EXPLANATORY MEMORANDUM TO

THE TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) (AMENDMENT) (ENGLAND) ORDER 2010

2010 No. 567

THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (AMENDMENT) (ENGLAND) REGULATIONS 2010

2010 No. 568

THE TOWN AND COUNTRY PLANNING (LONDON BOROUGH OF CAMDEN) SPECIAL DEVELOPMENT (AMENDMENT AND REVOCATION) ORDER 2010

2010 No. 569

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

The first Order is to amend the provisions of the Town and Country Planning (General Development Procedure) Order 1995 (S.I. 1995/419) ("the GDPO") as to design and access statements, and the publicity of planning applications; to amend the time limits for lodging certain planning appeals; and to include on the planning register applications for non-material changes to permissions.

The Regulations make related changes to publicity by amending the Planning (Listed Buildings and Conservation Areas) Regulations 1990 (S.I. 1990/1519) ("the 1990 Regulations").

The second Order makes related changes to, and revokes, as of October 2010, the Town and Country Planning (London Borough of Camden) Special Development Order 2004 (S.I. 2004/1231) ("the 2004 SDO").

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Background

4.1 Section 62 of the Town and Country Planning Act 1990 ("the 1990 Act") provides for a development order to make provision about planning applications, and to require a statement of design principles and access issues, known as a design and access statement ("DAS").

4.2 The GDPO sets out the procedure for making and deciding planning applications, including the requirements to provide a DAS (article 4C); the requirements about publicity of planning applications (article 8); the periods within which applications must be determined (article 20); and the procedures and the time limits for lodging appeals (article 23).

4.3 Section 78 of the 1990 Act gives applicants a right of appeal to the Secretary of State if an application to the local planning authority ("LPA") for permission or consent is refused, has conditions imposed, or is not decided by the end of the prescribed period for determination.

4.4 Section 174 also gives a right of appeal, against an enforcement notice which is served by the LPA in respect of unauthorised development.

4.5 Section 96A enables an LPA to make non-material changes to planning permissions. Section 69, which requires LPAs to keep a register of applications, is amended by section 190(4) of the Planning Act 2008[1] so that the register is to include applications for non-material changes.

4.6 The Planning (Listed Buildings and Conservation Areas) Act 1990 provides that the consent of the LPA is needed for works affecting listed buildings ("listed building consent") and for development in conservation areas ("conservation area consent").

4.7 Publicity requirements are set out in the 1990 Regulations, including as to applications for listed building consent, conservation area consent, and planning applications affecting the setting of listed buildings or the character or appearance of conservation areas.

4.8 The GDPO publicity provisions apply to land within the London Borough of Camden, subject to amendments made by the 2004 SDO.

5. Territorial Extent and Application

These instruments apply only in relation to England.

6. European Convention on Human Rights

As the instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy Background

Design and access statements: what is being done and why

7.1 Design and access statements are required to accompany many applications for planning permission and for listed building consent. They were introduced in 2006. A detailed list of contents is included in secondary legislation (the GDPO and the 1990 Regulations).

7.2 Design and access statements can be a useful tool in planning for high quality development. If design and access issues are considered from an early stage of scheme development, this can and does result in good quality design.

7.3 The Killian Pretty Review, *Planning Applications: A faster and more responsive system* (published in October 2008), recommended that Government should make the information requirements for all planning applications clearer, simpler and more proportionate, removing unnecessary requirements, particularly for small scale householder and minor development.

7.4 This Order makes two main changes to the previous provisions for design and access statements. Firstly, it streamlines the manner in which applicants discuss the issue of 'context' in their submissions. Secondly, it expands the range of development that is exempt from the requirement to provide a design and access statement.

7.5 For small sites and simple schemes, the amount, layout, scale, landscaping and/or appearance of the scheme may be in a large part determined by its function, and access

[1] See The Planning Act 2008 (Commencement No. 5 and Saving) Order 2010 S.I. 2010/566 (C.39)

may only be required by the occupant or employee rather than the general public. A design and access statement may add little to planning officers' understanding of such a scheme, and it is therefore a disproportionate requirement for the applicant to provide one. In the consultation paper issued in July 2009, the Government proposed that applications under section 73 of the 1990 Act should be exempt from the requirement to prepare a design and access statement, and that the following types of development should be exempt as long as the scheme did not involve a listed building and was not in a World Heritage Site or conservation area:

- development of existing flats;
- non-domestic extensions up to 100 square metres of floorspace;
- alterations which do not increase the floorspace of a building.

7.6 These proposals were welcomed by a large majority of the respondents to the consultation. (Further details are provided in paragraph 8.2.) Some respondents also suggested that there would be merit in extending the exemptions to encompass the following additional types of development:

- gates, walls, fences and other means of enclosure up to two metres high or their existing height, whichever is the greater, and not around a listed building (planning permission is not required for most enclosures of this size, unless they are adjacent to a highway or where permitted development rights do not apply);
- on operational land, that is, land used by statutory undertakers, development consisting of buildings or structures up to 100 cubic metres in volume and 15 metres high;
- the erection, alteration or replacement of plant or machinery up to 15 metres high (or the height of the existing plant or machinery, whichever is the greater).

7.7 A design and access statement will still be required to accompany all planning applications in a World Heritage Site or conservation area (other than applications to vary conditions), and all applications for listed building or conservation area consent.

Publicity: what is being done and why

7.8 Statutory requirements for publicising planning applications are set out in article 8 of the GDPO. There are different requirements for different categories of development. The requirements to date have provided for three types of publicity:

- the display of a site notice;
- neighbour notification to owners and occupiers of adjoining properties; and (for certain categories of development)
- publication of a notice in a local newspaper (and, where the LPA maintain a website for this purpose, on that website).

7.9 This amendment of the GDPO introduces a new requirement to ensure that members of the public are better informed about planning issues. From 1 October 2010, all LPAs are required to publish on their websites the following information about all planning applications in their areas:

- address of application
- description of the proposed development;
- date by which representations should be made;
- where and when copies of applications, maps etc are available for public inspection;
- how representations can be made; and

- that, where representations are made on householder applications, in the event of an appeal, those representations may also be used for appeal purposes and their will be no further opportunity to comment.

7.10 Related and equivalent changes are being made from 1 October 2010 to regulations 5, and 5A and 13 of the 1990 Regulations. These set out the statutory requirements for publicising: applications for listed building consent or conservation area consent; applications for planning permission for development affecting the setting of a listed building or the character or appearance of a conservation area; and applications for listed building or conservation area consent made by an LPA.

7.11 A further related change to the 1990 Regulations extends the site notice display period, from seven to 21 days, for applications for: listed building consent; conservation area consent; and planning permission for development affecting the setting of a listed building or the character or appearance of a conservation area. This change will take effect from 6 April 2010. This will provide greater consistency between the varying time periods for different forms of publicity, and the associated time periods for making representations.

7.12 A further related change is the revocation of the 2004 SDO. This means that from 1 October 2010 the London Borough of Camden will be subject to the same requirements in relation to publicity for applications for planning permission, listed building consent and conservation area consent as other LPAs.

Time limits for appeals: current arrangements

7.13 The right of appeal against refusal of planning permission is a key element of the planning system. However it is possible to exploit this right in order to prolong unauthorised building works or use for as long as possible, by manipulating the different time limits for submitting an appeal against an enforcement notice and a planning appeal.

7.14 For example, where a planning application has been refused and an enforcement notice subsequently served for the same unauthorised building works or use, the applicant can lodge an appeal against the enforcement notice before the date specified in the enforcement notice (a minimum of 28 days). However the applicant can choose not to submit an appeal against the refusal of planning permission until the last possible moment, for example six months after the decision notice has been issued. Where an enforcement event (such as a hearing) has already been arranged and there is likely to be a significant period between the appeals, the Planning Inspectorate may suggest that the appellant withdraw the appeal or the LPA remove the enforcement notice. Where neither party is willing to do this, the Planning Inspectorate will usually determine the two appeals separately.

7.15 In these circumstances, even if the enforcement appeal is upheld, LPAs are reluctant to take further enforcement action until the related planning appeal is determined. This means that the unauthorised building works or use are allowed to continue longer than might otherwise have been the case.

7.16 The prolonged presence of unauthorised building works or the operation of an unauthorised use can be detrimental to the amenities of nearby residents and can reduce confidence in the appeals system and the planning system overall.

7.17 Time limits for submitting appeals are set out in the GDPO. Under the current system appeals must be submitted:

- up to six months (or up to 12 weeks for applications under the Householder Appeals Service) from the date of refusal of a planning application or an application for a consent or an approval;

- up to six months from the expiry of the period the LPA had for dealing with the application where the LPA has failed to determine the application;
- and in any case, within such longer period as the Secretary of State may, at any time, allow.

The 1990 Act provides that the time limit to be prescribed for submitting an appeal cannot be less than 28 days after the date of the decision or the expiry of the period for determination.

Time limits for appeals: w*hat is being done and why*

7.18 This amendment will reduce the time limit for submitting a planning appeal only where the same or substantially the same development is subject to an enforcement notice. The new time limits will be:

- 28 days from the date of the refusal or the expiry of the period which the LPA had to determine the application, where the enforcement notice is served before the application is submitted;
- 28 days from the date of the refusal or the expiry of the period which the LPA had to determine the application, where the enforcement notice is served before the decision on the application is reached or the determination period has expired; or
- 28 days from the date the enforcement notice is served, where the enforcement notice is served after the decision or expiry of the period which the LPA has to reach a decision on the application, unless the effect would be to extend the period beyond the usual time limit for cases not involving an enforcement notice.

7.19 The reduced time limit to submit a planning appeal will apply where an enforcement notice has been served no more than two years before the date on which the application is made or where it is served on or after the date of the application. It will apply regardless of whether an appeal has been lodged against the enforcement notice or not, provided the enforcement notice is not withdrawn prior to the expiry of the reduced period to submit a planning appeal.

7.20 Since the consultation on this proposal, the Government has given LPAs discretionary powers under sections 70A and 70B of the 1990 Act to decline to determine a planning application for development which is, in the opinion of the LPA, substantially the same as that which is the subject of an enforcement appeal that the Secretary of State is still considering, or has refused. We expect that the use of these powers will lead to a reduction in the number of cases where there is both a planning appeal and an enforcement appeal for the same development. However we consider that there is still a need for this amendment to address cases where this does still happen or where the enforcement notice is not appealed.

7.21 In 2008-09 there were around 800 cases where a planning appeal and an enforcement appeal relating to the same development had been submitted. This amendment could reduce the time to reach a final resolution on any alleged unauthorised building works or use in around 30% of these cases.

Non-material changes to permissions: what is being done and why

7.22 The period for lodging an appeal against an LPA's failure to determine an application is being amended, specifically to include applications for non-material changes to planning permissions. For these applications, the period is to begin after the expiry of the period specified in article 4F of the GDPO (28 days or such time as is agreed).

7.23 Information about applications for non-material changes will also be required to be included on the planning register kept by the LPA, in particular: the application form, any

plans or drawings, any decision made on the application, and the date and effect of any appeal.

- ***Consolidation***

7.24 There are plans to consolidate the GDPO later in 2010. There are currently no plans to consolidate the 1990 Regulations.

8. Consultation outcome

Design and access statements

8.1 A consultation paper, *Streamlining Information Requirements for Planning Applications,* was issued by the Department for Communities and Local Government ("CLG") in July 2009. This proposed a range of measures to streamline the information requirements for planning applications, including changes to the design and access statement.

8.2 The consultation period closed on 23 October 2009. Approximately 120 responses were received. Of these, around 100 commented on design and access statements and a large majority [over 80%] supported the changes proposed in the consultation paper. Those who did not support the proposed changes considered that the proposed range of exemptions was too broad or should not be introduced at all. Around one-third of the respondents who commented on the proposed changes to design and access statements suggested additional development types that could be exempted from the requirement to provide a design and access statement.

Publicity

8.3 A consultation paper on *Publicity for Planning Applications* was published on 30 July 2009. This raised the question of whether or not any changes should be made to the statutory requirements for how local authorities publicise planning applications.

8.4 The consultation closed on 23 October 2009 and 193 responses were received. Eighty (41%) came from LPAs, and 40 (20%) came from representatives of the newspaper industry. Responses were also received from a range of other sectors including applicants, consultees (including members of the public), professional organisations and community groups.

8.5 The consultation paper specifically proposed the introduction of a requirement for notices for all planning applications to be made available on local authority websites. One hundred and seven of the total responses made reference to this proposal. Of those, 58 were supportive, 32 were tentatively supportive, and 17 opposed the idea. Typical supportive comments referred to the effectiveness of the internet as a means of communication, or to the fact that this measure reflects current best practice. Typical concerns included the potential need for IT investment, or the comment that a new requirement of this type would be preferable if it replaced the need to advertise certain applications in newspapers, rather than adding to it.

8.6 A summary of the consultation responses is available on the CLG website at: http://www.communities.gov.uk/publications/planningandbuilding/publicityplanningapplications

8.7 On 21 December 2010 CLG announced that, having regard to the responses to the consultation, the following decisions had been made:

- The existing statutory requirement to publicise certain planning application in local newspapers would continue; and
- a new statutory requirement would be introduced for LPAs to publish information about planning applications on their websites; and
- the statutory period for display of site notices for applications for listed building and conservation area consent, and for development affecting a listed building or a conservation area, would be extended from seven to 21 days, to bring these into line with arrangements for site notices for planning applications.

8.8 The first point does not require any amendment to existing legislation except in relation to Camden. Discussion on that point has taken place with the London Borough of Camden. The second point is dealt with by these Orders (as to planning applications generally), and by the Regulations (as to listed buildings). The Regulations also address the third point.

8.9 The proposal to increase the period for publicising site notices was also considered as part of the package of measures consulted on between 30 July and 23 October 2009 in *Publicity for Planning Applications*.

8.10 Of the 193 responses received to the overall consultation, 103 made reference to the change of time periods for site notices. Over 90% were in favour of the amendment. The main categories of respondent were local authorities, together with a range of other interested parties. The main reason given in support of the amendment was that it was considered to provide for a greater degree of consistency in the handling of applications for planning permission, conservation area and listed building consent. The main objection to the amendment was that it could impact upon the time available for local authorities to consider applications, where additional publicity is required following on from the submission of additional information by applicants as an application is being processed.

Time limits for appeals

8.11 The proposal to reduce appeal time limits in enforcement cases has been subject to a 12 week public consultation. It was one of a series of proposals set out in a wider consultation on improving the planning appeal process. The consultation document, *Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced*, was published in May 2007 and can be found on the Department's website at: http://www.communities.gov.uk/archived/publications/planningandbuilding/improvingappealconsultation.

8.12 Two hundred and fourteen consultation responses were received from:
- Government bodies including local authorities, Government agencies, devolved administrations and regional Government organisations
- Public
- Environment and community groups including amenity, voluntary and local groups and parish and town councils
- Business including individual companies and trade organisations
- Professionals and academics including professional institutes and legal firms.

8.13 This proposal was on the whole well supported, with 90% (164) of all respondents indicating that they either agreed or strongly agreed. Government bodies were particularly supportive, with 97% (101) indicating that they either agreed or strongly agreed to the proposal. The least support was from business respondents although 79% (15) still indicated agreement to the proposal. Several respondents stated that the proposal would be very important for improving the efficacy of enforcement and reducing the current level of abuse of the system. It was also considered that this proposal would bring benefits to local communities by ensuring the early resolution of harmful cases. The main

objections to the proposal were over concerns that it could be quite complicated and have the potential to cause confusion. The Department acknowledges these concerns and will ensure that clear guidance is produced for LPAs in time for the amendments coming into effect. The full summary of responses can be found at: http://www.communities.gov.uk/publications/planningandbuilding/improvingappealssummary.

8.14 The Government's response to the consultation announced its intention to pursue this proposal. A copy of this response can be found at: http://www.communities.gov.uk/publications/planningandbuilding/improvingappealresponse.

Non-material changes to planning permissions

8.15 Consultation on minor amendments was considered in the explanatory memorandum to S.I. 2009/2261. The power to make non-material changes and the related amendments to section 69 of the 1990 Act (registers of applications) were debated in Parliament during the passage of the Bill that became the Planning Act 2008.

9. Guidance

Design and access statements

9.1 Draft guidance on the use of design and access statements was provided as an appendix to the Government's consultation paper *Streamlining Information Requirements for Planning Applications* in July 2009 (Appendix 3, Part 6 refers). Respondents were invited to comment on this draft guidance. The final document will be published on the CLG website and will also be available via the Planning Portal (the Government's online planning service).

Publicity

9.2 Guidance in relation to the changes to publicity requirements for applications for planning permission, listed building consent and conservation area consent will be included in a 'Dear Chief Planning Officer Letter' describing the wider April 2010 changes to the GDPO.

Time limits for appeals

9.3 Guidance on the appeals process for LPAs will be revised to take account of this amendment and will be available in time for the changes coming into effect.

Non-material changes to planning permissions

9.4 Guidance on the non-material amendments process (*Greater Flexibility for Planning Permissions: Guidance*) was issued on 23 November 2009 and is available at: http://www.communities.gov.uk/publications/planningandbuilding/greaterflexibilityguidance.'

10. Impact

10.1 Three Impact Assessments are attached to this memorandum.

Design and access statements

10.2 Fewer design and access statements will need to be prepared, and those which are prepared will be more streamlined than at present. On balance, the impact on the development industry is likely to be beneficial: these proposals create time and cost savings for

applicants. Specialist consultants who currently produce design and access statements will no longer be required to prepare documents for very small schemes but will be able to focus on larger proposals which have more complex design and access considerations. The impact on the public sector is likely to be beneficial: there will be time and cost savings for the planning officers involved in the determination of small scale applications.

10.3 A consultation stage impact assessment was included in the consultation paper *Streamlining the Information Requirements for Planning Applications*. Following consultation the Impact Assessment has been updated .

Publicity

10.4 The new requirement for LPAs to place information on planning applications on their websites is not expected to result in a significant new burden on LPAs, as evidence suggests that the majority publish some information on planning applications online already. This change will ensure greater consistency in their approach.

10.5 The Department has liaised with stakeholders to identify the best way to implement the new requirement, to ensure that regard was had to existing good practice, and to seek to minimise any new burdens.

10.6 As a result of the revocation of the 2004 SDO, the London Borough of Camden will no longer be exempted from the need to advertise certain planning applications in a local newspaper. Camden will incur a cost as a result of this, as whilst the exemption has been in operation they have saved approximately £28,000 a year on publicity costs. This is reflected in the Impact Assessment.

Time limits for appeals

10.7 The impact on appellants is that they will have less time to prepare their appeal case where they have undertaken development without the necessary permission. However, we consider that this impact will not be significant as most of the necessary information will have been supplied with the application and as the unauthorised development may be resulting in harm, the Department considers the impact is justified. Where appellants are affected by unauthorised development carried out by others the amendment will benefit them as it will increase the potential to reach an earlier final resolution on the development.

10.8 The impact on the public sector is that it will have greater control over the length of time which unauthorised building works or uses can continue without the necessary permission.

Non-material changes to planning permissions

10.9 No relevant impact is expected in relation to non-material changes, beyond what was considered as part of the Impact Assessment attached to the explanatory memorandum to S.I. 2009/2261. This is available at: http://www.communities.gov.uk/publications/planningandbuilding/flexibilitypermissionsia .

11. Regulating small business

11.1 The amendments to the statutory requirements relating to publicity, and to non-material changes to planning permissions, are not expected to have an impact on small businesses.

Design and access statements

11.2 This legislation applies to all businesses, including small businesses. The proposal to reduce the range of applications that require a design and access statement is likely to result in a reduction in work for architects or consultants who prepare such documents. However, given that the work involved in the preparation of this information in the circumstances proposed is a relatively minor component of the work involved in an application, the loss of income from the preparation of these documents is not thought to be significant.

Time limits for appeals

11.3 The legislation applies to small business only where they have undertaken unauthorised building works or are operating unauthorised uses. Such unauthorised development may be causing harm and therefore we consider that any negative impact is justifiable and no mitigation is required.

12. Monitoring & review

12.1 The Killian Pretty review (see paragraph 7.3) included a review of the effectiveness of the provisions in the current GDPO.

Design and access statements

12.2 The amendment which introduced design and access statements (SI 2006/1062) was reviewed by two related studies in 2008: the Killian Pretty Review and a supplementary research study by Arup. The Killian Pretty Review investigated the effectiveness of design and access statements, and recommended changes to the format and content of these statements. A research study (Arup for CLG, published November 2008) found that design and access statements are more useful and of the highest quality when prepared for larger development schemes, and that a more proportionate approach should be encouraged for smaller schemes.

12.3 This Order will also be subject to review. The effective operation of the wider Development Management process is likely to be the subject of a new Performance Management Indicator, which will be introduced in 2011. Consideration will be given to how information requirements will be reflected in this Indicator.

Publicity

12.4 The amendments to the statutory requirements for publicising planning applications will be reviewed in three years' time. The effective operation of the wider Development Management process is likely to be the subject of the new Performance Management Indicator in 2011.

Time limits for appeals

12.5 This amendment will remove the potential for appellants to delay submitting a planning appeal as a means of prolonging unauthorised development. It will increase the opportunity for reaching an earlier final resolution in such cases. It may also lead to a reduction in the number of cases. The impact of this amendment will be reviewed by the Planning Inspectorate as part of their annual performance monitoring. They will monitor the number of such cases and the time taken to reach a final resolution.

Non-material changes to planning permissions

12.6 The numbers of applications made for non-material changes to planning permissions is being monitored through the Planning Portal.

13. Contact

Tammy Adams at Communities and Local Government, on 0303 4441710, or tammy.adams@communities.gsi.gov.uk, can answer any queries regarding the instruments.

Department for Communities and Local Government
24 February 2010.

Summary: Intervention & Options

Department /Agency:	Title:	
CLG	Impact Assessment of proposed changes to information requirements for planning applications	
Stage: Final	**Version:** 2	**Date:** 29th January 2010
Related Publications: Government Response to Killian Pretty Review (March 2009); Consultation Paper 'Streamlining the Information Requirements for Planning Applications' (July 2009)		

Available to view or download at:

reference

Contact for enquiries: Jillian Hastings / Tammy Adams **Telephone:** 0303 444 1726 / 1710

What is the problem under consideration? Why is government intervention necessary?

Local planning authorities (LPAs) ask applicants to supply a considerable range of supporting information to accompany their planning applications. Some of this is unnecessary. There is a need to make information requirements for all planning applications clearer, simpler and more proportionate; removing unnecessary requirements, particularly for small scale and householder development. This is particularly the case given the economic downturn. This will reduce administrative burdens on applicants and local planning authorities and contribute to a more efficient planning system.

What are the policy objectives and the intended effects?

The main policy objective is to reduce the amount of unnecessary information that applicants submit with their planning applications, by asking local planning authorities to revise their 'local lists of information requirements' and encouraging a more proportionate approach from applicants and local authorities.

Within this, a specific policy objective is to reduce the number of planning applications that must be accompanied by a Design and Access Statement (DAS), and clarify DAS content, by amending the mandatory requirements in the General Development Procedures Order (GDPO).

What policy options have been considered? Please justify any preferred option.

Option 1: i) publish new policy principles [of proportionality, necessity, relevance, fitness for purpose, brevity and engagement] to inform a review of local authorities' local lists of information requirements and encourage applicants to take a more proportionate approach, ii) restrict the range of applications for minor development that must be accompanied by a Design and Access Statement (DAS), and iii) clarify the GDPO wording on DAS content

Option 2: do nothing

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? We will monitor the local list review process, and consider strengthening the policy if the reviews do not result in a more proportionate approach to information requirements.

Ministerial Sign-off For final stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Ian Austin

.....Date: 3rd March 2010

Summary: Analysis & Evidence

Policy Option: 1	Description: **Publish new policy principles relating to local lists of information requirements, restrict range of applications that are accompanied by DAS, and clarify GDPO wording**

COSTS

ANNUAL COSTS		Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition)	**Yrs**	One off costs for local authorities of reviewing and revising local lists of information requirements: £1.1m
£ £1.1m	1	
Average Annual Cost (excluding one-off)		
£		**Total Cost** (PV) **£ 1.1m**

Other **key non-monetised costs** by 'main affected groups'

BENEFITS

ANNUAL BENEFITS		Description and scale of **key monetised benefits** by 'main affected groups' Individuals and businesses making applications for householder or minor development will need to provide less information With a 10% reduction in costs of preparing an application: *Annual savings: £25m - 112m; PV (10 yrs) £224 - 963m* Applicants who no longer have to produce a Design and Access statement. *Annual savings: £4m PV (10 years): £ 38m*
One-off	**Yrs**	
£		
Average Annual Benefit (excluding one-off)		
£ 29 – 116 m		**Total Benefit** (PV) **£ 262 - 1001m**

Other **key non-monetised benefits** by 'main affected groups' There will be savings for local authorities, and other consultees and stakeholders, who will spend less time reviewing documents because applications will be more concise and better focused on the key issues.

Key Assumptions/Sensitivities/Risks A range in the number of applications affected has been used, and it is assumed that savings will amount to approximately 10% of the current cost of preparing a planning application. Further sensitivity testing of the cost saving assumption is presented in the evidence base. The risks associated with the policy are discussed in the evidence base.

Price Base Year 2009	Time Period Years 10	**Net Benefit Range** (NPV) **£ 261 - 1000 million**	**NET BENEFIT** (NPV Best estimate) **£ 630.5 million**

What is the geographic coverage of the policy/option?			England	
On what date will the policy be implemented?			April 2010	
Which organisation(s) will enforce the policy?			Local authorities	
What is the total annual cost of enforcement for these organisations?			£	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£	
What is the value of changes in greenhouse gas emissions?			£	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ 0 Decrease of £ 58m **Net Impact** **£ -58m**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Background

Information requirements for planning applications

1. The national information requirements for planning applications are specified in the GDPO (Articles 4, 4E and 5). These include the planning application form, location plan, site plans, ownership certificates and the correct fee. We do not propose to change any of these national requirements.
2. Current CLG guidance sets out a long list of items which local authorities may include in their local lists (sometimes referred to as the 'national local list'). Many authorities have chosen to include all of these items on their local lists. Some authorities also exercise their right to request additional items.
3. LPAs will not validate a planning application (i.e. will not accept it for determination) until all the requested items are provided for initial consideration. Validation "starts the clock" for determining an application in 8 or 13 weeks (depending on its complexity), so authorities are keen to ensure that they have all the requisite information and may err on the side of asking for too much. LPAs also have the power to request additional information after validation, in order to inform their detailed consideration of a particular application.

Design and Access Statements

4. The Planning Act 2008 introduced a statutory duty to have regard to the desirability of achieving good design. Planning Policy Statement 1 states that 'good design is indivisible from good planning'.
5. Design and Access Statements set out the design and access principles of a proposed development. They are currently required to accompany many forms of planning application, including householder and minor development. The GDPO sets out a detailed list of contents for Design and Access Statements. Applicants are currently required to explain how the context of development has influenced each of the 5 key design aspects of the development (defined as amount, layout, scale, landscaping and appearance). This unnecessarily complicates the discussion of context and its impact on design (and doubles the number of sub sections within a DAS).

Rationale for change `

6. LPAs do not always take a proportionate approach when requesting information to accompany planning applications. The Killian Pretty (KP) Review found that some applicants are asked to submit items which are irrelevant or disproportionate to their particular application, or to explain why a list item is not applicable[2]. This has significant time and resource implications for applicants and for LPAs and can result in excessively large documents being submitted. In research undertaken by Arup for CLG, 36% of applicants surveyed identified information requirements for the application as the biggest factor in determining the cost of preparing and submitting a planning application[3].

[2] Review of Information Requirements for the validation of planning applications, Arup and Addison & Associates for CLG (2008)
[3] Benchmarking the Costs to Applicants of Submitting a Planning Application, Arup (May 2009)

7. LPAs also take differing approaches to DAS preparation in terms of the level of detail they ask applicants to provide. Consequently some DAS are very repetitive. Others are submitted in support of applications for very minor development, which the DAS may have little scope to influence, resulting in the production of documents which add little to planning officers' understanding of the proposed development.

8. The proposed changes will lead to a reduction in the administrative burden for applicants and ensure that the information which is submitted alongside a development proposal is proportionate, contributing to a more effective and efficient planning system.

9. CLG consulted on draft proposals in 2009. A large majority[4] of the respondents were in favour of the proposed changes to the DAS. Respondents made a number of suggestions which would improve the proposed approach to information requirements. These have been included in the final package of measures; key amendments are as follows:

   i) Less prescriptive guidance on the process of reviewing and revising local lists;

   ii) A wider range of development that will no longer require a DAS; and

   iii) Further emphasis on the need for a proportionate approach to DAS preparation.

10. A small number of respondents commented on the assumptions that were presented in the draft IA that was published for consultation in 2009. These have been taken into consideration when preparing the final IA.

11. A more detailed summary of consultation responses will be published on the CLG website alongside the new policy and guidance [reference.

Policy objectives

12. The proposed changes to local lists and Design and Access Statements should help make the information requirements clearer, simpler and more proportionate. If the proposals are effective, future applicants would submit shorter planning applications which focus on the pertinent issues, and LPAs would request only information which is relevant, necessary and material to allow them to determine each application. Design and Access Statements would be focused on development proposals which have the most significant design and access implications.

13. The policy changes will also contribute towards the Government's overall objective to provide a more effective and efficient planning system for all involved.

Options

Option 1: i) publish new policy principles [of proportionality, necessity, relevance, fitness for purpose, brevity and engagement] to inform a review of local authorities' local lists of information requirements and encourage applicants to take a more proportionate approach;

ii) restrict the range of planning applications that must be accompanied by a Design and Access Statement (DAS); and

iii) clarify the GDPO wording on DAS content

[4] i.e. 82% of correspondents who answered this question in the consultation paper

Option 2: Do nothing

Outline of Policy Proposal (Option 1)

14. The policy proposal is a package of measures to encourage a more proportionate approach to information requirements for planning applications.

i) Review local lists of information requirements

We propose to:

a) withdraw the current 'recommended national local list' which is intended to guide LPAs in setting local lists of information requirements;

b) introduce a new, criteria based, national policy requirement for local planning authorities preparing local lists, to ensure they only ask for information that is relevant, necessary, proportionate and justified by national or local policy;

c) require LPAs to update their 'local list of information requirements' where necessary, having regard to this new policy requirement, by December 2010;

d) refine and improve the guidance on national list items, to encourage a more proportionate approach;

e) explore options for the external scrutiny of local lists; and

f) encourage better submissions from applicants by proposing that large or complex applications should be accompanied by a concise summary document.

ii) Reduce the number of applications which must be accompanied by a Design and Access Statement

Remove the mandatory requirement to prepare a DAS for the following types of planning application:

a) householder and other minor development (small scale non-domestic development) in National Parks, the Broads and Areas of Outstanding Natural Beauty (AONB) (householder development outside of designated areas is already exempt from the DAS);
b) removal or variation of conditions attached to existing planning permissions;
c) extension of the time limit for existing planning permissions;
d) walls, gates, fences and other means of enclosure up to 2m in height (where these do currently require planning permission);
e) on operational land, buildings or structures up to 100 cubic metres or 15m in height, whichever is the greater; and
f) erection, alteration or replacement of plant or machinery, up to 15m above ground level or up to the height of the existing plant or machinery, whichever is the greater.

Applications for the above types of development in World Heritage Sites, conservation areas or listed buildings would still require a DAS.

iii) Clarify GDPO wording on DAS content

Amend the wording of the GDPO to require a more straightforward explanation of how the context of the development influences its design.

Costs and Benefits of Option 1

15. Costs and benefits of the different elements of the policy proposal have been set out separately for clarity. Estimates of the costs and benefits are dependent on the assumptions made. The degree to which individual planning applications currently face disproportionate requirements for accompanying documents will vary across types of application and local authority. To reflect the fact that potential costs and savings cannot be estimated accurately, ranges indicate where sensitivity analysis has been done around the assumptions made.

Review local lists of information requirements

Sectors/groups affected:

- Local planning authorities
- Individuals or businesses making applications for planning permission
- Businesses involved in the production of specialist supporting documents that currently accompany planning applications
- Stakeholder interest groups (e.g. statutory consultees, or other parties who review planning applications during the determination process)

Benefits - summary

16. The main beneficiaries of the proposed change will be applicants (both householders and businesses) who will experience financial and time benefits because fewer items of information will be required to accompany a planning application. Those items which are still needed will be more concise than their current equivalents. The new local lists will also bring greater clarity to applicants, who will be reassured about the circumstances where certain information is not required.

17. This proposal will also save time and resources for LPAs and other stakeholders/consultees who will read and comment on the different documents during the determination process, and will allow redeployment of those resources to other work. Overall efficiency savings for local planning authorities are expected to occur, although in some cases there will be an initial investment of time and resources that will be required in order to review and revise each local list. Over 90% of LPAs currently have a local list; some of these will require only modest changes[5]. These costs are estimated in the costs section below. The benefits of the changes to an individual local authority would need to exceed £4,000 to outweigh the one-off costs imposed (see paragraph 31 for further details). These benefits are expected to accrue within 12 to 18 months following the revision of the local list, due to the anticipated reduction in the overall volume of supporting information that officers will have to consider during the determination process once a more proportionate local list is in place.

18. Once the revised lists are adopted, it is expected that local authorities will invalidate fewer applications, thereby reducing the overall length of time that development proposals spend in the planning system, and contributing to the Government's aim of delivering more new development. The new local lists will however focus applicants'

[5] Review of information requirements for the validation of planning applications (Arup and Addison & Associates, 2008) Available from: http://www.communities.gov.uk/publications/planningandbuilding/reviewplanningapplications

attention on national, regional and adopted local policy, which will ensure that the overall quality of development is improved.

Assumptions made in calculating savings

19. Applications for all types of development will be affected by the reduced requirements for information and the greater certainty about the type of information which is required. In quantifying the savings, it is assumed that the majority of householder development and minor development applications will benefit. The estimates of savings have not been applied to all applications of this type as some LPAs are already taking a proportionate approach to their requests for information. It is assumed that a larger proportion of major applications will see some benefit from reduced information requirements. This type of application is still likely to require a relatively broad range of supporting information, due to its greater impact on the surrounding area, but there should be some reduction in the burden for applicants.

20. The average number of decisions made annually on householder applications, minor applications, and major applications between 2006 and 2008 has been used to estimate the savings. This is a change from the consultation stage impact assessment, where only figures for 2008 were used, and leads to a small increase in the estimated savings. This reflects the fact that decisions in 2008 were starting to fall as a result of the economic downturn and were higher in 2006 and 2007. Decisions on householder and minor development applications totalled approximately 437,000 applications on average between 2006 and 2008 out of 571,000 applications in total or just over three quarters of all decisions. Major developments accounted for a further 18,400 decisions on average per annum.

21. A range of estimates has been calculated with different assumptions about the proportion of applications which will make savings. The positive impacts from the new streamlined information requirements should apply to a majority of **householder** and **minor** applications. The estimates presented in this impact assessment show how the savings vary under assumptions that the proportion of affected applications is between **a half and three quarters**.

22. As **major** applications are more commonly the subject of pre-application discussions, it is assumed that a higher proportion of them will benefit from LPA officers attending those discussions and directly applying the principle of proportionality to their requests for information. Estimates are made assuming that between **two thirds and all** planning applications for major development will make savings.

23. The approximate costs for preparing a planning application have been taken from survey estimates summarised in Arup research for CLG[6], Benchmarking the Costs to Applicants of Submitting a Planning Application. The research finds there is a wide range in the costs of submitting a planning application both within categories of development and across different categories.

24. The categories in the Benchmarking Costs report do not directly match the categories reported in the statistics on planning applications. Table 1 below shows the assumptions made of the costs for different types of planning application with reference to the categories in the research. The median figure of the cost of preparing a planning application has been used in calculating the savings. The costs reported for an application for a *single house construction or conversion* are assumed to apply to all minor dwellings applications. This may underestimate the costs for all applications in the minor development (dwellings) category, which includes

[6] Benchmarking the Costs to Applicants of Submitting a Planning Application, Arup (May 2009) Available from: http://www.communities.gov.uk/publications/planningandbuilding/benchmarkingcostsapplications

developments of between one and nine houses. The costs of preparing an application by a *small or medium sized enterprise* are used to estimate potential savings for other minor development which includes offices, research and development, and light industry; general industry, storage and warehousing; retail, distribution and servicing; and other.

Table 1: Assumptions on costs of preparing a planning application by type of development and numbers of applications affected

Type of application	Average annual number of applications (2006-2008)[7]	Category of application from Benchmarking Costs research	Range of costs given in research	Midpoint used in estimates
Householder development	285,000	Householder development	£0 - £1375	£687.50
Minor development – not dwellings	85,000	Applications by small and medium sized enterprises (SMEs) concerning the establishment of premises	£420 - £1750	£1085
Minor development - dwellings	67,000	Single house construction or conversion	£2000 - £6000*	£4000*
Major development – dwellings	9,000	Major development for approximately 100 dwellings	£10,740 - £39,006	£24,873**
Major development – not dwellings	9,000	Major development for retail development of approx 2500 sq m	£1,781 - £21,500	£11,641

*These are not the costs published in the report for single house construction or conversion. An outlier in the sample meant the median used here is more representative of the majority of applications in the sample.

** As the research looked at the costs of preparing an application for 100 dwellings, this may be an overestimate of the cost for some major dwellings applications. An application for 100 dwellings counts as a small scale major application.

25. As the costs of preparing information to accompany different types of applications are likely to vary considerably, and the categories of development in the Benchmarking Costs report are narrower than the categories for which statistics on decisions are available, the cost savings should be regarded as illustrative.

26. A more proportionate approach to information requirements at the local level will result in a saving to applicants. It should enable more applicants to make planning applications, particularly in relation to small-scale development, without the assistance of an agent. The Killian Pretty review suggested that their proposals might

[7] Numbers of applications taken from CLG Statistics of Planning Applications http://www.communities.gov.uk/planningandbuilding/planningbuilding/planningstatistics/statisticsplanning/

lead to savings of around 10% due to the reduction in the use of agents[8]. Assumptions around the savings made on an individual application have been subject to a sensitivity analysis in order to provide a range of illustrative savings. It has been assumed as a central estimate that applicants make a saving of 10% in the costs of preparing a planning application. This estimate has been made taking into account the fact that LPAs will be expected to reduce the overall range of items on their local lists, and to take a more proportionate approach to defining the information requirements for each application which, in combination, should reduce the amount of work required to prepare a planning application.

27. Table 2 shows the estimated savings for applicants under the assumptions detailed above.

Table 2: Illustrative savings for applicants under a central scenario assuming 10% reduction in costs

Category of development affected	Proportion of applications affected (range)	Average annual savings	Discounted 10 year savings
Householder development	50% – 75%	£10 - £15 m	£84 - £126 m
Minor development - dwellings	50% – 75%	£13 - £20 m	£115 - £173 m
Minor development – not dwellings	50% – 75%	£5 - £7m	£40 - £60 m
Major development – dwellings	66% – 100%	£15 - £22 m	£142 - £193 m
Major development – not dwellings	66% – 100%	£7 - £10 m	£66 - £90 m
TOTAL		**£50 – £75 m**	**£447 - £672 m**

Numbers may not sum correctly due to rounding

Sensitivity Analysis

28. Table 2 above gives estimates of savings assuming a reduction in costs of 10% and a range in the proportion of applications of each type affected. Table 3 below shows how the savings would vary when costs of making an application are reduced between 5% and 15% in addition to varying the proportion of applications on which savings are made. This shows that the level of the savings estimated is being driven more by the assumptions around reduction in costs than it is by the number of applications affected.

Table 3: Sensitivity analysis – annual savings under different assumptions

	Proportion of applications affected		
Cost savings	**Low (50%-66%)**	**Central (66%-75%)**	**High (75%-100%)**
5%	£25m	£30m	£37m
10%	£50m	£62m	£75m
15%	£75m	£92m	£112m

[8] The Killian Pretty Review: Planning Applications A Faster and More Responsive System – Final Report. Available from: http://www.communities.gov.uk/publications/planningandbuilding/killianprettyfinal

29. Table 4 shows the breakdown of the main results of the sensitivity analysis. The low scenario assumes that the proportion of applications affected by the changes is at the low end of the range (i.e. 50% of householder and minor applications, 66% of major applications), and that savings amount to 5% of the total cost of making an application. The high scenario assumes that the proportion of applications affected by the changes is at the high end of the range (75% of householder and minor applications, 100% of major applications) and that savings amount to 15% of the total cost of an application. The central scenario shows savings under assumptions of a 10% reduction in costs which have been applied to the mid-range estimate of applications affected (66% of householder and minor applications, and 75% of major applications).

Table 4: Sensitivity analysis summary – annual savings under low and high scenarios

Category of development affected	Low scenario	Central scenario	High scenario
Householder development	£5 million	£13 million	£22 million
Minor development	£9 million	£24 million	£40 million
Major development	£11 million	£25 million	£49 million
TOTAL	**£25 million**	**£62 million**	**£111 million**

30. The sensitivity analysis demonstrates that there is considerable variation in the estimated savings under different assumptions. A greater reduction in costs applied to a central estimate of the proportion of applications affected (for householder development and minor development) leads to savings outside the upper end of the range estimated with a 10% reduction.

Costs – Summary

31. There will be additional costs for some LPAs who will need to revise their current local list of information requirements. LPAs will be expected to revise and publish their lists before the end of 2010. Many local authorities routinely review these lists, and the cost of reviewing them will be modest, but authorities will find that the process of revising their current list – or preparing one from scratch, in a small number of cases – has time and resource implications. Any costs to local authorities should be offset quickly once the revised lists are published as the reduced volume of information that accompanies applications – and the improved clarity for applicants about what is required - will reduce the amount of staff time spent on each application and lead to efficiency savings.

32. An LPA which takes action to both review and then revise its current list might be expected to incur costs in the region of £4,000. This is based on the assumption that the exercise will be led by a principal planning officer, and will involve the following elements, which together are expected to amount to approximately 25 days of officer time. The elements are: policy review and discussion with colleagues to identify any proposed changes necessary (estimate 10 person-days); prepare report on proposed changes (3 days); consult on proposed changes (5 days); consider responses and revise list where appropriate (7 days). It is assumed that about a third of local authorities will review their lists and decide that no further revision is needed. This is assumed to take 10 days and would incur costs of approximately £1600.

33. There will also be an impact on firms which currently provide technical expertise or produce technical documents which accompany planning applications, although we

believe that many of these businesses are involved in other stages of the development process and it may allow them time to allocate their resources to other work. This position was supported by consultation respondents.

ii) Reduce the number of minor applications which must be accompanied by a Design and Access Statement / iii) clarify GDPO wording on Design and Access Statement content

Sectors/groups affected:

- Local planning authorities
- Householders applying for planning permission in National Parks, AONBs, the Broads or SSSIs
- Individuals or businesses making applications for some forms of minor development in National Parks, AONBs, the Broads, or SSSIs
- Individuals or businesses making applications to extend an existing planning permission, or to remove or vary conditions on an existing planning permission
- Businesses making applications to install or replace plant and machinery, or for development on operational land
- Businesses involved in the production of Design and Access Statements (DAS)

Benefits - summary

34. Costs for applicants will be reduced, as they will no longer be required to provide a DAS for most very small scale development. Currently many applicants are likely to engage an agent to produce the statement for them, usually as part of wider work they are doing, for example, in producing drawings of the proposed development. The associated saving from the policy change will therefore partly accrue to these businesses.

35. There will also be efficiency savings for LPAs, who will have fewer documents to review for householder and other small scale applications. In addition, some local authorities are currently concerned that they risk judicial review if they accept an application without a detailed DAS if one is required by law. This acts as a deterrent to the local authority using discretion about the level of detail that an applicant needs to include in the DAS, tending to result in excessively long documents. By simplifying the content of a DAS, this risk is reduced.

36. The requirement to provide a DAS for any development affecting Listed Buildings, Conservation Areas and World Heritage Sites will continue unchanged. Any development over the size thresholds in the amended GDPO will also continue to require a DAS. **This will focus DAS preparation on major schemes and those in the most sensitive areas**.

Assumptions made in estimating savings

37. The applications which will be affected by the policy change are: householder and minor developments in AONBs, National Parks and the Broads; applications under s73 to amend conditions; applications to extend existing planning permissions; applications for walls, fences, gates and other means of enclosure where these currently require planning permission; development on operational land; installation, alteration or replacement of plant and machinery.

38. Data on planning applications is not broken down sufficiently to be able to identify numbers of applications which may be affected in all cases. Estimated savings have been calculated for householder and minor planning applications in the National Parks and the Broads, and for applications to remove or vary conditions. No attempt

has been made to estimate the numbers of applications to extend a planning permission or those for walls, fences, gates and other means of enclosure, development on operational land or those relating to installation, alteration or replacement of plant and machinery. It is also not possible to disaggregate the data on numbers of householder and minor planning applications to AONB level. This will underestimate the number of applications affected and the associated savings.

39. The number of decisions made on householder and minor planning applications in the National Parks and the Broads have been used as a proxy for the number of applications. An average of the annual figures for 2006-2008 has been used to estimate savings. The number of applications to remove or vary a condition has been estimated by grossing up the number of online applications submitted via the Planning Portal. It has been assumed that 25% of such applications are submitted online. Table 4 shows the number of applications in each affected category.

Table 4: Numbers of applications affected by proposed changes to Design and Access Statements

Type of application	Number of decisions (2008)	Source
Householder development in National Parks, AONBs, the Broads or SSSIs	2330	CLG statistics (only includes figures for National Parks and the Broads)
Minor development in National Parks, AONBs, the Broads or SSSIs	1740	CLG statistics (figures for National Parks and the Broads)
Applications to remove or vary a condition	8580	Planning Portal

40. Design and Access Statements are usually completed for an applicant by an agent. Costs of producing a statement are likely to vary widely depending on the scale and nature of the development. Given that the types of application affected are those for minor or householder development, it is assumed that savings made on not producing a Design and Access Statements will be at the lower end of the scale. Costs of producing a small Design and Access Statement are assumed to be around £350, based on internet research into consultant fees and consultation responses to these proposals. This estimate has been revised downwards since the consultation stage impact assessment.

Table 5: Estimated total savings - removing Design and Access Statements

Policy change	Average annual savings	10 year discounted savings
Removing need for Design and Access Statement from the range of application types discussed above	£4 million	£38 million

Costs – summary

41. The removal of the requirement to produce a Design and Access statement for certain types of application may mean a loss of work for some small firms which are involved in producing the statements alongside architectural plans. Most firms, however, will be involved in other stages of producing applications and the proposed change will allow them to reallocate their resources to other work.

Costs and Benefits of Option 2

42. The do nothing option would not lead to any additional costs or benefits but would mean that for many planning applications the amount of information required by LPAs would continue to be disproportionate and irrelevant to the particular development proposed.

Administrative Burdens

43. The policy change will lead to a reduction in administrative burdens. The calculation of this reduction is laid out in an annexe to this impact assessment.

Risk Assessment

44. Applications should be less voluminous and will therefore take less time for officers to read and digest. We expect applicants to focus more clearly on the key issues, which we hope will make the process more efficient for everyone. The revised 'local lists of information requirements' should be clearer about what information is and is not required; it is the authority's responsibility to make sure it asks for the information it thinks it will need, and to convey this request to the applicant.

45. However, there are potentially extra costs if insufficiently detailed applications are validated (i.e. accepted for consideration by local authorities). These might arise in the following situations:

a) an authority asks an applicant to provide more information before it is prepared to give consent for the scheme - the cost here is on the applicant, and although it is arguably no greater than what they would have had to pay under the current system, the unexpectedness of this cost may introduce a time delay to the process as well as requiring the applicant to find the extra thousands of pounds (in the worst case scenario) to pay consultants to prepare the additional report(s).

b) an authority grants permission for a scheme, subject to the provision of further information. This would mean that the scheme could go ahead but would not be usable until all the conditions had been met. As above, this brings potential delay and unexpected cost to the developer although there is not such a tight timescale for them to supply the additional information. However, it could introduce a greater degree of risk that the project would not be completed, potentially creating difficulties in raising the necessary development finance.

c) an authority grants permission for a scheme, which - due to a lack of background research/information at the application stage - subsequently encounters practical problems that are costly to redress (e.g. subsidence; site contamination; noise nuisance to/from neighbouring existing users once the scheme is in use). The costs here would either be borne by the developer, or by the subsequent occupants of a completed scheme, depending on when the problems arose. But the LPA should be professional enough to spot likely issues during the determination stage, and ask for the relevant information. Practical issues such as subsidence or contamination are already addressed by the Building Regulations, which are not the responsibility of planning. For larger schemes, a considerable amount of 'due diligence' work is undertaken on behalf of potential investors - if not for the developer themselves - which involves a lot of background checking about the developability of the scheme; this

should identify potential snags irrespective of whether or not the local authority planners think to ask about them.

d) an authority refuses permission for development because it is not satisfied that all the relevant issues have been addressed. (There is a risk that this will happen more frequently, if applicants provide less supporting information). The applicant can appeal against the decision, which incurs new costs: an appeal fee, plus the cost of preparing any supporting information to accompany the appeal. Alternatively an applicant could submit a new amended application, using the 'free go' provisions (failed applicants may reapply, within 1 year for a scheme which is similar to their previous proposal).

46. We consider that there is a medium risk of situations a), b) and d) arising, but a low risk of situation c) due to the likelihood that practical problems with a site will be identified through other channels as outlined above. The risks of local authorities asking for more information from developers after validation of the application will be mitigated by the publication of very clear guidance on the Communities and Local Government website which will lay out how LPAs should take a proportionate approach to information requirements . [reference].

Monitoring

47. We will monitor the local list review process by working with the Planning Portal to monitor the changes that LPAs make to their Planning Application Requirements (PAR) on the Portal website, which need to reflect any updated local information requirements. We have already identified baseline figures, in terms of the number of supporting documents that LPAs currently consider to be ‘mandatory’ for online planning applications in their area, in order to make comparisons in the future.

Specific Impact Tests

Competition assessment

There is no impact on competition from this proposal.

Small Firms' Impact Test

The proposal to make information requirements for planning applications more proportionate will benefit all businesses which make planning applications. It is likely that the current requirements create a disproportionate burden for smaller firms which will be reduced by the proposed changes.

The proposal to reduce the range of applications that require a DAS is likely to result in a slight reduction in work for architects or consultants who prepare such documents. However, given that the work involved in the preparation of this information in the circumstances proposed is a relatively minor component of the total work involved in preparing an application, the loss of income from the preparation of these documents is not thought to be significant.

The proposal to make information requirements for planning applications more proportionate is also likely to result in a reduction in work for the consultancy firms which currently prepare technical reports to accompany the applications. However, much of this reduction in work translates to direct savings for the applicants/businesses submitting the applications.

Legal Aid Impact Test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not lead to increased carbon and other green house gas emissions, nor have a negative impact on the Environment.

Health Impact Assessment

There are no detrimental health impacts from this proposal.

Race, Disability, Gender and Other Equality

We have considered the equalities impacts of the proposed changes and consider that race and gender issues are unaffected.

We do not propose to change the 'access' element of the Design and Access Statement. The proposal will reduce the overall number of applications that are accompanied by a DAS. However, disabled access rights are unaffected, as these are driven by the Disability Discrimination Act and the Building Regulations, neither of which will be affected by our proposals.

Human Rights

We do not expect a negative impact on human rights from this proposal.

Rural Proofing

We do not believe these proposals will have a negative impact on rural areas.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

Reduction in the Admin Burdens Baseline

The reduction in the admin burdens baseline has been calculated using the central estimates in the ranges given.

Review local lists of information requirements

Direct savings for business as applicants:

Minor (not dwellings) (10% x £1085) x (66% x 85,000) = £6 million

Minor (dwellings) (10% x £4000) x (66% x 67,000) = £18 million

Major (not dwellings) (10% x £24873) x (75% x 9,000) = £17 million

Major (dwellings) (10% x £11641) x (75% x 9,000) = £8 million

The total figure of £49 million has been converted to 2005 prices using the GDP deflator, giving an admin burden saving of **£45 million**.

Savings for businesses submitting applications on behalf of householders:

A large proportion of householder applications are submitted by agents acting on their behalf. This means that some of the benefits for householders will accrue to those businesses. The Householder Development Consents Review (HDCR) showed 78% of householder applications were submitted by agents[9]. Applying this percentage to the central estimate of householder applications affected by changes to information requirements gives:

(10% x £690) x (66% x 285,000 x 78%)= £10 million

In 2005 prices, there is an additional admin burden saving for agents acting on behalf of householders of **£9 million**.

Total administrative burden saving in relation to local lists in 2005 prices: **£54 million**

Design and access statements

Direct savings for business as applicants:

Minor applications – estimated savings of £3.6 million

Conversion to 2005 prices using the GDP deflator gives £3.3 million

Estimated savings for businesses submitting applications on behalf of householders:

£0.8 million x 78% = £0.6 million

At 2005 prices (rounded), this is £0.6 million.

Total administrative burden saving in relation to design and access statements: **£4 million**

Total admin burdens saving (shown on summary sheet) estimated to be £58 million.

[9] Householder Development Consents Review: Steering Group Report, CLG (2006) Available from: http://www.communities.gov.uk/documents/planningandbuilding/pdf/151849.pdf

Summary: Intervention & Options

Department /Agency:	Title:	
CLG	Impact Assessment of changes to publicity arrangements for planning applications	
Stage: Final	**Version:** 1	**Date:** 24th February 2010

Related Publications:
Publicity for Planning Applications: Summary of responses to consultation (21 December 2009)

Available to view or download at:
http://www.communities.gov.uk/publications/planningandbuilding/publicityplanningapplications

Contact for enquiries: Tammy Adams / Neil Holdsworth **Telephone:** 0303 444 1710 / 1716

What is the problem under consideration? Why is government intervention necessary?

Local Planning Authorities (LPAs) are already required to publicise planning applications, for example through the use of site notices and/or neighbour notification letters and, for certain applications, the use of notices in local newspapers. Most authorities also put information about applications onto their websites. To introduce consistency in terms of minimum requirements for information provision, and to ensure that people have a wide choice in how to access such information, there will be a new statutory requirement for LPAs to publish information about all applications on their website.

What are the policy objectives and the intended effects?

The main policy objective is to ensure that members of the public and local communities are able to access information about planning issues in their area using the Internet where that is their preference. This should lead to those with an interest being better informed about planning applications in their local area and aware of development proposals which may affect them. This should encourage public engagement with the planning system.

What policy options have been considered? Please justify any preferred option.

Option 1: Do nothing – do not change requirements to publicise planning applications

Option 2: Make web publication of certain types of information in relation to all planning applications mandatory and extend the time period for displaying site notices publicising applications relating to listed buildings and conservation areas from 7 days to 21 days.

Option 2 is the preferred option as it will allow members of the public who prefer to access information on planning applications via the Internet to do this across all local authorities. At consultation stage we consulted on an option to remove the requirement to advertise certain types of planning applications in newspapers. This option has not been taken forward at this stage due to evidence provided during the consultation. The evidence base provides further details.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

We will consider whether the effectiveness of this and wider measures to publicise planning applications should be incorporated into a new key performance indicator on development management services. This will be done within 3 years of the compliance date, i.e. by April 2014. CLG will also work with the Planning Advisory Service to monitor the wider Development Management approach being taken forward in response to the Killian Pretty review.

Ministerial Sign-off For final stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Ian Austin

.....Date: 3rd March 2010

Summary: Analysis & Evidence

Policy Option: 2	Description: **Make web publication of information relating to all planning applications mandatory**

COSTS

ANNUAL COSTS	
One-off (Transition)	**Yrs**
£ 90,000 - 290,000	1
Average Annual Cost (excluding one-off)	
£ 28,000 - 49,000	

Description and scale of **key monetised costs** by 'main affected groups'

One off costs for local authorities of reviewing their current web based information on planning applications, and making any necessary adjustments. One off cost if 50% of LPAs make changes: £175,000 Costs for some local authorities of purchasing planning software: one off cost: £0 - £27,000 Annual ongoing cost: £0 - £21,000 Annual cost to Camden Borough Council: £28,000

Total Cost (PV) **£ 300,000 – 660,000**

Other **key non-monetised costs** by 'main affected groups'

None

BENEFITS

ANNUAL BENEFITS	
One-off	**Yrs**
£	
Average Annual Benefit (excluding one-off)	
£	

Description and scale of **key monetised benefits** by 'main affected groups' It has not been possible to monetise the benefits of this change. The non-monetised benefits are described below and in the evidence base.

Total Benefit (PV) **£**

Other **key non-monetised benefits** by 'main affected groups' Providing more, and more consistent, information about all planning applications online will improve access to this information for members of the public who prefer to access information online.

Key Assumptions/Sensitivities/Risks It is assumed that 99% of local planning authorities currently use planning software to display details of planning applications on their websites. This suggests the costs to LPAs of the new requirements should be minimal.

Price Base Year 2009	Time Period Years 10	**Net Benefit Range** (NPV) **£ -0.3m - £-0.7m**	**NET BENEFIT** (NPV Best estimate) **£ -0.5m**

What is the geographic coverage of the policy/option?			England	
On what date will the policy be implemented?			April 2010	
Which organisation(s) will enforce the policy?			Local authorities	
What is the total annual cost of enforcement for these organisations?			£ n/a	
Does enforcement comply with Hampton principles?			Yes	
Will implementation go beyond minimum EU requirements?			No	
What is the value of the proposed offsetting measure per year?			£ n/a	
What is the value of changes in greenhouse gas emissions?			£ n/a	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £	Decrease of £	Net Impact £

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Evidence Base (for summary sheets)

Background

1. National statutory requirements for publicising applications for planning permission, listed building consent or conservation area consent are specified in Article 8 of the General Development Procedure Order (GDPO), and in the Planning (Listed Buildings and Conservation Areas) Regulations 1990. The requirements exist to ensure that parties affected by proposed development are able to readily access information about such proposals in order that they can respond with concerns or comments that can be taken into account when the LPA takes a decision on a planning application. There are different requirements for different categories of development. The requirements to date have provided for three types of publicity:

   - the display of a site notice;
   - neighbour notification letters to owners and occupiers of adjoining properties; and
   - (for certain categories of development) publication of a notice in a local newspaper (and, where the LPA maintain a website for this purpose, on that website).

2. The amendments now made introduce a new requirement for LPAs are to provide information on their websites about all planning applications in their area. This change reflects the growing importance of the internet as a source of information for many people, including information on public services such as planning. For example, a 2009 Cabinet Office report noted the increasingly significant role and impact of the internet with 65% of UK households having internet access and people increasingly preferring to use the internet to access information about public services[10].

3. Guidance on publicity for planning applications is currently set out in Circular 15/92[11]. CLG intend to review this guidance in light of these amendments.

4. To coincide with the changes to these statutory requirements, a decision has been taken to revoke the Town and Country Planning (London Borough of Camden) Special Development Order 2004, to ensure that the requirements placed on Camden, in relation to publicising applications, are the same as those for other authorities. See below for more details.

Rationale for Change

5. Although the majority of LPAs already place some information about planning applications in their areas on their websites, there may not be consistency in the information provided meaning that members of the public may not be able to consistently access the information they are looking for online.

[10] Digital Engagement: Update on Power of Information, Cabinet Office (2009) Available from : http://blogs.cabinetoffice.gov.uk/digitalengagement/file.axd?file=2009%2F5%2FDigital+Engagement+-+final+-+pdf.pdf

[11] Circular 15/92: Publicity for Planning Applications http://www.communities.gov.uk/publications/planningandbuilding/circularpublicity

6. As mentioned already, research suggests that the internet plays an increasingly significant role when people are looking for information about public services. The increase in households with internet access has led to an increasing preference for information to be provided through new media as well as in more traditional ways.

7. Existing best practice examples have demonstrated that online publication of planning applications is a highly effective means of improving access to planning information and encouraging wider participation in the planning system. For example, the London Borough of Camden has been using its website to publicise planning applications for several years, and have found that this, alongside other initiatives, helped to increase local involvement in the planning system significantly.

8. The changes will ensure all LPAs place the same minimum standard of information on all applications for planning permission onto their websites. This new statutory provision mirrors current good practice and will lead to greater consistency across England, without adding significantly to local authority burdens. The proposed changes will also ensure that the statutory requirements for publicising planning applications reflect the trend towards greater use of the internet to access information.

Consultation

9. On 30 July 2009 CLG consulted on whether or not any changes should be made to the statutory requirements for how local authorities publicise planning applications[12]. The consultation covered three possible options with regard to publicity for planning applications:

    - Introducing a requirement to publish online planning applications currently required to be published in newspapers
    - Removing the requirement to publicise certain types of planning applications in local newspapers
    - Amending the period for displaying site notices related to listed building consent and conservation area consent, and for development affecting the setting of a listed building, or the character and appearance of a conservation area from 7 days to 21 days.

10. The consultation closed on 23 October 2009 and 193 responses were received. 80 (41%) came from LPAs, and 40 (20%) came from representatives of the newspaper industry. Responses were also received from a range of other sectors including applicants, consultees (including members of the public), professional organisations and community groups. A summary of the consultation responses is available on the CLG website at: http://www.communities.gov.uk/publications/planningandbuilding/publicityplanningapplications

11. On 21 December 2010, having considered the consultation response, CLG announced that the following decisions had been made:

[12] Publicity for Planning Applications: Consultation, available from: http://www.communities.gov.uk/archived/publications/planningandbuilding/consultationpublicity

- the existing statutory requirement to publicise certain planning application in local newspapers would continue as the consultation produced evidence that some people and organisations continue to rely on this source of information in planning applications, and did not provide confidence that alternative means of reaching those groups could be readily rolled out; and
- a new statutory requirement would be introduced for LPAs to publish information about planning applications on their websites; and
- the statutory period for display of site notices for applications for listed building and conservation area consent, and for development affecting a listed building, or a conservation area, would be extended from seven to 21 days, to bring these in line with arrangements for site notices for planning applications.

12. The consultation proposal most closely relevant to the option assessed in this impact assessment was the introduction of a requirement for notices for all planning applications to be made available on LPA websites. 107 of the total responses made reference to this proposal. Of those, 58 were supportive, 32 were tentatively supportive, and 17 opposed the idea. Typical supportive comments referred to the effectiveness of the internet as a means of communications, or to the fact that this measure reflects current best practice. Typical concerns included the potential need for IT investment, or the comment that a new requirement of this type would be preferred if it replaced the need to advertise certain applications in newspapers, rather than adding to it.

13. A small number of respondents commented on the assumptions that were presented in the draft impact assessment that was published for consultation in 2009. These have been taken into consideration when preparing this final impact assessment. A number of LPAs commented that they already provide information on planning applications on their websites, and that this proposal would not therefore impose any cost of them. Others commented that if the proposal was introduced in a way that required IT-related investment, then there would be some costs incurred.

Policy objectives

14. The proposed change is aimed at ensuring members of the public are able to access information about planning issues in their area using the Internet where that is their preference. This should lead to those with an interest being better informed about planning applications which will have an impact on them or their surroundings. This should encourage public engagement with the planning system.

15. The policy changes will also contribute towards the Government's overall objective to provide a more effective and efficient planning system for all involved.

Options

Option 1: Do nothing – the requirements for publicising planning applications remain unchanged.

Option 2: i) amend the statutory requirements for publicising planning applications to ensure that all LPAs put information, on all planning applications, onto their websites

ii) the statutory period for display of site notices for applications for listed building and conservation area consent, and for development affecting a listed building, or a conservation area, would be extended from seven to 21 days, to bring these in line with arrangements for site notices for planning applications.

Outline of Proposal (Option 2)

16. The proposal is that all LPAs will be required to put the following information, for all planning applications, onto their websites:
    - address of application
    - description of the proposed development; and
    - date by which comments must be received.
    - where and when copies of applications, maps etc are available for public inspection;
    - how representations can be made; and
    - that, where representations are made on householder applications, in the event of an appeal, those representations may also be used for appeal purposes and their will be no further opportunity to comment.

17. The statutory period for display of site notices for applications for listed building and conservation area consent, and for development affecting a listed building, or a conservation area, would be extended from seven to 21 days, to bring these in line with arrangements for site notices for planning applications.

18. The proposal also encompasses the revocation of the Town and Country Planning (London Borough of Camden) Special Development Order 2004, to ensure that the requirements placed on Camden, in relation to publicising applications, are the same as those for other authorities.

Costs and Benefits of Option 1

19. The do nothing option would not lead to any additional costs or benefits but would not achieve the qualitative benefits for applicants in terms of improving consistency in terms of access to information on planning applications.

Costs and Benefits of Option 2

Sectors/groups affected:

- Local planning authorities
- Individuals or businesses making applications for planning permission
- Members of the public and stakeholder interest groups (i.e. those who monitor and comment on planning applications of interest to them)

Benefits - summary

20. The main beneficiaries of the proposed change will be members of the public and stakeholder interest groups, who will experience an improvement in their ability to access information on planning applications in their area which they may wish to consider and comment on. The proposal is in line with the growing importance of the internet as an information source, and its role as a 'first port of call' for information for many people. Uploading information about all planning applications to the LPA website will better meet the increasing preference across society for public information to be available online.

21. The changes will also improve consistency in how information on planning applications is disseminated across LPA areas. This is beneficial because it ensures that interested parties across the country are equally able to access information of relevance to them.

22. Overall, the proposal is expected to increase the availability of information on planning issues and encourage greater participation in the planning system by members of the public and other stakeholders.

23. The proposal will not bring any direct benefits to LPAs. However, the new measure has been designed so as to minimise any costs to that sector. This is considered further in the costs section below.

24. The proposal will not bring any direct benefits to applicants for planning permission, but nor will they result in any costs for that group.

25. It has not been possible to monetise the benefits to members of the public and stakeholder interest groups as there is no available evidence on the value of being able to access information online.

26. The extension of the statutory period for site notices in relation to listed building and conservation area consents from seven days to 21 days will bring greater consistency to the current requirements by ensuring that third parties are clear about the length of time they have to make representations on a planning application.

Costs – Summary

27. Evidence (established in research carried out for the Planning Portal by Emap Glenigan) suggests that 99 per cent of local authorities already publish some details of planning applications received on their websites, with 81 per cent publishing full plans and drawings alongside the application. This suggests that many local authorities would not incur substantial extra costs in being required to publicise online.

28. There may be additional costs for some LPAs as, whilst most already provide some information about planning applications on their websites, this is not always in the form to be prescribed, so many of them will still need to make adjustments to ensure their arrangements fit the new statutory requirement. There would be an additional cost if this has to be done immediately the change is introduced. However, a 6-month lead-in period has been allowed. This should enable a significant number of LPAs to implement the necessary changes as part of their routine updates to existing software and administrative arrangements, rather than forcing each of them to incur an otherwise unnecessary one-off cost. This concession also allows time for those LPAs who do not already have any e-planning arrangements in place to develop new arrangements. The monetised costs to LPAs are estimated below.

29. We do not foresee any significant costs from changing the time period for displaying site notices for listed building consent and conservation area consent from seven days to 21 days.

30. In light of the decision to maintain the current statutory requirement for local authorities to advertise certain planning applications my means of advertisements in local newspapers, the Town and Country Planning (London Borough of Camden) Special Development Order 2004 is to be revoked. This gave Camden certain exemptions from the statutory requirements for publicising planning applications that are set out in the GDPO, and was intended to provide Camden with greater flexibility to decide how best to publicise their planning applications, with a view to increasing engagement in planning. As a firm decision has now been made to ensure other LPAs continue to use local newspaper advertisements, it is considered appropriate to bring Camden's requirements back in line those that apply to other authorities. This measure will incur a cost to Camden, which has been saving approximately £28,000 a year as a result of the exemption. Camden have been using this to fund other forms of engagement in the planning application process to supplement those required under secondary legislation.

Assumptions made in monetising costs

31. It is assumed that, particularly given the 6-month lead-in concession being provided, the majority of LPAs will be able to make the necessary changes without incurring costs. This assumption has been supported by discussions on the detail of the proposed changes that CLG have had recently with a small number of practitioners and stakeholders. This included talks with LPAs on whether or not the proposed change reflected existing good practice, and on whether a typical LPA would be likely to incur any costs in order to become compliant. The assumptions made in relation to the likely scale of costs, where costs are incurred, are derived from guideline figures (on both new system start up costs and adjustments to existing systems) provided by one of the leading suppliers of IT software solutions for LPAs.

32. 99% of the 354 LPAs already use planning software. Assuming that half of these will incur a £1,000 one-off charge to upgrade that software to ensure it meets the new requirements gives a one-off cost of **£175,000**. The other half of LPAs do not incur any charges as any necessary changes are made during routine annual updates. We have included a sensitivity analysis below which gives the estimated costs under

different assumptions about the proportion of LPAs which incur the £1,000 one-off charge.

33. For the 1% of LPAs that do not currently use planning software, it is assumed that the new requirements on publicising applications may mean they purchase this software, or alternatively that they choose to upload the relevant information on to their websites themselves without using a specific IT package. The purchase of planning software would cost on average around £7,500. Varying assumptions about LPA response to the new requirements lead to additional one-off costs of between **£0** and **£27,000**.

34. LPAs which purchase planning software in response to the requirements will also face an ongoing annual maintenance cost of between £2,000 and £10,000. An average cost of £6,000 has been used to estimate annual ongoing costs at the upper end of **£21,000.**

Sensitivity analysis around costs

35. As there is limited evidence on how many of the local planning authorities with existing planning software will need to pay to upgrade that software, we have completed a sensitivity analysis around the 50% estimate of those that will face costs (see paragraph 31). The table below shows the change in the one-off cost when 25% of LPAs and 75% of LPAs face those additional costs. The NPV estimates in the summary sheets reflect this range of costs.

Table 1: Costs sensitivity analysis – one-off costs for LPAs with existing software under varying assumptions

Proportion of LPAs with planning software that face additional costs	**25%**	**50%**	**75%**
One off cost – year 1	£90,000	£175,000	£260,000

Administrative Burdens

36. The policy change does not have any impact on administrative burdens.

Risk Assessment

37. The proposed change will result in greater consistency in terms of access to information on current planning applications.

38. However, there are *potential* extra costs under the following scenarios:

- Improved access to information on planning applications could result in more comments being made on planning applications. These would need to be considered by the LPA and could have an impact on whether an application is approved or refused.

39. It is considered that there is only a very low risk of this scenario arising due to a) most LPAs already putting information on planning applications on their websites, and b) (in relation to risk of refusal) that the impact of representations made on a planning application on its eventual determination relate to whether any material considerations arise from those comments, and the weight that the LPA attach to those material considerations, and not simply to the volume of support of objection arising.

Monitoring

40. The amendments to the statutory requirements for publicising planning applications will be reviewed within 3 years of the compliance date, i.e. by April 2014. The effective operation of the wider Development Management process is likely to be the subject of the new Performance Management Indicator in 2011.

41. The precise means of monitoring and review is to be determined. However, we regularly meet with the local authority sector on publicity and other issues, and intend to continue to closely monitor the effectiveness of the broad range of publicity measures that LPAs use, with a view to ensuring these continue to effectively and efficiently reach the broad range of stakeholders.

Specific Impact Tests

Competition assessment

There is no impact on competition from this proposal.

Small Firms' Impact Test

The amendments to the statutory requirements relating to publicity are not expected to have a specific impact on small firms.

Legal Aid Impact Test

There will be no legal aid impact from this proposal.

Sustainable Development, Carbon Assessment, other Environment

This proposal will not have negative economic, environmental or social impacts and will not have a negative impact on future generations.

This proposal will not lead to increased carbon and other green house gas emissions, nor have a negative impact on the Environment.

Health Impact Assessment

This proposal will not result in any detrimental health impacts.

Race, Disability, Gender and Other Equality

We have considered the equalities impacts of the proposed changes and consider that race and gender issues are unaffected.

The proposals will improve access to information on planning applications, and will augment existing arrangements which include site notices, newspaper advertisements and neighbour notification letters.

Human Rights

We do not expect a negative impact on human rights from this proposal.

Rural Proofing

The proposal will not have a negative impact on rural areas. Access to information on planning applications in rural areas will increase as a result on this change.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	*Results in Evidence Base?*	*Results annexed?*
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Summary: Intervention & Options

Department /Agency:	Title:	
Communities and Local Government	**Impact Assessment of Reducing the time limit to submit a planning appeal where there is an enforcement notice**	
Stage: Implementation	**Version:** Final	**Date:** March 2010
Related Publications: Improving the Appeal Process in the Planning System - Making it proportionate, customer focused, efficient and well resourced		

Available to view or download at:

http://www.communities.gov.uk

Contact for enquiries: Theresa Donohue **Telephone:** 0303 4441719

What is the problem under consideration? Why is government intervention necessary?

The right of appeal against refusal of planning permission is a key element of the planning system. However it is possible to exploit this right in order to prolong unauthorised development (either unauthorised building works or unauthorised use) for as long as possible by manipulating the different time limits for submitting an appeal against an enforcement notice and a planning appeal. The prolonged presence of unauthorised development can be detrimental to the amenities of nearby residents and reduce confidence in the planning system.

What are the policy objectives and the intended effects?

Currently, appellants have up to 6 months after the date of refusal of an application or expiry of the determination period to submit a planning appeal (up to 12 weeks for Householder Appeals Service cases). This amendment will reduce the time limit to submit a planning appeal only where the same, or substantially the same, development is the subject of an enforcement notice. The new time limit will be 28 days from the date of the refusal of the application or the expiry of the determination period except where the enforcement notice is served after the decision or expiry of the determination period. In this case the time limit will be 28 days from the date the enforcement notice is served, unless the effect would be to extend the period beyond the usual time limit for cases not involving an enforcement notice.

This amendment will remove the potential for appellants to delay submitting a planning appeal as a means of prolonging unauthorised development. It will mean that the Planning Inspectorate will receive planning appeals sooner than might otherwise have been the case so increasing the potential for an earlier final resolution on the unauthorised development. It may also result in appellants deciding not to pursue enforcement and planning appeals for the same development.

What policy options have been considered? Please justify any preferred option.

The policy options considered were:

A. Do nothing

B. Reduce the time to submit a planning appeal where the same or substantially the same development is subject to an enforcement notice.

Option B is the preferred option as this will help to achieve the objective of reaching a final resolution on unauthorised development as soon as possible.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? As part of the Planning Inspectorate's annual performance monitoring. They will monitor the number of linked planning and enforcement appeals affected by this proposal and the time taken to decide them.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that (a) it represents a reasonable view of the likely costs, benefits and impact of the policy, and (b) the benefits justify the costs.

Signed by the responsible Minister:

Ian Austin

.....Date: 3rd March 2010

Summary: Analysis & Evidence

Policy Option: B	Description: Reducing the time limit to submit a planning appeal where there is an enforcement notice

COSTS

ANNUAL COSTS	
One-off (Transition) **Yrs**	Description and scale of **key monetised costs** by 'main affected groups' The costs associated with this measure have not been monetised.
£	
Average Annual Cost (excluding one-off)	
£	**Total Cost** (PV) £

Other **key non-monetised costs** by 'main affected groups'

Appellants will have less time to prepare their appeal however we do not consider that this will be significant as much of the information needed to support appeal is likely to have been submitted with the original application; the Planning Inspectorate will need to amend guidance on appeals.

BENEFITS

ANNUAL BENEFITS	
One-off **Yrs**	Description and scale of **key monetised benefits** by 'main affected groups' The benefits associated with this measure have not been monetised.
£	
Average Annual Benefit (excluding one-off)	
£	**Total Benefit** (PV) £

Other **key non-monetised benefits** by 'main affected groups' Increased confidence in the ability of the planning appeal system to deal with unauthorised development; potential to reach an earlier resolution on unauthorised development and reduce the length of time that costs of inappropriate development have an impact on third parties, including impacts on the environment.

Key Assumptions/Sensitivities/Risks Based on 2008-09 data this proposal could impact on around 800 cases where there is a planning appeal and an enforcement appeal relating to the same development. However we expect the number of such cases to drop over time due to other policy measures which have been introduced.

Price Base Year	Time Period Years	**Net Benefit Range** (NPV) £	**NET BENEFIT** (NPV Best estimate) £

What is the geographic coverage of the policy/option?			England	
On what date will the policy be implemented?			6 April 2010	
Which organisation(s) will enforce the policy?			LPAs, SoS	
What is the total annual cost of enforcement for these organisations?			£	
Does enforcement comply with Hampton principles?			Yes/No	
Will implementation go beyond minimum EU requirements?			Yes/No	
What is the value of the proposed offsetting measure per year?			£	
What is the value of changes in greenhouse gas emissions?			£	
Will the proposal have a significant impact on competition?			No	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £	Decrease of £	**Net Impact £**

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

Background

1. The proposal to reduce the time limit to submit a planning appeal where the same development is subject to an enforcement notice was consulted on in May 2007 in *Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced*[13]. It was part of a wider package of proposals for improving the efficiency and effectiveness of the planning appeals system.

2. The Government announced its intention to pursue this proposal in the *Government Response to Consultation Replies*[14] published in November 2007.

3. The right of appeal against refusal of planning permission is a key element of the planning system. However it is possible to exploit this right in order to prolong unauthorised development (either unauthorised building works or unauthorised use) for as long as possible, by manipulating the different time limits for submitting an appeal against an enforcement notice and a planning appeal.

4. For example, where unauthorised development has occurred and a retrospective planning application has been refused, the local planning authority (LPA) may decide to serve an enforcement notice on the applicant. The enforcement notice specifies a time period (a minimum of 28 days) within which the applicant must take remedial action to remove the unauthorised development. The applicant can lodge an appeal against the enforcement notice before the date specified in it i.e. a minimum of 28 days and the appeal starts to be processed by the Planning Inspectorate. However the applicant can choose not to submit an appeal against the refusal of planning permission until the last possible moment, for example six months after the decision notice has been issued.

5. Where an enforcement event (such as a hearing) has already been arranged and there is likely to be a significant period between the appeals, the Planning Inspectorate may suggest that the appellant withdraw the appeal or the LPA remove the enforcement notice. Where neither party is willing to do this, the Planning Inspectorate will usually determine the two appeals separately. In these circumstances, even if the enforcement appeal is upheld, LPAs are reluctant to take further enforcement action until the related planning appeal is determined. This means that the unauthorised building works or use is allowed to continue longer than might otherwise have been the case.

Changes since consultation

6. Since the 2007 consultation, the Government has given LPAs the powers, under section 70A and section 70B of the Town and Country Planning Act 1990, to decline to determine a planning application for development which is substantially the same as that which is the subject of an enforcement appeal that the Secretary of State is still considering, or has refused (within 2 years of the date of the planning application). These powers were commenced in relation to England on 6 April 2009 by the Planning Act 2008 (Commencement No.1 and Savings) Order 2009 (2009/400).

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[13] *Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced* can be found on the CLG website at: http://www.communities.gov.uk/archived/publications/planningandbuilding/improvingappealconsultation.

[14] *Government Response to Consultation Replies* can be found on the CLG website at: http://www.communities.gov.uk/publications/planningandbuilding/improvingappealresponse.

7. There has not been sufficient time to assess the actual impact of these powers however it is likely that they will lead to a reduction in the number of cases where there is a planning appeal and an enforcement appeal relating to the same development in the future. This proposal is still required however as there will still be instances where this situation could arise.

Current time limits for submitting appeals

8. Time limits for submitting appeals are set out in the General Development Procedure Order 1995 (as amended). Under the current system appeals must be submitted:
   - up to six months (or up to 12 weeks for applications under the Householder Appeals Service) from the date of refusal of a planning application or an application for a consent or an approval;
   - up to six months from the expiry of the period the LPA had for dealing with the application where the LPA has failed to determine the application;
   - and in any case, within such longer period as the Secretary of State may, at any time, allow.

   The 1990 Act provides that the time limit to be prescribed for submitting an appeal cannot be less than 28 days after the date of the decision or the expiry of the period for determination.

Rationale for Government intervention

9. The prolonged presence of unauthorised development can be detrimental to the amenities of nearby residents and can reduce confidence in the appeals process and the planning system overall.

10. Reducing the time limit to submit a planning appeal where the same development is subject to an enforcement notice will remove the potential for appellants to delay submitting a planning appeal for the purposes of prolonging unauthorised development. It will increase the opportunity for reaching an earlier final resolution in respect of unauthorised development as the Planning Inspectorate will receive some planning appeals earlier than is currently the case. It may also discourage some people from submitting both an enforcement appeal and a planning appeal for the same development.

Consultation

11. This proposal was one of a series of proposals set out in a wider public consultation paper on improving the planning appeal process. The consultation document, *Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced*[15], was published in May 2007.

12. 214 consultation responses were received from:
   - Government bodies including local authorities, Government agencies, devolved administrations and regional Government organisations
   - Public
   - Environment and community groups including amenity, voluntary and local groups and parish and town councils
   - Business including individual companies and trade organisations
   - Professionals and academics including professional institutes and legal firms.

[15] *Improving the Appeal Process in the Planning System – Making it proportionate, customer focused, efficient and well resourced* can be found on CLG's website at: http://www.communities.gov.uk/archived/publications/planningandbuilding/improvingappealconsultation

13. This proposal was on the whole well supported, with 90% (164) of all respondents indicating that they either agreed or strongly agreed. Government bodies were particularly supportive, with 97% (101) indicating that they either agreed or strongly agreed to the proposal. The least support was from business respondents although 79% (15) still indicated agreement to the proposal. The summary of responses[16] can be found on the Department's website

14. The Government's response to the consultation[17] (published November 2007) announced our intention to pursue this proposal.

Options

Option A: Do nothing

15. The time limit for submitting a planning appeal would remain the same regardless of whether the same development was subject to an enforcement notice.

Option B: Reduce the time to submit a planning appeal where the same development is subject to an enforcement notice

16. This amendment will reduce the time limit for submitting an appeal against the refusal or non-determination of a planning application or an application for a consent or an approval only where the same or substantially the same development is subject to an enforcement notice.

17. The new time limits for submitting a planning appeal in such circumstances will be:
    - 28 days from the date of the refusal of the application or the expiry of the period which the LPA had to determine the application, where the enforcement notice is served before the application is submitted;
    - 28 days from the date of the refusal of the application or the expiry of the period which the LPA had to determine the application, where the enforcement notice is served before the decision on the application is reached or the determination period has expired; or
    - 28 days from the date the enforcement notice is served, where the enforcement notice is served after the decision or expiry of the period which the LPA has to reach a decision on the application, unless the effect would be to extend the period beyond the usual time limit for cases not involving an enforcement notice.

18. The reduced time limit to submit a planning appeal will apply where an enforcement notice has been served no more than 2 years before the date on which the application is made or where it is served on or after the date of the application. It will apply regardless of whether an appeal has been lodged against the enforcement notice or not provided the enforcement notice is not withdrawn prior to the expiry of the reduced period to submit a planning appeal.

19. It will apply only to appeals arising from a planning application or an application for a consent or an approval submitted on or after 6 April 2010, where the same or substantially the same development is subject to an enforcement notice.

Costs and benefits

Sectors and groups affected

20. The sectors and groups affected by this amendment are:
    - Public sector (the Planning Inspectorate and local planning authorities)

[16] *Improving the Appeals Process in the Planning System: Consultation - summary of responses* can be found on CLG's website at: http://www.communities.gov.uk/publications/planningandbuilding/improvingappealssummary
[17] *Government Response to Consultation Replies* can be found on the CLG website at: http://www.communities.gov.uk/publications/planningandbuilding/improvingappealresponse.

- Appellants (including business, voluntary sector, charities and the public)
- Third parties (including business, voluntary sector, charities and the public)

Option A: Do nothing

Benefits and costs

21. There are no additional benefits or costs associated with this option.

Option B: Reduce the time to submit a planning appeal where the same development is subject to an enforcement notice

Benefits

22. Current practice in the Planning Inspectorate is to determine related planning and enforcement appeals together to reach a single decision unless there is likely to be a significant period between the appeals which would delay either of the appeals. This has resulted in the vast majority of such cases being linked together.

23. In the period 01/04/08 to 31/03/09 the Planning Inspectorate received 796 cases which consisted of at least one planning appeal and one enforcement appeal (the majority of which related to the same development) which they determined together to reach a single decision.

24. In these cases:
    - the planning and enforcement appeals were submitted together in 207 cases (26%) covering 276 enforcement appeals and 218 planning appeals
    - the planning appeal was submitted prior to the enforcement appeal in 353 cases (44%) covering 488 enforcement appeals and 387 planning appeals
    - the enforcement appeal was submitted prior to the planning appeal in 236 cases (30%) covering 373 enforcement appeals and 261 planning appeals

25. In the 30% of cases where the planning appeal was submitted after the enforcement appeal, the time periods for submission of the planning appeals were:
    - 60 planning appeals were submitted within 28 days of the LPA decision/ expiry of the determination period; and
    - 201 planning appeals were submitted more than 29 days after the LPA decision/expiry of the determination period.

    These figures include 12 planning appeals where the LPA failed to decide the planning application within the required time period. In these instances the submission period for the planning appeal has been estimated on the basis of an 8 week determination period.

26. Based on these figures, this amendment will result in around 200 planning appeals per annum being submitted earlier than would otherwise be the case, increasing the potential for an earlier final resolution to any unauthorised development to be reached.

27. The amendment may also result in the Planning Inspectorate being able to determine more planning and enforcement appeals together. In 2008-09, the Planning Inspectorate estimates that there were 1-2 cases per month where it was not possible to determine the planning and enforcement appeals together. Information on the reasons for the appeals not being determined together is not available.

28. Other benefits which may result from this amendment are:
    - Where the presence of unauthorised development is detrimental to the amenities of nearby residents, this can lead to a reduction in confidence in the appeal system and the planning system overall. This amendment will help to increase public confidence and give greater certainty to third parties and local residents.

    - the presence of unauthorised development may be harmful to the environment particularly in areas designated for their special qualities e.g. conservation areas, green

belt and to third parties. This amendment will help to reduce the time which unauthorised development can continue and therefore the impact on the environment and third parties.

Costs

29. Appellants will have less time to prepare their appeal documentation. However we do not consider this is likely to be a significant cost as much of the information needed to support their appeal is likely to have been submitted with the original application. The statutory timeframes for processing planning appeals would not be affected by this proposal giving main and third parties the same opportunity to comment during the course of the appeal as they would have for other types of appeal.

30. The Planning Inspectorate will need to update their guidance on planning appeals and there will be a small cost, in staff time, associated with this.

Monitoring and Evaluation

31. The impact of this amendment will be reviewed by the Planning Inspectorate as part of their annual performance monitoring. They will monitor the number of linked planning and enforcement appeals affected by this proposal and the time taken to decide them. However, in practice it will be difficult to distinguish how much of the impact is directly due to this amendment, as the s70A and s70B powers will also have an impact.

Specific impact tests

Competition assessment

32. The competition filter was applied to this proposal. We do not consider that this proposal will limit the number or range of suppliers or reduce the ability and incentives to compete. This proposal may affect businesses which have undertaken unauthorised development and which may be benefiting from profits arising from such. In this context the proposal may increase competition in some cases by creating a more level playing field by removing unauthorised development sooner.

Small Firms Impact Test

33. This amendment will impact on small businesses where they have undertaken unauthorised development and may reduce the time they can continue with related business activities without the necessary planning permission. However since the unauthorised development may be resulting in harm we consider this impact is justifiable.

34. 79% (15) of business respondents to the public consultation indicated their agreement with this proposal.

Equalities impacts

35. This amendment will apply to all cases where someone undertakes development without first obtaining planning permission where that same development is subject to an enforcement notice.

36. It has been suggested that Gypsies and Travellers might be disproportionately affected by this amendment as unauthorised sites are often established prior to obtaining planning permission.

37. The Government recognises that there is a significant shortfall in accommodation provision for the Gypsy and Traveller community and is seeking ways to encourage local authorities to take a more proactive approach to site identification. This should result in fewer

unauthorised sites in future. However the Government also considers that local authorities need to make more effective use of their enforcement powers to tackle unauthorised sites.

38. This amendment does not seek to remove the right of appeal or influence the Planning Inspectorate's decision on the appeal. It merely brings forward the timescale for submitting a planning appeal. This will allow appellants less time to prepare their appeal documentation however we do not consider that this will have a significant impact as much of the information needed to support the appeal will have been submitted with the planning application.

39. We will monitor the general impact of this amendment following implementation and we will carry out a full equality impact assessment at some point to assess any potential impact for Gypsies and Travellers in particular.

Other impacts

40. We do not consider that there will be any other significant impacts arising from this proposal.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes/No	Yes/No
Sustainable Development	Yes/No	Yes/No
Carbon Assessment	Yes/No	Yes/No
Other Environment	Yes/No	Yes/No
Health Impact Assessment	Yes/No	Yes/No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes/No	Yes/No