

*The Private Sector Perspective on  
Development Control in the context  
of Planning Delivery Grant 2005/06*

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Supplementary Report



*Supplementary Report: the Private  
Sector Perspective on Development  
Control in the context of Planning  
Delivery Grant 2005/06*

September 2006

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government (DCLG).

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# Contributors

This investigation of the private sector view of the planning service was commissioned by the Department for Communities and Local Government as part of its research into the impact of the Planning Delivery Grant. It was written by Lynda Addison of Addison & Associates and Christopher Tunnell and Katya Fox of Arup.

We would like to thank the Confederation of British Industry, the Home Builders Federation and the British Property Federation for their support and assistance with this research. We would also like to thank all those businesses that responded to the questionnaires or attended the seminar: without them this report could not have been written.

# Summary

Planning Delivery Grant has been used by Government to reward local authorities for achieving improved performance in relation to their planning service. Measures of this performance include Best Value targets, and one of the most significant of these targets relates to speed of decision-making on planning applications.

For the last three years there has been a research project looking at the impact of the Planning Delivery Grant<sup>1</sup> (PDG) on local planning authorities (LPAs) and the planning service. As part of this year's research, it was agreed there should also be a pilot survey of private sector perceptions of the development control service, following a paper published by the Confederation of British Industry<sup>2</sup> (CBI). More extensive research with the private sector is planned, to assist evaluation of the PDG distributed in 2006/07.

The CBI paper suggested that the targets and incentives to improve LPA performance, including PDG, have stimulated a variety of responses, some unintended and a cause for concern. In particular, the CBI suggested that progress towards targets appeared have a detrimental effect on parts of the application process which fall outside the stages under scrutiny. More specific concerns included: additional front-end loading through pre-application discussions; problems registering applications; increasing numbers of requests to withdraw applications; increasing numbers of refused applications; and increasing the workload at the final stage of the application process by imposing conditions that must be complied with before the development can begin. (The latter will be referred to as 'pre-start conditions' for short).

This report, published as a supplement to *Evaluation of Planning Delivery Grant 2005/06* on the website of the Department for Communities and Local Government,<sup>3</sup> summarises the results of a pilot survey carried out in association with the CBI, the Home Builders Federation (HBF) and the British Property Federation (BPF), which examined the concerns raised in the 2005 CBI paper as well as wider experiences of the planning service. The survey was circulated electronically to over 1,000 businesses on the databases provided by the partner organisations, and was complemented by a 'workshop' seminar for respondent businesses. Ninety-five responses to the survey were received, a response rate of 9%, which is unfortunately very low although not unusual for a survey of this type. The conclusions therefore need to be treated with caution as they are case-based and likely to be biased toward those with most concern about the service. The results from the survey have been evaluated in the context of the wider statistical information gathered as part of the PDG research.

There is no systematic evidence from the survey or our wider research to suggest that the Best Value targets and incentive effects of PDG have created widespread problems, although they have been challenging for both the public and private sector. However, it is clear that a minority of authorities or individual officers within authorities have taken actions that are not consistent with good customer care.

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<sup>1</sup> *Evaluation of Planning Delivery Grant 2003/04, 2004/05 and 2005/06*

<sup>2</sup> *Planning Reform, Delivering for Business: (CBI 2005)*

<sup>3</sup> [www.communities.gov.uk/planningdeliverygrants](http://www.communities.gov.uk/planningdeliverygrants)

More specifically, the main findings and conclusions from the pilot survey were:

- Pre-application discussions, clear validation guidance and up-to-date policies are seen as important to ensure good quality applications and effective decision-making. Businesses overall have responded positively to the new requirements, seeking pre-application discussions and improving the quality of the applications submitted, but there are concerns that in some authorities there has been a decline in the service. Resource shortfalls and the increase in the demand for such services are cited by LPAs as the reasons for any decline in service. Achieving the balance between provision of pre-application advice and handling of live applications is increasingly the key to providing a good quality service and outcomes.
- The private sector and LPAs concurred that applicants are being asked to delay submission of applications in order to undertake further pre-application discussions and address some of the potential issues prior to submission. This practice was thought to reflect the complexity of applications and the need to understand and satisfy all stakeholders' requirements and make a robust decision.
- Validation is accepted by the private sector as an important quality assurance mechanism but there is a need to ensure that all requests are appropriate. In some cases, businesses found the volume of material required overwhelming, particularly for outline applications. Agreeing a scope of works at the beginning of discussions was seen as one mechanism to improve this process. Although some authorities may be delaying validation of applications because of targets, there is no evidence this is a widespread practice.
- There is no statistical or other evidence from the research that would suggest that refusal or withdrawal of applications is being used as a way to achieve improved performance. Speculative applications, encouraged by a strong property market and changing policy, are suggested to be a further reason for increased refusals by both the private sector and local planning authorities, but it's noted that few go to appeal. There has been a small increase in withdrawals of applications as LPAs increasingly decline to negotiate on applications that are either unacceptable or not 'fit for purpose'. However, many in the private sector prefer to have the opportunity to withdraw and submit, rather than receive a refusal.
- Businesses and LPAs agree that the use of pre-start conditions has increased. Businesses perceived that a granted application with (too many) conditions was better than a refusal or no decision. Nevertheless there is a need for some authorities to streamline this process and ensure that conditions applied are appropriate.

One of the key messages from the private sector is that the planning service is still 'under-resourced' especially in terms of staff numbers and skill levels. There is a need for more resources to resolve recruitment and retention problems and the shortage of experienced officers, provide scope for negotiation and allow for effective pre-application discussions. This view was shared by LPAs.

Another key message which came through strongly in both the private sector and LPA research was the need to address issues relating to local politics, in particular reducing the number of applications refused against officer recommendations. Engaging members<sup>4</sup> in the decision-making process was seen as important and essential if 'anti-development' attitudes were to be addressed in some authorities.

Businesses acknowledged that some authorities had undertaken positive steps to improve the quality of the planning service. They identified a number of key recommendations that would further improve the planning service in some authorities:

- Addressing resource issues;
- Improving the pre-application discussion process through, for example, appropriate preparation by LPAs; consistency of case officers; attendance by experienced officers; and a mutually agreed note of meetings;
- Further clarification of what is a 'fit for purpose' application;
- Agreeing a scope of works early in the process;
- Monitoring of validation periods and registration dates to ensure LPAs deal with applications promptly on submission;
- Increased timescales for 'major' major applications to ensure sufficient time for consultation and negotiation;
- Internal reorganisation within LPAs, such as dedicated teams for major applications and improved co-ordination between LPA departments;
- Improvements to the section 106 processes;
- Ensuring requests to applicants for additional information are made very early in the application process if not at pre-application stage.

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<sup>4</sup> The elected Members of a local planning authority; generally, the councillors who sit on Planning Committees

# Chapter 1

## Introduction

### BACKGROUND

- 1.1 In December 2005 Addison & Associates and Arup were commissioned to work with CBI, HBF and BPF to undertake an initial survey of business perceptions of the planning service. This followed the publication of a CBI paper entitled *Planning Reform, Delivering for Business*<sup>5</sup> which raised a number of issues in terms of improvements to the planning service. A small seminar was also held with those respondents to the survey who wished to discuss issues further.
- 1.2 This work has been undertaken in parallel with an ongoing evidence-based evaluation of Planning Delivery Grant (PDG) and the evaluation of planning standards authorities for 2005/06. This report should be read alongside the research findings of this wider work.

### THE WIDER CONTEXT

- 1.3 The Government has implemented a number of reforms aimed at securing an effective planning system, including the reform of local and regional plan-making<sup>6</sup>, the introduction of delivery targets for determining applications, and increased resources through the Planning Delivery Grant (PDG). The PDG has provided extra funding to planning authorities that are meeting the targets, driven greater investment in e-planning (particularly to improve customer service) and supported the Local Development Framework (LDF) process. These reforms have begun to deliver, with well over half of authorities now meeting the target for determining major applications within 13 weeks.
- 1.4 To build on the existing reforms and identify how planning policy and procedures can better deliver economic growth and prosperity, the Chancellor and Deputy Prime Minister appointed Kate Barker to conduct a review.
- 1.5 The 2005 CBI paper called for changes to the regime in advance of the Barker review. It reinforced the importance of ensuring that the planning system operated far more efficiently but suggested that since 2001 the process of securing planning permission had become more difficult, lengthy and expensive for many businesses, while the pressure on councils from the new target-led approach was seen as having some unintended and costly consequences.
- 1.6 The surveys associated with this research study sought evidence, particularly with regard to the scale of any adverse effects, and to the suspicions about PDG which the CBI identified, to enable a realistic assessment of the impact of PDG and, more generally, the business community's views on the operation of the planning system and the scope for further improvement.

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<sup>5</sup> Referred to as the 2005 CBI paper in the remainder of this report

<sup>6</sup> The Planning and Compulsory Purchase Act 2004

## SURVEY APPROACH

- 1.7 Private sector businesses were surveyed in March 2006, using a web-based questionnaire. The survey was undertaken as a pilot for more extensive research with the private sector planned for 2006/07. The focus was on understanding how businesses interact with, and perceive, local authority planning services.
- 1.8 Survey forms were sent to over 1,000 businesses drawn from lists supplied by the partner organisations. The forms included questions on the respondents' experiences with planning applications, both before and after submitting an application. Some 95 responses were received – a low rate but not untypical for a business survey. The data provided enabled some comparison with the responses made by local authorities in a separate consultation<sup>7</sup>. However, with postal questionnaires there is always a risk that respondents will self-select and be biased towards those with the strongest views on the system.
- 1.9 Since only 95 responses (9%) were received the results must be interpreted with caution, but provide an indication of private sector views. An interpretation of the low response rate may be that the concerns raised about unforeseen negative consequences are not significant or widespread issues for businesses, or that in reality businesses have only limited interaction with the planning service. Overall the response included:
  - 62 businesses who had submitted an application in the previous three years and on average had submitted 11 applications;
  - 631 applications;
  - a good regional distribution of responses with the largest representations from the most urbanised regions of the South East and North West;
  - The majority of respondents were manufacturers or mixed use property developers;
  - 19 businesses had an annual UK turnover of more than £1 billion, 23 were in the £10-£250 million range and the remainder had lower categories.
- 1.10 The survey was followed by a seminar in May 2006 to review those areas identified as the highest priority for improvement. It was attended by a small number of businesses representing house builders, commercial developers, the hotel/pub industry and one of the largest 'mixed development' developers. Discussions also took place with developers during the conduct of the surveys and some written material was submitted, including case histories of poor practice.

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<sup>7</sup> [www.communities.gov.uk/planningdeliverygrants](http://www.communities.gov.uk/planningdeliverygrants) *Evaluation of Planning Delivery Grant 2005/06*

# Chapter 2

## The Operation of the Planning System

### INTRODUCTION

- 2.1 This section explores the private sector perceptions with regards to the complexity of the issues and system, and the resources and skills available in planning authorities derived from the survey and seminar. All three of these topics were raised in the 2005 CBI paper and were addressed by the questionnaire survey in this research.
- 2.2 The 2005 CBI paper suggested that targets and PDG seemed to have stimulated a variety of procedural responses and that progress towards targets appeared to be driven at the expense of loading other parts of the application process outside the measured period. It noted that there was a shortage of skilled staff which had exacerbated the problems and that the number of planners entering the public sector had changed little over the last decade despite planning applications leaping 50%. The issues involved were also considered to be increasingly complicated. It noted that other organisations were struggling, for example the Planning Inspectorate, with appeal hearings not being scheduled for more than a year in many cases – again adding to costs and uncertainty for business
- 2.3 Overall the ‘system’ issues of the private sector in the CBI paper and this survey focused on:
- The level of resources available for planning services;
  - The growing complexity of issues that must be addressed in order to secure permission combined with a growing lack of certainty about what is required and what types of development may be permissible; and
  - The impact of Best Value targets and, in particular, the implications in terms of pre-application workload, as well as changes in registration practice and withdrawals and refusals.

### RESOURCES

- 2.4 Based on the results of the questionnaire survey, improving the resources available to planning authorities was the highest priority for improvement: a quarter of respondents identified resources as the first priority. The quality and availability of pre-application discussion, itself largely a resourcing issue, were a close second. It is widely acknowledged that there have been shortfalls in the resources available for planning, the situation becoming acute from the mid-1990s. Shortfalls arose as a result of local authority funding as a whole, a

growing workload in planning, especially in terms of application numbers, and a declining rate of cost recovery on the fees charged by authorities for planning applications.

- 2.5 Private sector responses also suggest concerns in terms of the variability of resources and local authority management and working practices. They indicated a need for authorities (LPAs) to address specific issues and practices that are resource-related, including high staff turnover, provision and scope of pre-application discussions, and policy formulation to resolve issues up-front. This demonstrates a consensus with many of the concerns raised in the PDG LPA surveys and case studies, especially that a lack of resources is a major factor underlying poor performance notwithstanding an increase in money for planning (up to £155m a year allocated as PDG), and a substantial increase in application fees.
- 2.6 To investigate the issue further, various characteristics related to planning service resource levels were reviewed for the 'top' 30 and 'bottom' 30 authorities as defined by Best Value Performance Indicator 109 for each application type as part of the PDG overview report this year<sup>8</sup>. There were very few significant differences for 'good' and 'bad' performers. The only consistent differences for the 'top' authorities for applications types were higher budgets, higher performance related PDG awards as would be expected, a higher proportion of administrative staff employed in development control and more appeals officers employed. Whereas in 2004/05<sup>9</sup> there was a relationship between caseloads and performance, this year it is difficult to draw any robust conclusions from the data. It does suggest that 'top' authorities have more efficient resource management and streamlined processes through, for example, greater use of administrative staff to handle the non-technical aspects of planning applications.

## COMPLEXITY

- 2.7 One of the clear messages from the private sector was the increasing complexity of the planning process – which in many respects is leading to greater uncertainty as to the outcome of planning applications. Certainty of processes and outcomes were seen as areas in which service had declined in the past few years, with both identified by 70% of private sector survey respondents as having declined over the past three years.
- 2.8 Underlying this complexity and uncertainty were concerns about the planning and the management of the system rather than the system itself. The basic planning system, involving the submission of applications is reasonably well understood and did not change substantially as part of the reforms in the 2004 Act<sup>10</sup>. Reforms to the system of development plans were also not regarded as a particular issue creating uncertainty, although the absence of consistent up to date policy is. Issues raised included:

<sup>8</sup> Evaluation of Planning Delivery Grant 2005/06 Table 4.2

<sup>9</sup> Evaluation of Planning Delivery Grant 2004/05

<sup>10</sup> Changes included the introduction of a requirement to submit a statement in to demonstrate consultation in accordance with the relevant Statement of Community Involvement, a requirement for economic impact reports and a requirement for design and access statements

- National and regional policy which has opened up the greater possibility of challenging policy and designations in 'out of date' local plans, but until new plans are in place there is uncertainty as to outcomes and greater scope for speculative applications which appear to be increasing;
- The responses of certain statutory consultees, especially in relation to highways and access, resulting from the lack of capacity in many transport networks and explicit guidance;
- Greater public opposition to development, as concerns for the environment increase alongside growth pressures and the perception that it is possible to be more 'choosy' about development when the economy is strong;
- The growing significance of statutory and, more especially, non-statutory environmental or landscape designations and the perceived use of non-statutory designations to support 'nimbyist' opposition to new development;
- Disagreements between the planning authority and other bodies such as CABE, the Environment Agency, etc.;
- Inconsistencies between officer and member views and stated policy.

2.9 In relation to the policy uncertainty, private sector participants in the seminar suggested that speculative applications were increasing because of rising land values; evolving policy often made it worth 'having a go', especially where regional and national policy offered some support. This was also cited by the private sector as a factor leading to a higher level of refusal, but only a small proportion of these cases were taken to appeal.

2.10 Almost all survey respondents noted that highways and transport constraints lead to uncertainty. As one respondent put it: '*...even where there is a significant need for additional jobs and strong public support, it is not unknown for the Highways Agency to issue an Article 14 Direction out of the blue after many months of discussions*'. Others noted that they were often powerless to resolve such issues because the constraints were present at a strategic level.

2.11 It was suggested that authorities were now taking responses from statutory environmental and nature conservation interests more seriously, which to some extent was a consequence of recent events; for example, floods and the issue of advice about flood risk. The 26 separate environmental designations that cover a large area of the south east were cited. It was suggested that these should be reviewed regularly and maintained only if there is a strong evidential base for keeping designations, and for justifying their extent, and possibly the types of designation could be rationalised with a clearer relationship to their policy meaning.

## **THE INFLUENCE OF TARGETS AND TIMESCALES**

2.12 The purpose of Best Value targets has been to establish a culture within local government that encourages good management practices delivering efficient, effective and economic services that meet users' needs. Since 2001 authority performance has been measured in terms of Best Value Performance Indicators,

or 'BVPI's. BVPI 109 sets targets in terms of the speed of decision-making for major, minor and 'other' types of application and this is linked to the PDG allocations.

- 2.13 The CBI report suggested that there is a perception amongst developers that PDG is leading to unforeseen consequences because of eagerness to meet targets. These include: problems registering applications, additional pre-application discussions, additional use of conditions, multiple registration of mixed use applications, downgraded priority for applications that have gone over the targets, as well as – perhaps most seriously – a higher level of refusals and withdrawals. The latter issues were further examined through the private sector and LPA surveys. The overall statistical and survey evidence suggest that, over the lifetime of PDG, there have only been small rises in withdrawals (2%) and refusals (4%). Most applicants prefer to withdraw the application if a refusal is likely, because of the effect on investor confidence. The private sector in discussions also suggested that the small increase in refusal rates was more likely to be linked to the rise in speculative applications associated with a strong property market, and to situations where there were fundamental points of principle that could not be addressed through scheme amendments e.g. where the proposals involved departures from local policy. Withdrawals and refusals are considered further in Chapter 4.
- 2.14 The underlying issue is that whereas in the past it was often possible to make substantial amendments to schemes post-application, the requirement to meet targets has reduced the scope of this approach and the willingness by LPAs to negotiate to improve schemes other than at the margin. The BVPI targets do allow some schemes to go beyond target timescales, albeit that many authorities suggest it is necessary to aim for 100% on all cases, to allow for unforeseeable delays. Other authorities, however, do identify applications where it is accepted they will and should take longer.
- 2.15 According to survey responses, targets also have an effect on the registration and validation of applications; this is considered in Chapter 3. Most seminar attendees brought examples of applications processed within target timescales and others which were way over target. A number of comments were made concerning targets:
- Some thought that larger applications are increasingly being processed more smoothly as LPAs put more resources into them;
  - A minority of authorities are thought to be inflexible; that is, they stick to the deadline in all circumstances, even if they do not have all the information required. In some cases these same authorities are also unwilling to discuss applications prior to submission;
  - LPAs are increasingly sub-contracting specialist work. This often means that applications take more time to process as there is another 'layer' in the decision-making process;
  - Within reason, speed of decision is not a key concern for businesses: certainty of timescale is preferable. Businesses prefer to get the 'right' decision rather than a refusal because of timetable constraints.

# Chapter 3

## Pre-Application Issues and Submission, Registration and Negotiation of Applications

### INTRODUCTION

- 3.1 This section explores private sector experiences and perception of pre-application discussions with LPAs, including charges and the cost to businesses of submitting an application, and the formal submission of applications and subsequent negotiation prior to the decision being taken. It identifies key concerns and offers recommendations to improve the service from a business perspective. It discusses the concept of 'fit-for-purpose' applications in relation to validation criteria and identifies private sector concerns with the process.

### VALUE OF PRE-APPLICATION DISCUSSIONS

- 3.2 Overall, the private sector viewed pre-application discussions in a positive light and as a constructive mechanism to improve the quality of the planning service. In the survey, more than 60% of respondents thought that pre-application discussions were 'very helpful' or 'helpful' in developing proposals; few thought that pre-applications made no difference: 89% thought that it was better to discuss planning applications before formal submission rather than after. At the seminar, attenders stated that good quality pre-application discussions could cut down the time wasted by both parties. (This is echoed in the main PDG evaluation, wherein the case-study local authorities report that developers are increasingly keen to get pre-application advice and to undertake early consultation with stakeholders).
- 3.3 In the seminar, businesses identified the following ingredients as desirable to ensure pre-application discussions were useful. Some of the following were thought to be lacking in some authorities:
- Appropriate preparation by LPAs prior to the meeting, including internal agreement on the approach to the application between all departments;
  - Adequate rooms and other facilities for meetings;
  - Consistency of case officers at meetings (the appointed case officer should attend all meetings);
  - Attendance by case officer and a more senior/ experienced officer, to ensure all parties understand how an application should progress;

- Availability of skilled staff for meetings, including those from other departments or relevant agencies such as highways officers; and
- Discussions should cover the identification of sensitive issues and be open and honest, particularly about political views.

3.4 The survey asked businesses to identify those issues which should be covered at pre-application discussions. The key aspects were:

- A statement of current and emerging policy and how the application relates to it (87% of respondents);
- The decision-making timescale (84% of respondents);
- A statement of likely section 106 requirements (82% of respondents) – this is currently the main area of dissatisfaction amongst businesses;
- A statement of all requirements to making a valid application submission (77% of respondents);
- An indication of other parties/ organisations who will be important in the planning process (73% of respondents); and
- The planning history of the site (69% of respondents).

3.5 Given the value businesses reportedly place on pre-application discussions, the majority of respondents (79%) in the survey also stated that most or all of their applications were subject to pre-application discussions but a significant proportion of applications were submitted without pre-application advice. The latter is to be expected, as applications range from a relatively simple one for a new sign on a building to a complex proposal for mixed-used large-scale development.

#### **‘FRONT-LOADING’ AND DELAY**

3.6 One of the concerns of the private sector reported in the 2005 CBI paper is that authorities are ‘front-loading’ the application process by encouraging applicants to delay submission and go through lengthy discussions. Sixty four percent of respondents in our business survey reported that they have been asked to delay submission of an application in order to undertake further pre-application discussions. Half of the respondents thought this practice had happened ‘more frequently’ in the past three years, while the other half thought there had been ‘no change’.

3.7 When this issue was raised at the LPA seminars conducted separately as part of the main PDG research, participant authorities agreed. They suggested that this was not so much an issue of the mechanics of the planning system, but of the complexity of the issues and the need to satisfy all stakeholders and make a good quality decision. They saw front loading, in the form of pre-application advice, as key to getting applications right in the first place – particularly for major applications. Achieving a balance between provision of pre-application advice and the handling of live applications was seen as a key ingredient for

a good quality service and outcomes. LPAs thought the increased emphasis on pre-application advice and a tougher stance on the need for more thoroughly considered, better-prepared applications has meant the quality of applications submitted has started to rise.

## **INCIDENCE AND UPTAKE OF PRE-APPLICATION DISCUSSIONS**

- 3.8 A private sector concern raised at the business seminar was the unwillingness of some authorities to engage in pre-application discussions. This was supported by the results of the business survey: approximately one third of businesses reported that LPAs 'frequently' declined to undertake pre-application discussions. However, the remaining respondents thought this 'rarely' (52%) or 'never' (15%) happened. The majority of respondents (75%) thought there had been 'no change' in the number of authorities declining to undertake pre-application discussions in the previous three years. This result accords with the results of the LPA research, which found no large-scale removal of pre-application discussions, although some short-term removal may have occurred, for example, when there were high levels of sickness.
- 3.9 The private sector stated that LPAs often cite lack of resources as the reason for not holding pre-application discussions. Some businesses were sceptical that this was always the real reason, though the lengthy waiting times for pre-application advice at some authorities may be partially attributable to lack of resources. Businesses reported, through the survey, that currently there is often a long lead-in time of 4/6 weeks following a request for pre-application discussion. They would like this reduced to 2/3 weeks. The LPA survey results confirm the businesses' experiences, showing applicants waiting more than a month to receive advice at some authorities.
- 3.10 Resourcing pre-application discussions can be a challenge for some authorities. Pre-application discussions can represent a significant workload for a LPA even though many applications are never formally submitted. The business survey confirmed that a significant proportion of applications on which advice was sought are not formally submitted as often they are speculative, a trend which is increasing.

## **PRE-APPLICATION CHARGES**

- 3.11 Very few LPAs currently charge for pre-application advice. Businesses reported that they would be agreeable to paying for pre-application discussions if it would ensure that meetings would definitely go ahead and they would receive consistently high quality advice. The majority of LPAs were not keen to pursue pre-application charges, the main reasons being the resource implications of meeting the increased expectations – in particular, the need for senior and experienced staff to be present to deal with complex queries – and concern about deterring their use by applicants.
- 3.12 Although businesses thought they could absorb pre-application charges into their costs, they also believed that, in the context of householder applications, discussion should remain free. They were concerned that the introduction of charges would introduce another layer of red tape and cause additional delay,

for example the time taken within most firms to write a cheque, or where the LPA claims to have lost a cheque. They expressed a preference for any such charges to be kept separate, not incorporated into planning fees.

## **COSTS OF APPLICATIONS**

- 3.13 As part of the business survey, broad information on the costs of developing proposals and the costs associated with gaining planning permission was sought. The responses raise doubts as to the overall reliability of this data as categories were highly aggregated. There was not a sufficient distinction between costs incurred in designing a scheme (architects, engineers, quantity surveyors and so on) and those incurred by the application process. In the circumstances and given the low response rate, no conclusions can be drawn.
- 3.14 The figures that were provided, though, show considerable variation. The costs of developing proposals and submitting the very largest applications for developments can be very high, particularly when proposals are controversial. Large areas of cost include the need for sometimes very complex environmental assessment, large-scale public relations exercises and infrastructure costs. However, across the system as whole these costs often pale into insignificance when account is taken of the cost of land acquisition.

## **SUGGESTED IMPROVEMENTS TO PRE-APPLICATION PRACTICE**

- 3.15 The private sector felt that some authorities had undertaken positive steps to improve the availability and quality of pre-application discussions, including:
- Requesting submission of concept drawings and providing clear guidance on issues to be addressed before setting up pre-application discussions;
  - Establishing a planning advice team, with officers drawn from all relevant departments in the LPA, who provided a written response to applicants; and
  - Employing dedicated planning liaison officers trained in development control who have the time to assist with applications without needing to meet targets.
- 3.16 In terms of priorities for future improvements in the survey, availability and quality of pre-application discussions were identified as the third and fourth priorities respectively. Businesses identified a number of things they felt would improve the service:
- Increased willingness on the part of LPAs to enter pre-application discussions within an appropriate timescale – for example, two to three weeks after requests;
  - Attendance by senior officers;
  - Officers to undertake preparatory work prior to meetings;

- Agreement of a fixed scope of works to accompany an application at the beginning of the application process; and
- A mutually agreed note of meetings (already available at some authorities).

## VALIDATION

- 3.17 One of the concerns of the private sector highlighted in the 2005 CBI paper related to difficulty in getting a planning application registered. Local authorities' validation criteria were sometimes complex, requiring a substantial range of additional information to be supplied before the authority would register the application.
- 3.18 Business survey respondents said they found the volume of material required from them to be overwhelming in some cases, particularly in respect to outline applications. It was felt that so much information was sought by some authorities for an outline application it was no longer 'outline'. At the seminar they suggested that in some cases LPAs do not read in full the material they request, nor necessarily understand how to apply the information: they have a 'tick box mentality' and are risk-averse.
- 3.19 The LPA research found that in 45% of respondent authorities the publication of the 2005 validation guidelines had not added to the requirements faced by applicants. The publication of the guidance was seen as levelling the playing field for applicants. Most authorities now operate an internal validation checklist, to confirm that all the elements of an application have been complied with before it is registered, so as to ensure 'fit-for-purpose' applications. This would appear to be frustrating for applicants and, at the business seminar, attendees felt that there should be further clarification of the term 'fit for purpose'.
- 3.20 One frustration for businesses was LPAs giving late advice on documents required to accompany applications. This was seen as a particular issue when case officers change and each has a different opinion on what supporting material is necessary, or when the assigned case officer is inexperienced and unable to give clear advice on the requirements.
- 3.21 All the above would suggest that there is a need to promote a better understanding of the appropriateness of requests within some LPAs as well as improve businesses' understanding of the new planning system and other legislative requirements which impact on the planning process, such as environmental regulations.

## SUBMISSION AND REGISTRATION

- 3.22 A concern highlighted in the 2005 CBI paper was that applicants were experiencing difficulty registering applications even when ready to proceed – even when they had already had pre-application discussions – as the LPA was unwilling to register the application until it was confident it would meet deadlines. In the recent survey, businesses suggested this was the most frequently occurring reason for an authority refusing to validate an application. In the PDG surveys, LPAs suggested that this practice was not widespread but agreed that such practices did occur in some authorities. In particular, 7%

authorities that responded to the LPA PDG survey agreed with the statement that PDG has 'encouraged the authority to refuse to validate major applications where the application cannot be processed in 13 weeks', and 6% reported that they require an application to include a proposal that is sufficiently comprehensive to be permissible within the 8 or 13 week target.

3.23 The business survey results and seminar also suggest that applicants increasingly understand that applications have to be complete on submission. In the survey, the majority of businesses reported that their approach to submitting applications had changed over the past three years. Three-quarters of respondents thought their applications now contained 'more detail'. Local planning authorities, in their survey, thought that increased emphasis on pre-application discussions and a tougher stance on the need for 'fit-for-purpose' applications have meant the quality of applications has started to rise.

3.24 The changes in approach adopted and recorded by businesses varied greatly and were influenced by individual local planning authorities, but they include:

- Moving towards framework applications with detail to follow later;
- Agreeing main issues and principles before even considering the detailed design;
- Paying more attention to detail;
- Recognising that the extent and complexity of supporting information have increased;
- No longer assuming that they will be able to amend plans or negotiate once the application has been submitted;
- Submitting more duplicate applications;
- More pre-application discussions;
- Sounding out members in advance of submission;
- Carrying out more community engagement;
- Undertaking more consultation with stakeholders, earlier in the process including pre-submission;
- Greater use of planning consultants; and
- Planning the submission of applications further ahead.

3.25 The business seminar attendees believed that some LPAs use the tactic of requesting additional studies to delay registration of applications and thus help them meet targets. Other authorities were reported to have changed registration dates in order to meet targets. Businesses had examples of applications which had registration dates later than expected, given the date of submission. In the

LPA survey<sup>11</sup>, respondent authorities reported the majority of applications were validated within 3 days (73%) but the results of the business survey suggest that the average gap between initial submission and validation of an application may be longer in some authorities.

## NEGOTIATION

- 3.26 Businesses felt that the requirements of the decision-making process meant that there was too small a window for meaningful debate by the time, for example, internal and external consultation had been undertaken. Businesses also felt this situation was further exacerbated by the fact that some case officers did not open the file for the first few weeks following submission of the application. Seminar participants raised the problems of reaching case officers in some authorities, which made it difficult to start negotiations or track progress on applications.
- 3.27 Although the LPA survey indicated no great change in the willingness of authorities to enter negotiations, discussions with the private sector suggest that what has changed in LPAs is the greater adherence to target timescales which has reduced the opportunities for negotiation on submitted schemes in some authorities. Businesses' experience with LPAs varied widely from those authorities who give no feedback on application until the report is drafted and those authorities who welcome discussions.
- 3.28 To address the problem of tracking progress, one business had set up an arrangement to get weekly progress reports by calling the case officer at an appointed time every week. None of the seminar attenders had as yet used the electronic systems available in many LPAs to ascertain progress.

## SUGGESTED IMPROVEMENTS TO APPLICATION PRACTICE

- 3.29 In terms of priorities for future improvements, clarity of validation procedures was a relatively low priority (7th of 11 potential areas). Although businesses felt that more time was required for negotiations, they did not identify it in the survey as a priority for improvement.
- 3.30 To improve this aspect of the process, businesses recommended:
- Further clarification of the term 'fit-for-purpose application';
  - Agreeing a scope of works early in the process to ensure all parties are clear about the extent of supporting documentation required;
  - Greater understanding of what documents would be appropriate to support a planning application;
  - Monitoring of validation periods and registration dates to ensure LPAs are dealing with applications promptly on submission; and
  - Increased timescales for major applications decisions to ensure sufficient time for consultation and negotiation.

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<sup>11</sup> *Evaluation of Planning Delivery Grant 2005/06*

# Chapter 4

## Speed and Consistency of Decision-making

### INTRODUCTION

4.1 This section is concerned with private sector perceptions on speed and consistency of decision-making by LPAs. As well as the overall operation of the decision-making process, three particular aspects of the process have been reviewed:

- Member involvement
- Withdrawals, refusals and appeals
- Back end loading.

### DECISION-MAKING

4.2 The survey assessed businesses' perceptions of whether various procedures and practices of local planning authorities handling applications had improved or declined in the previous three years, with respect especially to clarity, certainty, professionalism, negotiation and customer service. With regard to five of the nine key aspects of the planning service identified in the survey, the majority of respondents thought there had been 'no change' in LPA performance. With regard to the other four aspects the majority of respondents thought LPA performance had declined; outcomes and certainty of process being key areas of concern.

4.3 Participants at the business seminar felt that some authorities and/ or case officers were unable or unwilling to make decisions. This was attributed to a lack of resources in some authorities, such as insufficiently skilled or experienced staff, and the tendency in some authorities to get too concerned with details and not to look strategically when assessing an application. Attenders reported they had been obliged to adopt a general strategy of appealing on the grounds of non-determination in order to facilitate the decision-making process in some authorities.

4.4 Although businesses felt speed of decision was important they were more concerned about certainty of timescale and outcome, and preferred to wait longer to get the right decision. Sixty percent of respondents in the business survey had live applications that had been submitted more than six months previously but responders tended to be dealing with the larger and more complex applications. In terms of major applications only 60% are required to be determined in 13 weeks (BVPI 109a). Some applications will be decided over an extended timescale due to the complexity of the application.

- 4.5 The key causes of delay in handling applications were identified by businesses as inadequate resources in the authority; the decision-making process itself, requirements for more information and section 106 agreements. The first two of these were identified by businesses in the survey as key priorities for improvement.
- 4.6 In the survey, the private sector made recommendations on how LPAs could speed up decision-making on major applications or applications that have been in the system for more than six months, including:
- Clearer up-to-date policy to remove the barrier represented by out-of-date policy;
  - The 'decision-maker' to attend pre-application meetings;
  - Retention of the same case officer for the whole process, wherever possible;
  - Close supervision of junior case officers by more senior or experienced officers to ensure the process is considered and owned rather than 'formulaic';
  - Faster interdepartmental consultation within the LPA and better co-ordination;
  - An agreed scope for section 106 agreements and the issuing of guidance to LPAs on the requirement that heads of terms for section 106s be submitted with the application;
  - The use of specialist staff where relevant;
  - More staff within planning departments to address resource issues; and
  - Dedicated teams to deal with major applications, involving all key personnel in the authority.

## **LOCAL POLITICS AND MEMBER INVOLVEMENT**

- 4.7 The 2005 CBI paper acknowledged that progress had been made to promote culture change within the planning system, but it suggested further effort was needed to drive more significant change. In particular, concerns were raised about the quality of local political engagement, such as the non-participation of members in key discussions because of propriety concerns, or situations where members over-rule officers' decisions.
- 4.8 The business survey revealed low satisfaction levels with regard to councillor involvement in the pre-application process, and just over a third of respondent businesses reported a decline in performance over the last three years. At the business seminar, attenders suggested that their problems with the planning service often relate to local politics. In some areas, particularly the Home Counties, local councillors were considered to be very anti-development, with individual councillors 'leaning' on case officers and holding up the processing

of an application. In other areas, however, particularly in cities trying to re-invent themselves, there was reportedly a far more positive environment: 'top down' support for development, and planning staff encouraged to be helpful to applicants. Thus businesses' experiences varied widely from authority to authority.

- 4.9 From case study material supplied, concerns focused on the differences between officer views, member views and the results of public consultation. As might be expected this included frustration where members overturn officer recommendations, sometimes after many months of negotiations. There were also concerns about members' failure to uphold plan policy, sometimes claiming that certain policies belonged to a previous administration. Views differed as to whether decisions should be left to the 'professionals' or whether it was necessary to engage with member concerns from the outset, where possible. Several larger developers thought that an increasing engagement with members and the community is inevitable given the onus placed upon them to consult the community before making major applications. However, it was necessary to establish how officer and member views could be more 'joined up'.
- 4.10 The LPA research revealed that PDG has helped to stimulate culture change within LPAs, encouraging members to take a greater interest in the planning service and to enhance their own understanding of the role that both members and other departments within the local authority play in supporting the decision-making process. However, involving members well before the determination of a planning application (e.g. at pre-application stage) was seen as potentially dangerous by many LPA seminar participants. While LPA seminar participants saw that it might lead to more informed decisions, they were wary of the danger that members would be seen as having made prejudicial statements in advance.
- 4.11 Members overruling officer decisions is an area of consensus between the private sector and local planning authorities. Both parties agreed that this can be an issue even when the planning service is working well. Businesses were unclear as to how it could be resolved. For example, although increased delegated powers were identified as one mechanism to avoid the problem, businesses felt this would not necessarily be helpful since delegated applications may have lower priority for a case officer with no committee deadline to meet. Although some business seminar attenders called for local politics to be removed from the planning process, leaving decisions entirely to the professionals, there was recognition that, if that were done and members no longer involved, the system would lack an arbiter. It was further acknowledged that the current system can work well, and offers a democratic decision-making process.
- 4.12 For LPAs achieving a balance between keeping members informed and avoiding issues of probity was seen as key, if problems with member disenfranchisement are to be avoided. This was felt to be a contributory factor in member decisions contrary to officer advice which can lower customer satisfaction levels.

## **WITHDRAWALS, REFUSALS AND APPEALS**

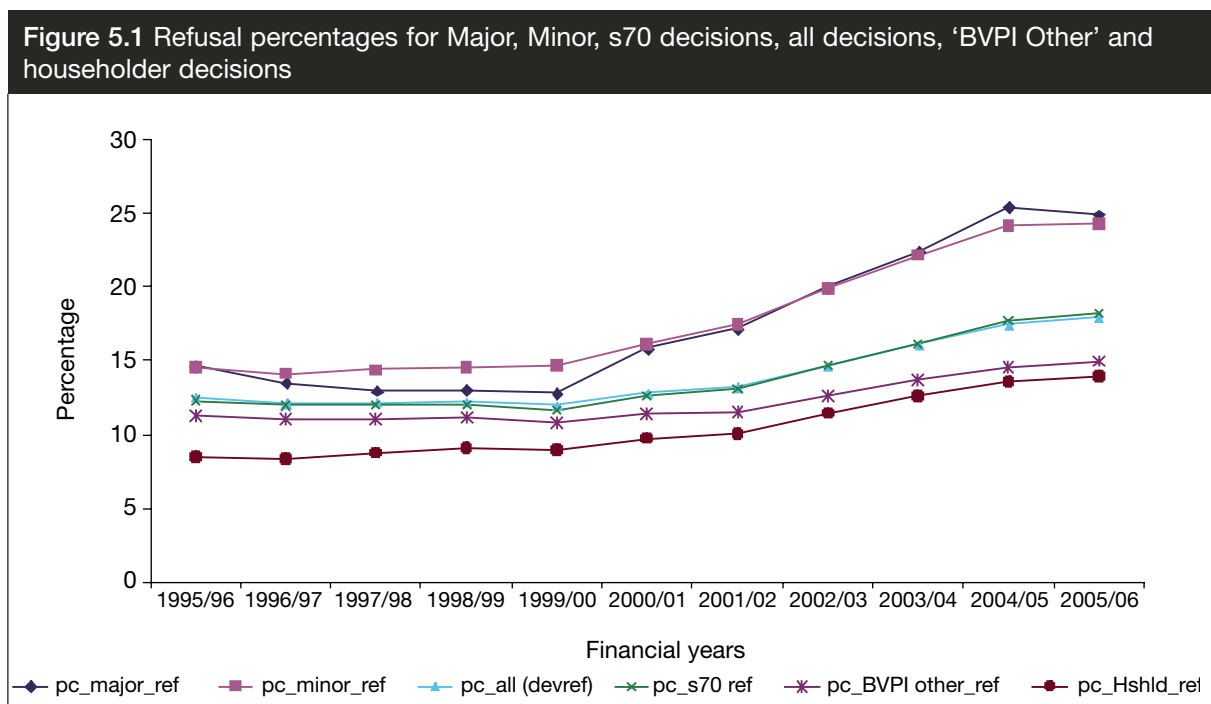
- 4.13 One of the issues raised by the 2005 CBI paper was that many applicants were increasingly being asked to withdraw applications if the target would not be hit, or else face refusal. If this was the case it would be logical to expect a

significant increase in withdrawal rates. Surprisingly the statistical evidence does not support that view. The trend in withdrawal rates over the lifetime of PDG reveals no significant increase. Withdrawals increased by 2% compared to the 22%, 21% and 16% increases respectively for the percentage of major, minor and other applications determined within target timescales.

- 4.14 In practice also the number of withdrawals is reasonably low. Collectively the questionnaire survey respondents had submitted around 1000 applications in the last 3 years. On average respondents had withdrawn 4% of these applications due to their own changes to the scheme and 5% had been withdrawn following discussions with the LPA as to the prospects of a scheme being approved. However, in the LPA research, it was accepted by some seminar participants that requesting applicants to withdraw has become 'the new way of negotiating' preferable to refusal for most applicants in the case of unacceptable applications.
- 4.15 The practice is not seen necessarily as a negative mechanism by businesses: 61% of respondents in the business survey thought it reasonable to be asked by an authority to withdraw an application if refusal was likely, and 91% thought it reasonable if the authority suggested the scheme required major modification before it could be approved. At the seminar, businesses overwhelmingly suggested their preference was to be offered the opportunity to withdraw applications and resubmit, rather than receive a refusal.
- 4.16 The main concern in relation to withdrawals was in cases where only minor amendments were required. In these cases, the respondents suggested, it would be more efficient if there were scope for both applicant and authority to extend the timescale to allow minor changes, rather than go through the rigmarole of making a new submission.
- 4.17 A further issue raised in the 2005 CBI paper was that councils were increasingly refusing applications, regardless of merit, in order to meet performance targets, if the proposals were not withdrawn. In the business survey, the majority of respondents (64%) thought there had been no change in the number of applications refused, but just under a third thought that LPA performance had declined in this respect and that authorities were increasingly refusing applications.
- 4.18 From a statistical perspective, using the national figures, analysis of the refusal rate for all applications over the lifetime of PDG shows there has been an increase (+4%) in refusal rates but it is small; it is low when compared to the very significant increases in BVPI 109 performance for all application types and the overall increase in application numbers. If the refusal rate is examined over a longer time period (1995/06-2005/06), overall there has been an increase of five percentage points over the ten years, although the greater part of this increase has occurred post-2000/01 (Figure 4.1). The increased rise in the rate of refusals pre-dates the introduction of PDG (2002/03). The analysis does indicate that the rates and levels of increase for major and minor applications were higher than for all other application types, but this reflects the nature of the applications and their complexity. However, that would mean that the increase, though small, would have been disproportionately felt by businesses rather than individual applicants.

4.19 The overall evidence from all sources at present would suggest that there is no relationship overall between refusals and targets or PDG. However, there is some anecdotal evidence that there may be issues with a sub-set of authorities or even, possibly, individual planning officers, but that any problem is not widespread. Analysis of the percentage of all appeals allowed over the period 2002/03 to 2004/05 shows that there is no evidence that appeals allowed have increased. From this evidence and the limited use of the ‘abatement’ arrangements on PDG for authorities with poor performance on appeals it would not appear that any additional refusals have been unjustified.

4.20 However, it is acknowledged that in practice only a small number of refusals go to appeal, and there is an element of rationing that occurs as a result of the time and cost taken to go to appeal. In discussions with the private sector, many suggested that they have been keener to undertake further pre-application discussions and resubmit than to go to appeal. This is partly due to the fact that in the past year or two the appeals process has been slow, but it also due to the perception that maintaining a good working relationship with an LPA is important, particularly if a company is to have longterm involvement in that authority’s area.



Source: DCLG statistics

4.21 Following an application refusal, where the business considers the decision marginal, the majority of survey respondents preferred to submit an amended proposal (67%) rather than lodge an appeal. This was because a number of factors including the costs of appeals (68%), confidence in the planning authority (58%) and the costs of making an appeal (50%). Costs of resubmission and confidence in planning inspectors were also influential for about 32% of respondents.

## **‘BACK-END LOADING’**

- 4.22 The CBI in their 2005 paper suggested that, increasingly, authorities were ‘back-end loading’ the planning system through greater use of pre-start conditions, which often meant that applicants did not have an implementable consent, finding it difficult to comply with pre-start conditions and commence their schemes.
- 4.23 In the private sector seminar, businesses reported that use of pre-start conditions was becoming more widespread and frequent. It was felt that some applications were granted with too many conditions, not necessarily appropriate to the case in hand. However, businesses perceived that a granted application with (too many) conditions was better than a refusal or no decision.
- 4.24 The reported increase in use of pre-start conditions is consistent with the local planning authorities’ view. It was argued that authorities were usually entirely justified in imposing them (particularly in the case of section 106 agreements) although LPA seminar participants did accept that it may be overdone in some cases. There is thus a need for some authorities to streamline the process and ensure that conditions are entirely appropriate to the application.

## **SUGGESTED IMPROVEMENTS TO PRACTICE**

- 4.25 The consistency and the speed of decision-making were respectively the second and sixth priorities for improvements to the planning service which emerged from the business survey. In terms of speeding up the conclusion of planning applications, including those which have been in the system for more than six months, and of achieving faster resolution to section 106 agreements, businesses identified the following as key to improvement:
- Addressing resource issues (the number one priority for service improvement);
  - Updating policy;
  - Improving co-ordination between departments;
  - Creating dedicated teams to deal with major applications;
  - Agreeing a scope of works for supporting material to accompany the application;
  - Agreeing a scope for section 106 agreements;
  - Using specialist staff for section 106 agreements;
  - Issuing general guidance on the LPA’s approach for section 106 agreements; and
  - Requiring heads of terms for section 106s to be submitted with applications.

4.26 Other key areas for improvement in the decision-making process were identified as tackling issues relating to local politics and ensuring that granted applications are not overburdened by conditions. Re-engaging local members in the decision-making process was seen as important, particularly to reduce the number of applications refused against officer recommendation. Similarly, it was important to ensure that consents are implementable by imposing only appropriate conditions, and that development is facilitated by rapid processing.

# Chapter 5

## Conclusions

5.1 This report forms part of wider research evaluating the impact of PDG together with an evaluation of some of the 2005/06 planning standards authorities<sup>12</sup>. It examines the businesses' perceptions of the planning service, with a particular focus on the areas of improvement identified by the private sector. It was based on a pilot survey to businesses. There was a low level of participation in the survey therefore the results must be treated with caution. Nevertheless they provide an indication of private sector views.

5.2 The key findings are:

- The main issue to address is planning service resources, in particular the overall shortage of planners in LPAs, especially those with experience;
- Certainty of process and outcomes is seen as an area in which service has declined in the past few years. Lack of resources, particularly skilled and experienced staff, was identified as a key contributory factor;
- Good quality pre-application discussions are viewed as beneficial to the planning process by businesses: a large majority of their applications are submitted following discussions but there is a need to address the resource issues associated with the delivery of this aspect of the service;
- The process is becoming more complex but this is primarily due to the lack of consistent up-to-date local policy and the actions of statutory consultees;
- There is a need to support LPAs in the speedy production of Local Development Frameworks and to ensure statutory consultees are operating in such a way as to be supportive to the planning process;
- Businesses do not necessarily expect decisions with 8 or 13 weeks. Within reason, speed of decision is not the key concern. What is crucial is to get the 'right' decision in an agreed timescale;
- Major applications are increasingly being processed with target timescales, although most businesses have applications which are over targets;
- It is important for LPAs to maintain a balance between pre-application discussions and the handling of live applications;
- Businesses are not averse to pre-application charges but LPA resources issues would need to be addressed first;

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<sup>12</sup> An Overview of the Planning Standards Authorities 2005/06

- The quality of applications submitted by businesses is improving;
- Speculative applications are rising, which is contributing to a relatively small rise in refusal rates, but few go to appeal;
- There is no evidence to suggest that the introduction of PDG or BVPI 109 has increased the number of refusals although there has been an increase in withdrawals as LPAs decline to negotiate on applications that are either unacceptable or not 'fit for purpose';
- LPAs need to ensure they advise the private sector more effectively as to what they require in terms of 'fit for purpose' applications, and let applicants know quickly if applications are inadequate, and provide an opportunity for them to be improved;
- Applicants need to ensure they submit well-thought-through applications which include all the key information;
- Greater adherence to timescales has reduced opportunities for negotiation in some authorities, so there is a need to agree extended timescales on some applications to accommodate consultation and negotiation;
- The range of costs of applications varies widely and the costs of the largest applications can be very high. It is difficult to determine which of the costs relate purely to the planning process and which are necessary for the development itself. However in comparison to, for example, land acquisition costs, these costs pale into insignificance;
- Validation is an important quality assurance mechanism but there is a need to ensure that requests are appropriate: agreeing a scope of works at the beginning of the discussions is seen as a way to improve this process;
- Although some authorities may be refusing to validate applications because of targets, there is no evidence this is a widespread practice;
- There is a need to improve the quality of local political engagement and ensure members are not disenfranchised to address the problem in some authorities of 'anti-development' attitudes; and
- The use of pre-start conditions has increased so there is a need to ensure that they are applied appropriately.

