

RIBA response to the Killian-Pretty Review “Planning Applications: A Faster And More Responsive System – A Call For Solutions”

Introduction

The Royal Institute of British Architects is one of the most influential institutions in the world, and has been promoting architecture and architects since being awarded its Royal Charter in 1837. The 40,000-strong professional institute is committed to serving the public interest through good design. It represents 85% of registered architects in the UK as well as a significant number of international members. Our mission statement is simple – to advance architecture by demonstrating benefit to society and promoting excellence in the profession.

Summary

- **8 week/13 week targets**
The RIBA calls for greater flexibility in performance targets to enable local planning authorities to agree with applicants, in appropriate circumstances, limited extensions to the time allowed for a decision.
- **Small-scale development**
A planning policy statement should be adopted which defines a presumption in favour of small-scale development within the development limits of built-up areas.
- **Information supporting planning applications**
The requirements for supporting materials, such as design and access statements and environmental assessments, should not require excessive levels of detail for smaller scale projects.
- **Local Design Review Panels**
Local panels should be available to all local authorities for pre-application peer and inter-professional design review.

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 can they be overcome? How could increased complexity be avoided?

- 1.1 It is recognised that the largest projects, of national importance, need to be dealt with in a way that reflects their importance. Proposals in the current Planning Bill indicate a suitable approach. For more typical projects, a clearer distinction should be drawn between small scale development proposals (but



those above the scale of permitted development) and those more substantial schemes to which Development Plans directly apply.

- 1.2 The idea of a new formal procedure could be based on the prior notification procedure which already applies in various contexts (including agricultural development and telecommunications development). These procedures are not without their own problems, however, and involve significant workloads, in any case. However, the introduction of a new set of formal procedures would inevitably add to existing complexities. The aim should be to create a more robust policy framework for small scale projects, not a new system.
- 1.3 The RIBA believes that a planning policy statement should be adopted which defines a presumption in favour of small-scale development within the development limits of built-up areas. It would have provision for due regard to the impact upon the amenity of neighbours, transport and infrastructure and visual impact upon the streetscape but not subjective aesthetic assessment. (see Annex A for full description).
- 1.4 The RIBA believes rather than introducing a new tier to the system, a simplified domestic/small-scale development application through the 1App format should be possible. Thereby reducing the amount of information needed and excluding the requirement for supporting information that is not applicable to small-scale and domestic work. This approach avoids the complexity of a separate intermediary approach.
- 1.5 The main barrier to the introduction of a new procedural system (as distinct from the introduction of clearer policies) is that it will not create a better, faster or more reliable system. Excessive complexity cannot be avoided.

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?

- 2.1 Local Development orders are not seen by the RIBA as a way of successfully freeing up the need to obtain planning permission in local areas. It is unrealistic to suggest that Local Planning Authorities will willingly surrender decision-making powers. Local Authorities would be subjected to complaints by disgruntled local people about any relaxation of the national rules
- 2.2 Local Planning Authorities do not currently have the expert resources to draft well-constructed Local Development Orders. The use of Local Development Orders would accelerate the understandable demand, which is already growing, for Lawful Development Certificates, adding to the growing workload in this area.
- 2.3 The proliferation of Local Development Orders is undesirable. The potential creation of a multiplicity of different permitted development rights from



Council to Council, and even across a single authority, would cause deep uncertainty, would generate additional work for Councils and applicants' agents and would increase the workload on enforcement cases, due to inadvertent errors.

Q3 Different types of planning application require different skills. How can Local Planning Authorities respond to skills and resources challenges efficiently? What scope is there for solutions such as sharing of resources/skills between local planning authorities?

- 3.1 It is clear that there is a lack of skills in planning departments.
- 3.2 Also, at present, too large a proportion of skilled officers' time is spent on minor issues such as householder extensions.
- 3.3 Simplification of the decision process, especially by introducing clear and robust planning policies in respect of small-scale development, is the way to reduce the burden on overstretched staff in local planning authorities and, indirectly, the Planning Inspectorate.
- 3.4 A simpler and more robust system should also reduce the need for specialised planning consultants in the private sector. That would enable a greater proportion of the profession to return to real planning tasks rather than procedural challenges.
- 3.5 An effective way to address the design skill deficit in Local authorities may be to employ a wider range of disciplines within planning department teams, so that professionals with design qualifications can advise on applications. The switch to unitary authorities in some locations might offer the opportunity to set up this kind of multi-disciplinary team. The use of incentives for recruiting, training and retaining staff should also be considered.

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

- 4.1 Application requirements need to be simplified. It should be simple to submit only information which is necessary for the application to be registered, allowing the local planning authority to seek additional information, if necessary, during the application process, in a way which is transparent to the public at large (which prior negotiation between Councils and applicants may not be). It is essential that this process of seeking further information should not involve financial penalties for Councils either directly or by the loss of funding bonuses, as a result of missing targets.



- 4.2 The targets imposed on Councils have added to overall complexity and delay and have “speeded up” decision-making only in a superficial and unhelpful way. The targets being aimed for are meaningless in any realistic approach. The target system should be radically amended to enable the decision period to be extended by agreement between the local planning authority and the applicant. Further information in Annex B.
- 4.3 The standard planning application form, 1APP, should be amended to remove anomalies and increase flexibility.
- 4.4 The wording at paragraph 24 of “The Validation of Planning Applications: Guidance for local planning authorities” (December 2007), which emphasises the need to avoid asking for excessive material should be highlighted to local authorities.
- 4.5 Planning policies should be concisely and clearly drafted and easily accessible, especially for small-scale development proposals. There is a need for a policy statement, expressed in an Annex to a Planning Policy Statement, setting out a clear presumption in favour of small scale development that does not cause significant harm, in planning terms, to neighbours or to the public interest (see above at Answer 1 and Annex A).
- 4.6 The new system of Local Development Frameworks, with a complex interlocking “suite” of documents replacing the “one-stop shop” Local Plan, has added to complexity and delay. Very few local planning authorities have made much progress with the new system since May 2004. The key Local Development Framework Documents, namely the “Core Strategy”, “Site Specific Allocations” and “Adopted Proposals Map” should be prepared together. They should be clearly referenced to national planning statements, which should not be repeated or paraphrased.
- 4.7 There is a real expectation that planning will be taking place through the planning appeal process during the next few years, adding to the workload of the Planning Inspectorate, local planning authorities and private sector planning consultants, who all make use of the same limited professional resource.

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

- 5.1 A poorly contrived and unduly burdensome and complex planning application process generates theoretically incomplete submissions, since applicants are, sensibly, unwilling to spend time and resources on work which is perceived to be unnecessary.
- 5.2 Moreover, a process which seems to demand undue interference in matters of detail that are not really of public concern demoralises applicants (and



sometimes their designers), who simply seek instructions on what will be allowed, rather than taking responsibility themselves. Landowners and project promoters, including those in the public sector, need to be encouraged to take responsibility for the design of their projects, rather than the reverse. Where qualified professionals have been involved in designing a scheme (Architects, Landscape Architects, Engineers and so on), it should not be necessary for a local planning authority to become involved in detailed redesign unless there is a clear justification for doing so.

- 5.3 Applicants should be guided towards obtaining professional advice when submitting an application.

Q6 How can 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?

- 6.1 Two problems can be identified. The first arises from the need for all information to be provided prior to submission, whether or not it proves necessary. This is a result of the timeliness targets imposed on local planning authorities (see above at Q4 and Annex B).
- 6.2 The second arises from the process creep or adherence to a strict precautionary principle, leading to a disproportionate degree of control and demands for more and more detail.
- 6.3 This process is especially manifested in the area of biodiversity (detailed studies being required of sites that might conceivably provide wildlife habitats for example roosting sites for bats or foraging sites for newts) or the requirement for archaeological excavations to be carried out prior to application rather than as a condition of permission. A process should be encouraged whereby other determining issues can be decided, such as the need for housing or for infrastructure improvements leaving further studies to be the subject of conditions where appropriate or, if there is a real likelihood that, for example, a site may prove to have archaeological importance a reservation on the planning permission so that a genuinely important site would not be developed as a result of further reinvestigation even if it were otherwise acceptable in principle. This would, presumably, require revised guidance on the form and content of some types of outline planning applications.
- 6.4 Another example is the requirement under 1App to provide as existing plans and elevations of buildings to be demolished, where the principle of demolition of the existing building has already been approved through an outline application.



6.5 Again, the wording at paragraph 24 of “The Validation of Planning Applications: Guidance for local planning authorities” (December 2007), which emphasises the need to avoid asking for excessive material should be given greater prominence (see above at Q4).

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?

7.1 In addressing the development management approach more thought needs to be given to promoting effective integration between both planning and building control and the contradictions between the two regulatory processes. This could be achieved through a unified process or greater clarity between the two.

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?

8.1 A proposal for improving the target regime is attached at Annex B.

8.2 Planning Performance Agreements are useful for larger schemes, but they introduce an additional procedure which is unnecessary for the great majority of projects. The adoption of the proposed amendments to the timeliness targets regime, set out in Annex B, would be preferable, since it would enable Councils and Applicants to deal with applications in a sensible way, by exchanging letters.

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

9.1 Consultees should be encouraged to comment only when it is necessary and to the extent that it is necessary.

9.2 They should be reminded that decisions cannot be delayed for consultation responses to be submitted, unless there are exceptional reasons to do so.

Q10 What do you consider to be best practice in the involvement of elected members in the planning process? How could best practice be further encouraged?

10.1 Consideration of planning applications by elected members ensures a public forum for such decisions and brings a degree of common sense, when theoretical considerations are over-stated. Members are often good at recognising significant harm in a planning context. Guidance is needed,



however, to ensure that vociferous and energetic lobbying for or against a proposal is not unduly influential.

- 10.2 Guidance on the handling of applications for small-scale development is especially needed (see Annex A). Model Standing Orders for Councils, to determine which applications should be decided in public committee, would also be useful.

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 changes needed be implemented?

- 11.1 If too much emphasis is placed on prior negotiation between the Applicant and Council, it can appear that others are excluded from the application process, since decisions may have been reached before the formal application is submitted. The proposals to change the targets regime are therefore commended in this context also (Annex B).
- 11.2 Experiments with formal dispute resolution procedures in the planning system have not been a success. Stakeholder dialogue and prior consultation often has a role to play, tailored to the particular case generally for larger projects, though householders should always discuss proposals with their neighbours, if they can.
- 11.3 Enquiry by Design can be an extremely effective method of community engagement and should be encouraged alongside other methods of engagement.

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?

- 12.1 Well-managed pre-application discussions are often very valuable for larger schemes in developing an informed debate and enhancing the quality of applications. Pre-application advice needs to be consistent, reliable and timely.
- 12.2 The RIBA believes that Local Design Review Panels, facilitating peer and co-professional evaluation and advice on design, could have a very useful role to play, in particular at the pre-application stage. The RIBA is currently working with CABE, the Landscape Institute and RTPI to develop guidelines and an operating model for Local Design Review Panels (see Annex C).
- 12.3 Currently, pre-application discussions are widely felt to be very unsatisfactory. Discussions are often held with junior or newly appointed officers who have



no particular knowledge of the area and it is a common experience that pre-application discussions are frequently set at naught when the application is formally submitted and considered by a different officer and/or planning committee members. Time is wasted by both council officers and applicants, while unfulfilled expectations are generated for the client – that advice given at pre-application stage will be adhered to later. Pre-application advice provided by planning officers should be binding and accurately reflected in their recommendations to planning committees.

- 12.4 Those councils that impose a charge for pre-application discussions are regarded as merely taking advantage of an opportunity to impose an arbitrary levy on applicants whom, they assume, can afford the costs. Charges may be more acceptable if they are to be discounted from the planning application fee if the scheme proceeds to submission.

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?

- 13.1 There is no need to change the current publicity process for applications.
- 13.2 It is accepted that most representations on planning applications arise from notification given to neighbours and specific consultees. However, there may be broader groups, not notifiable as a matter of routine, who rely on newspaper advertisement and whose opinions may be of interest.

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?

- 14.1 The RIBA is supportive of the electronic submission of applications. Experiences have been mixed due to numerous teething problems in the system, and some lack of computer literacy. Many Architects use paper forms in preference to electronic versions, due to the lack of user friendliness of the systems, and we have received many reports about inconsistencies with the on-line payment facilities and supported file formats.
- 14.2 The applications forms (1APP) still have a number of anomalies which need to be rectified.
- 14.3 More generally, it should be possible to download applications forms (and appeal forms) for completion on-screen, rather than on-line.



- 14.4 Applicants (and appellants) could then be encouraged to submit the completed forms on-line, accompanied by electronic versions of documents, where possible, Applications (and appeals) submitted on paper could be backed up by electronic versions of documents, where available. All this would reduce the scanning task to be done by the local planning authority.
- 14.5 The present systems discourage any partial e-planning process and are seriously counter-productive. Intuitively, e-mail submissions ought to be obviously desirable and yet the potential has been undermined, not used profitably.
- 14.6 More specifically, e-mail planning application systems tend to be inflexible in application so that particular fields cannot be left blank, for example, or cannot be completed in a sensible way. It is, for example, reasonable to give areas as "approximate" in many cases. In other cases the fields may not be sufficiently large, for example where lengthy business names or unusual addresses are involved.
- 14.7 Moreover, it must be pointed out that it may be essential for a facility to be available for some documents to be submitted by post, for example a cheque, drawings or certain other documents, rather than electronically. Many Architects prefer to print a set of documents and to deliver a prepared submission that can be carefully checked and where the risk of parts of the submission being misplaced is avoided. Electronic systems therefore ought to allow for forms to be down-loaded, completed on screen in an Architect's office and submitted in paper form but printed to avoid the risk of misreading hand written entries. Of course, additional electronic copies can also be requested and would no doubt normally be provided to assist the local planning authority or The Planning Inspectorate in copying. It must be acknowledged that for many years Architects have provided additional paper copies of drawings and documents in order to assist councils with their administrative tasks.
- 14.8 The planning portal is potentially useful as a source of planning documents including Planning Policy Statements and Development Plan documents. Development Plan documents are also usefully provided by most councils, though in many cases there appear to be continuing problems with maps, especially.
- 14.9 Building Information Modelling (BIM) could in future be integrated within the online application process, but such an approach would require a rigorously tested IT infrastructure and more mature BIM technologies than are currently available.

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



- 15.1 The weakness of the reliance on planning obligations is about to be revealed as the development industry slows down. In recent market conditions section 106 agreements have proved to be attractive because of the buoyancy of the market. Reliance on income from this source to meet local needs should not be encouraged, however, because such funds will not be forthcoming in a weak market, which would be further weakened by onerous requirements.
- 15.2 Planning obligations ought to deal with specific requirements associated with a particular project. They should not replace or bolster general taxation, nor make good structural defects in the economy or the housing market. The guidance ought to underline the existing stated principles of planning obligations.
- 15.3 The underlying principles explained in Circular 1/2006 should be emphasised. Too often, councils treat the section 106 process as an opportunity to wheel and deal in the development arena. Developers also use the opportunity to argue special cases and clearer guidance would reduce the opportunity on both sides for the process to be drawn out by unnecessary "negotiation" over factors that ought to be clearer. It is essential to provide certainty and ensure that the system is clear, transparent and consistent. The introduction of the Community Infrastructure Levy (CIL) should provide added certainty for some developers. However, the potential overlap with Section 106 may hinder this.
- 15.4 In addition, the importance of land ownership and infrastructure issues should not be underestimated. In particular it should be recognised that in larger scale developments that all landowners have an equal balance of interest in the development process. Too often delays can occur at the final stage as a result of landowners jockeying for position and negotiating about so-called ransom strips when, in reality for a project to proceed all parties need to be in agreement together. National guidance could help to ease these problems.

Q16 How could the concerns about conditions be addressed? How can the discharge, enforcement and monitoring of conditions be improved?

16.1 The drafting of pre-start conditions has been unduly complex. It may be necessary to make clear when the breach of a pre-start condition invalidates a permission, or when a permission can be saved by retrospective discharge of a condition. Some conditions could be better worded. For example, conditions commonly require external materials to be selected and approved prior to the commencement of development, whereas it is only necessary for them to be approved prior to their incorporation into the works.

16.2 Standardised pre-start conditions are often inappropriate in relation to some contemporary procurement methods, such as design and build and PFI. Councils

could be reminded that Planning Policy Guidance Note No. 18 advises that enforcement action should not be taken merely to remedy a technical breach of the planning legislation.

16.3 Guidance should emphasise that conditions should only be imposed where they are reasonable and necessary. Conditions attached to a listed building consent, for example, should deal with matters relating to the works not matters relating to general development control considerations such as car parking or occupancy.

16.4 This guidance should emphasise that conditions should always meet the 6 tests in circular 11/95. Conditions requiring work to be done prior to commencement of development ('conditions precedent') should be imposed only where that is necessary.

16.5 The target of an 8 week time period for discharge of conditions is disproportionately long, could have significant financial consequences for developers and puts projects at the risk of non-compliance. As with targets for the determination of applications, these targets too could have unintended consequences.

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

17.1 Specific proposals being put forward at Annex A, B & C.

17.2 The planning appeal process needs to be more user friendly. In particular a Planning Inspectorate ought not to impose timeliness targets on submissions in the rigid and inflexible way which it now does. The Planning Inspectorate ought to be prepared to accept documents at a later stage in various processes than they currently do. In particular submissions by interested persons in all appeals ought to be accepted later than three weeks into the Written Representations process and up to four weeks before a Hearing or Inquiry. Representations by appellants ought to be accepted up to four weeks before any Hearing (as for Inquiries). These changes would not require legislation, merely the sensible exercise of the discretion that already exists in accordance with the rules for Appeals.

17.3 The experience of RIBA members is that a lack of precision in planning guidance, together with shortages of design skills in Local Planning Authorities, leads to some arbitrary and unpredictable interference which inhibits good design. This results in a high level of uncertainty and potential for conflict. The limited and targeted use of objective design coding in the planning system could be a useful mechanism for addressing this issue. The use of coding must itself be explicitly constrained and must include provision for special pleading for exceptions.

17.4 In addition to a Planning Policy Statement on small scale development (as per Annex A) the application process could be improved by empowering qualified

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professionals to certify that a domestic/small-scale application adheres to the planning policy statement. This would reduce the requirements for planning officer involvement in reviewing such applications.

Annex A: Draft paragraphs for a planning policy statement on householder and other small-scale development

Introduction

Presumption in built-up areas

- 1 Within the Development Limits of built up areas, as defined in Development Plan documents, there is a presumption that planning permission will be granted for development unless it would clearly cause significant harm to planning policy objectives, including harm to fundamental amenities enjoyed by neighbours.

Presumption in the countryside

- 2 In the countryside, outside the Development Limits identified in Development Plan documents, development proposals will normally need to be justified by site-specific proposals in the Development Plan. Nevertheless, landowners can reasonably expect to be allowed to extend and improve existing buildings, to an extent that the development would not cause significant harm to the rural character of the countryside or real and material harm to the openness of Green Belts.

Planning considerations generally

- 3 Within the Development Limits of built-up areas, issues of significant harm most commonly arise in relation to the effect that development proposals may have on immediate neighbours, their visual impact on the setting or street scene, and their traffic implications.

Neighbour issues

Effect on neighbours' amenities

- 4 It is often argued by objectors to development proposals, even to very minor development proposals, that a particular scheme would cause a loss of privacy, a loss of sunlight and/or daylight, or an increase in disturbance.

Privacy

- 5 In built up areas, high levels of privacy in gardens can not be expected, but reasonable standards of privacy are necessary, especially within the home. Where

first floor windows face each other across gardens, for example, a separation distance of about 20 metres should be sufficient to achieve a reasonable standard of privacy, although a lesser standard may be appropriate where only oblique views can be obtained.

Sunlight and daylight

- 6 Where a loss of sunlight and/or daylight is alleged, it may sometimes be necessary to carry out detailed appraisals using sunlight and daylight calculations. In general terms, however, it can be stated that new buildings should not overshadow their neighbours for a large part of the day and should not cause unreasonable loss of light to the windows of neighbours' habitable rooms. Of course, account needs to be taken of the window layout of neighbouring buildings and the same constraints will not apply where a neighbour's living room, for example, has more than one window, perhaps a side window as well as a window looking into its own garden. Likewise, some regard must be given to whether the adjacent building has been constructed in a neighbourly way or whether flank windows would have the effect of imposing unreasonable restrictions on the use of adjoining land. It should be recognised, of course, that formal rights of light are not protected through the planning system but through the courts.

Overbearing impact

- 7 Even where the effect of a proposed development on the sunlight and daylight available to its neighbours would be acceptable in planning terms, it may be the case that the proposed building project would have an unreasonably overbearing effect on adjoining property. There is no fundamental right to a view in the English planning system and the loss of a view from a particular window or, indeed, from a property as a whole, would not amount to a loss of a fundamental amenity as envisaged by this statement. Nevertheless, the construction of a large flank wall, for example, close to existing windows or alongside an existing garden, could create an overbearing presence that would amount to a significant loss of amenity.

Disturbance

- 8 Even within built up areas, residents can expect to enjoy a reasonably undisturbed existence, consistent with the character of the location. It will, for example, be unrealistic for those who reside in town centres to expect to combine the benefits of a busy urban location with a wholly tranquil setting. On the other hand, the effect of proposed development on the peaceful enjoyment of nearby residential property needs to be taken into account when considering development proposals. Such matters will be especially important in the consideration of proposals for late night uses in the vicinity of residential property, for example. In

the residential environment it is also necessary to consider the effect that new residential development would have on existing residents. Disturbance caused by new vehicular accesses can be especially significant and this can justify an objection to 'infill' or 'backland' development if a new access road alongside existing dwellings would cause undue disturbance (or an unacceptable loss of privacy).

Transport and highway issues

Traffic considerations

- 9 Traffic issues involve considerations of design factors that can affect both highway safety and convenience. Any new vehicular access or the intensification of use of an existing access, can give rise to hazards if the visibility for turning vehicles is inadequate. The need for wide visibility splays should not be overestimated but nor should visibility for moving vehicles be reduced below a safe minimum. The guidance given in PPG13 and Manual for Streets (or any formal modification of that guidance) should be adhered to.

Parking provision for residential development

- 10 Parking provision is also dealt with in the national policy documents and, again, that advice should be adhered to. In principle it advises that on-site parking provision for private development proposals ought to be minimised in order to encourage the use of public transport. It may not be necessary at all where very small residential units are to be constructed close to important transport nodes or interchanges. Nevertheless, it should be acknowledged that households will be likely to own cars even if routine journeys to the workplace and so on are to be made by public transport or on foot and, therefore, dwelling houses with two or more bedrooms should normally enjoy the facility to keep at least one car off the public highway.

Parking provision for non-residential and commercial development

- 11 However, for commercial uses a realistic assessment of parking needs should be made, in the light of Development Plan policies and national policies and advice.

Parking spaces: a suitable car parking space will have minimum dimensions of 4.8 metres by 2.4 metres (if it is at right angles to the flow of passing traffic) but it should not normally be necessary for cars to enter and leave private houses in forward gear.

Design considerations

Design

When they have an impact on the public realm, the design of new buildings and of extensions or alterations to existing buildings can be a legitimate public concern and the effect of a proposal on its surroundings can be an important planning consideration. Local planning authorities should refuse proposals that are obviously poorly designed and, in exceptional cases, may reject a proposal that fails to make the most of an important opportunity. Guidance on design is to be found in PPS1 and councils should ensure that they have well qualified advisers to assist in making judgements. However, the design of small-scale building development, such as householder extensions, is seldom crucial in the determination of planning applications, if the effect on the street scene or on the setting more generally would be very limited. Developers are advised to obtain good advice and to recognise the benefit of employing skilled, knowledgeable professionals at an early stage in the project. They are reminded of the importance of obtaining good design advice from a qualified architect. Local planning authorities should not impose their own taste on applicants, merely because they believe it to be better and they should be especially reluctant to refuse planning permission on design grounds for a building or extension that has been designed by a qualified architect for a specific site.

Annex B: 8 and 13 week targets

The RIBA proposes that greater flexibility in performance targets should be introduced, to enable local planning authorities to agree with applicants, in appropriate circumstances, limited extensions to the time allowed for a decision.

In principle, local planning authorities are required to determine planning applications within eight weeks of receipt of a planning application by virtue of the provisions of Article 20(2)(b) of the Town and Country Planning General Development Procedure Order 1995. In the case of an application for ‘major development’ that period is extended to thirteen weeks, by virtue of the provisions of Article 20(2)(a). ‘Major development’ is defined at Article 1.

In either case the period may be extended for a further period by agreement in writing between the applicant and the local planning authority. Failure to determine an application within the allotted time period (including any agreed extended period) gives rise to a right of appeal, under section 78(2) of the Town and Country Planning Act 1990, to the Secretary of State.

Councils have been given performance targets relating respectively to ‘major planning applications’, ‘minor planning applications’ and ‘other planning applications’. Extensions of time agreed by the applicant are *not* taken into account in assessing the councils’ performance in relation to those targets.

Councils’ performance against these targets is used as a basis for calculating planning support grants payable to the council by central government. The sums of money involved in these grants are very substantial indeed, with some councils receiving in excess of £500,000 per annum.

Although the link between the performance targets and funding was well intentioned, it has had unfortunate and unintended consequences. Councils are now under great pressure to determine applications within the target period. Even small-scale applications have to be the subject of notification to neighbours, parish councils, highway authorities, and other statutory or non-statutory consultees, and the registration period itself inevitably takes a few days. It is often sensible for local planning authority officers to consider applications once responses have been received, rather than to spend time establishing a preliminary view that may then need to be reviewed in the light of subsequent comments, perhaps necessitating additional site visits.

Time is also required for the preparation of a suitable report, either for planning committee or for a more senior officer or planner group (where delegated decisions are made). The time available for discussion with the applicant may inevitably, therefore, be very short indeed. In consequence, planning authorities may be driven to take a decision on a particular application where further time or discussion and, if necessary, amendment of a proposal, would be fruitful. Pre-application discussion can not always alert applicants and development control officers to matters that arise in

consequence of the notification process. That, indeed, is one reason why public consultation is so important.

If a precipitate decision has to be made, of course, that is likely to give rise to a new and revised application as well as a planning appeal, generating much more administrative work for all concerned and a much longer overall delay before a satisfactory scheme can proceed.

The system has proved to be wasteful of time, money and resources and, unfortunately, it generates unnecessary friction between all those involved including applicants, their architects, decision making officers of the planning authority and consultees who perceive themselves to be subjected to repetitious formality on the one hand or to be involved late in the process, after detailed discussions between applicants and the local authority, on the other.

Moreover, it has emerged that in some cases, where a decision has not been made within the timescale allocated, perhaps because sensible discussions have taken place, the decision making process has become 'at large' with no particular incentive at all for a decision to be made on an application where the timescale has already been lost, in preference to new applications where planning targets can still be achieved. The situation can be especially problematic where a section 106 agreement needs to be settled (since drawn out negotiations on such matters as funding can be necessary).

It can be strongly argued that merely to sever the link between the government's planning grant and the performance target would be beneficial in the present circumstances, since councils, the Planning Inspectorate and, indeed, applicants' agents are all finding it difficult to cope satisfactorily. Unfortunately, it is feared that such a bold stroke could lead to recalcitrant councils reverting to slow and inefficient ways of working.

The RIBA proposes that the targets (and therefore the allocation of grant money) could take account of agreements between applicants and local planning authorities for the time allowed for a decision to be extended. Reference to the mechanism provided for by Article 20 of the General Procedure Order (see above – Article 20) would entitle the applicant not to renew an agreement to extend the time for a decision beyond a defined period and it is clear that there would be an overall saving in administrative time.

Specifically, it is proposed that the Planning Delivery Grant Determination should be amended to achieve what is intended. Under the heading of 'Target Meeting or Exceeding' within the section on 'Development Control', references to '8 weeks' or '13 weeks' to be changed to refer directly to the periods specified in Article 20(2) of the Town and Country Planning General Development Procedure Order 1995, including agreed extended periods that have been agreed between the Applicant and the Local Planning Authority.

Annex C: Design review in the planning process (Partners: CABI, Landscape Institute, RIBA, RTPI)

Background

Design or architects' panels serving one or more LPAs have been in existence for the past 25 years or more, either operating roughly in accordance with RIBA guidelines produced in the early 1980s, or on a more individual basis. Coverage is good in some areas but generally patchy across the country, and there has recently been a proliferation of panels pursuing a variety of operating methods developed 'ad hoc'.

In parallel with this CABI has developed an effective model for a more in depth and pan professional design review for schemes of national significance. The CABI Panel has an emphasis on early and continuing engagement with the project designers. More recently, some RDAs have funded regional design review panels to undertake a similar role for other, regionally important schemes.

It is perceived that there is an unsatisfied demand for Design Review that cannot be accommodated by the current system.

The organisations partnering in this initiative believe that the development of further capacity in design review has the potential both to benefit the operation of the planning system and enhance the quality of design outcomes in planning consents.

The value of involvement of design review early on in the pre-application development of proposals is demonstrated by the operation of the CABI and regional panels. A similar involvement of local panels could assist both applicant and LPA and offer increased early certainty to applicants. Whilst it will not be a solution on its own, design review could be an important part of the kit of tools to help to deal with the design skills shortage within the planning service, to ensure that mediocrity is filtered out and quality rewarded.

Aims

A survey of current practice in local design review across the country has been set in train by RIBA, RTPI, LI and CABI.

Informed both by this survey and the current work of CABI and regional panels, the partners intend to set out guidelines to encourage the further development by LPAs of a network of pan professional Local Design Review Panels.

These guidelines should allow for flexibility so that LPAs can adjust to suit local requirements and retain 'ownership' of the panel network. They would also bring together current best practice.

As an ultimate aspiration these Panels would be available to all LPAs, either for one authority, or to be shared between several in geographical proximity, depending on need and workload.

LPAs should be encouraged to take part in the scheme, by demonstrating the value of external, independent professional advice and providing a model for good practice based on existing experience.

Key Issues to be covered:

Role.

- The role of a Panel, to provide independent, professional advice on design quality?
- what a Panel is **not**, not an enabling body, nor a focus group nor a body to review decisions of the local authority?
- The importance of pre-application consultation.

Membership

- Peer review ie panels comprising qualified professionals, drawn from architects, planners, urbanists, landscape architects? Or to include lay/councillor members?
- Specialists (eg conservation, sustainability, artists) to be drawn on as required?
- Rotation of Panel attendance to reduce commitment for the individual, vs the need for continuity of review on a particular scheme.
- Training for panel members and chairs

Operation

- Specific guidance for Chair and Panel members?
- Role of Chair key to success of panel.
- Who administers the panel?
- Who decides which projects are referred to the Panel?
- panel timetable and the 8/13-week application deadlines.
- Presentation by and dialogue with agents or by written submission only?

Hierarchy of Panels

- Relationship between design review panels at a local regional and national level

Transparency

- Openness of appointment method
- Avoidance of any suggestion of conflict of interest from Panel members
- Private vs public sessions?

RIBA



Royal Institute
of British Architects

Governance.

- The need for regional or sub-regional co-ordination?
- Annual review of case studies, good practice, benchmarking?
- Dealing with queries or complaints about the process (but not the outcomes)
- Payment of panel members?