



Killian Pretty Review -
Consultation 27 June 2008 - 5 September 2008

Planning Application: A faster and more responsive system - A Call for Solutions

Proportionality

Q1 How much scope is there for introducing a more proportionate and tiered way of dealing with development proposals of different scale and complexity?

In particular, what are the merits of developing an intermediate level of approach, between permitted development and full planning permission?

What are the main barriers to the introduction of such an approach, and how could they be overcome?

How could increased complexity be avoided?

A: In the end, proposals are either allowed (possibly subject to conditions) or not allowed. There is no intermediate level, although different types of proposals are already the subject of different forms of application.

Q2 How can local planning authorities be encouraged to take up the opportunities offered by Local Development Orders to free up development from the need to obtain planning permission in local areas?

A: In most cases, Local Authorities should probably not be encouraged to make Local Development Orders.

As p.26 indicates Authorities should more often be encouraged to use their powers to make Article 4 directions (e.g. in the case of plastic replacement windows – see p.35)

p.26 - Local planning authorities also already have the power to extend permitted development rights on a local basis through the use of Local Development Orders, introduced in the Planning and Compulsory Purchase Act 2004. They could make use of this provision to remove more types of development, in addition to those prescribed nationally in the General Permitted Development Order (GPDO), from the need to obtain planning permission, and thus free up resources. However, it appears that this opportunity has not been used¹⁸. On the contrary, anecdotal evidence from stakeholders suggests that local planning authorities are more likely to be using directions under Article 4 of the GPDO to remove permitted development Rights. In addition, there is evidence that some local planning authorities encourage those proposing to carry out developments which may be within the scope of permitted development to apply either for planning permission or for a certificate of lawful development, if they want to check if planning permission is required. While local planning authorities therefore already have some flexibility to adopt an effective and proportionate approach, it has been suggested by some stakeholders that introducing an intermediate category between permitted development and full planning permission would also have merit

Q3 Different types of planning application require different skills. How can local planning authorities respond to the continuing skills and resources challenges efficiently?

What scope is there for solutions such as sharing of resources/skills between local planning authorities?

A: Probably only limited scope exists for sharing skills between authorities and in some cases nearby local authorities appear to be in a form of competition with one another to try to secure perceived economic benefits in their particular area.

The importance of many so called "minor" applications should not be missed; often they can affect people's quality of life every bit as much as some more "major" schemes.

The model in the box on p.26 may have merit, but could perhaps be less easily applied to some other authorities.

p.26 - A large urban authority uses a system of "triage" to define which types of application will be dealt with by different teams. All applications are validated by administrators, and a skilled senior planner examines all applications at a daily meeting. The planner uses his/her skill and judgement to group the applications into those not likely to generate complaints, applications that are householder or minor that are likely to generate complaints, and major applications. Different teams, staffed to take account of the complexity and nature of the applications, then process the applications.

Complexity

Q4 How can we ensure that all users of the system have access to the simple, customer-oriented information and guidance they need about how the process operates and what they need to do to put in an application that will satisfy the local authority?

A: Access is probably best achieved by publishing, nationally or locally, clear, succinct, non-jargon explanatory literature on the subject and make them available, also electronically.

Q5 What measures can be taken to improve the quality of applications made by developers, agents and applicants?

A: The simple measure of rejecting poor quality applications and in appropriate cases, encouraging a more enlightened approach.

Q6 How can the information required to support planning applications be made more proportionate, while at the same time maintaining a necessary degree of flexibility to accommodate specific circumstances?

What are the key areas where changes to the scale and nature of information requirements need to be made, and how might those changes be delivered?

A: The cases in the examples on p.37 illustrate an inflexible box-ticking approach of some less intelligent council officials.

p.37 -

- One applicant wishing to develop within a car park was required to submit an ecology report because it was part of the local validation list;
- Another applicant was required to submit a design and access statement commenting on the economic and social impacts for constructing a porch; and
- A design and access statement was also required when an applicant wished to amend a planning consent to change the working hours of a site.

However the situation is not always helped by the box ticking nature of some forms of application.

In our LA (TWBC), for example the relevant application form for a satellite dish – on the front of a building in a Conservation Area - would be the Householder Form, with boxes on Trees and Hedges, Parking Rights of way, material for windows and doors etc. which have nothing to do with the matter in hand.

Although no fewer than 24 forms now exist, they are not yet entirely appropriate to all situations.

Culture

Q7 What are the likely implications for the processing of applications of all sizes, from householder changes to proposals of strategic importance, of moving from a development control to a development management approach and how might they best be addressed?

A: There can be a place for Management Plans as LDF documents but development control is likely to remain a key planning tool.

Q8 How might the current approach to targets be improved to help deliver the right outcome (decision) most efficiently?

How might the use of Planning Performance Agreements be further encouraged?

A: Targets involving time constraints are not necessarily helpful in delivering the right outcome in planning terms.

Engagement

Q9 How can the involvement of statutory and non-statutory consultees in the planning application process be improved?

A: Improved engagement can probably best be achieved by encouraging the involvement of a suitably wide range of relevant consultees, and providing a reasonable and realistic timescale for responses.

Q10 What do you consider to be best practice in the involvement of elected members in the planning application process?

How could best practice be further encouraged?

A:

(a) It should be made clear that Councillors should feel absolutely free to listen and express views on planning matters at any time.

This has been a serious issue in Tunbridge Wells, where Borough Councillors have been expected to withdraw from meetings when invited speakers who have made planning applications are making presentations

(-> RTW Town Forum Minutes 10.04.08 item 4 www.townforum.org.uk/minutes/minutes10402008.pdf)

(b) There should be a presumption that the Planning Inspectorate will normally back the decisions of a democratically elected Local Authority, and only override them in exceptional circumstances.

Some of the worst planning decisions (e.g. former Cinema site, Church Road/Mount Pleasant – opposite the Town Hall; former Telephone House site, Church Road) have been made on appeal by an Inspector from Bristol - against local wishes.

(c) 'Applications for Costs' should be banned from Planning Inquiries.

(d) The practice of making legal challenges should also be formally discontinued.

(e) The importance of planning should be emphasised to political party machines, and parties should be particularly encouraged to field candidates that can be expected to make intelligent contributions on planning issues.

(f) More member involvement over some currently delegated categories.

A list of all delegated decision should be tabled at committee meetings and councillors encouraged to take notice of action being taken in their name, so that officers can be given a policy steer if necessary.

(g) – namely, the introduction of a “Chairman’s Action” category, with a list of cases tabled at committees meetings.

Q11 How might community engagement in the planning application process be made more effective?

What role is there for different forms of engagement, such as dispute resolution and stakeholder dialogue approaches, e.g. ‘Enquiry by Design’, in the planning application process? How might any changes needed be implemented?

A: Early consultation with community groups, such as the RTW Town Forum in Royal Tunbridge Wells and relevant Residents Associations, in the form of meetings, exhibitions or presentation can be valuable in establishing two-way informed engagement.

Process

Q12 How can the effectiveness of pre application discussions be improved in a way which improves the overall speed and quality of the process from start to finish?

A: Discussions should be held with all relevant officials and stakeholders at an early enough stage for constructive ideas to be genuinely considered.

Q13 What would be the pros and cons of a change to allow local planning authorities to choose whether to advertise applications in a local newspaper?

Are there other changes to the publicity process for applications which should be considered?

A: While neighbourhood letters, site notices are to be encouraged, changes to formal publication should only be approached with great caution. Public Notices in the press remain the most reliable way of ensuring that planning proposals are in the public domain.

A weekly list could be published at the Town Hall’s exterior announcement boards and at Parish Hall’s Notice Boards.

Q14 What experiences have you had of electronic submission of applications?

What more, if anything, could be done to further encourage the use of e-planning in practice?

Are there other process improvements which could yield significant benefits for the efficient handling of applications?

A: RTW Town Forum is not a body that has occasion to submit planning applications. We are aware of the increasing use of IT, which should be used to its best advantage. However, there is likely to be a continuing need for formal and record paper plans.

Q15 How can the process of negotiation of planning obligations be further improved?

A: RTW TF attach great importance to the introduction of a Community Infrastructure Levy.

With regard to Section 106 agreements there should be clearer guidance on the types of demands that LAs can reasonably make. Mediation techniques, too, may help in bridging differences and thus avoiding formalised disputes.

Also, there should be a standard legal agreement. Legislation is required to ensure that restrictive covenants which militate against proper planning are rendered ineffective. (In Tunbridge Wells, we have a bad example of a restrictive covenant preventing the provision of a desirable town centre cinema on its traditional and most suitable site)

Q16 How could the concerns about conditions be addressed?

How can the discharge, enforcement and monitoring of conditions be improved?

It is desirable that as much relevant information as possible should form part of applications. Conditions then should be kept to a minimum, **be monitored and enforced**, and **not** relying on 'denunciation' by third parties.

Any other issues

Q17 What other measures do you consider could improve the speed and responsiveness of the planning application process?

A: RTW Town Forum is seriously concerned about this question, and the fact that the whole emphasis of this review, from its title "*A faster and more responsive system*" onwards, appears to be unduly skewed towards the subject of speed. The Terms of Reference in Annex A on p.60 do NOT mention the word speed specifically, but ask for consideration to be given to how "*the planning application process can be improved*".

Clearly, identifying and remedying any unnecessary delays is one possible aspect of improvement. However, it is only one.

Development projects last for a very long time and can profoundly affect whole communities, not just developers and their agents. So what matters most in the longer term is the satisfactory outcome, which remains with communities long after any short term concern about speed have been forgotten!

Development ought not to be at the cost of the amenity of others.

29 August 2008

Organisation: Royal Tunbridge Wells Town Forum (www.townforum.org.uk)
"Working Group LDF"
Dr Philip Whitbourn

e-mail: Dr Daniel Bech improve-rtw@townforum.org.uk

cc Christopher Thomas (RTW TF chairman), Samantha Timms (RTW TF secretary)
Robert Cottrill (TWBC Director for Development & Planning), Jim Kehoe (TWBC Head of Planning)

“ Responses, in the form of answers to these questions, should be sent to:

Enquiries to: Phelim Rowe - Tel: 020 7944 3941

e-mail: reviewofplanningapplicationprocess@communities.gsi.gov.uk

Address: Zone J/10, Eland House, Bressenden Place, London SW1E 5DU “