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# Accelerated Planning System consultation: Response from the Open Spaces Society, April 2024

## Introduction

1. The Open Spaces Society (OSS) was founded in 1865 and is Britain's oldest national conservation body. It campaigns to protect common land, village greens, open spaces and public paths, and people's rights to enjoy them. OSS is a member of the [Better Planning Coalition](#) (BPC) and continues to lobby for a fair and transparent system that works for access and people, and addresses mitigation of climate change.
2. Current open space protections and policies relating to the disposal of open space in the planning system and in the proposed planning reforms are designed mainly to assist developers rather than to protect existing green space by allowing for disposal and mitigation that may not even be in the same neighbourhood. In the society's view the planning system must have the protection and creation of open space, and the need to provide opportunities for public recreation (including public rights of way), at the same level of priority as transport and other infrastructure requirements. The concern is that compression of planning applications will lead to the same problems now being experienced as a result of the expansion of permitted development rights and process.
3. The society's priorities for the government during this consultation process include:
  - improving the process to designate land as a local green space (LGS) and strengthening the protection to ensure that local open spaces, so vital during the lockdown restrictions, are not vulnerable to development;
  - developing pro-active measures to equalise open space provision for all;
  - delivering a more accessible neighbourhood-planning regime;
  - ensuring that the use of any accelerated planning system, including permitted development rights, and permission in principle, will not result in more development affecting public rights of way;

4. In order to create sustainable communities there needs to be a fully accountable and functioning planning system, which delivers multiple benefits such as open spaces, public rights of way, access to nature, and mitigation of climate change. Delays in the planning process can cause problems to all parties involved in the process. The consultation admits that delays are most often due to missing or inadequate information and the time taken to negotiate section 106 agreements. In addition, the government has recognised that local planning authorities (LPAs) do not have the necessary resources and skills and that this results in delays.
5. Para.36: Further research should be carried out to find out why compliance with targets is falling. Much of the consultation is predicated on an assumption that LPAs 'must do better', but little evidence-base information is included about why they do not. There is a likelihood of yet further LPA functions being arrogated to the Planning Inspectorate. But the society's experience is that the inspectorate's performance on countryside casework is severely affected by the focus of resources on planning functions. These proposals will inevitably make things worse. We suggest the introduction of statutory performance targets for the inspectorate's countryside casework.
6. The proposals in this consultation (an Accelerated Planning Service, to limit and in some cases remove the use of extension of time agreements, and to remove the ability for representations in a simplified appeals process) do not appear to tackle any of the existing problems that cause delays in the planning system.

The proposals will not lead to faster planning decisions being made and will adversely affect the quality of such decisions by restricting the time and requirements for environmental assessments and advice from statutory consultees.

#### **Responses to questions: 1,2,3,4,5,7,9,10,12,19,20,23,24,26**

##### **Question 1. Do you agree with the proposal for an Accelerated Planning Service?**

7. We disagree with the proposal to create an Accelerated Planning Service because it will impact the resources of LPAs and statutory consultees. In addition it will not deal with the existing delays (as admitted in the consultation) in the planning system.
8. The government should be addressing the causes of delays in the planning system and providing LPAs with sufficient resources so that they can deliver an efficient planning process.

##### **Question 2. Do you agree with the initial scope of applications proposed for the Accelerated Planning Service (Non-EIA major commercial development)?**

9. If an Accelerated Planning Service is created, we agree that the scope should be limited, and that EIA development should be excluded. It should be made clear that land designated as SSSI should be excluded.

##### **Question 3. Do you consider there is scope for EIA development also to benefit from an Accelerated Planning Service?**

10. No, we do not believe there is scope for EIA development to be included. EIA is not applied to most planning applications and where it is required the issues are complex and require proper consideration in accordance with current requirements.

##### **Question 4. Do you agree with the proposed exclusions from the Accelerated Planning Service – applications subject to Habitat Regulations Assessment, within the curtilage or area of listed buildings and other designated heritage assets,**

## **Scheduled Monuments and World Heritage Sites, and applications for retrospective development or minerals and waste development?**

11. We agree with the proposed exemptions, for the same reasons as set out in the consultation. Land designated as SSSI should also be excluded.

### **Question 5. Do you agree that the Accelerated Planning Service should:**

- a) have an accelerated 10-week statutory time limit for the determination of eligible applications
  - b) encourage pre-application engagement
  - c) encourage notification of statutory consultees before the application is made
12. It is not clear how LPAs adhere to the 10-week deadline if applicants fail to respond promptly to queries or requests for site visits. It is all very well the application being admitted as complete, so that the clock starts running, but what if Natural England, or the highways authority, or Environment Agency, delay in providing a response, or need more information to respond? Does the decision go ahead without them? The government is to prioritise such applications among statutory consultees (para.19), which will result in them having even fewer resources for everything else.
13. Para.17: 'This would require local planning authorities to...convene planning committees on time.' Ten weeks is not long. If the planning committee meets on a four-week cycle, that could shorten the decision-making period to just over six weeks or require the committee to schedule additional meeting dates. Members are largely unpaid volunteers. Are they expected to give up numbers of additional days (off work?) or evenings to decide 10-week applications?
14. Para.21: 'An additional flat fee would maintain our principle of nationally-set fees to ensure consistency across all LPAs, although as each application is different we recognise it may not achieve full cost recovery in every case.' So, for some LPAs, particularly those in the south-east, nationally-appointed fee rates will not (contrary to para. 20) 'cover the additional resourcing costs'. Those LPAs will remain under-funded for the function but obliged to deliver anyway.
15. Para.24: What does this mean?: 'An extension of time would not affect any potential refunds.' Does that mean an agreed extension of time would nevertheless require a refund if the 10-week deadline were not met? Apparently, it does: see para.25. Why is this, it seems unacceptable?
16. If an Accelerated Planning Service is introduced, pre-application engagement should be not just encouraged, but should be made mandatory. Making pre-application engagement mandatory may help incentivise applicants to engage and pay for the LPA's pre-application services, particularly if they are guaranteed a fee refund through the Accelerated Planning Service.

### **Question 7. Do you consider that the refund of the planning fee should be:**

- a. the whole fee at 10 weeks if the 10-week timeline is not met
- b. the premium part of the fee at 10 weeks if the 10-week timeline is not met, and the remainder of the fee at 13 weeks
- c. 50% of the whole fee at 10 weeks if the 10-week timeline is not met, and the remainder of the fee at 13 weeks
- d. none of the above (please specify an alternative option)

e. don't know

**Please give your reasons.**

17. We do not agree with the proposal to refund the planning fee for applications through the proposed Accelerated Planning Service, if the 10-week timeline is not met.

18. Para.24: What does this mean?: 'An extension of time would not affect any potential refunds.' Does that mean an agreed extension of time would nevertheless require a refund if the 10-week deadline were not met? Apparently, it does: see para.25. Why is this, it seems unacceptable, particularly given the current under funding of LPAs?

**Question 9. Do you consider that the Accelerated Planning Service could be extended to:**

a. major infrastructure development

b. major residential development

19. The proposed Accelerated Planning Service should not be extended to other types of development.

**Question 10. Do you prefer:**

a. the discretionary option (which provides a choice for applicants between an Accelerated Planning Service or a standard planning application route)

b. the mandatory option (which provides a single Accelerated Planning Service for all applications within a given definition)

c. neither

d. don't know

20. Para.31: in option 2, why would there be no additional statutory information requirements? It says about option 2 in para.31, 'the quality of applications could vary, some may still have complex issues to resolve, and there is less opportunity for the applicant and local planning authority to agree to pause the application while further information is being asked for or an issue is being resolved.' Why wouldn't these defects apply even if application were optional? Please address this concern.

*Planning performance and extension of time agreements*

**Question 12. Do you agree with the introduction of a new performance measure for speed of decision-making for major and non-major applications based on the proportion of decisions made within the statutory time limit only?**

21. There is a likelihood of yet further LPA functions being arrogated to the Planning Inspectorate. But the society's experience is that the inspectorate's performance on countryside casework is severely affected by the focus of resources on planning functions. These proposals will inevitably make things worse. We suggest the introduction of statutory performance targets for the inspectorate's countryside casework.

22. Introducing a new performance measure will not help to tackle any of the existing causes of delays in the planning system.

**Question 19. What is your view on the use of repeat extension of time agreements for the same application? Is this something that should be prohibited?**

23. The use of repeat extension of time agreements for the same application should not be prohibited.
24. Complex applications may benefit from an extension time agreement in order that all the issues can be addressed.

*Simplified process for planning written representation appeals*

**Question 20. Do you agree with the proposals for the simplified written representation appeal route?**

25. No, we do not agree with the proposals for the simplified written representation appeal route, in all cases, especially where it removes the ability to make representations or submit additional evidence for the appeal parties and for other interested parties.

**Question 23. Would you raise any concern about removing the ability for additional representations, including those of third parties, to be made during the appeal stage on cases that would follow the simplified written representations procedure?**

26. Yes, we are very concerned about this proposal to remove the ability for additional representation, including those of third parties, to be made during the appeal stage in cases that use the simplified written representations procedure.

**Question 24. Do you agree that there should be an option for written representation appeals to be determined under the current (non-simplified) process in cases where the Planning Inspectorate considers that the simplified process is not appropriate?**

27. If the simplified process is introduced, removing the possibility of making written representations, then yes, we agree that there should be an option for written representation appeals to be determined under the current (non-simplified) process.

*Varying and overlapping planning permissions*

**Question 26. Do you agree that guidance should encourage clearer descriptors of development for planning permissions and section 73B to become the route to make general variations to planning permissions (rather than section 73)?**

28. We disagree that section 73B, a simplified process for making changes to existing permissions, should become the typical route to make general variations to planning permissions (rather than section 73).
29. Changes to existing permissions can have significant effects, for instance on public rights of way and access to and provision of open space.

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