

Response ID ANON-WJEE-CHFF-2

Submitted to Accelerated Planning System Consultation
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Respondent details

About You

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Please state whether you are responding as an individual or on behalf of the organisation stated above

Organisation

Please indicate in what capacity you are responding to this consultation (please only select one)

Local planning authority

If other, please specify :

Accelerated Planning Service

Question 1. Do you agree with the proposal for an Accelerated Planning Service?

No

Text box for general comments. Please note that there is further opportunity to comment on the details of the proposal in the questions that follow:

No, the LPA does not consider this to be an appropriate proposal in principle for the following reasons:

- This proposal could not be delivered within the Council's existing resources.
- Council officer resources are finite. If a major commercial application is being prioritised, this means other applications, such as those for residential development, could take longer to determine.
- Council resources/capacity would need to be increased to provide a designated planning officer to deal with such applications. In addition, resources for all consultees, internal and external to a Council, would also be required to avoid delays in the process. This also assumes that an applicant does not cause delays by taking time to submit amended plans, negotiate S106 agreements etc.

Question 2. Do you agree with the initial scope of applications proposed for the Accelerated Planning Service (Non-EIA major commercial development)?

Yes

Text box for comments:

If the APS were to be implemented, restriction to Non-EIA major commercial development would be appropriate.

Question 3. Do you consider there is scope for EIA development to also benefit from an Accelerated Planning Service?

No

If yes, what do you consider would be an appropriate accelerated time limit?:

No, this would not be appropriate. Applications for major development accompanied by an EIA currently have a statutory 16-week determination period. This sets them apart from the 13-week period for other major planning applications because of the significant complexities involved with such development projects and the number of consultees. It would not be realistic to reduce this time period to 10 weeks.

Question 4. Do you agree with the proposed exclusions from the Accelerated Planning Service – applications subject to Habitat Regulations Assessment, within the curtilage or area of listed buildings and other designated heritage assets, Scheduled Monuments and World Heritage Sites, and applications for retrospective development or minerals and waste development?

Yes

Text box for comments:

If, the APS was implemented, these exclusions would be necessary.

Question 5. Do you agree that the Accelerated Planning Service should:

Question 5. Do you agree that the Accelerated Planning Service should: a) have an accelerated 10 week statutory time limit for the determination of eligible applications. If no, please confirm what you consider would be an appropriate accelerated time limit? b) encourage pre-app engagement c) encourage notification of statutory consultees before the application is made - a) have an accelerated 10-week statutory time limit for the determination of eligible applications. If not, please confirm in the text box below what you consider would be an appropriate accelerated time limit:

No

Question 5. Do you agree that the Accelerated Planning Service should: a) have an accelerated 10 week statutory time limit for the determination of eligible applications. If no, please confirm what you consider would be an appropriate accelerated time limit? b) encourage pre-app engagement c) encourage notification of statutory consultees before the application is made - b) encourage pre-application engagement:

Yes

Question 5. Do you agree that the Accelerated Planning Service should: a) have an accelerated 10 week statutory time limit for the determination of eligible applications. If no, please confirm what you consider would be an appropriate accelerated time limit? b) encourage pre-app engagement c) encourage notification of statutory consultees before the application is made - c) encourage notification of statutory consultees before the application is made:

Yes

If you do not agree with the 10-week time limit, please confirm what you consider would be an appropriate accelerated time limit:

5a

- A 10-week period to determine a major planning application is unrealistic. The consultation paper states that currently the median period for the time taken to determine such applications is 28 weeks Eight weeks is provided for a householder application and it is unrealistic to expect a major planning application, with all the potential complex issues and legal agreements, to be determined within 10 weeks.
- A major application requires extensive internal and external consultation, and complex matters may need to be addressed. Such information may need to be subject to further consultation and given additional publicity. It would include new BNG requirements which adds further time to the determination of applications. The application would need to be considered by a planning committee which run to a programme of dates. A S106 legal agreement would also be required to deliver necessary infrastructure, and it would not be possible to issue a planning permission within 10 weeks.
- This could lead to lower quality applications with applicants hoping that the time pressure will work in their favour.

5b.

If APS were to be introduced, pre-application engagement should be mandatory, not simply encouraged.

Question 6. Do you consider that the fee for Accelerated Planning Service applications should be a percentage uplift on the existing planning application fee?

Yes

If yes, please specify what percentage uplift you consider appropriate, with evidence if possible:

If introduced, the fee for an application being considered through the APS process should fully cover the costs to the Council as a whole, including internal consultees. A significant % uplift should be levied on existing fees. The relevant % uplift is not known at this stage.

Question 7. Do you consider that the refund of the planning fee should be:

d. none of the above (please specify an alternative option)

Please give your reasons:

The fee should only be returned if the fee covered the full costs to the Council of delivering the decision and it was demonstrated that it was the fault of the Council that the application was determined outside the specified period. The Council should not have to absorb the costs and provide a free premium service, if the reason for the delays lies outside the control of the Council, including the applicant and external consultees. Any other approach would create an unreasonable burden to the taxpayers.

Question 8. Do you have views about how statutory consultees can best support the Accelerated Planning Service?

Please explain:

Statutory consultees should be properly resourced so that they have the capacity to respond in a timely manner. Response to a consultation that indicate 'Further information required' should not be permitted as this clearly lead to delays in the determination of the application. Should an applicant wish to

use the APS route, it must be a requirement of the APS process that a pre-application consultation is mandatory, which should include statutory and non-statutory consultees.

Question 9. Do you consider that the Accelerated Planning Service could be extended to:

Do you consider that the Accelerated Planning Service could be extended to: a. major infrastructure development b. major residential development c. any other development? - a. major infrastructure development:

No

Do you consider that the Accelerated Planning Service could be extended to: a. major infrastructure development b. major residential development c. any other development? - b. major residential development:

No

Do you consider that the Accelerated Planning Service could be extended to: a. major infrastructure development b. major residential development c. any other development? - c. any other development (Please specify what in the text box below):

No

If yes to any of the above, what do you consider would be an appropriate accelerated time limit? Please also use this text box to specify any other types of development the Accelerated Planning Service could be extended to.:

Question 10. Do you prefer:

b. the mandatory option (which provides a single Accelerated Planning Service for all applications within a given definition)

Text box for comments:

If APS was implemented, the Council's preference is option b. This is because the Council would need to be fully resourced to deal with such applications were they to be submitted. If APS was optional, the Council would still need to be sufficiently resourced to provide such a service, to be able to respond to applicants who wish to use APS, but wouldn't know if applications, and fees, were to be forthcoming.

Question 11. In addition to a planning statement, is there any other additional statutory information you think should be provided in order to opt in to a discretionary Accelerated Planning Service?

Text box for comments:

If pre-application discussion become mandatory, it would be necessary to include a statement of community involvement and how the scheme has evolved as a result of these discussions. Otherwise, the national and local lists of information requirements should be sufficient.

Planning performance and extension of time agreements

Question 12. Do you agree with the introduction of a new performance measure for speed of decision-making for major and non-major applications based on the proportion of decisions made within the statutory time limit only?

No

Text box for comments:

No, for the following reasons:

- Extensions of time are important as they allow planning applications to be negotiated, amended plans to be submitted and publicised. This can turn a mediocre scheme, or even a potential refusal, into an acceptable application in local and national policy terms.
- Para 38 of the NPPF requires LPA's to work proactively with applicants.
- Extensions of time allow time for submission of additional information if requested by consultees and re-consultation to improve the quality of the proposed development.
- They also allow time for the negotiation and completion of S 106 legal agreements between parties. Securing the necessary financial contributions to deliver much needed infrastructure, provision of affordable housing, SANG/SAMM or more recently Biodiversity Net Gain (BNG) requirements which mitigate the impact of development. These negotiations can be complex and take time to get right for the benefit of our residents.
- If Extension of time is not available, then it is anticipated that applications will be considered without any negotiation. This would particularly become the case if it became a performance indicator in a national 'league table,' with the threat of designation and 'special measures' if the target was not met. The outcome would be a poor-quality development or refusals of planning permission. This would result in more appeals to the Planning Inspectorate (PINS), increasing their workload and more resources expended by LPAs on appeals rather than on improving the quality of the applications.
- It is important to note that applicant's also ask for extensions of time. Removal of extension of time would not benefit applicants who would prefer to negotiate a solution, and achieve a planning permission, rather than a quick refusal and subsequent delays through the appeal process where a positive outcome cannot be guaranteed.

Question 13. Do you agree with the proposed performance thresholds for assessing the proportion of decisions made within the statutory time limit (50% or more for major applications and 60% or more for non-major applications)?

No

If not, please specify what you consider the performance thresholds should be:

No. Please see response to Q12.

Question 14. Do you consider that the designation decisions in relation to performance for speed of decision-making should be made based on:

c) neither of the above

Please give your reasons:

c) The current performance measures are acceptable for the reasons outlined in response to Q12

Question 15. Do you agree that the performance of local planning authorities for speed of decision-making should be measured across a 12-month period?

No

Text box for comments:

No, it is considered that the current 24-month period allows a more rounded assessment of a LPA's performance. It would be helpful, however, if performance figures were more up to date than they have been in the past.

Question 16. Do you agree with the proposed transitional arrangements for the new measure for assessing speed of decision-making performance?

No

Text box for comments:

No, please see answer to Q12.

Question 17. Do you agree that the measure and thresholds for assessing quality of decision-making performance should stay the same?

Yes

Text box for comments:

Yes, this is the same as the current target and threshold for designation.

Question 18. Do you agree with the proposal to remove the ability to use extension of time agreements for householder applications?

No

Text box for comments:

No, please see response to Q12. This applies equally to householder applications as other application types.

Question 19. What is your view on the use of repeat extension of time agreements for the same application? Is this something that should be prohibited?

What is your view on the use of repeat extension of time agreements for the same application? Is this something that should be prohibited?:

Repeat extensions of time should not be prohibited. It is impossible to predict when all the information needed to make a decision will be received. Delays can still occur over the intervening period, circumstances can and do change in respect to all parties. It is hard to imagine an LPA deliberately delaying the determination of an application when they had all the necessary information.

Simplified Process for Planning Written Representation Appeals

Question 20. Do you agree with the proposals for the simplified written representation appeal route?

Yes

Text box for comments:

Question 21. Do you agree with the types of appeals that are proposed for inclusion through the simplified written representation appeal route?

Yes

If not, which types of appeals should be excluded from the simplified written representation appeal route? :

Question 22. Are there any other types of appeals which should be included in a simplified written representation appeal route?

No

Please specify:

Question 23. Would you raise any concern about removing the ability for additional representations, including those of third parties, to be made during the appeal stage on cases that would follow the simplified written representations procedure?

No

Please give your reasons:

No, our reports are fully detailed and any reasons for refusal justified. Representations from residents or Town/Parish Councils should have been made at application stage so that any views would be known to an Inspector.

Question 24. Do you agree that there should be an option for written representation appeals to be determined under the current (non-simplified) process in cases where the Planning Inspectorate considers that the simplified process is not appropriate?

Yes

Text box for comments:

Yes, that would be a necessary option in appropriate cases.

Question 25. Do you agree that the existing time limits for lodging appeals should remain as they currently are, should the proposed simplified procedure for determining written representation planning appeals be introduced?

Yes

Text box for comments:

Varying and Overlapping Planning Permissions

Question 26. Do you agree that guidance should encourage clearer descriptors of development for planning permissions and section 73B to become the route to make general variations to planning permissions (rather than section 73)?

Yes

Text box for comments:

It is agreed that national guidance should ensure the description of development is clear and precise. It should set out a detailed description not a simple generic description to enable a possible 'work around' in the future

Question 27. Do you have any further comments on the scope of the guidance?

Text box for comments:

None

Question 28. Do you agree with the proposed approach for the procedural arrangements for a section 73B application?

Yes

If not, please explain why you disagree:

Yes agreed. The procedure for this application type should reflect other planning applications in respect of information requirements, publicity and consultation with statutory and non-statutory consultees.

Question 29. Do you agree that the application fee for a section 73B application should be the same as the fee for a section 73 application?

Yes

If not, please explain why you disagree and set out an alternative approach :

The fee for a S73 application is currently a standard fee and does not reflect the type of development subject of the application and the level of work that would be required to determine the application. A graded level of fees would be preferable based on the Major-Minor-Other categories to reflect the level of resources that the LPA expends on the decision-making process. The fee levels should be set on a cost recovery basis.

Question 30. Do you agree with the proposal for a three band application fee structure for section 73 and 73B applications?

Yes

Text box for comments:

Question 31. What should be the fee for section 73 and 73B applications for major development (providing evidence where possible)?

What should be the fee for section 73 and 73B applications for major development (providing evidence where possible):

This is difficult to answer as each application would be different, with a different call on resources, but it should be on a cost recovery basis. As a suggestion it should be a % of the fee for the original application; 50% would be appropriate.

Question 32. Do you agree with this approach for section 73B permissions in relation to Community Infrastructure Levy?

Not Answered

Text box for comments:

N/A

Question 33. Can you provide evidence about the use of the 'drop in' permissions and the extent the Hillside judgment has affected development?

Text box for evidence:

The Council has no experience of using the Hillside judgement but can see where the use of drop in permissions would support delivery,

Question 34. To what extent could the use of section 73B provide an alternative to the use of drop in permissions?

Text box for suggestions:

This is difficult to predict. With details of cases unknown, it is impossible to know the impact of the 'substantially different' test in practice. It is anticipated, however, that overall, its effect would be positive.

Question 35. If the section 73B cannot address all circumstances, do you have views about the use of a general development order to deal with overlapping permissions related to large scale development granted through outline planning permission?

Text box for suggestions:

In these circumstances, a new planning application and permission would be the most straightforward way of moving a project on, rather than a general development order.

Public Sector Equality Duty

Question 36. Do you have any views on the implications of the proposals in this consultation for you, or the group or business you represent, and on anyone with a relevant protected characteristic? If so, please explain who, which groups, including those with protected characteristics, or which businesses may be impacted and how. Is there anything that could be done to mitigate any impact identified?

Text box for comments:

None