

**FOA:**

Killian and Pretty Review Team  
Communities and Local Government  
Zone J/10  
Eland House  
Bressenden Place  
London SW1E 5DU

**CBI CONSULTATION RESPONSE: PLANNING APPLICATIONS: A FASTER AND MORE RESPONSIVE SYSTEM – CALL FOR SOLUTIONS**

**Introduction**

1. The CBI is the UK's leading business organisation, speaking for some 240,000 businesses that together employ around a third of the private sector workforce. Member companies include 80 out of the 100 in the FTSE 100 index, some 200,000 small and medium-sized firms, more than 20,000 manufacturers, and over 150 sectoral associations.
2. The CBI welcomed the Government's decision to sponsor an independent review into the efficiency and responsiveness of the 'end to end' planning application process. Prior to the publication of the 'Call for Solutions' consultation document, the CBI submitted its views on the key issues and frustrations facing business users of the planning system in England.<sup>1</sup> On reading the consultation document we are pleased that many of the concerns of the business community have been taken on board, with the review team recognising that shortcomings in the planning system have created an increasingly costly and uncertain planning process for many planning applicants.
3. This consultation response should be read alongside the preliminary views that that CBI submitted to the review team which collectively answer the majority of the questions that are set in the consultation document.

**Solutions for improving the planning application process**

*Pre-application*

4. The CBI considers that where pre-application discussions are offered by local planning authorities they can provide a useful mechanism through which the overall planning application process can become both more predictable and proportionate.
5. What planning applicants value is a professional service where clear and consistent advice is provided on how a prospective planning application conforms (or indeed conflicts) with local and regional plan policies. It is also important to have clear guidance

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<sup>1</sup> See the CBI website:

[http://www.cbi.org.uk/ndbs/positiondoc.nsf/1f08ec61711f29768025672a0055f7a8/60F40B937A863A93802574570040F814/\\$file/CBI%20preliminary\\_views\\_Pretty-Killian%20review.pdf](http://www.cbi.org.uk/ndbs/positiondoc.nsf/1f08ec61711f29768025672a0055f7a8/60F40B937A863A93802574570040F814/$file/CBI%20preliminary_views_Pretty-Killian%20review.pdf).

Luke Jouanides – Senior Policy Adviser (Property and planning) – Business Environment  
E: [luke.jouanides@cbi.org.uk](mailto:luke.jouanides@cbi.org.uk)



on what supporting information will be required to ensure that an application can be validated and determined as expeditiously as possible.

6. The consultation recognises however that pre-application discussions are not common practice amongst local planning authorities, and the CBI would contend that the quality of service amongst those local authorities who do offer pre-application services varies considerably. Too often pre-application advice is not formally recorded, nor is it consistently applied at the validation and examination stages of the planning application process. Consequently, pre-application discussions can create further uncertainty and are seen as another costly source of delay (especially where a fee is charged).
7. The CBI would therefore recommend that the review team develop solutions that would promote/incentivise a more professional approach to pre-application discussions, and their wider uptake by local authorities.
8. The CBI would suggest the adoption of a standard code of practice whereby:
  - Planning officers are obliged to record pre-application guidance provided to applicants, which should form a material consideration during its examination;
  - Every effort is made to ensure that there is a continuity of case officers for providing pre-application advice and examining the eventual planning application;
  - Local planning authorities may charge a non-refundable fee for providing pre-application guidance which will be deducted from the final application fee (where a planning application is submitted).
9. Under these arrangements there should be an improved mutual understanding of project proposals, ensuring that supporting information requirements are proportionate to the nature of the planning application. This would reduce the scope for planning officers to require applicants to submit all information included within their local lists by default (an growing issue of concern, which is discussed in greater detail within the CBI's previous submission)<sup>2</sup>. Similarly local authorities would save resources as inappropriate development proposals would not be submitted for full examination, and would receive income for funding the services they provide.
10. Were pre-application fees to be deducted against the final application fee, those applicants that the consultation notes could be deterred from engaging in pre-application discussions (or indeed from investing within a local authority area) would not end up worse-off across the entire planning application process, thus promoting their uptake.<sup>3</sup>
11. The CBI would point out that the Welsh Assembly Government is currently consulting upon the future of planning fees in Wales<sup>4</sup>. One of its proposals is to establish a fee mechanism for pre-application discussions similar to the one suggested above.
12. It is important to recognise however that in many circumstances the value and success of pre-application discussions hinges upon the involvement of third party consultees. Although the consultation included data from the main Government agencies showing a high level of timeliness in consultation responses, these figures fail to discriminate against the quality of those responses i.e. there is a big difference between a timely response, and a useful timely response. The CBI would contend that too often applicants and local authorities receive unhelpful or unclear advice from third party consultees – as the case study included on page 45 of the consultation clearly demonstrates.

### *Validation and examination of applications*

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<sup>2</sup> See paragraphs 34 – 41.

<sup>3</sup> Killian & Pretty Review, *Planning applications: a faster and more responsive system- Call for Solutions* (July, 2008) p.53

<sup>4</sup> See: *Welsh Assembly Government consultation on Proposals for Resourcing for Planning Service* (July, 2008)

13. The CBI is pleased that the review team have recognised the many frustrations faced by applicants that have arisen from the introduction of the BVPI 109 target structure. Planning applicants become deeply frustrated where the activities of planning officers are driven by the need to meet targets instead of seeking negotiation and balanced outcomes.
14. The CBI would hope that through the provision of more and better quality pre-application discussions the perverse incentive to 'drip-drip' information requests to manage application workloads to meet BVPI 109 targets can be mitigated.
15. Of real concern however is the pressure on local planning officers to refuse consents at the 11<sup>th</sup> hour (or ask an applicant to withdraw) to meet decision timescales. The reduction in the rate of approvals, and the increase in the rate of withdrawals outlined in the consultation, since the introduction of the target structure demonstrates that a number of sound economic activities throughout the country that are being prevented by the bureaucratic pressure to achieve targets – this is of real concern for the CBI.
16. One solution for removing the incentive to issue a 'knee-jerk' refusal is to introduce a 'stop the clock' mechanism that would enable planning officers an extension to their target timescale to enable further negotiation to accommodate unforeseen circumstances, with the agreement of the applicant.
17. The consultation also rightly identifies the need to reduce complexity across the planning application process, and how existing deregulatory tools such as Simplified Planning Zones (SPZ) and Local Development Orders (LDO) can be made more widespread.
18. The CBI would welcome a review of these tools. Where SPZs exist they are effective planning tools for streamlining the planning application process. The certainty that development will be permitted within specific parameters lowers risk enabling applicants to be more confident about developing projects on time and to budget, along with encouraging speculative and innovative projects.
19. The wider use of LDOs and SPZs will only occur where local authorities have a positive attitude towards new development. The consultation talks about the implications of moving from a development control, to a development management approach to new development, and realising the much sought after 'culture shift'.
20. The old development control ethos of viewing new development 'as guilty until proven innocent' could be jettisoned through the re-introduction of the presumption in favour of development. Were this to happen there would be a greater onus on local authorities to justify why they felt a development proposal must not proceed, which should encourage negotiation.
21. The fact that a large number of local authorities will be reviewing their local plans over the coming years could be seen as an opportunity to encourage local authorities to adopt these planning tools more widely. One solution for incentivising their greater use might involve linking the development of SPZs/LDOs to the proposed review of the Local Area Business Growth Initiative (LABGI) which enables local authorities to hold a portion of the growth in the local business rate harvest. LABGI is currently under review by CLG in light of the conclusions of both the 2007 Lyon's review and HM Treasury Sub-national review of Economic Development and Regeneration.

#### *Post-consent process*

22. The CBI is pleased that the review team have recognised the concern of many large applicants that an increasing number of conditions are being attached to planning permissions, which impose unnecessary 'tick-box' pre-start conditions or deal, with issues that have, or should have been, settled within the application's examination. The CBI has learnt that some developers now categorise planning permissions internally as

those that are, and are not 'JCB-friendly' as a result of the increased prevalence of pre-start conditions.

23. One solution for expediting the discharge of pre-start conditions, and for providing improved certainty for planning applicants would be the introduction of a formal deemed approval process: once a request to a local authority is made to discharge conditions an applicant may commence development following set period of time. Such a prior approval process is used elsewhere in the planning system to permit certain forms of development (such as telecoms and agricultural development).
24. The consultation suggestion that external agencies might be used to undertake the work of local authorities in discharging, monitoring and enforcing planning conditions is welcome. Resource issues are discussed in greater detail below.

### **Other overarching issues and ideas**

25. An overarching issue of concern for the CBI is the amount of variation amongst local authorities in terms of productivity, and their attitude to new development. For example the CBI found it perplexing that some local authority planning officers could manage to determine over four times as many major planning applications compared to planning officers employed at different local authorities.
26. Such a wide disparity should throw new light on the nature of the resource constraints facing local authorities. Although the CBI recognises that no two (large) planning applications are the same, it is legitimate to ask why some local planning authorities are more productive than others where their funding sources are the same (i.e. planning fees).
27. The out sourcing of discrete aspects of the planning application process to external providers is an activity that the CBI would support. Where decisions need to be made based on objective criteria the use of specialised providers should hopefully improve efficiency and provide a better service to applicants. The two obvious areas where such an approach would seem most logical would be when an application is validated, and where the conditions placed on planning consents are due to be discharged or require monitoring/enforcing. At both these stages most planning applications will not require any subjective analysis, and instead need referencing against locally or nationally set policies.

**05/09/2008**