



Report of the Chief Planning Officer

Meeting: Scrutiny Board (City Development)

Date: 12th January 2010

Subject: Inquiry to Review the Method by which Planning Applications are Publicised and Community Involvement takes place

Electoral Wards Affected:

All

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1.0 Purpose Of This Report

- 1.1 The Scrutiny Board (City Development) at its meeting in June 2009 agreed to carry out an inquiry to review the method by which planning applications are publicised and community involvement takes place.
- 1.2 As part of the Scrutiny process three sessions have been scheduled for formal evidence gathering between January and March 2010.
- 1.3 As requested by the Board, this report will cover background information about
 - The statutory requirements for consultation and notification within the planning system including appeals,
 - Types of comments that can be considered
 - Statement of Community Involvement
 - Current methods used for publicizing applications in Leeds.
 - Proposed changes to consultation and notification methods highlighted in the Killian Pretty review, a government review conducted in 2008 which looked at the planning system identifying ways it could be improved further by reducing bureaucracy and making the system more responsive and customer focused.

2.0 Background

- 2.1 This Scrutiny review is timely as it provides an opportunity to look at the ways in which planning applications are publicized and consulted on in the context of a period of considerable change.
- 2.2 The review will facilitate an assessment of value for money for consultation and notification practices and to highlight and assess the changes, which have already been made by Planning Services in the way consultation is carried out in recent times.

2.3 The government is committed to an ambitious planning reform agenda and aims to speed up the process and increase the predictability of planning decisions, including the way citizens are notified and consulted on applications. All political parties are also wishing to shift power, influence and responsibility away from existing centers of power into the hands of communities and individual citizens¹. The new duty to promote democracy will increase requirements for Council's to promote, deliver and facilitate a wider range of engagement activity and the new extensions to the duty to involve local people in key decisions came into effect in April 2009. Additionally, the Council has a corporate consultation policy and arrangements to facilitate more effective community consultation in neighborhoods through the Corporate Consultation Portal and there are the emerging Equality Forums and Hubs to further support engagement activity of citizens, who are traditionally "hard to reach". We are aiming to engage with the Hubs to improve our processes.

3.0 The Planning Process

3.1 The planning system in England and Wales is plan-led. This involves preparing plans that set out what can be built and where. The plan-led system was updated by the Planning and Compulsory Purchase Act in 2004. All decisions on applications for planning permission should be made in accordance with the Development Plan unless material planning considerations indicate otherwise.

3.2 All applications are publicised so the public are aware of them and some are subject to consultation. The decisions made on applications are not made on the grounds of popularity or unpopularity, or if there are objections or support for a proposal. The decision on whether to grant permission is within the context of published planning policies in the Development Plan and other material planning considerations. Material considerations covers a wide variety of matters including impact on neighbours and the local area.

3.3 Publicity is given to all planning applications and the requirements are set out in Government statutes. The statutory consultation and notification timescales fit in within the overall planning process which is itself subject to tight time constraints:

- Determination within 8 weeks for household and minor applications
- Determination within 13 weeks for Major applications
- Major proposals dealt with under Planning Performance Agreements, where there can be more extensive opportunities for community engagement due to the impact of the scheme. A Planning Performance Agreement is entered into when the applications will take longer than 13 weeks because of their size and complexity. These are agreements between an Authority and applicant which provide a timetable and list of agreed actions for an application's handling in both pre-application and application stages (including engagement with local Councillors and community organisations).

3.4 In publicising applications, it is necessary for the Council to strike a balance between consideration of cost, speed of decision making and providing a reasonable opportunity for public comment.

3.5 Statutory requirements for consultation and notification are set out in the Town and Country Planning (General Development Procedure) Order 1995 (GDPO) and in the following sections these requirements are described more fully.

¹ CLG Communities in Control Real People, Real Power, July 2008

4.0 Requirements under the Town and Country Planning (General Development Procedure) Order 1995 (GDPO)

4.1 It is perhaps helpful to draw the distinction between consultation and notification as sometimes the terms are used interchangeably.

4.2 Consultation

4.3 Under Article 10 of the Town and Country Planning (General Development Procedure) Order 1995, local planning authorities are required to consult various bodies about specified categories of planning application to seek their views. The comments received are then taken into account when the authority reaches its decision on the application.

4.4 Consultation broadly falls into three categories:

- I. Statutory or mandatory consultation, which must be carried out before permission, is granted. Article 10 of the GDPO is attached as appendix 1 and describes the statutory consultees and where there is the need for consultation, eg the Environment Agency regarding flood risk.
- II. Non-Statutory consultations. In addition, local planning authorities are advised by Government to consult a range of other bodies. Most of these are set out in Appendix B to DOE Circular 9/95, although further bodies are referred to in other circulars and Planning Policy Guidance Notes. Some bodies fall into both groups, eg Metro.
- III. Internal consultations, that is, within the Council. These are non-statutory consultations, but services are asked to comment on particular issues to provide expert advice, eg Highways and Conservation.

4.4 The approach taken to non statutory and internal consultations will vary in relation to the size and impact of the proposal.

4.5 Consultees have a minimum period of 21 days in which to respond (this is set out by central government). All comments received from consultees are taken into account in the assessment of the proposal. The comments are weighed against other relevant issues including local, regional and national policy and guidance set out in the Development Plan and other material considerations and are part of the balancing exercise that takes place and which also includes points raised through public comment.

4.6 Town and Parish Councils

4.7 Town and Parish Councils are notified of planning applications at an early stage in the process. The Town and Parish Council is not being asked to make a decision on the application, but to provide comments and views from its own perspective as a local elected representative body. There is no obligation for the Town and Parish council to comment on all the applications they have received. Town and Parish Councils are encouraged to focus on applications which genuinely affect their community and have 21 days within which to make any comments.

4.8 In Leeds a Parish and Town Council Charter has been developed, building on the principles set out in the Statement of Community Involvement (described below). The Charter describes the operational relationships between Planning Services and Parish and Town Councils to maximise the sharing of information, recognising the constraints imposed by statutory requirements and the need for Planning Services

to carry out its business efficiently. The Charter also describes the agreed process for early involvement of the Parish and Town Council at the pre-application stage.

5.0 Notification

- 5.1 The purpose of notifying the public is to provide them with prior notification of development, which may affect them, so that the decision makers can take their views into account.
- 5.2 Notification is a statutory requirement as set put in Article 8 of the Town and Country Planning (General Development Procedure) Order 1995 (GDPO) (Article 8 is included as appendix 2). There are different requirements for publicity depending on the type of application.
- 5.3 The GDPO states that in cases where the application involves the submission of an environmental statement, is a departure from the Development Plan, affects a public right of way or affect the character or appearance of a listed building or Conservation, the applications shall be publicised by site display in at least one place on or near the land to which the application relates for not less than 21 days, and by local advertisement..
- 5.4 In the case of a major development, the application is publicised by site display in at least one place on or near the land to which the application relates for not less than 21 days, or by serving the notice on any adjoining owner or occupier, and by local advertisement.
- 5.5 Other types of applications, not covered above, are publicised by site display in at least one place on or near the land to which the application relates for not less than 21 days, or by serving the notice on any adjoining owner or occupier
- 5.6 Exceptionally, for major or very controversial applications, the authority may decide to hold a public meeting to explain the nature of the proposal and to facilitate public response. On exceptionally large schemes, eg Kirkstall Forge, a regular forum (Chaired by a local councillor and involving community groups) may be established for the lifetime of the development.

6.0 Commenting on an application

- 6.1 During the statutory period for commenting on a planning application, any member of the public can make comments in support of, or in objection to the proposals.
- 6.2 Details of how people can make the comments are described on site notices, notification letters, planning pages of the Leeds City Council website and on the weekly lists. All submitted comments are in the public domain.
- 6.3 Any objection or supporting comments need to focus on the 'planning merits' of the case. In Leeds, residents are informed of what types of issues can be considered as material to an application via a leaflet sent out with their notification letter. These could include the relevant planning policies applicable to the property and area concerned, as well as consideration of such matters as
- impact of the scheme upon the local environment,
 - highways issues,
 - nature conservation,
 - flood risk
 - crime (and fear of)
 - economic impact

- planning history
- related decisions
- cumulative impact
- amenity (e.g. noise, disturbance, overshadowing, overlooking)

6.4 However, even if objections are made on planning grounds, it may not necessarily mean that the application is refused. Similarly, the absence of any objections does not necessarily mean the application will be approved. The application process follows a two stage process; firstly, the Planning Officer dealing with the application will read all the comments received and other information and prepare a draft report and come to a draft recommendation. The second stage is where the draft report and recommendation is considered by a more senior officer who comes to a decision, as defined in the Council's scheme of delegation. In the current year, 97.1% of applications have been dealt with by Officers under the Council's delegation agreement.

6.5 There are other issues, which may be of concern to members of the public, but are not material planning considerations. Examples include;

- Issues covered by other laws e.g. Licensing, Building Control, Health and Safety Regulations.
- Private property rights (e.g. boundary or access disputes).
- The developer's morals, motivation or activities elsewhere.
- Perceived impact on property values.
- Competition between businesses.

6.6 Public Speaking

6.7 Those applications not dealt with under the Council's delegation agreement go to the Plans Panel for determination. There are a number of reasons why applications might go to a Plans Panel for determination including where a referral has been requested by a Ward Member or Area Committee member about an application in their area, applications which are a departure from the Development Plan and major developments which would have significant impacts on local communities.

6.8 After the statutory period for commenting is over, generally there is no further opportunity for involvement by the public, unless there are amended plans (materially altering the form of the application) or the application goes to a Plans Panel for determination and a local authority has a public speaking protocol. It is a matter for each separate local authority whether they have public speaking opportunities.

6.9 In Leeds, under the public speaking protocol anyone who has previously made representation is able to register their wish to speak and will be able to address the Panel directly outlining either their objection or support of the application.

6.10 However, it should be remembered that a Plans Panel meetings is a meeting conducted in public, rather than a public meeting and although the public are given an opportunity to speak at the outset of the meeting, they will not be allowed to join in the Panel's debate. There are guidelines on what can be said and what cannot.

6.11 In Leeds, each side is allowed a maximum of three minutes to present their case, after which the Panel Members may ask questions for clarity.

7.0 Community involvement post decision

7.1 Once the decision has been made on an application, all those who have made representations on the application are advised of the outcome.

7.2 Appeals

7.3 Only the applicant has the right to appeal against a refusal, where the application has not been determined within the statutory time period, and against the imposition of conditions in an approval. There is no third party right of appeal, however there is often the opportunity for those who have already made comments to be involved during the life of the appeal.

7.4 The process for appeals is set by government regulations and there are separate methods to make an appeal: written representations, informal hearings and public inquiries.

7.5 Written Representations

7.6 The Local Planning Authority (LPA) and appellant provide written statements, which are also sent to the Inspector. Third parties interested in the appeal may also make their comments in writing to the Inspector and the appellant also has a chance to comment on them.

7.7 The appellant and LPA read each other's arguments and make any comments, after which the Inspector will make a formal visit to the property and then makes a decision.

7.8 A fast track process operates for householder appeals which came into force in April 2009. Applicants have 12 weeks from decision to lodge an appeal. Under this process no new representations can be made but the Inspector does take into account representations already made when the application was being determined by the local planning authority and the officers report. This appeal service relates to proposals for extensions to houses and the erection of outbuildings and can be used to appeal against a planning condition imposed on an approved householder planning permission.

7.9 For other planning appeals appellants have 6 months to lodge an appeal from the decision date or the statutory time limit for making a decision if an appeal is against non determination.

7.10 Informal Hearing

7.11 The Planning Inspectorate may suggest that the appeal is heard in a public relaxed format known as an Informal Hearing. In this method, the appeal is conducted in the manner of a round table discussion between the parties, under the control of the Inspector. Third parties may also contribute. Again a site inspection is made and a decision will follow.

7.12 The Planning Inspectorate now determines the most suitable method of appeal. The appeal is most likely to proceed by way of the written representations procedure or a Hearing unless it involves unusual proposals/circumstances, points of law or evidence which needs to be cross examined or heard under oath.

7.13 Public Inquiry

7.14 The most formal option is to have an appeal heard in front of an Inspector at a Public Inquiry. This is a more time consuming and costly option and usually involves the use of professional advisors, (Barristers or Solicitors and expert witnesses) although this is not mandatory. The Inspector hears the case for both sides by evidence presented to him verbally and in written form as 'proofs of evidence'. The witnesses can be cross examined. The Inspector will also hear from any third

parties that wish to express their views and takes closing submissions from the local planning authority and the appellant.

7.15 Once all the evidence is heard the Inspector will close the Inquiry and make a formal site inspection. The Inspector will then make their decision. The Inquiry process is the most adversarial and daunting for witnesses and can take several days or weeks depending on the size and complexity of the proposal.

8.0 The Statement of Community Involvement

8.1 It is important that the decision making process on planning applications is transparent, fair, accountable and reputable. As consultation and notification is a very visible part of the service, strict protocols surround the process as laid out in the Statement of Community Involvement (SCI).

8.2 The SCI was established as part of the Planning and Compulsory Purchase Act 2004 and is written in consultation with local people. It explains how a local planning authority will engage with the public throughout the planning process, including in the determination of planning applications.

8.3 The SCI describes how Planning Services publicizes planning applications and the methods employed, depending upon the type of application. The principles on which the SCI are based are early contact, access to information, appropriate methods, reducing barriers to participation, collaboration, feedback and learning and improving.

9.0 Current methods for publicising applications in Leeds

9.1 Leeds Planning Services often exceeds the legal minimum as site notices and notification letters are both used and often more than one site notice is posted. The aim is to exceed the statutory minimum in an attempt to engage Members and the community. There are three main options for publicity in Leeds:

- Notifying neighbours by letter
- Site Notice
- Newspaper advertisements in five newspapers: Pudsey Times, Morley Advertiser, Leeds Weekly News, Wharfe Valley Times, Wetherby and Boston Spa News

9.2 The statutory requirements as described in the GDPO are applied to Leeds in the following ways:

Nature of development	GDPO Publicity required	Leeds Practice
Development where application: <ul style="list-style-type: none"> • is accompanied by an environmental statement • Is a departure from the Development Plan • Affects a public right of way 	Advertisement in newspaper Site notice	Advertisement in newspaper and site notices- maybe more than one, depending on the site
Major development	Advertisement in newspaper and either a site notice or neighbour notification	Advertisement in newspaper and site notices- maybe more than one, depending on the site
Minor development	Site notice or neighbour notification	Site notice and neighbour notification letters
Development affecting the setting of a listed building	Advertisement in newspaper and site notice	Advertisement in newspaper and site

		notices- maybe more than one, depending on the site notice and newspaper advertisement in the Leeds Weekly news
Development affecting the character or appearance of a conservation area	Advertisement in newspaper and site notice	Advertisement in newspaper and site notices- maybe more than one, depending on the site. Discretion can be used for applications which affect the character of a conservation area and the setting of a listed building.
Application for listed building consent and conservation area consent	Advertisement in newspaper and site notice	Advertisement in newspaper for all applications whether internal or external alterations.

9.3 Neighbour notification letters

9.4 The GDPO states that letters notifying owners or the occupier of new developments should be sent to adjoining properties. This definition of where to send letters has not been adopted. Instead, properties that are considered to be directly affected by the proposal will be notified and this is determined on a case-by-case basis.

9.5 In 2008-09 33,040 neighbour notification letters were sent out relating to 5,368 applications. These were mostly household applications but also included some minor applications. This equates to an average of 6 letters per application.

9.6 Based on 2008-09 figures, the cost of providing this part of the service (postage and staff time) is about £58,600.

9.7 Site Notices

9.8 The GDPO states that site notices should be placed on or near to the proposed development. Where there are no near neighbours or for large-scale developments a site notice is displayed.

9.9 In Leeds in 2008-09, 1,673 applications had a site notice posted. The total number of notices was 2,615. The number of site notices is higher due to some applications having a site notice and letters ie statutory notice, Conservation Area, Listed Building, Right of Way etc or in addition to letters a site notice which may also be required.

9.10 Currently site notices are posted by a full time member of the administrative staff , who posts the notices and delivers the plans to libraries. The post is Scale 1/2 and with mileage expenses and other sundries the cost of providing this element of the service is approximately £20,000.

9.11 The notice itself has been designed with equality issues in mind; it is printed on yellow paper with black text, so as to improve the readability for those who may be visually impaired.

- 9.12 The notification letters state where the application may be viewed - on the Council's website, Development Enquiry Centre and, if appropriate, the local library. Included with the letter is a leaflet which explains how to make a comment and by when the comments must be received by the service.
- 9.13 The statutory minimum period for commenting on planning applications is 21 days. Leeds exceeds the minimum period for receiving comments, as the service routinely takes any relevant comments on an application up to the date of decision.
- 9.14 Newspaper advertisements**
- 9.15 The GDPO states that local planning authorities have to advertise in the press for major applications, but also all applications for listed building consent (except those where alterations are internal only) and all planning applications for development that affects the character or appearance of a conservation area or the setting of a listed building.
- 9.16 Planning Services used Leeds Weekly News. Newspaper advertising is costly. In Leeds 2008-09 £59,000 was spent on advertising applications. At the time of writing, December 2009, £37,863 has been spent in this financial year, against a budget of £37,000. Approximately one day per week at an average pay scale of Scale 4 is spent organizing the advertisements for the newspapers. Based on the 2008-09 expenditure, it costs a total of approximately £62,400 per year to provide this part of the service.
- 9.17 A number of other websites and publications display applications on a voluntary basis such as the Yorkshire Evening Post and the Yorkshire Evening Post's community websites.
- 9.18 In addition to the measures described above, Leeds Planning Services also employs other tools in order to facilitate community and individual engagement with the planning process.
- 9.19 The total cost for providing these standard methods of publicity is almost £141,000 a year.
- 9.20 Members of the public are also informed about all planning applications by a combination of: -
- Weekly lists of applications on the Councils Internet site
 - Weekly lists of applications and the actual applications are available in hard copy at 24 local public libraries. Leeds Planning services again exceeds the minimum requirements for publicising applications by providing copies to libraries. The libraries selected are those which are open for a significant number of hours per week. It is not practical to distribute plans to all libraries as many of the smaller libraries have limited opening hours which restricts public access.
 - Public Access- database of current and past applications from 1st April 1974. Full details of plans, decision notice, officer report etc are available for applications received on or after 2nd January 2009.
 - Weekly lists and the actual planning applications available for inspection at the Development Enquiry Centre
 - Weekly lists to Ward Members
 - Town and Parish Council Charter- Weekly lists to Parish and Town Councils and on major and sensitive proposals at pre-application stage Planning Services will advise developers to consult with the community and will specifically request liaison with the relevant Town or Parish Council. The Town and Parish Council

is encouraged to be as involved as possible at this stage where real influence over the content and layout of a scheme and the bringing forward of possible Section 106 benefits can be achieved.

- Public Exhibitions, meeting and presentations
- Weekly Lists on the www.leeds.gov.uk website

9.21 Community Planners

9.22 Leeds is fairly unique in having Community Planners who work in two Area Committee areas - North East area Committee and the Inner North West Area Committee. These posts are funded by the Area Committees and their roles are to advise the Area Committee, Ward Members, Parish and Town Councils and other groups on the implications of planning proposals, applications and appeals submitted within the area and/or affecting the locality.

9.23 The Community Planners have a much more proactive role working with the local community, acting as the interface between Planning Services and the community.

9.24 Funding opportunities are being sought to extend the network of Community Planners into other parts of the city.

9.25 Pre-application consultation

9.26 The largest and most sensitive planning applications are often subject to pre-application and post application consultation. This is usually as part of a Planning Performance Agreement. Leeds has an adopted pre-application protocol and a protocol for pre-application discussions with local communities and Ward Members, which states the responsibilities of developers in relation to community engagement.

9.27 The of the purposes of pre-application consultation with local communities is to help communities shape proposals, which meet strategic and local needs, flag up issues at an early stage that developers need to address and to increase the predictability of the outcome.

9.28 The Planning Case Officer has a major role in pointing developers to key contacts- Ward Councillors , Town and Parish Councils and Community organisations who should be involved in the process.

9.29 The Council cannot refuse to accept an application if the applicant has not consulted sufficiently or not made reasonable attempts to consult before application submission. Insufficient community involvement, however, is likely to be reported to the Plans Panel who will take this into account in deciding the proposal and can request that further engagement with the local community takes place before a decision is made.

9.30 Developers are requested to submit a “Statement of Community Consultation” as part of an application which sets out what has been done, including:

- What consultation has taken place and with whom
- When the consultation was held
- Identification of methods and consultation techniques used
- A summary of consultation responses and how these have been taken into account in the submission.

9.31 There have been some excellent examples of pre-application community involvement including the Kirkstall Forge site, Leeds Arena, Beeston Hill and

Holbeck and Little London PFI scheme where there have been public meetings, exhibitions, direct communications with residents, and Ward Member involvement.

9.32 Re-notification of applications

Amendments maybe made to a planning application during the course of the planning process. Where the amendment is considered to be material, re-notification will take place, this involves a degree of judgement by the Case Officer. The practice is to renotify organisations , Members and the public who have commented on an application where the changes are judged to be material. The timescale for further responses is often reduced to comply with timescales for decision making as described in 3.3 above. However, all late comments up to the time of decision are taken into account.

9.33 Electronic delivery

- 9.34 Increasingly Planning Authorities are moving towards electronic delivery methods., this is the case also in Leeds with the Public Access system. The benefits are numerous- availability 24-7, being able to access information remotely, and the availability of very up to date information.
- 9.35 The Public Access system provides details of applications back to 1974 and more recent applications have plan drawings, officer reports and other information available online.
- 9.36 Searching for applications is a straight forward process, however a new service is now available where details of applications in a pre-specified area are proactively emailed out each week to people who register for the alerting system. The email will contain details of applications made that week and by clicking on the application number, the customer will be taken directly into the details of the application and be able to look at online plans, application forms and so on.
- 9.37 A project is underway to encourage community and interest groups to sign up for the planning alert system so they will get the details of the applications that matter to them in a timely and effortless way. Groups can be more informed than ever before as their list will be more focussed on the things they have said they are interested in.
- 9.38 So far over 80 groups have signed up and are receiving weekly alerts. However this number masks the true number of people who will be alerted as some groups signed up to the service operate as an umbrella organisation, such as the HMO Lobby. The work of contacting groups is on going to try to encourage them to join the service so they can be as informed as possible.
- 9.39 This “database” of community, amenity groups and associations will also be helpful at the pre-application stage, allowing the Case Officer to signpost the developer in the direction of the community groups with whom they can consult. The community groups themselves have indicated their wish to be contacted by developers at the pre-application stage to engage in discussions about proposed developments in their locality, so they have the potential to help shape developments. This will hopefully go some way to avoid over consulting with some groups, or always consulting with the “usual suspects”. The benefits for developers are numerous, but importantly by engaging with communities there is the potential for positively working through any issues at an early stage, which may have turned into an objection at the application stage.
- 9.40 Citizens without internet access at home will also be able to go to any of Leeds Public Libraries and go onto Public Access through their computer network. Library

staff have received training on Public Access so they will be able to help and support customers who need assistance to find the information they need.

9.41 Consultation is another area where increasingly ICT is being used to free up resources and make the whole process more efficient and represents excellent value for money. There are challenges however, as the use of electronic consultation is not mandatory and there maybe additional costs involved to consultees.

9.42 Hard to Reach Groups

9.43 Whilst electronic delivery of services is cost effective, is available 24-7 and often has better functionality than more traditional methods, the service is mindful of the need to not marginalize or socially exclude those people who are unable to access information online. 21% of the population has never accessed the Internet and research has shown that the non-users are predominately those who are already socially disadvantaged². Nationally in 2009, 70% of households had an internet connection, with all age groups accessing the internet on a regular basis³, so the digital divide is reducing, in terms of those who use the internet and have access to it, but it also appears to be deepening as those not included are becoming increasingly left behind⁴.

9.44 Therefore consideration is also being given to other communication channels which can be used so as to not exclude people from the planning process. Other means will be used such as continued use of site notices, notification letters, through community organizations and interest groups and engaging with the Council's Equality Hubs. Also, a greater emphasis on pre-application engagement with communities will aim to reach those who are the hardest to reach.

9.45 Equality Impact assessments are undertaken where there are changes in policy or service provision to ensure that hard to reach groups are not disadvantaged and to ensure quality processes are in place.

10.0 Proposed changes in response to Killian Pretty Review

10.1 The Department for Communities and Local Government commissioned a review in 2008, known as the Killian Pretty Review, which looked at the planning system. The review identified ways it could be improved further by reducing bureaucracy and making the system more responsive and customer focused, but in way that was consistent with the principles and objectives of the planning system.

10.2 A number of proposed changes were made but in the context of this Scrutiny report, recommendations 9 to 12 made proposals to help improve the effectiveness of engagement.

10.3 Recommendation 9 sets out a number of measures to improve the involvement of consultees so that it is clearer which organizations need to be consulted, when they must be consulted, why and what response is required. This will eradicate unnecessary contact, reduce the demands placed on local planning authorities resources, reduce the delays due to consultation and free up resources of consultees to focus on the quality of response on the applications where comments would add real value. These measures would make the planing process far more

² CLG Understanding Digital Exclusion Research Report. October 2008

³ ONS Statistical Bulletin Internet Access Households and Individuals August 2009

⁴ CLG Understanding Digital Exclusion Research Report. October 2008

efficient. CLG has issued a Consultation document on this on 21st December 2009 asking for comments back by 19th March 2010.

10.4 Recommendation 10 sets out measures to improve the engagement of Members, helping Members to focus their resources on the more significant developments. This will be achieved through appropriate training, clarity of the role of Members and better Officer management of their relationship with Members.

10.5 Recommendation 11 specifically sets out to improve the engagement of the local community:

- Applicants for major developments should discuss with the council at an early point in pre-application discussions how best to engage with the local community;
- Applicants should report the outcomes from the engagement, so that the community and the authority can easily understand what has been undertaken and how it has influenced the scheme;
- Government should ensure that the additional resources for community engagement in planning identified in the recent Empowerment White Paper are used, in part, to help improve community engagement in the planning application process; and
- Local authorities should be given greater autonomy and flexibility to determine the best approaches to use in order to notify the public about planning applications, thus allowing them to decide whether to use local newspapers.

10.6 Leeds Planning Services has been working to these best practices for some time:

- The pre-application protocol has been in existence since 2008 and states that developers should engage with local communities at the earliest stage
- The protocol for pre-application discussions with Ward Members and Communities was adopted in November 2008 and as previously described requests developers to agree a programme of consultation with local communities

10.7 Both these protocols are included as appendix 3.

10.8 CLG published their response to the Killian Pretty Review in March 2009 and carried out consultation in Autumn 2009 on local authority practices in relation to notifying the public about planning applications and the use of local newspapers.

10.9 Leeds Planning Services responded to the consultation and supported the move away from newspaper advertising as a statutory requirement.

10.11 It is estimated that nationally £15 million is spent on newspaper advertising in the context of declining circulation of local newspapers. From January to June 2009, regional dailies dropped by 8% overall and regional weeklies dropped between 5-10%⁵.

10.12 CLG published the results of the consultation on 21 December 2009 and have decided not to take forward the amendment, which means the statutory requirement to publish certain applications in newspapers remains. CLG state that some members of the public and community groups rely on the newspaper

⁵ Publicity for Planning Applications Consultation. A response from the Planning Officers Society October 2009

advertisements to learn about applications in their area and that the Government is not convinced that good alternative arrangements can be readily rolled out⁶.

11.0 Conclusions and Recommendations

11.1 Leeds Planning Services has made considerable changes over recent times to the consultations and notification process, with the aim of widening participation, enabling easier access to information and making community involvement more effective:

- Pre-application consultation: The adopted protocol for pre-application discussions is key to the importance placed on the early dialogue between developers, local Members, Planning Services and local communities in ensuring that a mutual understanding is gained by all parties. Applicants will be actively encouraged to engage with communities and report back on the outcome of the engagement and how that engagement has influenced the scheme.
- Online applications: The use of technology will mean that there will be an increased availability of information when people want to access it. However, care will be taken to ensure that those without ready access to technology are not disadvantaged, and that a mix of opportunities is provided through other means of publicity including site notices, letters and community contact.
- Town and Parish Council Charter- Planning Services is seeking to improve the level of information provided so that local people feel involved. The established links with the Town and Parish Councils is critical in this and the Charter clearly defines the operational links and relationship and will be reviewed in mid 2010
- Response to the Killian Pretty Review: The service has already embraced the recommendations made in the Review and is working towards adopting the best practice, taking a development management approach to applications.
- Community Planners: An unique proactive role providing the “go between” between the LPA and local community. The service would like to expand the number of Community Planners, subject to funding.
- Redefined role of Planning Officers: Aligning the geographical areas of work to the area Committees, so they can act more proactively in fostering liaison with developers, Members and the local community

Members are recommended

- i. to note the contents of this report
- ii. receive a further report in February 2010 as session 2 of the Scrutiny review

Background Documents

CLG Publicity for planning applications- summary of responses December 2009

CLG Taking Forward the Government's response to the Killian pretty Review July 2009

CLG Government Response to the Killian Pretty Review, March 2009

CLG Communities in Control Real People, Real Power, July 2008

CLG Understanding Digital Exclusion Research Report. October 2008

⁶ CLG Publicity for planning applications- summary of responses December 2009

CLG The Killian Pretty Review: Planning applications; a faster more responsive system Final Report. November 2008,

CLG Statutory and Non-Statutory Consultation Report: main document, 2001

HMSO Town and Country Planning (General Development Procedure) Order 1995 (GDPO)

HMSO Planning and Compulsory Purchase Act 2004

Leeds City Council Statement of Community Involvement February 2007

Leeds City Council Planning Services Protocol for Pre-application discussions with local communities and Ward Members, 2008

ONS Statistical Bulletin Internet Access Households and Individuals 28 August 2009

Planning Officers Society Publicity for Planning Applications Consultation. A response from the Planning Officers' Society , October 2009

Statutory Instrument 1995 No. 419

The Town and Country Planning (General Development Procedure) Order 1995

Article 8

Publicity for applications for planning permission

8. - (1) An application for planning permission shall be publicised by the local planning authority to which the application is made in the manner prescribed by this article.

(2) In the case of an application for planning permission for development which -

(a) is the subject of an E.A. Schedule 1 or E.A. Schedule 2 application accompanied by an environmental statement;

(b) does not accord with the provisions of the development plan in force in the area in which the land to which the application relates is situated; or

(c) would affect a right of way to which Part III of the Wildlife and Countryside Act 1981^[9] (public rights of way) applies,

the application shall be publicised in the manner specified in paragraph (3).

(3) An application falling within paragraph (2) ("a paragraph (2) application") shall be publicised by giving requisite notice -

(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days, and

(b) by local advertisement.

(4) In the case of an application for planning permission which is not a paragraph (2) application, if the development proposed is major development the application shall be publicised by giving requisite notice -

(a)

(i) by site display in at least one place on or near the land to which the application relates for not less than 21 days, or

(ii) by serving the notice on any adjoining owner or occupier,

and

(b) by local advertisement.

(5) In a case to which neither paragraph (2) nor paragraph (4) applies, the application shall be publicised by giving requisite notice -

(a) by site display in at least one place on or near the land to which the application relates for not less than 21 days, or

(b) by serving the notice on any adjoining owner or occupier.

(6) Where the notice is, without any fault or intention of the local planning authority, removed, obscured or defaced before the period of 21 days referred to in paragraph (3)(a), (4)(a)(i) or (5)(a) has elapsed, the authority shall be treated as having complied with the requirements of the relevant paragraph if they have taken reasonable steps for protection of the notice and, if need be, its replacement.

(7) In this article -

"adjoining owner or occupier" means any owner or occupier of any land adjoining the land to which the application relates;

"E.A. Schedule 1 application" and "E.A. Schedule 2 application" have the same meanings as "Schedule 1 application" and "Schedule 2 application" respectively in regulation 2 of the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988^[10] (interpretation);

"major development" means development involving any one or more of the following -

(a) the winning and working of minerals or the use of land for mineral-working deposits;

(b) waste development;

(c) the provision of dwellinghouses where -

(i) the number of dwellinghouses to be provided is 10 or more; or

(ii) the development is to be carried out on a site having an area of 0.5 hectare or more and it is not known whether the development falls within paragraph (c)(i);

(d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or

(e) development carried out on a site having an area of 1 hectare or more;

"requisite notice" means notice in the appropriate form set out in Schedule 3 to this Order or in a form substantially to the like effect;

"waste development" means any operational development designed to be used wholly or mainly for the purpose of, or a material change of use to, treating, storing, processing or disposing of refuse or waste materials.

Statutory Instrument 1995 No. 419

The Town and Country Planning (General Development Procedure) Order 1995

Article 10

Consultations before the grant of permission

10. - (1) Before granting planning permission for development which, in their opinion, falls within a category set out in the table below, a local planning authority shall consult the authority or person mentioned in relation to that category, except where -

- (i) the local planning authority are the authority so mentioned;
- (ii) the local planning authority are required to consult the authority so mentioned under articles 11 or 12; or
- (iii) the authority or person so mentioned has advised the local planning authority that they do not wish to be consulted.

Para	Description of Development	Consultee
a)	Development likely to affect land in Greater London or in a metropolitan county	The local planning authority concerned
b)	Development likely to affect land in a non-metropolitan county, other than land in a National Park	The district planning authority concerned ^[11]
c)	Development likely to affect land in a National Park	The county planning authority concerned
d)	<p>Development within an area which has been notified to the local planning authority by the Health and Safety Executive for the purpose of this provision because of the presence within the vicinity of toxic, highly reactive, explosive or inflammable substances and which involves the provision of -</p> <ul style="list-style-type: none"> (i) residential accommodation; (ii) more than 250 square metres of retail floor space; (iii) more than 500 square metres of office floor space; or (iv) more than 750 square metres of floor space to be used for an industrial process, <p>or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area</p>	The Health and Safety Executive
e)	<p>Development likely to result in a material increase in the volume or a material change in the character of traffic –</p> <ul style="list-style-type: none"> (i) entering or leaving a trunk road; or 	In England, the Secretary of State for Transport and, in

	(ii) (ii) using a level crossing over a railway	Wales, the Secretary of State for Wales The operator of the network which includes or consists of the railway in question, and in England, the Secretary of State for Transport and, in Wales, the Secretary of State for Wales
f)	Development likely to result in a material increase in the volume or a material change in the character of traffic entering or leaving a classified road or proposed highway	The local highway authority concerned
g)	Development likely to prejudice the improvement or construction of a classified road or proposed highway	The local highway authority concerned
h)	Development involving – (i) the formation, laying out or alteration of any means of access to a highway (other than a trunk road); or (ii) the construction of a highway or private means of access to premises affording access to a road in relation to which a toll order is in force	The local highway authority concerned The local highway authority concerned, and in the case of a road subject to a concession, the concessionaire
i)	Development which consists of or includes the laying out or construction of a new street	The local highway authority
j)	Development which involves the provision of a building or pipe-line in an area of coal working notified by the Coal Authority to the local planning authority	The Coal Authority
k)	Development involving or including mining operations	The National Rivers Authority
l)	Development within three kilometres of Windsor Castle, Windsor Great Park, or Windsor Home Park, or within 800 metres of any other royal palace or park, which might affect the amenities (including security) of that palace or park	The Secretary of State for National Heritage
m)	Development of land in Greater London involving the demolition, in whole or part, or the material alteration of a listed building	The Historic Buildings and Monuments Commission for England
n)	Development likely to affect the site of a scheduled monument	In England, the Historic Buildings and Monuments Commission for England, and, in Wales, the Secretary of State for Wales
o)	Development likely to affect any garden or park of special historic interest which is registered in accordance with section 8C of the Historic Buildings and Ancient Monuments Act 1953 ^[12] (register of gardens) and which is classified as Grade I or Grade II*.	The Historic Buildings and Monuments Commission for England
p)	Development involving the carrying out of works or operations in the bed of or on the banks of a river or stream	The National Rivers Authority
q)	Development for the purpose of refining or storing mineral oils and their derivatives	The National Rivers Authority
r)	Development involving the use of land for the deposit of refuse or waste	The National Rivers Authority
s)	Development relating to the retention, treatment or disposal of sewage, trade-waste, slurry or sludge (other than the laying of sewers, the construction of pumphouses in a line of sewers, the construction of septic tanks and cesspools serving single	The National Rivers Authority

	dwellinghouses or single caravans or single buildings in which not more than ten people will normally reside, work or congregate, and works ancillary thereto)	
t)	Development relating to the use of land as a cemetery	The National Rivers Authority
u)	Development - (i) in or likely to affect a site of special scientific interest of which notification has been given, or has effect as if given, to the local planning authority by the Nature Conservancy Council for England or the Countryside Council for Wales, in accordance with section 28 of the Wildlife and Countryside Act 1981[13] (areas of special scientific interest); or (ii) within an area which has been notified to the local planning authority by the Nature Conservancy Council for England or the Countryside Council for Wales, and which is within two kilometres of a site of special scientific interest of which notification has been given or has effect as if given as aforesaid	The Council which gave, or is to be regarded as having given, the notice
v)	Development involving any land on which there is a theatre	The Theatres Trust
w)	Development which is not for agricultural purposes and is not in accordance with the provisions of a development plan and involves - (i) the loss of not less than 20 hectares of grades 1, 2 or 3a agricultural land which is for the time being used (or was last used) for agricultural purposes; or (ii) the loss of less than 20 hectares of grades 1, 2 or 3a agricultural land which is for the time being used (or was last used) for agricultural purposes, in circumstances in which the development is likely to lead to a further loss of agricultural land amounting cumulatively to 20 hectares or more	In England, the Minister of Agriculture, Fisheries and Food and, in Wales, the Secretary of State for Wales
x)	Development within 250 metres of land which - (i) is or has, at any time in the 30 years before the relevant application, been used for the deposit of refuse or waste; and (ii) has been notified to the local planning authority by the waste regulation authority for the purposes of this provision	The waste regulation authority concerned
y)	Development for the purposes of fish farming	The National Rivers Authority

(2) In the above table -

(a) in paragraph (d)(iv), "industrial process" means a process for or incidental to any of the following purposes -

(i) the making of any article or part of any article (including a ship or vessel, or a film, video or sound recording);

(ii) the altering, repairing, maintaining, ornamenting, finishing, cleaning, washing,

packing, canning, adapting for sale, breaking up or demolition of any article; or

(iii) the getting, dressing or treatment of minerals in the course of any trade or business other than agriculture, and other than a process carried out on land used as a mine or adjacent to and occupied together with a mine (and in this sub-paragraph, "mine" means any site on which mining operations are carried out);

(b) in paragraph (e)(ii), "network" and "operator" have the same meaning as in Part I of the Railways Act 1993^[14] (the provision of railway services);

(c) in paragraphs (f) and (g), "classified road" means a highway or proposed highway which -

(i) is a classified road or a principal road by virtue of section 12(1) of the Highways Act 1980^[15] (general provision as to principal and classified roads); or

(ii) is classified for the purposes of any enactment by the Secretary of State by virtue of section 12(3) of that Act;

(d) in paragraph (h), "concessionaire", "road subject to a concession" and "toll order" have the same meaning as in Part I of the New Roads and Street Works Act 1991^[16] (new roads in England and Wales);

(e) in paragraph (i), "street" has the same meaning as in section 48(1) of the New Roads and Street Works Act 1991 (streets, street works and undertakers), and "new street" includes a continuation of an existing street;

(f) in paragraph (m), "listed building" has the same meaning as in section 1 of the Planning (Listed Buildings and Conservation Areas) Act 1990^[17] (listing of buildings of special architectural or historic interest);

(g) in paragraph (n), "scheduled monument" has the same meaning as in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979^[18] (schedule of monuments);

(h) in paragraph (s), "slurry" means animal faeces and urine (whether or not water has been added for handling), and "caravan" has the same meaning as for the purposes of Part I of the Caravan Sites and Control of Development Act 1960^[19] (caravan sites);

(i) in paragraph (u), "site of special scientific interest" means land to which section 28(1) of the Wildlife and Countryside Act 1981^[20] (areas of special scientific interest) applies;

(j) in paragraph (v), "theatre" has the same meaning as in section 5 of the Theatres Trust Act 1976^[21] (interpretation); and

(k) in paragraph (x), "waste regulation authority" has the same meaning as in section 30(1) of the Environmental Protection Act 1990^[22] (authorities for purposes of Part II).

(3) The Secretary of State may give directions to a local planning authority requiring that authority to consult any person or body named in the directions, in any case or class of case specified in the directions.

(4) Where, by or under this article, a local planning authority are required to consult any person or body ("the consultee") before granting planning permission -

(a) they shall, unless an applicant has served a copy of an application for planning permission on the consultee, give notice of the application to the consultee; and

(b) they shall not determine the application until at least 14 days after the date on which notice is given under paragraph (a) or, if earlier, 14 days after the date of service of a copy of the application on the consultee by the applicant.

(5) The local planning authority shall, in determining the application, take into account any representations received from a consultee.

Appendix 3 (pdf copies of the protocols)