By email only

Accelerated Planning System Consultation
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Department for Levelling Up, Housing and Communities
2 Marsham Street
London
SW1P 4DF

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AcceleratedPlanningConsultation@levellingup.gov.uk

Dear Sir / Madam

Re: Accelerated Planning System Consultation

I am writing on behalf of the London Property Alliance to response to the Accelerated Planning Service consultation.

London Property Alliance is the umbrella organisation comprising the Westminster Property Association and the City Property Association, you can view our membership list here and here. Together, our 420 corporate members comprise property owners, investors, developers and advisors active within the Cities of London and Westminster. A copy of our current membership list is attached to this letter. Given the diverse mixed use nature of central London, our members are often delivering large scale, high value and complex commercially-led developments, alongside housing proposals, and therefore have considerable experience of the timing and resourcing challenges relating to applications for commercial development to which this consultation relates.

We are therefore grateful for the opportunity to comment. We have set out some general observations below, and then responded where relevant to the questions set out in the consultation.

General observations

In broad terms, we support proposals that will accelerate the speed with which planning applications are determined, whilst improving consistency and certainty of decision making, including through supporting the planning system with additional resourcing. In that context, we welcome the sentiment underpinning the proposals although we do have some concerns that, if not appropriately designed, the proposals could lead to unintended consequences that could add to, rather than detract from the delays and uncertainties of the current system.

In our members' experience the growing range and complexity of issues with which the planning system is being expected to deal with is a significant contributor to the challenges with which local authorities are faced in determining applications quickly. These issues include, for example, fire safety, bio diversity net gain, more detailed local flooding issues, embodied carbon, affordable housing and viability.

Often, these issues manifest themselves within policies that vary across local authority areas whilst also being affected by changing regional and national policy and decision-making.

The requirements for the planning system to deal with these issues are not, however, being matched by a commensurate increase in resources to evaluate and advise on these issues, which are adding considerably complexity to the process of balancing issues and reaching planning judgements, even

when technical information has been evaluated. They also involve the participation of an ever-wider range of statutory and non-statutory consultees.

As a result, whilst we would welcome measures that would lead to accelerated outcomes for commercial development, our members' experience is that reaching rational, evidence-based judgements on complex planning issues within a ten-week period may frequently not be possible.

We would be very pleased to work to work with partners to develop a system that could do this, but we consider this would need to involve consideration of the range of issues involved in planning policy, and decision making, and the approaches of statutory and internal consultees.

We would not support proposals that could potentially lead to resourcing being lost from local authority planning departments where decisions cannot be made in a set time period because of the complexity of the issues we have described.

We are also concerned that an overly restrictive approach on the use of extensions of time, submission of updated information, and changes to PPA target dates can produce unintended consequences and lead to procedural inflexibility on behalf of local authorities who may become reluctant to accept alterations or enter negotiations where circumstances mean that this is necessary. This can lead to outcomes that on the face of it, appear faster, but actually lead to greater delays because of the repeated need to either withdraw and resubmit proposals, or undertake all engagement through an informal pre-application process to avoid the procedural inflexibility of the application determination route.

The way in which applications **not** following this route are treated should also be considered, as, again, there is a potential for unintended consequences if, in prioritising applications following the accelerated process, determination of these applications becomes more challenging. The continuing role of PPAs should also be considered as part of this.

Relationship with Mayoral referral arrangements

In the context of central London, further consideration would need to be given to the integration of this system with the referral arrangements for applications of Potential Strategic Importance to the Mayor of London. This requires:

1. An initial "Stage 1" response from the Mayor six weeks after submission of an application; and
2. A two-week period between the Mayor being notified of the local authority's proposed decision and the issue of his / her decision on whether to call the application in for her / his own consideration ("Stage 2").

This process would not fit within the ten-week period, when the need to respond to the Mayor's Stage 1 comments, make a decision in principle on the application and, generally, reach an agreed draft on the s106 legal agreement prior to Stage 2 is considered.

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Consultation questions

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

Yes. In principle, and subject to the reservations we have set out regarding the potential for unintended consequences, and the difficulties of actually achieving planning decisions within this period. We do not consider the proposed 10-week period is practical.

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

Yes, in principle insofar as they relate to major non-EIA development, but we consider that routes for improving application determination that prove effective should also be applied to EIA development in due course. We also consider non-EIA residential development could be considered by the same route.

The arrangements should be clear that commercial development eligible for the Accelerated Planning Service route is not restricted to Class E, but includes Class B, Class C1 (hotels) and other commercial sui generis uses such as theatres and diplomatic uses.

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

Yes. See answer to Question 4.

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?

No. We do not consider such sites should be exempt from proposals that are developed, especially sites involving listed buildings. As set out above, the challenge in implementing this proposal will be the levels of complexity raised by major planning applications, listed buildings will be one consideration amongst many and proposals should be designed to be able to deal with the types of issues raised by listed buildings within the time period.

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

We consider that the service should have an ambitious target timescale, but we are not persuaded that 10 weeks is necessarily currently practical. We would suggest seeking to determine applications within the target determination period (ie, 13 weeks) as a priority, with early and constructive participation from statutory consultees.

b) Encourage pre-application engagement

Yes

c) Encourage notification of statutory consultees before the application is made

Yes, although this should go further. There should be routes for effective and meaningful pre-application engagement with relevant consultees with the objective of addressing issues of concern before they arise.

Question 6. Do you consider that the fee for Accelerated Planning Service applications should be a percentage uplift on the existing planning application fee?

Yes. We recognise that an increase in fees will be appropriate, but it is vital that the additional fee income secured is ringfenced and allocated to support additional capacity resourcing in planning departments. There should be a requirement for transparency on the collection and use of additional resourcing.

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)**

We suggest that a refund of the premium element of the fee only at the point that the accelerated determination period is exceeded, noting our comments above regarding the feasibility of the proposed 10-week window.

We would **not** support further alterations to the arrangements for refunds of the principal part of the fee, noting the importance securing fee income for local authorities, including certainty and consistency in projected income over budgeting periods.

e. **Don't know**

Question 8. Do you have views about how statutory consultees can best support the Accelerated Planning Service?

As noted above, active engagement both during the determination period and in pre-application discussions would be essential for an accelerated programme.

We have noted in our introductory comments the need to reconcile the Accelerated Planning Service with the Stage 1 / Stage 2 call in arrangements of the Mayor of London.

We also consider there may be a role for consultees to be deemed to be 'content' with proposals if they do not respond within a set period on an application, without the ability to submit late comments. However, this would need to be carefully considered and could require legislation to be given effect and avoid the procedural risks that could otherwise arise.

It may be appropriate consider whether an element of the increased fee should be allocated to support statutory consultees' response.

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

a. **Major infrastructure development**

Don't Know

b. **Major residential development**

Yes. We suggest a similar timeframe to commercial development. This should not be restricted to conventional C3 residential, but include other forms of residential development.

c. **Any other development**

Don't know

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**

At this stage, we would suggest that applicants, and local authorities, are given the option of a discretionary service which involves higher fees. However, it should not be mandatory for risk that the accelerated timescales prove challenging to deliver and the system essentially simply leads to an increase in up-front application fees, which then need to be reclaimed, adding administrative complexity, and potentially creating incentives for local authorities to refuse applications quickly to avoid fee refunds.

Performance measures (questions 12-16)

LPA has no view on the performance measures used for designating local authorities for improvement, the timescales over which these measures should be evaluated, and the associated questions regarding transitional arrangements (Questions 12-16).

Extension of time agreements (questions 18, 19)

LPA has no view on the use of extension of time agreements for householder applications (question 18)

For other larger or more complex applications we believe there is a role for the continued use of extension of time agreements, for example to allow for additional time for the negotiation of s106 agreements. However, this must be by the genuine mutual agreement of both the local authority and the applicant to allow productive joint working on application to continue under a mutually agreed timetable. It should be open to the applicant to decline to agree an extension of time where it feels that the circumstances do not warrant it. We suggest that circumstances where an application is

summarily refused in order to remain within the target determination period where an EOT has not been agreed could be considered when assessing cost decisions on appeal.

Appeal procedures (questions 20-25)

LPA has no comment on the questions relating to alterations to appeal procedures (questions 20 to 25).

Section 73B and overlapping planning permissions

LPA has no specific comment on the questions relating to the implementation of s73B as provided for in the Levelling Up and Regeneration Act.

It would welcome the introduction of secondary legislation to allow this provision to be used. It agrees that, at least initially, this should run alongside the continued use of s73, which would be possible if the use of approved plans conditions was retained.

As a general observation we emphasise the importance of providing some guidance on the definition of "substantial difference"; we appreciate that this is subjective but this topic goes to the heart of the effectiveness of the new system.

In particular, and in our experience, we suggest it is essential that s73B allow for the addition (or potentially removal) of uses to or from the mix of uses permitted in the original application. This is because occupier trends, especially in complex urban areas, can change rapidly and it is important that developments can be responsive to such changing requirements whilst they are being built. At present, introducing additional uses into developments, or changing the mix of uses away from that set out in the description of development, can be unnecessarily challenging and can lead to unnecessary delays in the occupation of units following the completion of developments.

Conclusion

We trust that these comments are helpful. We are committed to working with local authorities to support them in ensuring that planning applications can be determined swiftly and consistently. We recognise the particular challenges that this can pose in complex urban environments and consider flexibility needs to be retained to allow for appropriate time and resourcing for decision-making and to avoid the risk of unintended consequences inadvertently affecting behaviour.

If it would be useful to discuss the content of this letter further, please do not hesitate to contact me.

Yours sincerely,

Charles Begley
Chief Executive, London Property Alliance