that consultation should be bespoke for the development proposed and place.

The applicant should be required to report the consultation in the application and demonstrate they have done more than "gone through the motions".

In 4.6, bullet point 3, the reference to mitigating measures should be integrated into proposals wherever possible, not just in 'some cases'

Q.13. Consulting local authorities

We propose that promoters of nationally significant infrastructure projects would be required to engage with affected local authorities on their proposals from early in the project development process.

Do you agree, in principle, that relevant local authorities should have special status in any consultation?

Yes. The LI supports the proposal to engage early with local authorities and that this engagement should also be based upon guidance regarding both content and procedures. The role of the LSPs needs defining in this regard.

Do you think the local authority role should take a particular form?

We consider that those tasked with developing the proposal should be prepared to provide presentations about the proposals to local authority officers and members. These pre-application consultations or presentations should be to a wide range of officers, not just planning officers – in order that a considered response can be given. In two tier authorities, it would be beneficial if county and district can work together. Where infrastructure projects straddle more than one district/county/unitary close working and potentially shared resources should be an option. This is why the LSPs' roles in the consultation also has to be considered because if there are Multi area agreements (MAAs) then these will rest with the LSP rather than the local authority.

We are concerned about the increased onus this will put on senior officers, especially for small districts. This work requires highly honed analytical skills in key disciplines that may not be available in-house. There may be a case for shared resources between adjoining or allied authorities. There will be training requirements for officers and members. Some local authorities may need to employ consultants to assist their role in the process if in-house officers with the right technical credentials do not exist. Budgets for this will need to be found.

We are concerned about the demands for baseline information that may be put on the local authorities from the applicants.

Cross-boundary issues particularly apply to landscape issues. Landscape distinctiveness and character will not be linked to local authority boundaries. Even if a development falls within one authority boundary, impacts further

a field will need to be considered. We are aware of areas where adjacent local authorities have very different levels of data for landscape character assessments. (Often this is related to the size of an authority). Applicants will need to take on board utilising those data available to create statements for an appropriate scale. Some developments might have a sub-regional impact where others will relate only to a district. This will apply to many areas other than landscape.

Design champions should be included in the process.

We think the local authority should have the opportunity to present relevant baseline (policy and physical) information/evidence to the Commission.

Q.14. Consulting other organisations

We propose that promoters of nationally significant infrastructure projects would, depending on the nature of their project, also be required to consult other public bodies, such as statutory environmental bodies, on their proposals before submitting an application. For instance:

Health and Safety Executive
Relevant directors of public health
Relevant highway authorities
Civil Aviation Authority
Coal Authority
Environment Agency
English Heritage
Natural England
Waste Regulation Authority
British Waterways Board
Internal Drainage Boards
Regional and Local Resilience Fora
Commission for Architecture and the Built Environment
HM Railway Inspectorate
Office of Rail Regulation
National Parks Authorities
Mayor of London
Devolved Administrations
Regional Development Agencies
Regional Assemblies

Do you agree, in principle, that this list of statutory consultees is appropriate at the project development stage?

See below.

Are there any bodies not included who should be?

The list of statutory consultees in Box 4.2 is reasonable, but does not reach out to local community interests. The relevant LSP or parish or neighbourhood councils should be included where a proposal is location specific. There will also be a need to ensure that consultees are able to muster adequate resources and skills to respond effectively.

We consider there are some non-statutory bodies that should be consulted at this stage. These include, but are not limited to:

- Wildlife Trusts
- RSPB.
- Civic Society (if urban areas especially if conservation areas).
- CABE to establish role if any of Design Review. Is it to be design reviewed? Is it national or local?

Q.15 Statutory consultees' responsibilities

We propose that legislation should impose an upper limit on the time that statutory consultees have to respond to a promoter's consultation.

Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to a promoter's consultation?

Yes.

If so, what time limit would be appropriate?

4 months. ?? This timescale should be inclusive of meetings/presentations by the applicant if required with regard to an appropriate timescale after such meetings for the statutory consultees to then formulate response.

Q.16 The infrastructure planning commission's guidance role

We propose that the commission would issue written guidance on the application process, the procedural requirements and consultation.

Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications, and consultation?

Yes.

Are there any other issues on which it might be appropriate for the commission to issue guidance?

Proposed guidance should include a checklist of information and standards required and for these to be incorporated in any consultation. Requests for more information by consultee against this checklist should effectively stop the clock on the time limit for response. Consultees will need mechanisms to enable an early and efficient review of the quality and quantity of information supplied, especially where some natural habitat and species are involved as seasonality is important and data may be required over more than one year.

There will need to be consideration regarding how the Commission would deal with national or regional but non-specific locational development issues in terms of consultation

Q.17 The infrastructure planning commission's advisory role

The secretariat of the commission would advise promoters and other interested parties at the pre-application stage on whether the proposed project fell within its remit, on the application process, procedural requirements, and consultation.

Do you agree in principle that the commission should advise promoters and other parties on whether the proposed project falls within its remit to determine, the application process, procedural requirements, and consultation?

Yes.

Are there any other advisory roles which the commission could perform?

The Commission should inform other non-statutory bodies that may have a role, such as CABI about forthcoming applications – so that e.g. CABI can consider the appropriateness of design review for that particular development.

Q.18 Rules governing propriety

The Government proposes that there should be propriety rules to govern the commission's interactions with promoters and other parties and ensure that the commission did not engage with any party in a way which could be seen to prejudice its decision on an application.

What rules do you consider would be appropriate to ensure the propriety of the commission's interactions with promoters and other parties?

Conflict of interests policy for Commissioners to ensure a Commissioner with a conflict of interest on a particular application is excluded from sitting on that application.

Rules about lobbying.

Anti-corruption rules – accepting hospitality, gifts etc

Agree communication pre-application should be via a commission secretariat and not direct to Commissioners.

Q.19 The commission's role at the point of application

We propose that, before agreeing to consider an application, the commission would need to satisfy itself that:

- (a) the application fell within the commission's remit to determine;
- (b) the application had been properly prepared; and
- (c) appropriate consultation had been carried out.

In the event that an application had not been properly prepared or consulted on, the commission would direct the promoter to do further work before resubmitting their application. In the event that an application was not appropriate for the commission to determine, the commission would refuse to consider it. This would ensure that the commission only took cases that were appropriate for it to consider, and that it did not begin consideration of cases without adequate preparation or consultation having been carried out.

Do you agree, in principle, that the commission should have the powers described above?

Yes.

The commission will need to be robust in requiring further work to be undertaken. The applicant's rights will need to be explained in terms of whether there is a right of appeal about what information is required. The comments below made in the LI response to the initial call for evidence on Barker are applicable here.

Landscape architects are often involved in planning applications and may act as agents for some applicants. There is evidence that considerable time (consultant and officer) is used debating screening opinions (under Environmental Impact Assessment Regulations) to establish whether an Environmental Statement (ES) is required. Some members feel these are not always required by the local planning authorities on projects that do meet the requirements of Schedule 2 Section 12 (b) of the Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999. These may be isolated examples, but there is evidence that developers will invest considerable time challenging a screening opinion, to avoid the costs of preparing an ES.

Are there any other issues the commission should address before or at the point of application?

Appropriate make-up of Commissioners' expertise for the application and whether the commission requires additional input from an advisory panel.

Determining applications for nationally significant infrastructure projects

Q.20 Scope of infrastructure planning commission

We propose that the commission would deal with development consent applications for nationally significant transport, water, wastewater and waste infrastructure in England, and energy infrastructure in England and Wales, which exceeded statutory thresholds. Chapter 5 of the White Paper sets out some indicative thresholds:

Energy

- (a) Power stations generating more than 50 megawatts onshore – the existing Electricity Act 1989 threshold – and 100 megawatts offshore.
- (b) Projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network. This would be subject to further definition in the relevant national policy statement.
- (c) Major gas infrastructure projects (Liquefied Natural Gas terminals, above ground installations, and underground gas storage facilities). This would be subject to further definition in the relevant national policy statement.
- (d) Commercial pipelines above the existing Pipelines Act 1962 threshold of 16.093 kilometres/10 miles in length and licensed gas transporter pipelines necessary to the operational effectiveness, reliability and resilience of the gas transmission and distribution network.

Transport

- (e) Schemes on or adding to, the Strategic Road Network requiring land outside of the existing highway boundary. This would be subject to further definition in the relevant national policy statement.
- (f) A new tarmac runway or infrastructure that increases an airport's capacity by over 5m passengers per year.
- (g) Ports – a container facility with a capacity of 0.5 million teu or greater; or a ro-ro (including trailers and trade-cars) facility for 250,000 units or greater; or any bulk or general cargo facility with a capacity for five million tonnes or greater.

Water and waste

- (h) Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.
- (i) Works for the transfer of water resources, other than piped drinking water, between river basins or water undertakers' supply areas, where the volume transferred exceeds 100 million cubic metres per year.
- (j) Waste water treatment plants where the capacity exceeds 150,000 population equivalent, and wastewater collection infrastructure that is associated with such works.
- (k) Energy from waste plants producing more than 50 megawatts – the existing Electricity Act 1989 threshold.
- (l) Plant whose main purpose is the final disposal or recovery of hazardous waste, with a permitted hazardous waste throughput capacity in excess of 30,000 tonnes per annum, or in the case of hazardous waste landfill or deep storage facility for hazardous waste, a permitted hazardous waste throughput or acceptance capacity at or in excess of 100,000 tons per annum.

Do you agree, in principle, that these thresholds are appropriate?

If not, what alternative thresholds would you propose?

Q.21 Electricity system

The inclusion of projects necessary to the operational effectiveness and resilience of the electricity transmission and distribution network is a particular issue. Each link of the network is critical to the effectiveness and resilience of the network as a whole, and thus to ensuring that we can sustainably and cheaply transport power from generating stations to customers. In the circumstances, there is no obvious way to draw a line between national and local projects, although we would be interested in views on where such a line could be drawn.

Do you agree in principle that all projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network should be taken by the commission?

Not all.

If not, which transmission and distribution network projects do you think could be determined locally?

Anything below 132kv should be determined locally.

Q.22 Gas infrastructure

Gas supply infrastructure (eg Liquefied Natural Gas terminals, above ground installations, underground gas storage facilities and pipelines) is covered by a number of consenting regimes with decisions confusingly split between central and local government. As the UK's indigenous gas supplies decline and we move towards increasing import dependence on gas, this infrastructure is becoming more important to the national need for secure energy supplies. Whereas, for some other energy infrastructure, there are set thresholds for responsibility for decision making, this is not currently the case for gas supply infrastructure as their importance is not necessarily determined by size. We therefore propose that nationally significant gas supply infrastructure, as clarified in the relevant national policy statement, should be considered by the infrastructure planning commission.

Do you agree in principle that the consenting regime for major gas infrastructure should be simplified and updated, rationalising the regime to bring nationally significant decision making under the commission?

Yes.

Q.23 Other routes to the infrastructure planning commission

We propose that, in addition to the projects which exceed the proposed statutory thresholds, the commission would deal with any applications for projects which:

- were specifically identified as being of national importance in the national policy statements
- ministers directed should be treated as nationally significant infrastructure projects. The ministerial power of direction would be exercised on the basis of clear criteria set out in a ministerial statement, or possibly in the national statement of policy itself.

Do you agree, in principle, that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission?

Yes, taking advice from relevant chartered professions and Quangos as necessary.

If not, how would you propose changing technology or sectoral circumstances should be accommodated?

Q.24 Rationalization of consent regimes

In order to simplify and streamline the statutory process for nationally significant infrastructure projects, and ensure that the infrastructure planning commission is able to grant the authorisations necessary to construct these projects, we propose to:

- rationalise the different development consent regimes and create, as far as possible, a unified, single consent regime with a harmonised set of requirements and procedures; and

- authorise the infrastructure planning commission, under this revised regime, to grant consents, confer powers and amend legislation, necessary to implement nationally significant infrastructure projects.
- these authorisations could include:
 - permission to carry out works needed to construct infrastructure projects;
 - deemed planning permission;
 - compulsory purchase of land;
 - powers to amend, apply or disapply local and public legislation governing infrastructure such as railways or ports;
 - powers to stop up or divert highways or other rights of way or navigating rights, both temporarily and permanently;
 - permission to construct associated infrastructure and access land in order to do this (eg bridges, pipelines, overhead power lines and wayleaves);
 - Listed Building Consent, Conservation Area Consent, and Scheduled Monument Consent;¹
 - hazardous substances consent;
 - creation of new rights over land, including rights of way, navigating rights and easements;
 - powers to lop or fell trees; and
 - powers to authorise any other matters ancillary to the construction and operation of works which can presently be authorised by ministerial orders.

Do you agree, in principle, that the commission should be authorized to grant consents, confer powers including powers to compulsorily purchase land and amend legislation necessary to implement nationally significant infrastructure projects?

Yes.

There needs to be expertise in the commission and/or its secretariat to prepare the relevant conditions. None of these are likely to be standard – so technical expertise in many areas including landscape architecture and landscape management will be required.

The proposal to exclude operational matters from consideration should be moderated by the Commission having powers to impose conditions which may well impact upon operations. These should be an essential corollary to granting of permission by the Commission in many cases.

Footnote 3, p. 81 – The LI is most concerned that the Commission should have necessary heritage expertise relating to landscape as well as buildings and structures

Are there any authorisations listed that it would be appropriate to deal with separately, and, if so which body should approve them, or that are not included and should be?

Q.25 The commission's mode of operation

We propose that the board of the commission would appoint a panel of members (usually three to five) to examine and determine the major applications but that, where it did not feel that a full panel would be required, the Board of the commission should have discretion to delegate the examination of smaller and less complex cases to a single commissioner with the commission's secretariat.

¹ The Department for Culture, Media and Sport's White Paper, *Heritage Protection for the 21st Century*, published on March 8th 2007, proposes an integrated range of measures for a new heritage protection system, including a single system of designation for historic assets and an associated unification of Listed Building and Scheduled Monument Consents as a new Historic Asset Consent. We envisage that, in advance of the legislative change needed to introduce the new system of heritage protection reform, the infrastructure planning commission would have appropriate powers to grant Listed Building Consent and Scheduled Monument Consent for nationally significant infrastructure projects subject to the infrastructure planning commission having in-house heritage expertise.

Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision?

See below.

If not, what changes or alternative mode of operation would you propose?

We disagree that one commissioner should deal with even the most simple of projects. If a project has come to the commission – it has already established a level of importance that should require at least two commissioners to be involved.

We feel the type of expertise required for commissioners is being underestimated. For example, the Institute would see the need for a commissioner with landscape expertise to be involved (directly in some cases as an advisor in other cases) on almost all applications. No doubt other professional bodies and organisations will be saying similar. 3 to 5 seems low in number.

There will need to be a process almost like scoping to determine the commission expertise required for each application.

The skills anticipated to be provided in the commission secretariat need to be spelt out.

Q.26 Preliminary stages

Once an application was accepted, the commission would secure notification of and consultation with affected individuals, the public, relevant local authorities and, depending on the nature of the application, other public bodies such as:

- Health and Safety Executive
- Relevant directors of public health
- Relevant highway authorities
- Civil Aviation Authority
- Coal Authority
- Environment Agency
- English Heritage
- Natural England
- Waste regulation authority
- British Waterways Board
- Internal Drainage Boards
- Regional and Local Resilience Fora
- Commission for Architecture and the Built Environment
- HM Railway Inspectorate
- Office of Rail Regulation
- National Parks Authorities
- Mayor of London
- Devolved Administrations
- Regional Development Agencies
- Regional Assemblies

Do you agree in principle that the list of statutory consultees set out above is appropriate at the determination stage?

See below.

Are there any bodies not included who should be?

We consider there are some non-statutory bodies that should be consulted at this stage. These include, but are not limited to:

- Wildlife Trusts.
- Civic Society (if urban areas especially if conservation areas).
- CABE to establish role if any of Design Review. Is it to be design reviewed? Is it national or local?

Q.27 Examination

We propose that the majority of evidence, given its likely technical nature, should be given in writing, although the commission would have discretion to call witnesses to give oral evidence where it felt that it would help it to understand the issues, or asking a witness to give evidence in writing might disadvantage them.

The commission would test this evidence itself by means of direct questions, rather than relying on opposing counsel to test it via a process of cross-examination – though it would have discretion to conduct or invite cross-examination of witnesses, if it felt that this would better test the evidence.

the commission would organise an “open floor” stage where interested parties could have their say about the application, within a defined period of time, where there was demand for it.

the examination and determination process should be subject to a statutory time limit of no longer than nine months (six months for the examination and three for the decision), but that for particularly difficult cases, the commission might decide that it needed longer to probe the evidence before they could reach a decision.

Do you agree in principle that the procedural reforms set out above would improve the speed, efficiency and predictability of the consideration of applications, while maintaining the quality of consideration and improving the opportunities for effective public participation?

Speed should never become equated with efficiency in delivering worthwhile projects. The LI believes that the system should not put any greater emphasis on speed at the expense of the quality of decision making. Thorough consultation and analysis and dialogue are equally important in the operation of an efficient system.

The high levels of community engagement sought within the system are to be applauded as an aspiration but in reality may lead to situations where only the most dogged and single-voiced interests remain engaged throughout policy formulation and planning document production.

Also, we assume “in writing” to mean use of plans, illustrations, “computer generated fly-throughs” etc – as appropriate for the type of application.

Statutory time limit would need to clarify when the clock starts (eg after scrutiny of all procedures and information requirements, also that clock stops if more info required, also a reasonable period of time needed for report writing and issue of decision.

If not, what changes or other procedural reforms might help to achieve these objectives?

Q.28 Hard to reach groups

We recognise that some communities can find it hard to engage with formal inquiry processes and may not readily come forward, even though they may be affected by proposals. We are determined to ensure that affected groups and communities can participate effectively and make their views heard in the process. We propose to build upon the long and impressive tradition in planning of people who have found ways to reach out locally, to engage communities and give voice to people who are not usually heard. We propose that, alongside the introduction of the new infrastructure planning system, we will increase grant funding for bodies such as Planning Aid by up to £1.5 million a year so that they can extend their activities and help such groups get involved on site-specific proposals in national policy statements and in the planning inquiries on major infrastructure projects.

What measures do you think would better enable hard to reach groups to make their views heard in the process for nationally significant infrastructure projects?

Many of our members are involved in community engagement. One of the frequently heard comments is consultation fatigue / overload. Communities often feel they have already been consulted and had their say and do not recognise the importance of saying the same thing again to a different group! It is important therefore to explain to groups the need for specific feedback on these projects. Communities may feel if they have responded to a core strategy of an LDF – their views have been made.

Hard to reach groups will need consultation techniques that do not just rely on web-based consultation.

How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?

Filling skills gaps. Assisting with presentation material and funding it where needed. Identifying the work that has already been done that is relevant to the development proposals e.g. through parish Plans etc.

It will be important that support to the community does not stop once permission is granted. Communities may be seen as the custodians of some of the land in the future carrying out stewardship roles. It will be important if this is the case that a) local communities want this role, b) they are able to set themselves up into an appropriate organisation (trust, company limited by guarantee, charity etc) to receive the funds and carry out the work and c) funds are available..

Q.29 Decision

We propose that the commission would approve any application for development consent for a nationally significant infrastructure project, which had main aims consistent with the relevant national policy statement, unless adverse local consequences outweighed the benefits, including national benefits identified in the national policy statement. Adverse local consequences, for these purposes, would be those incompatible with relevant EC and domestic law, including human rights legislation. Relevant domestic law for infrastructure sectors would be identified in the planning reform legislation.

Do you agree that the commission should decide applications in line with the framework set out above?

Yes. The European Landscape Convention (ELC) shall form part of this. The impact of a development on the landscape as defined in the ELC shall be taken in to account.

If not, what changes should be made or what alternative considerations should it use?

We do not agree with the emphasis towards economic development and growth at any cost. Paragraph 7.44 says that '*local planning authorities must pay full regard to the economic, as well as the environmental and social benefits of new development*'. This is contrary to the principles of sustainable development.

Q.30 Conditions

We propose that the commission would, where it approved an application, specify any conditions, such as mitigation measures, that the promoter would have to comply with. Any conditions would need to be imposed for a purpose directly related to the project and not for any other purpose; would have to be fair and reasonably relate to the development permitted; would have to be precise and enforceable; and could not be so unreasonable that no reasonable authority could have imposed them. The commission would also be obliged to assess the costs, impacts and benefits of proposed mitigation options and satisfy itself that the required measures are a proportionate and efficient solution.

Do you agree in principle that the commission should be able to specify conditions in this way, subject to the limitations identified, and for local authorities to then enforce them?

Yes.

For the Commission to assess the costs of applying conditions and mitigation measures, substantial resources, expertise and information might be required. It is recommended that the implications of this aspect of the Commission's powers should be carefully considered and that the promoter of the project may be required to participate in preparing cost estimates or other information needed for mitigation measures.

Also in 5.49, clear guidance would be required explaining the issue of proportionality (EC guidance to form basis for this?) to reduce disputes between parties.

5.51 Special arrangements may be required where projects cross local planning authority (lpa) boundaries

The LI would also want to see the potential for conditions to include the payment of endowments for long-term (or into perpetuity) management and maintenance of landscapes created or affected.

Enforcement is crucial. Enforcement of landscape conditions on infrastructure projects is one where there are many examples of how it should not be done. Large sums are spent on extensive areas of roadside planting – only for maintenance conditions not to be enforced resulting in plant death and the new habitat not meeting its design and/or biodiversity intention.

If not what alternative approach would you propose?

Q.31 Rights of challenge

We propose that there would be opportunity to challenge a decision by the infrastructure planning commission or the process of reaching it, when the commission's decision had been published and that this opportunity would be set out in legislation. The opportunity to challenge would be open to any member of the public or organisation likely to be affected by the decision. The grounds for challenge would be illegality, procedural impropriety or irrationality (including proportionality). Any challenge would have to be brought within six weeks of publication.

Do you agree, in principle, that this opportunity for legal challenge to a decision by the infrastructure planning commission provides a robust safeguard that will ensure decisions are taken fairly and that people have confidence in them?

Yes.

If not what alternative would you propose?

Q.32 Commission's skill set

We propose that commissioners would be appointed for their expertise in fields such as national and local government, community engagement, planning, law, engineering, economics, business, security, environment, heritage, and health, as well as, if necessary, specialist technical expertise related to the particular sector.

What experience and skills do you think the commission would need?

Environment is a very broad category. We feel this should be broken down more. We consider there should be landscape architects and landscape managers on the commission. The breadth of expertise covered by a landscape architect will vary – but many will have experience of multi-disciplinary working – which will be an important focus for the commissioners. Many landscape architects will have experience of working in all the fields listed above. That is not to say they can undertake that element of the commission's work, but they

appreciate the complexity of linkages and often bring the threads together, including community engagement. The landscape architect's role in understanding climate change and appreciating how a building's setting, or a linear route's role as a habitat corridor can mitigate or provide adaptation for climate change should not be underestimated. Green infrastructure is an important part of any large-scale development and the landscape profession has a crucial role to play in this.

There is no category above that covers design, although some of the disciplines such as engineering and heritage will do so in part. We feel it is important that the design of these schemes is embedded in the approval process. We have suggested ways this might be done via Design Review. However the LI considers it is important that the applicants get a very strong message that design of these structures will be an important consideration. Good design does not have to cost more.

The LI would also strongly support the approach, in 5.61, that Commissioners should be able to appoint technical experts in particular fields of expertise to assist their understanding of what may be conflicting views on specialised matters.

Proposals to reform the town and country planning system

Chapter 6 /7: The concept of place shaping is supported only if this is carried out sensitively and positively to achieve overall beneficial and sustainable results. Place-shaping is used as a term here without necessarily implying such positive connotations – it is not necessarily an end in itself, merely a description of an active process that may have good or bad results

A positive framework for delivering sustainable development

Q.33 Delivering more renewable energy

There is an urgent need to make quick progress in extending permitted development on micro generation to non residential land uses. To help realise a further portion of the potential for renewable energy, we will review and wherever possible extend permitted development rights on microgeneration to other types of land use including commercial and agricultural development.

What types of non residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?

Industrial areas especially ports.

7.15 Suggest that planning system should promote and encourage rather than merely 'support' higher standards of carbon emission reduction

The paper appears to be reticent on the contributions to be made towards mitigating carbon emissions by new residential development, concentrating instead on micro-generation by householders. The LI considers that there is very substantial unrealised opportunity for new housing, particularly in larger schemes, to build in greater energy efficiency and locally sourced renewable energy at the early stages of site layout, design and construction. An example of this would be the use of geo-thermal installations beneath open, unbuilt spaces such as car parks or recreational areas. Local CHP installations and medium scale wind, hydro and solar generation plant will also have potential benefits, depending on local circumstances. This will require an innovative approach to such development and its long-term management whilst employing well-established technology. It will also reduce the need for and prevalence of individual bolt-on micro-generation devices that may be of questionable efficiency, less cost-effective and which may be undesirable in terms of visual impact and nuisance.

Similar considerations apply to climate change adaptation measures, including the effective use of site layout and open spaces to contribute positively to micro-climatic amelioration, attenuation of stormwater runoff, sustainable drainage, grey water reservoirs, heat sinks and carbon sinks (e.g. through mass woodland planting), amongst other things.

The LI therefore considers it essential that all new residential and commercial development should consider mitigation of and adaptation to climate change holistically and throughout all stages of site selection, layout, design, implementation and management.

The LI has serious concerns regarding the emphasis placed upon householders retro-fitting micro-generation devices, whilst appreciating that these can make some contribution, but less effectively than larger-scale installations that can benefit more buildings by being integrated into new developments.

The LI welcomes the support for open spaces and parks in 7.35 and would wish to see this extended by reference to Green Infrastructure and the promotion of opportunities to link open spaces with green corridors to provide recreational, transport and biodiversity benefits. It would also wish to see expressed an aspiration encouraging the planning system to develop strategic green networks on a sub-regional basis.

The LI would express a cautious approach to the new emphasis to be placed upon economic considerations in planning, alongside social and environmental issues. Its caution is based upon concerns that economic benefit will become synonymous with arguments being advanced for the cheapest, rather than optimal approaches to development at all scales. Such an approach, which will be particularly tempting to speculative developers with no long-term interest in the resulting development, would conflict with sustainability considerations particularly and good design standards generally.

The proposed PPS should therefore ensure that appropriate safeguards are in place to ensure that the planning system will add value, quality and, where needed, safeguards to development in the public interest, rather than becoming a licensing system for lowest common denominator developments.

In any amendments to *The Planning System: General Principles*, as proposed in 7.44, the LI would wish to see a continued retention of emphasis on the material considerations which are fundamental to planning as set out in para 2. This refers to number, size, layout, siting, design and external appearance of buildings and the proposed means of access, together with landscaping, impact on the neighbourhood and the availability of infrastructure.

In 7.46, bullet point 7, reference is made to the proposed PPS4 as follows:
"planning policy will make clear that applications should be considered favourably unless there is good reason to believe that the economic, social and/or environmental costs of development are likely to outweigh the benefits."

The LI has concerns regarding the tests that will be applied or indeed, may be available, to balance for example the long-term environmental or social costs of a development proposal against short term economic benefits. Similar difficulties may arise in balancing narrow economic benefits against wider environmental effects. Sustainability appraisal, and the information needed to properly assess this, is likely to become an issue of contention between parties in addressing this balance between what will inevitably often be competing interests. If the intention is to streamline the planning process, clear guidance will be required on how local planning authorities and planning inspectors should address such issues and how environmental or social 'costs' may best be measured against more clearly defined economic cost benefits.

In this respect, the LI welcomes the term 'sustainable economic development' as recognising that such a balance needs to be fully considered.

The LI welcomes the continuing commitment to maintaining Green Belts from the Government in 7.62 to 7.64 and would wish to see this strengthened through reference to the development of Green Infrastructure provision (as referred to elsewhere) by local authorities.

Strengthening the role of local authorities in place shaping

Q.34 Joined up community engagement

We propose to seek legislation to remove the requirement for the independent examination of the separate planning Statements of Community Involvement, using instead the new “duty to involve” as the means of ensuring high standards across all local authority and local strategic partnership activities.

We think it is important to enable a more joined up approach to community engagement locally. We propose to use the new “duty to involve” to ensure high standards but remove the requirement for the independent examination of the separate planning Statements of Community Involvement. Do you agree?

We agree there should be a joined up approach to the “duty to involve”. Where plans exist such as Parish Plans, Market Town Health Checks and action plans, Village Design Statements and Parish Landscape Assessments that have engaged with the community, these need to be taken into account. In some cases these may have been adopted as SPD. The LI would like to see better clarity in all local authorities in terms of protocols to deal with such community-led planning initiatives. This should cover both plan preparations stages and implementation stages.

A better co-ordinated approach between LSP and LDF would benefit all.

Q.35 More flexible response to a successful legal challenge

Subject to finding a legally robust way forward, we propose to seek legislation to enable the High Court to order that a plan is sent back to an earlier stage of its process rather than back to the start. This proposal would also apply to a Regional Spatial Strategy.

Do you agree that the High Court should be able to direct a plan (both at local and regional level) to be returned to an earlier stage in its preparation process, rather than just the very start?

Yes.

Q.36 Removing the requirement to list Supplementary Planning Documents in Local Development Schemes

We propose to seek legislation to remove the requirement that all SPDs must be listed in the local development scheme which means that local planning authorities will be able to produce them without reference to central government.

Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme.

The proposal in 8.20 to clarify that strategic site allocations can be included in Core Strategy DPDs is welcomed and should result in clearer consultation procedures and time-saving in the plan making process. It will, however, result in the Core Strategy becoming a more critically reviewed document and will require additional resources from all parties to be concentrated and exercised at an earlier stage in the process. Local authorities and statutory consultees may be hard-pressed to deliver these.

The LI welcomes the proposal, in 8.21, to remove the requirement to list all SPDs in the published and approved LDF. This will allow local planning authorities to bring forward SPDs to respond to changing local needs in a more flexible and efficient way.

Q.37 Sustainability appraisal and Supplementary Planning Documents

We propose to seek legislation to remove the requirement for a sustainability appraisal for every supplementary planning document but we will consult on guidance which makes it clear that a sustainability appraisal should be undertaken for SPDs which have significant social, environmental or economic effects which have not been covered in the appraisal of the parent DPD or where EU law² requires a Strategic Environmental Assessment.

Do you agree in principle that there should not be a blanket requirement for supplementary planning documents to have a sustainability appraisal, unless there are impacts that have not been covered in the appraisal of the parent DPD or an assessment is required by the SEA directive?²

The proposal in 8.24 to remove the blanket requirement for Sustainability Appraisal on all SPDs is viewed with a cautious welcome. Clearly in some cases, the SA is either duplicating work carried out elsewhere or is of limited or no relevance. In the PPS1 spirit of all development being required to be sustainable, and with particular reference to Climate Change (as noted in 8.25), the LI suggests that all SPDs should at least be certified as not requiring Sustainability Appraisals or with cross-references to relevant SA to be found elsewhere. Rather than removing the requirement, it is considered better practice to apply a proportionate approach, with detailed or abbreviated SAs being applied as appropriate.

In the proposals regarding infrastructure provision, in 8.26, the LI would wish to see particular reference being made to Green Infrastructure as this may not otherwise be given the attention afforded other conventionally recognised forms of infrastructure.

The issue of cross authority co-ordination is addressed in 8.27, perhaps somewhat optimistically. It is likely that, in many cases of strategic infrastructure provision, there will be a need for both cross-authority and cross-organisation working and this may need to be expedited / co-ordinated / pump-primed by a higher authority. Consideration may need to be given to the role of Regional Government Offices and / or Regional Development Agencies in this respect.

In Sections 8.30 onwards, proposals are advanced to strengthen the role of planning within local authorities and streamline procedures with more emphasis upon outcomes than process. These are welcomed by the Institute, with the proviso that local authorities will need to provide additional and / or higher levels of resources, skills and expertise to deliver successful outcomes. Landscape architecture is a key area of expertise required for much policy and development control work and skills required include project management and design awareness.

Where locally unavailable, these specialised skills, amongst others, might be sourced from consultants or through partnership working or through local or sub-regional extensions of the services provided by ATLAS, ASC, IDeA, CABE, POS, etc. The Landscape Institute is happy to provide details of chartered landscape architects who may be able to assist with planning-related work and would welcome the opportunity to discuss ways in which its members' services might be effectively utilised to assist in expediting planning services and, in particular, high quality and effective place-shaping.

In Section 8.63 on, e-planning is promoted and the success of the Planning Portal is recognised. In the interests of furthering e-planning, The Landscape Institute would welcome a relaxation or removal of controls and high charges relating to the high quality range of mapping products available from the Ordnance Survey. The opening up of access to reliable, current map data would enable developers, local planning authorities, interest groups and the wider community to make better use of this resource, with significant savings to all in both direct costs and time and with additional benefits from wider use of standardised and reliable mapping data.

Making the planning system more efficient and effective

Q.38 Permitted development for non domestic land and buildings

² The "SEA" Directive (2001/42/EC "on the assessment of the effects of certain plans and programmes on the environment").

We propose to extend the impact approach to permitted development to other types of development such as industrial or commercial buildings as appropriate subject to certain limitations and conditions.

Which types of non residential development offer the greatest potential for change to permitted development rights? What limitations might be appropriate for particular sorts of development and local circumstances?

??? In Sections 9.3 on, the removal or reduction of planning controls in respect of some types of householder development is viewed with some caution by the Landscape Institute although it is accepted that the extension of the application of Article 4 Directions could provide for appropriate safeguards in sensitive areas or sites. In view of the implications of climate change and the importance of sustainable drainage, The Institute is strongly opposed to allowing new impermeable hard surfacing (which would include roofs) over significant areas (say 25 sq. M) as permitted development. It would therefore wish to see this excluded from the GDPO unless and except where there are clear measures to retain any run-off within the confines of the site (e.g. via soakaways, permeable hard surfacing, etc)

If planning controls on householder developments were to be reduced significantly, The Institute would also wish to see this accompanied by a government-sponsored programme of education, aimed at suppliers, builders merchants, DIY outlets, garden centres, small builders and consumers, on good sustainable design principles and use of materials applicable to common forms of small-scale, householder development.

Q.39 Neighbour Agreements

Kate Barker proposed the development of a voluntary system, probably for smaller developments, whereby if there was agreement between a developer and neighbours affected, a full planning application would not be required. Kate Barker argued that this could make the process easier for householders in situations where those affected by the development are content for it to proceed, and so avoid small applications unnecessarily placing a burden on local planning authorities. We have a number of concerns about how this might work in practice, but welcome views.

What is your view on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights and where the neighbours to the proposed development are in agreement?

The Institute is opposed to both the principle and the means of potentially circumventing the planning system and disadvantaging wider and longer-term issues of public interest. The planning authority's role is to represent these interests and, where appropriate, to negotiate legal agreements with the developer that may offset or mitigate the impact of development, without fear or favour and in the light of considering all aspects of the proposals.

The LI is firmly opposed to the proposal from Kate Barker's Review, in 9.16, for agreements between developers and affected neighbour to negate the requirement for planning applications. This would be completely at odds with the purpose of the planning system and would be highly likely to result in significant disadvantage to or adverse effects on matters of public interest.

Q.40 Minor amendments of planning permission

We propose to amend primary legislation so as to allow, at the request of the applicant, discretion for the local planning authority to vary an existing planning permission where they consider that the variation sought is not material.

Do you agree that it should be possible to allow minor amendments to be made to a planning permission?

Yes. The LI welcomes the proposals, in 9.20, to enable LPAs to allow minor amendments to applications, provided that the implications of such amendments are fully detailed and the consequences properly appreciated and that third parties are not disadvantaged by any such changes.

Do you agree with the approach?

All earlier consultees and those having prepared comments should be advised. Local intelligence can be important in some issues.

The LI welcomes the proposals, in 9.25, to simplify Tree Preservation Orders and their associated procedures so that the same rules will apply to all TPOs, and the assurances that changes will not affect the level of protection afforded by TPOs. With this in mind, The Institute also strongly supports the continued retention of existing controls on trees in Conservation Areas, as these make a major contribution to amenity, landscape character and urban tree cover as a whole. The removal of existing Conservation Area protection for trees would place a significant pressure on local authorities to issue new TPOs en masse and would probably be unpopular with most Conservation Area residents. The proposal, in 9.39, to allow Inspectors to determine TPO Appeals is fully supported, as is the proposal for streamlining TPO appeals in 9.52.

The delegation of TPO applications to local authority officers, in 9.54, is supported, subject to the local authority employing competent resources for this purpose, but the removal of the right of independent appeal on TPO decisions to the Planning Inspectorate is opposed. The Landscape Institute considers that issues relating to trees generally require an expert, rather than political, assessment and that the Planning Inspectorate is far better placed to provide this informed second opinion than elected members.

The LI supports the use of mediation services, as proposed in 9.60, and its members would anticipate and welcome their services being used in appropriate cases of this kind, as indicated in 9.61.

.In 9.62 to 9.66, the case for appellants contributing to the costs of an appeal is noted, but it can be argued that the Inspector is acting in the public interest as an assessor and adjudicator. Each party to an appeal already bears significant costs in administration, preparation and presentation. Whilst the government's desire to reduce the burden on public funds is understandable, the appeal process should be viewed as a public service regardless of outcome, with awards of costs dealing with unreasonable behaviour.

Section 2: Issues that we are consulting on separately

Alongside the White Paper we published the following documents for consultation:

1. Planning Performance Agreements: A new way to manage large-scale major planning applications;
2. Planning Fees in England: Proposals for Change;
3. Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders;
4. Improving the appeal process in the planning system – Making it proportionate, customer focused, efficient and well resourced.

The closing date for comments on these documents is Friday 17th August.

These documents will be available from the Communities and Local Government website at www.communities.gov.uk

In April 2007, we published a consultation paper setting out our proposals in relation to householder microgeneration, entitled:

Changes to Permitted Development Consultation Paper 1: Permitted Development Rights for Householder Microgeneration.

The closing date for comments on this document is 27 June 2007.

Section 3: How to respond to the consultation

Please send your response, no later than 17th August 2007 to:

Planning Reform Team

Department for Communities and Local Government

3/J2 Eland House

Bressenden Place

London

SW1E 5DU

Or by email to planningreformconsultation@communities.gsi.gov.uk

If you have any queries regarding the consultation please email the above address or contact the Planning Reform Team on 020 7944 6511.