



*Partial Regulatory Impact
Assessment: Planning for a
Sustainable Future*



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Sustainable Future*

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Section 1: Introduction

Introduction

*Planning for a Sustainable Future*¹ sets out the Government's proposals for reforming the planning system. This Partial Regulatory Impact Assessment (PRIA) is split into four sections covering the impacts of the proposals in *Planning for a Sustainable Future*.

Section 1 provides an overview of the impacts of the proposals in *Planning for a Sustainable Future*.

Section 2 describes the impacts of proposals to improve the way nationally significant infrastructure projects are dealt with, including the strategic phase, the project development phase and the decision phase (Chapters 2-5 of *Planning for a Sustainable Future*).

Section 3 addresses the proposals set out in Chapter 7 of *Planning for a Sustainable Future*.

Section 4 addresses the proposals set out in Chapter 8 of *Planning for a Sustainable Future*.

Section 5 addresses the proposals set out in Chapter 9 of *Planning for a Sustainable Future*.

Annex A sets out the progress made, and proposed next steps, towards undertaking Race Equality Impact Assessments (REIAs) in respect of proposals included in *Planning for a Sustainable Future*.

The Government will continue to gather evidence and will publish final RIAs on the proposals discussed in this document in due course. As part of this process, we are seeking views on this document. **A consultation question on this PRIA is included in Annex A of *Planning for a Sustainable Future*, along with details of where consultation responses should be submitted. The closing date for consultation responses is 17th August 2007.**

Planning for a Sustainable Future: Background

Sustainable development is the core principle underpinning planning. Our vision is for a planning system which supports vibrant, healthy sustainable communities, promotes the UK's international competitiveness, and enables the infrastructure which is vital to our quality of life to be provided, in a way that is integrated with the delivery of other sustainable development objectives, and ensures that local communities and members of the public can make their views heard.

¹ Communities and Local Government, May 2007, *Planning for a Sustainable Future*. Available online at www.communities.gov.uk or from TSO Bookshops, tel: 0870 600 5522

The wide-ranging reforms set out in *Planning for a Sustainable Future* are intended to help deliver significant benefits for individuals, communities, business, society and the environment:

- more and better jobs as a result of sustainable economic development;
- better infrastructure so people have access to reliable transport, clean and secure energy, clean water supplies and better local amenities;
- continued protection and enhancement of the natural and historic environment;
- places shaped by their communities and where people are proud to live;
- more efficient and timely systems in which controls are proportionate to impact and unnecessary costs are eliminated; and
- a more transparent and accountable planning system in which national and local government work together to ensure decisions at every level deliver the best outcomes for all.

Our recent planning reforms have already delivered improvements. We have put sustainable development at the heart of planning; speed and performance has improved; spatial planning has become more effective; our town centres are more vibrant; substantial increases in housing are being achieved. At the same time the impact on the countryside and green space has not only been minimised but wherever possible opportunities have been taken to improve the local environment.

But the long-term challenges for planning are increasing. The UK needs to increase the supply of housing so people have access to decent, affordable homes; ensure the right local and national infrastructure are in place to meet people's needs for travel, energy, water and public services; support the sustainable economic development needed to promote employment in the context of rapid globalisation; protect and enhance the environment and natural resources; and meet the challenge of climate change.

Planning has a key part to play in helping us meet these challenges. Debates and decisions about where development should take place are likely to become more difficult in the coming years. We must ensure, therefore, that the planning system is able to cope with these challenges.

To help it understand how the planning system could best respond to some of the key challenges of the future, the Government commissioned Kate Barker to consider how, in the context of globalisation, and building on the reforms already put in place in England, planning policy and procedures could better deliver economic growth and prosperity in a way that is integrated with other sustainable development goals.

The Government also asked Rod Eddington, who had been commissioned to advise on the long-term links between transport and the UK's economic productivity, growth and stability, to examine how delivery mechanisms for transport infrastructure might be improved within the context of the Government's commitment to sustainable development.

Kate Barker's *Review of Land Use Planning*² concluded that 'planning is a valued and necessary activity' and welcomed the progress that had been made with reforms to date.

² HM Treasury and Communities and Local Government (2006). *Barker Review of Land Use Planning: Final Report – Recommendations*. This can be found at www.communities.gov.uk/index.asp?id=1504875

However, Kate Barker recognised that the context for the planning system was becoming ever more challenging and suggested that its responsiveness and efficiency could be improved. She recommended further wide-ranging reforms, building on recent changes and the plan-led approach, to improve the way that the planning system supports economic prosperity while maintaining or enhancing the delivery of other objectives, including ensuring community involvement, supporting local democracy and protecting and enhancing the environment.

One of Rod Eddington's recommendations in *The Eddington Transport Study*³ was reform of the process of planning for major transport infrastructure. Kate Barker's Review considered these proposals in a wider planning context and recommended comprehensive reform of the planning of nationally significant infrastructure projects in relation to transport, energy, water supply and waste, based on the same principles.

Planning for a Sustainable Future sets out our detailed proposals for reform in response to the recommendations made by Kate Barker and Rod Eddington.

For nationally significant infrastructure, the Government proposes to replace the multiple existing consent regimes with a system that will enable decisions on infrastructure to be taken in a way that is more timely, efficient and predictable, and which will improve the accountability of the system, the transparency of decisions, and the ability of the public and communities to participate effectively in them.

For town and country planning, we propose to develop a new policy framework for encouraging sustainable economic development, alongside work to tackle climate change and cut carbon emissions from new economic development; to strengthen the role of local authorities as place-shapers; and to streamline the system to improve the efficiency and effectiveness of the planning system for all.

Rationale for government intervention

The Barker and Eddington reports found a number of problems with the planning system. Without reform, the planning system could inhibit:

- Our efforts to secure sufficient energy for the UK. We need investment in about one third of our existing energy generation capacity. If we do not do this in a timely fashion because of planning delays, we may not have enough capacity to meet our energy demands. At the same time we are becoming more dependent on imported energy as our supplies from the North Sea decline. This means we also need to modernise our infrastructure by constructing import terminals and storage facilities for liquefied natural gas if we are to get the energy we need at competitive prices.
- Our efforts to protect the environment and combat climate change. The shift to renewable and low carbon forms of energy. Renewables currently contribute about 4 per cent of our electricity supplies. The European Council has agreed a binding target for renewable generation to provide 20 per cent of the EU's energy consumption by 2020.
- Our ability to efficiently and effectively deliver the infrastructure we need as a nation.
- Businesses' ability to respond quickly to changes in market conditions, reducing our competitiveness.

³ HM Treasury and Department for Transport (2006), *The Eddington Transport Study*. This can be found at www.hm-treasury.gov.uk/independent_reviews/eddington_transport_study/eddington_index.cfm

In addition, we need to tackle a number of deficiencies identified by Kate Barker including some unnecessary complexity and delays in the planning system.

Consultation

There is an extensive and ongoing process of stakeholder engagement and consultation in relation to the proposals set out in *Planning for a Sustainable Future*.

Within government

All other relevant government departments were consulted on the proposals contained in *Planning for a Sustainable Future*.

Public consultation

Many of the proposals set out in *Planning for a Sustainable Future* have been developed in response to recommendations made by Kate Barker and by Rod Eddington in relation to the planning of transport infrastructure.

Kate Barker consulted widely before producing her recommendations. The full details of the consultation are set out in Annex C to her Review. In addition to consideration of the responses received to her call for evidence issued on January 2006 and following the publication of an interim report on 4th July 2006, they included a wide range of meetings, workshops, visits and other events. Rod Eddington also sought views widely in advance of publication of his study.

The Government invited views on Kate Barker's report. It also made clear in the Pre Budget Report, published in December 2006, that it was interested in seeking views on how Kate Barker's and Rod Eddington's proposals for reform of major infrastructure planning could be implemented and made to work in practice.

Since the publication of the Barker and Eddington reports there have been a range of meetings, discussions, and events, including a major conference, organised by Communities and Local Government in conjunction with the Royal Town Planning Institute on 29th January, with stakeholders. The feedback received from these processes has helped inform work in preparing *Planning for a Sustainable Future*.

Annex A of *Planning for a Sustainable Future* sets out the consultation arrangements in relation to the White Paper, and includes a consultation question on this PRIA.

Equality considerations

It is important to have regard to equality considerations, including those required by statute, in developing the proposals set out in *Planning for a Sustainable Future*. This PRIA, together with the PRIAs for the four consultation papers issued alongside *Planning for a Sustainable Future* sets out our preliminary views on potential impacts.

Specifically in relation to the duty to promote racial equality we have prepared a statement setting out the progress made and extra steps towards undertaking race equality impact assessments. This statement is attached at **Annex A**.

Planning for a Sustainable Future includes questions on a number of proposals and issues and a question in relation to this PRIA, four consultation documents were also issued alongside it. Information on consultation arrangements is set out in Annex A of *Planning for a Sustainable Future*. We are committed to ensuring that this consultation will include stakeholders who represent different groups in the community.

Planning for a Sustainable Future: Summary of impacts

Full details of the impacts of the proposals subject to a PRIA of this stage can be found in the relevant sections of this document and the consultation papers listed below. In summary these are:

Planning for a Sustainable Future: Partial RIAs		
Proposal	PRIA title	Publication
To ensure that the planning system for nationally significant infrastructure is prepared to meet future challenges.	PRIA 1: Improving the way nationally significant infrastructure projects are dealt with	Page 13 of this document
Closer integration of Sustainable Community Strategies and the Statement of Community Involvement within the Local Development Framework (LDF).	PRIA 2: Ending the statutory requirement for an independent examination of Community Involvement	Page 32 of this document
To ensure responsive and timely plan-making by preventing wasted resources and unnecessary delay in the Development Plan Document (DPD) preparation process.	PRIA 3: Directing challenged plans back to a key stage in the Plan-Making Process	Page 36 of this document
To ensure responsive and timely plan-making by reducing the time and resources required to produce Supplementary Planning Documents.	PRIA 4: More flexibility for local planning authorities to produce Supplementary Planning Documents	Page 39 of this document
To improve the quality of community consultation on Local Development Frameworks (LDF), and ensure timely and responsive policy by improving the LDF production process.	PRIA 5: Changes to the requirements for statutory consultation on Development Plan Documents	Page 44 of this document
To ensure Site Allocation Development Plan Documents (DPDs) are only produced where they are required, thereby reducing wasted resources.	PRIA 6: To clarify that there is no blanket requirement for a Site Allocation Development Plan Document	Page 50 of this document
To prevent unnecessary delay, cost and uncertainty for developments where minor amendments to proposal are required after planning permission has been granted.	PRIA 7: Allowing minor amendments to be made to a planning permission	Page 54 of this document

Planning for a Sustainable Future: Partial RIAs <i>(continued)</i>		
Proposal	RIA title	Publication
To simplify the rules governing tree preservation orders (TPOs).	PRIA 8: Rationalising Tree Preservation Order rules	Page 58 of this document
To improve the appeal process: making the system proportionate, customer-focused, efficient and well-resourced.	Partial RIA: Improving the appeal process	Annex of consultation document: <i>Improving the appeal process in the planning system: making the system proportionate, customer-focused, efficient and well-resourced.</i>
To increase fee income for local planning authorities to more closely reflect the costs of the development control service.	Partial RIA: Planning Fees in England: Proposals for Change – Consultation Document.	Annex of consultation document: <i>Planning Fees in England: Proposals for Change.</i>
To introduce an impact-based approach to permitted development with aim of reducing the number of householder planning applications and improving the quality of householder development; and options to change compensation arrangements related to changes in permitted development rights; and changes to requirements for Article 4 Directions.	Partial RIA: Householder Permitted Development Rights; Compensations Payments and Article 4 Directions; (Amendment to the Town and Country Planning (General Permitted Development) Order 1995 (GPDO) (Parts 1 and 2)	Annex of consultation document: <i>Changes to Permitted Development. Consultation Paper 2: Permitted Development Rights for Householders.</i>
Extend permitted development rights to categories of householder microgeneration equipment.	Partial RIA: Proposals to amend the GPDO to give permitted development rights to categories of microgeneration equipment.	Annex of consultation document: <i>Changes to Permitted Development Consultation Paper 1: Permitted Development Rights for Householder Microgeneration</i> published April 2007.
A mechanism to improve the management of large-scale major planning applications.	Partial RIA: Planning Performance Agreements: A New Way to Manage Large-Scale Major Planning Applications.	Annex of consultation document: <i>Planning Performance Agreements: a new way to manage large-scale major planning applications.</i>

PRIA 1 in this document contains three options:

Option A: Do nothing.

Option B: National policy statements, better project development and independent decision making.

Option C: Improving the current system.

The table below summarises the impacts of the preferred option on nationally significant infrastructure planning (Option B), in Section 2 of this document.

PRIA 1	Option B (independent commission and national policy statement)
Economic impacts	Estimated annual cost per application approximately NPV £21.9 million. This is NPV £14.4 million cheaper than the 'do nothing' Option A. The total cost savings to the application process over ten years could be in the region of NPV £1.3 billion, compared to Option A. Additional net economic benefits to economy of nationally significant infrastructure projects that go ahead over Option A. There would be an administrative burden in adapting to new regime (but overall there should be a net reduction in admin burdens compared to Option A).
Impact on competition and small firms	Positive impact on competition. New system less costly and quicker for small firms to engage with.
Environmental impacts	Individual projects may have a range of environmental impacts. For instance some projects could increase carbon emissions, whereas other projects may reduce them. Improved consultation and clarification of environmental aims in national policy statements should increase the environmental benefits delivered by projects approved.
Social and equality impacts	Clear and consistent public consultation at each stage of the process should allow social and equality impacts to be identified and mitigated/taken into account in the commission's decision. Improved transparency and predictability. Clearly defined Government policy should reduce sub-optimal applications. Changes to inquiry procedures and reduced time for decisions would improve accessibility.

The town and country planning proposals put forward in *Planning for a Sustainable Future* (Chapters 6 to 9) cover a wide range of issues. Some measures have been consulted on already, some are being consulted upon now, and others will be consulted upon in detail later. The proposals that require partial regulatory impact assessment at this stage are considered in detail in Sections 3 to 5 of this document. The cumulative impact of these proposals is not quantified here because it would represent only a partial picture of the proposals in *Planning for a Sustainable Future*. The actual cumulative impact will depend on the outcome of consultation and further policy development throughout the next year. Here, we summarise the nature of the key impacts expected from the town and country planning proposals subject to a PRIA at this stage.

There are likely to be overall financial benefits for local authorities from proposals to improve the Local Development Framework process and the proposal to increase application fees. There is also the potential for a reduction in the administrative burden on local authorities from the proposed changes to streamline tree preservation order arrangements and householder permitted development, although savings on the latter will be partly offset by the associated reduction in fee income. We are consulting on an option that allows local planning authorities to take appeal decisions with local impacts themselves. If taken forward, there would be an additional administrative burden to local planning authorities to process these minor appeals.

For business, whilst the proposals would increase fees for business, they would create a more efficient, effective and user-friendly development control and appeals services overall, for example through the introduction of planning performance agreements and appeal

reforms. In addition, the proposals to allow minor amendments to planning permissions without the need for application will benefit those taking forward developments, particularly large scale developments. We expect businesses who wish to invest in microgeneration technology will benefit from the proposed extension of permitted development rights for microgeneration. Similarly, business could also derive benefit from the proposals to extend the ‘impact’ approach to defining permitted development from residential to non-residential uses.

Communities and Local Government is committed to ensuring the net additional costs falling on local government that arise from these proposals are funded, as required under the Government’s new burdens rules. The assessment of costs and savings will be reviewed in the light of the consultation.

Section 2: Improving the way nationally significant infrastructure projects are dealt with

PRIA 1

The Partial Regulatory Impact Assessment in this section examines the proposals contained in Chapters 3 to 5 of *Planning for a Sustainable Future*.

Purpose and intended effect

Objective

Our policy objective is to ensure that the planning system for nationally significant infrastructure in England is prepared to meet future challenges by being:

- Responsive to our economic, social and environmental priorities.
- Streamlined, efficient and predictable.
- Transparent and accountable;
- Planning should be undertaken at the right level;
- Full and fair opportunities for public consultation and community engagement.

Geographical Scope

Responsibility for nationally significant infrastructure planning is currently largely devolved, but the arrangements differ between nations and between infrastructure sectors. No options involve changing the current devolution settlement.

The policy on reservoirs, non-energy-generating waste facilities, and road, rail and ports are devolved. So for these sectors, our proposals would be limited to England.

Air transport policy remains with the UK Government. However the planning decisions on airports are taken by the Devolved Administrations (or their local authorities) in all three nations, as are decisions on energy projects in Scotland and Northern Ireland.

Energy policy is more complex. Some elements are Great Britain-wide and some are UK-wide. Planning decisions on major energy infrastructure projects in Wales are presently made by the Secretary of State for Trade and Industry.

Background

In their reports, Rod Eddington and Kate Barker identified the following causes for delay in the current approval process for nationally significant infrastructure projects:

- Lack of clarity in government policy.
- Promoters do not always prepare their applications as well as they could.

- Overlapping and multiple consents regimes.
- Inquiry processes can be slow and inefficient.
- Decision-making process is complex.
- The role of ministers in planning decisions is not well understood.

The two reports recommended radical reform to the approval process for nationally significant infrastructure projects. The Government has analysed the recommendations contained in these reports. This document assesses the options for responding to the problems identified by Rod Eddington and Kate Barker, including the Government's preferred options, the proposals in *Planning for a Sustainable Future*.

Rationale for government intervention

The main rationale for government intervention is that the current development consent process for nationally significant infrastructure is overly long, complex and lacks a clear national strategy for each infrastructure type. In particular:

- There is a lack of predictability surrounding the application process. The national need for a project is often established late in the process. By this point promoters have invested a significant amount of money preparing an application for a project, and other parties have invested time in considering the project's impacts.
- Necessary preparatory work on the impacts of a project is not always carried out in a timely manner. This can cause delays and nugatory work.
- The quality of local consultation on individual projects is variable. This limits the opportunity for local communities to influence the development of projects in their area. Local people can offer valuable information on the impacts of a project, so inadequate consultation could lead to applications being submitted for sub-optimal projects. Inadequate consultation could potentially exclude certain groups. For instance, it could mean that only well-resourced organisations that have the capacity to proactively look out for upcoming developments become aware that a promoter is consulting on a project. This could mean that members of the public and less well-resourced groups do not have the opportunity to comment.
- The national need for infrastructure is often debated in the context of individual projects, instead of in the context of national policy.
- A number of approvals are often necessary for an individual project, which are often granted by a number of different decision-makers. Completing multiple applications is time-consuming for the promoter. The complexity also makes the system less accessible and limits the ability of members of the public or organisations unfamiliar with the consent regimes to understand which decision-makers are involved and over what timescales. This can hinder their ability to participate.
- Under current inquiry processes, evidence is usually probed by means of the oral cross-examination of witnesses by counsel. This can be time consuming and expensive, and make it difficult to estimate how long an inquiry is likely to take, adding to the costs of participating. The legalistic and adversarial approach can also make it intimidating and difficult for members of the public to engage effectively in the process.

- The overly long and complex system may distort investment decisions. Companies may invest in building energy generation infrastructure abroad if the UK planning system is seen as overly burdensome.

This has a number of negative effects on the well-being of citizens in England:

- Detrimental effects on quality of life. Reliable water supplies, efficient transport, clean and affordable energy, environmental quality and effective disposal of waste form the basis of our well-being and quality of life.
- Inhibiting economic growth. Delays in the planning system can defer the benefits of increased flexibility in labour markets and increased opportunities for other economic activities, such as tourism created by transport infrastructure. By postponing the construction of infrastructure projects, the planning system can also inhibit job creation.
- Reducing international competitiveness. To remain competitive, business and the economy needs to be able to respond more quickly to the challenges of globalisation. We need to improve our national infrastructure so that it is modern and efficient.
- Inhibiting our efforts to curb climate change. To meet our climate change objectives we will need to construct more renewable energy and low carbon energy generation stations as part of a range of electricity generation sources. The current planning system risks delaying the construction of these much-needed power generation infrastructure.
- Threatening the security of our energy supplies. As available energy sources change – for instance as North Sea gas reserves reduce – and old power stations come to the end of their working lives, we will require new energy infrastructure. Timely construction of new electricity infrastructure is vital to ensure the UK's diversity and security of energy supply.

Consultation

As described on page 8.

Options

There are three main options.

OPTION A: DO NOTHING

Under this option the existing system for approving nationally significant infrastructure projects would remain the same. The steps involved in approving the construction of projects are as follows:

1. The project promoter decides to submit an application and carries out preliminary work.
2. The promoter applies to the relevant minister or local authority for consent to construct the project. Often a single project will require consents under different legislation so more than one application is usually required.
3. The application is publicised and objections may be lodged.

4. The decision-maker considers the application. The decision-maker is usually a Secretary of State. In some cases applications (eg for major airport projects) can also be made to the local authority, but in practice these are 'called in' to be decided by the Secretary of State.
5. If necessary a public inquiry is held. The Secretary of State delegates responsibility for the inquiry to a Planning Inspector, who will make a recommendation which the Secretary of State will then consider.
6. The decision and any mitigating conditions are announced, and a statutory instrument is made where necessary. This may involve granting a range of consents, conferring powers and amending legislation.
7. Legal challenges can be lodged throughout the process, but cannot be lodged more than three months after the Secretary of State's decision.
8. The local authority enforces development controls and planning conditions.

Within this general approach there are significant variations, as different types of infrastructure projects are approved under different legislative regimes.

OPTION B: NATIONAL POLICY STATEMENTS, BETTER PROJECT DEVELOPMENT AND INDEPENDENT DECISION-MAKING

Option B contains the proposals set out in *Planning for a Sustainable Future*.

Under these proposals responsibility for national policy and for determination of individual applications are separated. The government would produce statements setting out the national policy for different sectors, and an independent infrastructure planning commission would determine infrastructure applications above a specified threshold.

National policy statements would be produced by government following a thorough consultation process. They would provide a clear long-term strategic direction for nationally significant infrastructure development, and would provide the framework for the commission's decisions. Whether a project was needed nationally could therefore be established early on, and would no longer need to be discussed at the commission examination stage.

The commission would weigh the national need, as set out in the national policy statement against the local impacts of individual proposed projects. Where there were local impacts which breached EC and ECHR law, or where the cumulative local adverse impacts outweighed the local and national benefits, the commission would have powers to refuse a project.

Promoters would develop proposals for infrastructure projects against the background of clear national policy. In this option there would be new legislative requirements which require promoters to thoroughly prepare their application and engage with key parties early on, preventing costly delays later on.

The new commission would advise project promoters and other parties during the project development stage on the application process, procedural requirements and consultation. It would follow propriety rules to ensure these interactions do not prejudice its subsequent decision. The application would be submitted to the commission who would operate using a new, streamlined consent process, which removes the need to apply to multiple decision makers. The commission would examine the application and take evidence according to new inquiry procedures. The majority of evidence would be submitted in writing and the commission would test the evidence through direct questions rather than through cross-examination. There would be an open floor stage for people to give oral evidence directly, and there would be overall time limits on inquiries and decisions.

These proposals for the strategic project development stage and the decision stage should further mean that public hearings would take less time, and be more accessible to members of the public and other interested parties.

Under Option B, there would be three stages in the development consent for nationally significant infrastructure projects process.

Stage 1 – Preparing national policy statements

1. Government develops proposals for national policy, which integrate economic, social and environmental objectives.
2. Public consultation on national policy, including local consultation where policy is location specific.
3. Scrutiny by Parliament.
4. Opportunity to challenge national policy in the courts.

Stage 2 – Project development

5. Promoter identifies a project which would deliver national policy.
6. Promoter explores different project options and gathers information, eg for the purposes of the Environmental Impact Assessment Directive.
7. The commission advises whether the project is likely to fall within its remit.
8. Commission advises on consultation and the information required for an application to be considered.
9. Promoter gathers further information and consults local community and statutory consultees. Statutory consultees must respond within a specified time limit.
10. Promoter consults again on preferred option if two consultations are appropriate.
11. Application submitted to the commission.

Stage 3 – Decision by the infrastructure planning commission

12. The commission confirms that the project is within its remit to determine, promoter's consultation was adequate and the application sufficiently prepared.
13. The commission secures consultation for the purpose of the Environmental Statement and invites representations for its decision process.
14. Written representations submitted, followed by a further possible written exchange of evidence.
15. The commission probes evidence submitted and holds an open floor stage, if necessary.
16. The commission approves or refuses application, and specifies any conditions attached to approval.
17. Opportunity to challenge the commission decision, process and conditions imposed in the courts.

OPTION C: IMPROVING THE CURRENT SYSTEM

This option is a limited reform package involving no legislative changes. Secretaries of State would retain their powers to determine applications, but the processes would be streamlined as far as possible within the existing regime. This option would have the three stages of Option B, but the decision would be taken by Ministers rather than by the new independent commission.

Whether to produce a national policy statement would be a matter for individual Ministers. We therefore expect that some national policy statements would be produced under this option. However national policy statements would have less legal status than under Option B, as ministers would not be bound by a statutory requirement to determine applications in accordance with a national policy statement in the way the commission would. Hence the time savings at inquiries due to the national need already being established might not be as great as under Option B. Under this option, as under Option B, promoters could also be required to consult local communities and statutory consultees could be created. Similarly to Option B, under this option the government could provide early advice to promoters on information requirements and the application process.

The consent regimes would be partially harmonised, so that, for instance, the problems identified with the authorisation regime for underground gas storage infrastructure could be reduced. A number of Secretaries of State would continue to have responsibility for the infrastructure types which may be affected by one application. For instance, a power station may require a new road and could affect listed buildings. This means that promoters would often need to apply to more than one Secretary of State, as at present. However the inquiry procedures for these applications could be aligned to simplify the application process from the promoters' perspective.

As part of rationalising the regimes, common inquiry procedures could be imposed for all nationally significant infrastructure projects. These would include:

- Encouraging the use of written representations instead of public inquiries.
- Encouraging the use of direct questions rather than cross-examination at public inquiries.
- Introducing more challenging targets for inquiry times.
- Introducing more challenging targets for ministerial decision-making.

Costs and benefits

All the numbers calculated in this section are initial estimates and will be revised in the light of consultation responses and as policy is developed.

Sectors and groups affected by Options A, B and C

Citizens in England

As noted earlier, all citizens are dependent upon national infrastructure for their water and energy supplies – and we all use waste processing and transport infrastructure. Improving infrastructure could benefit citizens by improving their quality of life.

Local communities

Nationally significant infrastructure projects physically affect the local communities they are located within. This may, for example, be through increased employment opportunities, increased traffic leading to a change in emissions in the area, or improved transport access.

Public sector organisations

Central government staff work on the approval process at present by supporting the decisions taken by the Secretary of State. Infrastructure planning decisions made by Secretaries of State are enforced by local authorities. Staffing and cost levels would be altered in Option B, as government would no longer determine projects, and the determination process would be streamlined.

Staff in local authorities and other public sector bodies such as English Heritage and the Environment Agency also advise promoters and the decision maker on the impacts of their projects, so would be affected by any changes to the infrastructure planning system.

Private sector organisations

Private sector promoters of nationally significant infrastructure projects in the energy, transport, water and waste sectors are directly affected by the approval system. Other businesses will be affected by changes to the planning system. Like citizens, they are all dependent on national infrastructure. Infrastructure developments therefore stimulate the national economy by providing the water, waste disposal, energy and transport links which businesses need to operate. This benefits all private sector organisations in the UK.

There will be some specific effects, for instance, new shops or hotels may open up in an area following airport expansion. Additional local employment constructing and operating an infrastructure development would also stimulate the local economy, as could the increased labour market flexibility brought by improved transport infrastructure. However, some of these benefits may simply be displaced from elsewhere in the country, so are not necessarily additional benefits to the UK.

OPTION A: DO NOTHING

As this forms the baseline case, there will be no additional costs or benefits from this option.

OPTION B: NATIONAL POLICY STATEMENTS, BETTER PROJECT DEVELOPMENT AND INDEPENDENT DECISION-MAKING

Benefits

Although not quantified in this Partial RIA, individual major infrastructure projects can bring significant economic, social and environmental benefits. If decisions to approve the construction of infrastructure projects are made robustly, as should be the case in Option B, there should only ever be net overall benefits, as projects with estimated net costs should not be approved. The benefits quantified for Option B are therefore likely to be underestimates, as they only cover the cost of processing applications and do not capture the wider net benefits of individual projects.

For example, the Crossrail project has been estimated to bring £16 billion Net Present Value (NPV) of user benefits.⁴ Such benefits also include agglomeration, competition, labour participation benefits.

Option B would streamline the application process, making it more efficient and predictable. This should reduce the time it takes for applications to be determined, so that those projects which are approved can be constructed earlier. The benefits of these projects would therefore be delivered earlier than would otherwise be the case under the 'do nothing' scenario of Option A.

The increased predictability, transparency and reduced cost and time for application processing under Option B should also encourage promoters to submit more applications than would otherwise be the case under the 'do nothing' scenario of Option A. If the same proportion of applications were approved as under the current system, this would result in a greater number of nationally significant infrastructure projects being approved and therefore being constructed in Option B as compared to Option A.

The improved consultation on national policy statements and individual projects, should improve the quality of applications received and determined by the infrastructure planning commission.

This means that under Option B the applications submitted to the commission should lead to more economic, environmental and social benefits.

⁴ In the Crossrail Economic Appraisal. This is available at www.crossrail.co.uk/80256B090053AF4C/Views/B24F2D2A740F910080257093005D7603.

Two types of benefits are therefore considered below:

- benefits to society brought forward by the earlier construction of projects approved by the commission, or resulting from the construction of some additional projects approved by the commission, and
- benefits to the application process.

Economic and social benefits of infrastructure projects

Infrastructure projects stimulate the local economy and bring more people to the area, potentially increasing demand for local retailers. Infrastructure developments also stimulate the national economy by providing more efficient water, waste disposal, energy and transport links.

Energy generation stations help to ensure that the UK has a sufficient and secure energy supply. If supply was reduced with energy demand remaining constant, fuel costs would tend to increase. This would hit low-income groups, and high-consumption businesses hardest. Businesses need affordable energy to keep their operating costs low, and affordable energy also benefits individuals by reducing the number of people whose health is damaged by living in cold and damp conditions.

Transport infrastructure can increase access to employment, thereby increasing quality of life. Reducing congestion can greatly benefit business and remove constraints to economic growth. Transport can help improve social networks and can also increase individuals' access to healthcare services and physical activity facilities such as sport centres.

Environmental benefits of infrastructure projects

Nationally significant infrastructure projects can also have a range of impacts on the environment. Projects which increase our low-carbon energy generation capacity play a vital role in reducing climate change. Projects which increase the capacity of low-emission modes of transport can improve local air quality and therefore reduce the incidence of respiratory problems. Low-emission transport modes can also contribute to reducing climate change. Clean water is a basic requirement for healthy lives, and communities depend upon a reliable and clean water supply. Effective waste disposal is key to our health, quality of life and preserving the local environment.

Benefits to the application process

We estimate that Option B would benefit the application process as follows:

- Decisions would be taken at the right level. Currently nationally significant infrastructure underground gas storage projects can be decided at the local level. Option B would set clear thresholds so that decisions on infrastructure projects which affect us as a nation are decided nationally.
- For the first time there would be national consultation and debate on the country's infrastructure needs. Currently national policy is often in practice decided on an ad hoc basis through local decisions on individual projects.

- Increased predictability for promoters, as policy statements allow them to know whether their project is consistent with the relevant national policy. This would help promoters better plan the construction of their projects.
- Improve transparency and accountability of the system by ensuring policy is set out clearly, and policy and decision-making roles are separated.
- Greater involvement of local communities in individual planning decisions right from the beginning of the development process. Option B requires that a public consultation be carried out at the project development stage. This would allow the local community to raise objections early on and allow the project promoter to better develop its application to take account of local concerns. This should lead to the approval of projects which have greater net benefits.
- The procedure for examining applications would be improved by allowing the commission to gather the majority of evidence in writing, and to probe the evidence through direct questioning rather than cross-examination by opposing counsel. The move towards written representations would speed up the process, improve analysis of evidence, and make the process more accessible, as they would not need to attend public hearings. Direct questioning and an open floor stage would allow the inquiry to focus on key issues, and would make the process more accessible. It would help members of the public engage on a more equal footing with the professional advocates who currently dominate the process.

Cost savings to the application process

Further benefits to the application system which would be manifest as *cost savings* include:

- A reduction in the project promoter staff and advisor resources involved in applications, due to the simpler nature of the application process.
- A reduction in the public sector staff resources involved in applications, as the harmonised consent regime will be easier to administer.
- Significant reductions in time costs involved in the application process. The biggest time saving would likely occur for those projects that currently take a long time to process. Projects currently processed quickly would likely experience smaller time reductions.
- Reductions in financial costs involved in the application process.

Costs

We estimate that processing applications under Option B would include the following costs:

- Developing and maintaining national policy statements.
- Establishing and running the infrastructure planning commission.
- Staff involved in planning applications (public and private).

- One-off administrative burden on affected parties, as they will need to adapt to the new regime. This burden will fall on both private sector promoters, and public sector staff, who would need to be retrained to process applications under the new system. However the new system should be simpler, for instance because consent regimes would be rationalised. Therefore in the long term the administrative burdens imposed by Option B on both the private and public sectors should be less than in Option A.

Economic costs of the application system

Our initial estimate is that the typical operating cost of the commission would be approximately £8.8 million annually (2005 prices), plus one-off start-up costs in the region of £4 million. This is based on an initial assumption that the infrastructure planning commission would contain around 100 staff, including a Chair, three deputy chairs, commissioners, secretariat and other technical and backroom staff.

Our initial estimate is that there would be 10 national policy statements costing in the region of £2 million each (2005 prices). Our initial assumption is that national policy statements would need to be updated every five years at a cost of approximately £1 million each (2005 prices).

Social and environmental costs of infrastructure projects

Infrastructure projects can have social and environmental costs to society as a whole. Some infrastructure projects including road and airport expansion may increase travel, which could lead to an increase in carbon emissions, contributing to climate change. Projects such as road expansion could potentially reduce local air quality and therefore increase the incidence of respiratory problems. Some infrastructure projects have the potential to damage wildlife habitats. Infrastructure development also has the potential to adversely impact our historic environment, by altering heritage sites.

Under Option B, all of these costs would be carefully considered when developing national infrastructure policy and evaluating applications for such projects.

Net impact to the application process

Our initial estimate is that between 2008 and 2018, compared to Option A, Option B could lead the average total cost (to both the public and private sector) of each application to fall by approximately NPV £14.4 million, to approximately NPV £21.9 million.

Based on our initial estimate, the total cost savings to the application process over this ten year period could be in the region of NPV £1.3 billion, compared to the 'do nothing' Option A.⁵

⁵ These figures are based on a number of assumptions, which will be kept under review as the policy develops. Key assumptions are that under Option B there would be an average of 13 applications per year, and that private sector costs up to the point of application would reduce by up to 45 per cent.

OPTION C: IMPROVING THE CURRENT SYSTEM

Benefits

The model for Option C is based on projects above the threshold for consideration by the commission under Option B. These thresholds are set out in Chapter 5 of *Planning for a Sustainable Future*.

As described below, Option C would potentially secure slightly less predictability for promoters than Option B. Our initial assumption is therefore that this would lead to any projects approved being constructed slightly earlier and a small increase in the number of applications received in Option C – but less than in Option B on both points. Option C requires that a public consultation be carried out at the project development stage. This would allow the local community to raise objections early on and allow the project promoter to better develop its application to take account of local concerns. This should lead to the approval of projects which have greater net benefits than those approved under Option A. Therefore the wider social, economic and environmental benefits delivered by nationally significant infrastructure projects which are constructed would likely be larger than those in Option A but lower than in Option B.

Benefits to the application process

Some of the benefits to the application process of Option B would be delivered under Option C:

- There would be more national debate on all the infrastructure the country needs than in the ‘do nothing’ Option A, as some national policy statements would be created. Under Option C the national policy statements would count as a material consideration in decisions on individual projects, but they would not be part of the statutory decision-making process, as they would under Option B. For this reason it is unlikely that government would create national policy statements for all infrastructure sectors. In addition, the different status of national policy statements under Option C would mean that in comparison to Option B, more time would be spent discussing the national need for infrastructure at the inquiry for an individual project application.
- National policy statements would deliver some increase in certainty for promoters, but less than in Option B.
- Option C requires that a public consultation be carried out at the project development stage, which would lead to greater involvement of local communities in planning decisions right from the beginning of the planning process.
- The procedure for examining applications would be improved by allowing the majority of evidence to be gathered in writing, and evidence to be probed through direct questioning rather than cross-examination by opposing counsel. The move towards written representations would save time and money, and make it easier for those who are not financially well-resourced to make their views heard, as they would not need to attend several days worth of public hearings. Direct questioning would also save time, and would make giving oral evidence less intimidating. It would mean that members of the public can engage on a much more equal footing with the professional advocates who currently dominate the process.

Cost savings to the application process

Further benefits would be manifest as *cost savings* due to the shorter and simpler nature of the application process compared to Option A. There would be a reduction in the public sector and private sector project promoter staff and advisor resources involved in applications, which should in turn reduce both public and private sector costs. However these savings would not be as great as under Option B.

Costs

The changes made under Option C would be less radical than those under Option B, so the system would remain more stable. There would therefore be lower upfront administrative costs than Option B, as it would be easier for affected parties to get used to the new system. However over time the administrative costs of Option C would be higher than those of Option B, as the system under Option B would be simpler, for instance because there would be a single decision-maker.

Our initial assumption is that under Option C, five national policy statements would be produced, but these would not be produced to the same standard as in Option B. Therefore we assume that under Option C each national policy statement would cost in the region of £1.5 million to produce, and would cost £1 million to update every five years.

Under Option C, as under Option B, infrastructure projects have the potential to create social and environmental costs. These costs are described on page 23. All of these impacts would be carefully considered when the government develops national infrastructure policy and evaluates applications under Option C.

Net impact to the application process

Over the ten year period, our initial estimate is that the average cost (public and private sector) of each application would fall by approximately NPV £4.7 million to approximately NPV £31.6 million.

Based on our initial estimate, the total cost savings to the application process over this ten year period could be in the region of NPV £0.5 billion, compared to the ‘do nothing’ Option A.⁶

Small Firms’ Impact Test

Our initial assessment is that neither Options B or C would have a significant and/or disproportionate impact on small and medium-sized enterprises. Both have the potential to benefit small firms, Option B in particular.

Given the size of the nationally significant infrastructure projects, a company would require significant resources to develop a project application and to construct the project if approval is granted. It therefore seems unlikely that many nationally significant infrastructure project promoters would be small businesses, but small businesses will often be subcontractors to the promoter. These subcontractors should benefit from projects being constructed earlier and from the increase in applications and therefore approvals expected in Options B and C.

⁶ These figures are based on a number of assumptions, which will be kept under review as the policy develops. Key assumptions are that under Option C there would be an average of 12 applications per year, and that private sector costs up to the point of application would reduce by 20 per cent.

In addition, lawyers or private sector planning consultants in small firms may provide advice to promoters of nationally significant infrastructure projects, and there may be some small firms operating in the industry (eg some renewable generators).

Small businesses located near a proposed major infrastructure project may be affected by the project and the process. For instance a small business would need to relocate if its premises were compulsorily purchased so that an infrastructure project could be built on the site. A small retailer might benefit from a nationally significant infrastructure project, which would bring a large number of staff working on the project near the retailer's location. In Options B and C the increased number of applications would lead to some new infrastructure projects being constructed, so these would bring new impacts for small businesses. In both Options B and C, the improved consultation process should slightly improve the net-benefits of projects which are approved.

In Option C the application process should be slightly simpler and shorter, and in Option B these benefits would be even more significant. This could reduce the need for professional advice from lawyers and private sector planning consultants on each project (although there may be more projects constructed under Options B and C). Small businesses giving evidence to inform the determination of applications, on the other hand, may benefit from the substantial time and cost savings in Option B, and to a lesser extent Option C. Insofar as small firms promote nationally significant infrastructure projects such as windfarms, they may benefit from the clearer national policy which increases certainty, and therefore reduces the risk they take investing in the preparation of an infrastructure application. The increased consultation at the national policy and project development stages will help identify the costs and benefits of projects. Promoters would therefore likely put forward applications which deliver more benefits to either the promoter itself or to society as a whole, including small businesses.

Changes to the inquiry procedures under Options B and C could benefit small businesses affected by a project proposal. It would be more accessible and affordable for small businesses to submit written applications so that employees do not need to attend public hearings. They may also benefit from the early consultation a promoter would need to carry out at the project development stage, as this would give small businesses an opportunity to comment early on.

We are seeking views on the impacts set out in this PRIA as part of the consultation on *Planning for a Sustainable Future*. If you would like to comment on the impacts on small businesses, please see Annex A of *Planning for a Sustainable Future*. The Small Business Service acknowledges this consultative approach.

Competition assessment

Option B, and Option C to a lesser extent, should reduce unnecessary burdens associated with the planning system for nationally significant infrastructure projects. The significantly improved application system under Option B, should encourage new applicants. The establishment of the commission would not lead to supplier (ie infrastructure promoter) restrictions or a fixed limit on suppliers.

There would appear to be no detrimental impacts on innovation, sales channels, barriers to exit and entry, information sharing or switching. Therefore Options B and C would not have detrimental effects on competition. Indeed, the effects of accelerated and more certain planning procedures in Option B (and to a lesser extent in Option C) are likely to be positive for economy-wide competition.

Rural, health and other social impacts

A draft race equality impact assessment is attached at **Annex A. Annex A1** sets out the race equality impacts we believe that Option B would have. The impacts for Option C would be the same, as all the changes to consultation and inquiry procedures would take place for both Options B and C. However in Option C the inquiry would be run by government instead of by the commission.

In Option B, the commission would be subject to the same equality standards and duties as all public bodies. Options B and C propose more transparent and consistent consultation. Minority groups would be able to express their views to the government during consultation on national policy statements, to the promoter at the project development stage, and to the commission (Option B) or the government (Option C) at the decision-making stage.

The health impacts of nationally significant infrastructure projects are discussed on pages 20-23. Option B and C would lead to the approval of more projects with net benefits, which could include net health benefits. Option B and C provide for more consistent early consultation with the local community, and *Planning for a Sustainable Future* is seeking views on how the commission could support hard to reach groups in fully participating with the inquiry process.

This should help identify and mitigate any negative impacts of a project on health, the environment, and social or equality impacts. For instance, it could also help projects to be designed in such a way that they do not exclude disabled people from working on the operation of an infrastructure project.

Nationally significant infrastructure projects often require a large amount of land, and may therefore be more likely to be located in rural areas. This means that rural communities may be more likely to experience both the local costs and benefits of infrastructure projects. For instance, a new infrastructure project could benefit a community by creating employment opportunities, but it could also increase road congestion in the area or lead to a loss of farmland. Under Options B and C, the local community would have increased opportunities to comment on consultation at the national policy, project development and decision-making stage.

Enforcement, sanctions and monitoring

Under Options B and C the enforcement of decisions on nationally significant infrastructure projects, and the monitoring of conditions attaching to consent, would remain the same. Local authorities would continue to undertake this under all three options, and would be encouraged to do this in line with the Hampton⁷ principles of risk-based enforcement.

In Options B and C new requirements would be enforced in a light-touch way. For instance, the requirement that promoters consult at an early stage would be enforced by giving the commission (Option B) or the government (Option C) the power to require a promoter to carry out further work before it agrees to consider the application – minimising the compliance cost of this requirement. In Option B, the performance of the commission would be monitored via a requirement that the commission report to Ministers and Parliament on its performance. This would ensure the accountability of the commission.

⁷ *Reducing administrative burdens: effective inspection and enforcement*, Philip Hampton, 2005. Available at www.hm-treasury.gov.uk/media/A63/EF/bud05hamptonv1.pdf

The impact of options for enforcement, sanctions and monitoring will be examined further as the policy develops.

Summary

In light of the above information, the Government believes that Option B is the preferred Option. A regime where the Government sets clear policy for nationally significant infrastructure and decisions are taken by an independent commission in the framework of national policy should deliver substantial benefits. Although Option C should deliver some of the benefits involved in Option B, Option B should create a more transparent regime, as the roles of setting policy and taking decisions would be clearly separated, and the framework created by national policy statements would further increase predictability. This should lead to a more efficient application process, making it easier for members of the public to engage with infrastructure decisions. Option B therefore forms the basis of the proposals in Chapters 2 to 5 of *Planning for a Sustainable Future*.

Summary costs and benefits

(relates to proposals contained in Chapters 3 – 5 of *Planning for a Sustainable Future*)

	Option A (do nothing)	Option B (commission and national policy statement)	Option C (efficiency savings)
Economic impacts	Annual cost per application of NPV £36.3 million. Complex system imposes administrative burdens. Possible investment distortion.	Estimated annual cost per application approximately NPV £21.9 million. This is NPV £14.4 million cheaper than the 'do nothing' Option A. The total cost savings to the application process over ten years could be in the region of NPV £1.3 billion, compared to Option A. Additional net economic benefits to economy of nationally significant infrastructure projects that go ahead over Option A. There would be an administrative burden in adapting to new regime (but overall there should be a net reduction in admin burdens compared to Option A).	Annual cost per application of NPV £31.6 million. This is NPV £4.7 million cheaper than Option A. The total cost savings to the application process over ten years could be in the region of NPV £0.5 billion, compared to Option A. Additional net economic benefits to economy of nationally significant infrastructure projects that go ahead over Option A, but less than Option B. Smaller administrative burden in adapting to new regime than Option B, but in the long run administrative burdens would be lower in Option B.
Impact on competition and small firms	Current system inhibits competition. Existing system slow and costly for small firms to engage with	Positive impact on competition. New system less costly and quicker for small firms to engage with.	Positive impact on competition, but less than in Option B. Impacts as in Option B, but benefits would be smaller.

	Option A (do nothing)	Option B (commission and national policy statement)	Option C (efficiency savings)
Environmental impacts	No additional projects so no additional environmental impacts	Individual projects may have a range of environmental impacts. For instance some projects could increase carbon emissions, whereas other projects may reduce them. Improved consultation and clarification of environmental aims in national policy statements should increase the environmental benefits delivered by projects approved.	Improved consultation and clarification of environmental aims in national policy statements should increase the environmental benefits delivered by projects approved – but to a lesser extent than Option B.
Social and equality impacts	Lack of consistent consultation with local groups. Individual projects may have a range of social and equality impacts. For instance, transport projects could increase access to healthcare, but could also decrease air quality and therefore the incidence of respiratory problems.	Clear and consistent public consultation at each stage of the process should allow social and equality impacts to be identified and mitigated/ taken into account in the commission’s decision. Improved transparency and predictability. Clearly defined government policy should reduce sub-optimal applications. Changes to inquiry procedures and reduced time for decisions would improve accessibility.	Same as Option B, but <ul style="list-style-type: none"> • there might be less transparency and predictability • the reduction in sub-optimal applications would be smaller • Reductions in the time for decisions would but not as great as Option B, so there would be a smaller improvement in accessibility.

Note figures may not sum due to rounding

Section 3: A positive framework for delivering sustainable development

This section addresses the measures in Chapter 7: A positive framework for delivering sustainable development, of *Planning for a Sustainable Future*. The proposals that require regulatory impact assessment at this stage are considered below.

There is a proposal to set out the role of local planning authorities in tackling climate change and energy efficiency. The proposal is to help take forward the ambition set out in the *Consultation Planning Policy Statement: Planning and Climate Change* (Supplement to Planning Policy Statement 1, published December 2006), dependent on consultation responses. The Partial Regulatory Impact Assessment for the draft PPS is an annex of the Planning and Climate Change consultation document.⁸

Last month Communities and Local Government published a consultation document entitled, *Changes to Permitted Development Consultation Paper: Permitted Development Rights for Householder Microgeneration*⁹. The Partial Regulatory Impact Assessment for proposals relating to householder microgeneration is annexed to the householder microgeneration consultation document.

Other proposals set out in Chapter 7 of *Planning for a Sustainable Future* may in due course be subject to regulatory impact assessment if it is considered necessary and appropriate. These will be published and consulted upon in line with arrangements set out in *Planning for a Sustainable Future*. For example, we will prepare Partial Regulatory Impact Assessments to accompanying the draft proposals on planning for economic development and in relation to our proposals to improve the new policy for effectiveness of town centre policy which will be published for consultation in Summer 2007.

⁸ This can be found at: www.communities.gov.uk/index.asp?id=1505140.

⁹ This can be found at: www.communities.gov.uk/index.asp?id=1508888

Section 4: Strengthening the role of local authorities in place shaping

This section addresses the measures proposed in Chapter 8: Strengthening the role of local authorities in place shaping of *Planning for a Sustainable Future*. The proposals that require regulatory impact assessment at this stage are considered below.

The Government wants to see a more joined up approach to the involvement of the wider community with a more comprehensive community engagement strategy. In line with the Local Government White Paper¹⁰ we propose to remove the requirement for the independent examination of the separate planning Statements of Community Involvement. A Partial Regulatory Impact Assessment in relation to this proposal – PRIA 2: Ending the statutory requirement for an independent examination of Statements of Community Involvement – is set out below. A consultation question on this proposal is included in the White Paper at Annex A.

The Government wants a more streamlined and tailored approach to Local Development Frameworks. As part of these proposals we want to make changes to primary legislation with regard to the ability to direct challenged plans back to a key stage in the plan making process; and to introduce more flexibility for local authorities to produce supplementary planning documents without reference to Government. The Partial Regulatory Impact Assessments relating to these proposals – PRIA 3: Directing challenged plans back to a key stage in the plan making process and PRIA 4: More flexibility for local authorities to produce Supplementary Planning Documents – are set out below. Consultation questions on these proposals are included in the White Paper at Annex A.

The White Paper also signals our intention to revise the arrangements for statutory consultation on development plan documents and remove the blanket requirement for Site Allocation Development Plan Documents. The Partial Regulatory Impact Assessments relating to these proposals – PRIA 5: Changes to the requirements for statutory consultation on Development Plan Documents and PRIA 6: To clarify that there is no requirement for a Site Allocation Development Plan Document respectively – are set out below. We will be consulting on the proposals in PRIA 5 and PRIA 6, as part of package of draft changes to the regulations policy and guidance affecting development plan documents, later in the year.

Alongside publication of *Planning for a Sustainable Future* we have published a consultation paper, *Planning Performance Agreements: a new way to manage large-scale major planning applications* and a consultation paper, *Planning Fees in England: Proposals for Change*. The Partial Regulatory Impact Assessments for proposals relating to Planning Performance Agreements and Planning Fees are annexed to the relevant consultation documents.

Other proposals set out in Chapter 8 of *Planning for a Sustainable Future* may in due course be subject to regulatory impact assessment if it is considered necessary and appropriate. These will be published and consulted upon in line with arrangements set out in the White Paper.

¹⁰This can be found at: www.communities.gov.uk/index.asp?id=1503999

PRIA 2

Ending the statutory requirement for an independent examination of Statements of Community Involvement: Partial Regulatory Impact Assessment

Purpose and intended effect

Objective

Closer integration of Sustainable Community Strategies and the Statement of Community Involvement within the Local Development Framework.

Background

A key element of the Government's modernising planning agenda is to increase community involvement in plan making. This aim was implemented partly through the Planning and Compulsory Purchase Act 2004 (PCPA) which requires local planning authorities to prepare a statutory Statement of Community Involvement (SCI). SCIs set out the local planning authority's policies on how and when the public can expect to be involved in the preparation of local development documents and on planning applications.

The SCI is subject to independent examination and is assessed by an Inspector appointed by the Planning Inspectorate. The Inspector considers the "soundness" of the statement of community involvement upon which the public may make representations at the public examination.

Rationale for government intervention

Inspectors have now examined just over 50 per cent of SCIs that will need to be examined. The examinations of SCIs have resulted in few changes being made by Inspectors. This calls into question the appropriateness of using the Planning Inspectorate for this work. This is a quasi-legal process and it is not surprising that Inspectors have had little to say regarding the suitability of the approach being taken to public consultation by a local planning authority. In particular it is extremely difficult for an Inspector to assess whether the right level of resources is being applied to the task.

The modernising planning agenda also includes moving planning from being a peripheral reactive and regulatory function within local authorities to being a central part of the long term decision making of the council. As part of this initiative, the PCPA obliges the plans produced by local authorities to have regard to the community strategy for the area. In the light of the Egan report into *Skills for Sustainable Communities*,¹¹ Communities and Local Government is considering what changes to community strategies are needed. We propose that there should be sustainable community strategies and move towards making more focussed choices. This should allow for closer integration with the statutory plans produced by local planning authorities. In a consultation paper on local strategic partnerships in December 2005,¹² the Government sought views on greater integration between the two

¹¹ This can be found at: www.communities.gov.uk/index.asp?id=1502251

¹² This can be found at: www.communities.gov.uk/index.asp?id=1162337

kinds of strategies including within the area of public engagement. It would be good practice for the local authority and the local strategic partnership to produce an SCI for their wider engagement activities as a whole, simplifying the procedure for the planning SCI would assist in this integration since the wider engagement strategy does not itself require formal examination.

Consultation

As described on page 8.

Options

OPTION A: DO NOTHING

The 'do nothing' option would retain the requirement for statements of community involvement to be subjected to independent examination.

OPTION B: REPEAL SECTION 18 (4) OF THE PCPA

Repealing Section 18(4) of Planning and Compulsory Purchase Act 2004 would remove the requirement for the statement of community involvement to be independently examined by the Planning Inspectorate.

Alternative options considered

Retaining public examinations but for them to be carried out by a different body than the Planning Inspectorate. The Consultation Institute – a private body that has set itself up to regulate consultation and which has a number of government departments as members – could be used, but it is not statutory. The Audit Commission could be specifically appointed to this task, but in practice it will already have a role in inspection of authorities generally, so this would be repetition. Also, the Government in general proposes to move towards more self regulation by local government.

Costs and Benefits

Sectors and groups affected

- The public sector (local authorities and the Planning Inspectorate).
- The public, community groups and other bodies that may have commented on SCIs at a public examination.

Options

OPTION A. DO NOTHING

There are no new costs or benefits from this option.

OPTION B. REPEAL SECTION 18 (4) OF THE PCPA

Benefits

Co-ordinated consultation and engagement. It would allow for the development of a comprehensive engagement strategy integrating the consultation across authorities and their partners on the Sustainable Community Strategy, Local Area Agreements (LAA) and Local Development Framework (LDF), and where possible combining activity. This should enable more meaningful consultation with local residents reducing the risk of consultation overload and fatigue.

Cost savings for local authorities: It would provide a saving of around £680-£1,700 per local authority on direct expenditure on the Inspector, plus the costs of running two consultations which currently cost staff time and materials. In addition, and of equal importance, the work of administering the consultation on the SCI would free up scarce professional staff time to concentrate on plan making in many authorities.

Costs

There would be some administration costs for local authorities in familiarising and training their staff in the new procedures. The Government would give as much notice of the changes and their implications as is possible to minimise these.

There would also need to be transitional provisions for those authorities who have already submitted their SCI. The Government would seek to minimise transitional costs by allowing current plans that are in preparation to continue to adoption, ensuring that work done in their preparation is not wasted.

Environmental impact

There are no environmental costs or benefits of this proposal.

Race equality impact assessment

The purpose of introducing statutory SCIs was to broaden the scope of consultation for planning. It is arguable whether the additional requirement of the public examination of SCIs has added much to this aim. At present ethnic minority groups who feel aggrieved about the scope of public consultation in planning can pursue their concerns at the independent public examination. The proposals would remove that right but groups can still pursue their case against the authority through judicial review and by petitioning the Secretary of State to intervene in the SCI process.

Individuals and groups would lose out by not being able to take their grievances about public consultation to an independent authority. However there is some evidence that such grievances tend to be limited to a few individuals and not always confined to consultation issues, but matters of policy. Moreover individuals will still have the ability to challenge how authorities prepare and implement SCIs in the courts and could also petition the Secretary of State to intervene in an authority's SCI.

The final impact assessment will take account of any further evidence and comments received on this issue.

Rural, health and other social

There are no health implications or reason to suppose this proposal has any differential impact on rural areas.

Small Firms' Impact Test

We assume that the measures proposed will impact proportionally across business sectors and that impacts on business will be marginal. The Small Business Service acknowledges this approach.

Competition assessment

The competition filter test was applied. This proposal will not effect competition.

Enforcement, sanctions and monitoring

Government Offices will play a key role in ensuring that the requirements set out in the legislation are followed. If the requirements are not met the Government Offices, on behalf of the Secretary of State, can intervene in the process. Outside of the legislation, in line with the proposals set out in *Planning for a Sustainable Future*, intervention powers will be used in cases where authorities are unable or unwilling to deliver the service that business and the community have the right to expect. There will be no new sanctions.

As part of the monitoring, the impact on resources over time for the different parties will be assessed, and necessary changes will be considered.

Summary

In light of the above information, our preferred option is Option B. This measure cannot be looked at in isolation. Whilst the removal of the examination into the SCI will save scarce resource for local authorities, there will still be a need to set out how community engagement is to be carried out. This is referred to in the Local Government White Paper: *Strong and Prosperous Communities* and *Planning for a Sustainable Future*.

PRIA 3

Directing challenged plans back to a key stage in the plan making process: Partial Regulatory Impact Assessment

Purpose and intended effect

Objective

To ensure responsive and timely plan making by preventing wasted resources and unnecessary delay in the Development Plan Document (DPD) preparation process. These arrangements would also apply to Regional Spatial Strategies.

Background

Local Development Frameworks (LDF) comprise Local Development Documents (LDDs), which include Development Plan Documents (DPDs), and Supplementary Planning Documents (SPDs). SPDs expand upon or provide additional detail on those policies set out in a DPD. All policies contained within SPDs are required to be consistent with policies contained within DPDs.

The plan making process is a resource intensive exercise. DPDs are taking local authorities significant periods of time and resources to produce. There are several stages of consultation that the authority must undertake before submitting a DPD for a test of soundness by the Planning Inspectorate.

DPDs and the policies contained within them can be challenged under provisions in the legislation and through judicial review. At present when a judge makes a determination on a legal challenge there is no reference in the legislation providing anything other than a complete quashing of the document, even where the challenge referred only to part of a DPD. Should a DPD be found unsound at a particular point in the process, the entire plan is quashed and the plan making process must recommence from the start.

Rationale for government intervention

When a plan is quashed, a 'vacuum' (or policy deficiency) is left behind creating uncertainty for the community affected by the plan. This may lead to significant social, economic or environmental impacts on the area concerned. It also leads to a significant delay in implementing of a plan for the area, which may run into several years. The process of changing the DPD is extremely time and resource intensive for the local authorities and consultees involved.

We propose, should a legally robust way forward be found, to amend the primary legislation to enable the High Court to return a plan back to a stage in the process at the judges discretion, based on the matter being heard.

The ability to be able to return a plan to a key stage in the process will reduce the risk to the process. It will also ensure that if successful, the challenge will not result the entire plan to be returned to the beginning of the plan making process, if not required.

Consultation

As described on page 8.

Options

OPTION A. DO NOTHING

The current process would be maintained.

OPTION B. AMEND CHALLENGE FUNCTION

The proposal is contingent on finding a legally robust way forward. Government proposes to increase the powers of the High Court enabling it to order that a plan is sent back to an earlier stage of its process rather than back to the start.

Costs and benefits

Sectors and groups affected

- Public sector (particularly local authorities).
- The public and stakeholders involved in DPD production or affected by the lack of certainty caused by a delay in DPD production.

OPTION A: DO NOTHING

No new or additional costs or benefits have been identified under this option.

OPTION B: AMEND CHALLENGE FUNCTION

Benefits

Cost savings

It can take between £100,000 and £1 million of a local authority's resources to prepare a Development Plan Document. As the volume of new plans being produced and found sound under the new system increases in coming years, there is an increased likelihood of a challenge as stakeholders are more willing to test the new system to see what determinations may be made. We estimate that at least £1 million per year would be saved from this proposal should a determination on a challenge not require the quashing of the entire plan.

Costs

There are no costs with this option. Challengers would still have the same rights as they do now. The only change would be that there would be a more proportionate response to amend a quashed plan.

Small Firms' Impact Test

This proposal is unlikely to have any impact on small businesses. Small firms will be consulted on this proposal in parallel to the wider public consultation. The Small Business Service acknowledges this approach.

Competition assessment

The competition filter was applied to this proposal. Many challengers are from the development industry where a few firms have a large market share. However, the proposal will not affect these firms, have a substantially different effect on firms, affect the market structure, penalise new firms or place restrictions on the services or products that firms provide.

Environmental impact

This proposal has the potential positive effect of ensuring that up to date policies in plans to protect the environment are not delayed when plans are quashed.

Race equality impact assessment

The race equality impact screening assessment was applied to this proposal. Our provisional conclusion is that no negative race equality effects are expected. However, we will take account of any further evidence and comments received before finalising our assessment.

Rural, health and other social

No negative or disproportionate effects are expected.

Enforcement, sanctions and monitoring

Enforcement and sanctions will continue to be administered through the courts.

Summary

Option B is our preferred option. Government proposes to increase the powers of the High Court so that it can return plans to an appropriate restarting point in cases when a plan is quashed. This has clear benefits to plan making bodies who are not forced to redo work which is unnecessary. We recommend that an attempt to seek a legally robust solution is sought.

PRIA 4

More flexibility for local planning authorities to produce Supplementary Planning Documents: Partial Regulatory Impact Assessment

Purpose and intended effect

Objective

To ensure responsive and timely plan making by reducing the time and resources required to produce Supplementary Planning Documents (SPDs).

Background

Local Development Frameworks (LDFs) comprise of Local Development Documents, which include Development Plan Documents (DPDs), and Supplementary Planning Documents (SPDs). SPDs expand upon or provide additional detail on those policies set out in a DPD. All policies contained within SPDs are required to be consistent with those policies contained within DPDs.

Currently, all proposed Supplementary Planning Documents (SPDs) have to be listed in the Local Development Scheme. The Local Development Scheme is a public statement of the local planning authority's programme for the production of Local Development Documents. Local planning authorities must submit their first Local Development Scheme to the Secretary of State and any subsequent revisions must be agreed by the Secretary of State.

At present all Local Development Documents are required to undergo a Sustainability Appraisal. The purpose of a Sustainability Appraisal is to appraise the social, environmental and economic effects of the strategies and policies in a local development document from the outset of the preparation process. This will ensure that decisions are made that accord with sustainable development principles. The findings from a Sustainability Appraisal form an essential part of the reasoned justification for policies in plan documents.

Current policy states that local planning authorities must undertake Sustainability Appraisal throughout the preparation process of a Supplementary Planning Document. The Sustainability Appraisal of the development plan document to which the Supplementary Planning Document conforms, may already meet the requirements for a Sustainability Appraisal of the supplementary planning document. However, where the Supplementary Planning Document contains further detail of policies and proposals not already covered by the sustainability appraisal of the higher level DPD, it will be necessary to undertake sustainability appraisal of those matters.

The requirement for a Sustainability Appraisal incorporates the requirements from the Strategic Environmental Assessment Directive (SEA) (EC Legislation). The applicability of the SEA Directive is considered as part of the early plan preparation process to determine whether the proposed plan is caught by the Directive or not as a separate assessment usually included with a Sustainability Appraisal. SEA is an environmental based assessment, whereas Sustainability Appraisals are inclusive of economic and social considerations, as well as environmental matters.

Currently there are an estimated 1,800 Supplementary Planning Documents (SPDs) being produced by local planning authorities. Of these, around 900 are Issue Based Documents, 500 are Area Development Briefs, 350 are Design Guides, 35 are Master Plans and 15 are classified as 'other'.

Rationale for government intervention

The requirement to list SPDs in the Local Development Scheme limits the flexibility local authorities have to amplify policy set out in DPDs in response to a change in market conditions or council direction. We consider local authorities to be better placed than the Secretary of State to judge whether SPDs are required and propose that local planning authorities have a more independent position with respect to this element of the LDF.

In addition, the need for a sustainability appraisal (SA) of SPDs is limited because:

- new policy should not be introduced at the SPD level;
- the SPD subject does not always have significant environmental impact;
- the SA work undertaken on higher tier DPDs (such as a Core Strategy) will be wide ranging and cover much of what's required for SPDs.

The proposals set out here will allow Local Planning Authorities to respond more flexibly and effectively to localised policy issues as they arise where an SPD is the best method of addressing the issue.

Consultation

As described on page 8.

Options

OPTION A. DO NOTHING

Maintain the current process for producing SPDs.

Options B and C could be introduced separately or together.

OPTION B. WITHDRAW REQUIREMENT FOR SPDS TO BE LISTED IN THE LOCAL DEVELOPMENT SCHEME

Remove the requirement for all proposed SPDs to be listed in the Local Development Scheme. This means that LPAs would be able to start the production of SPDs without reference to government, although authorities would still be expected to publicise their plan making programmes, including SPDs, to the public and stakeholders to ensure maximum engagement.

OPTION C. ALTER REQUIREMENTS FOR SUSTAINABILITY APPRAISAL

There are two sub-options for altering the requirements for Sustainability Appraisal on SPDs (primary legislative change maybe required in both instances):

C1: Sustainability appraisal (SA) would only be undertaken if the SPD is caught by the SEA Directive. Should SEA be required for a SPD, the LPA would be advised by way of guidance that a formal SA be undertaken in conjunction with an SEA to provide a more definitive appraisal of all three core sustainability objectives.

C2: Sustainability appraisal where SPDs are caught by the Strategic Environmental Assessment Directive or have significant environmental impacts. Whilst the LPA may determine that SEA is not applicable, the scale and/or nature of the SPD may warrant a detailed appraisal or the environment factors to ensure all sustainable options have been considered in order to ensure the most sustainable development options are chosen. In addition, the social and economic considerations would also be appraised where they differ from the parent DPD with a formal SA being produced for the SPD.

Costs and benefits

Sectors and groups affected

- Public sector (local authorities).
- The public and stakeholders involved in SPD production.

OPTION A: DO NOTHING

No new costs or benefits have been identified from this option.

OPTION B: WITHDRAW REQUIREMENT FOR SPDS TO BE LISTED IN LDS

Benefits

Cost savings to public sector

This modification would save local planning authority officers from having to write committee reports asking for council support and subsequently writing to the Secretary of State to amend the programme of SPDs in the Local Development Scheme. The Department does not have any figures on how many times a year this occurs; it is likely to be rare and therefore any cost savings would be marginal.

Time savings

The time taken for local authority officers to prepare a report and get the matter to committee for consideration can take several months depending on meeting schedule and lag time for completing agendas.

Devolution

Local authorities are best placed to decide when there are local issues that they need to respond to through SPD. This measure would ensure they have the appropriate decision making power.

Costs

No costs have been identified. There is not expected to be changes in the development outcomes since SPDs supplement higher order policy, and it is not in their scope to introduce new policy not already broadly covered at the Development Plan Document level. The influence of an SPD is limited in that it is to be used in conjunction with the higher order DPD that it is supplementing. In addition, the requirements to consult stakeholders on SPD will remain.

OPTION C: WITHDRAW REQUIREMENT FOR SUSTAINABILITY APPRAISAL ON SPDS

Benefits

Cost savings to local authorities

We anticipate that Design Guides and Issue Based Document type SPDs are considerably less likely to be caught by the SEA Directive than Master Plans and Area Development Briefs.

Under option C1 some master plans and area development briefs could also be exempt from SA. Our initial estimate is that this option could save local authorities approximately £1.7-1.8 million a year.¹³

Under option C2, it is less likely that Master Plans and Area Development Briefs will be exempt. Our initial estimate is that this option could save local authorities approximately £1.7 million a year.

Time savings to consultees

Where no Sustainability Appraisal is required, consultees would not need to read and comment on Sustainability Appraisal documents. Given that each document represents at least 10 hours reading time, and is seen multiple times throughout the current consultation process the potential time savings to consultees is considerable.

Costs

No costs have been identified.

Small Firms' Impact Test

No disproportionate impacts on small firms are anticipated from these proposals. Small firms are being consulted on these proposals in parallel with the wider public consultation. The Small Business Service acknowledges this approach.

Competition assessment

The competition filter has been applied and there is no impact on competition from these proposals.

¹³ This estimate is based on: between 1243 – 1350 of SPDs currently in production may not need SA; those currently in production are typical numbers for a three year period; SA of a SPD costs local authorities £4,000.

Environmental effects

There is a risk of environmental impacts from option C1, but not from option B or C2. Under all options local planning authorities would still need to ensure they were in line with the European Strategic Environmental Assessment Directive.

Race equality impact assessment

The race equality impact screening assessment was applied to all options within this proposal. Our provisional conclusion is that no negative race equality effects are expected. However, we will take account of any further evidence and comments received before finalising our assessment.

Rural, health and other social

Sustainability appraisal assesses social and health impacts. The sustainability appraisal of the higher order policy would have considered all of the potential affects as part of the required appraisal work. Under both options local planning authorities would still need to ensure they were in line with the Strategic Environmental Assessment Directive which includes health impacts.

We do not expect a disproportionate effect in rural areas from this proposal.

Other risks

SPDs being produced prior to the change in requirements will be subject to sustainability appraisal and those after will not. Local planning authorities may wait until legislative change is made since less work would be required.

Enforcement, sanctions and monitoring

Reductions or restrictions in funding through poor performance could also be imposed upon weak local planning authorities.

Ongoing review of SPD production is aimed to confirm a noticeable reduction in the time and costs associated with the production of SPDs.

Summary

Our preferred approach therefore would be to withdraw the requirement for SPDs to be listed in the Local Development Scheme (Option B) and to alter the requirements for Sustainability Appraisal so it is undertaken only where SPDs are caught by the Strategic Environmental Assessment Directive or have significant environmental impacts (Option C2).

PRIA 5

Changes to the requirements for statutory consultation on Development Plan Documents: Partial Regulatory Impact Assessments

Purpose and intended effect

Objective

To improve the quality of community consultation in Local Development Frameworks (LDFs), and ensure timely and responsive policy by improving the LDF production process.

Background

The current process for producing Development Plan Documents (DPDs) includes three separate statutory requirements for consultation, set out in the Regulations for the Planning and Compulsory Purchase Act 2004. The three requirements are: 'pre-submission consultation' (referred to as issues and options), 'pre-submission participation' (referred to as preferred options) and at the submission stage of the final plan.

Regulation 25 currently covers 'pre-submission consultation' and is where the local authority is required to consult with 'specific' and 'general' consultation bodies as it deems appropriate. Specific consultation bodies are broadly those dealing with infrastructure and utilities provision, and are listed under regulation 2. General consultation bodies are voluntary organisations and other bodies representing the interests of certain specific groups in the area (such as religious groups and disabled groups). In practice, local authorities are using regulation 25 as the consultation on developing 'issues and options' and are often involving the general public at this stage, albeit in an ad hoc way.

Regulation 26 currently covers 'pre-submission participation' and is where the local authority is required to make available copies of the pre-submission proposals document and statement of the proposals matters for inspection. This is generally treated as the discussion of 'preferred options' and is the second time the public will be consulted on proposals.

Once the final plan is submitted, regulation 29 allows for any person to make representations on it, thus in effect offering a third 'window' for consultation. Under the current rules once the final plan has gone to final formal consultation it cannot be amended. If an LPA wants to make changes it must withdraw the plan and go back to the start of the process.

Rationale for government intervention

It is feasible for an individual member of the public to have been contacted three times about the same plan, being largely invited to comment on proposals laid out before them, rather than being genuinely involved in the development of those proposals. The regulations have led in some cases to a very shallow, process driven approach to consultation and the number of stages has often led to confusion amongst consultees. Amendment will allow greater flexibility to local planning authorities to develop their own engagement and consultation strategies that are most applicable to local circumstances.

This is in line with our wider approach to local government as set out in the local government white paper and is intended to produce meaningful processes rather than simply bureaucratic ones.

Currently, any comments received as a result of final formal consultation cannot be acted upon without withdrawing the whole plan. This is both costly and damaging to the practice of consultation. It would be preferable to allow greater flexibility with fewer regulations, leading to more meaningful participation rather than simple consultation. We propose to improve flexibility in the process by allowing the option, in exceptional circumstances, of making changes and then reconsulting on the final plan.

We believe that the time to produce a simple DPD could be brought down to 12-13 months, which would fulfil one of the original intentions of the Local Development Framework system, which is that it can respond more rapidly and flexibly than its predecessor to changing circumstances.

Consultation

We will undertake consultation on this proposal as part of a package of draft changes to the regulations, policy and guidance affecting development plan documents later this year.

Options

OPTION A. DO NOTHING

Maintain the current requirements for three stages of consultation.

OPTION B. REVOKE REGULATION 25 (PCPA): PRE-SUBMISSION CONSULTATION AND ADD PROVISION FOR AMENDMENTS AFTER FINAL CONSULTATION

Create just two rather than three stages of statutory consultation for every Development Plan Document – at preferred options stage and at submission stage. In addition, where consultation at the submission stage suggests that minor changes to the plan are necessary, authorities would be able to make those changes and repeat the final consultation.

OPTION C. REVOKE REGULATION 26 (PCPA): PRE-SUBMISSION PUBLIC CONSULTATION AND ADD PROVISION FOR AMENDMENTS AFTER FINAL CONSULTATION

For every Development Plan Document there would be a period of plan preparation during which the authority would gather the evidence to support different proposals, and appraise the different issues and options in consultation with the public and stakeholders. During this period there would be a statutory requirement to consult and engage with those bodies and individuals the authority consider appropriate and proportionate in a form somewhat akin to the current regulation 25 (the precise format and way forward will be determined following legal opinion). The formal statutory requirement to consult on preferred options (current regulation 26) would be revoked. However, local authorities would still be expected to do this where it was appropriate.

The detail of how engagement is carried out, including the different stages and the length of time needed for this process, will be at the discretion of the authority and will vary depending on the complexity and scope of issues involved.

Following the preparation stage there would be a second statutory consultation on the final plan. Where consultation at the submission stage suggests that minor changes to the plan are necessary, authorities would be able to make those changes and repeat the final consultation.

Costs and benefits

Sectors and groups affected

- Public sector (particularly local planning authorities).
- All stakeholders in planning (including business, the voluntary sector and charities, the public).

OPTION A: DO NOTHING

No new or additional costs and benefits have been identified from this option.

OPTION B: REVOKE REGULATION 25

Benefits

Savings to community

There will be a cost saving from reducing the amount of consultation, and by ensuring consultation is meaningful when it occurs there is a lower risk of consultation fatigue.

Proportionality

Local authorities would not undertake repeated detailed consultation where it was unnecessary.

Time savings

At present the average production time for a DPD is 36 months. We anticipate that the production of a complex DPD could be reduced down to 28 months and a simple DDP reduced down to 12 to 13 months. Note the actual time each plan will take will vary depending on the circumstances.

A formal separate issues and options phase can add six months to the timeline of an individual DPD.

Cost savings for the local authority

The cost of the issues and options stage for Core Strategies is estimated to be around £33,000. If we assume that at least a third of authorities will be undertaking Issues and Options for a DPD in any one year, there is an annual cost saving of approximately £4 million.

Costs

Consultation rights – this would remove the right for people to be consulted at an early stage in the development of options.

Risk to quality and impact of consultation – Research has suggested that local authorities find it somewhat easier to engage the community at this stage rather than at Preferred Option stage, where consultees sometimes feel that all the key decisions have already been taken (Spatial Plans in Practice).

OPTION C: REVOKE REGULATION 26

Benefits

Savings to the community

There will be a cost saving from reducing the amount of consultation, and by ensuring consultation is meaningful when it occurs there is a lower risk of consultation fatigue.

Proportionality

The requirement for consultation would be similar to that for other government policy (two tier) and local authorities would not undertake repeated detailed consultation where it was unnecessary.

Devolution

Local authorities are best placed to take decisions about the consultation required for each DPD. The remaining regulation 25 is more flexible than regulation 26, which will increase this local flexibility compared to Option B.

Time savings

Whilst a complex plan or core strategy would go through similar stages as now (which can take 18 months or more), for a plan with a relatively narrow scope or an amendment to an existing plan the preparation time could be six months or less.

Cost savings for the authority

The cost of the issues and options stage for Core Strategies is estimated to be at least £33,000. If we assume that at least a third of authorities will be undertaking Issues and Options for a DPD in any one year, there is an annual cost saving of approximately £4 million.

Costs

Costs for consultees

Consultees and stakeholders that operate over more than one local authority area will have to learn the process for production and engagement for each document separately since the process will no longer be standardised across authorities and DPDs. However, this is unlikely to present more costs than the current system since DPDs are prepared on different timescales. In addition, for business, costs will be related to output.

Consultation rights

This would remove the right for people to be consulted at three points in the process in situations where the local authority believes such extensive consultation to be unnecessary.

Small Firms' Impact Test

There is no evidence to suggest that there will be a disproportionate impact on small firms. This proposal will remove regulations rather than impose new regulations. Small firms will be consulted on this proposal in parallel with the wider public consultation. The Small Business Service acknowledges this approach.

Competition assessment

The competition filter test has been applied. The development sector will be the key market affected, and the biggest companies in this sector have a high proportion of market share, particularly at local level. However, the proposal is judged to be unlikely to have an effect on the structure of the industry or the types of goods/services that firms provide.

Environmental effects

No environmental effects from this proposal have been identified.

Race Equality impact assessment

The race equality screening assessment has been applied to all options within this proposal. Our provisional conclusion is that no negative race equality effects are expected. The existing Regulation 2 of the Town and Country Planning (Local Development) (England) Regulations 2004 states that in preparing any DPD, the local authority must consult certain general consultation bodies, including 'bodies which represent the interests of different racial, ethnic or national groups in the authority's area'. We will take account of any further evidence and comments received before finalising our assessment.

Rural, health and other social effects

There may be a perceived risk from less statutory requirements from public engagement. However, local authorities will still be required to consult on their proposals and are democratically accountable bodies. The proposals should ensure that resource can be focused on the quality of engagement.

There are no disproportionate effects expected for rural areas.

Other risks

These changes could not be brought in in final form until mid 2008. There would not be an impact on all the DPDs now in production.

The plan will still be assessed for soundness by the Planning Inspectorate and regulations in themselves are not an effective tool to raise plan quality (and through application of the plan quality of outcome). However, there is a risk that there may be a lack of consistency in the type of document received by Government Offices between commencement and submission, as there will be one less stage of potential engagement.

Enforcement, sanctions and monitoring

This change will be enforced through changes to the Regulations (2004). There will also be revised PPS12: *Local Development Frameworks* to further detail the changes in process.

Sanctions would be likely to relate back to the provision of PDG/HDG as the biggest impact would be one of slippage in the timetable of production of a DPD.

Monitoring may be carried out by Government Offices who receive a copy of each local authority LDS.

Summary

Given the above information Option C is our preferred option, the revocation of regulation 26. This will retain early and effective consultation on developing the issues and options and lead to genuine participation in the process. In this way, the submitted plan will have had input from the public at the development stage, rather than having them comment on what was seen by many as a *fait accompli*. The approach will ensure local authorities have more flexibility on how they engage with their communities and will also lead to the option of speeding up review, should it become necessary.

PRIA 6

To clarify that there is no blanket requirement for a Site Specific Allocations Development Plan Document: Partial Regulatory Impact Assessment

Purpose and intended effect

Objective

To ensure Site Specific Allocations Development Plan Documents (DPDs) are only produced in areas where they are required, thereby reducing wasted resources.

Background

Local Development Frameworks are comprised of local development documents, which include DPDs. DPDs are part of the statutory development plan and can take several forms. The current policy advice states that the core strategy DPD should contain clear and concise policies for delivering the strategy which will apply to the whole of the local planning authority's area or to locations within it, but should not identify individual sites. These should be dealt with under Site Specific Allocations DPDs or Area Action DPDs.

At present local planning authorities are required to develop Core Strategies and Site Specific Allocations DPDs. Area Action Plans and other DPDs can be produced where the local authority believes they are required. Proposals for all DPDs are set out in the local development scheme which is agreed by the Secretary of State.

The plan making process is a resource intensive exercise. DPDs are taking significant periods of time and significant local planning authorities' resources to produce. The Barker Review identified a cost to the local authority of around £250,000 for this piece of work. Other local authorities have been questioned and the cost seems to be in the region of £100,000 to £250,000.

Rationale for government intervention

In practice, the allocation of strategic sites currently undertaken through the preparation of a Site Specific Allocations DPD, in addition to the preparation of a Core Strategy, is affecting the timely delivery of sustainable development and Government policy. One way of reducing the number of plans being prepared is by integrating the identification of core sites within the Core Strategy, and as a result lessening the need for a separate Site Allocations DPD to identify these strategic sites. In these circumstances, it is considered unnecessary to produce separate Site Specific Allocations DPDs, and to do so will waste local planning authority resource and cause delay and/or consultation fatigue for business and the public.

Consultation

We will be undertaking consultation on this proposal as part of a package of draft changes to the regulations, policy and guidance affecting development plan documents later in the year.

Options

OPTION A. DO NOTHING

Maintain the current process, where every authority is required to produce a Site Specific Allocations DPD.

OPTION B. DROP THE REQUIREMENT FOR SITE SPECIFIC ALLOCATIONS DEVELOPMENT PLAN DOCUMENTS

Authorities in areas where a Site Specific Allocations DPD is unlikely to add value will no longer be required to produce one. Such authorities include those where the Core Strategy leaves no or little room for options for development sites, for example, those authorities that are entirely urban or where the strategy for growth points to only one or two specific areas. Participation on decisions on sites to be developed, if they were to appear 'only' in the Core Strategy, would still be carried out when developing the issues and options for the Core Strategy.

Costs and benefits

Sectors and groups affected

- Public sector (particularly local authorities).
- The public and stakeholders involved in DPD production or affected by the lack of certainty caused by a delay in DPD production.

OPTION A: DO NOTHING

No new or additional costs or benefits have been identified under this option.

OPTION B: DROP REQUIREMENT FOR SITE SPECIFIC ALLOCATIONS DPD

Benefits

Cost savings for local authorities

Approximately 150 local authorities (as of Feb. '07) have not gone 'too far' (ie commenced public participation) on the production of a Site Allocations DPD. We estimate that a fifth (30 authorities) may not need to formally pursue a Site Allocations DPD any further than their current position. Alternatively they could incorporate the allocations of strategic sites into their emerging Core Strategies. This would give a one off saving of between £2.9 million and £7.25 million. In addition, new legislation would save any revision from being required for around a fifth of all authorities (over 70).

Cost savings for those involved in the development of the plan

All the consultation required would be undertaken for the Core Strategy. There may also be no need for a separate Site Allocation plan process.

Time savings

Data shows that on average, Site Specific Allocations DPDs are taking around three years to produce (from Issues and options through to adoption). Even relatively simple Site Specific Allocation DPDs can take well over a year to produce.

Costs

No costs have been identified.

Small Firms' Impact Test

We do not believe the proposal would have a disproportionate impact on small firms. Consultation with small firms is being undertaken in parallel with the wider public consultation. The Small Business Service acknowledges this approach.

Competition assessment

The competition filter was applied. This proposal has no impact on competition.

Race equality impact assessment

The race equality impact screening assessment was applied to this proposal. Our provisional conclusion is that no negative race equality effects are expected. However, we will take account of any further evidence and comments received before finalising our assessment.

Rural, health and other social

There are no reasons to suppose that this proposal will have a disproportionate effect on rural communities, or have any other social or health impacts.

Enforcement, sanctions and monitoring

National planning policy statements and supporting guidance will make it clear to local authorities that careful consideration should be given before starting work on a Site Allocations DPD. As the issue is not requiring a local authority to do something, enforcement is not likely to be a major issue.

Monitoring may be carried out by Government Offices who receive a copy of each local authority local development scheme. The national picture (in terms of local authorities not producing Allocations DPDs), may be monitored by the existing Programme Office in Communities and Local Government, such that at any given time, they can see how many LPAs are intending to publish a new or revised Allocations DPD.

Summary

Given the above information, Option B is our preferred option – dropping the requirement for Site Specific Allocations DPDs. This would reduce the burden on local authorities and the general public in terms of being consulted on a document which is genuinely unnecessary.

Section 5: Making the planning system more efficient and effective

This section addresses the measures proposed in Chapter 9: Making the planning system more efficient and effective, of *Planning for a Sustainable Future*. The proposals that require regulatory impact assessment at this stage are considered below.

We propose to introduce a new “impact” approach to householder development. Alongside the White Paper we have published a consultation paper entitled, *Changes to Permitted Development Consultation Paper 2: Permitted Development Rights for Householders*. The Partial Regulatory Impact Assessment for proposals relating to householder permitted development rights is in the annex of the consultation paper. This consultation paper also includes proposals and PRIA relating to changes in compensation arrangements related to changes in permitted development rights and changes to requirements relating to Article 4 Directions.

We propose to allow minor amendments to be made to planning permissions without the need for full planning application. A Partial Regulatory Impact Assessment in relation to this proposal – PRIA 7: *Allowing Minor Amendments to be made to Planning Permissions* – is set out below. A consultation question of this proposal is included in the White Paper at Annex A.

The Heritage Protection White Paper¹⁴ contains a range of proposals to introduce a unified, simpler and more efficient heritage protection system. It includes the replacement of listed building consent and scheduled monument consent with a Heritage Asset consent and consults on the merger of conservation area consent with planning permission. Subject to consultation on the Heritage Protection White Paper, these measures will be taken forward as part of a comprehensive package of improvements to the heritage protection system. The Regulatory Impact Assessment for proposals relating to heritage was published alongside the Heritage Protection White Paper.

We propose to legislate to rationalise the rules governing all tree preservation orders. A Partial Regulatory Impact Assessment in relation to this proposal – PRIA 8: *Rationalising Tree Preservation Order (TPO) Rules* – is set out below.

We propose to introduce a range of measures to substantially reform the appeals process. Alongside *Planning for a Sustainable Future* we have published a consultation paper entitled, *Improving the appeals process in the planning system: Making the system proportionate, customer focused, efficient and well resourced*. The Partial Regulatory Impact Assessments for proposals relating to the appeals process is in the annex to the appeals consultation document.

Other proposals set out in Chapter 9 of *Planning for a Sustainable Future* may in due course be subject to regulatory impact assessment if it is considered necessary and appropriate. These will be published and consulted upon in line with arrangements set out in *Planning for a Sustainable Future*.

¹⁴ *Heritage Protection for the 21st Century*, published in March 2007. This can be found at: www.culture.gov.uk/Reference_library/Consultations/2007_current_consultations/hpr_whitepaper07.htm

PRIA 7

Allowing minor amendments to be made to a planning permission: Partial Regulatory Impact Assessment

Purpose and intended effect

Objective

To prevent unnecessary delay, cost and uncertainty for developments where minor amendments to proposals are required after planning permission has been granted.

Background

The Town and Country Planning Act 1990 sets out the legislative framework within which the planning system operates. The Act, amongst other things, sets out what work requires planning permission and provides for, for example, how this is sought and how it might be approved. However, representations have been made to the department about how recent case law has impacted on how the planning system works in practice.

The issue revolves around whether flexibility exists in the planning system to allow minor amendments to be made to a planning permission that has already been granted. When developers seek to implement their permissions they can often find that minor changes to their original proposal are necessary for a variety of reasons, such as new building regulations or additional information coming to light about the physical nature of the site. Examples of such changes are the need to move a building 1 metre to the left (Eldon Square retail development, Newcastle) or to accommodate an additional fire escape (Bromley town centre development). Such issues are particularly common for large scale developments that are complex and take long periods of time to be built.

In practice, it appears that in the past in such instances how such changes were dealt with was decided on locally with planning authorities making a judgment as to whether they were so minor that they could be allowed without any formal procedure. However, recent case law has thrown into doubt whether such an approach is legally acceptable. In particular, the Sage judgment is often cited as removing flexibility. The judgment interpreted planning legislation to mean that “if a building is not carried out, both externally and internally, fully in accordance with the permission, the whole operation is unlawful” (Lord Hobhouse, House of Lords, Sage v Secretary of State for the Environment, Transport and the Regions, 2003).

In Scotland a provision has been introduced to deal with this issue (as section 31A of the then Town and Country Planning (Scotland) Act 1972) by section 46 of the Local Government and Planning (Scotland) Act 1982. Section 46 gives planning authorities a new power to vary any planning permission granted by them, on the request of the grantee or of a person acting with his consent, if they consider that the variation sought is not material. Planning authorities are considered best placed to judge in what circumstances a variation requested would be material. In cases where a developer wishes to change the terms of a permission granted to him in a way that goes beyond non-material variation, a new application is required.

Rationale for government intervention

A more cautious approach resulting from cases such as Sage means that potentially minor and insignificant changes to how a permission is delivered could require a new full planning application. In many cases, the minor amendments required after permission has been granted have no or very small effects on public amenity. The current arrangements therefore exert disproportionate demands on local authorities and developers. In addition, the views of members of the public and other consultees will again have to be sought on an almost identical proposal to that which has already been granted planning permission. The situation leads, therefore, to unnecessary cost, delay and uncertainty and hinders delivery of major developments.

Consultation

Within government

Relevant Government Departments have been consulted.

Public consultation

Planning for a Sustainable Future includes a question at Annex A seeking views on this proposal.

Options

OPTIONS A. DO NOTHING

The current arrangements will continue, and a new application will be required to make minor amendments after planning permission has been granted.

OPTION B. PROVIDE LOCAL PLANNING AUTHORITIES WITH DISCRETION

Local planning authorities would be provided with a power to enable them to decide whether a proposed amendment to what was originally permitted was sufficiently insignificant so as to not require the submission of a further full application for planning permission. The planning authority might also be able to require further public consultation on particular cases where this was merited.

Alternative options

We have considered whether it would be possible to change the legislation to prescribe exactly what type of minor amendment would be acceptable to make after the initial grant of planning permission rather than leave this to planning authorities to decide. However, in practice, it would not be possible to prescribe exactly what should or should not be acceptable given the potential range of amendments that could be made to a development and the fact that whether it would be significant could depend on the context of the overall proposal.

Costs and benefits

Sectors and groups affected

- Public sector (particularly local planning authorities)
- Applicants (particularly businesses that are involved in large scale developments)
- The general public

OPTION A: DO NOTHING

No new or additional costs and benefits have been identified for this option.

OPTION B: PROVIDE LOCAL PLANNING AUTHORITIES WITH DISCRETION

Benefits

Savings for local authorities

Local planning authorities currently have to treat minor amendments as new applications. It is difficult to quantify the absolute number of new applications caused by this issue. The British Property Federation suggest that practically every major application will have an issue with minor amendments, of which there are 18,000 applications a year. The cost of processing such applications should be covered through planning application fees. However, this process ties up a lot of planning authority resource, potentially diverting them from considering new proposals or forward planning.

Savings for developers

These savings are difficult to quantify but likely to be substantial. The developments affected will often be the largest and most complex. There are costs associated with preparing new applications, application fees (which may exceed £50,000 per development) and delay to projects. In addition, there is uncertainty about how different local planning authorities treat amendments of this type.

Costs

Lack of public consultation

There could be concern that local communities were not being given the opportunity to consider decisions that might affect them if minor amendments to proposals could be just agreed between the developer and the planning authority. We understand that this may be a cause of concern and we will, in light of responses to consultation, consider whether guidance could address the need to publicise and/or invite comment on proposed amendments. However, a blanket approach to consultation might mean that many people may find the need to respond several times to very similar proposals wasteful of their own time, particularly in cases where the amendments have no impact on public amenity.

Small Firms' Impact Test

Most significant benefit is likely to be achieved by large firms because such firms are involved in the large scale developments that typically require minor amendments to permissions more often. However, there is not believed to be any negative impact on small or medium sized businesses.

Small firms and their representatives are being consulted on this proposal in parallel with the wider public consultation. The Small Business Service acknowledges this approach.

Competition assessment

The competition filter test has been applied to this proposal. Many businesses that will be affected are from the development industry where a few firms have a large market share. However, the proposal will not have a substantially different effect on firms, affect the market structure, penalise new firms or place restrictions on the services or products that firms provide.

Race equality impact assessment

The race equality impact screening test was undertaken and our provisional conclusion is that there are no expected effects of this proposal for race equality. However, we will take account of any further evidence and comments received before finalising our assessment.

Rural, health and other social effects

The type of development that will benefit most is likely to be found in larger, urban areas. However, there is no negative impact expected for rural areas.

There is a risk that redevelopment and regeneration projects might be affected adversely if we do nothing and this would have a negative social impact.

Enforcement, sanctions and monitoring

We will monitor how the changes work in practice as part of the ongoing dialogue with stakeholders.

Summary

Option B is our preferred option, allowing local authorities the discretion to decide whether or not minor amendments to planning permissions are acceptable (perhaps subject to further public consultation) or require a full, new application for planning permission.

PRIA 8

Rationalising Tree Preservation Order (TPO) rules: Partial Regulatory Impact Assessment

Purpose and intended effect

Objective

To simplify the rules governing tree preservation orders.

Background

Under the current system, authorities have powers to protect trees where it is expedient in the interests of amenity by making tree preservation orders (TPOs). Each TPO currently comes complete with its own set of rules on procedural matters such as applications for consent and appeals. Once made, the Order remains fixed. Any subsequent changes to the governing regulations which specify the content of tree preservation orders apply only to new Orders.

The *Trees in Towns II*¹⁵ research estimates that each LPA makes about 17 new TPOs a year.

Rationale for government intervention

Different rules for TPOs operate depending on the date of the tree preservation order, making the system complex to administer and to understand. Existing TPOs could only be overridden by changes to the primary legislation.

In addition, the information required by current legislation is considered to be excessive by local authorities and users.

Consultation

Within government

Relevant government departments have been consulted.

Public consultation

Previous consultations in 1990¹⁶ and 1998¹⁷ have revealed widespread support for this change.

¹⁵ Communities and Local Government (*forthcoming*). *A new survey of urban trees in England and their condition and management*.

¹⁶ Department of the Environment and the Welsh Office (December 1990). *Review of Tree Preservation Policies and Legislation* (Consultative Paper).

¹⁷ Department of the Environment, Transport and the Regions (June 1998). *Tree Preservation Orders, Draft Regulations: A Consultation Paper*.

Options

OPTION A. DO NOTHING

The current TPO rules would be maintained.

OPTION B. INTRODUCE AMENDMENTS

Amend primary legislation to simplify the rules for TPOs and the information required.

Costs and benefits

Sectors and groups affected

- Public sector (local authorities).
- Tree owners (including business, voluntary sectors, charities and the public).
- Third parties (including business, voluntary sectors, charities and the public).

OPTION A: DO NOTHING

No new costs or benefits have been identified from this option.

OPTION B: INTRODUCE AMENDMENTS

Benefits

Cost savings for local authorities

There will be administrative savings from only having to apply one set of rules and producing shorter documents (eg, 2 instead of 10 pages). In addition, a single set of rules should give rise to fewer legal queries; the complex legal nature of current TPOs means there is scope for legal deficiencies.

This saving is difficult to quantify. In Arup's 2003 fees research¹⁸ the total cost of the service was estimated at £15.5 to £18.8 million. If this proposal saved up to 3 per cent of the total cost of the service, there is a potential saving of up to £564,000 a year.

Time savings for tree owners and third parties

With a single set of rules, the system is more accessible and user friendly. The new rules should also be more robust in legal terms, so they should provide the answer straight away and without professional assistance.

¹⁸ ODPM (November 2003) *The Planning Service: Costs and Fees*. This can be found at: www.communities.gov.uk/index.asp?id=1502648?

Costs

Notification of change

Local authorities will have to notify people about this change through advertisements or mail outs.

Small Firms' Impact Test

It is unlikely that this proposal will impact on small firms. Small firms are being consulted on this proposal in parallel with the wider public consultation. The Small Business Service acknowledges this approach.

Competition assessment

The competition filter test was applied and this proposal has no effect on competition.

Environmental impact

This proposal has no effect on the environment. These changes do not affect the level of protection for trees. Important trees will continue to enjoy strong protection under town and country planning legislation.

Race equality impact assessments

The equality impact screening questions were applied to this proposal. Our provisional conclusion is that no negative race equality effects are expected. However, we will take account of any further evidence and comments received before finalising our assessment.

Rural, health and other social impacts

There are no negative or disproportionate impacts expected for rural areas, health or other social issues.

Enforcement, sanctions and monitoring

These proposals will not affect the existing provisions (in the Town and Country Planning Act 1990) for enforcing TPOs or the sanctions for contravening them. Monitoring arrangements will be considered when the new rules governing all TPOs are introduced.

Summary

Based on the rationale and evidence presented above, Option B – rationalising the TPO rules – is our preferred option.

ANNEX A

Race Equality Impact Assessment (REIA) Statement

The purpose of a race equality impact assessment is to work out how policy or legislative proposals will affect people from different racial groups. This paper sets out the progress made, and proposed next steps, towards undertaking Race Equality Impact Assessments (REIAs) in respect of proposals included in *Planning for a Sustainable Future*.

The Race Equality Duty

In 2000, the government gave most public authorities in Britain a legal duty to promote race equality (referred to as the race equality duty). This means that, in carrying out functions, there must now also be due regard to how to:

- i. eliminate unlawful racial discrimination;
- ii. promote equal opportunities; and
- iii. promote good relations between people from different racial groups.

The race equality duty was introduced to make sure that public services are free of institutional racism, and that the consideration of racial equality is central to the way public authorities carry out all their functions.

Communities and Local Government is committed to equality of access and opportunity to all and recognises the importance of tackling disadvantages that arise because of race.

Scope of this statement

Planning for a Sustainable Future comprises a range of policy proposals. A number of these are comprehensive in scope and have been subject to individual screening to determine their relevance to the race equality duty. Where appropriate, these proposals have been, or will be, assessed more thoroughly. Where proposals in *Planning for a Sustainable Future* are at an early stage, these will be subject, where appropriate, to screening at a later date when the details are more established.

The proposed reforms are wide ranging and the level of their impact on race equality, if any, will vary. **Annex A1** provides an outline of the proposals and our initial expectations regarding the likelihood or extent of an impact on ethnic minorities, chapter by chapter.

The principles of reform

The priorities for reform set out in *Planning for a Sustainable Future* are focussed on those proposals which will help deliver the following outcomes:

- more and better jobs as a result of sustainable economic development;
- better infrastructure so people have access to reliable transport, clean and secure energy, clean water supplies and better local amenities;

- continued protection and enhancement of the natural and historic environment;
- places shaped by their communities where people are proud to live;
- more efficient and timely systems in which controls are proportionate to impact and unnecessary costs are eliminated; and
- a more transparent and accountable planning system.

Our proposals for improving the planning system are underpinned by the following principles:

- planning must be responsive, particularly to longer term challenges such as increasing globalisation and climate change, and properly integrate our economic, social and environmental objectives to deliver sustainable development;
- the planning system should be streamlined, efficient, and predictable;
- there must be full and fair opportunities for public consultation and community engagement;
- the system should be transparent and accountable; and
- planning should be undertaken at the right level of government – national, regional and local.

Our approach to the assessments

The aim of an REIA is to ensure that the implications for race equality have been thoroughly assessed as proposals are being developed to ensure that full account has been taken of views expressed, and to provide assurance that changes needed to mitigate any potential adverse impacts have been made.

In assessing emerging proposals, we have paid particular attention to those proposals that represented new or additional regulations, duties or functions (relative to existing arrangements) which could have impact on minority groups.

In undertaking the initial screening of proposals we have sought to identify the extent to which there is any evidence to show that, as a result of the proposals:

- There will be a differential impact between certain racial groups.
- The proposals could hinder equality of opportunity and/or damage good race relations.
- Different racial groups may have different needs or experiences as a result of the proposals.
- The normal channels of information for assessment or determination of the proposals are insufficient in these circumstances.

Our work in undertaking preliminary assessments has been informed by a review of evidence relevant to race equality considerations. These vary from proposal to proposal but key evidence sources include those listed at Annex A2.

From our analysis of the evidence base, some generic points emerge which are of relevance to a number of the assessments, namely:

- Ethnic minorities tend to have lower incomes (although there are some notable exceptions to this), and have higher levels of unemployment. By way of illustration, in 2002, the ethnic minority employment rate for Great Britain was 59 per cent, which compares with an overall employment rate of around 75 per cent. Furthermore, on the whole, people from ethnic minority groups, have lower levels of occupational attainment and progression than white people. Ethnic minority households are also more likely to suffer lower incomes. For example, half of Pakistani and Bangladeshi working households have incomes that are 50 per cent below the national average income.¹⁹
- The ethnic minority population of the UK is concentrated in large urban areas, with nearly half (45 per cent) living in the London region (2001 figures). After London, the second largest concentration was in the West Midlands (with 13 per cent of the ethnic minority population) followed by the South-East and North-West (8 per cent each) and the Humber (7 per cent).²⁰
- Ethnic minorities are disproportionately represented in certain trades and professions. For example, in 2004, Pakistani (25.6 per cent) and Indian (18.2 per cent) men were more likely to be self-employed, compared with an average of 16.7 per cent of men across the whole population. Also, people from ethnic minorities were less likely than white people (13.6 per cent to 24.7 per cent) to work in production (primary, manufacturing, construction) industries, with over a third (35.1 per cent compared to 26.1 per cent of white employees) working in hotels, catering, distribution, transport and communications. Similar percentages worked in private services (including business and financial services) and public services.²¹
- Engagement with, and understanding of, planning processes is more difficult for some ethnic minorities, particularly where English is not the first language. Although there is no official source giving a detailed breakdown of how many people in the UK have English as a second language, a 2004 report, commissioned by the Department for Education and Skills (then DfEE) reported:
 - There are no reliable data on the number of people living in Great Britain whose first language is not English. This causes serious problems with the planning and delivery of education and training provision.
 - At least three million people living in the United Kingdom were born in countries where English is not the national language.²²

¹⁹ CRE *Labour Market statistics*

²⁰ ONS *Geographic Distribution*

²¹ CRE *Employment and Ethnicity*

²² The National Centre for Languages

Next Steps

The work completed so far to consider the implications for race equality has been primarily a process of screening the proposals, where it is possible to do so at this stage. Some proposals have then been subject to initial assessments, and our preliminary conclusions on both the screening and initial assessments are set out in **Annex A1**.

We have sought views on this PRIA and four consultation papers issued alongside the White Paper. We will review our preliminary conclusions on both screening and initial assessments in the light of the consultation responses and these consultation responses will help inform any further assessment work that is needed, including in-depth assessment, where appropriate.

ANNEX A1

Race equality impacts of substantive proposals in *Planning for a Sustainable Future*, by chapter

Chapter 2: *Improving the way nationally significant infrastructure projects are dealt with*²³

Proposal

The Government proposes to create an infrastructure planning commission to take decisions on the construction of nationally significant infrastructure. Policy on nationally significant infrastructure would be set by ministers after consultation, and would be agreed by Parliament. During the project development stage promoters would be required to consult on their proposals before submitting an application to the commission.

Potential impact on race equality

It is important to ensure that people from all ethnic groups have the opportunity to influence decisions on nationally significant infrastructure projects. The Government's proposals ensure that the public can give their views at each of the three stages in the new process.

National policy on infrastructure would be consulted on and scrutinised in Parliament, which would allow all groups to contribute.

Promoters would consult the local community on their project proposals. Guidance will be issued to advise promoters on how best to engage with hard to reach groups. The commission will refuse to consider a promoter's application if it believes that the promoter has not consulted adequately.

Once an application is submitted, it will be examined by the commission. The commission will be subject to the same race equality duties as other public bodies. The commission will take evidence from the local community, and should ensure its examination is fair and takes into account the needs of hard to reach groups.

The Government's proposals should make the decision-making process shorter and less expensive to engage with. This will benefit members of the community from lower income groups, a disproportionate number of whom are from ethnic minorities.

²³ Refers to the proposals in Chapters 2-5 of *Planning for a Sustainable Future*

Chapter 7: A positive framework for delivering sustainable development

Proposal

We intend to legislate to set out the role of planning authorities in tackling energy efficiency and finalise the Planning Policy Statement (PPS) on climate change.

Potential impact on race equality

Detailed proposals for the legislative change have yet to be outlined, but the Partial RIA in relation to the draft PPS on Planning and Climate Change is relevant for this and the finalisation of the PPS. It notes that changes to our climate affects everyone, not just minority groups. Strengthening the role of planning authorities in tackling climate should ultimately prove beneficial to the population as a whole, although it is more likely to positively impact on, for example, lower income groups, a disproportionate number of whom are from ethnic minorities. This is because those on lower income groups will be, in general, less able to adapt to the consequences of climate change. However, the degree of difference between different groups is likely to be minor.

Proposal

Work with industry to set in place a timetable and action plan to deliver substantial reductions in carbon emissions from new commercial buildings within the next 10 years.

Potential impact on race equality

It is not possible to screen the proposal at this stage. We will make an assessment of the potential for impacts on minority groups when the details of this proposal are more established.

Proposal

Permitted development rights for householder microgeneration.

Potential impact on race equality

Potential race equality impacts are addressed in a separate consultation document, *Changes to Permitted Development Consultation Paper 1: Permitted Development Rights for Householder Microgeneration*.

Proposal

To help realise the potential for renewable energy, we will review and, wherever possible, extend permitted development rights on microgeneration to other types of land use, including commercial and agricultural development.

Potential impact on race equality

It is not possible to screen the proposal at this stage. We will make an assessment of the potential for impacts on minority groups when the details of this proposal are more established.

Proposals

Providing a sustainable supply of land. Prioritising previously developed land, implementing measures announced in the Budget and promoting a debate about long term land use and land management.

Potential impact on race equality

Prioritising previously developed land will be taken forward by implementing current policy. Budget measures will be taken forward and assessed separately. It is too early to assess the impact of the debate.

Proposal

Amend statement of general principles – *The Planning System: General Principles*.

Potential impact on race equality

There is no policy change associated with this proposal and therefore we do not anticipate any substantive differential impact between racial groups.

Proposal

A new planning policy statement *Planning for Economic Development*.

Potential impact on race equality

We will consult on a draft planning policy statement in the summer. The consultation document will be accompanied by a Partial Regulatory Impact Assessment, which will include within it an assessment of the race equality impacts. As the White Paper makes clear, the central thrust of the new framework will be to encourage sustainable economic development. Our preliminary view therefore is that the new policy framework should deliver benefits for all members of the community. However, in developing our proposals we will pay particular regard to possible impact on different racial groups, for example, in developing any proposals for small businesses, where there can be concentrations of businesses owned or operated (self-employed) by specific minority racial groups.

Proposal

Improve the effectiveness of town centre planning policy by replacing the current need and impact tests with a new test.

Potential impact on race equality

We will consult on draft proposals in the summer. The consultation document will be accompanied by a Partial Regulatory Impact Assessment, which will include within it an assessment of the race equality impacts. Our key objectives in improving the policy framework are to support current and prospective town centre investment and ensure that planning promotes competition and consumer choice and does not constrain the

market unduly or disproportionately. Given these objectives, it appears unlikely that the proposals will have adverse differential effects on individual groups. However, in developing our proposals we will pay particular regard to possible impact on different racial groups. For example, in considering the impact of any changes on small town centre and retail businesses such as those serving ethnic minorities; on locations where there may be concentrations of businesses operated by specific minority racial groups, such as in secondary shopping areas; and, the impact of proposals on local shopping facilities.

Proposal

A more strategic and clearly focussed national policy framework.

Potential impact on race equality

The intention of this proposal is better and clearer communication of existing policy, not policy change. Therefore, we do not anticipate any adverse impacts on minority groups, on the contrary, this proposal should improve the accessibility of the planning system to all users and promote equality of opportunities.

Chapter 8: Strengthening the role of local authorities in place-shaping

Proposal

Place-shaping guidance.

Potential impact on race equality

It is not possible to screen the proposal at this stage. We will make an assessment of the potential for impacts on minority groups when the details of this proposal are more established.

Proposal

Removal of the requirement for the independent examination of the separate planning Statements of Community Involvement

Potential impact on race equality

See commentary in PRIA 2 earlier in this document.

Proposal

Changes to Local Development Frameworks to ensure a more streamlined and tailored process with more flexibility about the number and type of plans, how they are produced and a more meaningful, engaged level of community involvement.

Potential impact on race equality

See PRIA 2 and PRIA 3 for those proposals on which we are consulting now (ie to remove the requirement for Supplementary Planning Documents to be listed in the Local Development Strategy; to remove the blanket requirement to undertake a Sustainability Appraisal of a Supplementary Planning Document; and to allow the High Court to be able to order a plan be returned to an earlier stage in its preparation process, rather than just the very start).

It is not possible to fully screen the other proposals for streamlining the LDF process at this stage. We will undertake such an assessment as part of the process of developing detailed proposals which will be subject to public consultation later this year. However it is important to note that a key objective in making these changes is to make the process of community engagement in plan making more effective. The main change in this regard is to give local authorities more discretion and greater flexibility to develop their engagement and consultation strategies that are most applicable to local circumstances. A more tailored approach should improve the ability of local authorities to promote equal opportunities and encourage good relations, who are in any event required to ensure that the public are involved in informing local priorities and that these arrangements are inclusive, reaching out to all communities.

Proposal

A more forward looking approach to infrastructure with a sharper test of soundness on implementation for development plan documents. This proposal will be included in the package of measures to improve the plan making process to be consulted upon later this year.

Potential impact on race equality

It is not possible to screen the proposal at this stage. We will make an assessment of the potential for impact on minority groups when the details of this proposal are more established.

Proposal

Further improve the performance management framework.

Potential impact on race equality

We do not anticipate any potential adverse impact on minority groups from these measures. But race equality issues will need to be considered in taking forward the development of suitable indicators.

Proposal

Planning Performance Agreements, which will help streamline the processing of major applications.

Potential impact on race equality

Potential race equality impacts are addressed in a separate consultation document, *Planning Performance Agreements: a new way to manage large-scale major planning applications*.

Proposal

We propose to support a properly resourced planning service with changes to planning fees and to consult on devolving fees to local authorities.

Potential impact on race equality

Potential race equality impacts are addressed in a separate consultation document: *Planning Fees in England: Proposals for Change*.

Proposal

We propose to build planning capacity in local authorities by working with the LGA and others to ensure the co-ordination of current initiatives and in particular to extend the scope of the Advisory Team for Large Applications (ATLAS) and require student bursary recipients to work in the public sector for two years and expand the use of e planning.

Potential impact on race equality

We do not consider that these measures will be likely to have an adverse effect on the ability of local authorities to promote race equality. On the contrary, the net effect may be marginally positive in terms of increasing the ability of local authorities across the country to deliver effective planning services to local communities.

Chapter 9: Making the planning system more efficient and effective

Proposal

A new impact approach to householder development which will reduce the number of minor applications for planning authorities and reduce bureaucracy for householders seeking to improve their homes, whilst protecting the interests of neighbours, the wider community and the environment. A consultation paper (*Changes To Permitted Development Consultation Paper 2: Permitted Development Rights for Householders*) on these proposals, including improving safeguards against inappropriate development, is published alongside the White Paper.

Potential impact on race equality

The potential impact on race equality is addressed in the PRIA which accompanies the consultation paper.

Proposal

Extension of the 'impacts-based' approach to permitted development rights to other types of development – such as industrial or commercial buildings, subject to conditions. We intend to develop detailed proposals and start consultations on them in the remainder of 2007.

Potential impact on race equality

It is not possible to screen the proposal at this stage. We will make an assessment of the potential for impacts on minority groups when the details of this proposal are more established.

Proposal

A review of the General Development Procedure Order. This review will include consideration of the types of planning applications with which statutory consultees become involved. Once draft proposals have been prepared they will be the subject of public consultation.

Potential impact on race equality

It is not possible to screen the proposal at this stage. We will make an assessment of the potential for impacts on minority groups when the details of this proposal are more established.

Proposal

Allowing minor amendments to be made to planning permissions.

Potential impact on race equality

The race equality impact screening test was undertaken and our provisional conclusion is that there are no expected effects of this proposal for race equality. However, we will take account of any further evidence and comments received before finalising our assessment.

Proposal

Identify and take forward opportunities to unify consent regimes, starting with the unification proposals set out in the Heritage White Paper

Potential impact on race equality

The Heritage Protection White Paper sets out details on unification of heritage consents.

Proposal

A single set of rules governing all tree preservation orders. The changes proposed are procedural; there is no change in the level of protection for trees.

Potential impact on race equality

The potential impact on race equality is addressed in the PRIA for this proposal. Trees are enjoyed by – and are important to – all members of the community. We did not identify any minority groups for whom trees have a special significance. In any case, the proposal does not affect the protection of trees in any way. Our provisional conclusion, therefore, is that there are no expected impacts on race equality. However, we will take account of any further evidence and consultation responses before finalising our assessment.

Proposal

We propose to streamline information requirements for planning applications and associated consents through the introduction of a standard application form and associated guidance and subsequently a further review of information requirements. The process to standardise the application form has benefits of clarity and consistency.

Potential impact on race equality

Following advice from government bodies, the format of the standard application form will be delivered in English to all local authorities; there will be no centrally-provided translations. If translations are considered necessary, it will be a matter for individual local planning authorities to provide the form in other languages as appropriate. The format of the standard application form itself and the associated guidance, are designed to be easy-to-read and user-friendly, making appropriate use of plain English.

Proposal

We propose to introduce a package of measures designed to reduce the number of applications called in by ministers.

Potential impact on race equality

We are not able to screen the proposals at this stage. We will need to consider the impacts on this proposal more thoroughly when the details have become established. Draft proposals will be subject to consultation later in 2007.

Proposals

Improving the appeals process.

Potential impact on race equality

The potential impact of these proposals on race equality is addressed within a separate consultation document: *Improving the appeals process in the planning system: Making the system more proportionate, customer focused, efficient and well resourced.*

Note: Neighbour Agreements

This is a proposal made by Kate Barker on which the Government is seeking views on the general principle. Screening would be needed in the event that a decision is taken to develop a new process of approval drawing on this proposal.

ANNEX A2

Evidence sources

As required by the *Race Relations Act 2000*, the proposals set out in this White Paper have been developed using evidence relevant to race equality considerations. Listed below are the principal evidence sources used to inform policy development. Evidence was gathered in compliance with the principles set out in civil service guidance on evidence-based policy-making and Regulatory Impact Assessments

Data:

Office of National Statistics:

Ethnicity & Identity – Employment Patterns

Ethnicity & Identity – Labour Market

Ethnicity & Identity – Geographic Distribution & Diversity

Commission for Racial Equality

Factfile 1: Ethnic Minorities in Great Britain

Factfile 2: Employment and Ethnicity

Individual Incomes of Men and Women by Ethnicity

June 2004, Women & Equality Unit, DTI

Ethnic Minorities in the Inner City

Richard Dorsett, Policy Studies Institute

Joseph Rowntree Foundation, September 1994

Ethnic Groups and Low Income Distribution

Lucinda Platt and Michael Noble, Dept of Applied Social Studies and Social Research,
University of Oxford

Joseph Rowntree Foundation, November 1998

Incomes of Ethnic Minorities

Richard Berthoud, Institute of Social and Economic Research

Equality, Inclusion and Diversity

Ron Percival, RTPI