

DRAFT RESPONSE SERVICE

As part of the Rural Opportunities Bulletin, RSN will regularly provide concise potential responses to key current consultations. These are not intended to be definitive or to reflect the views of RSN and may include potentially opposing responses to reflect different views designed to assist individual organisations in compiling their own response. We do however recognise the pressure members are under and we hope this service will assist.

Planning Performance and the Planning Guarantee – Department for Communities and Local Government, November 2012

<https://www.gov.uk/government/consultations/planning-performance-and-the-planning-guarantee>

This consultation links to the Government's proposals, contained within Clause 1 of the Growth and Infrastructure Bill, to introduce legislation to give applicants the choice of submitting planning applications direct to the secretary of state, where the local planning authority is judged to be underperforming.

The consultation seeks views on what measures to use to identify an authority's performance, how to identify underperformance and how to identify improved performance and related measures to underpin the Planning Guarantee.

The consultation closes on 17 January 2013.

Consultation Question 1 – *Do you agree that local planning authority performance should be assessed on the basis of the speed and quality of decisions on planning applications?*

Draft Response: Quality is a valid measure in relation to the decision making of any organisation. The key question relates to how quality is measured. Simple statistical analysis of one or two factors rarely provides an adequate guide to quality as many factors are involved. Planning decisions are complex and often involve different viewpoints from different organisations and individuals. In such circumstances, quality is difficult to measure and often a subjective assessment.

Whilst speed of decision making is important in enabling development to proceed, particularly in tough economic times, good decisions which are correct are far more important than quick decisions which are bad. Planning decisions are for the long term and quality is far more important than speed.

Consultation Question 2 – *Do you agree that speed should be assessed on the extent to which applications for major development are determined within the statutory time limits, over a two year period?*

Draft Response: If speed of decision making is to be used as a measure then using an existing threshold is sensible. However, there are a wide range of factors which can cause delays including the inefficient response of other organisations whose views are critical in reaching a good decision. If speed is to be used as a measure then a method needs to be put in place which takes all such factors into account so that it is the actual performance of the local authority which is being assessed rather than the perceived performance.

Consultation Question 3 – *Do you agree that extensions to timescales, made with the written*

consent of the applicant following submission, should be treated as a form of planning performance agreement (and therefore excluded from the data on which performance will be assessed)?

Draft Response: Yes. If the applicant has agreed an extended timeframe then it would seem reasonable to exclude this from the data against which performance will be assessed.

Consultation Question 4 – *Do you agree that there is scope for a more proportionate approach to the form and content of planning performance agreements?*

Draft Response: It is important that bureaucracy is minimised and flexibility allowed to enable local planning authorities and applicants to put in place realistic agreements which properly reflect the anticipated timescales and steps required to reach a decision on complex applications.

Consultation Question 5 – *Do you agree that quality should be assessed on the proportion of major decisions that are overturned at appeal, over a two year period?*

Draft Response: Any single measure of quality cannot be fully effective. Appeals do, of course, provide statistics which can be compared between authorities. However, as the consultation document itself states they only provide “an indication”. In addition, overturned appeals do not necessarily reflect poor decision making. For example, many appeals turn on small issues which are open to interpretation within existing policy. Additional measures, therefore, should be sought in addition to the number of appeals overturned in order to establish an effective measure of quality.

Consultation Question 6 – *Do you agree with the proposed approach to ensuring that sufficient information is available to implement the policy?*

Draft Response: It is clearly important that complete information is available to enable effective analysis to be carried out. It is noted that “at present there are very few gaps in the data provided by authorities.” This would not suggest that the detailed penalties suggested for non-submission of information are necessary. It would seem more reasonable to review the position after an initial period and only put in place a penalty system if required rather than as a matter of course.

Consultation Question 7 – *Do you agree that the threshold for designations should be set initially at 30% or fewer of major decisions made on time or more than 20% of major decisions overturned at appeal?*

Draft Response: If such a system is to be put in place then clear figures are needed to enable authorities to know where they stand and how they are to be measured. However, there is a danger that such targets become all encompassing and other aspects of planning services and achieving high quality decisions may suffer.

Consultation Question 8 – *Do you agree that the threshold for designation on the basis of processing speeds should be raised over time? And, if so, by how much should it increase after the first year?*

Draft Response: Arbitrary raising of the threshold would create uncertainty for local planning authorities and should be avoided unless based on analysis and review of the impact of the original threshold. Better methods of improving performance should be utilised rather than a penalty driven system which could drive improved performance across local planning authorities.

Consultation Question 9 – *Do you agree that designations should be made once a year, solely on the basis of the published statistics, as a way to ensure fairness and transparency?*

Draft Response: Decisions to designate authorities should not be taken lightly. Such a move takes planning applications away from the local democratic process and does not reflect localism ideals.

If designations are to be made then frequent changes should be avoided and as much certainty as possible should be provided for both authorities and applicants. Designated authorities which statistics demonstrate have improved in the subsequent year should be undesignated immediately following publication.

Consultation Question 10 – *Do you agree that the option to apply directly to the Secretary of State be limited to applications for major development?*

Draft Response: Yes. This process should not be applied to all applications.

Consultation Question 11 – *Do you agree with the proposed approaches to pre-application engagement and the determination of applications submitted directly to the Secretary of State?*

Draft Response: It is a concern that applications determined by the Secretary of State will effectively represent a move away from localism. It is a further concern that local knowledge and local connections will not be effectively represented in such an arms length decision making process. Sufficient capacity will need to be in place at the Planning Inspectorate to undertake this work and it is a concern that the Inspectorate will receive all the planning fee whilst still requiring the local planning authority to undertake certain tasks.

The inevitable question not answered by the consultation document is ‘What is the penalty if the Planning Inspectorate fails to meet the speed and quality targets required for decisions?’

Consultation Question 12 – *Do you agree with the proposed approach to supporting and assessing improvement in designated authorities? Are there specific criteria or thresholds that you would propose?*

Draft Response: The proposed adoption of wider criteria to demonstrate improvement are welcomed. However, this will require sufficient capacity to be in place at the Department of Communities and Local Government to enable proper assessment to take place.

It is suggested that in addition to these wider criteria, where the adopted speed and quality statistics in the subsequent year demonstrate that an authority no longer warrants designation that such designation should be removed.

Consultation Question 13 – *Do you agree with the proposed scope of the planning guarantee?*

Draft Response: There is little detail given in the consultation document regarding the planning guarantee. Whilst a 26 week period represents a reasonable back stop for determining all applications, there should be consideration taken of the response rates of statutory and other consultees which are essential in allowing a local planning authority to reach a decision.

Consultation Question 14 – *Do you agree that the planning application fee should be returned if no decision has been made within 26 weeks?*

Draft Response: No. Local planning authorities incur significant expense in processing a planning application, regardless of the length of decision making process. Given the drastic reduction in financial resources incurred at local authorities across the country it is considered punitive to suggest returning the planning application fee where a planning authority has acted in good faith and tried hard to progress an application to decision stage.