

NORTH LINCOLNSHIRE COUNCIL

PLANNING COMMITTEE

**KILLIAN PRETTY REVIEW OF DEVELOPMENT CONTROL PRACTICES
NOVEMBER 2008**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To inform members about the findings and recommendations of the recent Killian Pretty Review, which was published by Central Government on 24 November 2008.

2. BACKGROUND INFORMATION

- 2.1 The Killian Pretty Review was launched on 24 November 2008 by the Secretary of State for Communities and Local Government, the Rt. Hon Hazel Blears MP and the Minister for Housing and Planning, the Rt. Hon Margaret Beckett MP at the Work Foundation.
- 2.2 The review undertook a detailed examination, from start to finish, of the process for seeking planning permission. It looked at case studies for a range of different sectors including housing, business and the renewables industry. The aim was to identify reasons for delay in deciding planning applications and make recommendations for dealing with these and reducing unnecessary burdens for all parties involved in the process.
- 2.3 The review identified key areas of concern within the planning application process, based on case studies and through consultation with parties who have first-hand experience of dealing with planning applications. It also makes recommendations on how these areas can be addressed, and hopefully improved. These recommendations are summarised below.

3. ISSUES FOR CONSIDERATION

- 3.1 This part of the report details the key recommendations put forward by the Killian Pretty Review. A full summary of all of the recommendations suggested is included as an appendix at the end of this report.
- 3.2 Firstly the review draws the conclusion that the caseloads of local planning authorities are being dominated by minor, small-scale developments, limiting the resources that can be directed towards dealing with major developments. To combat this it is proposed that the number of small-scale developments that require planning permission

should be reduced, therefore freeing up time and resources for dealing with the major developments.

- 3.3 It is suggested that the best way of reducing the number of minor applications would be to expand the permitted development rights for small-scale, non-householder development (commercial, leisure etc.). It also suggests that it may be possible to expand the prior notification system to allow for minor commercial developments such as changes to shop-fronts and the introduction of ATMs.
- 3.4 Another area that is identified as being in need of improvement is the information and advice available to users of the planning application system, with particular emphasis on the provision of a high quality web-based information system. It should be noted that North Lincolnshire Council's planning department is one of the frontrunners in the country with regard to its web site and the information that can be accessed online. This includes up-to-date monitoring of current planning applications and an electronic system for determining if planning permission is required.
- 3.5 As part of the Killian Pretty Review 64 detailed case studies were undertaken in order to identify the causes for delays in the processing of major planning applications. The result of these case studies was that most of the delays in processing the applications were experienced at two key stages in the planning application process, namely the pre-application and post-decision stages. A lot of emphasis is therefore directed towards improving these two key stages of the process.
- 3.6 To improve the pre-application stage of the process it is suggested that some form of incentive should be offered to local planning authorities by revising the performance targets to take into account pre-application advice. Additionally for the councils who charge for their pre-application advice it is recommended that a consistent approach to and charge for the advice be adopted across the country.
- 3.7 In order to tackle the post-decision stage of the process, and in particular the delay that results from the discharge of conditions, several recommendations are proposed. One of these recommendations is that for major developments local planning authorities should be required to present a draft set of conditions to applicants at least 10 days before the decision is issued; this would allow applicants to have forewarning of the type of conditions that will be imposed. Additionally it is suggested that decision notices could be better structured to group conditions into those that have to be discharged before commencement, those to be discharged before occupation and those requiring action after completion. The review also states that decision notices should be available online within two days of them being issued; North Lincolnshire Council already complies with this target in most cases.

- 3.8 In order to reduce the time and resources spent dealing with full planning applications for minor alterations to existing permissions it is proposed that local planning authorities should be allowed more discretion to agree minor amendments. It is also suggested that a standard form could be developed to deal only with minor amendments; this would avoid the need to submit a full application and all of the associated information.
- 3.9 It is recommended that all councillors should have training on planning matters, to better allow them to comment on applications. It is also stated that too many smaller-scale developments are being dealt with by planning committees. To overcome this it is suggested that authorities should increase their delegation levels by reviewing their local schemes of delegation so that the resources of planning committees are focused on applications of major importance.
- 3.10 A lot of money is spent by local authorities on the advertisement of planning applications, particularly publicising them in local newspapers. The review concludes that greater freedom should be afforded to local planning authorities on how to publicise new applications. This would allow the funds that would be used for newspaper advertisements to be used to advertise the applications in the most appropriate ways and should save money in the long run.
- 3.11 In order to reduce the delays experienced during the validation of planning applications, due to the receipt of unacceptable applications, it is recommended that an 'accredited agent' scheme could be implemented. This scheme would encourage agents to produce better standard, more thorough applications in reward for accredited status, which they could then use to attract more work. The Development Control team are already investigating this process with a view to presenting a report on the issue in a few months' time.
- 3.12 The current planning system is based on a time-based regime that is concerned solely with the time taken between the receipt of and decision on applications. The Killian Pretty Review concludes that this time-based culture is having some harmful, unintended effects on behaviours and outcomes in the planning application process. In response to this it is recommended to replace the timescale-based performance targets with a new 'satisfaction with the planning application service' indicator. This indicator would be a broader approach, measuring the whole application process; it would assess customer satisfaction, including satisfaction with timeliness.

4. CONCLUSION

- 4.1 The recommendations put forward in the Killian Pretty Review would not result in drastic changes in the way planning applications are processed. They would, however, potentially make the process more efficient and satisfactory for all parties involved.

- 4.2 A lot of the emphasis of the review is placed on reducing the number of small-scale applications that are dominating the caseloads of planning officers. This reduction in applications could help relieve pressure on staff resources within the development control team and allow planning officers to devote more time to the determination of the more significant, or controversial applications, which have a greater impact on the local and national economy and the local environment. At present the time devoted to the processing of minor applications is disproportionate to the overall impact on the local environment.
- 4.3 There would also, of course, be a loss of fee income from any reduction in the number of applications being dealt with. A large proportion of applications dealt with by local planning authorities are either householder or minor applications of another kind. The proposed alterations to the permitted development rights for non-householder development, coupled with the alterations already implemented last October in relation to householder permitted development rights, will lead to quite a further reduction in the total number of applications dealt with by local planning authorities.
- 4.4 The majority of the other changes recommended in the review are common sense suggestions that basically 'tidy up' the planning application process by removing unnecessary aspects and requirements. They are unlikely, in my view, to have a drastic impact on the process itself.
- 4.5 North Lincolnshire Council's planning department is already carrying out some of the recommendations set out in the review, particularly in respect of developing our web-based information system and encouraging as much electronic submission of and consultation on applications as possible.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 Financial

- 5.1.1 There will be a reduction in income received by the Development Control service from a further reduction in the number of minor planning applications.
- 5.1.2 The proposed alterations to the way that applications are publicised would lead to savings due to the number of applications being advertised in local newspapers being significantly reduced.

5.2 Staffing

- 5.2.1 There will be a reduction in pressure on existing case officers dealing with the determination of planning applications through any reduction in the number of minor applications as a result of the recommendations made in the Killian Pretty Review. Such a

reduction would enable professional staff to devote more time to dealing with significant and controversial impacts on the built environment and ensuring design improvements to submitted schemes.

5.3 IT

5.3.1 No major changes should be experienced as North Lincolnshire Council already provides a high-quality web-based information service.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 – CRIME AND DISORDER, RISK AND OTHER)

6.1 Statutory

6.1.1 Many of the recommendations put forward by the Killian Pretty review will require changes to national and regional planning legislation.

6.2 Environmental

6.2.1 As this report is concerned with information related to administration and procedural matters, there are no direct environmental implications.

7. RECOMMENDATIONS

7.1 That the contents of this report be noted.

HEAD OF PLANNING

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Background Papers used in the preparation of this report

Killian Pretty Review – November 2008

Summary of the Killian Pretty Review, November 2008

In recent years the government has sought to modernise the planning system to meet the pressures of the 21st century. The Killian Pretty Review November 2008 looks at the planning system at present to assess its major flaws and provide recommendations on how it could be further improved. In particular it considers ways to reduce unnecessary bureaucracy, with the intention of making the system swifter and more efficient for all users.

After a period of consultation with a wide range of stakeholders who have first hand experience of the planning application process 5 key areas of concern were identified. The review suggests 17 detailed recommendations to address these areas of concern and designed to make the planning application process swifter and more effective for all users.

The 5 key areas of concern within the planning application system that the review identifies are set out below and for each area of concern the relevant recommendations have been summarised. This report serves the purpose of consolidating the key findings of the Killian Pretty Review into a clear and concise summary.

PROPORTIONALITY - The requirements involved in the processing of applications for many smaller scale developments are not proportionate to the scale of the developments or their impacts.

The vast majority of applications (97%) in England are for householder or other minor, small scale development. These sort of applications are dominating the caseloads of most Local Planning Authorities, reducing the level of resources that can be directed towards dealing with the much smaller amount of major developments.

Three recommendations have been suggested to try and tackle this problem with the aims of simplifying the processing of small scale, low impact developments and to free up resources to better deal with the larger developments, these recommendations are:

Recommendation 1.) – The government should reduce the number of minor, small scale developments that require planning permission by:

- Expanding the scope of permitted development rights for non-householder development. Thus increasing the number of small scale commercial, leisure and other non-residential proposals that would be classed as permitted development.
- Ensuring that permitted development rights are not restricted when planning permission is granted unless absolutely necessary.
- Expanding the prior approval system for minor commercial developments such as new shop fronts or ATMs.

It is proposed that these measures along with the recent expansion of householder permitted development rights would dramatically reduce the number of applications for full planning permissions dealt with by Local Planning Authorities.

Recommendation 2.) – The government should make information requirements for all planning applications clearer, simpler and more proportionate by:

- Removing detailed requirements for the content of Design and Access Statements from statutory regulation.
- Revising national guidance to emphasise that Local Planning Authorities must not ask for more information than they need.
- Removing the mandatory requirement for an Agricultural Holdings Certificate to be signed on most applications.
- Set out expectation that Local Planning Authorities should publish clear and simple local lists. Pre-application discussions should be used to determine the type and scale of information required for major or unusual developments.

It is proposed that these measures would reduce the burdens on applicants having to provide unnecessary information and reduce the number of invalid applications received.

Recommendation 3.) – The quality of advice available to users of the planning system should be improved.

In particular Local Planning Authorities should be encouraged and supported to develop a high quality web based information system, especially for the determination of whether planning permission is required. It is proposed that this will reduce the number of enquiries that Local Planning Authorities have to deal with and reduce the number of applications where planning permission is not needed.

PROCESS – Particular stages of the planning application process have been identified as being particularly problematic. Namely the pre-application stage and the discharge of conditions from approved applications.

Five recommendations are put forward to make the whole end-to-end process work better, with particular focus on identifying and addressing issues at the pre-application stage. These recommendations are summarised below:

Recommendation 4.) – There should be a substantial improvement in the pre-application stage of the planning application process in order to avoid problems and delays at later stages. Possible improvements include:

- Stronger, clearer national policy that sets out the expectations from all stakeholders in the pre-application process.
- Formal pre-application discussions for major developments including, where appropriate, all relevant parties.

- Encouragement of the use of Planning Performance Agreements.
- Performance targets should be altered to allow pre-application advice to be measured and good performance by Local Planning Authorities rewarded.
- A more consistent approach for charging should be developed for those councils who charge for pre-application advice.

It is proposed that these measures will avoid problems and delays later in the process by identifying and addressing issues at the pre-application stage.

Recommendation 5.) – There should be continued investment in facilitating and encouraging improvements in the processing of applications by Local Planning Authorities by:

- The Planning Portal taking forward its programme of work to allow for more electronic consultation, rather than by paper.
- Ensuring wide dissemination of the findings of the National Process Improvement Project on the application process, which identifies opportunities for financial savings and improved customer satisfaction with a business process improvement approach.

Recommendation 6.) – Improved approach to planning conditions to ensure that conditions are only imposed if justified and the process for discharging conditions is made clearer and faster by:

- Ensuring conditions are necessary, relevant to planning, relevant to the development, enforceable, precise and reasonable in all other respects.
- Revising guidance on model conditions including examples of where conditions should not be imposed.
- Local Planning Authorities providing applicants of major developments with a draft set of conditions at least 10 days before a decision.
- Introducing structured decision notices grouping conditions into those that require discharging before commencement, discharging before occupation and those requiring action after completion.
- Decision notices to be displayed on Local Planning Authority websites within 2 days of a decision being issued.

It is proposed that these measures would result in the need for fewer conditions and reduced delays with the discharge of conditions.

Recommendation 7.) – To reduce the time taken to agree planning obligations. Government should produce proposals to scale back the use of planning obligations in the context of the introduction of the new Community

Infrastructure Levy and for improving the process of agreement. This would include:

- Rewriting government guidance to clarify the relation between the Community Infrastructure Levy and planning obligations.
- Local Planning Authorities should ensure that good pre-application advice is available.
- Use of standard agreements, clauses and formula wherever possible.

It is proposed that these measures will reduce demands on council legal services and reduce delays associated with the agreement of planning obligations.

Recommendation 8.) – A more proportionate approach to minor amendments after permission has been granted via:

- Discretion for Local Planning Authorities to vary existing permissions where it considers variations are not significant material changes.
- Simple, quick processing using standard application forms to deal with only minor amendments.

It is proposed that these measures will noticeably reduce the number of applications that Local Planning Authorities have to deal with.

ENGAGEMENT – The involvement of key parties such as elected members, statutory consultees and the public is not working efficiently.

Four recommendations have been suggested to deal with three key areas where engagement with third parties needs to be improved, namely in relation to statutory and non statutory consultees, elected members and the wider community. These recommendations are summarised below:

Recommendation 9.) – Process for consulting on applications should be clarified to be clearer who needs to be consulted, when and why, what response is required and how the response should be taken into account by:

- Overhauling the arrangements for nationally defined consultation, with all such consultees needing to meet a consistent set of criteria and all of them identified in a single list.
- Reinforcing the primacy of the decision making role of the Local Planning Authority and its ability to make a decision after a defined timescale in the absence of a response from statutory consultees.
- Where applications are in line with the Local Development Framework, on which they have already been consulted, statutory consultees should only be consulted on details not already subject to consultation.

- Clearer guidance from consultees on when they should be consulted and how they are expected to respond.

These measures are proposed to free up the resources of statutory consultees, enabling improvements in their responses and to reduce the delays due to consultation.

Recommendation 10.) – The input of elected members needs to be better targeted to those developments that make the greatest contribution to the development of the area. To achieve this:

- All councillors should have appropriate training on planning matters.
- Councillors should be encouraged to take part in pre-application discussions.
- Local Planning Authorities should review their local scheme of delegation so the resources of planning committees are focused on applications of major importance. A minimum delegation rate of 90% should be achieved before the end of 2009.

It is proposed that these measures will improve the quality of pre-application discussions and help elected members focus their resources on the most important developments.

Recommendation 11.) – To improve the effectiveness of community engagement.

- Applicants for major developments should discuss with the Local Planning Authority at an early stage how best to engage the local community.
- Some of the funding proposed in the recent White Paper on Empowerment should be used to improve community engagement.
- Councils should have greater freedom over how they publicise new planning applications, no longer being required to publicize notices for certain applications in newspapers.

It is proposed that these measures will improve pre-application discussions and free up funds otherwise used for newspaper advertisements.

Recommendation 12.) – Greater use of alternative dispute resolution approaches should be encouraged and a formal investigation should be carried out into the use of formal mediation as a less adversarial and speedy alternative to appeal.

It is proposed that this would avoid costly and time-consuming disputes and reduce the demands on the resources of the planning inspectorate.

CULTURE – The existing target based regime is having harmful effects on behaviours and outcomes in the planning application process.

Three recommendations are put forward in the review to provide better incentives to encourage better behaviours among applicants, agents and Local Planning Authorities, these are summarised below:

Recommendation 13.) – Greater recognition and encouragement should go to those agents who prepare good quality applications on behalf of their clients, in order to drive up the standard of applications submitted. This could be encouraged by introducing an “accredited agents” scheme for householder and minor developments.

It is proposed that this would result in less unacceptable applications being received and reduce delays in the processing of applications.

Recommendation 14.) – The government should seek ways to address the shortage of resources and skills within council planning departments by:

- Encouraging Local Planning Authorities to make the best possible use of support staff and technicians.
- Exploiting opportunities for joint working with other councils and the private sector.
- Encouraging Local Planning Authorities not to make dramatic reductions in the number of planning staff in reaction to changing economic conditions.

Recommendation 15.) The government should replace the existing time-scale based performance targets with a new broader and more flexible approach to measuring the whole application process via:

- A new “satisfaction with the planning application service” indicator, which would measure customer satisfaction, including satisfaction with timeliness.
- Financial incentives for councils that perform well and deliver high levels of customer satisfaction.

COMPLEXITY – National Policy Framework and the legislation governing the consideration of planning applications is too complex.

Much of the unnecessary complexity of the planning application process is rooted in the National Planning Policy and legislative framework, the conclusion is made that this area must be addressed if real improvements to the planning system are to be achieved. Two recommendations have been put forward to deal with the underlying causes of many of the issues previously identified, these are:

Recommendation 16.) – The government should avoid further expansion of national policy objectives through the planning system and remove duplication with other regulatory regimes, it proposes:

- To use the planning policy review announce in the Planning White Paper to remove objectives which duplicate other controls.
- Ensuring that no additional policy objectives are delivered through the planning system unless there is a strong, compelling case to do so.
- A set of challenging criteria should be published against which any new policy objectives to be delivered through the planning system must be tested.

Recommendation 17.) – A substantial overhaul and simplification of both national 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 involved in the application process. It proposes:

- A national policy framework that is focused on the needs of the user.
- Clarity on whether any element of the framework is a national development control policy and whether or not there is scope for any regional or local flexibility.
- Consolidation and simplification of the legislative framework, in particular the General Development Procedure Order to remove unnecessary prescription and detail. Clear national policy guidance on the new development management approach.
- Effective, helpful and clear plan-based guidance for householder and minor developments, to be prepared once key development plan documents are in place.

It is proposed that the measures set out in the final two recommendations will enable faster and more effective handling of applications by reducing the inherent complexity in the planning application process.