THE HOME BUILDERS FEDERATION

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

4th September 2008

Dear Ms Killian and Mr Pretty

PLANNING APPLICATIONS: a faster and more responsive system
A CALL FOR SOLUTIONS

Thank you for consulting the Home Builders Federation (HBF) in respect of your "call for solutions" to the issues surrounding the planning application system currently being addressed by your review.

The HBF has over 300 members who, between them, submit a considerable number of planning applications in the UK in any one year. While no specific breakdown has been made of official statistics we might estimate this to be approximately ¼ of all planning applications.

We have discussed the HBF response with various groups of our membership both at a national level and at regional meetings around England and Wales. This submission is, therefore, we hope, representative of the housebuilding industry as a whole. We are aware, however, that some of our members may be making their own submission to you in addition to these representations.

We have sought to address the 17 specific questions raised in the call for solutions below and have drawn out from them a number of specific recommendations for changes which we believe are solutions to the problems identified.

However, we have 3 general points we would like to make regarding the planning application process:

Home Builders Federation
1st Floor, Byron House, 7-9 St James's Street, London, SW1A 1DW
T: 0207 960 1600 F: 0207 960 1601 E: info@hbf.co.uk www.hbf.co.uk

The Planning Application Process Map

1. Many previous reviews of the planning system have resulted in incremental changes to processes and practices, introducing additional layers of complexity to an already complex process. Changes and processes previously introduced to ensure an efficient process (such as charging for planning applications) lose their original raison d'être and start to be abused in their own right leading to other changes being required to the process.

2. The diagram in Appendix B of the call for solutions, while laudably simple, hides the huge complexities behind each stage of the process. This too must be "mapped" in order to see how any change to the process, however small or large, will interact with the whole process. Although we recognise that such a map would be both complex and large (and have not attempted to produce one for our own submission), it would truly assist in any assessment of the actual impact of any of the Review recommendations.

3. Without reference to such a map there is considerable risk that any recommendations of the Review would risk, at best, introduce unintentional consequences which would themselves, as has happened so many times in the past, require a further review of other processes or, at worst, changes to random parts of the planning application process which, although in themselves may be laudable, will have little overall effect on the efficiency and/or effectiveness of the planning application process.

4. Such an approach would also assist in addressing another phenomenon; that of seeking to use the planning process to address many other competing, and often conflicting, policy initiatives. The most obvious example of this "policy creep" has been the taxation of development through Section 106 agreements. The original use of planning obligations has long been lost and has been overtaken by incremental change to practice (and policy). Many other social policy initiatives (equality, obesity, sustainability, climate change) are now frequently placed at the door of the planning decision makers adding to the complexity of the consideration of what should be fairly simple land use decisions.

An Adversarial Process?

5. It is anticipated that the Review team will receive a number of responses which advocate changes to the process which are made solely from the respondent's viewpoint rather than considering the best interests of the planning application process as a whole. While this submission has, of course, tried to keep such partisan suggestions to a minimum, this

demonstrates one of the fundamental problems of the planning process; that it is too adversarial. All too often the local planning authority is seen as a policeman or controller rather than a facilitator of development. The solution to this problem lies not with the process per se but with the attitudes and approaches of the people involved in the process. This is not a criticism solely of local authorities (elected members or professional officers) but of everyone involved in the process including applicants. Many “negotiations” and “discussions“ are merely statements of each party’s position with no desire or intention to achieve a beneficial outcome for everyone involved.

6. It is rare that decisions on planning applications are based on truly black and white policy issues. Most decisions are shades of grey, made “on balance” of the pros and cons of the development proposal. It should, therefore, be possible for both applicants and authorities to agree on principles and key issues to be addressed by applications. This could be achieved through the recently introduced pre application process (for which we have a number of suggestions to assist the effectiveness of this process) and/or planning delivery agreements the introduction of which we have been very supportive. Other proposals for increasing joint working should be fully explored in order to try to prevent the culture of “them” and “us” in the application process.

7. The planning application process should be about certainty rather than merely speed of decision making. It should be possible for a LPA to say “No” very quickly. Any protracted discussion or negotiation should be working towards a planning permission, not merely prolonging the wait for a refusal.

Process or Culture?

8. Our third general point is that while there is considerable evidence and anecdote that the planning applications process must be improved (and we would not wish to underplay the problems inherent within the system) there is also evidence that where LPAs or, more probably, individuals within the system who want to be helpful to applicants and facilitate development they appear to be able to do so almost despite the system. This suggests that many of the problems are not because of the system itself but are due to the poor operation of the system. This has been previously referred to as the “culture of planning” issue and has sought to be addressed through a plethora of government backed “culture change” initiatives over the years.

9. However, it would seem possible for people with the right culture – of positive planning – to operate in a positive way regardless of the system

itself. Although this fact should not stop them recommending system changes, the Review team should acknowledge this fundamental issue.

We now specifically address the questions in the Call for Solutions document and our specific recommendations for change.

Proportionality

Q1. How much scope is there for introducing a more proportionate and tiered way of dealing with development proposals of different scale and complexity?

In particular, what are the merits of developing an intermediate level of approach, between permitted development and full planning permission?

What are the main barriers to the introduction of such an approach, and how could they be overcome? How could increased complexity be avoided?

10. Recent changes to the requirement for information to be provided with planning applications (brought about by both national and European legislation) have increased the level of detail to be included with a planning application. A great deal more work (studies, design, layout etc) now has to be undertaken prior to an application being made. Indeed, many commentators have suggested that although it exists in name it is no longer possible to submit a simple outline application to establish the principle of a particular land use for a site. The amount of up-front investment in projects is now considered to be disproportional and the re-establishment of the concept of outline applications would be welcomed.

11. The potential to extend permitted development rights is already being discussed as part of other proposals by government. The aim is to reduce the number of applications in the system by allowing more minor development to be included within the definition of permitted development, thereby reducing the call on local planning authority resources. While this is supported in general terms it may have some unintended consequences on the housebuilding industry such as leading to more standardised housing design and layout (to maximise PD rights for purchasers) and will potentially draw more attention to the applications left in the planning application system from local communities, councillors and LPA officers. This may have the perverse consequence of introducing unnecessary delay and “tinkering” with these applications.

12. There is little point in having wider permitted development rights when these are routinely removed from new buildings on the granting of planning permission. Many such conditions are added to permissions with no real reasoning behind their purpose. Such poor practice should be discouraged.

RECOMMENDATION 1
The concept of Outline Planning applications should be reinstated through the review of information required for such applications.

RECOMMENDATION 2
Permitted development rights should be extended and the removal of such rights should be discouraged on planning permissions.

Q2. How can local planning authorities be encouraged to take up the opportunities offered by Local Development Orders to free up development from the need to obtain planning permission in local areas?

13. Local Development Orders were introduced in the 2004 Planning and Compulsory Purchase Act and allow LPAs to designate geographic areas in which specified types of development are effectively given permitted development rights. To date it is thought that no LPA has actually designated such an area. The only possible incentive to encourage the greater use of LDOs is considered to be financial reward. However, this too might lead to perverse outcomes with LDOs created that have little or no potential use or benefit but exist merely to receive additional funding from central government.

14. Housebuilders have experienced some benefits from the approach of design codes and masterplans under which subsequent applications are handled very efficiently. In effect such approaches are very similar to LDOs and the adoption of such approaches under the LDO powers is worth exploring further.

15. The allocation of sites in a development plan should, to all intents and purposes, be regarded as establishing the principle of development. Thus, it should be possible for a development brief to be both written and agreed for all allocated sites, thus removing the complexities of a detailed planning application to be submitted when the site comes forward for development.

16. This is also connected with the issue regarding outline applications referred to above. Outline applications could be used to establish development principles under which an LDO or development brief/design codes, could emerge.

RECOMMENDATION 3
Development plan allocations should be accompanied by development briefs and have the status of outline planning consent.

Q3. Different types of planning application require different skills. How can local planning authorities respond to the continuing skills and resources challenges efficiently? What scope is there for solutions such as sharing of resources/skills between local planning authorities?

17. There is considerable scope for better working between LPAs and applicants in terms of use of resources, particularly the commissioning of expert technical studies which are frequently not jointly agreed between the applicant and the LPA prior to the application being submitted. This wastes considerable time and money as many areas are repeated or substantially amended either as part of the application process or, more commonly, through the imposition of conditions on a planning permission requiring resubmission of a previous technical paper.

RECOMMENDATION 4
Pre application discussions should be specifically required to agree what evidence and studies should be submitted with an application (rather than using the current, standard list of additional information) and agree any specialist consultants to be used for such studies. Joint commissioning should also be encouraged.

Complexity

Q4. How can we ensure that all users of the system have access to the simple, customer-oriented information and guidance they need about how the process operates and what they need to do to put in an application that will satisfy the local authority?

18. The planning application system is, essentially, simple. If you want to undertake development you decide whether or not you need planning permission or if your development has permitted development rights. If an application is necessary you submit an application to the local planning authority who must determine your application. If the LPA refuse your application you have a right of appeal to the Secretary of State. If the LPA grants your permission you have the right to develop. Unfortunately 60 years of case law and precedent, accompanied by various subsequent changes to planning legislation has meant an incremental complication of each of these seemingly simple stages. Thus it is important to keep the simple process in our minds when seeking change rather than continuing to impose more and more incremental change on a system that is already teetering dangerously into unnecessary complexity. The HBF proposal for a “process map” would assist considerably when assessing any proposals for either this or any subsequent review of any part of the process.

19. While this might seem peripheral to housebuilders whose core business of building houses will inevitably require a planning application to be made there are many parts of the development process such as minor amendments to design or layout where there is considerable confusion over whether or not a further application has to be made imposes both time delays and costs on development projects.

RECOMMENDATION 5
A clear and universally agreed "process map" should be produced to allow any changes to the planning application process to be clearly placed in context of the whole system.

Q5. What measures can be taken to improve the quality of applications made by developers, agents and applicants?

Q6. How can the information required to support planning applications be made more proportionate, while at the same time maintaining a necessary degree of flexibility to accommodate specific circumstances? What are the key areas where changes to the scale and nature of information requirements need to made, and how might those changes be delivered?

20. These two questions were supposed to have been addressed by the changes to the requirements for validation of applications introduced in April 2008. However it is now clear that the new requirements have merely led to an increase in the submission of sometimes irrelevant material being submitted with planning applications merely to comply with the new validation requirements.

21. The definition of a high quality application is surely the starting point of this question. Such an application should have all of the relevant information necessary for the LPA to be able to determine the application. This will, inevitably, vary for each application and thus, beyond the minimum requirements as set out in the national list of requirements all additional information should be agreed with the LPA, either at a pre application discussion or as part of the planning application process. The necessary legislation already exists which allows LPAs to request any additional information they require to determine an application.

22. There will, inevitably, be a temptation for LPAs to suggest to the review team that application quality is proportional to the amount of information provided. This is definitely not the case. There is a move towards a "tick box" approach to determining planning applications rather than a professional and/or technical appraisal of the merits of the application itself. It should be remembered (from the simple model of the process described above) that it should be the right of anyone to be able to submit an application for any development proposal and that this should be determined by the LPA. It is, of course, the right of the LPA to refuse permission for any development as long as they give justifiable reasons for so doing.

23. The information required to be submitted with a planning application to ensure its validation was revised in April 2008. This has, unfortunately, increased, rather than decreased, the complexity and resource intensiveness of the application process. The level and content of the information to be submitted with an application should be part of the pre

application discussions with a LPA rather than set up as a default list for which some information is irrelevant to the determination of the application yet must be supplied in order to meet validation requirements.

RECOMMENDATION 6
The recent introduction of a "standard list" of information to be submitted with an application should be reversed and the process should be formally incorporated into pre application discussions.

Culture

Q7. What are the likely implications for the processing of applications of all sizes, from householder changes to proposals of strategic importance, of moving from a development control to a development management approach and how might they best be addressed?

24. There is considerable work being undertaken (by POSE for CLG) to seek to define the culture of development management. Most of the change needs to come from the type of development plans that are being produced. Many of these are seeking to introduce as many policies as the old style local plans, thereby having a policy by which to determine every application rather than by applying criteria based policies set out in a core strategy that identifies aims and objectives. Until the development plan process recognises the development management process this will not be reflected at the application processing stage.

RECOMMENDATION 7
The Review should acknowledge and reference the work currently being undertaken on moving towards a "development management" process.

Q8. How might the current approach to targets be improved to help deliver the right outcome (decision) most efficiently?

25. HBF has long argued that the targets for processing applications within a certain timetable are not appropriate and that targets should be based on outcomes AND timely decision making. Housing and Planning Delivery Grant might be useful as a measure of outcomes. However, in the current market it is understood that many LPAs are seeking to have the criteria redefined as they are claiming that they are not responsible for the failure of housing undersupply in the current harsh market environment.

26. One other possibility, known to be suggested by LPAs, is to redefine application processing targets to reflect the reality of the time taken to process them. However this is not supported since it would perpetuate poor performance.

27. One suggestion might be to formalise the old practice of LPAs agreeing an extended timetable for deciding an application with the applicant in

writing. Where agreement is reached and the new target met these statistics could be added to the performance score of the LPA.

RECOMMENDATION 8
Reassess the 8/13 week target to monitor the determination time for all planning applications. The targets should be average times thus allowing those applications which extend beyond the 8/13 period to affect the performance of LPAs rather than sending applications into a "no need to determine" pile.

RECOMMENDATION 9
Reintroduce the practice of formally extending the determination period in agreement with an applicant. Monitor the frequency of such occurrence and performance against the agreed new timetable.

Q8a How might the use of Planning Performance Agreements be further encouraged?

28. HBF has been very supportive of the process of PPAs having been involved in their conception and roll out through ATLAS (Advisory Team for Large Applications). Unfortunately experience to date has seen many examples where the actual process of setting up and agreeing the PPA has led to more delay than the process would save. Nevertheless, the use of a realistic timetable for the processing of applications (perhaps along the lines of the former process outlined above) is supported.

29. In effect, a pre application discussion could be seen as a simple PPA. Formalisation of the pre application discussion process (as recommended elsewhere), including the discussion being treated as a material consideration for decision making purposes, would increase the benefits of a PPA approach.

RECOMMENDATION 10
Formalise the pre application discussion process and treat outcomes of such decisions as material considerations in the decision making process.

Engagement

Q9. How can the involvement of statutory and non-statutory consultees in the planning application process be improved?

30. There is no doubt that many planning applications are delayed through late representations from statutory consultees such as the highways and the environment agency. Although legislation allows LPAs to make decisions on applications without such advice it is becoming much rarer to find such LPAs who are prepared to take such bold decisions. Most of the suggestions to date have involved setting statutory consultees targets for responding to requests (both at pre application and application stages).

However, although such targets have been passed down from central government there are no sanctions for poor performance.

31. One possibility might be the extension of the costs regime against 3rd parties such as statutory consultees. Unfortunately such a sanction would only be available through the appeal process and would do little to help the majority of applications which are held within the normal process awaiting statutory consultee responses before a decision will be made.

32. There is, of course, no doubt, that statutory consultees should be included in pre application discussions and PPAs. However, once again, there are no sanctions against their failure to comply with such requirements.

RECOMMENDATION 11
Statutory consultees should be treated in the same way as other consultees. Strict enforcement of the time period for consultation should be introduced alongside an extension of the time period to 30 days.

RECOMMENDATION 12
The involvement and advice (or otherwise) of statutory consultees at pre application stage should be a material consideration in the decision making process.

Q10. What do you consider to be best practice in the involvement of elected members in the planning application process? How could best practice be further encouraged?

33. The increasing politicisation of decision making on planning applications has been a long standing concern of HBF and its membership. Several iterations of central government guidance regarding the issue of probity and councillor involvement in the planning application process have failed to achieve either consistency across the country or greater engagement of elected members.

34. The key concern is that councillors insist that they must retain the right to refuse applications and that by collaborating with applicants over pre application discussions or as part of the application process this fetters their decision making role.

35. However, one of the definitions of a more efficient planning application process must recognise that it is certainty of decision outcome that is critical to such a process. Thus, the “right” to refuse an application is only available if the application does not meet policy objectives of a development plan. It is not at the whim of a councillor late in the process.

36. Any move towards development management will have to address the involvement of councillors in the whole application process since without it the decision making process will remain a lottery with many more fraught nights spent at planning committee meetings biting one’s lip while an elected representative raises ridiculous, non planning related issues upon

which the committee instructs professional officers to come up with reasons for refusal.

37. One radical suggestion would be to remove councillors from the decision making process. However, this is unlikely to gain political support for obvious reasons. The only alternative is, therefore, to involve them at all stages of the process and to seek ways of changing the culture surrounding the “right to refuse” when all parties work hard to submit an application that meets as many (often conflicting) policy objectives within the development plan.

38. Other previous suggestions have been along the lines of making councillors personally responsible for their decisions. However, the legal precedent of such a proposal suggests that this is inappropriate and might, perversely, result in less councillor engagement with applicants rather than more thus leading to greater uncertainty of decision.

39. There has been a large body of opinion advocating additional training for Councillors. While HBF would not discourage such suggestions it does not consider that this is the root of the problem. Councillors are given, and should respect, the advice of professional planners on planning applications. Unfortunately Councillors frequently over ride officer recommendations or defer decision making in order to elicit further objections to an application. There is no sanction against any Councillor making a purely political decision (ie: not based on planning principles) to refuse a planning application, leaving their professional officers to justify their decision with “planning reasons”. Such practice should not be condoned. All planning officers should make recommendations on all applications and any Councillor who wishes to change that recommendation should have to justify their decision (and be prepared to defend it at appeal if necessary).

RECOMMENDATION 13
Councillors must provide reasons for refusal of an application if it is against an officer’s recommendation for approval.

RECOMMENDATION 14
Officers must make a recommendation for approval or refusal to their committee on all applications.

RECOMMENDATION 15
The ability to defer applications from the committee to which they are presented (other than to a higher committee) should be removed.

Q11. How might community engagement in the planning application process be made more effective? What role is there for different forms of engagement, such as dispute resolution and stakeholder dialogue approaches, e.g. ‘Enquiry by Design’, in the planning application process? How might any changes needed be implemented?

40. Community engagement is often a misnomer used to describe the inproportionate weight given to minority or personal interests against a planning application proposal. It is easy for councillors who hear from 2 or 3 individuals speaking against a proposed development yet no one speaking for it to conclude that their community is united in their objection. This is frequently far from the truth with most local communities being, at worst, neutral about change or, more likely, assuming that the default of a planning application is that such permission will be granted and no letter of support is necessary. This is, after all, what most people expect about their own plans for change, whether for a rear extension or a new house in part of their garden.

41. Tools such as “Enquiry by Design” are useful where the decision that development will occur has been agreed and the discussion is about how such development will happen. Unfortunately many minority groups will continue to fight as a matter of principle against the development at all stages of its promotion; through the allocation in a development plan, at the planning application stage and again at the detailed design stage. The reintroduction of outline planning applications, establishing parameters of development would help considerably to differentiate matters of principle and detail within the planning application process.

42. The proposal for mediation to play a bigger part in the planning application process has been discussed over many years, particularly at appeals where the entire principle of development is reassessed as part of an appeal when there is considerable common ground between the LPA and the applicant. This arises because of the black and white nature of the appeal decision process. The LPA has only to win the appeal on one reason for refusal so inevitably includes as many reasons for refusal as possible in order to create as many chances of success as possible. This is particularly prevalent in cases that go to appeal after councillors have overturned an officer’s recommendation for approval based on a balancing of competing interests.

43. Greater mediation in the planning process would allow for issues to be agreed and only those where there was a difference of opinion would need to be discussed at mediation.

44. However, the whole mediation process starts from the basis of “getting to yes”. As described above, this is not the culture of many LPAs and certainly not many councillors. Mediation would be better suited to a planning application process which was fully inclusive, where the LPA and applicant (and interested 3rd parties) were all prepared to work together to achieve development. Without such an approach the role of mediation will continue to remain limited.

RECOMMENDATION 16
All applications should be considered to be supported by a community unless there is any evidence to the contrary.

RECOMMENDATION 17
The principle of development should not be readdressed on development plan allocated sites or sites with previous planning permissions.

RECOMMENDATION 18
Mediation should be explored as part of the pre application or planning performance agreement process rather than at appeal.

Process

Q12. How can the effectiveness of pre application discussions be improved in a way which improves the overall speed and quality of the process from start to finish?

45. HBF contributed to the work of the planning advisory service and the planning officers society resulting in the publication of "Constructive Talk". This guide to pre application discussion set out what was considered to be good practice for such discussions and placed expectations and responsibilities on both LPA and applicants in the pre application process.

46. One of the key areas needing to be addressed by pre application discussions is the consistency of advice given and the weight given to that advice in the decision making process. Thus, this issue too comes back to the unreasonable mantra that the LPA has a right to refuse any application. This should not be the case where applicants have acted on pre application advice to seek an acceptable solution yet for the application to be refused on a fundamental policy objection. Such issues should be identified at the beginning of the process. The decision to proceed, in the knowledge of such policy objections would then be at the applicants discretion (since it is always anyone's right to submit a planning application for determination by the LPA).

47. The use of pre application advice as a material consideration in the decision making process is to be suggested.

48. Charging for pre application advice is sporadic and uncontrolled. This must be addressed. In order to encourage such discussions (rather than such charges being a deterrent to applicants) HBF suggests that the charges are offset against the eventual planning application fee. If pre application discussions make the process of considering the application easier then less fee should be required. Thus the overall income to the LPA remains the same yet the incentive for pre application discussions is increased for both applicant and LPA.

RECOMMENDATION 19
The Review should endorse the advice given in "Constructive Talk"

RECOMMENDATION 20
Advice at pre application discussions should be a material consideration in decision making.

RECOMMENDATION 21
Charges for pre application discussions should be deducted from any subsequent planning application fee.

Q13. What would be the pros and cons of a change to allow local planning authorities to choose whether to advertise applications in a local newspaper? Are there other changes to the publicity process for applications which should be considered?

49. There must be few interested parties in planning applications who rely solely on the advertisements in local newspapers for information of when applications have been received. Other practices such as site notices, direct notification and the internet have, presumably, made this requirement redundant.

50. While electronic planning is beginning to be more consistent across local authorities there are still some significant differences. For example, some authorities do not include plans of applications available on line. Such consistency would allow for representations (both positive and negative) to be made more easily and efficiently.

RECOMMENDATION 22
The statutory requirement to advertise planning applications in a local newspaper should be removed.

RECOMMENDATION 23
Minimum standards and requirements for online advertisement and information provision should be set centrally by government.

Q14. What experiences have you had of electronic submission of applications? What more, if anything, could be done to further encourage the use of e-planning in practice?

51. Electronic submission of applications is frequently made more difficult by the amount of information which is often required as part of the application. Large applications therefore tend to be better dealt with in hard copy.

52. A considerable part of planning is the discussion of an application between two or more parties. To date, such discussions have not tended to be electronic. Indeed, no one has yet suggested that pre application advice could be given electronically yet this is, presumably, technically possible.

Q14a Are there other process improvements which could yield significant benefits for the efficient handling of applications?

53. The process by which LPAs handle applications varies around the country from authority to authority. This results in an inconsistency of both performance and efficiency, particularly for agents of applicants since there is uncertainty as to the type of information required and the format in which it should be presented. Both the 1APP project and the new validation requirements were expected to minimise such discrepancies. Unfortunately they have brought with them a whole new set of problems, many of which are referred to elsewhere in this submission.

54. Other working practices such as delegation of applications to officers, appointment of a development team to large, complex applications or privatisation of parts of the planning service have helped considerably in many LPAs but are not adopted universally. We are, of course, aware of both the Planning Advisory Service (PAS) through which such good practice is being disseminated and the excellent work undertaken by the Advisory Team for Large Applications (ATLAS) in respect of large applications.

55. HBF is, however, concerned over the current proposals to subsume what was originally intended (as a response to Kate Barker's proposal) as an independent advisory service being subsumed into other, existing government departments. In the case of PAS, the service has all but disappeared into the IDE&A and ATLAS is at risk of being smothered by English Partnerships (or the Housing and Communities Agency). The independence of both of these bodies is critical if they are to retain the trust and support of both public and private sector users of the planning process.

RECOMMENDATION 24
The 1APP project and validation process should be revisited in the light of experience gained from the first year of operation.

RECOMMENDATION 25
PAS and ATLAS should remain independent of their umbrella organisations in order to continue to provide a trusted and respected advisory service.

Q15. How can the process of negotiation of planning obligations be further improved?

56. HBF has, over the years, commented many times on the problems of such processes. The most obvious solutions are issues such as the concurrent drafting of the S106 agreement with the application processing and the use of standard agreements. The introduction of time limits on the negotiation process (with, perhaps, a default to a unilateral undertaking reflecting a local authority's standard agreement) would encourage faster processing of bespoke agreements.

57. HBF has been supportive of Community Infrastructure Levy primarily only if it's introduction replaces as much of the S106 process as possible.

RECOMMENDATION 26
Community Infrastructure Levy should replace as much of the S106 process as possible.

RECOMMENDATION 27
All local authorities should adopt standard S106 agreement clauses to allow the submission of unilateral undertakings by applicants.

Q16. How could the concerns about conditions be addressed? How can the discharge, enforcement and monitoring of conditions be improved?

58. The number of conditions on a planning permission has increased significantly since the introduction of e-planning and standardisation.

59. Unfortunately many such "standard" conditions frequently relate to the approval of matters which have been submitted with the application itself (such as boundary treatment, materials and landscaping scheme). Indeed, a great many of these issues are required as part of the new validity requirements. Thus, conditions should be limited solely to those issues that have not been considered as part of the submission of the application. If the LPA is unhappy with the details submitted as part of the application it can then, and only then, require different details to be submitted for approval (or, allow a minor change to be made to the application itself).

60. The above situation could, perhaps, be avoided if all conditions intending to be imposed on the permission were discussed and agreed with the applicant prior to making the decision. The applicant could then agree that the conditions were, indeed, necessary or could discuss with the planning officer how the issue had already been covered in the original application. While it is accepted that applicants have a right to appeal against any unfair conditions this route is unlikely to be taken for conditions which are merely unnecessary.

61. The discharge of conditions is an issue on which HBF has, many times, suggested should be dealt with through a default approval in 6 or 8 weeks. The introduction of a fee for this process (notwithstanding the lack of clarity with which the recent changes were introduced), worryingly makes the imposition of conditions a potentially lucrative business for LPAs. Thus its control through the suggestion above is critical to a more efficient application process.

RECOMMENDATION 28
All conditions to be agreed with applicants prior to issuing of decision.

RECOMMENDATION 29
Applications to discharge conditions should be deemed discharged automatically after 8 (or 12 to be consistent with the fee structure) weeks.

Any other issues

Q17. What other measures do you consider could improve the speed and responsiveness of the planning application process?

62. Many of the proposed solutions suggested above draw from experience of processes and procedures that have already been utilised at some previous stage of the evolution of the current planning application process.

63. What is needed is not further incremental change. That will merely add additional layers on an already overly complex process. The planning application process should be stripped back to its very bare bones with first principles applied to what is actually required to allow an application to be fairly and adequately considered so that a decision can be made upon it.

64. Whether this is called “culture change”, “development management” or any other buzz word of the day, it relies on one thing; the desire for a simple system and process to undertake what is, essentially, as set out in Appendix B, a very simple process.

We look forward to reading with interest your thoughts, conclusions and recommendations in due course and trust that the response to any recommendations is positive from all stakeholders in the planning process.

Yours sincerely

Andrew Whitaker
Head of Planning

Home Builders Federation
1st Floor, Byron House, 7-9 St James’s Street, London, SW1A 1DW
T: 0207 960 1600 F: 0207 960 1601 E: info@hbf.co.uk www.hbf.co.uk