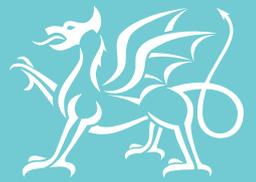
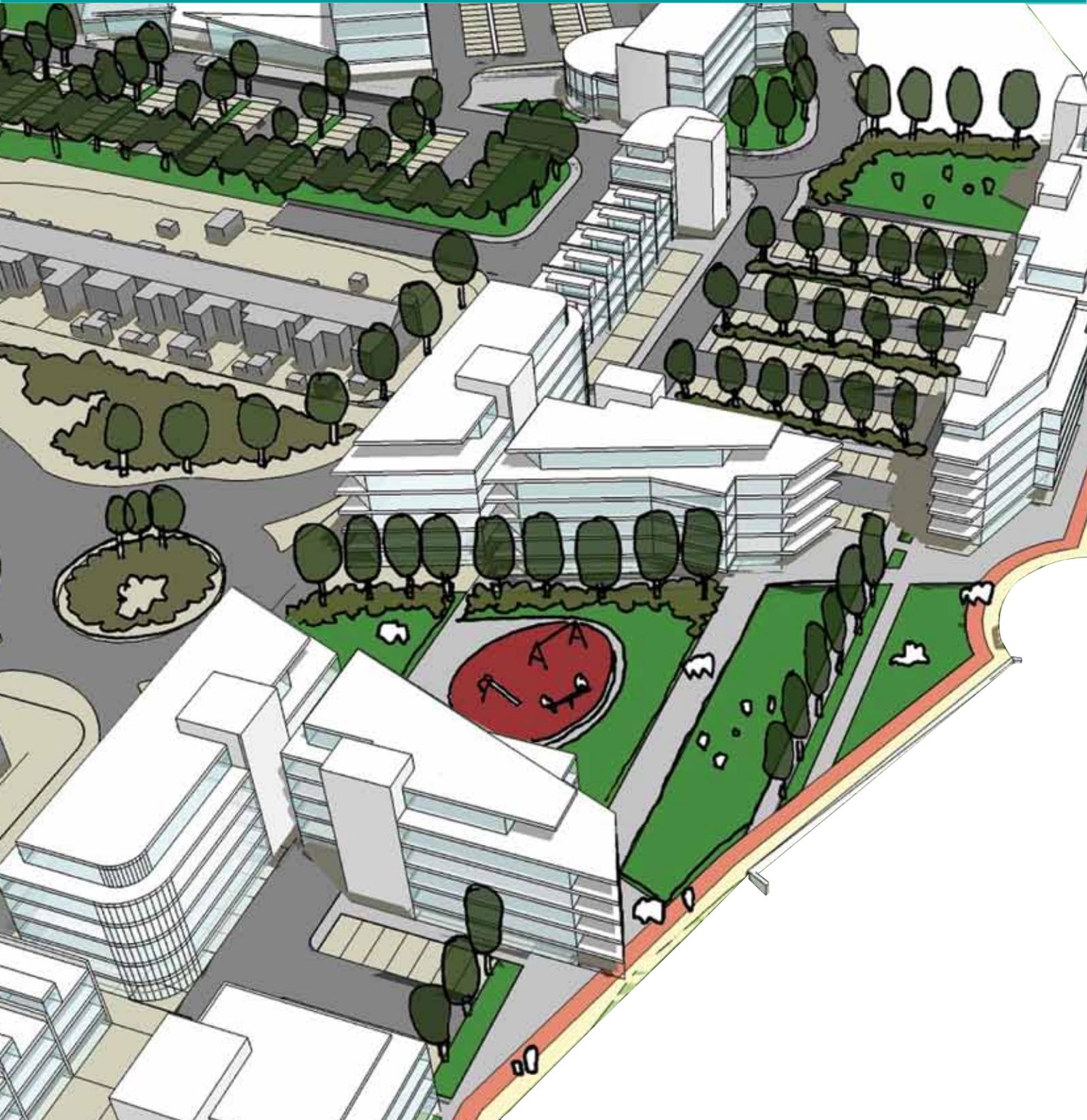


Study to Examine the Planning Application Process in Wales



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Study to Examine the Planning Application Process in Wales

A Report to the Welsh Assembly Government

By GVA Grimley

June 2010

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Executive Summary

Introduction and Methodology

- 1 The planning application process is the main tool in the approval or refusal of proposals for development in the UK. In September 2009, the Welsh Assembly Government commissioned research into the operation of the planning application process in Wales. The project spanned all stages of the process and focused on the role it can play in fostering sustainable economic recovery.
- 2 The research exercise was carried out between September 2009 and April 2010 and was based on:
 - A questionnaire sent to all 25 Local Planning Authorities (LPAs) in Wales;
 - A series of Focus Groups involving representatives of the public, private and third sectors from across Wales; and
 - The use of case studies and “practice pointers” to examine how particular issues were being handled or how problems were being overcome.
- 3 The study also drew upon extensive existing research from Wales and elsewhere, together with the intelligence of a range of agencies and individuals with experience of the application process, in particular from the independent Research Steering Group made of representatives from the private, public and third sectors.
- 4 The report is divided into two sections. The first records the key findings on the current operation of the application process and the issues it is facing. The second identifies measures that can make a rapid, meaningful and positive difference to the performance of the process and the decisions it makes.

Research Findings

LPA Questionnaire

- 5 The LPAs are the key decision making bodies within the Welsh planning system. They have responsibility for registering, processing and determining the majority of planning applications made within their areas. As a result, understanding their opinions of the system and how it might be reformed was therefore essential to the research.
- 6 The questionnaire examined how each LPA approaches the application process, the resources available to them and the challenges and

pressures they face. It also looked at how they are responding to those challenges and how the system might be reformed or improved.

- 7 The questionnaire discovered significant variation between LPAs in terms of their workload and their operation of the application process (especially at key stages). Differences extended from pre-application and validation to decision-making and the discharge of conditions. There was also significant difference in the resources available and there is little common measurement of success or satisfaction with the service that the authorities are providing.
- 8 Despite this variation, common issues were identified from the responses:
 - The importance of strong leadership to a successful application process.
 - Concern about increasing range of responsibilities being placed on the system and the policy and guidance that goes with them.
 - Conduct and composition of planning committees.
 - The need to simplify the system and make it more proportionate.
 - Concern with the quality of applications that were made.
- 9 Although respondents to the questionnaire clearly felt that there was significant room for improvement in the operation of the planning application process there did not appear to be a widespread appetite or identified need for fundamental reform.

Focus Groups

- 10 Focus Groups were held in Cardiff and Conwy and included organisations and individuals from across Wales. Sessions were held for planning consultants, business groups, environmental groups, statutory consultees, community groups and professional bodies.
- 11 The sessions discovered two key positions. The first was that the application process was fundamentally sound (but required adjustment). The second was that the process was approaching failure-it was too slow, too complex and too onerous in its requirements. However, the key issues identified by the groups were broadly similar regardless of the basic position taken (and the wide range of views expressed). These focused on:
 - The consistency and reliability of the system – especially at critical early stages whilst applications are being considered or for specific requirements - this was a key focus for change.

- As for the LPAs, the increasing complexity of the planning system (and the increasing burden on it is causing major stress for all concerned).
- The role of the Assembly Government – including the need for strong and clear advice on key issues and stages.
- A better more focused role for the statutory consultees together with a system more able to consider a wider range of issues.
- The need for positive and proportionate decision making and a deeper appreciation of the responsibilities of all involved in the process.
- The need for LPAs to be more responsive and to plug gaps in understanding by sharing resources and expertise through better cross boundary working.

Key Objectives and Themes for Reform

- 12 The findings of the research demonstrated that the planning application process is under stress. Although there was a basic consensus that the process itself remains a fundamentally fair mechanism for decisions on new development, very few are happy with its operation or impact,
- 13 The organisation and operation of the process drew most criticism. Many of the concerns were rooted in the increasing responsibilities being placed on the system, combined with the lack of resources to deal effectively with these. In some places this is causing a breakdown in the relationship between applicants and authorities and this could in turn discourage economic development. The unpredictability of the system and the impact this has on planning prospects and costs, together with the absence of (in some areas or topics) of the scope for flexibility in the implementation of national or local objectives were also key and common concerns. These findings informed three basic objectives for reform:
- managing complexity (on the basis that this will not go away);
 - reducing uncertainty and increasing consistency between LPAs; and,
 - increasing responsiveness to national and local policy objectives – and especially to the needs of businesses.
- 14 These objectives give the review three basic themes. The first is to develop a **better understanding** between key stakeholders of their

respective positions and the impacts of decisions and requirements. The second theme is to **change the culture or starting point to decision making** on planning applications. The final theme is to **improve the operation** of the process at key stages.

Recommendations

- 15 A series of recommendations are made under each of these three themes and the concerns and issues that lie behind them.

Better Understanding Recommendations

- 16 Good relationships are critical to the operation and performance of the planning application process. Two key areas have been identified where action is required. The first is the relationship between the delivery of sustainable and valuable economic development and the planning process and the second is between the Welsh Assembly Government and users and managers of the application process. The set of recommendations focus on improving these relationships.
- 17 **Recommendation 1** is for a new Policy Statement from the Assembly Government stressing the priority to be attached to the promotion of sustainable economic development and the importance of supporting the growth of Small and Medium Enterprises (SMEs).
- 18 **Recommendation 2** sets out measures to make the system more responsive to business. These include improving communication between business organisations and the LPAs and producing a new guide for businesses and their interaction with the application process. The establishment of a consultee to represent business and economic development interests and improve the integration of the needs of SMEs into planning policy at both national and local level is also recommended.
- 19 **Recommendation 3** is that the scope and content of Design and Access Statements (a mandatory requirement for many applications) should be clarified. Consideration should be given to relaxing the trigger for their requirement for all types of development.
- 20 **Recommendation 4** concerns the nature of policy guidance that is issued by the Assembly Government and asks for a more inclusive approach that involves stakeholders on both sides of the application process before new requirements are introduced.
- 21 **Recommendation 5** responds to concerns regarding the extent and scope of change that has taken place within the planning system in recent years by suggesting that (apart from recommendations made

within this review) there should be pause on the introduction of further requirements or guidance.

Changing Culture Recommendations

- 22 To address the issues identified by the review, cultural change should focus on three key areas – refreshing the basic approach to development and its management; examining the process of consultation and improving the ways in which the application process is delivered on the ground.
- 23 **Recommendation 6** is for a new policy statement on development management, which will encourage a collaborative and responsive approach to development proposals. This could continue in the form of a new version of the draft Technical Advice Note 17 (issued in 2007).
- 24 **Recommendation 7** proposes a review of statutory and non-statutory consultation processes, examining the potential to develop procedures that are more focussed and more standardised as well as examining the number of statutory consultees (and whether the influence of consultees on decision-making is always appropriate and proportionate).
- 25 **Recommendation 8** is that a best practice note should be issued on the delivery of effective development management functions within LPAs. This would focus on the need to establish efficient, customer focussed and resource efficient organisational structures.
- 26 **Recommendation 9** is for the production of a guide for LPAs on the organisation of planning committees, focussing on standardising procedures between LPAs, measures to improve performance (including mandatory training for members) and the introduction of cooling-off periods where decisions go against the advice of officers.

Improving Operation Recommendations

- 27 To address the key issues raised by practitioners, improving the operation of the system focuses on six key areas to make the system more consistent, more proportionate and more effective:
- Reducing the number of applications.
 - Unifying and improving pre-application advice and procedures.
 - Simplifying and unifying validation protocols.
 - Improving e-planning and the Planning Portal in Wales.

- Creating central pools of expertise for key issues and encouraging joint working.
 - The implementation of permissions (and the use of conditions).
- 28 **Recommendation 10** is to extend Permitted Development rights (building on proposals made by the CLG with respect to England) and for the Use Classes Order to be amended. The working assumption is that this would reduce the number of small scale applications, allowing LPAs to concentrate time and resources on the most important applications.
- 29 **Recommendation 11** is for a more practical and consistent approach to minor amendments to approved schemes (so that no new application is required for appropriate changes).
- 30 **Recommendation 12** is that a best practice guide should be produced to provide advice on the scope and format of pre-application discussions.
- 31 **Recommendation 13** is for the introduction of a standard approach to the validation of planning applications starting with a list of national requirements.
- 32 **Recommendation 14** concerns the use of electronic planning services and seeks to encourage increased use of the Planning Portal for the submission of applications and the e consultation hub. Improvements to the provision of electronic information by LPAs (including the introduction of minimum standards) are also suggested.
- 33 **Recommendation 15** seeks to encourage greater sharing of expertise within Wales, through the creation of a centralised panel of consultants or through the use of regional centres of expertise in specific areas such as infrastructure, waste and minerals and energy. A centre of planning excellence for Wales is a further way of capturing and transferring the substantial experience and expertise available
- 34 **Recommendation 16** is that clear guidance should be issued on the content and use of planning conditions to encourage a more standard approach (especially for conditions which need to be satisfied before development can begin).

Conclusions and Next Steps

- 35 The key message from the research is that, whilst basically sound, the planning application process in Wales is currently in need of significant improvement if it is to be effective in supporting sustainable economic growth. The recommendations set out within the report therefore go to

the heart of the planning application process but focus on its practical operation rather than legislative base.

- 36 The Assembly Government will be the key agency in taking forward the recommendations set out within the report. However, a collaborative approach is envisaged and delivery partners have been identified (including business groups, professional bodies and statutory consultees) with respect to each of the recommendations.
- 37 Priority should be given to recommendations, 1, 3, 5 and 13. However, each of the proposed changes will make a significant and positive difference to the operation of the system and deliver a more consistent planning service across Wales. This change is needed if the application process is to contribute most substantially to sustainable and valuable economic recovery.

1.0 Introduction

- 1.1 The planning application process in Wales is the primary tool in the control and management of new development. It plays a critical role in the consideration and authorisation (or refusal) of proposals of all types and scales and in all types of location. This is a significant responsibility that has clear economic, environmental and social implications for the nation and its communities.
- 1.2 In December 2008, the Welsh Assembly Government announced a review of the planning application process in Wales. In tandem a research project to inform that review was also announced¹. The joint press release made clear that the review was to focus on the role of the planning application process in fostering economic recovery whilst making sure that decisions met the Assembly Government's clear commitment to sustainable development. A research steering group was set up - see paragraph 1.13.
- 1.3 The research project was to be based on a number of basic principles:
- a) it was directed to experience and practice in Wales, although it was clearly recognised that significant research and practical experience existed from recent reviews carried out in the rest of the UK;
 - b) it was to look at the planning application process from start to finish – from the point at which an application is conceived and discussed, through its consultation and consideration to decision making and implementation;
 - c) it was not however tasked with a review of the content, processes or performance associated with local or national planning policy unless there was a key message about how that policy was or was not being used in development control decisions and processes;
 - d) to make the research as inclusive as possible - recognising that the planning application process is used and operated by a range of people and organisations and the review should capitalise on all of this experience (and opinion and intelligence);
 - e) it was to be based on a mixture of new research and a review of relevant information, intelligence and experience from elsewhere; and,
 - f) it was to focus on a series of deliverable recommendations that would make an impact on key issues and findings and could

¹ The specification for the research is included as Appendix 1.

rapidly improve the performance of the planning application process. An emphasis was placed on short term changes and measures, although wider reform requiring or relying on legislative reform was not ruled out.

Methodology and Programme Headlines

- 1.4 In September 2009, GVA Grimley was appointed to lead the research project. Its response to the brief recognised that the review of the planning application process was a major opportunity to examine the performance and potential of a system with major impacts and implications. The basic methodology employed reflected the requirements of the brief and split the review into two key stages – the examination of the process and the presentation of the results and the recommendations.
- 1.5 The examination was based on three main elements.
- 1.6 The first was a comprehensive **questionnaire** to all local planning authorities and national parks in Wales. This was a key first stage in the review and provided the opportunity to ask each of the Welsh planning authorities how they operate the planning application process and the issues they face in doing this. A good response was made to the questionnaire with all but three authorities providing full and considered replies.
- 1.7 The second main research tool was a series of **focus groups**. A total of 11 sessions were held with a series of interested organisations including planning consultants, business groups, statutory consultees on planning applications, environmental groups, community groups, architects, academia and the professions, homebuilders, and representatives from departments of the Welsh Assembly Government.
- 1.8 Written submissions were invited from participants or those unable to attend the sessions.
- 1.9 The third element of the examination was the identification of number of **case studies**. Originally these were to be planning applications that provided evidence or illustration of key findings or issues and examples of how these issues were being overcome by applicants, organisations and planning authorities.
- 1.10 As the study progressed this approach was refined for two main reasons:
 - a) although the review was directed to experience and practice in Wales, it was clearly recognised that significant research and practical experience existed from recent reviews carried out in the rest of the UK. It is in the case studies that the Killian Pretty

Review (KPR) in England has most to offer the review of the application process in Wales. Because of the relevance and weight of the key findings, and because the selection process matched the main requirements of this review (with its emphasis on key development types and specific categories), the KPR can, in a real sense, help to liberate the review in Wales and allow its case studies to focus in a more targeted way on best practice or specific challenges rather than the identification of generic faults or concern.

- b) With some notable exceptions, the requests for candidate case studies which were made in the local authority questionnaire and at (and before) the focus group sessions largely failed to deliver useful examples. This was in part due to the need for case studies to be closed (namely beyond any appeal or challenge timescales) but still relevant to the comments or issues raised by the *current* operation of the planning application process.
- 1.11 Approaching the case studies like this, allowed the research to concentrate on performance based initiatives as well as practical examples that will help to inform the reviews recommendations. This corresponds more fully (and perhaps more effectively) with the purpose of the review and the focus on practical recommendations. This also follows the general approach of this review which is to focus on what can be done quickly and effectively (without ignoring more structural change if this proves necessary or desirable) because in some places it is already happening (successfully).
 - 1.12 Later in the process, a number of further case studies were suggested to illustrate different types of development and the process undertaken- these are detailed at Appendix 4. Case studies or examples are contained in the recommendations of this report (as a pointer to how the recommendations could be taken forward).
 - 1.13 In addition to these three core stages, a thorough desk based review of literature on planning practice and reform proposals has been carried out. The research team was also informed and guided by a steering group Chaired by Michael Sant, which included representatives from the Confederation of British Industry, the Home Builders Federation, the Federation of Small Businesses, the Royal Society for the Protection of Birds, RTPI Cymru, Planning Aid Wales, the Welsh Local Government Association, the Planning Officers of Wales and the Advisory Panel for Standards for the Planning Inspectorate as well as officers from the Welsh Assembly Government in a supporting role. A period for public consultation also took place from 8 March 2010 to 8 April 2010, and the responses received were considered and where appropriate informed this report.

The Approach to Research and Reform Elsewhere

- 1.14 As noted above, the approach to the case studies was influenced by the Killian Pretty Review of the planning application process in England. This reflects the more general value of the review to this exercise. On one level the Killian Pretty Review (KPR) represents a major watershed for the planning application system. For the first time (in a long time) the system in England was subject to comprehensive and independent scrutiny. A series of recommendations were made, many of which have been embraced by Whitehall and are now being implemented. On another, however, KPR was about the system in England. A different system exists in Wales and there are different challenges and different opportunities for change and reform.
- 1.15 In this context, two basic approaches to the KPR (and other planning reform) were considered for the examination of the process in Wales. The first would be to use the conclusions as the basis of the review here. Under this approach, each of the recommendations could be tested explicitly or implicitly as a starting point and then either accepted, adjusted or rejected. The recommendations could also be blended and prioritised to compress or reduce the sheer weight of the KPR and its associated documents. Our objective would be to provide one source of recommendations on how and why the application process should change.
- 1.16 The second approach would be to ignore the KPR and its findings (and how its recommendations have been pursued) and start with the system we have identify objectively the improvements, protocols or mechanisms necessary to make it better, fitter, quicker and more responsive.
- 1.17 Both approaches have merit. On the one hand it would be foolish to ignore the KPR simply because of the thought and expertise that has gone into it. Even a brief review of the recommendations shows that there are significant similarities behind the objectives of the review, and between the operational characteristics of the system. On the other hand, there are important differences between the two systems, the authorities that control the application process the policy and guidance which informs that operation.
- 1.18 In this context, the review proceeded independently (as its own review not just a Welsh KPR). However, it was informed during both the examination and presentations stages by the themes, approach and the findings of the KPR. Each of these were also tested through the examination of the planning application process in Wales.

Report Structure and Format

- 1.19 This is a record of the main findings and recommendations of the research project. It follows the main structure of the review and is divided into two main parts:
- 1.20 The first part concerns the main findings of the review and focuses on the headlines from the local planning authority questionnaire (in section 2) and from the focus groups and written submissions (in section 3).
- 1.21 The second part uses these findings to identify some fundamental objectives and themes for the recommendations to concentrate upon (in section 4) before moving onto the individual recommendations on increasing understanding (in section 5) on the culture of the process (in section 6) and its operation (in section 7). In each of these sections, the recommendations are supported by a series of practical pointers. These pointers record the case studies (and more detailed intelligence) used by the review and are designed to explain the rationale for the recommendations or to inform how they might be implemented. The pointers also provide a useful connection between the review's findings and recommendations and some overlap is inevitable (and encouraging).
- 1.22 The report is completed with a basic implementation plan for the measures identified (in section 8) and a short conclusion and the steps that should be taken most urgently to improve the application process for all concerned (in section 9). Six appendices are attached at the end of the report.

2.0 Key Findings from the Local Planning Authority Questionnaire

- 2.1 The Local Planning Authorities (or LPAs) are the main decision making bodies within the planning application process. They have the responsibility to register, consider and determine nearly all the planning applications made within their geographical areas. Although applicants have the right of appeal to the Welsh Ministers, it is the LPAs that are the primary decision makers. As such, it is vital to understand their experience of the planning application process and their opinions on how it might be reformed.
- 2.2 A questionnaire to the authorities was therefore a key first stage in the review. It provided the opportunity to ask each of the LPAs how they operate the planning application process and the issues they face in doing this. The questionnaire had the clear potential to examine:
- a) the way in which the authorities approach the planning application process;
 - b) how they administer/deploy resources;
 - c) how they organise themselves (within the Council's overall structure and as an individual function and team/department);
 - d) how they disaggregate the planning application process ;
 - e) how they determine applications openly, fairly and consistently;
 - f) how they balance separate, scientific, subjective and potentially conflicting agendas, objectives and requirements;
 - g) how they measure success and what they do to achieve it;
 - h) what challenges and pressures the system presents;
 - i) how they learn, review, monitor and evolve; and,
 - j) what improvements they would like to see (and what they would most like to see).
- 2.3 To make the most of the opportunity, the questionnaire was designed to balance the need for qualitative answers with the requirement for common measurement and identification of key data. The questionnaire became more conversational rather than prescriptive – it went beyond questions about how well the authorities thought they were doing - to provide the review team with information to examine how each authority responds, what issues it faces and where structures, methodologies and practices appear to be paying

dividends. This also enabled later stages to focus on key issues and the best way to address them.

- 2.4 Although many questionnaires were completed and returned by the original deadline the initial response was somewhat disappointing. Accordingly the deadline was extended to January 2010 and by the revised deadline 22 questionnaires had been returned. The three authorities who did not respond were Brecon Beacons National Park, Merthyr Tydfil and Wrexham.
- 2.5 This chapter summarises headlines from the questionnaire responses and identifies key themes that have emerged from this element of the research. The chapter follows the format of the questionnaire which is included as Appendix 2 at the end of this report.

Number of Applications and Enquires Handled

- 2.6 Significant variation was demonstrated in terms of the volume of applications and enquiries experienced by LPAs across Wales. The number of full planning applications received by LPAs (for the last recorded 12 months) ranged between 2200 and just 311.
- 2.7 Overall, full planning applications accounted for 78.3% of the total, with applications for the discharge/variation of conditions accounting for 8.7% and outline applications representing 5%. Listed Building (LBC) / Conservation Area applications represented 3.6%, Certificate of Lawfulness of Proposed Use (CLOPUD) applications and Prior Notification applications each made up 1.5% of the total and Reserved Matters applications accounted for 1.3%. Only 34 Department for Energy and Climate Change (DEC) applications² were made across Wales representing just 0.1% of the overall total. These were focussed in the following authorities Anglesey, Carmarthenshire, Powys and the Vale of Glamorgan.

Table 1: Types of Planning Application being made

Type of Application	Percentage of Total (%)
Full	78.3
Discharge/variation of conditions	8.7
Outline	5
LBC / Conservation Area	3.6
CLOPUD	1.5
Prior Notification	1.5
Reserved Matters	1.3
DEC	0.1

² Applications for nationally significant energy infrastructure, such as power stations with a capacity of over 50MW, which are currently determined by the (UK) Department of Energy and Climate Change (DECC) and will from March 2010 be determined by the Infrastructure Planning Commission (IPC).

- 2.8 The questionnaire also asked LPAs to provide figures for the number of “other” applications received. The answers to this question demonstrated that there is little or no consistency in terms of how these were recorded and categorised by LPAs. This variation was to the extent that whilst several authorities stated that they had zero “other” applications others recorded several hundred.³ As such, these applications have been excluded from the percentages set out above so as not to distort the figures.
- 2.9 There was also a very big range of figures provided in relation to the number of pre-application enquiries recorded by LPAs with one experiencing 1500 inquiries compared to just 11 in another. Whilst this in part reflects the different characteristics of the LPA areas, it is probable that the disparity can be largely attributed to the lack of consistency between authorities in how pre-application enquiries are categorised and recorded.

EIA Applications

- 2.10 The vast majority of LPAs responding to the survey had received at least one Environmental Impact Assessment (EIA) application during the calendar year. The Authority that experienced the largest number of EIA applications (10) was Carmarthenshire, where 50% of these were directed by the Assembly Government in response to third party approaches.

Staffing

- 2.11 As might be expected there are differences in terms of staffing levels between Local Authorities. However, when questioned on the average length of post qualification experience of MRTPI planning staff the responses indicated that all responding LPAs had a significant body of experienced staff upon whose expertise to call. The average length of post qualification experience ranged between 10 and 20 years with a mean average figure of 14.5 years across all of the 16 LPAs who answered the question.

Use of Consultants

- 2.12 Of the 22 Local Authorities who responded to the question, 21 (representing 95% of the total) stated that they made use of external consultants in some capacity. External consultants were used for a wide variety of tasks but were most commonly employed on an ad hoc

³ The types of applications included by LPAs under the “other” category included applications for change of use, advertisements, retention of unauthorised development, deletion/modification of S106 agreements, TPO applications, minerals, screening opinions, demolitions, Certificate of Lawfulness, reviews of mineral consents, overhead lines, hazardous substances consents, removal of hedgerows and agricultural notifications.

basis (as opposed to a panel/term appointment). Most commonly consultants were employed to plug specific knowledge gaps in particular areas (such as retail planning, transport planning or legal matters) where specialist legal expertise was required.

Structure and Administration

- 2.13 The Local Authorities who returned the questionnaire were structured in a variety of ways in terms of both overall corporate administration and the structure of planning departments. Of those who provided information on how their Development Control team was structured a significant number utilised a geographical “area team” based approach. Cardiff, Swansea and Newport, were all amongst the authorities who specifically stated that they used an area team approach, with either individual officers or small teams of officers having responsibility for all applications submitted within a particular geographical area. However, whilst a number of these authorities also employed officers with specific technical specialist knowledge (most commonly Section 106 officers), it is not entirely clear whether formalised structures are in place for the sharing of other specialist knowledge within such structures.
- 2.14 Amongst the LPAs not using the area team approach, applications seemed to be distributed between teams and (or) individual officers in a variety of different ways. For example the responses from Conwy and Flintshire indicated that they have specific teams specialising in major and minor applications, whilst some of the smaller authorities such as Snowdonia did not use a team approach at all.
- 2.15 A key issue emerging from the questionnaire responses is that of the role of the Head of Planning and where they sit within the overall corporate structure of authorities. Amongst the LPAs who provided information regarding this matter, a significant degree of consistency was apparent in terms of the influence of the Head of Planning within the planning department, with most authorities having one individual with overarching responsibility over all of planning (including forward planning and development control). However, there was less consistency in terms of what other functions (such as building control and regeneration) this individual was also responsible for and regarding their overall position and level of influence within the corporate body as a whole.
- 2.16 The questionnaire responses appear to suggest that the most common position within local authorities for the Head of Planning Services is on the tier of management immediately below the Chief Executive. However, this was not universal and in a number of authorities the Head of Planning Services sat on the third tier of the corporate structure with another figure, such as a Director of Environment with

responsibility over a range of other issues, such as trunk roads and economic development, sitting between them and the Chief Executive.

Process

- 2.17 The majority of Local Planning Authorities who responded to the questionnaire were able to provide a guide, a leaflet, a charter or a code of practice which described their general approach to the processing of planning applications. In the majority of cases these documents were publicly available.
- 2.18 The questionnaire asked planning authorities to provide an estimate of the overall amount of time spent in dealing with key stages of the planning application process including pre-application discussions, consultation and discharging and monitoring conditions throughout a typical year. Many of the respondents were unable to provide such an estimate but the responses from those who did are illuminating.
- 2.19 Whilst, as one might expect, the most time consuming part of the process is the actual consideration of planning applications, perhaps surprisingly this only accounts for about a third of officers time. Other matters taking up a significant amount of officer time include reporting on application (15%), the monitoring, discharge and implementation of conditions (15%), consultation (10%) and pre-application discussions (9%).

Use of Technology

- 2.20 The questionnaire responses demonstrated a great contrast between Local Planning Authorities in terms of the availability of information and services relating to planning online (shown in Table 2). Whilst 90% of responding LPAs provided online access to Committee Reports and 71% made application forms available online, the availability of other important information was far more sporadic with only 57% of respondents providing online access to supporting documents (plans, letters etc) and 43% allowing delegated reports to be accessed online. Only 14% of respondents allowed users to view pre-application correspondence online.

Table 2: Availability of Information Online

Type of document	Percentage of Authorities Providing Access to Information Online (%)
Pre-application correspondence	14
Submitted planning application forms	71
Supporting documents (plans, letters etc)	57
Consultation responses	29
General correspondence	19

Committee reports	90
Delegated reports	43
Discharge of conditions	33
Legal Agreements	38
Other	10

- 2.21 There appear to be a variety of reasons for the lack of information available online. However, these primarily relate to lack of ICT capacity, budgetary issues and the fact that it simply isn't a corporate priority for many LPAs. A number of authorities also pointed to issues of confidentiality in relation to placing certain documents within the public domain.

Provision of Pre-application Advice

- 2.22 The questionnaire revealed that the provision of pre-application advice is generally recognised as a key aspect of the successful operation of the planning system. Across the LPAs the provision of pre-application advice accounted for an average of 11% of officers time, however, the responses showed significant differences between authorities in terms of the level of service available. Pre-application advice is offered in a range of ways including advice from duty officers, planning surgeries, written correspondence and formal appointments.
- 2.23 In terms of the importance attached to pre-application advice this also seemed to vary, however, as might be expected more time (and hence more weight) is generally given to pre-application discussions relating to larger/more significant applications. LPAs were generally keen to stress that pre-application advice was provided on a "without prejudice" basis.
- 2.24 Few LPAs currently charge for pre-application advice and amongst those who currently do not, opinion was fairly evenly divided regarding the merits of charging. Particular concern was expressed about the potential for charging to discourage people from requesting such advice, thus having a negative impact. This was particularly of concern with respect to smaller applications. Some respondents also acknowledged that charging for pre-application advice would lead to expectations of a higher standard of service, which would in turn require more resources.

Validation and Registration

- 2.25 A lack of consistency was recorded across Wales in terms of the procedures for the validation and registration of planning applications. This is underlined by figures showing dramatic variations in relation to the proportion of applications that are returned to applicants without being registered. In one local authority area over 70% of applications

are currently not being registered, however other LPAs were refusing to register less than 2% of applications. Elsewhere, different systems were in place and applications were held pending the submission of additional information rather than returned to applicants.

- 2.26 Overwhelmingly the most common reason cited for not validating planning applications related to Design and Access Statements (DAS). One authority stated that prior to the requirement for DAS, 25% of applications were being returned but that this had now increased to 45%. Other reasons for refusing to validate applications included the submission of incorrect plans and incorrect fees.
- 2.27 There was also a lack of consistency between authorities in relation to the way in which they categorised planning applications for internal administrative purposes, with a variety of typologies used to record such data. The most popular method of categorisation used by respondents was that used in the Assembly Government return figures, however, other authorities used the GPDO categories or some other form of categorisation.

Consultation

- 2.28 The questionnaires showed that the overwhelming majority of LPAs dispatch letters to Statutory Consultees within three to five days of a planning application being validated. However, there were a variety of approaches to ensuring that non-statutory groups, including local communities and individuals, are informed of applications that will affect them. Most applicants stated that they fulfilled the statutory requirements in relation to consultation. However a number stated that they in some way exceeded the statutory requirements.
- 2.29 Publication of weekly lists of new planning applications, site notices, press advertisements and the notification of neighbours and local ward members were the most commonly used means of publicising planning applications. However, some respondents stated that where other relevant groups were known they were specifically consulted or that agreed protocols were in place with parties such as residents' groups.
- 2.30 More detailed consultation on planning applications was generally organised on an ad-hoc basis and was usually reserved for larger applications or those that were viewed as contentious. However, several LPAs stated that there was no formal provision within their area for such procedures.
- 2.31 Limitations of time and resources were cited as reasons for the lack of wider public consultation on applications.

Reporting Protocols – Delegation Rates

- 2.32 Overall LPAs reported a relatively high percentage of decisions being taken under delegated powers with a mean average of 79% of non-householder applications and 92.5% of householder applications being dealt with by delegated powers. Once again, however, there were significant differences between the LPAs with the percentage of non-householder applications dealt with by delegated powers ranging between 63% and 95% and the percentage of householder applications dealt with by delegated powers ranging between 85% and 100%.

Gathering Feedback

- 2.33 The most commonly used means by which Local Planning Authorities collected feedback on the performance of their planning service was that of issuing questionnaires to applicants. Questionnaires of various sorts were issued to the public by 18 of the 22 LPAs who responded. The next most popular means of collecting feedback was that of holding User Forums (13 LPAs). Peer/team reviews were conducted by three authorities and three authorities used other methods (including a residents survey) to gather feedback.
- 2.34 33% of Local Planning Authorities who responded to the question stated that they made use of the Local Government Data Unit customer survey template against 67% who did not.

Protocols for Minor / Non-material Changes to Schemes

- 2.35 Asked whether they have protocols on minor or non-material changes to schemes that have been approved or are underway that will not trigger the need for planning applications, only 24% of respondents to this question replied that they did.

Primary Material Considerations

- 2.36 32% of LPAs had a list of what they considered to be primary material considerations in planning decisions against 68% who did not.

Planning Conditions

- 2.37 82% of planning authorities responding to the questionnaire stated that they involved applicants in some way in decision-making about the scope and content of planning conditions. Those providing additional information in relation to this question indicated that LPAs usually only enter into negotiations with applicants in relation to planning conditions on larger or more significant/complicated applications.
- 2.38 Questionnaire responses indicated that discharging planning conditions can be highly time consuming for Local Planning Authorities,

however there were vast differences between LPAs on this matter. In terms of the amount of officer time spent on discharging conditions the estimated mean average was 11.4%. However, the estimates provided ranged between 2% and 20%.

Legal Agreements

- 2.39 A similarly large difference emerged in relation to the estimates provided by LPAs of the proportion of officers time spent on legal agreements. Answers to this question ranged between 1% and 15%, with a mean average of 4.9 %.

Committee

- 2.40 The section of the questionnaire which asked about the role and functioning of Planning Committee revealed significant cultural differences between Local Planning Authorities. One of the most noteworthy areas of difference related to the number of members serving on Committee, which ranged between 11 and 78. Whilst this partly reflects differences in the size of LPAs, it is also indicative of a fundamentally different approach to decision making, with a minority of authorities involving all elected members in Planning Committee whilst the majority preferred to have a smaller Committee of members with (theoretically) more specialised knowledge of planning.
- 2.41 The questionnaire also reveals cultural differences between Authorities in relation to the level of training that members of Planning Committee are expected to undertake. The overwhelming majority of LPAs provided initial training to all members of Committee upon appointment followed by a programme of subsequent training events. However, the regularity and nature of training events varied greatly.
- 2.42 Some Authorities relied largely on internal briefings to members whilst others offered seminars provided by a range of external experts including QC's, the Planning Portal and the Planning Inspectorate. However, a number of authorities reported that attendance by Councillors at training events was often disappointing. This clearly represents a major problem to be overcome.
- 2.43 Generally there were no sanctions available where members failed to undertake training, however, in a small number of authorities, training is compulsory. In one LPA, Councillors are required to undertake a minimum amount of training each year and those who fail to do so can be removed or suspended from Committee by a vote of the full Council.
- 2.44 In terms of procedure, the overwhelming majority of LPAs stated that they hold Planning Committee meetings once a month. The protocols for providing information to the public in advance of Committee was

also fairly uniform with most Authorities making reports available several days prior to meetings. All of the LPAs who responded to the question had a system in place to brief key Committee members (usually the Chair and Vice Chair) in advance of meetings and in many authorities, other key figures such as Legal Officers, Highway Officers and Environmental Health Officers were also invited to attend.

- 2.45 A variety of approaches to presenting applications to the Planning Committee was also exhibited. In many LPAs the Head of Development Control was exclusively responsible for presenting applications to members, whilst in others individual Case Officers or Team Leaders took responsibility. Differences were also evident regarding the extent to which technology was utilised at Planning Committee meetings, although a clear majority of Authorities in Wales do now make use of large screens to display key information relating to applications such as plans and photographs.
- 2.46 The questionnaire response revealed significant differences between Authorities in relation to the organisation of public speaking at Committee meetings. Two of the responding LPAs allowed third parties no opportunity to make verbal representations to Committee members. Of those that do allow public speaking, a range of rules are in place relating to how this is organised and the amount of time available to participants.
- 2.47 Another area of interest relating to Committee, concerns the number of decisions which go against the recommendation of Planning Officers, and how this eventuality is dealt with. A significant number of LPAs (9) now have procedures in place that allow for a “cooling off” period in which decisions that are against officer recommendation can be reviewed and re-considered then brought back to the next Planning Committee. Of those Authorities that did not have such procedures in place, a further 5 are either currently considering introducing a “cooling off” period or thought the idea worthy of consideration.

Challenges to Council Decisions

- 2.48 The LPAs which completed the questionnaire also provided figures relating to the result of challenges that had been made to their decision during the previous (or last recorded year). The answers to this question showed that an average of 34.3% of appeals are approved / upheld, against 63.3% that are dismissed (with 2.4% resolved in other ways). However, the success rate for appeals varies and would appear to indicate a variation in the quality of decisions being made.

Measuring Performance

- 2.49 Measuring the success of the planning system was widely recognised by respondents to the questionnaire as being problematic. All

respondents to the questionnaire recognised that timescales (and determination times especially) were either very important or somewhat important in relation to measuring performance. However, it was widely felt that the importance currently attached to timescales is disproportionate and that other qualitative factors should also be taken into account.

2.50 Examples provided of other measures of performance included:

- Number of appeals won and lost.
- Enforcement notice appeals won and lost.
- Response to telephone enquiries / requests for pre-application advice.
- Time taken to respond to enforcement complaints.
- Customer satisfaction surveys.
- Number of complaints received.
- Reviews of implemented permissions.
- Performance Indicator measures.
- Award schemes for high quality development.

Fitness for Purpose

2.51 Asked to rate how fit for purpose the current planning application process is on a scale of 1 to 10, both nationally and locally, on average respondents rated the planning system in their area as being marginally more fit for purpose than that for Wales as a whole (6.5 out of 10 against 6.3 out of 10). There were significant variations between the respondents with the national figure ranging from four to eight and the local figure ranging from four to nine, overall the figures indicate that although there is clearly substantial room for improvement the planning application process does not seem to be viewed as being fundamentally broken or unfit for purpose. Nevertheless, there are areas in which its performance is clearly unsatisfactory.

Influences on Performance

2.52 Table 3 (below) shows the responses of Local Planning Authorities when asked to assess the extent to which a number of key factors are currently acting as an influence on the operation of the planning application process in their area. The answers to this question reveal that the level of expertise and the professional resources available to LPAs was thought to be the most significant influence on the system,

along with the overall number of applications received and the time being taken to secure definitive responses to consultations. As might be expected, national and local planning policy and statutory requirements were widely seen as exerting a major influence on performance. However, it is perhaps surprising that only 43% of respondents identified local political interest in planning applications as a major influence on the performance of the development control system.

Table 3: Factors influencing the performance of the development control systems

	Major Influence (%)	Minor Influence (%)	No Appreciable Influence (%)
The professional resources available regularly	86	10	5
The level of experience available	86	14	0
The level of expertise available (generally or for specific tasks)	81	19	0
The overall number of applications	81	19	0
National policy	81	19	0
The time taken to secure reliable or definitive consultation responses	80	20	0
Systems and technology	71	24	5
Local policy and guidance	67	33	0
Statutory Requirements	67	29	5
Public interest/objection	60	35	5
Civic / Committee cycles and requirements	60	35	5
The number of certain types of applications	57	43	0
Mandatory Procedures	57	38	5
Local political interest	43	48	10

Local Planning Authority Priorities for Improving the Planning Application Process in Wales

2.53 The following represent the most commonly made and/or most pertinent recommendations from the LPAs for improving the planning application process:

- Simplify the system.
- Provide more stability.
- Ensure the system is properly resourced.
- Create a universal checklist for validation requirements.
- Embed the concept of development management into the process.
- Revise the General Permitted Development Order (GPDO) / extend Permitted Development – remove certain development from scope of planning permission (minor/householder development).
- Introduce single application process for Planning and Listed Building Consent.
- Agree a route forward on amendments to approved schemes.
- Set meaningful performance indicators that are directly comparable across local planning authorities that are not just timescale related.
- Wales to keep pace with England on legislative changes – Welsh Assembly Government to implement all outstanding Development Control elements of 2004 and 2008 Planning Acts.
- Increase application fees.
- Introduce fees for discharge of conditions.
- Encourage increased use of Planning Portal for submissions.
- Remove the requirement for Design and Access Statements except for major applications or those involving listed buildings/conservation areas.
- Allow simple amendments to schemes to be registered informally.
- Review the use of Conditions and publish best practice advice.
- Simplify enforcement procedures.
- Review the right of appeal where it is clearly contrary to policy.
- Increase collaboration and sharing of best practice between LPAs
- Encourage more community involvement whilst retaining professional controls.

- Prioritise pre-application advice.
- Improve the quality of planning applications.
- Review 1APP form.
- Simplify S.106 Agreements.
- Bigger penalties for departures to approved plans and breach of condition.

2.54 Respondents were also asked what they thought were the main issues facing Local Planning Authorities in Wales in relation to current and new initiatives including the Infrastructure Planning Commission (IPC), the Community Infrastructure Levy (CIL), the introduction of Design and Access Statements and/or any others. The answers to this question significantly overlapped with those to the question relating to priorities for improving the system (above). The most common responses are set out below.

- Resources, recruitment and retention of staff. Increasing workload at a time of decreasing resources.
- Skills – need to develop specialised knowledge on a range of issues such as the sustainability agenda, design, CIL etc. Need for improved Continued Professional Development and training.
- Improve public perception of the profession. Planning seen as a barrier not a facilitator.
- Need for improved guidance from the Assembly Government in relation to new initiatives such as Ministerial Interim Planning Policy Statement 01/2009, “Planning for Sustainable Buildings” so as to ensure that such guidance is timely and clear and the LPA staff are fully trained prior to new initiatives going live.
- Improve the status of planning within Local Authorities.
- Concern that Community Infrastructure Levy (CIL) threatens to make it harder to deliver affordable housing through Section 106 agreements.
- Enforcement – procedures are currently slow and there is a lack of effective penalties.
- How to reconcile national / international objectives with the aspirations of the individual / communities.
- Ensuring consultation is undertaken effectively

- The Infrastructure Planning Commission (IPC) was seen as potentially undemocratic but was also regarded by most Authorities as likely to have little impact in Wales.
- Concern about potential for further bureaucracy to be introduced.
- With regard to Freedom of Information (FOI) requests, greater clarity is required on what information should remain confidential.
- Is the planning system the appropriate vehicle for the delivery of an increasingly broad set of policy objectives?

Responses to Killian Pretty Recommendations for England

- 2.55 Respondents were asked to respond to some of the main recommendations of the Killian Pretty Review (KPR) for the reform of the planning system in England and to express an opinion on the extent to which some of the ideas for reform should also be a high priority, a low priority or not a priority in Wales.

Making the system more proportionate

- 2.56 In terms of the KPR recommendations on making the system more proportionate, 81% of respondents agreed that improving the quality of advice available to users of the system should be a high priority. The next most popular suggestion was that of reducing the information and validation requirements, particularly for householder and minor development, which 32% of respondents thought should be a high priority and 55% thought should be a low priority. 23% of respondents thought that reducing the number of applications requiring permission should be a high priority, with 50% stating that this should be a low priority and 27% that it should not be a priority.

Making the process more effective

- 2.57 The most popular of the KPR recommendations in terms of making the process more effective, was that of investing in improvements to the processing of applications (rated as a high priority by 82% of respondents). Improvements to pre-application discussions (68%), measures to improve the negotiation and agreement of planning obligations (68%) and finding ways of avoiding the need for new full planning applications to deal with small material changes to existing permissions (64%) were also rated as high priority measures by a strong majority of respondents. Improving the use of planning conditions was rated a high priority by 41% of respondents, a low priority by 36% and not a priority by 23%.

Recommendations to improve engagement

- 2.58 Support from respondents for the proposals to improve engagement in the planning system was lower than that for other sets of measures. Nevertheless there was considerable support for improving the involvement of statutory and non statutory consultees and for improving the engagement of elected members and concentrating on the most important applications (both of which were favoured as a high priority by 55% of respondents). Support was also expressed for measures to improve community engagement (rated as a high priority by 45%), whilst encouraging greater use of alternative dispute resolution approaches throughout the process including formal mediation was rated as a high priority by 23%.

Recommendations to achieve changes in culture

- 2.59 The standard of planning applications that are currently being submitted appears to be regarded by Local Planning Authorities as a significant problem, with 100% of respondents rating improving the standard of applications submitted as a high priority. Regarding the way in which the success of the planning system is currently measured, 86% of respondents agreed that timescale driven targets should be replaced by broader measures of the application process as a matter of high priority. Addressing the shortage of skills and resources in planning departments was rated as a high priority by 68% of applicants.

Recommendations to tackle complexity

- 2.60 Strong support was also expressed within the questionnaire responses for measures to tackle the complexity of the current planning system with 82% of respondents stating that avoiding further unnecessary expansion of policy objectives to be delivered through the planning system should be a high priority. Simplifying the national planning policy framework and the secondary legislation of the processing of planning applications was rated as a high priority by 82% of respondents.

3.0 Headlines from the Focus Groups and Other Submissions

- 3.1 The focus group sessions were an important source of information and intelligence from applicants and those who contribute to or are affected by planning decisions and the development that then follows. Like the local planning authority questionnaire, the steering group provided significant input to both the format and constitution of the focus groups. A list of attendees and those making written submissions is included as Appendix 3 at the end of this report.
- 3.2 The sessions were held in North and South Wales and were based upon a list of core questions which reflected the key issues for the review of the system:
1. What is or should be the main purpose of the planning application process – how fit do you think the process basically is for that purpose?
 2. What is the main impact of the process on your interest/organisation?
 3. What is the process best at and worst at – what are the strong parts or stages and which are weaker?
 4. How well do you think the process reflects and responds to national and local policy, guidance and priorities?
 5. Does it encourage the right amount of public consultation and participation?
 6. How well equipped are the planning authorities to manage the process and take the right decisions. What are they good at and where do they struggle?
 7. What are the key challenges facing the system?
 8. How should the success of the process be measured in the future and what should be the primary goals?
 9. What would your targets for reform be?
 10. How can we identify and promote good practice and tackle the bad – how can we get the message out most effectively and ensure it is followed?
- 3.3 With respect to **Purpose** and **Fitness for Purpose**, the focus groups found two basic positions on the overall role and performance of the planning process:
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1. The first was broadly positive – commentators saw the role of the planning application process as clear: to achieve the right development in the right place at the right time, and to control and to reject inappropriate development. These commentators saw the system as still fit for this purpose but in need of reform and modernisation to allow a better focus on key decisions and more modern considerations.
 2. The second position was less positive. The system had become too slow, overly bureaucratic and was approaching a state of failure. Defining a purpose for it may be straightforward but successful operation was proving impossible. Reliable access to reasonable and suitably qualified staff was difficult and the overall approach to the development proposed in applications was negative – a presumption against proposals had replaced a duty to approve unless demonstrable harm can be shown. This approach was risking economic recovery and economic investment in Wales.
- 3.4 This experience (and the position taken) depends on the objectives, responsibilities and purpose or type of the individual or organisation making or determining the application. No party, however, had a substantial alternative regime to offer, with the exception of a reference to mainland Europe and to the application of systems operated in Germany and Sweden.
- 3.5 In this light the issues raised were broadly common regardless of which basic approach was taken to the system (namely “broadly fit” or “approaching fundamental failure”). These concerns or complaints can be summarised as follows:
1. The need for a more common, reliable or unified experience – the operation of the system is too diverse and unpredictable for a small country with (relatively) few planning authorities. This occurs throughout the application process, but most importantly at pre-application, validation and consideration stages. Participants considered that the differing resources, expertise and experience of each local planning authority meant that the application system in Wales is operated in 25 different ways and this was causing real difficulty for all.
 2. Costs, uncertainty (at every stage from validation to determination) and timescale were principal complaints from the development industry, together with the scale and arbitrary introduction of new and additional requirements (and especially Design and Access Statements). The new requirements (particularly with respect to the level of detail to be shown or assessed) mean that some organisations (and homebuilders

especially) consider outline planning permissions to be of little value now.

3. Organisation and personality within planning authorities were seen as very important to the performance of the planning application process, as is the general position and reputation that the planning function takes within the authority. A number of Focus Group participants (including several representatives of house building industry) nominated examples of authorities who they regarded as being progressive or in some way good to deal. Those sited most commonly tended to those that had strong lead officers (including Caerphilly, Cardiff and the Vale) or had tackled issues (Neath Port Talbot). Some commentators made it clear that they regarded organisational structure as much less important than the presence of strong individuals.
4. Separate to this, the Focus Groups identified the need for better cross boundary working. There were three dimensions to this:
 - a) better working on schemes with cross boundary effects or implications is needed;
 - b) the need for services, expertise and resources to be shared by and between authorities (particularly where this would plug gaps in resources or expertise – see below); and,
 - c) the need for a stronger regional dimension to planning policy.
5. These points were particularly important for infrastructure, waste, minerals and renewable energy related schemes, or for schemes of regional and/or nationally significant schemes (but other major projects may also require this too).
6. The increasing range of issues that had become “material” to planning applications was raised by a range of organisations. Some see the planning system as becoming a panacea to everything, and it had become difficult to anticipate how an authority would raise or treat issues, consult upon them and resolve or balance them in determining applications. This was particularly the case with environmental issues. Allied to this point, some respondents saw that the balancing function (and capability) of planning officers to consider and arbitrate between issues and agendas was beginning to disappear. Some saw the profession as simply a central post box that took and distributed information without the capability or confidence to judge that information or make a conclusion on it.

7. The Low Carbon agenda will increase the burden on local planning authorities. The speed of change and adaptation required will be a challenge and may be difficult to manage – some smaller authorities will struggle (but may not need to be as fully resourced as others) - emphasising the need for shared services and roving/accessible experience/expertise (see below).
8. A particular concern was the use and performance of the Statutory Consultees. The lack of resources and expertise within local authorities (again see below) often meant that the statutory consultees were treated as a source of expertise and opinion (and recommendation). The IPC may increase demands on the Statutory Consultees. Others saw these consultees as being very slow, or very negative, whilst the consultees saw too much consultation (on projects or issues that did not warrant referral) as a diversion and drain on their own scarce resources.
9. In this respect, many (if not most) respondents were keen to emphasise the need for better connections between the planning application process and the local development plan process. This would help to guide contributions from the consultees on forward plans (and allocations) and to indicate where issues of principle should not be revisited at the application stage. In some cases the link between development plan policies and the processing of applications was becoming less clear (the review was criticised in this respect for splitting the two).
10. Most parties referred to the role, potential and performance of the Assembly Government across many of its key functions and departments. The references were both positive and negative (but all identified Welsh Assembly Government's real importance to the planning application process). There were five key dimensions to this:
 - a) The Assembly Government as policy maker and shaper (with respect to national guidance and spatial planning advice on a national and sub regional basis).
 - b) The Assembly Government as decision taker.
 - c) The Assembly Government as resource (and source of expertise).
 - d) The Assembly Government as arbiter, enabler and enforcer.
 - e) The Assembly Government as Statutory Consultee.
11. In short, the Assembly Government was seen as a major potential resource for planning in Wales (as source of advice, expertise,

arbitration and guidance) but also as triggering uncertainty (either through policy, guidance or internal conflict or inconsistency) and unnecessary or unwelcome interference (particularly, according to some parties, through its use of call in powers and the operation of the procedure once an application was recovered).

12. The quality and consistency of guidance issued was also raised (for example the guidance on Design and Access Statements). The pressure that the Assembly Government could bring to bear in terms of promoting joint working between Local Planning Authorities was also highlighted. The role of the Assembly Government in encouraging LPAs to have up to date development plans was also raised.
13. Critical gaps in understanding and resources exist within planning authorities – most notably in development viability, historic buildings, agriculture, minerals and urban design. There are two dimensions to this lack of resource – one comes from specific technical gaps (with some authorities not having officers in specific disciplines – conservation, design, landscape, access and equality being emphasised) and the other from an absence of understanding about the rationale behind schemes or proposals and why they are important to applicants’ businesses or other interests (or why the impacts or effects of these schemes are important to those in the wider community/environment).
14. The value of effective pre-application advice was raised at or by all groups, including the Statutory Consultees – who often felt that involvement was too late. Views on scope and protocol were however very different. At one end of the scale, and taking a more precautionary approach, the view was taken that the pre-application officer should not be the case officer, or that pre-application advice should only signal what will be required (and not offer opinions on prospects). A more general position was reached that to have meaning, pre-apps must provide some guidance on prospects and major issues (especially “show stoppers”). A traffic light approach was considered appropriate and for some schemes pre-application discussions should be mandatory (and the IPC procedure was highlighted as an example of this). The question of who should be included in discussions was also raised.
15. The importance of small and medium sized schemes to economic recovery and fortunes needed to be recognised by the review. A focus on the very large (as a target for attention, resources or guidance) or on the very small (as a way of releasing resources for the very large applications) should not ignore the majority of applications for planning permission (which currently get treated as major schemes). This was supplemented by a general point

about the need for a proportionate response to the planning application process which recognises the schemes which it has to deal with most regularly.

16. Planning conditions were also raised by a number of commentators. There were two dimensions to this. The first was on the use of conditions by planning authorities where five key concerns were raised:
 - a) the lack of consultation on the conditions with the applicant and/or the late addition of conditions in response to late or technical responses;
 - b) the impact of conditions on the utility of the permission issued;
 - c) the very onerous (and sometimes unclear) requirements they can make;
 - d) the number of conditions attached; and,
 - e) the number of conditions that have a pre-commencement requirement.
 17. Against this was a counter view that concerned the discharge of conditions. There were two chief concerns. The first was that there was significant abuse of conditions with limited penalty, and the second was that there was very little consultation carried out with respect to the discharge of conditions. Monitoring whether permissions have been implemented according to their terms and conditions was also raised and many claimed that this is rarely done – but is the acid test of whether the system is working.
 18. Connected to this was a general concern about the state of enforcement – although there was little elaboration on this point apart from the lack of resources available.
 19. In addition to these points a number of more specific (but nonetheless important) issues were raised by some of the groups. These can be summarised as follows:
 - a) Delegation protocols and powers need to be exercised more effectively. There remains a concern that members can and will ignore officer advice for spurious reasons and this continues to cause difficulty.
 - b) The impact of already consented schemes is important and can influence or limit new schemes (even where there is little prospect of implementation).
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- c) The quality of written reporting to explain and support recommendations was questioned.
 - d) Missing dimensions or considerations were also raised by some commentators – specific reference was made to equality, access and gender issues in the consideration of planning applications.
 - e) Limited weight put on the rewarding of planning authorities according to the speed of decisions (through planning delivery grant) or on installing planning performance agreements (as a more contractual way of guaranteeing progress).
20. This last point highlights the varying weight that commentators gave to following examples or initiatives from England. Some saw practice there as better and some saw it as worse. Most, however, saw the opportunity for a distinctly Welsh response – because of the opportunity presented by the small number of planning authorities and because of the different issues and challenges faced. The scope this presented for Wales to use the planning system as a lever for further economic development and investment was also highlighted.

Key Recommendations from the Focus Groups

- 3.6 Many of the recommendations made at the focus group sessions reflected the concerns raised (and summarised above). At a most basic level, some commentators recommended that the starting point for the system should be revised or revisited to make clear that there was a presumption in favour of development proposals (contained in the now revoked circular 14/85). Some commentators argued that this responsibility to approve (unless harm was demonstrated) had never in fact been rescinded. For these contributors the system had become too cumbersome and too cautious, and needed a radical overhaul to simplify procedures, add more certainty or reliability (and leadership), improve accessibility and responsiveness, and prioritise the delivery of necessary development.
- 3.7 Elsewhere the priority was on making targeted improvements to the performance of the current process.
- 3.8 To reflect the reasonably common set of issues that was raised by the groups, (whichever general position was taken), the recommendations were broadly similar in scope with a focus on practice being just as important as changes to legislation or procedure (and perhaps more so than more dramatic changes to statute or purpose). A basic list of the main recommendations made at the Focus Groups is included below:

1. The provision of guidance on the scope and content of pre-application advice, combined with advice and training on material considerations in planning. For some smaller business groups (or those making planning applications less frequently) this navigation guide through the system, its purpose and what it is likely to consider, was seen as critical.
2. A changed and enhanced role for the Welsh Assembly Government that included setting the legislative framework, but went beyond this to focus on:
 - a) best practice development and dissemination;
 - b) clearer more consistent guidance;
 - c) new forms of arbitration;
 - d) more regular publication and availability of guidance;
 - e) regional and sub regional policy;
 - f) enforcer with respect to local development plans and joint working and the implementation of practice (the Manual for Streets was a key target for some groups); and,
 - g) source of expertise of specific Pan Wales issues (see below).
3. Rapid guidance on the approach to be taken to Design and Access Statements both in terms of the trigger (namely the type of application that statements will and will not be required for) and the function, format, validation and registration implications. A move away from getting the right headings to getting meaningful appropriate and proportionate submissions.
4. Experience with Design and Access Statements pointed to a more cautionary approach to further mandatory submissions for planning applications.
5. The potential development of a resource for key issues, projects and challenges that could be deployed to or for various authorities or projects. This could rest with key authorities or be centrally located (as a provider of shared services and expertise). The ATLAS model could be pursued for major projects, although the authorities appear to be generally performing well on large schemes. This is becoming increasingly important and relevant as authorities face resourcing issues and constraints at the same time that novel forms of development and new material considerations are being introduced (albeit not all the time and not for all schemes or all authorities). The IPC may have lessons for

such a body. The resource should be targeted to those issues which are causing general concern or where the planning system is failing to respond.

6. The introduction of guidance on most effective organisational structures and working practices. The opportunity presented by the review to improve the operation of the system in Wales quickly and positively (given the small number of planning authorities) is significant and is recognised. However, it does rest critically on personality and example. It is (relatively) straightforward to identify organisational measures – but the Focus Groups recognised that planning is a people business and the importance of key positions and key characters was emphasised.
7. The need for a better link between proposals in up to date LDPs and planning applications for them was emphasised (with a claim that applications in clear conformity with plan allocations should be treated differently to others). This reflects a general point that the impact of positive allocations was sometimes not as critical to a planning application as the act and guidance appears to indicate.
8. The introduction of standard guidance on validation requirements.
9. Consideration of a revised definition of major and minor schemes (or the addition of a medium level) in association with the above validation requirements, where large would require anything or everything, small, generally nothing in support and medium would be discretionary. Following an English approach where everything could be required above a very small threshold was not recommended.
10. Review of General Development Procedure Order (GDPO) on the statutory consultation to clarify where this is required and where it is not. This review might consider whether Statutory Consultees could also be guided to provide advice without a recommendation or objection (which could be reserved for circumstances where there was likely to be genuine harm done). Where consultees are failing to respond in time, it may be possible to introduce a system of deemed approval/no comment/no objection – although this does raise issues of judicial safety and future intervention.
11. Review of GPDO and Use Classes Order to further reduce the number of applications required, but to consider carefully the implications of these and whether there are other mechanisms available to retain some control (for example deemed consent which could be devised by local order - or a prior notification process), or other techniques and practice guides to ensure that smaller applications do not consume disproportionate resources.

12. To combine this with protocols for planning authorities on the minor or non-material amendments to schemes that will not trigger the need for new applications or permissions. The straightforward repeat of the English approach was questioned (as this was already providing some difficulty).
13. Review of the use of planning conditions. Practitioners appeared to be endlessly catching up with new requirements, new considerations and legal conclusions on the scope of conditions and the effect of their implementation. The Planning Inspectorate was seen as a potentially useful source of advice on planning conditions, although a wider review which took in basic concepts (including the provision for amendment) and more detailed considerations (for example the use of conditions to require Section 106/obligations) would need to be carried out (but could draw on experience being developed elsewhere).
14. A series of points were made about the profile, status and reputation of the planning profession. Better training and education for officers was critical, and early exposure to proper decision making and issue arbitration was emphasised for junior officers. Work need to be urgently commenced on a more general promotional campaign for the profession and a consistent theme was the need for more regular inter authority and inter agency contact on the issues facing the system and the implications this was having for the planning application process.
15. A number of more specific points were also raised about:
 - a) the increased and/or better use of the planning portal;
 - b) the position on the Community Infrastructure Levy in Wales. Concerns were raised about the progress made with the LDPs (as a trigger for CIL use) and the appropriateness of CIL and more general guidance on planning obligations in current circumstances (which could attract development to Wales); and,
 - c) improved and more regular training for Members – together with more consistent guidance on delegation (to improve consistency) and firmer guidance on the consequence of Member departures and the provisions for these to be reduced.

4.0 Key Themes for Reform and Change

- 4.1 The findings of the local planning authority questionnaire and the focus groups show a planning application process that is clearly under stress. Whilst it continues to make decisions on applications, faults clearly exist and change is required.
- 4.2 Part of the reason for this is that the system has been given so much responsibility, at a time when interest and scrutiny is becoming much greater. As a result, the process is becoming increasingly complex, time consuming and (to some) disproportionately expensive and difficult. This is creating uncertainty for all involved in the process. The potential outcomes, application requirements, and timescales can vary so significantly and change so swiftly that in some cases it is very difficult for investors, applicants, businesses, the local community, environmental interest groups and planning authorities to know quite how applications should or will be considered, how long it will take, what issues will be critical and what the final result will be (and how it will come and what it will mean).
- 4.3 This position is not unique to Wales, although there are specific challenges presented by the nation's environment and even where planning policy is positive, applications can be delayed. Many of these challenges come from an expanding policy environment which has seen a rapid rise in both the number and range of factors that need to be considered and the complexity associated with them. Planning is seen as a key mechanism for the introduction of new control, and this responsibility is causing significant anxiety, difficulty, delay and uncertainty. This was underlined by the evidence gathered from both the LPA Questionnaires and the Focus Group sessions. At the same time as the level of responsibility is increasing, it is also clear that profile of the planning function is not recognised or understood and this has serious implications for professional development and performance.
- 4.4 It is however, important to note that complexity is not the only cause of difficulty, delay or poor or unpredictable decision making. Other reasons exist over which there is more control and for some it could be because of a failure to recognise or implement national guidance.
- 4.5 An example highlighted by one contributor to the review was the reluctance of some local highway authorities to implement the thinking, findings and recommendations of the "Manual For Streets"⁴. This was causing particular difficulties in the achievement of good and modern design (which applicants broadly understood the need for).

⁴ The "Manual For Streets" replaced Design Bulletin 32, "Layout of Residential Roads and Footpaths".

- 4.6 This resistance is being tackled and, although the results will not be known in time for the conclusion of this study, the training initiative (see below) does provide an important pointer as to how some practical matters could be resolved without legislation or Government intervention.

Practice Pointer 1: Manual For Streets – Training Initiative

In February, the Design Commission for Wales, the RTPI Cymru, the Chartered Institute of Logistics and Transport, and the Chartered Institute of Highways and Transportation, issued an invitation to tender for the provision of training to promote integrated transport design. Key objectives include the implementation of the aspirations of the Manual for Streets which was adopted by the Welsh Assembly Government in 2007. The clear implication is that this is not happening, as the tender diplomatically says:

“The policy is in place to deliver (successful places and sustainable development). However, a reassertion of the aspirations and requirements of better places in Wales is required to ensure that all partners continue to work together to create great places to live”

The training is expected to take place in May and June 2010 (if the timescale is achieved). The results and feedback are expected to be issued in August 2010.

- 4.7 This type of initiative which has already been repeated for a variety of different topics provides a valuable tool for practical reform of the application process – especially where legislation and change has already taken place but where practice is failing to keep pace with its requirements.

Objectives for Change

- 4.8 Whilst a completely new system of planning control is not needed, major change is urgently required to the current process. This clearly needs to be achieved in a practical and cost effective way which makes the best use of scarce resources, political commitment and legislative time. The review also needs to make sure that the process starts from the right point too.
- 4.9 Both the questionnaire and the focus group sessions strongly indicate that change should focus on three main objectives:
- a) Managing complexity – in some cases the system is overloaded with considerations and issues, legislation, guidance, competing or conflicting interests, public involvement, legal intervention and the pace of economic, technological, societal and environmental change.

- b) Reducing uncertainty – despite a system which claims to take the development plan as the primary consideration, even where a plan exists there is no certainty that conforming proposals will be treated favourably. Where there is no plan or no policy things are even less clear. From an operational perspective this uncertainty about prospects is exacerbated by significant differences as to what is required and how decisions will be taken between (sometimes neighbouring) authorities.
- c) Increasing responsiveness (of and for all parties) – to national and local objectives and requirements and to allow flexible approaches to be introduced without the need to update guidance or policy (the catch up time between the need for change arising and a response being made is currently too long).

4.10 These objectives give the review three basic themes

- a) to develop a better **understanding** about the positions of key organisations, their responsibilities and objectives and the impact of decisions, guidance, policy and requirements;
- b) to adjust the **culture** or starting point to development proposals and the development control or development management function; and
- c) to improve (and potentially) significantly improve performance on the ground in the **operation** of the system (recognising that improvements need to be made from all those involved).

4.11 These themes have different implications and different purposes. However, they all come from the same basic origin or concern – the desire for a more certain or reliable and more *proportionate* system – and as a result they are fundamentally connected. Understanding will clearly inform culture which will guide operation. Experience with operation will however also help to refine understanding. The three are part of a circle.

4.12 The themes thus become more structural – and concern not just how the system is operated but how it is approached and upon what principles it is based. This needs to focus on the function of controlling or proposing development, but to do this from a position which recognises the reason behind the application as well as the need for control or management, and how both reflect national and local needs and requirements. The application process needs to be holistic, to recognise its unique position, importance and potential but to see this as an opportunity to get things right and to make a positive contribution, rather than as a cause of precautionary paralysis in decision makers (from a fear of getting things wrong).

4.13 This is the basic reason why both understanding and culture need to change. However, this cultural change needs to come from applicants and (statutory and non statutory) consultees, from the Assembly Government and from other interested parties, as well as from the planning authority. It is for this reason that the objectives and themes identified above **apply to all involved in the development process**, even if the more practical recommendations that follow are clearly directed to some organisations in particular.

About the Recommendations

4.14 From this point forward, the review focuses on a series of recommendations. These are grouped under the three themes identified in this section and many have their root in the findings of the questionnaire and the focus group sessions (and/or the written submissions from those who attended or were unable to attend). The recommendations also importantly reflect the literature review of experience, practice and research from elsewhere. This provides two useful checks for the review:

- a) it discovers whether the issue is shared or unique;
- b) if shared, it helps to inform practice.

4.15 The recommendations are briefly described and are supported by pointers to practice. These are taken mainly from the literature review and from recommendations made by the steering group, from our own experience and from the focus groups and questionnaires. In a very real sense the pointers provide a bridge behind the findings of the review and its recommendations. They show what the recommendations are designed to tackle, how it has been done elsewhere (where this is relevant), and/or how it might be done in Wales.

4.16 Finally, and before moving to the recommendations, it is important to remember the economic, financial and legislative context that they will be considered and implemented within. These will have important implications for the review and the key headlines are as follows:

- a) the focus of reform on where this can help to support sustainable economic growth and recovery;
- b) the perceived urgency of the need for reform (and the limited scope for lengthy consultation periods);
- d) procedural constraints on what can and will be done;
- e) financial constraints;
- e) the practical prerogative taken to the review;

- f) national commitments and the work that is already underway – the direction of travel; and
- g) the legislation and requirements that are fixed.

4.17 In this context and to reflect the joint and collaborative approach to change that runs through the review, a series of organisations or partners have been identified or associated with the delivery of each of the recommendations that are made. Whilst these organisations have not been asked to help support the implementation of the recommendations (and in no way sponsor them at this stage), they are interested in the reform of the planning application process and potentially could offer significant expertise and experience. Primary responsibility for driving any changes will of course rest with the Welsh Assembly Government.

5.0 Theme 1 Recommendations: Improving Understanding

Introduction

- 5.1 There are a series of critical relationships in the planning application process. Some relationships are good or getting better - it is clear that there is much (albeit informal) work going on between the Statutory Consultees and the planning authorities on understanding their environmental or physical interests and responsibilities and associated legislation or case law. This is welcome and is an ongoing process. Some development interests – for example homebuilders – also have generally better access to local and national government on planning issues even if, as their focus group suggested, they consider their voices to be sometimes ignored. **This is as much the development industry’s responsibility as it is the local planning authorities.**
- 5.2 Inevitably though, some positions, issues and relationships can become misunderstood, stretched or tense – which then becomes a cause of complaint, uncertainty and waste.
- 5.3 With so many relationships to consider, the challenge for the review has been to concentrate on where the consequences of poor understanding are most acute or critical, but which are unlikely to be addressed by other current initiatives, forums or agencies.
- 5.4 The review has identified two clear relationships where these tensions need to be addressed most urgently if national objectives are to be met. The first is the relationship between the delivery of sustainable economic development and the planning process and the second is between the Welsh Assembly Government (in many guises) and both applicants and planning authorities.

Economic Development and the Planning Application Process

- 5.5 The relationship between economic development and the planning application process has two key dimensions. The first is how planning authorities are guided on economic issues and priorities (in coming to their development control decisions). The second is how responsive the process is to the needs of business and especially to planning applicants for mainstream⁵ economic development projects (who may not experience the planning system regularly). Here a lack of understanding appears to run in both directions – with applicants claiming a lack of understanding from authorities about the rationale for

⁵ Meaning the sort of small to medium-sized developments associate with SME’s rather than (for example) major inward investment projects, large scale retail developments or business parks. The application system is often well set up to deal with these larger projects, although this can exacerbate the impact on smaller projects – see case study 1 at Appendix 4 at the end of this report.

- their projects and the implications of delay or refusal, and with the authorities claiming that applicants do not understand their own requirements and responsibilities.
- 5.6 On one level all those who have to ask for permission to do something will claim a lack of understanding from a regulator. This is a key message emerging from both the LPA Questionnaires and the Focus Groups.
- 5.7 For some economic development projects, however, there appears to be a more fundamental disconnection between applicants and decision makers. This is not the only relationship in the planning application process but it is the fundamental one. If officers and/or members do not understand the reason why an application is made, what it is designed to do or how it will perform, then a decision is unlikely to be swift or positive. Equally if the applicant does not understand what the planning authority's primary responsibilities, policies and processes are, then the application can be badly made, badly timed and badly explained.
- 5.8 This is not a criticism of either party. In recent years, LPAs have been under increasing pressure to consider an expanding number of environmental and technical issues and impacts. This has not been matched with a comparable requirement to consider economic or social factors. This is reflected in the validation requirements currently associated with planning applications and with the list, remit or purpose of the statutory consultees. Put simply, LPAs do not have a reliable source of information on the merits of proposals from an objective economic perspective. Equally, there is little explicit advice to business on the overall purpose and obligations of the planning system in 2010.
- 5.9 Unsurprisingly then, the business and homebuilders focus groups discovered that there is much less understanding about the economic impact of development control on business interests and business performance. Work commissioned by the Federation of Small Business and the CBI in Wales (see Practice Pointer below) confirmed that this is especially important for small and medium sized business initiatives (with the very large and higher profile schemes usually securing more attention from the local planning authority and enjoying a higher degree of interest and understanding).

Practice Pointer 2: Business and the Planning System in Wales

The Federation of Small Businesses (**FSB**), working alongside the Cardiff University School of City and Regional Planning, undertook a research project during 2008 and 2009, which examined the subject of Small Businesses and the Planning System in Wales. The research project was published in two parts, the first of which focussed on the planning application process with the second looking at planning policy.

The Stage One report also considered how the planning system could function more effectively as an enabler for business growth.

The FSB made a series of recommendations concerning ways in which the planning system in Wales could be reformed in order to make the system more responsive to small businesses. The recommendations included:

- The publication of a series of guides to help small businesses through the planning applications process for different types of development, along with a guide to when planning permission is needed.
- LPAs should review their procedures for the provision of pre-application advice and explore more effective ways of communicating that advice to businesses.
- LPAs should be more proactive in identifying applications that have been made by small businesses and ensure that they are helped through the process, with suitable guidance and advice provided at an early stage.
- LPAs should consider establishing dedicated “Small Business Teams” consisting of officers who are specially trained to understand the needs of the business community.
- Applicants should be offered the opportunity to attend site visits and there should be further promotion of public speaking rights at planning committee.
- LPAs should be encouraged to provide clearer guidance to applicants on the reasons for requesting amendments to submitted planning applications with authorities being clear on whether planning permission is likely without changes to the application as submitted.
- There should be early discussion between LPAs and applicants regarding any conditions that might be attached to a planning permission.
- LPAs should be pro-active in offering opportunities for constructive discussions with small businesses on the re-submission of refused applications.

The **CBI** has also published a paper looking at the operation of the planning system in Wales⁶ and has recently called for the system to be reformed in order to help encourage investment and to make the planning system “an enabler rather than an inhibitor” for both private

⁶ Planning Reform in Wales: the business case. (Undated).

investment and public infrastructure development. A key element of this relates to the attitude of planning authorities and the need for a “can do” approach to development.

The CBI argue that the planning system currently imposes unnecessary uncertainties on applicants and has called upon the Welsh Assembly Government to reform the planning system with a view to:

- Delivering decisions that are fair and balanced;
- Providing users of the system with value for money;
- Ensuring that key statutory agencies are adequately resourced so as to be able to promptly respond to consultations;
- Creating a system that is predictable, efficient and customer focussed and which is flexible and proportionate; and
- Improving the quality of pre-application advice and feedback provided to applicants.

The CBI has also recently called for the planning process to be simplified in order to allow more houses to be built in Wales in order to improve the quality of the county’s housing stock and to help support economic recovery.

5.10 In the light of the above research and the findings of the key focus group sessions, promoting the better understanding of economic development issues is therefore a key priority for the review⁷. Both national and local dimensions warrant attention – with a review of national guidance needed to state clearly how sustainable economic development should be approached, together with local practical guidance on how it should be achieved. Meaningful progress appears to rest on two main actions (which together form the first recommendations from the review).

Recommendation 1: Policy Statement on the Importance of Economic Development

The first recommendation is for the Welsh Assembly Government to prepare a new policy statement on the priority to be given to economic development. Such a statement could update and expand Planning Policy Wales sections on economic development and provide clear direction on the weight to be given to key economic sectors and initiatives as defined in national economic strategy or the Wales Spatial

⁷ This will of course need to be compliant with other policy and sustainable development objectives. Whatever the local benefits or support, schemes will require careful examination (sometimes at a national level – see case study 2 at Appendix 4 at the end of this report).

Plan. It should also provide specific guidance on the importance of small and medium sized enterprise.

Recommendation 1 Partners: Royal Town Planning Institute Cymru (RPTI), CBI and the Cardiff Business School

Recommendation 2: Make the Planning System more Responsive to Business

The second recommendation is for the introduction of a series of measures to improve the responsiveness of the planning system to business needs:

2a is to install simple mechanisms for the **improved exchanges between business organisations and planning authorities** on their respective needs and requirements. Consideration needs to be given to a regular forum.

Recommendation 2a Partners: CBI, Federation of Small Businesses in Wales (FSB) and the Planning Officers Society for Wales (PoSW)

2b is to refresh or provide a new version of the **handbook or guide for businesses on the planning system**. A similar or parallel guide could be produced for farmers and those involved in countryside or agricultural activities.

Recommendation 2b Partners: Federation of Small Businesses (with Farmers Union Wales, NFUC and Planning Aid Wales)

2c is to consider informal or formal **consultee or advisory status for business organisations**, economic development departments and interests (or increased or equal weight to be given to their concerns). Where appropriate, special areas could be identified where increased weight should be given to economic performance.

Recommendation 2c Partner: Institution of Economic Development

2d is the better integration of small and medium business needs in planning policy (at national level as an extension to the new Policy Statement on economic development recommended above) and at the local level in the emerging round of local development plans.

Recommendation 2d Partner: Royal Institution of Chartered Surveyors

- 5.11 A similar position could be taken to other medium sized forms of development which are likely to drive the economic recovery and sustainable economic prosperity– for example medium sized housing developments, renewable energy schemes and community enterprise facilities. With respect to content of the policy statement, the Welsh Assembly Government’s “Economic Renewal – Have your say on the

way ahead for Wales” initiative is running in parallel to this review. It is examining how the Welsh Assembly Government can provide the best support for businesses and prosperity throughout Wales in order to promote a stronger, more sustainable economy. Evidence from this initiative will feed into the review of the planning application process and will help to inform the detail of the proposed planning policy statement.

- 5.12 Supplementary and supporting recommendations under this theme are contained under the third theme (operation). These include identifying different application thresholds that can be used to inform application validation and timescale requirements, an extension to permitted development rights for business and the introduction of a category for offices or small and medium sized premises (which could be defined).

Critical Tasks for the Welsh Assembly Government

- 5.13 The second key area (for the review at least) where understanding needs to be improved is in the actions of the Welsh Assembly Government. A pair of principal relationships exist here that currently appear to be stretched, the first is between the Assembly Government and planning authorities and the second between the Assembly Government and applicants and/or their agents.
- 5.14 In both relationships the speed, irregularity and procedure for issuing guidance has been highlighted as a major issue. The last five years has seen significant change in planning legislation and other statutory frameworks, and this has triggered a large amount of guidance. Whilst inevitable, this is causing significant tension and stress within some authorities expressing concern with the amount of guidance and change. This extends from the guidance issued with the requirement for Design and Access Statements, to changes to regulations (for example the amendment to the EIA Regs and its application to multi stage projects). It also means that there can be some confusion between local policy and national guidance – especially where the latter has been more recently issued⁸.
- 5.15 A similar concern has been voiced by the applicants and their agents. The volume and pace of change and new guidance has left some agents and developers behind – and there appears to be a risk that some genuinely good practitioners will soon be incapable of serving clients or that some developers will be unable or unwilling to invest in a system (and hence a country) where the ground is moving so rapidly. One particular issue (that has been raised by planning officers, consultants and parts of the public and business sectors) is current practice in calling in applications (namely where the Welsh Assembly

⁸ One example of this is renewable energy – see case study 3 in Appendix 4 at the end of this report.

Government takes the decision making responsibility away from the local planning authority). Current practice is causing uncertainty both in terms of the likelihood of call-in and the timescales for decisions once applications have been recovered.

- 5.16 In all cases, the criticism is not with the Welsh Assembly Government's motives – it has clear responsibilities and legal requirements that it must follow and implement or apply. However, the review presents an opportunity to consider where action could and should be focused to improve the understanding of these responsibilities (which in turn will aid their application).
- 5.17 A clear example of this comes from recent experience with the mandatory requirement for Design and Access Statements for planning applications in Wales. The review has discovered, through the local planning authority questionnaire and the business, homebuilder and RTPI/planning consultant focus groups a growing body of experience on two key issues – the type of scheme that should trigger the need for Design and Access Statement and what the content of the Statements should be. The experience of the authorities cited in their responses provides some guidance on the first matter (which is also explored later in the operational recommendations of this review on application validation). The responses of the authorities also underscore the need for a rapid response (as shown in the practice pointer below).

Practice Pointer 3: Design and Access Statements – Evidence from the LPA Questionnaires

Design and Access Statements represented the reason most commonly cited within the questionnaire for Local Planning Authorities refusing to validate planning applications. This was either because a DAS had been submitted and was judged to be inadequate or because one had not been submitted at all. One LPA estimated that they were presently returning over 70% of planning applications without registering them and stated that this was mainly due to DAS requirements. Another LPA reported that the number of applications being returned without being registered had increased from 25% to 45% following the introduction of DAS and a third LPA reported that the percentage of applications being returned without being registered had increased from 35% prior to the introduction of the DAS requirement to 60% after their introduction. However, this LPA also reported that this figure was now falling again (presumably as applicants and agents became used to the new requirement).

When asked what the Welsh Assembly Government's priorities should be for reforming the planning system in Wales a number of respondents to the LPA questionnaire referred to Design and Access Statements. One respondent suggested that the requirement for them should be removed except for major applications or ones that might

impact on issues of sensitivity such as Listed Buildings or Conservation areas. Other responses focussed on the need for standardised advice on the preparation of Design and Access Statements and the need for specialised staff training in DAS related issues.

One Authority reported that although Design and Access Statements represented a potentially useful tool they were often “retro-fitted” in order to justify pre-prepared designs, with applicants only commenting on the good points, rather than used as a genuine mechanism for delivering good design. Another respondent described Design and Access Statements as a “blunt instrument” which had failed to improve the quality of design and access arrangements for new developments whilst making the system more complicated for applicants and more time consuming for LPAs.

None of the Local Planning Authorities who responded to the questionnaire explicitly called for their abolition. However, it is clear that there is a significant degree of dissatisfaction with the system as it is currently operating and that many LPAs believe that the system could be much more effective than it is at present.

- 5.18 On the second point (scope, format and content), the guidance provided by some authorities shows both how practice already varies and how some authorities are beginning to tackle the issues presented by the mandatory requirement for statements for all applications.

Practice Pointer 4: Design and Access Statement Guidance

From examination of a number of Welsh Local Authority websites it is clear that there is a wide variation in the level of guidance provided to applicants in terms of the requirements for Design and Access Statements that have been required to accompany planning applications since 1st June 2009. It is noted that a number of LPAs across Wales do not have their own individual guidance on the content of Design and Access Statements, but merely refer applicants to the guidance produced by the Welsh Assembly Government. Gwynedd, Vale of Glamorgan, Bridgend and Blaenau Gwent (amongst other Authorities) undertake such an approach and provide links on their website to the generic Assembly Government guidance on Design and Access Statements. However, a number of Local Authorities have been more proactive in terms of publishing their own tailored guidance in order to aid applicants in completing Design and Access Statements. An overview of the guidance provided by Ceredigion, Newport and Swansea Councils is provided below.

Ceredigion County Borough Council

The guidance produced by Ceredigion is very brief in nature and merely replicates the national guidance produced by the Assembly Government. The guidance document essentially begins by explaining the rationale behind the requirement for Design and Access Statements before providing a brief overview of headings that need to be covered by applicants. Overall, the guidance is very brief and does not provide any examples of what should be included or any specific reference to local context. The guidance does not differentiate in terms of the relative scale of development proposals, but merely provides a list of standard headings that should be referenced to within any Design and Access Statement. It is noted that the guidance is to be updated in due course, which may improve its usefulness to applicants.

Newport City Council

The Council have produced a Design and Access Statement Advisory note for applicants. This note provides details of what Design and Access Statements are, as well as explaining why they are necessary and when they are required. In addition, the advisory note provides further detail as to what is required in a DAS in order for it to be validated. The note covers the requirements in relation to both design and access, as well as detailing the requirements for both these elements to be included in general applications and applications involving listed building consent.

The advice note contains an overview of what the Council considers would constitute a good Design and Access Statement. In this respect, the guidance contains a number of detailed headings and topics, together with a series of corresponding bullet points and questions under each heading that applicants are asked to consider in preparing their statements. The advice note also details how the DAS should be seen as a living document that is capable of growing with a scheme as it develops. This is particularly important for outline applications where the advice note states that a DAS submitted in support of an outline application should continue to evolve through the Reserve Matters stage. The advice note concludes by providing an overview of the objectives of good design, before finishing with links to further guidance on DAS matters (including Assembly Government, CABE and DCFW).

Despite providing a fairly detailed overview of the requirements for Design and Access Statements, the guidance does not differentiate between development proposals of varying scales. Accordingly, it is considered that the guidance note is too prescriptive as it implies that all applications (irrespective of their scale, size and impact) should equally consider the topics detailed in the guidance note.

Swansea

The Council's website contains guidance on DAS. Separate guidance is available for full planning applications, outline applications and listed building applications respectively. The content of each of these guidance notes is broadly similar, although tailored for each separate type of application. The guidance provides advice to applicants on the required structure for DAS' and sets out a number of key heading that must be included within the DAS, as well as providing further context that should be included under each separate heading. Overall, the guidance is short but effective and provides a series of bulleted headings that provides applicants with a starting point as to the general overall requirements of a DAS.

Again though, the guidance does not differentiate between various scales of development proposals, but rather appears to present a list of headings and bullet points that must be considered. The guidance therefore appears to be very prescriptive as it does not account for variations in the scale and nature of development proposals.

Caerphilly

The Council has produced a user friendly guidance document that provides an overview of the Design and Access Statement process and requirements. This document begins by providing an overview as to the legislative background to such statements, before providing a series of headings and corresponding objectives that should be included within the Design and Access Statement. Under each main heading, the guidance provides further topics that the design process should have considered and which should be detailed in the Design and Access Statement. The guidance concludes with a template for applicants to follow in order to ensure that all relevant matters are considered as part of the Design and Access Statement production.

Importantly, the first page of the guidance which sets the context to DAS details that the length of each DAS should reflect the nature and complexity of the accompanying application and all the matters raised in it should be addressed. This is an important element of the guidance which makes it clear at the outset that the content of a Design and Access Statement should be related to the proposed development. This is a good example of a common sense approach which does not place an undue burden on applicants for smaller schemes to prepare lengthy Design and Access Statements.

- 5.19 In all cases, the overall concept of the Design and Access Statement is not questioned. Equally, as with all new requirements, there is a "bedding" in stage where it is tested and applied and adjusted. The current regime is, however, causing some significant difficulty for both applicants and planning authorities, with concerns about validation,

proportionality and the dividend achieved being most common. For others there is concern that Statements are not addressing key issues appropriately – with community safety an example raised by the Association of Chief Police Officers in Wales.

- 5.20 This experience, together with the concerns expressed at the beginning of this section, informs three recommendations for the Assembly Government itself to consider (which form the third, fourth and fifth recommendations of the review).

Recommendation 3: Design and Access Statements

Recommendation 3 is to clarify the scope and content of, and the requirement trigger for, Design and Access Statements (through a Ministerial letter or statement if necessary). Consideration should be given to relaxing the trigger for the requirement and the provision of looser guidance on format and content (to reflect the scale of the proposals, their location and the issues that they raise).

Recommendation 3 Partners: RSAW, RTPI, HBF and DCfW

Recommendation 4: Guidance Process

The fourth recommendation is for the Assembly Government to consider how it can improve the way in which guidance is issued and publicised. Given the relatively small range of practitioners in Wales, a more inclusive approach with organisations on both sides of the application process should be pursued before future requirements are mooted or made. This would help to provide guidance with a sharper practical focus.

Recommendation 4 Partners: Cardiff University School of City and Regional Planning

Recommendation 5: Pause on New Guidance (A Guidance “Amnesty”)

The fifth recommendation is to limit or place a hold (with the exception of recommendations made in this review) on further substantial requirements or guidance unless there is a legislative need or there is clear failure in current practice. This could be supplemented with a narrowing of the forms of advice that guidance is issued in. One specific area where additional guidance may be required is in the criteria for and operation of the call-in process. An alternative to this recommendation, would be to agree and prioritise a forward programme of review, new or revised advice and guidance. This would give advanced notice and allow preparation for both consideration and implementation of the changes proposed.

5.21 With respect to recommendation 5, there is an important connection to the proposal to issue a consolidated version of Planning Policy Wales. Whilst this need not be delayed (on the basis that this new version will be issued in an electronic format only and will not trigger wasted resources), there is a wider point about the need for parts of PPW to be revised or refreshed. Priorities should include:

- a) the recommended statement or guidance on the role of planning in promoting and enabling economic development;
- b) the position on call-in;
- c) some of the other recommendations made in the review (most significantly on the approach to development management rather than control which is explored in the next section of the report).

6.0 Theme 2 Recommendations: Culture

Introduction

- 6.1 The culture of development control has reflected the title it has been given. Control has a negative implication or has been given a negative application. In England consultation has been issued on a change in general approach to the culture of development control and a switch to development management which has already found a following in Wales. This sees a much more positive approach and role for the planning application process and will be relevant for two reasons in Wales. The first is that it comes from the KPR which has assessed a broadly similar system (and its lessons are broadly transferable), and the second is that operational emphasis needs to be broadly consistent if Wales is to be seen as a positive nation, actively seeking the proper management of planning applications rather than their simple (and generally negative) control.
- 6.2 With respect to culture, there are three dimensions to consider:
- a) the starting point to the system and the way in which it is approached;
 - b) the approach to consultation; and,
 - c) the organisation of the development management function.

Starting Point

- 6.3 It is clear from the focus group sessions, that environmental and physical issues are well covered by a series of highly experienced and often statutory consultees and interests. It is also clear from the business sessions that the perception is that applications are often treated negatively or obstructively, and that this appears to be a starting point for some officers, some teams or some departments. Clearly this is a gross generalisation, but as the message came most clearly from the focus group session with qualified and experienced planning consultants (who should be balanced in their approach), that message cannot be ignored.
- 6.4 To an extent, these concerns have already been recognised by the Welsh Assembly Government. In 2007, a consultation exercise took place on a draft Technical Advice Note 17: Planning and Managing Development. This document raised and discussed a range of issues relating to development management and provides guidance on the planning process for those who use, provide and are affected by the service. The aim of the Draft TAN was to improve the quality of outcomes, to increase customer satisfaction in the system and to improve the quality of development.

- 6.5 The draft TAN was wide ranging in scope and covered the role of various actors within the system including LPAs, applicants, the public, consultees, the Planning Inspectorate, Town and Community Councils and other groups and organisations in the private and voluntary sectors. The document stresses that all of these groups should be able to contribute effectively to the planning process.
- 6.6 Key issues examined within the document include:
- the way in which planning applications are processed and the need for decisions to be transparent and taken in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004;
 - the need for LPAs to ensure that the necessary specialist skills and knowledge that are required to process an application are available and the potential for the sharing of resources between LPAs and (where necessary) the use of private sector expertise to assist in this;
 - how the performance of the system should be measured;
 - The importance of meaningful pre-application discussions;
 - the validation and registration of applications;
 - the operation of planning committee; and
 - the potential for Service Delivery Plans to be used as a mechanism for improving the performance of LPAs.
- 6.7 The draft TAN looked at how the planning application process is managed and stressed the need for managers to have a positive, customer focussed approach to service delivery and to ensure that resources are effectively deployed and that opportunities for improvement to the service are explored. The importance of strong linkages between strategic, forward and development planning departments as well as other departments such as building control, economic development, environmental health, transport, housing and recreation and external bodies including the Welsh Assembly Government and the Statutory Consultees is also emphasised.
- 6.8 This message was also shared with or by the KPR and informed a consultation exercise on Development Management consultation that was issued by the Department for Communities and Local Government (DCLG) at the end of 2009. This indicates a fundamental shift in the approach to planning practice and its key messages are repeated in the panel below.

Practice Pointer 5: Department for Communities and Local Government consultation - Development Management.

The document identifies the need for a fundamental culture shift from an ethos of development control to one of development management in relation to the way in which development proposals are shaped, considered, determined and delivered. As such, LPAs would be expected to become more proactive in assisting developers, adopting a positive, problem-solving approach to delivery issues. The draft Planning Policy Statement states that development management should promote timely, beneficial and sustainable development and that LPAs should become more driven by results and less driven by process.

The draft PPS sets out seven draft development management policies, which cover the topics of:

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

The importance of providing clear advice during pre-application engagement, including weeding out proposals that are “non-starters” is also emphasised within the document. The need for LPAs to take a proportionate approach to development proposals is also emphasised with Authorities invited to examine opportunities to introduce Local Development Orders which expand permitted development rights, as well as seeking to maximising delegation rates and ensuring that any requests for further information from applicants are clear, reasonable and proportionate.

- 6.9 Both the draft TAN and the DCLG consultation document on Development Management mark a serious and highly useful attempt to explain the concept of development management and the practicalities of putting this general approach into practice.
- 6.10 Both also address the management and balance of issues, and the assessment of effects and scheme performance (and how this can be influenced, shaped and improved to make development “quality

assured” rather than just regulated). There is a key message here about the clarity and quality of committee reports and the need to be transparent as to how and why a decision has been arrived at. A good example of the application of this approach to a key decision (on an important topic) is included below. This comes from an authority (Neath Port Talbot) that has recently implemented a series of changes to the way in which it operates its development management function.

Practice Pointer 6: Maesgwyn Windfarm, Glynneath (Application Ref: P/2006/1261)

This application relates to the development of a 45MW wind farm comprising 15 x 3MW wind turbines with associated masts, substation and related infrastructure together with improvement of existing access to A4109 and internal access tracks etc.

The application site is located within the administrative area of Neath Port County Borough Council. Accordingly, the application was submitted to and determined by NPTCBC. However, due to the location of the application site and its perceived visual impact over a wide area, NPTCBC as the determining Authority consulted with a number of neighbouring LPAs as part of the application process. The LPAs consulted as part of the application process comprise:

- Powys County Council;
- Rhondda Cynon Taf County Borough Council; and
- Brecon Beacons National Park Authority.

Effectively, these three LPAs became Statutory Consultees for the purpose of the planning application. The views of these LPAs were sought in order to help inform the decision makers at NPTCBC. Accordingly, each of these neighbouring LPAs undertook their own consideration of the proposed development before feeding their comments onto the determining Authority.

Of the neighbouring Authorities, Powys County Council did not raise an objection to the proposed development, whereas both RCTCBC and BBNPA raised objections to the proposed development. These objections were formulated separately by each of the respective Authorities and forwarded to NPTCBC for their consideration as part of the determination of the planning application.

NPTCBC treated the LPA’s responses in the same way as responses received from statutory consultees such as Countryside Council for Wales, Welsh Water and the Environment Agency. Accordingly, due consideration was given to the objections and corresponding rationale for the objections within NPTCBC’s planning committee report.

The strongest objections were raised by BBNPA who considered that the development would significantly and detrimentally affect the special qualities of the Brecon Beacons National Park. It was therefore up to NPTCBC as the determining Authority to consider the weight that should be afforded to these objections and whether the objections were sufficient to lead to the refusal of the application, when considered against all other material planning considerations.

The objections raised by BBNPA were also mirrored by the Countryside Council for Wales who considered that the landscape and visual appraisal submitted with the application was not adequate enough for the application to be determined. CCW therefore recommended that the application be deferred pending additional information, whilst at the same time advising that the application be refused if the Authority should determine it.

As the determining Authority, NPTCBC's planning committee report explained in great detail the impact that the proposed development would have on the National Park. NPTCBC concluded on this point that whilst the development would be visible from the within the National Park, the visual impact would not be so significant to warrant refusal of the application. NPTCBC considered all other matters related to the application when reaching a decision to approve the application, including objections raised by the Countryside Council for Wales in respect of the information being insufficient to assess the development's visual impact. On this matter, the determining Authority stated that the information submitted with the application was sufficient for the Authority to assess the visual impact.

The planning committee report for the application made it clear that NPTCBC were aware that the development would have a visual impact on the landscape, both from local settlements, surrounding areas and from the Brecon Beacons National Park. However, the committee report concluded that the fact that the development is visible is not, in itself, a reason for refusal and that importantly the development is compliant with national planning policy on renewable energy.

This case study highlights the fact that there may be conflicting points of view and opinions between LPAs (and statutory consultees) on development proposals that will have a cross boundary impact. In such circumstances it is ultimately for the determining Authority (in whose administrative control the application site lies) to consider all relevant views and consultation responses in order to achieve an informed decision. This also highlights that neighbouring LPAs may well place greater emphasis on certain impacts, such as visual impact, whereas others will consider national policy to be of greater significance. Equally, the determining Authority is also responsible for considering whether the responses provided by statutory consultees are relevant and applicable. Clearly in this instance the determining Authority did

not agree with CCW and considered that the information submitted with the application was sufficient to allow for its positive determination.

Structure of Report

NPTCBC had to balance a number of important issues in determining this planning application. It was therefore critical that the committee report was structured in a manner that fully addressed each of the main issues associated with the application in turn. In this respect it is considered that the committee report represents an example of a well structured document that deals with each of the principal issues associated with the application. The committee report begins by examining the relevant planning policy context and history, before listing the responses received to consultation. The main bulk of the report then leads on from this and comprises the appraisal section of the report. The appraisal begins with an overview of the proposals and a description of the site, before addressing in detail the relevant planning policy. The report then goes on to consider the main determining issues associated with the development (as is evidenced from the overview of planning policy and consultation responses). The report therefore addresses in considerable detail the following issues:

- visual impact;
- affect on Brecon Beacons National Park;
- Countryside Council for Wales response;
- cumulative impacts (other wind farm development);
- tourism;
- ecology;
- geology, hydrogeology and hydrology;
- noise;
- archaeology and cultural heritage;
- transportation;
- electromagnetic interference, shadow flicker and safety; and
- objections; and community benefits.

The report ends with a concluding section that draws together main issues that the Authority consider are relevant to the determination of the application – namely visual impact and planning policy encouraging renewable energy. In balancing these issues, the report is clear that

the visual impact associated with the development is not considered to be sufficient enough to warrant refusal of the application. The report ends with a further brief overview outlining the reasons for reaching the decision to recommend approval of the application. The main body of the report (excluding conditions) is just 25 pages long and the decision has not been challenged.

- 6.11 There is clearly a lot of other good practice that will already exist about balanced and safe decision making on planning applications in Wales (see, for example, case study 4 in appendix 4 at the end of this report). However, it is also clear that there is no modern framework for development management in Wales, and that the application process could benefit (potentially significantly) from an explanation of the approach expected from its principal governors.

Recommendation 6: Development Management Principles

Recommendation 6 is the adoption of the key principles of development management into a new policy statement (or the completion of a new Technical Advice Note 17⁹). The key task of the new section/version will be to emphasise the positive role of the planning application process in:

- a) delivering specified national and local outcomes and objectives;
- b) encouraging (and requiring) collaboration between key parties at the earliest possible opportunity;
- c) being responsive to all involved with or affected by the planning application process;
- d) taking a wider view on the tests that new development should have to pass (to replace an overly “mechanistic” approach to decision making) that may be more responsive to national planning policy;
- e) introducing a refinement of the test that decisions must follow development plans, so that it applies *especially* to recently adopted plans, but *more loosely* to older plans that do not respond to current circumstances or needs, law, practice or guidance;

⁹ The preparation of TAN 17 was placed on hold pending the outcome of this review of the planning application process. The review could provide the Assembly Government with the opportunity to examine the scope of the advice contained within the draft document and to ensure that it is fully up to date and builds on current best practice.

- f) making sure application requirements are proportionate to the development proposed; and
- g) making sure this runs right through the application process with a special focus on delivery

Importantly the new version should stress that the responsibility for making these changes rests as much with applicants as it does with planning authorities, statutory and other consultees and the Welsh Assembly Government.

Recommendation 6 Partners: The RTPI, CBI and Planning Aid Wales/One Voice Wales

Consultation

- 6.12 One specific area for the policy statement or new TAN to address is consultation. This includes both the work of the statutory consultees and the involvement of the public or community groups. In both fields there is a strong body of work that either already exists or is in the process of being prepared. Planning Aid Wales and Carmarthenshire Council have worked together on a series of workshops designed to engage stakeholders in the development planning process by improving their capacity to understand and participate in plan preparation, particularly during the early stages in which strategies are established. This work along with similarly work undertaken by Planning Aid Wales with Brecon Beacons National Park could provide some basic lessons for improving public participation in the planning application process. The Draft TAN 17 also spent some time (in the context of the many issues that it sought to address) on consultation. Elsewhere specific consultees facing specific issues or pressures have taken action themselves, and a notable example is in the preparation of a memorandum of understanding between the Countryside Council for Wales and the British Wind Energy Association (this is currently work in progress). It is equally clear that some organisations are seeking statutory consultee status (and are already being treated by some authorities in this way).
- 6.13 As with the principles behind development management, consultation was also identified as an issue during the Killian Pretty Review and at the end of 2009, the CLG produced a consultation document on this topic (see below).

Practice Pointer 7: Improving Engagement by Statutory and Non-Statutory Consultees

Following the Killian Pretty Review, the Department for Communities and Local Government published a consultation document in

December 2009 setting out proposals to change the arrangements for the consultation of statutory and non-statutory consultees.

Killian Pretty had recommended that the government should clarify and improve the consultation process and provide clarity on which organisations need to be consulted, when they must be consulted, what response is required and how that response should be taken into account by the LPAs. In response, the document proposes a “fundamental overhaul” of consultation arrangements, aiming to make them more effective and to ensure that the right organisations are consulted on the relevant issues and in a timely and proportionate fashion¹⁰.

An update to national policy on statutory and non-statutory consultees is proposed and this will be attached to the relevant (English) Planning Policy Statement (PPS) on Development Management. This would include advice on:

- defining what consultation is necessary;
- effective consultation by Local Planning Authorities;
- a clear and proportionate framework for consultation;
- responding to consultation and providing clear and consistent advice;
- responses by non-statutory consultees;
- how consultation responses should be taken into account when applications are determined; and,
- use of planning conditions and obligations.

A draft code of practice on statutory consultation is also proposed, which would reinforce the policy statement by setting out what LPAs should expect from statutory consultees. This code would be voluntary but all LPAs and statutory consultees would be expected to adopt it in due course. The code would focus on:

- delivering greater consistency in approaches to consultation;
- providing greater clarity for all parties on consultation processes;
- more efficient use of resources and reducing unnecessary consultation requests;
- improving the quality of responses provided by statutory consultees; and,
- improving handling of applications and the quality of development.

¹⁰ Similar issues and objectives of course apply to applications in Wales where schemes can be delayed by organisations and issues beyond the control of the planning authority. One example is found in case study 5 in Appendix 4 at the end of this report.

In addition, the document reviews existing arrangements for statutory consultation and examines areas where unnecessary consultation could be streamlined or removed¹¹ (for instance by increasing the geographical thresholds within which consultation should take place on a statutory basis for certain types of development). The planning portal e-consultation hub is identified as having a key role to play in making consultation more efficient and this is discussed in Practice Pointer 17.

More effective monitoring of the performance of statutory consultees also forms a key element of the proposals and it is suggested that the statutory consultees should publish information on their websites relating to their performance. It is intended that this will improve transparency and drive up standards. It is proposed that DCLG themselves will publish an annual summary table on the performance of the statutory consultees.

- 6.14 Whatever approach is taken, it is clear that more modern guidance is required on the role, potential and performance of consultation on planning applications (whether this be statutory consultation or the more informal, but equally important, opportunity to make comments on proposals). The immediate priority is to review current performance and to identify clear issues that need to be tackled.

Recommendation 7: Development Management – Improving Consultation

A review of statutory and non statutory consultation should be carried out. The review should address:

- a) the approach to be taken in Wales to the duty to respond for statutory consultees and the scope for more focussed and more standardised statutory consultation (with attention given to thresholds/types of development that may not trigger consultation, the timescales for dispatch of information and timescales for the receipt of responses and the categorisation of the advice given);
- b) the number of statutory consultees and the scope for removals or additions (with specific attention given to utility providers, emergency service providers and economic development or business interests). This may require a review of the General Development Procedure Order;
- c) how the public and local groups can be effectively involved in the planning application process and the decisions it makes;

¹¹ This would require an amendment to article 10 of the GDPO. The DCLG consultation document proposed that all existing amendments made to the GDPO since 1995 should be consolidated in a new order to be introduced in 2010.

- d) the impact that current consultation practice is having on decision making and decision making timescales (and whether this is proportionate), together with the resource implications of swifter and more effective consultation;
- e) the implications of failing to meet timescales for responding;
- f) how consultation at all levels is reported;
- g) the link between the quality of information submitted with applications, the time taken to respond and the effectiveness and value of the response; and,
- h) the resource implications (and costs and benefits) of more effective consultation.

A head start on this review could be made with the completion of the exercise on TAN17 (recommendation 6) which may include questions on consultation. Provision could then be made for key proposals or techniques in the final version of the TAN. However, if a more thorough and more specific examination is required (which this review concludes it is), then the results of this examination should be reflected in a code of conduct for statutory consultees together with a parallel guide for members of the public and community groups. A start on this could come from organisations that are already piloting their own measures (including the Coal Authority, the Environment Agency and CCW and One Voice Wales).

Recommendation 7 Partners: RTPI, Environment Agency, CCW, Planning Aid Wales/One Voice Wales

Organisation

- 6.15 The third dimension to cultural change is the way in which the development control or management function is organised and delivered “on the ground”. This goes to how the process is seen (or disaggregated) by the various authorities and then how resources are deployed and decisions taken.
- 6.16 There are two parts to this. The first and most important is the *professional* approach to the development management or DM function. The second is political and recognises that whatever approach is adopted, some decisions will continue to be taken by local politicians.

Professional Organisation

- 6.17 There are clearly many ways in which the development control function is organised within the 25 planning authorities. This was a clear concern from nearly all of the focus groups, and a particular point at the community body focus group. Differences occur at many levels – from which services or expertise lie within the DM function, to the relationship DM has with other planning and planning related functions, and how it is led and how decisions are made. Most authorities do have geographic area based DM teams (and the merits of this approach are questioned later under the operational recommendations). These teams are then complemented by a range of officers who either have specific responsibilities or have specialisms¹². There is no common list of these and presence or absence varies between often neighbouring authorities. This is a key trigger for the varying experience that applicants have with the system.
- 6.18 This is causing uncertainty, delay and complaint. It may also be triggering a waste of scarce resources and providing a more unified process or experience is a general theme of many of the recommendations. Practice in this field is limited and has to date been carried out by individual authorities looking at their own systems and processes.
- 6.19 Two main examples have been used by this review – the first is by Caerphilly CBC, which carried out its own review of the process in 2005 (Practice Pointer 8), and the second is by Neath Port Talbot CBC (Practice Pointer 9).

Practice Pointer 8: Caerphilly County Borough Council – Business Process Improvement

In 2005 Caerphilly County Borough Council instigated a comprehensive review of the way in which it dealt with planning applications, from submission to the issuing of Decision Notices. The review was carried out within the context of the introduction of a new IT system to process planning applications (UNIFORM) and was designed to improve and streamline the operation of the application process.

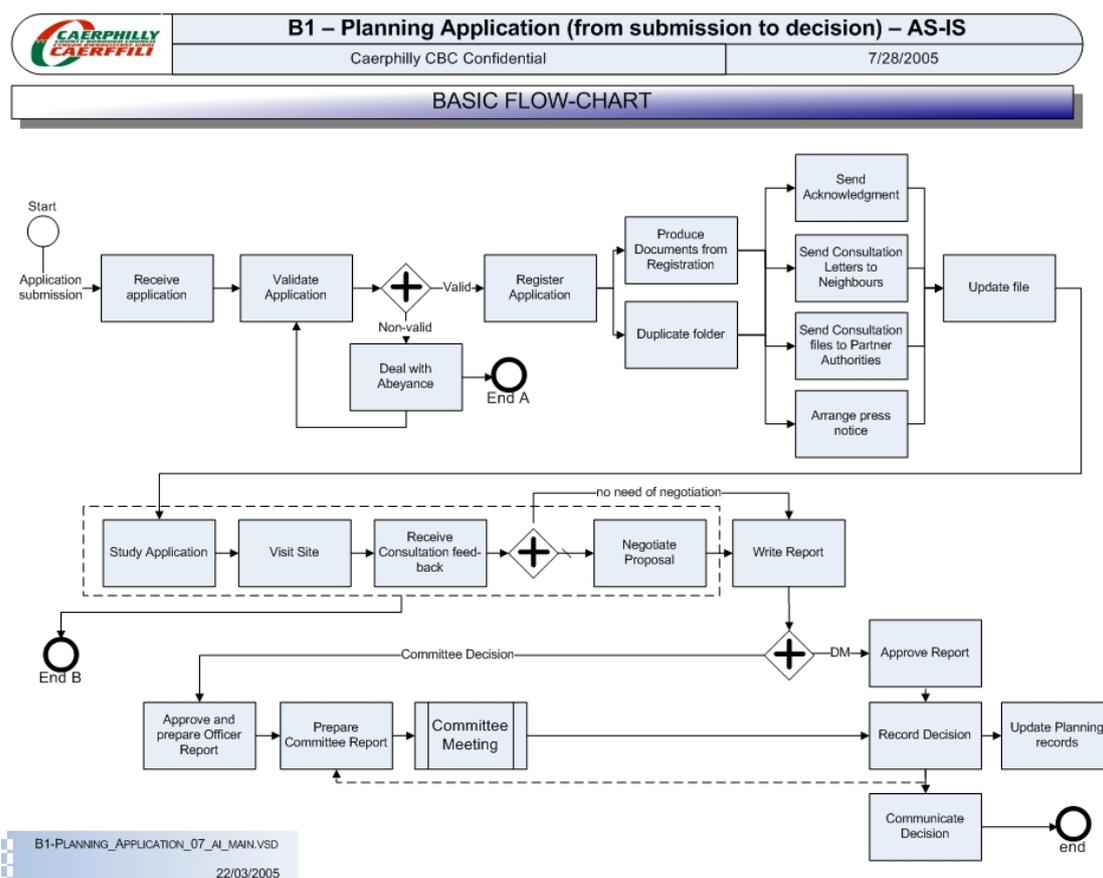
The starting point for the review was to examine the key activities, people, tools, inputs, outputs, metrics and controls involved in processing a planning application and to identify opportunities to

¹² More common examples included Contributions (planning obligations) Managers and many authorities have access to “in house” ecologists. No authorities appeared to offer development control officers with business or economic development expertise or with an explicit promotional remit. This translates into a best case which can often be the achievement of “no objection” as a response from consultees or non-core officers, rather than a display of positive support (or an imbalance between these two types of response or a weighting which depends on their origin).

improve the delivery of the service. Interviews with key members of staff about their roles within the process were used in order to help provide an overview of how key stages were being handled and to identify ways in which the system could be made more efficient, including where duplication could be removed. The review process found that members of staff within Caerphilly's planning division were both knowledgeable and committed but that existing structures and processes meant that the performance of the system was failing to reflect their professionalism. Accordingly the existing procedures were reviewed and opportunities for improvement were identified throughout the process.

The resulting Business Improvement Report made wide ranging recommendations on a range of issues including administrative procedures, customer care, internal and external communication and information management. Amongst the key recommendations that have subsequently been implemented were:

- allowing more applications to be decided under delegated powers;
- introducing a formal daily meeting between the Monitoring Officer, Team Leaders and Development Control Manager to identify key issues relating to new applications and (where possible) channelling major applications into fast track procedures;
- using a project team approach to deal with applications for major development with regular team meetings to ensure that punctual progress is made;
- formalising the consultation process, including the introduction of procedures to institutionalise anticipation of the range of consultees and the chasing of necessary replies within the time limit; and
- ongoing performance monitoring with the aim of delivering continuous improvement to the planning service.



6.20 More recently, there is the work of Torfaen County Borough Council which has appointed a consultancy specialising in “systems thinking” and organisational change, to review the way in which its development control service functions. The review will look at the service from the point of view of the customer, looking at how the service responds to customer need. The consultants will consider which activities contribute towards meeting customer need and which ones hinder the responsiveness of the service and will consider ways in which the service might be redesigned in order to improve its effectiveness.

Practice Pointer 9: Neath Port Talbot County Borough Council – Review of Development Control Services

Neath Port Talbot County Borough Council has recently undertaken a review of their Development Control service. A consultancy specialising in “Systems Thinking” and organisational change was appointed to facilitate the review, which examined the delivery of the service from beginning to end. A team of four officers from the Development Control section were seconded from their posts to work alongside the consultants and the work concentrated on designing out waste and inefficiency within the system and improving customer service. The review had three main stages:

Check

The first stage of the review was to gather data on customer demand and identify waste within the system. The application process was mapped out from the receipt of an application through to the discharge of all relevant conditions and it was found that a typical household planning application (which was valid and acceptable on receipt, received no objections and was determined under delegated powers) went through 115 different steps and 17 pairs of hands. Larger more complicated applications took even longer. As the project team looked at the operation of the system, it was also evident that existing Key Performance Indicators were having a negative impact upon the delivery of service.

Plan

As the project team sort to re-design the system various experiments were undertaken to identify the most efficient methods of handling applications. A total of 125 planning applications were taken through this experimentation stage and the result was a reduction in the number of steps from 115 to 33, with the number of handoffs reduced from 17 to 5, including mail coming in and leaving the department. Greater emphasis was placed on the provision of comprehensive pre-application advice for all types of development.

Planning applications and pre-application inquiries were assessed by the team on the day following receipt and were validated by the case officer following that meeting. This reduced double handling by staff and unnecessary work for applicants and agents and also reduced the need for officers to negotiate amendments after consultations had been issued, and then having to issue re-consultations which were expensive, time consuming and often confused consultees. Following extensive experimentation it was agreed that staff would be rolled into the new system.

Do

The third stage was that of restructuring the service as a whole. Staff were appointed to new roles in order to deliver a front-loaded service in which case officers retain ownership and responsibility of the application from receipt through to decision.¹³ The new more efficient structure has resulted in a significant improvement in performance from a customer point of view and following the success of the review Neath Port Talbot have now embraced the systems thinking approach in relation to other services within the Council.

¹³ As a result of the review four posts have been deleted from the services and there are no longer any technicians.

- 6.21 These two attempts to unravel the development control or management process provide valuable lessons for all planning authorities. They establish a model for a more focused and more consistent approach to core functions and stages in the process which should be particularly useful and transferable at a time when resources are likely to be limited and need to be deployed carefully. One particular issue which should be addressed is whether the use of area based teams provides the correct approach to development management (and there is a clear link here to some of the operational recommendations made in the next section).

Recommendation 8: Development Management – Making Process and Delivery More Consistent

Recommendation 8 of the review is to issue a best practice note on the organisational delivery of the development control or management function. This should move away from an attempt to identify common management structures (which is likely to be very difficult and might cause stress with other procedures and structures) and should investigate quality and satisfaction based performance measures for the application process and the outcomes it should achieve. Particular attention should be given to the disaggregation of the basic process within specific Councils and how this can be applied to all planning authorities to unify the development management process and the (independent) measurement and comparison of its performance. An important dimension to this exercise should be the costing of the main stages of the application process and the dividend produced, so that scarce resources can be properly targeted.

Recommendation 8 Partners: PoSW

Political – The Approach to Planning Committee

- 6.22 The second dimension to cultural change is *political*. This goes to the treatment of recommendations by committee. Whilst the number of applications that are referred to committee has decreased, there are still occasions where members depart from professional and considered advice. Whilst this is to be expected in a democratic system, it remains as a source of concern and uncertainty. In some authorities and until recently, it was happening regularly.
- 6.23 There are, however, ways in which these situations can be tackled and the Planning Advisory Service has produced some useful material to inform effective Councillor engagement. For Wales the recent experience of Flintshire Council also provides some useful pointers.

Practice Pointer 10: Measures to Improve the Performance of Planning Committee – Flintshire

Following a series of External Audit Reports that were critical of various aspects of the planning service in Flintshire, it was decided that a series of measures should be introduced to improve the performance of planning the committee. The package of reforms included:

- the introduction of the right for third parties to make representations to planning committee;
- bringing in a “cooling off” period following decisions that have been made against the recommendation of officers to allow committee members to re-consider their decision; and
- moving committee meetings from the Council Chamber into a committee room in order to encourage a less adversarial and partisan atmosphere.

Flintshire County Council have also made use of their Planning Development Grant to introduce a comprehensive programme of member training, which covers a wide range of relevant issues. The training programme comprises the following main elements:

- Regular training sessions for committee members on key issues such as the role of members, material considerations, Local Development Plans and Appeals.
- Workshops held by planning officers for all elected members looking at particular planning policy issues around which controversies or misunderstandings have arisen in the past.
- An annual tour of completed developments for all elected members, looking at sites which had been controversial and discussing issues of sensitivity and how they had been resolved.

In terms of the core training programme, committee members (or an nominated proxy) are required to attend 75% of these sessions over a two year period or face being removed from the committee.

6.24 Whilst there has been an improvement in the relationship between the professional and political stages of the planning application process in Wales, there remain occasions when local political intervention distorts results. This is usually part and parcel of the democratic process¹⁴, but

¹⁴ And this can be effectively managed through the planning application process, even where there is substantial and very well organised opposition – see case study 6 in Appendix 4 at the end of this report.

the review provides an opportunity to further narrow the uncertainty that this causes.

Recommendation 9: The Approach to Committee

Recommendation 9 is to provide a basic guide for planning authorities on the organisation of planning committee. The primary purpose of this guide should be to make the committee experience as predictable (and as common) as the application process. The focus should therefore be on standardising (through best practice):

- a) the advance publication of reports and submissions to Committee;
- b) the approach to speaking at committee;
- c) membership, attendance requirements and numbers on the committee;
- d) mandatory training requirements for members and especially for chairs and/or portfolio holders;
- e) the introduction of cooling off periods where decisions are made against officers advice;
- f) the provision for special committees to hear particularly contentious applications and/or the introduction of special preliminary discussion or Q+A sessions for these proposals; and,
- g) protocols and thresholds for applications to be heard by committee.

Consideration should also be given to the practice in Scotland where members who depart from officers' recommendations on applications are required to defend their decisions without the assistance of officers.

Recommendation 9 Partners: The Welsh Local Government Association

7.0 Theme 3 Recommendations: Operation

Introduction

7.1 It is common ground amongst many if not all of those who have contributed to the review that there are practical measures which can and need to be introduced to the operation of the planning application system. A large number of measures have been identified. However, those which meet the main objectives of the review (reducing uncertainty, managing complexity and improving responsiveness) and the clear mandate for swift and positive introduction, fall into six main categories:

- a) Reducing the number of applications.
- b) Unifying and improving pre-application advice and procedures.
- c) Simplifying and Unifying validation protocols.
- d) Improving e-planning and the Planning Portal in Wales.
- e) Creating central pools of expertise on key issues or schemes and encouraging joint working.
- f) Implementing permissions (and the use of planning conditions).

Reducing the Number of Applications

7.2 Properly approached and targeted, reducing the number of planning applications should make the system more proportionate, and should release scarce resources (within planning authorities but also for applicants and statutory consultees) for more critical tasks. There is unlikely to be resistance to this proposal from any party and, properly focused, reductions should help to achieve key economic and social objectives without causing environmental tension.

7.3 From this review, reductions can be made in two main ways. By extending permitted development rights (and changes between uses in the same class of development or activity), and by introducing clearer guidance on minor and non-material changes to schemes (which are planned or under way but which are not completed) that will not trigger the need for a planning application.

Permitted Development Rights

7.4 Extending the types and forms of development that do not require planning permission provides a key mechanism of reducing the number of applications and targeting resources on schemes which genuinely require attention. With respect to permitted development

rights, recent research commissioned jointly by the Welsh Assembly Government and DCLG (which has now been largely implemented in England) provides a useful pointer for future changes in Wales.

Practice Pointer 11: Permitted Development

Changes were introduced in England in 2008 (through Statutory Instrument 2008/2362) that amended the GPDO to extend the range of permitted development rights for householder development including those relating to house extensions, which were not replicated in Wales.

The objectives of the reforms were to give householders greater freedom to extend their properties whilst limiting negative impacts on others and to reducing the burden on LPAs by removing unnecessary planning applications from the system.

Further changes to the permitted development order were introduced in England in April 2008, including the introduction of permitted development rights for the installation of domestic micro generation equipment. These permitted development rights were subsequently introduced in Wales in September 2009, thereby allowing householders to undertake certain operations connected with micro generation without the need for planning permission.

In 2008 the Killian Pretty Review (KPR) concluded that the General Permitted Development Order (GPDO) in England should be further reformed so as to remove unnecessary prescription and detail. The review recommended that the number of small scale commercial developments and other minor non-domestic developments treated as permitted development should be expanded and that the prior approval scheme should be extended so as to provide suitable intermediate approach between permitted development and planning permission.

In July 2009 the UK Government published a consultation document in response to the KPR recommendations entitled "Improving Permitted Development", which sought views on the extension of permitted development rights for educational institutions, industry, offices, shops and warehousing. The proposed changes would remove the need for 25,000 planning applications and save £9 million in fees a year in England. Under the proposals, provided that extensions are no greater than 25 % of existing floor space, shops could be extended by up to 50 square meters and colleges, universities and hospitals by 100 square meters.

The results of consultation are currently pending, however the direction of future policy on this matter in England would appear to be clear.

In addition to the GPDO, The Use Class Order has also been amended in recent years in England, with the introduction of a new Order in

2005. The main changes to the Use Class Order are designed to allow Class A to catch up with commercial changes so that:

- internet cafes come into class A1;
- nightclubs and retail warehouse clubs become sui generis;
- class A3 (previously "Food and Drink") is now reduced in scope to "Restaurants and Cafes" (excluding takeaways, pubs and bars);
- a new Class A4 ("Drinking Establishments") is created for pubs and bars;
- Takeaways now fall into a separate new Class A5;
- Planning permission will not be required for a change of use from Classes A3, A4 or A5 to Classes A1 ("Shops") or A2 ("Financial and Professional Services");
- Planning permission will also not be required for a change of use from Classes A4 or A5 to A3;
- Planning permission will be required to change from Classes A1, A2 or A3 to Classes A4 or A5; and,
- Planning permission will also be required for a change of use from Class A4 to A5 or from Class A5 to A4.

To date, none of the above changes to the Use Classes Order have been introduced in Wales. Consultation on changes to the Use Classes Order in Wales was undertaken in July 2006.¹⁵

- 7.5 There is clearly a lot of common sense in the approach. Unsurprisingly, there is also common ground with the objectives, findings and themes of this review. Reducing the number of applications, especially for small and medium sized businesses, is one way the planning application process can help stimulate economic recovery or innovation. It will also release what are likely to become increasingly stretched planning authority resources for more substantial individual schemes.

¹⁵ Research regarding the UCO was commissioned by the then Department for Transport, Local Government and Regions (DTLR) in 2000. Although it looked at the impact of the UCO regarding delivery of planning objectives in England only, it provided a useful analysis and informed "Changes to the Development Control System in Wales" Consultation Paper July 2006.

Recommendation 10 – Extension of Permitted Development

Recommendation 10 is to follow (and if possible, accelerate) the July 2009 proposals for an extension to permitted development rights in key economic sectors and/or to instigate a new General Permitted Development Order for Wales. Particular attention should be given to the floorspace and volume thresholds indicated in the consultation and whether there are any specific categories in Wales which require more or less control. A similar approach should be taken to the use classes order with the 2006 consultation providing a useful platform for this exercise.

Recommendation 10 Partner: PEBA, Coal Authority

- 7.6 The review should consider the areas, conditions or proposals where Permitted Development will and will not apply (or where conditions will be applied). Specific attention has been drawn to waterways, archaeology and historic buildings, protected species, coal workings and mining, although other issues will of course qualify. In addition the review's attention has been directed to the need for an extension to householder permitted development as a way of releasing scarce resources and focusing attention on more important proposals.

Minor Changes

- 7.7 Removing categories of development that require planning permission can help to refocus the planning system on key issues and schemes. So too can a more proportionate approach to proposals to vary already approved schemes. Currently there is no standard procedure for this – with some authorities operating a flexible system and others finding it difficult to see any changes as minor or non-material (or employing a very rigid philosophy to this area). This was causing difficulty for applicants and was raised specifically at the Homebuilders focus group session (which offered the following practice pointer to explain the issues raised).

Practice Pointer 12: Church Village Minor Amendment

Charles Church Wales Ltd secured outline planning permission for the residential redevelopment of a site at Maes yr Egwlys, St Illtyd Road, Church Village at appeal in February 2004. The original outline application reference was 03/01547. Subsequent to this outline approval, full planning permission was approved for the development of 44 dwellings at the site on 17th July 2006, under application Reference 06/1431/10.

The approved full planning permission (06/1431/10) comprised a range of house types, which included 10 No 'Leicester' houses. Charles Church Wales Ltd proposed to substitute 4 of the approved Leicester

house types with a new house type known as the 'Milton'. The 4 substitute house types were proposed to occupy the same part of the site as the approved 'Leicester' house types and would utilise the approved car parking layout. To all intents and purposes the footprint of the approved house types and the proposed substitute houses were the same. The only material difference between the two house types was in terms of building height. The proposed replacement 'Milton House' types were actually lower in height than the approved 'Leicester' house type, with there being a reduction from the approved 3 storey design to a standard 2 storey design.

Irrespective of the minor nature of the difference between the approved development and the proposed substitute house types, the Local Authority would not allow matters to be dealt with as a minor amendment to the approved scheme. Accordingly, Charles Church Wales Ltd had to submit a full planning application (Ref 09/0204) for the four Milton House Types. The application was submitted in February 2009 and was accompanied by a supporting design and access statement and incurred a further statutory fee of £1,264. The application was approved on June 10th 2009, subject to the imposition of 18 conditions.

- 7.8 On the face of it, this is not the best use of scarce resources (for either the applicant or the authority). It is not, however a new issue and the research commissioned for permitted development rights also looked at how the overall approach to non-material and minor changes to schemes could be formalised and simplified.
- 7.9 On non-material amendments this research has led to the introduction of section 96A of the 2008 Act in England. This makes quite formal provision for small changes to schemes. A new form has been introduced together with certain requirements for notification and decision-making. Whilst these must replace any informal procedures that the Council had previously used, they are not particularly onerous (and requests do not for example trigger the need for design and access statements or for the production of a new decision notice). What is missing from the guidance on this proposal is any information as to what might qualify as a non-material change. It is helpful, however, to note that the decision should be made in the context of the overall scheme. The guidance note also states that decisions should be made within 28 days.
- 7.10 Turning to minor material changes, a two staged approach has been proposed by the Department for Communities and Local Government (DCLG). The process recommended for minor material changes is to allow authorities to vary schemes by changing a condition which lists the approved plans (through an application made under section 73 of the Act). Where no such condition exists, the approach appears to be to allow the insertion of a condition as a non-material change to the

permission (under section 96A as described above) as non-material changes can be made to the permission itself as well as the development it allows. The application under the new condition could then be pursued to make the minor material change to the scheme.

- 7.11 The principal test as to whether that proposal is to be considered as a minor change is found in a definition which was devised by the DCLG's consultants, White Young Green Planning. This states:

“A minor material amendment is one whose scale and nature results in a development that is not substantially different from the one which has been approved”.

- 7.12 Whichever approach is adopted, there is a clearly a need for improvements to the regime on small changes to schemes (whether these are called minor material or non-material). The DCLG approach has some merit in Wales, given that there is no common approach (with responses varying between officers within the same authority as well as between authorities). The approach would also formalise the process – especially for non-material changes and may liberate the authority from other applications that it should really not be troubled with. However, as it stands it falls short of providing any guidance to overcome the fundamental issue – namely the subjectivity of the decision on what the change proposed actually is. It is here that the regime in Wales could provide a better framework for small changes to schemes.

Recommendation 11 - A Practical Approach to Minor Amendments

Recommendation 11 is to adopt an adjusted approach to small changes which could sit under the working title Minor changes to approved schemes. This could adopt a similar practical approach to the scheme (under section 96a) for non-material amendments but would not require the submission of a formal application or request. It would, however, be supplemented by advice on what may be considered (even if this is defined by what will not – perhaps by similar tests established by permitted development rights). For minor material changes we see no need for any significant changes or departures from the DCLG's approach (apart from the excellent opportunity to embrace this more ambitious concept and the need to ensure that all permissions include a condition which includes the drawings approved – see recommendation 16).

Recommendation 11 Partner: The RTPi and HBF

- 7.13 Similar concerns have been made (by similar organisations) to those identified for the previous recommendation (on the adjustment of permitted development rights). It is important that any new procedures

are complemented by advice on the circumstances where they can (or should) and should not apply, or in what circumstances or locations certain groups or organisations should be consulted on non-material amendments or minor material changes.

Pre-application Advice

- 7.14 Nearly every party or individual that made a contribution to the review, commented on the potential of the pre-application stage of the process. Experience on the dividend actually generated, was, however, mixed¹⁶. This was partly due to the variety of approaches adopted by the planning authorities and partly a result of increasing pressure on the resources applicants, authorities and other interested parties. Two approaches from authorities which actively pursue pre-application discussions are provided below.

Practice Pointer 13: Carmarthenshire and the Vale Pre Application Procedures

Vale of Glamorgan

The Vale of Glamorgan's website contains an overview of the Council's pre-application procedure and sets out the minimum service standards that can be expected. The procedure sets out the minimum standards of service that can be expected of the Council in terms of pre-application guidance. Importantly, the procedure also sets out what is required of applicants in order for the Council to progress pre-application dialogue, whilst also detailing what steps the Council will take in responding to such dialogue. The document also confirms the timescales that the Council will aim to respond within.

This approach paid a significant dividend to all involved with the largest application recently made in the Vale (for the Metrix Project/St Athan Defence Technical College). Following preparation and adoption of a development brief, a regular series of pre-application discussions were organised (based on key themes or issues), together with a comprehensive programme of pre-submission public and stakeholder consultation. The process allowed the application to be submitted with confidence about issues, prospects and timescales and safely determined. This cooperation has extended into the post determination, implementation stage with a series of meetings taking place on the discharge of conditions. The general approach provides valuable lessons for positive development management throughout Wales.

¹⁶ The potential to make a significant and positive impact is already clear, especially where discussions were early and open. See case study 7 in Appendix 4 at the end of this report.

Carmarthenshire

The Council's website contains a page that provides information relating to 'advice before making an application'. This advice encourages applicants to contact the relevant area case officers at the Council and outlines what advice the Council will provide to applicants as part of this process. Importantly, the Council state that any pre-application advice will be given without prejudice to the formal consideration of an application by the Council. Again, the Council's advice provides guidance as to the information that applicants should supply in order to ensure that pre-application advice is as comprehensive as it can be. The guidance also provides an overview of three different categories of development and the different approaches that should be taken for each form of development – namely householder developments; major developments or special projects; and Environmental Impact Assessment applications.

Overall the guidance provided on the Council's websites provides a useful overview of the pre-application procedure that the Council's operate and will enable applicants to understand what information will be required of them when undertaking such discussions in order to prevent delays in the process and obtain relevant advice and feedback.

- 7.15 Some of this practice anticipated the contents of a consultation document issued by the DCLG at the end of 2009, which emphasised the need for improvements to the pre-application stage. Importantly it also set out what the advantages of better advice at this stage would be. These are repeated below as they correspond strongly to the comments and submissions made to this review:

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

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

- 7.16 The draft policy annex which forms part of the consultation issued by the CLG, then makes it clear that the depth of pre-application discussions should reflect the scale of the proposals, that discussions should seek to be inclusive as possible (even extending to the proposal to involve members) and that early involvement should lead to consistency and continuity in the treatment of the application (namely the application should be dealt with by the same officers who gave the pre-application advice).
- 7.17 Whilst the DCLG's approach encourages authorities to provide their own guidance on how the pre-application stage will be managed, it does not step back from providing equally clear guidance on what it expects that advice to cover. This extends to the information that will be required from applicants, the broad approach to be taken and how this will adapt according to the type of proposals, the involvement of third parties and the local community; charging regimes and, for large schemes, the establishment of multi disciplinary teams and planning performance agreements. It also asks authorities to confirm the timescales within which they will aim to respond.
- 7.18 On the face of it, these all appear to be sensible messages for an approach to pre-application discussions in Wales. Pre-application discussions may also assist in overcoming an issue with the quality of some applications – which were seen as poor. In particular, smaller (if not householder) schemes that are badly prepared, can take up the most time for development control officers.

Recommendation 12: Pre-application Discussions – Best Practice Guide

Recommendation 12 is to produce a practice guide on the format of pre-application consultations. This should aim to establish common features of these discussions – which can take the DCLG's proposals as a starting point – with the addition of the scope to address the quality of information to be provided with the application. Practice can be informed by a brief review of current performance and should be issued swiftly. As a practical guide, it would benefit from joint production through the Planning Officers Society and representatives of the RTPI's consultant network, although Welsh Assembly Government should issue and/or endorse the guide to ensure it has the required weight.

The practice guide need not (and should not) be a long document but should address the following issues:

- a) scope and extent of advice provided;
- b) the requirements of applicants;

- c) process and timescales;
- d) the approach to charging;
- e) the role and identification of key consultees and other groups; and,
- f) the role of politicians.

Recommendation 12 Partners: HBF, PoSW, Planning Aid Wales and RTPI(C) (in conjunction with EA, ACPO, BW and Mobile Operators Association).

Validation (and the Hierarchy of Development Proposals)

- 7.19 As with pre-application advice, both the local planning authority questionnaires and the focus groups found key issues with the validation and registration of applications. In some cases this is causing tension between even some experienced applicants and (equally experienced) planning authorities. There are two key dimensions to this. The first is the process of validation and the second is the requirements that are made for registration to take place.
- 7.20 With respect to the first, as already stated in the introduction to this report, the case studies carried out for the Killian Pretty Review identify some generally relevant messages for practice in Wales. The key points for validation and registration are summarised below.

Practice Pointer 14: Registration and Validation of Applications (Killian Pretty Evidence)

The case study evidence collected by the Killian Pretty Review (KPR) found that most LPAs in England had a “systems approach” to the registration and validation of planning applications. Typically administrative staff had responsibility for undertaking basic checks to determine whether applications were complete, whilst technical staff undertook the logging and mapping of applications and professional staff would agree consultees and assign work.

Whilst such an approach allowed LPAs to check that the basic component parts of planning applications were submitted it did not include a review of the quality and accuracy of the documents and plans submitted. Registration processes of this sort were therefore found to be inefficient as once applications were registered and passed to case officers their first task would be to check it, meaning that there was an element of “double handling”. The review therefore recommended that more efficient use could be made of administrative, technical and management staff and that validation procedures should

include consideration of the quality of submitted materials rather than just checking that required items were present.

The KPR research concluded that validation assessments should not be mere box ticking exercise and that skilled staff, who understand the issues involved, should be involved in the validation process. This would help to avoid problems associated with the late identification of the need for additional information to be submitted. In addition LPAs should seek to provide clarification up-front in relation to exactly what they require from applicants.

- 7.21 Some of these messages are clearly common to Wales. However, there are already authorities who are responding (and have been doing so for some time). One example is explained below

Practice Pointer 15: Validation and Registration of Applications in Cardiff

Cardiff Council has a dedicated team within its Planning Department that deals exclusively with the validation and registration of planning applications. Upon receipt, all applications are logged onto a computer system. A checklist is run, the applications are digitised and relevant notes regarding any additional requirements are prepared.

In most cases additional requirements are relatively straightforward, and the validation team will directly contact the applicant or agent to request additional information. In more complicated cases the validation team discuss matters with the Operational Manager before the applicant or agent are approached. Under this approach only 4% of applications submitted to Cardiff Council are returned to applicants without being registered.

Once planning applications have been registered the Council aims to dispatch letters to the Statutory Consultees within 5 days and consultees are provided with copies of all submitted documents in order to speed up the process.

The Authority publishes a list of new applications that have been registered both on the internet and in libraries and consults local residents groups and Community Councils as well as sending letters to neighbours and local ward members.

- 7.22 The second part of validation and registration that causes difficulty is the requirements made for varying types of application. At the moment practice varies across Wales with some authorities adopting an approach that so long as the statutory requirements are met, then nothing more will be required for registration, and others requiring a longer list of documents and plans before an application will be registered. The second approach has seen the national park

authorities produce supplementary planning guidance on validation requirements. This inconsistency has seen an increase in the number of appeals lodged against non validation (which also indicates that the problem is growing and not diminishing).

- 7.23 This strongly points to a need for a more standardised and more proportionate list of validation requirements that responds to the scale, type, complexity, sensitivity and location of the scheme. On the face of it this could be achieved with a better categorisation of development and a strong practice pointer comes for Wales can be found in changes made to the regime in Scotland (see below).

Practice Pointer 16: New Hierarchy of Developments in Scotland

The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, introduced new a new hierarchy of developments in Scotland based upon the typologies of Local, Major and National developments.

Within the hierarchy, the category of National Developments refers to specific projects and types of project referred to within the Scottish National Planning Framework. These include major infrastructure schemes such as a replacement Forth Crossing, rail projects and energy infrastructure development, as well as facilities and infrastructure required for the Commonwealth Games¹⁷.

The definition of Major Development encompasses all development requiring an Environmental Impact Assessment; housing schemes comprising 50 or more dwellings or where the site area is 2 hectares or more; business, industrial and storage and distribution facilities with a gross floor space exceeding 10,000 square metres or on a site of 2 hectares or more; electricity generation schemes exceeding 20 megawatts; waste management facilities with capacity exceeding 25,000 tonnes per annum; transport and infrastructure projects where the length of the road, railway, tramway waterway, aqueduct or pipeline exceeds 8 kilometres; fish farms and mineral extraction sites covering an area of 2 hectares or more; and; any other development or combination of the above with a gross floor area exceeding 5,000 square meters; or where the area of the site is or exceeds 2 hectares e.g. retail development, educational, mixed use etc.

¹⁷ The List of National Developments comprises: a Replacement Forth Crossing; West of Scotland Strategic Rail Enhancements; High Speed Rail Link to London; Strategic Airport Enhancements; Grangemouth Freight Hub; Additional Container Freight Capacity on the Forth; Port Developments on Loch Ryan; Scapa Flow Container Transshipment Facility; New Power Station and Transshipment Hub at Hunterston; New Non-Nuclear Baseload Capacity at Other Existing Power Station Sites; Electricity Grid Reinforcements; Central Scotland Green Network; Metropolitan Glasgow Strategic Drainage Scheme; Commonwealth Games Facilities and Infrastructure.

The categories are intended to assist LPAs in prioritising applications, with National and Major developments treated differently from Local developments. The implications of the hierarchy for the processing of applications in Scotland are as follows:

- pre-application consultation is required for all planning applications for National/Major development but not for Local development;
- LPAs are allowed 2 months to determine applications for Local development but 4 months to determine applications for National/Major development;
- it is assumed that most applications for Local development will be determined under delegated powers, whereas Major/National applications will be decided at Planning Committee;
- interested parties will be offered a hearing at Planning Committee for National developments and Major developments that are significantly contrary to the development plan and in these circumstances the final decision on an application must be taken by the full Council;
- in relation to appeals, all appeals on delegated decisions will be subject to “review” by a Local Review Body but all other appeals need to be made to the Scottish Government; and,
- Design and Access Statements are needed for most Major and National Developments (although not for engineering or mining operations, for changes of use or for planning permission in principle¹⁸). However, in relation to Local development, Design Statements are needed only for certain environmentally sensitive sites and are not needed for engineering or mining operations, for changes of use, for planning permission in principle or for householder applications.

7.24 The clear message from this review is that there should be more consistency between LPAs in relation to the way in which applications are validated and the amount and type of information that is required. This presents a major opportunity to improve a key stage in the planning application process.

¹⁸ Applications for “planning permission in principle” replaced outline planning applications in Scotland in 2009. Conditions are attached to “in principle” planning permissions setting out what further details are required to be approved by way of a further application before work can start.

Recommendation 13: Validation Requirements

Recommendation 13 is to take the best parts of current thinking on validation and apply them to Wales. However, given that there are 25 planning authorities strong priority should be given to three key tasks:

- a) the publication of a single national list of validation requirements (according to the type of application proposed or where they are proposed for example in protected areas). The direction of travel will be that local and scheme specific reductions in requirements will be possible but that no higher requirement will be made;
- b) the categorisation of development under key main headings to guide when certain requirements are triggered. Specific attention should be given to the types of (smaller or modest) development proposals that will trigger limited information requirements to ensure that sufficient information is provided to inform safe and robust decisions; and
- c) the introduction of a basic national convention for naming and indexing documents and plans (this will also be relevant to recommendation 14).

Recommendation 13 Partners: The RTPI, HBF and EA (13a) and PoSW, CBI and EA (13b)

Increasing Use of Electronic Planning Services

- 7.25 Current practice in the use of electronic or on line planning services is inconsistent. Some authorities provide access to significant amounts of information from their websites whilst others do not. Equally some authorities have been more successful than others in securing the submission of applications electronically (and there is clearly a connection between the two). Making better use of technology, including increasing the use of the Planning Portal for both submission of and consultation on planning applications, will clearly help to make the planning system in Wales more efficient
- 7.26 For the focus groups, the electronic submission of planning applications has the potential to save time and money for both LPAs and applicants and to cut down on unnecessary paper work. Figures from the Planning Portal show that this is an area in which Wales can improve quickly. In England, the percentage of planning applications submitted electronically via the Planning Portal during December 2009 stood at 38.2%. In contrast, the most recent monthly figures available for Wales (for October 2009) show 25.1% of applications being made electronically. The comparison between Wales and some of the English regions is even starker, with 47% of applications in the North East of England being submitted using the Planning Portal. However,

this experience demonstrates that it is possible to increase the use of the Portal relatively fast with a 36.3% increase in the number of online applications submitted across England achieved between 2008 and 2009.

- 7.27 The Planning Portal has a target of achieving a 50% electronic submission rate in England by the end of 2010. This target is viewed as ambitious but achievable.
- 7.28 Consultation with those responsible for the Portal carried out for this review, suggests that moving from a paper based application system to an electronic one will pose challenges for all involved. The Planning Portal is responding to this with an ongoing programme of training for both LPA planners and agents. Increased use of the Portal will also bring challenges in terms of hardware and back office functions, with some participants in the process, including statutory consultees, currently still preferring to deal with paper plans as they often do not have the capability to view electronic plans on screens or print them out at the correct scale. Fundamental problems such as this will need to be tackled through investment in new hardware as the system is rolled out.
- 7.29 In addition to these general objectives, there are two aspects of the Portal that warrant particular attention as part of this review. The first is the (e-Consultation) Hub that the portal offers in England and Wales and the second is the use of and application of the interactive guides.

Practice Pointer 17: E-Working – The Planning Portal

The Planning Portal is currently also in the process of expanding its services in relation to electronic consultation (e-Consultation) on planning applications and as of February 2010 six of the 25 LPAs in Wales¹⁹ (representing 24% of the total) were set up live on the Planning Portal's e-Consultation system, known as the e consultation Hub. E-Consultation is designed to make the consultation process faster and more efficient, helping LPAs to monitor the responses of consultees and improving the flow of information to participants in the process including applicants, agents, LPAs, Statutory and non-statutory consultees, community, parish and town Councils, neighbours and other interested parties.

One of the main benefits of the Hub is that it means that consultees are able to access the exact information that they require on an application, whereas at present consultees often complain that they have been provided with either too much or too little information by LPAs. This should result in a reduction in the number of unnecessary consultation responses received by Local Planning Authorities. The Planning Portal

¹⁹ Gwynedd, Flintshire, Ceredigion, Rhondda Cynon Taf, Brecon Beacons NPA and Newport.

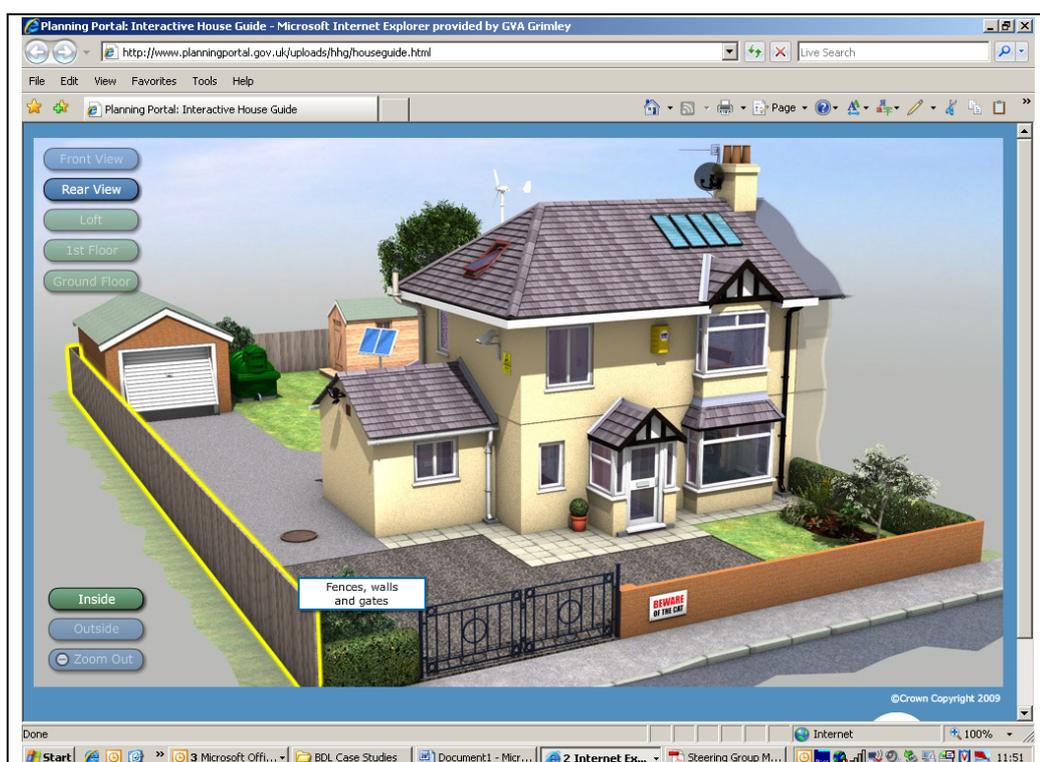
is targeting a 35% reduction in such correspondence which, if achieved would represent a very significant contribution towards delivering a more efficient planning system.

Persuading key consultees as well as LPAs to use the Hub, will be key to its success and in Wales the Environment Agency are already live on the system with Cadw, Countryside Council for Wales and Welsh Water all currently testing it out. Encouraging buy-in by key stakeholders will require a concerted and sustained campaign on the part of the Planning Portal as well as the full support of the Welsh Assembly Government. However, this is considered achievable and is an area in which Wales is capable of providing leadership to the rest of the United Kingdom.

In addition it is suggested within the DCLG's consultation document on improving engagement by statutory and non-statutory consultees, that a new dedicated area should be set up on the Planning Portal website, which will provide more comprehensive information about national consultation requirements and how best to ensure effective consultation with individual bodies.

Interactive Guides

The Planning Portal website offers simple interactive guides to whether planning permission is required for a series of common household projects. Users of the interactive guide (below) are able to click on a particular part of the house in order to get further information on what can be done with or without planning permission. In addition, links are provided to further relevant information.



At present the version of the guide for householders available on the Planning Portal website does not take account of differences between the planning systems in England and Wales. This is unfortunate as the interactive guides represent a highly user friendly mechanism for the provision of advice and could assist in providing greater clarity to applicants as well as helping to reduce the amount of time that planning officers currently spend dealing with relatively straightforward queries. The potential also exists to expand the use of the interactive guide concept so as to provide advice to small businesses as well as householders on some of the most common types of business related developments.

- 7.30 There is clear support for the use of the planning portal and improved access to information on planning applications from Councils' own websites. There is equally clear potential for Wales to improve and accelerate its performance in key areas. Specific challenges exist and there is work to be done, but there is a real opportunity to improve the performance of the process, make it more accessible and reduce the consumption of scarce resources that the production of large amounts of paper and energy can trigger.

Recommendation 14: Increasing Use of Electronic Planning Services

Recommendation 14 is therefore to support the increased use of electronic planning services. This should be done in the following ways:

- a) introduction and achievement of national and local targets for the submission of applications electronically within a specified timeframe. With 25 planning authorities, the clear objective should be to match and exceed performance in England;
- b) making more use of the England and Wales e-consultation Hub;
- c) the use of interactive guides. There is clear scope here to extend this concept to small business users as well (perhaps in conjunction with recommendation 2b. Implementation of recommendation 9 – changes to the GPDO - would assist in accelerating the transfer of the current householder guide to Wales);
- d) standardising access to electronic information within Local Planning Authorities. A minimum standard should be defined; and,
- e) the introduction of a basic national convention for naming and indexing documents and plans, together with the use of more common formatting and quality assurance.

Recommendation 14 Partners: The Planning Portal (14a and 14b), the FSB and the CBI (14c) and Planning Aid Wales (14b, 14c and 14d)

Sharing Expertise and Joint Working

- 7.31 Resources within local authorities and for applicants will be stretched over the next few years. From the local planning authority questionnaire and from the focus group sessions, gaps in expertise are already appearing and it is unlikely that these will be plugged soon. At the same time, it is recognised that there is plenty of knowledge within the local professional sector and within local and central government and that each authority does not need to be equipped with similar resources (either sometimes or all of the time).
- 7.32 In this context there is both substantial need and significant potential for sharing or pooling expertise, and/or joint working across authorities. There are three ways that this approach could be extended to Wales most effectively. The first could be to provide all authorities with access to a central resource for regionally or nationally important projects. The second would be to similarly centralise expertise in specific key tasks or areas. The third would be to organise resources for a specific type of project that is likely to take place in particular area or location. The first two have a national focus, whilst the second would be organised regionally.
- 7.33 With respect to the first model, the experience of the ATLAS group (and the Planning Advisory Service) in England is relevant and is discussed in Practice Pointer 18.

Practice Pointer 18: ATLAS

The Advisory Team for Large Applications (ATLAS) was first established in 2004 and aims to guide stakeholders through the application process in relation to large, complex or strategic development projects. The team forms part of the Planning Advisory Service (PAS) within the Homes and Communities Agency and is able to engage at any stage of the development process when its assistance is requested by a Local Planning Authority. ATLAS began as a pilot scheme, providing advice to Local Authorities in London and the South East, but has now expanded considerably in terms of both its technical expertise and geographical remit. Following the Barker Review of Land Use Planning and the Planning White Paper, which identified it as having a key role to play in the delivery of new housing, ATLAS last year became a national service covering the whole of England.

ATLAS only becomes involved in planning applications at the request of a Local Planning Authority and sites must be large; either housing led schemes (minimum 500 houses) or mixed use regeneration projects (minimum 200 houses). The advice that ATLAS provides is free and the organisation is able to advise LPAs (along with the private sector and other stakeholders) with the aim of assisting in the delivery of key Government objectives in relation to housing and regeneration projects.

The majority of the ATLAS team are qualified planners and the team includes individuals with specialist knowledge of a range of areas including urban design, transport planning, social infrastructure, regeneration and environmental assessment. Access is also available through ATLAS to further specialist knowledge from within the Homes and Communities Agency. The ATLAS Guide (atlasplanning.com) provides advice on how to deal with major development proposals and on the types of issues that the team is able to assist with.

The main focus of ATLAS is on the provision of advice rather than acting as an extra staff resource for LPAs. As such, whilst work is occasionally undertaken by ATLAS staff on behalf of LPAs, in most cases the body simply provides them with guidance. This can include assisting LPAs in identifying and managing external consultants where it is not possible for work to be undertaken in-house. This helps to promote confidence in the planning system and is recognised as having delivered real results through building capacity in the system. The ATLAS team is able to play a particularly significant role when it is involved in the planning application process at an early stage, but are able to become engaged with applications at any stage in the process as and when their assistance is required.

In addition to offering advice and support on a range of issues relating to major development proposals ATLAS has also produced “The Atlas Guide, Planning for Large Scale Development”, which was nominated for a RTPI national planning award in 2009. The team has also developed initiatives such as the use of Planning Performance Agreements and helped to facilitate their inception.

- 7.34 Centralising specific tasks (the second approach) has arguably been piloted with the work of the Three Dragons Consultancy (TDC) on development viability. TDC are the main provider of advice on development viability issues both nationally and locally (through the use of its Development Appraisal Toolkit). The toolkit was initially sponsored by a number of principally south Wales local authorities, although some of these are putting this to one side in favour of the use of the District Valuer. Practice paints an inconsistent picture of the merits and current value of either approach and this could be one area where centralised ownership (by or within the Welsh Assembly Government) could well be worthwhile.
- 7.35 The final model is the sharing (or regional pooling) of expertise for certain types of project which have a more geographic model. The key example here is the work of Carmarthenshire County Council in the sphere of minerals, which is discussed within Practice Pointer 19.

Practice Pointer 19: Minerals – Sharing of Expertise – Carmarthenshire

Planning applications for mineral extraction are of vital importance to the Welsh economy. However, according to a submission to the review made by the Mineral Products Association (MPA), LPAs often lack the technical skills necessary to make recommendations on the full range of material considerations associated with mineral proposals.

An undersupply of specialised minerals planning officers has often led to delays in the determination of important planning applications and the British Aggregates Association have warned that existing shortages could be compounded by a lack of new staff and trainees in the field of mineral planning. One way in which problems relating to resources and expertise within the planning system can be tackled is by joint working between neighbouring planning authorities or groups of authorities to make more effective use of existing resources.

A successful example of cross-boundary sharing of resources is the co-operation between Carmarthenshire County Council, Pembrokeshire County Council, Pembrokeshire Coast National Park and Brecon Beacons National Park in relation to minerals applications. Carmarthenshire has agreements with the other three authorities and under the terms of these agreements the minerals planning team at

Carmarthenshire is now responsible for dealing with planning applications for the other three authorities.

Officers at Carmarthenshire handle the processing of minerals planning applications for the other three authorities, as well as other relevant tasks relating to minerals planning such as pre-application discussions and enforcement work. In return Carmarthenshire Council receives fee income from the applications that it deals with and is able to charge by the hour for other work such as pre-application dialogue. Once applications are taken to planning committee they are dealt with in the areas in which they were originally submitted.

The approach appears to be working to the benefit of all relevant stakeholders, most notably the four Local Planning Authorities and those submitting planning applications within these areas. Accordingly, this represents a potential model for a “centres of excellence” approach which could potentially be rolled out in other parts of Wales and in relation to other types of expertise in which there is an apparent shortage.

- 7.36 There is both compelling need and clear scope for more shared resource and expertise in Wales. This is triggered by the small number of planning authorities. The experience in Carmarthenshire shows how one system is already working and there is clear merit in pursuing this approach for selected issues, projects and tasks.

Recommendation 15: Sharing Expertise

To deal with current and likely shortage in resources and to reflect the capacity and capability of Wales to act as one nation for planning purposes, recommendation 15, is to establish a shared source of expertise for local planning authorities to tap into. The resource could follow two basic approaches:

- a) the first would be to follow an ATLAS model and create a central panel of consultants and advisers for local authorities to call on when local expertise is not available;
- b) the second would be to create regional centres which focus on areas which are subject to specific pressures. This should follow the Carmarthenshire model and could focus on infrastructure, minerals waste, natural resources and energy sectors.

The two models may not be exclusive (and probably are not given the success of the minerals group). Whichever is pursued, priority should be given to coordinating expert advice and practice on development viability and the ways in which planning obligations can be used to stimulate development as well as control it. Other key issues identified during this review include community safety and the emergency

services, access and disability issues (in both areas substantial progress and expertise is available through the Association of Chief Police Officers and the Access Groups); coal and mining issues (with progress made by the Coal Authority) heritage, archaeology (through the work of the Archaeological Trusts) and historic buildings.

Recommendation 15 Partners: ATLAS and the Planning Advisory Service (15a) and the PoSW, DCfW and RTPI(C) (15b)

- 7.37 Consideration should be given to two further recommendations that were made following the consultation on this review. The first was made by Capita Symonds and focuses on the creation of a Planning Centre of Excellence for Wales (CPEW). Capita's recommendation (which was raised at the Focus Group and explained further in its submission to the review) captures the purpose and function of the Centre very well:

“The functions of a CPEW would be to research and disseminate planning knowledge, share best practice, [and] act as a bridge between planning departments and the development community to create a shared agenda to the benefit of the communities, the environment and economy of Wales.”

- 7.38 The second recommendation was to consider the scope for neighbouring authorities to consider offering the development management function jointly. This has the added advantage of unifying the operation of the planning application process (which is a key objective for this review).

Implementing planning permissions

- 7.39 The local planning authority questionnaire illustrates that most authorities try to involve applicants in the discussion of planning conditions. This is encouraging. However, the focus groups made two main findings. On one hand, there is a clear concern from applicants that the number and terms of conditions are increasingly onerous – with some claiming that clearing conditions can take as much time (and resource) and create as much risk as the application itself. On the other we have authorities and other interested parties maintaining that some conditions do not go far enough or are not pursued or enforced with appropriate vigour (either to ensure the development that is constructed matches that which was applied for or proceeds in the manner that was expected when permission was granted. Clearing conditions was also placing an additional and often heavy burden on the statutory consultees.
- 7.40 Providing common or better guidance on conditions has been attempted recently in Wales by the Planning Officers Society and the

Planning Inspectorate and a model set of conditions does exist which provides on practice pointer for the review²⁰.

Practice Pointer 20: Planning Inspectorate Wales Conditions

The Planning Officers Society and the Planning Inspectorate agreed that it would be useful for LPAs and Inspectors if the Planning Inspectorate published a list of model conditions to supplement those contained within Circular 11/95 and joint Welsh Office Circular 35/95. The Inspectorate's website contains a list of model conditions covering the following matters:

- access;
- advertisements;
- affordable housing;
- car free housing;
- code for sustainable homes;
- conservation area;
- caravans;
- construction method statement;
- decentralised energy supply;
- details;
- garage / car spaces;
- glazing;
- gypsy;
- hours of use;

²⁰ The Planning Inspectorate website suggests that the above list of conditions relate to Wales. However, review of the conditions suggests that they contain reference to the English planning policy guidance. Accordingly, a review of these model planning conditions may be necessary to ensure that they are specifically relevant to Wales. Such a review could also allow for new model conditions to be created to deal with the new planning requirements for sustainable buildings introduced by the recent MIPPS 01/09: Planning for Sustainable Buildings and TAN 12: Design.

- listed building;
- live / work units;
- noise;
- occupancy; and,
- parking.

7.41 No matter how desirable these conditions may or may not be, the presence of this list is clearly not common knowledge and has not informed common practice. It has also not kept pace with emerging thinking on the subject. The RTPi planning consultants focus group in particular pointed to the age of guidance on conditions and the work underway in England to modernise the approach (see below). Other concerns were raised at the architects, academia and the professions focus groups (and in submissions made thereafter by the Law Society) on the connection between conditions and planning obligations.

Practice Pointer 21: DCLG Consultation Paper – Improving the Use of Conditions (December 2009)

At the end of 2009, the DCLG consultation paper proposes an update of Circular 11/95, which sets out current policy on the discharge of planning conditions in England. The two key objectives set out within the document are those of increasing the efficiency of the planning application system and reducing unnecessary delays to the commencement of new developments. The key measures being consulted on are:

- 1) making the discussion of conditions a key component of pre-application engagement so as to resolve key issues prior to the submission of applications and improve the quality of development proposals;
- 2) structuring decision notices using a set format with 4 standard headings (time limit; pre-commencement; pre-occupation; regulatory or ongoing) that would be helpful in assisting developers in project management;
- 3) sharing draft decision notices for major applications with applicants before decisions are taken to allow consideration and comment;
- 4) shortening the time limits for LPAs to determine applications made for consent, agreement or approval required by a condition attached to a planning permission;

- 5) use and discharge of planning conditions to be monitored as a key performance indicator;
- 6) introduction of a fast-track conditions appeals service if a LPA refuses an application for approval of details reserved by a condition or if a decision on such an application was not forthcoming within statutory timescales;
- 7) developers to notify LPAs prior to starting development through submission of a commencement notice, placing an onus on developers to ensure that all relevant requirements attached to the permission have been met;
- 8) developers to be required to display decision notices, conditions and discharge confirmations on site (in order to help ensure that pre-commencement conditions are met before work starts); and,
- 9) introduction of “default approvals” whereby applications for the approval of planning conditions would be deemed to be granted unless the LPA objected within a certain timescale (increasing certainty for developers and placing pressure on LPAs to produce timely decisions).²¹

7.42 Many of the concerns that lie behind the DCLG’s consultation apply to Wales. Users of the planning system believe that an increasing number of conditions were being attached to decision notices by LPAs – especially those requiring substantial further submissions before development commenced. This reflected a number of underlying problems: the inadequacy of pre-application discussions, a lack of time available to resolve problems (due to the pressure on authorities to make quick decisions) and the desire of applicants to leave matters of detail until after the principle had been agreed. All of this points clearly signal the need for better and more contemporary guidance on the scope and content of planning conditions in Wales.

Recommendation 16: Planning Conditions

A rapid and thorough guidance note on the use of planning conditions should be issued. This should focus on the approach to be taken to the attachment of conditions in Wales, but should provide specific guidance on:

- a) the better categorisation of conditions;
- b) a more proportionate approach to the pre-commencement stage and pre-commencement or prior notification conditions;

²¹ Measures 7, 8 and 9 could require new legislative powers.

- c) the inclusion of conditions that allow more flexibility to planning permissions;
- d) the involvement of statutory consultees and other groups in the drafting of conditions and approval of information submitted to discharge them;
- e) the use of the term unless otherwise agreed with the planning authority (and the limits or extension of such an approach where the condition has been requested by a third party);
- f) the connection possible between conditions and obligations;
- g) guidance on the link between effective monitoring and enforcement and the content (and scope) of planning conditions;
- h) the introduction of timescales for the discharge of conditions; and,
- i) the scope to discuss conditions at the pre-application and validation stages so that applicants are aware of the likely requirements (and can make or adjust submissions accordingly).

Recommendation 16 Partners: The Planning Inspectorate.

7.43 This guidance note could and perhaps should precede a circular on planning conditions in Wales. However, any connection should not delay the introduction of more general and more modern guidance. Particular attention could be paid to the better standardisation of conditions to focus on those that would or should feature on all decision notices – including for example the condition specifying the approved plans so that these could be adjusted, thereby allowing greater flexibility. The list of model conditions prepared by the Planning Inspectorate in Wales could provide a starting point (or a head start) for this exercise, although as currently drafted the list includes references to English planning policy guidance. Any revision must ensure relevance to Wales and could also provide the right vehicle for new model conditions associated with new planning requirements for sustainable buildings (introduced by MIPPS 01/2009 Planning for Sustainable Buildings and TAN12 Design).

8.0 Implementation Plan

- 8.1 The recommendations from the review all have a practical dimension and should all be considered as significant priorities. However, in the context described earlier in this report (at the end of section 4), some are clearly more urgent, some are unlikely to be addressed by any other organisation or initiative and some clearly have a better chance of successful implementation given resources and timescales.
- 8.2 These three general themes (urgency, alternatives and practicality) have driven a simple implementation guide for the recommendations. This is contained in the table on the next page of the report. Three points warrant a little further explanation.
- 8.3 With respect to timing, the table uses three basic terms or horizons. These refer to the time within work should commence on the recommendations (with the clock starting from when they are agreed)

Priority Guide:

Immediate	0-3 months
High	3-12 months
Medium	12 months plus

- 8.4 This identifies some very urgent tasks where some very urgent progress is required. However, this is achievable given that the four immediate actions can be taken forward with no legislation and could be introduced or inserted (where necessary) into a policy initiative that is in Welsh Assembly Government's (or its partners) control (and may already be underway). The recommendations can also be discharged quickly with simple and straightforward action that does not rely on significant consultation. The immediate actions will all, however have a clear practical purpose that respond to the findings of the review.
- 8.5 The second aspect of the recommendations is that they identify a series of delivery partners. Whilst the driving force behind them will rest with Welsh Assembly Government (see below), a basic theme of this review is on collaboration and shared responsibility to maintain the momentum that the review has created. It is therefore incumbent on all involved with the process to seek its improvement and share in the achievement of that improvement. The organisations selected have a clear contribution to make to the recommendations and the majority have either made an important and welcome contribution to the review (or have offered their assistance or involvement with the specified recommendations).
- 8.6 The final point (and despite the above) is that whilst responsibility for the effective implementation of the recommendations is shared, it will

need to be driven by Welsh Assembly Government. This “ownership” needs to be clear, centralised and very senior (and ideally at Ministerial level). The final recommendation of the report could thus be for Welsh Assembly Government to quickly consider the content of this report and to identify a senior figure (or team) which is charged with implementing its recommendations (or those which are agreed following consultation and further exchanges).

Implementation Plan

Theme	Recommendations	Priority	Key Non-WAG Agencies
Understanding Business Rationale and improving responsiveness to business	1) Policy Statement on Economic Development	Immediate	RTPI(C) CBI/Cardiff Business School CBI/FSB/POSW FSB, FUW/NFUC, PAW Institute of Economic Development RICS
	2a) Information Exchange between business and planning authority	Medium	
	2b) Refreshed Planning and Business Handbook	High	
	2c) Economic Development Consultee/advisory role	Medium	
	2d) Specimen LDP Policy on business development	Medium	
WAG impact and intervention	3) Clarity on scope, content and trigger point for Design and Access Statements	Immediate	DCfW, RSAW, RTPI, HBF
	4) Improvements to guidance processes	High	Cardiff University School of City and Regional Planning
	5) Pause on new guidance/review of guidance programme	Immediate	-
Culture: Starting Point	6) Policy Statement (or completion of Draft TAN17) on key principles of development management to be applied in Wales	High	RTPI, CBI and Planning Aid/One Voice Wales
Culture: Consultation	7 Review of consultation procedure and performance (if separate to above)	High	RTPI, Environment Agency, CCW and PAW/One Voice Wales
Culture Organisation	8) Issue of best practice note on development management delivery	Medium	PoSW
	9) Issue of best practice note on committee structure and techniques	Medium	WLGA
Operation: Reducing the Number of applications	10) Changes to the GPDO/UCO	Medium	PEBA, Coal Authority
	11) Issuing protocols on minor amendments	High	RTPI, HBF
Operation: Pre-Application Advice	12) Issue of Practice Note on Pre-Application Discussions	High	PoSW, HBF, PAW, RTPI(C) (in conjunction with EA, ACPO, BW, MOA)
Operation: Validation	13a) National Validation List	Immediate	RTPI, HBF, EA
	13b) Redefined development hierarchy/requirement trigger	High	PoSW, CBI, EA
Operation: E-Planning	14a) Establishing national targets for the on line applications	High	Planning Portal
	14b) Extending the Hub approach to Wales	Medium	Planning Portal, PAW
	14c) Extending interaction to small business	Medium	FSB, CBI, PAW
	14d) Standardising on-line application information availability	High	PAW
Operation: Shared Expertise	15a) Establishing central professional panel	High	ATLAS, PAS
	15b) Extension of Regional/Central Pools of Expertise concept	Medium	PoSW, DCfW, RTPI(C)
Operation: Implementation	16) Guidance note on planning conditions	High	Planning Inspectorate

9.0 Conclusions and Next Steps

- 9.1 The review of the planning application process in Wales has discovered a system which clearly needs improvement. It does not however require structural change or, significant new primary legislation, and many changes that can and should make a real difference to all practitioners can be introduced swiftly without significant resources.
- 9.2 These changes go to the heart of the planning application process – and extend from its basic starting point, and the culture adopted by the main regulators, to proposals to provide more unity to the planning application process in Wales and more precise recommendations on improving key stages of the process. These recommendations have all been assessed in the context of a review that has a clear economic focus, but not one that in anyway disturbs the Assembly Governments commitment to sustainable forms of development.
- 9.3 The recommendations have been guided and informed by three key pieces of research:
- a) a comprehensive questionnaire which was sent out to all planning authorities (and the three national park authorities) in Wales;
 - b) a series of focus groups which sought the experience and intelligence of other groups; and,
 - c) the assembly of a series of case studies or practice pointers to help inform the recommendations made by the review.
- 9.4 A review of available literature on research and practice from Wales and elsewhere has also been completed.
- 9.5 In the light of this very significant body of research, the review concludes that making the application process better, rests on managing the complexity associated with the process, reducing uncertainty and improving the responsiveness of all involved (and of the system to national and local strategy). Recommendations to help the system achieve this are made by the review under three separate themes or headings.
- 9.6 The first theme is to improve the **understanding** of basic positions and the impact of intervention. Two key areas are identified – economic development and the role and potential of the Welsh Assembly Government. The following recommendations are made:
- 1) The preparation of a draft policy statement on Economic Development.

- 2) A series of measures to improve the responsiveness of the planning system to the needs of business.
- 3) The provision of clarity on the scope, content and trigger points for Design and Access Statements.
- 4) Improvements to the way in which guidance is issued.
- 5) Consideration of a pause in the short term on further guidance together with a review of the current programme.

9.7 The second theme is changing the **culture** associated with the planning application process. Two dimensions have been identified—the starting point that is taken and the way in which planning authorities respond professionally and politically to the challenges they face. The recommendations under this theme are as follows:

- 6) To apply the key principles of the development management approach.
- 7) A review of the potential and performance of consultation and its effectiveness.
- 8) The production of a best practice note on the (organisational) delivery of the development management function (within local planning authorities).
- 9) The production of a supplementary guide to align (and standardise) committee structure and processes.

9.8 The final (and largest set of recommendations) concern the **operation** of the planning application process. These recommendations span all stages of the process and are as follows:

- 10) Changes to the General Permitted Development Order and the Use Classes Order and the introduction of a new class for business.
- 11) Introducing procedures for non-material and minor changes to be made to approved schemes without the need for planning applications.
- 12) Issuing a practice note on the scope and content of pre-application discussions.
- 13) Unifying and easing validation practice through the production of a national list and a redefined development hierarchy.

- 14) Extending e-planning in Wales by more use of the e-Consultation Hub and the extension of the interactive guides within Wales (and the addition of an interactive guide for business) and the standardisation of information to be accessible on line;
 - 15) The introduction of a central panel of expertise in key topic areas – with an initial focus on development viability.
 - 16) The production of new guidance on planning conditions – with special emphasis on pre-commencement, flexibility and the approach to conditions and obligations.
- 9.9 The recommendations are supported by examples and practice to inform how they should be taken forward (and who should be involved with the Welsh Assembly Government to deliver them). Immediate priorities for Wales (on which work should commence within three months of these recommendations being agreed) are:
- a) the planning policy statement on economic development;
 - b) issuing clarity on the scope, content and trigger for Design and Access Statements;
 - c) reviewing the guidance programme and consideration of a short term pause in the issue of further guidance; and,
 - d) the production of a national validation list for the planning authorities in Wales.
- 9.10 Progress on these issues and matters has the potential to significantly improve both the performance and potential of the planning application process. In particular the recommendations should significantly and quickly help to:
- a) make the application process more predictable and accessible;
 - b) make the process more responsive and proportionate (especially to the needs of business);
 - c) focus resources on the most important tasks (whilst making the most of the expertise and experience that is already available);
 - d) use current and emerging best practice to accelerate the introduction of a more positive approach to the management of development (rather than just its control); and
 - e) create a more inclusive process.

- 9.11 The recommendations will also send a clear signal that practical improvements that can provide a real dividend can be made simply and effectively without significant resource implications (unless these are positive). This in itself reflects a key message from the review – that improvements to the process are as much to do with its operation as they are to do with the legislation behind it.

Appendices

Appendix 1: Welsh Assembly Government Research Specification

Contract number: C-34/2009/10



Llywodraeth Cynulliad Cymru
Welsh Assembly Government
Parc Cathays / Cathays Park
Caerdydd / Cardiff
CF10 3NQ

Contracting Authority: The Welsh Ministers

SPECIFICATION FOR A STUDY TO EXAMINE THE PLANNING APPLICATION PROCESS IN WALES.

(CONTRACT NUMBER : C-34/2009/10)

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CONTRACT No C-34/2009/10

Background

1. The Welsh Assembly Government is committed to the continuous improvement of the land use planning system in Wales. Its aim is for the planning system to be efficient; delivering timely, quality decisions that are fair, consistent and transparent and in line with national policy and up to date development plans. It is important that the planning system supports the needs of the economy and is able to respond effectively and operate efficiently and proactively in respect of development. It has a key role in delivering the Assembly Government's economic agenda and in supporting its fundamental priorities in respect of tackling climate change and promoting sustainable urban and rural development.

2. The Minister for the Environment, Sustainability and Housing announced the intention of the Assembly Government to undertake a comprehensive review of the operation of the planning application process in Wales. (web-address to Cabinet Written Statement, 10 December 2008:- <http://wales.gov.uk/about/cabinet/cabinetstatements/2008/planapp/?lang=en.>)

This study will examine the process from pre-application advice, the decision being made, the discharge of conditions to permission being granted. The study will identify and address barriers to efficiency that contribute to poor, untimely decision making as well as identifying good practice. The Assembly Government has noted the Final Report of the Killian Pretty Review "Planning Applications: A faster and more responsive system" (November 2008) and the UK Government Response to its recommendations - "Government Response to the Killian Pretty Review" (DCLG/BERR March 2009.) The UK Government has a number of work streams underway or proposed that are intended to contribute to the overall aim of streamlining the planning application process to improve efficiency. The development management systems in England and Wales although similar, are not identical and vary in different legislative aspects. The Assembly Government will take account of the developing work

programme of the UK Government in this field and in addition has its own work streams underway or being planned to contribute to overall improvements in development management. This research project will examine distinctive Welsh issues and concerns arising from the planning application process.

Aim

3. The Welsh Assembly Government, on behalf of the Welsh Ministers, (subsequently referred to as the Client) wishes to commission a study to examine barriers to the efficient delivery of timely planning application decisions and also to identify good practice in the processes undertaken to deliver planning decisions in Wales and elsewhere.

Objective

4. The objective is to identify the barriers to the efficient and timely operation of the planning application (outline and detailed) system and consider opportunities to improve performance by all the players in the system. Current good practice should also be identified. This should involve the analysis of the effectiveness of the application determination processes undertaken, with the main focus on:

- Major planning applications.
- Minor planning applications and
- Householder planning applications.

Other planning applications such as – Listed Building Consent, Consent to display an Advertisement, Conservation Area Consent, Lawful Development Certificate- existing use and proposed use, Tree works, Hedgerow removal, Prior Notification re agricultural, forestry and telecommunications development, Demolition, Removal / Variation of conditions / reserved matters will also need to be considered.

5. Some planning applications require **transport assessment** as set out in TAN 18 “Transport”, Annex D (Welsh Assembly Government, March 2007). Consideration of the processes and development thresholds set out in Annex D should be undertaken (see also paragraph 7 – Consultation Document – Changes to Planning Policy Wales to Support the Requirement for Travel Plans for Specific Types of Development).

A variety of development uses should be considered and included in the overall analysis including applications for **onshore wind development** of up to 50 MW.

Methodology

6. The Client requires tenderers to propose an appropriate methodology for this work at return of tender. The rationale for the methodology should be clearly stated, as should the ability to achieve the above objective and deliver the required outputs within the specified timescales as indicated in paragraph 11 below. The client would expect the following phases of work to be addressed:

Phase 1	Development of a questionnaire to be sent to all local planning authorities in Wales to examine their planning application processes.
Phase 2	A - Establishing a methodology to select case studies; and, B - Undertaking a series of case studies to examine the experience of local planning authorities and other stakeholders regarding the issues set out in paragraph 4 in greater detail. Some case studies should be drawn from the nine rural authorities - Carmarthenshire, Ceredigion, Conwy, Denbighshire, Gwynedd, Isle of Anglesey, Powys, Monmouthshire and Pembrokeshire, as well as from the urban authorities and a National Park Authority.
Phase 3	Undertaking a number of focus groups of key stakeholders to explore their experience of the planning application

	process
Phase 4	Synthesis of issues and development of recommendations, culminating in the preparation of a draft final report.
Phase 5	To produce the final report bilingually in PDF and Word formats.
Phase 6	To disseminate the results of the study at events to be organised by the appointed contractor - one in North and one in South Wales. Identified venues will have to be agreed by the Contract Manager.

Key Sources of Information

7. The following key sources of information provide some context for this project:

- Planning Policy Wales. Welsh Assembly Government, 2002 – supplemented by Ministerial Interim Planning Policy Statements and a series of Technical Advice Notes, Clarification Letters and Circulars – (Available on web-address: <http://wales.gov.uk/topics/planning/policy/?jsessionid=fQ1nKnphBys4sfycWz3RW1tnfwyLp5pvrZz6PRtd2r7hScy1yjRG!58552806?lang=en>)
- Ministerial Interim Planning Policy Statement 01/2009 – Planning for Sustainable Buildings (Welsh Assembly Government, May 2009) – (Available on web-address: <http://wales.gov.uk/topics/planning/policy/mipps/mipps012009/?lang=en>)
- Draft Technical Advice Note 22: Planning for Sustainable Buildings (Welsh Assembly Government, May 2009) – (Available on web-address: <http://wales.gov.uk/consultations/planning/drafttan22/?lang=en>)
- Draft Technical Advice Note 17 Planning and Managing Development (Welsh Assembly Government, August 2007) - (Available on web-

address:

<http://wales.gov.uk/consultations/closedconsultations/planning/1631055/?lang=en>)

- Changes to Planning Policy Wales to Support the Requirement for Travel Plans for Specific Types of Development – Consultation Document – (Welsh Assembly Government, July 2009) – (Available on web-address: <http://wales.gov.uk/consultations/planning/?lang=en>)
- The Wales Planning Policy Development Programme - Review and Evaluation of the Development Control Monitoring Process (Welsh Assembly Government, May 2008) – (Available on web-address: <http://wales.gov.uk/topics/planning/planningresearch/publishedresearch/dcstatsresearch/?lang=en>)
- Development Control Statistics (Welsh Assembly Government) – (Available on web-address: <http://wales.gov.uk/topics/planning/devcontrolquarterlysurvey/?lang=en>)
- The Wales Planning Policy Development Programme – Research Project for a Review of Mobile Phone Operators Permitted Development Rights (Welsh Assembly Government, November 2008) – (Available on web-address: <http://wales.gov.uk/topics/planning/planningresearch/publishedresearch;/jsessionid=9wnJKnyBYJyG24VCvx7tnQGTJ8TmkVRJ41nQfvnwCCqdpdwq1M0!58552806?lang=en>)
- Planning applications: A faster and more responsive system. Final Report The Killian Pretty Review (DCLG, November 2008)
 - Research Report 1 – Review of Case Studies (Addison and Associates / ARUP, November 2008).

- Research Report 2 – Survey on Public Availability and Use of Guidance on Planning Applications (YouGov, November 2008)

(Available on web-address:

<http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyimplementation/reformplanningsystem/killianprettyreview/>)

- Government Response to the Killian Pretty Review (BERR, DCLG, March 2009) – (Available on web-address: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyimplementation/reformplanningsystem/killianprettyreview/>)
- The Validation of Planning Applications: Guidance for local planning authorities (DCLG, December 2007) – (Available on web-address: <http://www.communities.gov.uk/publications/planningandbuilding/validationplanningapplications>)
- Review of Information requirements for the validation of planning applications (DCLG Killian Pretty Review, November 2008) – (Available on web-address: <http://www.communities.gov.uk/publications/planningandbuilding/reviewplanningapplications>)
- Circular 02/08: Standard Application Form and Validation (DCLG, 12 March 2008) – (Available on web-address: <http://www.communities.gov.uk/publications/planningandbuilding/circularstandardvalidation>)
- Non Householder Minor Development Consents Review – Final Report (DCLG, November 2008) – (Available on web-address: <http://www.communities.gov.uk/publications/planningandbuilding/finalconsentsreview>)

- Technical Advice Note 12: Design (Welsh Assembly Government, June 2009) - (Available on web-address: <http://wales.gov.uk/topics/planning/policy/tans/tan12/?lang=en>)
- Pembrokeshire Coast National Park Authority – Planning Service. Wales Audit Office (May 2009) – (Available on web-address: http://www.wao.gov.uk/nationalparks_748.asp)
- Snowdonia National Park Authority- Planning Service. Wales Audit Office (May 2009) - (Available on web-address: http://www.wao.gov.uk/nationalparks_747.asp)
- Brecon Beacons National Park Authority- Planning Service. Wales Audit Office (May 2009) – (Available on web-address: http://www.wao.gov.uk/nationalparks_749.asp)
- Report from Discussion Workshop RTPI/ POSW How is Planning Able to Aid Economic Recovery? (March 2009) – (Available on web-address: <http://www.rtpi.org.uk/download/6418/Discussion-report.pdf>)
- Responses to Minister for Environment, Sustainability and Housing call for evidence- letter of 24 February 2009 to members of Wales Planning Forum (February 2009) – (Available on request)

Products

8. The Client will require an electronic copy of the final report in PDF and Microsoft Word formats, in both English and Welsh. The final report will need to be submitted in accordance with the timetable set out in paragraph 11 and at least two weeks prior to the dissemination events. The client will also require a bilingual 100 word summary of the project and its principal findings suitable for publication on the Internet. Where tenderers consider that

additional work to that specified should be undertaken then this should be specified and priced clearly and separately.

Costs

9. All costs associated with the bid should be included in the attached price schedule (Appendix 3). This will include costs for delivering the products specified above, and in disseminating the final report at two events (see paragraphs 6 and 12). All aspects of the tenderers chosen methodology should also be included in the price schedule, for example, the conducting of focus groups.

10. Travel and subsistence expenses incurred by the appointed contractors in the delivery of the contract will be paid at the Client's rates – a copy is attached at Appendix 1

Timetable

11. The Client has produced a timetable of events (see below) that will ensure the work is completed on schedule. Any variations to these milestones must be agreed, in advance, with the Client and confirmed in writing by the Contract Manager. The work will be undertaken during the period August 2009 to February 2010. However, tenderers should note that the timetable is advisory and may be subject to change, for example, by additional steering group meetings. (see paragraph 28 below for research steering group details).

Project start date	w/c 24 August 2009
Inception meeting	w/c 31 August 2009
Steering Group meeting	w/c 22 September 2009
Submission of report on initial findings	November / December 2009

Steering Group meeting	November / December 2009
Submission of draft final report	January 2010
Steering Group meeting	January 2010
Submission of final report	February 2010
Dissemination events	February 2010

12. The client will require the appointed contractor to organise and facilitate two dissemination events to be held at venues - one in North Wales and one in South Wales at the completion of the project. The location and venues of these events will need to be discussed and agreed with the Contract Manager to ensure their suitability. This will include the issuing of bilingual invitations to a list of organisations and individuals to be agreed with the Contract Manager. A copy of any presentational materials used in the dissemination events will be required for retention by the Client.

Welsh Language Scheme

13. The successful contractor will need to ensure that services provided through this contract are compliant with the Welsh Language Scheme for the Welsh Assembly Government. A copy of the Scheme can be found at:

English

<http://new.wales.gov.uk/topics/welshlanguage/publications/06wlangscheme/?lang=en>

Welsh

<http://new.wales.gov.uk/topics/welshlanguage/publications/06wlangscheme/?lang=cy>

Contract number: C-34/2009/10

14. The appointed contractor will be responsible for providing a fully proof-read Welsh Language translation of the final report in compliance with Section 5.4 of the Scheme.

15. Language and translation requirements are highlighted in the preceding paragraphs. Any other activity not mentioned above which is relevant to the contract should comply with the commitments in the Scheme.

Translation Rates

16. All translation work (English-Welsh: Welsh-English) required under this contract will be paid at a maximum of the Client's rates – (copy attached at Appendix 2).

Financial Standing and Resources

17. The Welsh Assembly Government wishes to ensure that suppliers have the necessary financial standing and resources to meet their obligations throughout the duration of this contract. This may include (where appropriate) considering your level of existing work commitments and the potential impact on resources that awarding a contract would have.

18. In deciding to tender for a contract, you should also be aware and take in consideration the risks of becoming over-reliant on the Welsh Assembly Government's business, or indeed that of any customer. In doing so, you should take into account earnings from any other work undertaken for the Assembly Government as well as potential earnings from this contract.

Freedom of Information

19. The Welsh Assembly Government is committed to open government and operates under a Code of Practice on Public Access to Information to meet their responsibilities under the Freedom of Information Act 2000. Any information submitted by you in connection with this tender may need to be disclosed in response to a request under the Act.

20. If you consider that any of the information included in your tender is commercially sensitive, please identify it and explain (in broad terms) what harm may result from disclosure if a request is received, and the time period applicable to that sensitivity. You should be aware that, even where you have indicated that information is commercially sensitive, we may be required to disclose it under the Act if a request is received.

21. You will be consulted if we receive a request for disclosure of any of the information you have identified as commercially sensitive.

Environmental Statement

22. The Client is committed to minimising the effect of its day to day operations on the environment and contractors are encouraged to adopt a sound, proactive environmental approach, designed to minimise harm to the environment. Factors to be considered should include areas such as:

- adopting an environmental management system which includes focus on disposal of waste and packaging;
- more efficient use energy and water;
- beginning to embed sustainability into the provision of goods and services supplied to the Welsh Assembly Government;
- use of recycled paper containing only post-consumer waste for all non-specialist printing whenever possible;
- reduction in carbon dioxide emissions from business travel by extending use of video- conferencing and encouraging the use of low-emission vehicles; and
- building an environmentally- friendly work culture through training and high quality communication with staff.

Contract number: C-34/2009/10

23. Whilst on site the contractor should be aware of, and actively support, the Client's Environmental Policy Statement which will be made available to you in advance or on arrival.

Contract Award Criteria

24. All bids will be evaluated against the following criteria, which are listed in order of importance and weighted:

Evaluation Criteria	Weighting
<p>1. Quality of proposal to meet the objectives, including response to, and understanding of the project brief:</p> <p>A – A sound appreciation of the land use planning system and its processes, procedures and legislative basis in Wales.</p> <p>B – An understanding of the importance of evidence based policy and procedure making and evaluation skills.</p>	<p>45%</p> <p>30%</p>
<p>2. Cost - Total life cost of the contract as per your proposal in the price schedule.</p>	<p>15%</p>
<p>3. Demonstration of ability to fully meet the timetable.</p>	<p>10%</p>

25. Tenderers may be invited to meet the Contract Manager for clarification purposes in support of their tender at the Client's offices in Cardiff. The meetings, if held, are likely to take place during the week commencing 17 August 2009.

Skills Required

26. The appointed contractor must have excellent drafting and presentational skills and experience of expressing complex issues in clear and simple language. They will also need to demonstrate an understanding of the importance of evidence based policy and procedure making and evaluation skills. A sound appreciation of the land use planning system and its processes, procedures and legislative basis in Wales and elsewhere is also required. These skills should be demonstrated by reference to their recent track record.

Monitoring

Client's Contact Point

27. The Contract Manager for the Client will be **Mr Dion Thomas** within the Planning Division of the Welsh Assembly Government. The Contract Manager will be the point of contact for the Contractor during the course of the contract. He may elect to meet a named representative of the Contractor as and when necessary to discuss any issues which may have arisen during the provision of the service.

28. A Research Steering Group will be convened to oversee the project with the Chair and representatives being drawn from within and outside of the Welsh Assembly Government. The research steering group will monitor progress and provide guidance on objectives, output and information needs on any technical or procedural issues that may arise. The appointed contractor will be required to attend all Steering group meetings. The appointed contractor will be expected to provide within 5 working days of each meeting, a draft record for approval by the Contract Manager prior to

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despatch to the members of the research steering group. The reports specified under **Timetable** (paragraph 11) should be emailed to the research steering group members at least 3 working days before the meeting.

Contractor's Personnel

29. Tenderers should provide the names of personnel to be assigned to the contract, brief CVs, their status in the organisation, their previous experience of dealing with contracts of a similar nature and their specific input into the study in terms of days and rates. A Price Schedule is attached for this purpose (Appendix 3). Tenderers should also give details of a nominated contact point.

30. In the event of non-compliance with the Specification, the following procedure will be followed:

- notification of complaint and requirement to comply;
- notification of unacceptable practices and/or substantial non compliance to the Specification of the services;
- recourse to the conditions of contract.

Payment

31. The client will make a budget of £70,000 available for the purposes of this contract. However, tenderers should be aware that this budget information is for indicative purposes only and that the client will be seeking to award the contract on the basis of the criteria stated at paragraph 24 above and best value.

32. Stage payments for this project will be as follows:

- a first stage payment of 20% of the total fee will be paid upon the satisfactory submission of an interim report on the initial findings (end of Phase 4);

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- a second stage payment of 75% of the total fee will be paid upon the satisfactory submission of the final report (end of Phase 5);
- the final 5% payment will be paid following the successful hosting of the dissemination events (end of Phase 6);

and within 30 days of receipt of a correctly submitted invoice. Invoices must show a full breakdown of costs that clearly relate back to the successful contractor's submitted bid.

Security

33. If the successful contractor requires for its personnel, frequent and uncontrolled access to the premises of the Welsh Assembly Government, or where such personnel have access to restricted information, or proximity to public figures, then all such personnel must satisfy the security requirements of the Client by completing a security questionnaire. No contractor personnel will be issued security passes until they have obtained the required security clearance. Until then, they will be issued with a temporary pass and will have to be escorted by a member of staff each and every time they have access to the premises.

Electronic security - electronic media of any type or format supplied to the Planning Division by the contractors must be checked for viruses before shipment.

Changes to the Specification

34. This specification document sets out the Client's current service requirement. It is possible that during the life of the contract, changes, for example, in the nature and volume of the work and the timescale or other requirements will arise. Changes to the Specification will be implemented by issuing written amendments to all those affected by the changes.

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Conditions of Contract for Research Services

35. The Conditions of Contract for Research Services (enclosed) should apply in relation to this contract. The contractor must have regard to these Conditions.

Ownership

36. Ownership of all information provided by the Client for use in the contract and all reports prepared will rest with the Client.

TRAVEL & SUBSISTENCE RATES FOR CONTRACTS

MOTOR MILEAGE ALLOWANCES

All travel should be kept to a minimum and other options such as video conferencing should be considered when possible. If transport is required then the best value for money form should be used.

Standard Rate	p per mile
Public Transport Rate	30

RAIL TRAVEL

Rail travel in conjunction with a contract can only be charged at Standard class. Any expenditure must be supported by receipts.

SUBSISTENCE RATES

Day Subsistence Allowance – reimbursement for daytime refreshments

These can be claimed when an overnight stay is not required. Hours are time away from permanent place of work. Only one rate will apply.

4 - 10 hours	Meals to Maximum of £9
Over 10 hours	Meals to Maximum of £27

Any expenditure must be supported by receipts.

Overnight Subsistence Allowance

Overnight stays should be kept to a minimum. If an overnight stay is required then the costs below can be claimed supported by receipts

London	Actual cost of B& B up to ceiling of £125.00, and a Personal Incidental Allowance of £5.00 a day
Elsewhere	Actual cost of B& B up to ceiling of £95.00, and a Personal Incidental Allowance of £5.00 a day

If you are staying in a location other than a hotel you can claim as follows:

Staying with friends/relatives Or other similar location.	Allowance for Personal Incidentals of £5 per day. Plus Meals Allowance Below.
--	--

Additionally to the Overnight Subsistence Allowance you may claim Meals Allowance as detailed below, these must be supported by receipts:

Breakfast	Maximum of £9
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APPENDIX 1

Lunch	Maximum of £9
Dinner	Maximum of £27

WELSH ASSEMBLY GOVERNMENT
TRANSLATION SERVICES RATES

These rates must apply as a maximum.

Applicable from 1 April 2008 until 31 March 2010.

Translation into Welsh	Per 1000 words
	£83

Translation into English	Per 1000 words
	£62

Proofreading	Rate per hour
	£40

Appendix 3

PRICE SCHEDULE

**STUDY TO EXAMINE THE PLANNING APPLICATION PROCESS IN WALES
(Contract number: C-34/2009/10)**

Name of Tenderer: _____ Organisation: _____

Please complete in line with the detail provided within this document for the total cost of the contract. Any blank or incomplete sections will, unless otherwise stated, be deemed to be included in the tender price.

In the event that additional work or revision to the existing defined scope is instructed through the Contract, such work shall be valued based on the rates tendered in the Price Schedule.

Section 1 Project Staff

Please complete section 1 in this format to reflect staff involved in the project.

Staff Member	No. of Days	Daily Rate £	Cost £
		Total Staff Cost (excluding VAT)	

**Section 2 Travel and Subsistence (excluding VAT)
(Welsh Assembly Government rates apply)**

Maximum cost of travel and subsistence £

Section 3 Research Product (excluding VAT)

Cost of Translation of Final Report and 100 word summary £
Costs attributable to other products £

Section 4 Other costs associated with the Project (excluding VAT)

Item Name (please list showing cost of each item)
£
£

**Section 5 Total Cost of Project (excluding VAT) £
Total Cost of Project (including VAT) £**

Appendix 2: Local Planning Authority Questionnaire

Study to Examine the Planning Application Process in Wales

Local Planning Authority Questionnaire

October 2009

Please complete and return to:

GVA Grimley Ltd
One Kingsway
Cardiff
CF10 3AN

If you wish to discuss the Questionnaire or any other aspect of the review please contact either Tim Gent or Ben Lester at GVA Grimley:

Tim Gent
Tel: 029 2024 8916
Email: tim.gent@gvagrimsley.co.uk

Ben Lester
Tel: 029 2024 8922
Email: ben.lester@gvagrimsley.co.uk

A. **General Information**

A1 Planning authority and type

Authority Name _____

Key Contact names _____

Telephone _____ Email _____

Authority Type (please tick one box)

Primarily urban []

Primarily rural []

Mixed/other definition []

A2 Numbers/Scale

Number of applications submitted in last measured year or 12 month period:

	<u>Number</u>
Pre – application enquiries (if recorded)	[]
Outline	[]
Full	[]
Reserved Matters	[]
Discharge/variation of Conditions	[]
Certificates of lawfulness of proposed use	[]
Listed Buildings/Conservation Area Consent	[]
Prior Notification (e.g. telecommunications)	[]
DEC Applications	[]
Others (please specify if appropriate)	[]
Proportion submitted in the Welsh language (if records are kept)	[]

A3 Number of EIA applications. []

% directed by the Welsh Assembly Government []

A4 People

	Number (FTE)	average length of experience post qualification
Chartered (MRTPI) planning staff	[]	[]
Trainees/graduates	[]	
Support	[]	
Other qualified professionals in planning team (please describe/explain)	[]	
Number of vacant posts	[]	
Total	[]	

A5 Use of external consultants, outside organisations and additional resources

Does the council make use of external groups and/or consultants

Yes [] No []

If yes what are these used for? (please tick as many boxes as relevant)

	Panel/Term Appointment	Ad Hoc
Specific tasks (either to support expertise or to plug gaps in expertise)	[]	[]
Certain types of applications (please specify below)	[]	[]
Certain types of decision	[]	[]
Appeal or inquiry work	[]	[]
Other functions (please specify below)	[]	[]

A6 Development plan

What is the statutory development plan for the authority's area (age/date)?



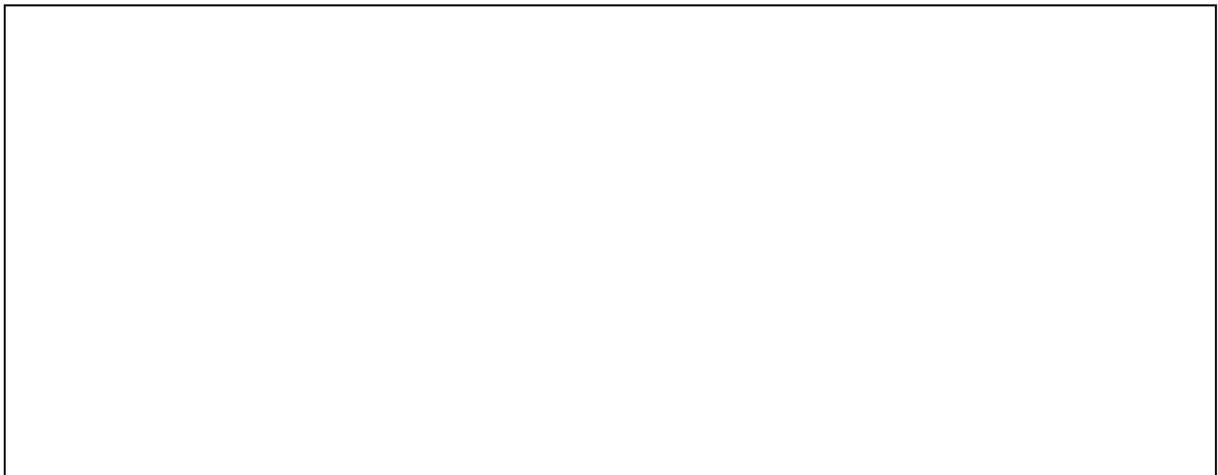
B. **Structure and administration**

B1 Structure

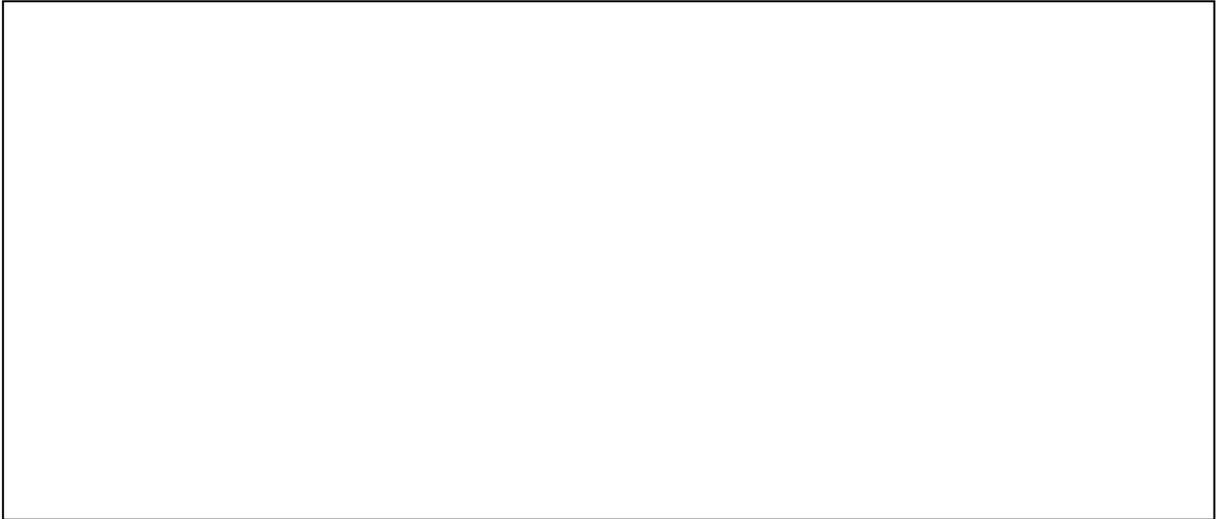
Please provide a chart showing (or explain) the Council's organisational/management structure (the objective here is to see how the planning function sits within the organisation and what other functions sit within the same overall division or outside it).



B2 If not shown on the above, please provide a chart or explain the structure of the planning department including specialist teams or functions.



B3 If not shown on the above please explain/confirm the chain of command within the planning team (and how this corresponds to the rest of the authority).



B4 Please explain the typology or categories of planning applications used by the planning authority (major, minor, householders etc).



B5 How does the authority breakdown the stages of the application process (administratively and/or procedurally)? Does it follow a recorded procedure (and if so please provide the "manual" or QA Guide). Are there differences between types of application?

If possible please provide (or estimate) the % of time the LPA considers it spends on each throughout a typical year (although this need not be precise it should add up to 100%). If the following list of stages in the process is helpful and relevant, then please use this to structure your response.

Pre application (prospects, issues)
Screening/scoping/content
Validation/registration
Consultation (internal/external/public)
Consideration/Negotiation
Reporting
Deciding/issuing
Monitoring/discharging/implementing
Provision of feedback to applicants
Other

B6 Reporting protocols

Please provide a copy of the Council's guidance/rules/protocols on officer delegation (and the percentage of decisions that are taken by officers)

Officer delegation Yes [] No []
% non-householder delegation decision ____ %
% householder delegated decision ____ %

B7 Does the Council gather feedback on users experience/performance of the process? If so how does it do this (please tick as many boxes as necessary)?

- a. by questionnaire (please provide) []
- b. by user forum []
- c. peer/team review []
- d. other []

Does it report on this (if so please provide a copy of the most recent report)?

B8 Does the Council make use of the Local Government Data Unit customer survey template?

Yes [] No []

B9 Does your Authority provide online access to any of the following information on planning applications ?

Pre-application correspondence	Yes	[]	No	[]
Planning application forms	Yes	[]	No	[]
Supporting documents (plans, letters etc)	Yes	[]	No	[]
Consultation responses	Yes	[]	No	[]
General correspondence	Yes	[]	No	[]
Committee reports	Yes	[]	No	[]
Delegated reports	Yes	[]	No	[]
Discharge of conditions	Yes	[]	No	[]
Legal Agreements	Yes	[]	No	[]

Other (please specify) _____

B10 If any of the above information is not currently available online what are the reasons for this?

C. **Determination Process**

C1 What is the Councils general approach to the process of determining planning applications? Is this described/available publicly?

C2 In terms of pre-application advice, please outline:

a) How is this done or offered?

b) What time and weight is given to such advice?

c) What does this most commonly address?

d) How is this recorded?

e) Do you charge for pre-application advice?

f) Do you think that it is appropriate for planning authorities to charge for pre-application advice?

C3 How does the Council tackle the issue of whether planning permission is required or not (either for development proposals or suspected breaches of control)?

a) by internal or external officer consideration (please describe)

b) by "lawfulness" certificate (please describe when normally applied)

c) by other means (please describe)

C4 Does the Council have protocols on minor or non material changes to schemes that have been approved or are underway that will not trigger the need for planning applications?

Yes [] No []

If yes to above can you summarise or supply details.

C5 How does the authority tackle application, validation and registration? Does it use and publicise a local list of requirements (and how does this vary between types of application or the scale of the proposal)?

C6 What proportion of applications are returned to applicants without being registered? Please state the most common reasons/circumstances for this happening.

C7 By/at what time does the Council aim to dispatch letters to the statutory consultees and seek responses. What level of information is sent or made available on the application?

C8 How does the Council ensure that non statutory groups, including local communities and individuals, are informed of applications that will affect them?

Does the Council generally seek to satisfy minimum requirements or does it aim to exceed these?

C9 How are comments from groups and individuals encouraged (and what advice is given to potential respondents on how and what to respond on)?

C10 What triggers more formal public consultation (that is organised by the Council) and how is this managed and reported on?

C11 Does the Council have any special procedures for identifying and publicising departures from the development plan (or any other form of application)?

C12 Does the council have and/or use a list of what it considers to be primary material considerations in planning decisions. What practices, plans or strategies/initiatives inform this list?

Yes [] No []

If yes to above, please summarise details.

Please provide the Council's local or working list if this is available (the intention here is to build a reference base of the material considerations that can influence the outcome of an application).

C13 How does the Council balance competing or conflicting (internal and external) comments or agendas? How is this recorded and is there an internal arbitration/dispute resolution process (formal or informal)? How open is this process?

C14 Does the Council involve the applicant in decisions about the scope and content of planning conditions?

Yes [] No []

C15 What is the Council's policy on planning obligations? Has this changed recently?

C16 As an estimate, what proportion of officers time is spent on discharging planning conditions?
_____ %

C17 As an estimate, what proportion of officers time is spent on legal agreements, following the resolution to grant permission?

_____ %

C18 **Planning Committee**

C18.1 What triggers the need for an application to be heard at committee?

C18.2 How is planning committee organised. The following questions indicate the matters that we would like you to address.

i) How many members serve on planning committee?

ii) What is the timing and regularity of meetings

iii) When and why are site visits carried out

iv) what information is available in advance of committee (and how long before and in what format)

v) Are pre-committee briefings held and if so who attends these

vi) who presents the report to committee (case officers, Head of DC/M etc)

vii) what technology is used at Committee

C18.3 Are opportunities for training made available to members of the planning committee? Please provide details below.

C18.4 How is public debate or speaking at committee organised?

C18.5 Is there provision for special or emergency committee meetings (and on what basis)?

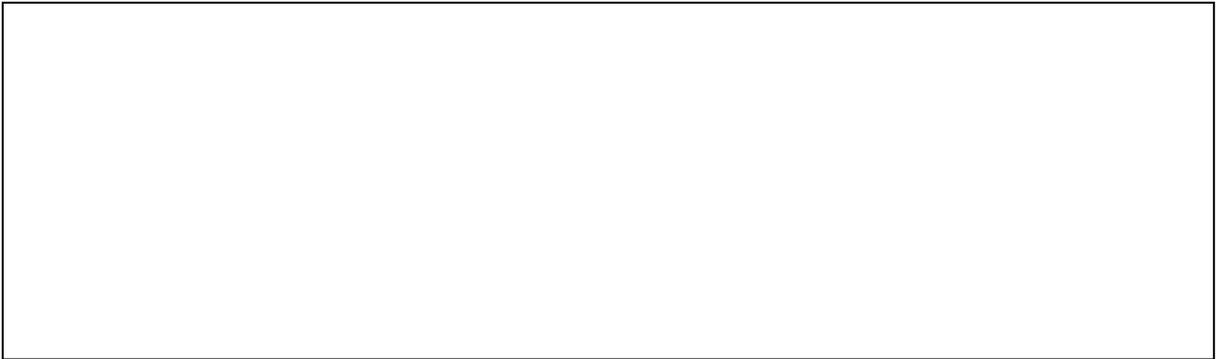
D. Measuring success and performance¹

D1 What performance and/or operational objectives are set by the authority for its planning application function?

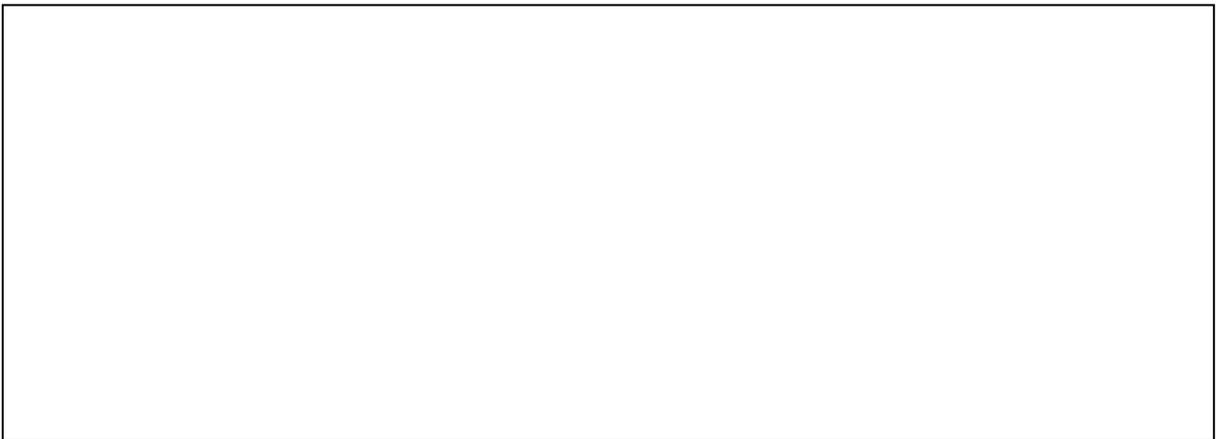
D2 How does performance measure against these objectives? If this is recorded please provide the latest/last report?

¹ Performance objectives are likely to be broadly but not solely numerical or time based. Operational objectives are likely to be less “scientific” and reflect wider Council objectives – for example the number of dwellings or employment space approved, the recycling of previously developed land, the protection of space, buildings or features or the approval or implementation of a particular scheme or initiative.

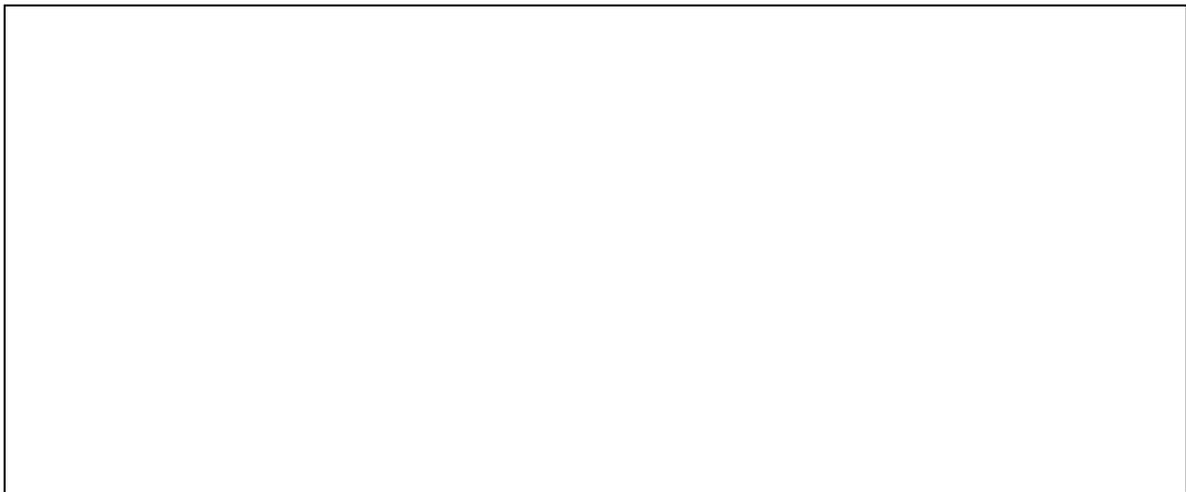
D3 If objectives are set, how are these informed and reviewed?



D4 How important are timescales as a measure of successful performance to the authority?



D5 How does your authority measure the quality of the development control service that you provide?



D6 Does the authority record how many times committee follows or departs from officers recommendations? If it does can you provide details?

D7 Does your authority have a cooling-off period with respect to decisions that are made against the recommendation of planning officers? Do you think that putting such a system in place could be beneficial?

D8 Over the last year/period what number and proportion of consultation responses are issued and received on time, and how satisfactory are the responses?

	Number Issued	% Received on Time	Overall proportion of times that one response is satisfactory (%)
Statutory Consultees			
Non-statutory consultees			

D9 Are there standard procedures to monitor consultation responses? (Please describe)

D10 Over the last recorded year/period, how many challenges are made to the Council's decisions and what is the result of these

	Approved/ Upheld	Dismissed Rejected	Resolved in other ways
a) Appeals	[]	[]	[]
b) Legal Challenges	[]	[]	[]
c) Call ins	[]	[]	[]
d) Complaints to the monitoring officer	[]	[]	[]
e) Ombudsman	[]	[]	[]
f) Costs	[]	[]	[]
g) Other complaints procedures	[]	[]	[]

D11 To what extent are the following factors an influence on the Council's operation of the planning application process or the achievement of its objectives (please tick one box for each factor)

	Major Influence	Minor Influence	No Appreciable Influence
a) The overall number of applications	[]	[]	[]
b) The number of a certain type of application (please specify, e.g. wind farms)	[]	[]	[]
c) The professional resources available regularly	[]	[]	[]
d) Systems and technology	[]	[]	[]
e) The level of experience available	[]	[]	[]
f) The level of or access to expertise available (generally or for specific tasks)	[]	[]	[]
g) The time taken to secure reliable or definitive consultation responses	[]	[]	[]
h) Mandatory procedures	[]	[]	[]
i) Statutory requirements	[]	[]	[]
j) Public interest/objection	[]	[]	[]
k) Civic/committee cycles and requirements	[]	[]	[]
l) national policy	[]	[]	[]
m) local policy and guidance	[]	[]	[]
n) Local political interest	[]	[]	[]
o) Other (please specify)	[]	[]	[]

E Improving the Process

E1 On a scale of 1 – 10, how fit for purpose (with 10 being the “fittest”) do you think the current planning application process is:

- a) nationally []
- b) locally []

E2 What do you think the priorities should be for improving the planning application process?

E3 The recent Killian Pretty Review (KPR) has made a number of recommendations in relation to the planning system in England. We would like to know the extent to which you believe the key recommendations of the KPR are relevant to the planning system in Wales.

The main headlines from each of the categories and recommendations made in the Killian Pretty Review are summarised below. Please indicate whether you think each should be a high priority, a low priority or not a priority.

	High Priority	Low Priority	Not a Priority
Recommendations to make the System More Proportionate			
1. reduce the number of minor applications requiring planning permission	[]	[]	[]
2. reduce information and validation requirements particularly for householder and minor development	[]	[]	[]
3. improve the quality of advice available to users of the system	[]	[]	[]
Recommendations to make the process more effective			
4. improvements to pre-application discussions	[]	[]	[]
5. investment in improvements to the processing of applications	[]	[]	[]
6. improving the use of planning conditions	[]	[]	[]

7 measures to improve the negotiation and agreement of planning obligations [] [] []

8 finding ways of avoiding the need for a new full planning application to deal with a small but material change to an existing permission [] [] []

Recommendations to improve engagement

9 improving the involvement of statutory and non-statutory consultees [] [] []

10 improving the engagement of elected members and concentrating on the most important applications [] [] []

11 seeks to improve community engagement [] [] []

12 encourages the greater use of alternative dispute resolution approaches throughout the process including formal mediation [] [] []

Recommendations to achieve changes in culture

13 improving the standard of applications submitted [] [] []

14 addressing the shortage of skills and resources in planning departments [] [] []

15 replacing current (timescale driven) approach to targets and replacement with broader measure of application process [] [] []

Recommendations to tackle complexity

16 avoiding further unnecessary expansion of policy objectives to be delivered through the planning system [] [] []

17 simplifying the national planning policy framework and the secondary legislation of the processing of planning applications. [] [] []

E4 Looking to the future, what do you think are the main issues facing Local Planning Authorities in Wales in relation to current and new initiatives including the Infrastructure Planning Commission (IPC), the Community Infrastructure Levy (CIL), the introduction of Design and Access Statements and/or any others. Please set out your comments below and continue on a separate sheet as necessary.

A large, empty rectangular box with a thin black border, intended for the respondent to write their comments on the issues facing Local Planning Authorities in Wales.

Appendix 3: List of Focus Group Attendees and Written/Other Submissions to the Review

- Abergavenny Town Council
 - Abergele Town Council
 - Advisory Panel on Standards for the Planning Inspectorate
 - Anglesey County Council
 - Arfon Access Group
 - Arquiva Limited
 - Association of Chief Police Officers in Wales
 - Barton Wilmore
 - Blaenau Gwent County Borough Council
 - Bridgend County Borough Council
 - British Aggregates Association
 - British Property Federation
 - British Waterways
 - CADW
 - Caerphilly County Borough Council
 - Campaign for the Protection of Rural Wales
 - Capita Symonds
 - Cardiff & Vale Coalition of Disabled People
 - Cardiff Council
 - Cardiff University School of City and Regional Planning
 - Carmarthenshire County Council
 - CBI Wales
 - CDN Planning
 - Ceredigion County Council
 - The Coal Authority
 - Coleg Llandrillo Cymru
 - Community Housing Cymru
 - Confederation of British Industry (Wales)
 - Conwy County Council
-

- Countryside Council for Wales
 - Cymdeithas Eryri Snowdonia Society
 - Denbighshire County Council
 - Design Commission for Wales (DCfW)
 - DPP
 - Dwr Cymru – Welsh Water
 - Dyfed Archaeological Trust
 - Equality and Human Rights Commission
 - Environment Agency Wales
 - Federation of Small Businesses
 - Flintshire County Council
 - Forestry Commission For Wales
 - Gaunt Francis Architects
 - Geldards Solicitors
 - Graham King, Environmental Planning
 - Glamorgan Gwent Archaeological Trust
 - Guide Dogs for the Blind Association
 - Gwent Police
 - Gwynedd County Council
 - Harmers
 - Health and Safety Executive
 - HID Chemical Industries Division
 - Home Builders Federation
 - Hope Community Council
 - Institute of Civil Engineers Wales
 - Institute of Directors (Wales)
 - Institute of Historic Building Conservation
 - Philip Jones Associates
 - Mr Graham King (Planning Consultant)
 - King Sturge
 - The Law Society
 - Lisvane Community Council
-

- Llŵchwr Town Council (My Tony Davies)
 - Mr John Matthews
 - Mr Jeff Martin MRTPI (Rtd)
 - Midas Group
 - Mineral Products Association
 - Mr Peter Minto
 - Mobile Operators Association
 - Mold Town Council
 - Monmouthshire County Council
 - Nathaniel Lichfield & Partners
 - Nature Access and Marine Unit
 - Neath Port Talbot County Borough Council
 - Newport Council
 - Newport Unlimited
 - NFU Cymru
 - North Wales Police
 - One Voice Wales
 - Pembrokeshire Coast National Park
 - Pembrokeshire County Council
 - Persimmon
 - Planning Aid Wales
 - The Planning Inspectorate
 - PL Planning
 - Pontyclun Council
 - Powell Dobson Architects
 - Powys County Council
 - Pritchard Bond Architects
 - Redrow Homes
 - RenewableUK
 - Rhondda Cynon Taf County Borough Council
 - Royal Institute of Chartered Surveyors (RICS) Wales
 - RPS
-

- Royal Society of Architects in Wales (RSAW)
 - Royal Society for the Protection of Birds (RSPB)
 - RTPI Cymru
 - Russell Jones Architects
 - Savills
 - Snowdonia National Park
 - South Wales Police
 - St Athan Community Council
 - City and County of Swansea
 - Taylor Wimpey UK Ltd
 - Torfaen County Borough Council
 - Town and Country Planning Association (TCPA)
 - Theatres Trust
 - Turley Associates
 - Vale of Glamorgan Council
 - Waste Policy and LEQ
 - Welsh Assembly Government
 - Dianne Williams (Architect)
 - White Young Green Planning & Design
 - Wrexham Access Group
 - 2-3 Gray's Inn Square
-

Appendix 4: List of Case Studies

Case Study 1: Amazon, Fabien Way, Jersey Marine, Neath

In February 2007 Neath Port Talbot County Borough Council received a planning application for the erection of a (Class B8) distribution centre for the online retailer Amazon. This was a major application and comprised a 73,900 square metre warehouse together with associated works, including the construction of access roads and a main access roundabout. Despite the size of the scheme, the LPA took just 23 days to determine the application and granted planning permission subject to conditions.

The key factor dictating the need to process the application so quickly was the imperative of securing the significant economic benefits to the area²² that would be delivered by the Amazon scheme. In addition it is understood that pressure was exerted on the LPA to make a swift decision as Amazon could relocate the proposed distribution centre to a site in Scotland if planning permission were not delivered quickly.

The focus displayed by Neath Port Talbot County Borough Council and the relevant consultees in handling the Amazon application is laudable and succeeded in securing an important inward investment project for Wales. However, processing such a major planning application in such a short period of time also carries certain risks and Neath Port Talbot Council have described the worth of such a quick decision as somewhat “illusory” given the significant number of conditions (36) that needed to be discharged, including several pre-commencement conditions.

Focussing to such an extent on one major planning application will also inevitably have a knock-on effect on the speed at which other smaller applications are processed. Clearly therefore, there is a balance to be struck between the need to deliver quick decisions with respect to major planning applications such as this one and responsibility to provide all applicants with the service to which they are entitled. The need to make fast decisions must also be carefully balanced with the imperative of delivering quality decisions. Nevertheless, the processing of such a major planning application as this one within such an extraordinarily quick period of time demonstrates that, where the correct mechanisms are put in place, the planning system in Wales is capable of acting quickly and decisively to support economic development and inward investment.

²² The applicants had promised to create between 1000 and 1500 jobs.

Case Study 2: Ty Mawr Retail and Leisure Scheme, Llanfairpwll, Anglesey

In December 2007 Ynys Mon Estates, submitted an application for a new shopping and leisure complex near Llanfairpwll in Anglesey²³. The proposed development was on Welsh Assembly Government owned land and comprised some 14,400 sq.m of comparison retail floorspace and 1,858 sq.m of convenience retail floorspace. The leisure element of the proposals, which comprised a nine screen cinema, a 20-24 lane bowling alley, a health and fitness club, a crèche and restaurants, amounted to 9,290 sq.m, whilst the scheme also included 9,290 sq.m of offices and a 1,965 space car park.

The proposed development was located to the north east of Llanfair Pwllgwyngyll, in the Open Countryside and within a Special Landscape Area and extended to some 23ha (57 acres). The site comprised primarily agricultural land, although in the centre of the site there is an area of hard standing and building rubble, which was previously the site of a nursing home and hotel.

Although the LPA acknowledged that the application did not fully comply with either national or local planning policy in terms of its implications for landscape, retail and design issues, it was decided that the potential economic benefits of the scheme outweighed the likely harm to the environment²⁴. The application was highly divisive and local residents were torn between the wish to retain the rural character of the area and the desire to encourage new investment and employment opportunities. The application was also opposed by neighbouring Gwynedd Council and Bangor City Council as well as the developers of a rival retail development in Bangor.

The application was considered at an extraordinary meeting of the full Council (sitting as the Planning Committee) in December 2008, which resolved to refuse planning permission, against the recommendation of officers. The application was then deferred to allow officers to prepare a report outlining the reasons for refusal. A further extraordinary Council meeting was then held in January 2009 at which members reconsidered the application and voted to grant planning permission²⁵. The economic benefits of the scheme, most notably the creation of approximately 1300 new jobs were the key factor in persuading members to change their minds.

The application was then called-in by the Welsh Ministers under Section 77 of the Town and Country Planning Act 1990 after they were notified of it as a departure application²⁶. The Inspectorate requested further information from

²³ 31C169C/TR/EIA/ECON.

²⁴ Anglesey's economy has the lowest Gross Value Added and the highest percentage of long term unemployed of any authority in Wales and the economic need for the development was considered to be particularly pressing given the recent closure of the Anglesey Aluminum plant and the threat of closure hanging over Wylfa nuclear power station.

²⁵ Subject to conditions and the signing of a Section 106 agreement.

²⁶ Under the Town and Country Planning (Development Plans and Consultation) Directions 1992.

the applicants and the LPA on the compliance of the development with the policy framework set out in Planning Policy Wales (March 2002) in relation to development in the open countryside, sustainability issues and the siting and impact of new retail developments.

The planning application was then withdrawn following pre-enquiry meeting attended by the applicants and the Planning Inspectorate.

Case Study 3: Wern Ddu Wind Turbines, Denbighshire

Two separate planning applications were made to Denbighshire County Council, in 2004 and 2005 respectively, for the installation of wind turbines at Wern Ddu Farm²⁷. The applications were broadly similar, in terms of the proposed location and layout, although the 2004 application was for five turbines of 80m in height and the 2005 application was for four 90m turbines. The 2004 application was appealed following a refusal of planning permission, whilst the appeal on the 2005 application was appealed against non-determination²⁸.

The first application was refused on the grounds that it was considered likely to cause significant harm to the character and quality of an attractive rural landscape and contribute to an unacceptable cumulative visual impact (along with other existing, approved and proposed wind turbine developments in the area) contrary to the approved development plans²⁹ policies on Renewable Energy, Wind Power, the Environment, General Development Control Requirements, Protection of the Natural Environment and development affecting the AONB. The LPA also argued that the proposals were contrary to the guidance set out in the relevant SPG³⁰ and concluded that the turbines would have a significant adverse impact upon residential amenity for local people.

The two appeals were considered simultaneously within the same appeal decision and the Inspector identified the visual impact of the proposed turbines and their impact on the amenity of the occupiers of neighbouring dwellings to be the key considerations. In relation to landscape and visual impact, the Inspector accepted the Council's position that there would be an adverse impact on the site itself as well as effects of moderate significance on surrounding landscape character areas. However, he argued that such effects were almost inevitable with wind energy projects of this sort and were anticipated within TAN 8, stating that the proposals would not be unacceptably harmful in terms of their effect on landscape character.

Regarding the impact of the scheme on neighbouring dwellings the Inspector was satisfied that whilst there would be some visual intrusion this would not be unacceptable and would not justify withholding consent. The Inspector also concluded that noise intrusion would be below that which would be unacceptable and rejected claims that the proposals would harm the hydrology of the area.

The Appeal decision concluded that the applications being appealed would contribute to Government renewable energy targets and that many of the

²⁷ Planning application numbers 06/2004/0278/PF and 06/2004/1453/PF.

²⁸ Denbighshire Council had informed the applicants that it was also their intention to refuse this application if the appeal against non-determination had not been lodged.

²⁹ The Denbighshire UDP 1996-2011.

³⁰ Prepared jointly with Conwy Council.

concerns about the impact could be dealt with by the imposition of conditions. The Inspector concluded that the proposals were fully compatible with MIPPS 01/2005 (Planning for Renewable Energy) and its associated Technical Advice Note (TAN) 8, both of which post-dated the UDP and that any harm that would result from the proposals would therefore be outweighed by the benefits. Accordingly, the Inspector concluded that both appeals should be allowed.

Case Study 4: Wind Turbine Manufacturing Plant, Newhouse Farm, Chepstow, Monmouthshire

In March 2010 Monmouthshire County Council granted planning permission for a major manufacturing plant, within 8 weeks of a planning application being submitted. The application³¹ sought permission to redevelop and extend an existing vacant B8/B1 distribution centre within the Newhouse Farm Industrial Estate, which lies south of Chepstow, adjacent to the old Severn Bridge. The existing distribution centre building would be extended by 16,400 sq.m (into an area that already had the benefit of planning permission for another distribution centre) to create a new plant for the manufacture of wind turbine towers, whilst a separate plot of land on the opposite side of a distributor road, extending to 3.6 hectares, would be used for the outdoor storage of the finished products.

The scheme represents a £38 million investment into the county which will create 240 jobs. The planning application therefore appears to have been well received locally and although the local Community Council³² objected to the development due to concerns over the potential for noise and light pollution, the application was supported by local Assembly Members and MPs as well as Chepstow Town Council.

Due to the scale of the application a range of technical reports were required including a noise assessment, a transport assessment, an air quality assessment, a utilities statement and a BREEAM Industrial pre-assessment. However, despite the level of detail that needed to be taken into consideration the LPA acted swiftly and determined that the proposed development was in line with the policies of the adopted Unitary Development Plan, in which the site was protected for industrial and business development. Although the Industrial Estate had been previously used exclusively for B8 distribution uses the LPA concluded that the location was entirely suitable for manufacturing industry given its proximity to the road network and distance from residential areas.

The LPA also determined that the proposed development would be in line with the economic development objectives of the UDP, creating 240 new jobs, over 100 of which would be skilled. Within the Committee Report the planning officer highlighted these benefits and their significance within the context of current economic climate. As such the officer's recommendation was for the proposed development to be approved subject to conditions, which included restrictions on noise and the use of external floodlighting.

After hearing representations from both Mathern Community Council and the applicants agents, the planning committee decided to approve the application by 9 votes to 0, with 5 abstentions.

³¹ Application reference DC/2010/00023

³² Mathern Community Council

Case Study 5: Tintern Angiddy Project Hydro Scheme, Tintern, Monmouthshire

A planning application was submitted to Monmouthshire County Council in November 2007 seeking permission to develop a small hydroelectric community power scheme on the river Angiddy to the north of Tintern³³. The proposed development involved the installation of intake pipes and filters under two of the arches of the existing Beaufort Dam and would see water diverted to a turbine house where electricity would be generated, via 1.3 km of underground plastic piping. The water would then be returned to the river via another pipe. The turbine house would measure approximately 7m x 4m and would be finished in natural stone with reconstituted slate on the roof. The developers anticipate that the scheme will generate some 193 Mw of electricity a year, which would be sold to the National Grid. The profits generated (estimated to be £20,000 per year) would be distributed within the local community for use by clubs, organisations and green energy projects.

Although the scheme was widely supported, both within and outside the LPA, the application took more than two years to determine, due to a range of concerns relating to nature conservation and ancient monuments. The proposed development is situated within an Area of Outstanding Natural Beauty (AONB) and the Angiddy River feeds into the River Wye, which is designated as a Special Area of Conservation (SAC) and a Site of Special Scientific Interest (SSSI). In addition the Beaufort dam is Grade II listed and the adjacent Angiddy Furnace is a Scheduled Ancient Monument. All of these environmental and historic considerations needed to be taken into account in considering the application and as such a range of external consultees were involved in evaluating the proposals.

The applicants were required to carry out a tree survey and a range of environmental surveys to determine the impact of the scheme on flora and fauna, dormice, bats, aquatic invertebrates and crayfish. Archaeological Studies were also required which included the digging of three trial pits to determine the potential impact of the development on the archaeology of the area. All of this generated a significant delay and a large volume of technical documents which needed to be considered by the LPA.

Ultimately the Environment Agency, which had initially objected to the application issued a licence for water abstraction in association and withdrew its opposition to the scheme. The Countryside Council for Wales also confirmed that it was satisfied that there would be no detrimental impacts on local wildlife and the scheme was also supported by Friends of the Earth and the Wye Valley Area of Natural Beauty. There was no opposition from Cadw or the Glamorgan Gwent Archaeological Trust and support was also received from 20 local residents. Although 23 residents and Tintern Community Council opposed the application (the latter on the grounds of concerns over the effects

³³ Application reference DC/2007/01452.

of the proposed development on water levels in the area and the small amount of electricity that it would generate) the LPA had been sufficiently reassured on each of the keys issues to recommend that planning permission should be granted (subject to a number of conditions). Following a site visit and representations from both Tintern Community Council and the applicants, members of the Planning Committee voted to approve the application by 13 votes to 0 (with just one abstention). However, the time that it took to approve the scheme demonstrates that delays to the processing of planning applications can often be beyond the control of Local Planning Authorities.

Case Study 6: St Winefrides Nursing Home, Pontcanna, Cardiff

In November 2008 a planning application was submitted to Cardiff Council³⁴ for the erection of 120 residential units and a 60 bed nursing home within a conservation area. The demolition of several other buildings was also proposed and a separate conservation area consent application for the demolition of these buildings was submitted and considered in parallel with the planning application³⁵.

The application site was within a predominantly residential area and had previously been in use as a hospital/care home, a residential home and as a convent. In October 2008 a previous planning application for 128 flats and a 60 bed nursing home³⁶ was refused as it was judged that the proposed development failed to preserve the setting of an adjoining listed church, contrary to the Council's policies on Conservation areas and Design and Aesthetic Quality, as well as objectives set out within the Council's SPG³⁷. The proposal was also judged to be out of accord with Planning Policy Wales, Welsh Office Circular 61/96 and Technical Advice Note 12: Design. Conservation Area Consent was also refused at the same time.

The planners needed to consider a range of issues in relation to the revised application including parking, the impact of the scheme on traffic congestion, design issues, the impact on the conservation area and the existing former hospital building, the acceptability of the design in relation to the residential amenity of neighbours, landscaping and loss of trees, whether there would be adequate outlook and privacy for future occupiers and whether a residential home (catering for the elderly and mentally infirm) would be acceptable sited next to flats.

The application was notable for the volume of representations that were made by interest groups, politicians and the public. The scheme was opposed by the local conservation group and a local action group (RADICAL), who submitted a petition signed by 1336 people. However, the application was supported by a second action group (CRAG). In addition Chris Franks AM, Andrew Davies AM and four Councillors opposed the development, whilst Rhodri Morgan AM, Glenys Kinnock MEP and Eluned Morgan MEP all wrote to highlight representations that they had received from both RADICAL and CRAG. Kevin Brennan MP wrote to highlight the concerns of RADICAL and those of a constituent whose house was adjacent to the proposed development and asked that their objections be considered by the planning committee. However, a group of residents also wrote in favour of the proposals arguing that they represented a significant improvement on the previously rejected scheme.

³⁴ Application Ref 08/02527/W.

³⁵ Application Ref 08/2528/W.

³⁶ Application Ref 08/0825/W.

³⁷ The Residential Design Guide

The LPA needed to take a range of complex issues into account when considering the application. The Committee report runs to some 48 pages and considered all of the issues raised by the various action groups, politicians and individuals who made representations. The officers recommendation was that permission should be granted subject to 27 conditions and the signing of a Section 106 Agreement. The scheme was approved at Planning Committee.

Case Study 7: Waste Treatment and Recycling Facility, Deeside Industrial Park, Flintshire

Recent years have witnessed the emergence of a range of new technologies for the processing and treatment of waste. As a result a series of planning applications for waste processing facilities of various types have come forward across Wales. Many of these applications have been highly controversial, largely due to concerns over issues relating to the impact of such schemes on public health and local communities. However, a recent planning application for a waste treatment facility in Flintshire, which was approved within a reasonable time period and with relatively little controversy, provides a useful example of the value of meaningful pre-application discussions in helping to foresee and avoid problems.

In July 2008 Flintshire County Council received a full planning application, for a waste treatment facility³⁸, to be located within an existing building (formerly operated as a steel baling shed by Corus) with an extension and external works. The proposed facility would process up to 160,000 tonnes of household waste per annum, which would be subject to a high technology mechanical heat treatment process in order to produce up to 32,000 tonnes of material for recycling. 64,000 tonnes of material would be converted into fibre fuel flock or pellets for open market sale as fuel or industrial feedstock, whilst 24,000 tonnes of residual waste would go either to landfill or for treatment elsewhere.

Despite the size and complexity of the planning application it was approved, subject to conditions, in November 2008 - less than 5 months after it was first submitted. In many ways the successful and relatively swift processing of the application appears to have been the product of thorough pre-application discussions having been held between the LPA and the applicants. These discussions had focussed on key issues relating to the application, most significantly the need to find the most appropriate site for the sort of development that was proposed (i.e. a substantial brownfield site in an existing industrial area), which would be in line with planning policy and would minimise the impact of the development. The success of the pre-application dialogue is borne out by the fact that no objections were received from any of the consultees, either internal and external. There was also no opposition to the development from local Community Councils or ward members and following a site visit the application was approved by the planning committee.

³⁸ Application reference 054230.

Appendix 5: List of Practice Pointers

- **Practice Pointer 1:** Manual For Streets – Training Initiative
 - **Practice Pointer 2:** Business and the Planning System in Wales
 - **Practice Pointer 3:** Design and Access Statements – Evidence from the LPA Questionnaires
 - **Practice Pointer 4:** Design and Access Statement Guidance
 - **Practice Pointer 5:** Department for Communities and Local Government consultation - Development Management.
 - **Practice Pointer 6:** Maesgwyn Windfarm, Glynneath (Application Ref: P/2006/1261)
 - **Practice Pointer 7:** Improving Engagement by Statutory and Non-Statutory Consultees
 - **Practice Pointer 8:** Caerphilly County Borough Council – Business Process Improvement
 - **Practice Pointer 9:** Neath Port Talbot County Borough Council – Review of Development Control Services
 - **Practice Pointer 10:** Measures to Improve the Performance of Planning Committee – Flintshire
 - **Practice Pointer 11:** Permitted Development
 - **Practice Pointer 12:** Church Village Minor Amendment
 - **Practice Pointer 13:** Carmarthenshire and the Vale Pre Application Procedures
 - **Practice Pointer 14:** Registration and Validation of Applications (Killian Pretty Evidence)
 - **Practice Pointer 15:** Validation and Registration of Applications in Cardiff
 - **Practice Pointer 16:** New Hierarchy of Developments in Scotland
 - **Practice Pointer 17:** E-Working – The Planning Portal
 - **Practice Pointer 18:** ATLAS
 - **Practice Pointer 19:** Minerals – Sharing of Expertise – Carmarthenshire
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- **Practice Pointer 20:** Planning Inspectorate Wales Conditions
 - **Practice Pointer 21:** DCLG Consultation Paper – Improving the Use of Conditions (December 2009)
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Appendix 6: List of Recommendations

- **Recommendation 1:** Policy Statement on the Importance of Economic Development
 - **Recommendation 2:** Make the Planning System more Responsive to Business
 - **Recommendation 3:** Design and Access Statements
 - **Recommendation 4:** Guidance Process
 - **Recommendation 5:** Pause on New Guidance (A Guidance “Amnesty”)
 - **Recommendation 6:** Development Management – Principles
 - **Recommendation 7:** Development Management – Improving Consultation
 - **Recommendation 8:** Development Management – Making Process and Delivery more consistent
 - **Recommendation 9:** The Approach to Committee
 - **Recommendation 10:** Extension of Permitted Development
 - **Recommendation 11:** A Practical Approach to Minor Amendments
 - **Recommendation 12:** Pre-application Discussions – Best Practice Guide
 - **Recommendation 13:** Validation Requirements
 - **Recommendation 14:** Increasing Use of Electronic Planning Services
 - **Recommendation 15:** Sharing Expertise
 - **Recommendation 16:** Planning Conditions
-