TCPA Briefing Paper 7  
January 2010

1 Background

The Killian Pretty Review final report, published in November 2008 (see http://www.planningportal.gov.uk/uploads/kpr/kpr_final-report.pdf), assessed the current planning applications process, and provided 17 recommendations to improve its efficiency and effectiveness. The recommendations aimed to **streamline the planning system, help businesses deliver projects quickly, and drive down costs during recovery**. The report found the key areas for concern to be proportionality, process, engagement, culture and complexity.

As a key stakeholder in the Review, the TCPA submitted a response to the initial scoping questionnaire, outlining a number of problem areas and suggestions for improvements to the current planning applications process. The TCPA also responded to a number of Review-related consultations issued in 2009, including *Minor Amendments to Planning Permissions* (in February, responding to Recommendation 8 of the Killian Pretty Review), *The Use of Local Development Orders* (submitted to the Planning Advisory Service ‘Knowledge Report’ on the use of Local Development Orders in March), and the Department for Communities and Local Government (CLG) consultation papers *Greater Flexibility for Planning Permissions* (issued in June) and *Streamlining Information Requirements for Planning Applications* (issued in July).

Three consultations papers were published in December 2009 for a period of public consultation running until 19 March 2010 – *Development Management: Proactive Planning from Pre-application to Delivery*; *Improving the Use and Discharge of Planning Conditions*; and *Improving Engagement by Statutory and Non-statutory*
Consultees. These consultations relate to Recommendations 4(a), 6, 9 and 17(a), (b) and (c) of the Killian Pretty Review, and together address the various issues concerned with a transition to a more proactive, development management focus in UK planning.

2 Summary of the consultation proposals

2.1 Development Management: Proactive Planning from Pre-application to Delivery

http://www.communities.gov.uk/publications/planningandbuilding/developmentmanagementconsult

This consultation is on a draft new Planning Policy Statement (PPS) on development management, and on draft policy annexes on the pre-application and determination stages. It addresses Recommendations 4(a) and 17(c) of the Killian Pretty Review:

4(a) Government, local planning authorities and others should take steps to substantially improve the critically important pre-application stage of the application process, in order to improve the quality of the application and to avoid problems and delays at later stages.

17(c) As a part of the new national policy framework, there should be a clear statement by Communities and Local Government about the key principles underpinning a move from development control to a development management approach.

It also relates to Recommendations 17(a) and (b) of the Review:

17(a) Government should substantially overhaul and simplify both the national planning policy framework and the secondary legislation for the processing of planning applications to provide a clearer framework for a more positive approach to development management and to reduce unnecessary complexity and burdens for all parties engaged in the process.

17(b) [There should be] consolidation and simplification of the existing legislative framework for processing applications, principally the General Development Procedure Order (GDPO), which removes unnecessary prescription and detail.

The main proposals of this consultation are:

- **Part 2 – Draft PPS on development management**: This sets out a clear national policy framework for the development management approach, to be provided primarily through a new draft PPS on development management, providing strategic direction for development management services while allowing flexibility for local authorities to tailor the development approach to their individual areas.

- **Part 3 – Draft pre-application engagement policy annex**: This sets out national policy on pre-application engagement (as an annex to the draft PPS).

- **Part 4 – Draft determination policy annex**: This sets out national policy on the determination of planning applications (as an annex to the draft PPS).

- **Part 5 – The emerging development management framework**: This provides an update on progress towards delivering detailed policy annexes to the new PPS on development management.
22 Improving the Use and Discharge of Planning Conditions: Consultation

http://www.communities.gov.uk/publications/planningandbuilding/improvingplanningconditions

This consultation addresses Recommendation 6 of the Killian Pretty Review: *Government should comprehensively improve the approach to planning conditions to ensure that conditions are only imposed if justified, and that the processes for discharging conditions are made clearer and faster.*

The main proposals of this consultation are:

- **Part 2 – Draft policy annex on conditions:** This sets out proposals to replace Circular 11/95, and provide national policy (as an annex to the draft PPS) regarding planning conditions; to reinforce the need for authorities to test conditions against the six tests (necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects); to avoid certain types of conditions where unnecessary; and to proceed with caution with regard to other conditions, such as those withdrawing permitted development rights.

- **Part 3 – Proposed measures to improve the discharge of conditions:** This takes forward measures proposed by White Young Green (WYG) Planning and Design to improve the discharging of planning conditions:
  1) discussion of conditions to be included in pre-application discussions;
  2) structuring decision notices;
  3) sharing draft decision notices for major applications with applicants before decisions are taken;
  4) shortening time limits for local planning authorities to determine applications made for consent, agreement or approval required by a condition attached to a grant of planning permission;
  5) devising a planning services key performance indicator to include the use and discharging of conditions;
  6) providing a fast-track conditions appeals service;
  7) ensuring that developers notify local authorities prior to starting development;
  8) requiring developers to display decision notices and conditions on site; and
  9) allowing default approval for applications made for consent, agreement, or approval required by a condition attached to a grant of planning permission.

As part of this consultation, the Planning Inspectorate has also published for discussion a list of revised and consolidated model conditions, which will eventually replace the conditions currently in Appendix A of Circular 11/95 and the additional model conditions currently on its website (see http://www.planning-inspectorate.gov.uk/pins/appeals/model_conditions_consultation.html).

23 Improving Engagement by Statutory and Non-statutory Consultees: Consultation

http://www.communities.gov.uk/publications/planningandbuilding/improvingengagementconsult

This consultation addresses Recommendation 9 of the Killian Pretty Review: *Government should clarify and improve the process for consulting on applications so that it is clearer which organisations need to be consulted, when they must be consulted and why, what response is required, and how the response should be taken into account in the decision by the local planning authority.*
The main proposals of this consultation are:

- **Part 2 – Updated and revised national policy on statutory and non-statutory consultation:** This updates and revises national policy on the statutory and non-statutory consultation process (as an annex to the draft PPS on development management).

- **Part 3 – Draft code of practice on statutory consultation:** This encourages both statutory consultees and local planning authorities to adopt a new standard code of practice on statutory consultation.

- **Part 4 – Review of existing arrangements for consultation:** This makes changes regarding which applications statutory bodies are consulted on.

- **Part 5 – Further measures to improve engagement by statutory and non-statutory consultees:** This creates a dedicated site within the Planning Portal website for the further development of the e-consultation hub and to provide information on national consultation requirements and engagement.

- **Part 6 – Proposals for improved monitoring of performance of statutory consultees:** This aims to improve performance monitoring of the statutory bodies by requiring them to publish performance information on their own websites, thus making it more widely available, and by requiring CLG to then produce an annual summary table of information for all the statutory bodies involved.

3 TCPA policies and key messages

The TCPA welcomes and supports the recommendations made to improve the planning applications system and to move towards a development management approach in planning, as highlighted in the TCPA's earlier response to the Killian Pretty Review and TCPA policy documents including *Your Place and Mine: Reinventing Planning* (1999) and *Putting Planning First* (2005). Below is an outline of the TCPA’s key messages in a combined response to the three consultation papers:

- **Effective and proportionate development management approach:** The TCPA considers that there should be a distinction made between development control and the enforcement functions of local planning authorities, which should be reflected in efforts to move towards a development management approach. That is why the TCPA’s proposals to streamline the permitted development processes for small-scale household developments are sensible, as these developments (as most would not be defined as development by the Town and Country Planning Act) would have no cumulative (material) impact on the integrity of the plan-led system and its objectives. Where proposals would have significant impact owing to their size and land use activities, the use of formalised design codes would seek to address this. The TCPA recommends that local authorities should explore the formal use of design codes through Local Development Orders as a key mechanism for efficient development management for larger-scale developments. The Planning Advisory Service is currently undertaking pilot projects with local authorities to learn lessons and highlight benefits.

- **Development scale and complexity:** The TCPA recognises that the existing plan-led approach to development can be improved to respond to the different scale and complexity of developments in the process without another
significant systemic overhaul. Allowing decisions to be taken at the most appropriate level and scope would be a key consideration. In doing so, however, the democratic chain of accountability should not be broken, regardless of the scale and complexity.

- **Maintaining local authority capacity in delivering development**: The TCPA recognises the benefits of a proactive attitude to planning under the principles of the development management approach. The TCPA will continue to monitor the impacts on the capacity and capability of local planning authorities to deliver high-quality places through this new approach. The TCPA suggests that there is a need to address issues around maintaining and developing the necessary skills of local authority planners to adapt to this more proactive approach.

- **Effective use of standard planning conditions**: The TCPA supports the proposal for all local planning authorities to extend the use of standard planning conditions for existing permitted development rights, and to use Local Development Orders to extend general permitted development rights, as a means of facilitating rather than restricting granting of planning permissions. The TCPA recommends that there should be further guidance from the Government and the Planning Inspectorate to local planning authorities on drafting appropriate standard planning conditions for respective activity types, to provide certainty to applicants in terms of clarity and lawfulness.

- **Improving engagement**: The TCPA supports the consultation’s aim of improving engagement, as discussed in the TCPA report *Your Place and Mine: Reinventing Planning* and demonstrated in the TCPA-led APaNGO (Advocacy, Participation and NGOs in Planning) European project. The TCPA reiterates the need for strong links with democratic institutions in the participatory process. It also supports and recommends the wider use of innovative methods for communication regarding planning consultations and relevant information, as a method of improving engagement.

4 Further information


*Your Place and Mine: Reinventing Planning.* TCPA, 1999

M. Baker, P. Jeffery, P. Roberts and A. Wright: *Putting Planning First.* TCPA, 2005

we are: independent and open to all who want better places

we have achieved: greener cities, new towns, and better homes

we create: ideas, knowledge, publications, campaigns, and independent policies

we aim to: secure homes, empower communities, and deliver a sustainable future

...through planning