

*The Householder Development
Consents Review*

Appendix 1

Making the System More Proportionate

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Making the System More Proportionate

A research study undertaken for the ODPM
by Les Sparks and Emrys Jones

July 2006

On 5th May 2006 the responsibilities of the Office of the Deputy Prime Minister (ODPM) transferred to the Department for Communities and Local Government (DCLG)

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Preface

A principal objective of the Householder Development Consents Review has been to examine whether existing regimes are proportionate to what they need to regulate. As a first step to answering this question it was necessary for the Steering Group to obtain a more complete understanding of the types of development that householders most commonly undertake and where the impacts of such developments most commonly occur.

The Householder Development Consents Review commissioned Les Sparks and Emrys Jones, two ex City Planning Officers from Birmingham City Council to examine householder developments in different parts of England and to describe the issues that they typically raise. As a Second Stage of this work Sparks and Jones were then asked to consider the implications of their research for designing a better regulatory regime.

This is Sparks and Jones's report to the Review. Formally, it forms an appendix to the main report but it is published in web-based format only.

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STAGE 1

Understanding the Range of Impacts of Developments by Householders

1. Objectives of the research

- 1.1. This study focuses only on developments undertaken by householders for residential purposes. The main objective of this research is to define the range of impacts of different householder developments on neighbours and on the wider public.
- 1.2. Having examined a range of impacts, the study then develops an impact framework and demonstrates how it might correspond to different types of development and how its application would relate to different contexts including, for example, conservation areas and green belts. The study also looks at economic and social factors, including the patterns within areas of high housing demand and within minority ethnic communities. It also addresses the potential cumulative impact of different types of householder development.
- 1.3. This study is Stage 1 out of the four stages that, together, comprise the Householder Development Consents Review (HDCR), being undertaken by the ODPM. The overall purposes behind the HDCR are set out in the following background to the study.

2. Background to the study

- 2.1. The latest ODPM statistics record 334,000 decisions made on householder developments in 2003/04, comprising 54% of all planning decisions. The number of planning applications from householders has been growing at a much faster rate than all other planning applications in recent years, and appeals against refused householder applications have almost doubled since 2000.
- 2.2. Against the background of this phenomenal growth in householder developments, the underlying purposes behind the HDCR is to examine the requirements of the regulatory regimes for minor developments by householders (house extensions, fencing ancillary buildings, tree felling and pruning, etc), and make recommendations on:
 - whether the extent of existing control systems is proportionate to the need to safeguard the public interest and consistent with the Government's better regulation agenda;

- whether existing control systems are best designed to meet the requirements of all interested parties;
- whether it is practicable to redefine the boundaries of control to remove the need for specific consents to be granted in order to reduce the regulatory and resource burden they entail;
- where it is recommended that specific consents should remain, consider the scope for:
 - combining consent regimes (such as planning consent, conservation area consent and building regulation approval) and how this might best be implemented;
 - changing processes and procedures with a particular view to enabling Local Authorities to make better use of their resources;
 - mediation between neighbours;
 - making the consent regimes easier to use by applicants and parties affected by development;
 - making greater use of other service providers in processing applications and the extent to which this would free up public sector resources;
 - transferring functions to more local bodies, in the spirit of new localism.
- how to present proposals for reform and the measures, which could be taken to address any concerns (eg over neighbour extensions).

3. Methodology

- 3.1. A key element of the Review was to identify and better understand the range of householder developments taking place across the country and then to attempt to define and categorise the associated impacts. Since both the nature of householder development and the impact it may have will vary according to the type and character of the dwellinghouse involved it was agreed that the analysis should be based upon a range of different housing typologies representative of, and accounting for, the majority of the country's housing stock. The selected typologies are set out in Table 1. It must be stressed that these typologies have been used for analysis purposes only; there is no suggestion that they should form the basis of any future system of control.
- 3.2. Another potential influence on the type of householder development and the impact that it may have is context. Here 7 key contextual factors were identified. The next stage of the analysis was to identify a representative sample of local planning authorities (reflecting location, type and size) each of which was characterised by at least 2 of the selected housing typologies and different contextual factors. A spread of authorities across the country was used in order to take account of any possible regional variations. Tables 2 and 3 show matrices of the selected local planning authorities by house type assessed and by contexts considered

- 3.3. A series of visits and interviews then took place with each of the selected local planning authorities. These were carried out on the basis of an explanation of the purpose of the HDCR being given in advance and a request that each authority attempt to identify 2 wards characterised by the specific house types and make available for discussion a sample of typical householder applications. This would provide an understanding of the range of proposals being submitted, enable the issues they raise – for applicants, neighbours and the authority – to be discussed and the impacts that they may have to be assessed. The views of the selected local planning authorities were also sought on the attraction and practicality of a more proportionate impact based regime and general issues such as the current General Permitted Development Order (GPDO) and whether Tree Preservation Orders created any specific issues in terms of householder development. Those authorities interviewed are thanked for the response and assistance they provided within what was a very short timescale.
- 3.4. An examination was also undertaken of the Planning Inspectorate’s decisions on 185 appeals submitted by householders in the eight local authority areas that were determined during the 2004 calendar year. The Inspector’s decisions were analysed in terms of the impacts described for different types of development.
- 3.5. Following this research, an impacts framework was drawn up that identifies four distinct levels of impact arising from householder developments.
- 3.6. The range of typical householder developments were then classified into a number of categories, and for each of these, the typical impacts were identified. These impacts were reassessed according to different contexts, including Conservation Areas, Green Belts and for listed buildings. This exercise was designed to explore the robustness of an impact-based system.
- 3.7. Finally, initial suggestions were made as to how the impact-based system might relate to a proportionate control regime. This is to be the subject of detailed examination in Stage 2 of the HDCR – “Making the System more Proportionate”.

Table 1 Housing Typologies	
1 Nineteenth Century Artisan terraces	high density urban bylaw housing on narrow frontages with very limited front curtilage, typically two storey
2 Planned Model Settlements	(e.g. Bourneville, Hampstead Garden Suburb) low/medium density estates with formal layout and/or architectural features, well landscaped with trees/hedges; changes often constrained by leases or covenants and/or estate management controls.
3 Inter War Suburban Private Estates	low/medium density semi detached and detached houses, typically on generous plots with deep front gardens.
4 'Executive' homes	small developments of large detached houses at low density, often individually designed on not less than half-acre plots, irregular layouts and well-treed settings.
5 Post War Public Sector Estates	medium density municipal and new town housing developments, frequently to Radburn layouts, now in mixed ownership through 'right-to-buy purchases.
6 Post War Private Sector Suburban Estates	volume built, detached, semi and linked detached housing at medium density, frequently with open plan layouts, limited rear gardens, generous parking; sometimes with permitted development rights removed by planning conditions.
7 Post PPG3 Urban Style Developments	high density mixed developments, usually three storey, small plots, normally terraced, minimal front curtilage, often with permitted development rights removed.
8 Rural Housing	Smaller scale, varied plot sizes and informal layouts in open countryside.

Table 2 Local Authority/Housing Typology Matrix								
Local Authority	1	2	3	4	5	6	7	8
Birmingham	*	*	*	*	*	*	*	
LB Harrow			*	*				
Leeds	*						*	
Swindon						*		
Telford					*	*		
Oldham	*							*
West Dorset		*						*
Bath	*	*						
PINS	*	*	*	*	*	*	*	*

Table 3 Local Authority/Context Matrix							
Local Authority	High demand	Low demand	Conservation	Green belt AONB	Ethnicity	Urban/rural	Industrial towns
Birmingham			*		*		*
Harrow	*		*	*			
Leeds					*		*
Swindon							*
Telford						*	
Oldham		*		*	*	*	*
W.Dorset	*		*	*		*	
Bath	*		*	*			

4. The Local Authority Survey

- 4.1. The 8 authorities interviewed were unanimous in their view that the current GPDO was in urgent need of reform. All referred to problems regarding its complexity, definitions, scope for different interpretations and, on occasion, unintended consequences. The objectives of the HDCR were therefore fully supported with there being a clear desire for a system that was simpler – particularly for householders – and one that would reduce the increasing burden of work that local planning authorities were facing. However it was emphasised that this must not be at the expense of relaxing essential safeguards against inappropriate development that could lead to a reduction in environmental quality. Some authorities were strongly opposed to any significant further deregulation pointing out that, in some areas, tighter controls were required. There appeared to be little appetite for Local Development Orders as currently proposed. Tree Preservation Orders were not perceived by any authority as creating significant issues. The impact of any householder development on a protected tree was clearly a material consideration that needed to be properly assessed. However, other than in terms of updating the requirements for consultation, no authority was pressing for any change in the existing legislation.
- 4.2. Most authorities acknowledged the potential of a more proportionate control regime based upon an impact approach. Some emphasised that the role of planning was to control and regulate development in the public interest not to protect private interests. Recognition of the difference between the public realm and private interests may therefore provide a way forward. However there was uncertainty over how such a system could be implemented and what mechanisms would be required to make it work (albeit reluctant references were made to prior notification and the Party Wall Act). There was a clear consensus that the impact of any householder development was related to its context, size and position within a curtilage, particularly its relationship to boundaries.
- 4.3. All authorities highlighted the increasing pressure they were under from the ever rising numbers of householder applications being submitted, enquiries as to whether consent is required or not and, in the case of Harrow, applications for Lawful Development

Certificates. Approval rates for householder applications were high, varying between 80% and 93% with impressive figures being achieved for performance with 8 weeks. To achieve these levels of performance most authorities had significant levels of delegation and operated dedicated householder/fast track teams often staffed by trainees or non-professionals.

- 4.4. Surprisingly not all authorities had adopted house extension design guides or operated simple codes (45°/3 metre) to help assess impacts particularly in terms of loss of light. Of those that did have design guides several acknowledged that they were in urgent need of updating. The use of Article 4 Directions (to remove permitted development rights) was relatively limited and confined to conservation areas although several authorities did remove permitted rights by condition on new high density schemes.
- 4.5. In terms of the contextual factors identified, areas of high housing demand exhibited even greater pressures for house extensions since house prices meant that often the only way for many families to obtain more accommodation was to extend. (Indeed in Harrow the high prices of larger homes had led to a 'buy to extend' practice). The buoyant housing market in these areas virtually guaranteed that any investment in an extension would be recovered. Conservation matters and Green Belt/Area of Outstanding Natural Beauty (AONB) locations clearly raised specific and important issues addressed in the next section. There were also significant issues associated with ethnicity. Asian communities in particular are based upon the extended family and, in any house, require 2 separate downstairs rooms. However such communities are largely located (although this is now starting to change) within the inner areas of our towns and cities that are characterised by cheaper and smaller houses, often terraces. There are therefore pressures to add large extensions to properties that are not easily extendable, resulting in higher rates of refusal. This is a significant issue in Birmingham.
- 4.6. Two final issues that emerged were the importance of topography and the problems associated with student housing. Wider topographical changes make even rear extensions, particularly dormers, far more prominent and visible whilst changes of level within a plot or between adjoining plots can significantly increase neighbour impacts. Student housing, where concentrated within specific localities in a town or city, can create a range of problems for the indigenous community. The fact that no consent is required for up to 6 students sharing a dwellinghouse means that no control can be exercised to achieve greater dispersion. Local communities in such areas, in both Leeds and Birmingham, are particularly concerned about proposals to extend dwellinghouses since the extension could be used to facilitate the property's occupation by students and thus add to the existing concentration.
- 4.7. As explained above, the analysis of the range of different householder developments and an assessment of their associated impacts were undertaken on the basis 8 housing stock typologies and 7 contextual factors. There is no suggestion that any resulting system of control should reflect these categorisations, although the existing GPDO does provide specific restrictions for terraced dwellinghouses and dwellinghouses located in conservation areas and AONB's. However for the purposes of this research the findings obtained are recorded against each of the 8 specific house types

4.8. NINETEENTH CENTURY ARTISAN TERRACES

- 4.8.1. This house type – notwithstanding its age – still accounts for a significant proportion of the national housing stock. Although defined as high density urban, bylaw housing on narrow frontages with a very limited front curtilage (often none) and typically 2 storey there is a variation across the country. For instance in the North such terraces may often comprise relatively modest 2 storey houses with shallow pitched roofs and a very small yard occupied in part by a projecting single storey ‘outrigger’ extension and possibly other outbuildings. In many cases there may be a vehicular access road at the rear. In Birmingham such house types tend to be slightly larger (possibly 2_ storeys) with in some cases a 2 storey projecting outrigger extension at the rear, a longer yard or garden beyond which there is normally only a narrow pedestrian alley.
- 4.8.2. In Birmingham, Leeds and Oldham the wards characterized by this house type are also characterized by large black and minority ethnic communities. The consequent combination of large families and small houses leads to significant pressures to extend (indeed in Birmingham and Oldham all sampled applications had been submitted by Asian applicants). However due to their restricted dimensions and restricted plot, such terraced house types have limited opportunity for extension; only upwards in the form of loft conversions/dormer extensions or backwards in the form of an extension (mainly single storey) to the existing outrigger. The latter involve both potential neighbour impacts (loss of light, possible overlooking) and a reduction in the size of the yard sometimes leaving a property with virtually no private amenity space. Notwithstanding these concerns, provided of an appropriate scale and design, relatively pragmatic decisions tend to be taken in recognition of the constraints of this house type. Such decisions are helped by the fact that with the existing compact and tight relationships between dwellings neighbours are more tolerant and accepting of potential impacts. All three authorities would resist Infilling between an existing outrigger and the boundary and excessively high extensions.
- 4.8.3. Dormer extensions tend to be more problematic especially where proposed at the front. Key design considerations are to ensure that the dormer is not too large and hence out of proportion, that it is well contained within the roof and impact on the street scene/appearance of the rest of the terrace. Overlooking is not normally considered a significant issue in view of the existing tight relationship between dwellings. Where out of scale, unduly prominent or where no adjacent properties have been similarly extended consent would normally be refused. In Bath, due to its hilly topography, the visual impact of both front and rear dormers can be significant and warrant refusal particularly in view of the city’s conservation sensitivities. Other forms of extensions or alterations to these types of houses, where these are possible, tend to be dealt with on their individual merits having regard to the character of the terrace of which they form part.

4.9. PLANNED MODEL SETTLEMENTS

- 4.9.1. This housing typology is defined as low/medium density estates with a formal layout and/or architectural features, well landscaped with trees/hedges. Two contrasting examples were assessed – leafy Bournville developed at a relatively low density by George Cadbury in the early twentieth century and Poundbury, the Prince of Wales’ recent attempt to create a traditional village with a compact, high density form and a mix of uses and tenures. What is common to both is the fact that controls other than planning – and both more restrictive and more rigorously enforced – are exercised

through covenants and managed by the Bournville Village Trust and Duchy of Cornwall respectively. The nature of both places also means that there is an element of 'buy-in' by the majority of residents both to the design concept and, in the case of Bournville, its conservation status which further helps protect their inherent quality and character. The conservation status of Bournville, exemplified by its 'garden village' layout and consistency of architecture and domestic detailing, is reinforced by an Article 4 (2) Direction, which restricts a range of permitted development rights. A design guide, jointly produced by Birmingham City Council and Bournville Village Trust, provides clear advice on the range of alterations and extensions that will be permitted and detailed guidance on the design criteria that need to be followed. Similar design guidance produced by the Duchy of Cornwall exists for Poundbury.

- 4.9.2. The contrasting nature of these two planned settlements is reflected in the types of householder development that occurs in each although, due to the newness of Poundbury, it is probably too soon to draw any firm conclusions. Bournville, a far more established and mature area, exhibits a wide range of different types of extension and alteration, the most common being single storey rear extensions followed by 2 storey rear and single storey side extensions. The key issue is the impact that any development would have on the street scene and the character and appearance of the conservation area. Side extensions therefore need to be set back from the front elevation, and be set in at least 1 metre from the side boundary and designed to be subordinate and to reflect the existing vernacular. Similar design criteria apply to rear extensions; conservatories need to be timber with a simple design. Neighbour impacts are assessed on the basis of the Council's 45° code. This together with the adopted design guide and conservation area character area appraisal are the key considerations in determining planning applications. Extensive consultations also take place between the City Council and the Trust. The Article 4 Direction has been successful in controlling unsympathetic window alterations, the removal of walls and hedges and the formation of hardstandings.
- 4.9.3. The very compact, high density and highly permeable form of Poundbury means that there is limited opportunity for extension. Most dwellings are terraced and are built to back of footpath with relatively small rear gardens. Permitted development rights are therefore generally limited to 50 cubic metres. The typical proposals that have emerged to date tend to be rear extensions, predominantly conservatories. Here the policy of both the Duchy and the District Council is only to permit those with a simple design i.e. 'lean to' roof and constructed in timber. The impacts of such extensions, since they are at the rear, are mainly on immediate neighbours, e.g. effect on light. However the prevalence of rear accessways and garage courts, which also serve as public routes, means that there can be a street scene impact but one mitigated to a large extent by existing walls and fences.

4.10. INTER-WAR SUBURBAN PRIVATE ESTATES

- 4.10.1. The UK is typified by its suburban development much of which was constructed during the interwar years. Such estates typically comprise low to medium density semi detached and detached houses, usually on quite generous plots with deep front gardens and well-treed roads often with grass verges. They have a distinct British character and some, due to their particular quality, may even have conservation status. Even where this is not the case their mature, treed character is something which residents value. Harrow and Birmingham were selected as two authorities containing large examples of this type of housing.

- 4.10.2. In both sample authorities this particular house type was associated with the whole range of different forms of householder development. However, the most common were single storey rear extensions, (including conservatories), 2 storey side extensions, single storey side extensions and porches and other types of front extensions. Both Birmingham and Harrow have design guidance for house extensions and both operate a 45° Code to assess impacts on neighbouring properties in terms of loss of light. These Codes provided the main basis for dealing with rear extensions; conflict would normally lead to consent being refused. Two storey side extensions tended to be more problematical in view of their range of impacts – both on neighbours (in terms of possible loss of light and overlooking) and the street scene particularly the ‘terracing’ effect. Inter war estates are characterised by the rhythm established by a consistent spacing between houses, the symmetry of pairs of semi-detached houses, clear and well established building lines and a general uniformity in proportions, scale and materials. The design guidance of both authorities stresses these qualities and requires, for 2 storey side extensions, that they be clearly subordinate to the original dwelling house and either ‘setback/set down’ (i.e. front wall set back from the main elevation, roof set down from the main ridge) to reduce the terracing effect or the maintenance of a visible gap on the boundary. Both authorities also required designs that reflect the existing dwelling and matching materials. In this way streetscene impacts were normally deemed acceptable. Similar considerations were applied to front extensions.
- 4.10.3. A particular concern highlighted by both authorities (and others) was the erosion of the character of these suburbs by the uncontrolled removal of front boundaries (walls, hedges, fences) and the replacement of front gardens with parking forecourts (often associated with the conversion of the existing, too small garage into additional living accommodation). Action was suggested to bring such ‘public realm’ works within the scope of planning control.

4.11. EXECUTIVE HOMES

- 4.11.1. This house type was defined for the purposes of study as individual, or small developments of, large detached houses built at low density, often individually designed on not less than half acre plots, with irregular layouts and well treed settings. By their nature ‘executive homes’, will often be on the outskirts of towns and cities, sometimes within the Green Belt. Again Birmingham and Harrow were identified for examples of this housing type.
- 4.11.2. Most forms of householder development could be associated with this house type but something more unique was the covered swimming pool, normally in the form of a large single extension to the side and/or rear. Other forms of single storey extensions were common, (including freestanding structures in the rear garden) as were 2 storey extensions. All extensions tended to be large, reflecting both the affluence of the owners and the spaciousness of the plots. Indeed because of plot size and the fact that both the original house and the extension were normally sited away from boundaries, generally extensions to this type of house rarely had any neighbour impact. For similar reasons – front curtilages are normally deep and well treed – streetscene impacts, even for front extensions, were normally not significant. The standard design considerations were used in both authorities but due to the individual design of many of these types of houses, greater flexibility was possible in the design of extensions. However where located within the Green Belt – or in a conservation area in the case of Birmingham – other considerations came into play such as impact on views/openness/character/

appearance. Size, location, visibility, quality and sensitivity of design, impact on trees and screening became key issues in these circumstances.

4.12. POST WAR PUBLIC SECTOR ESTATES

- 4.12.1. A large part of the country's housing stock has been built by the public sector since the Second World War as part of slum clearance programmes, comprehensive redevelopment and town expansion or new town schemes. Under the right to buy legislation many dwellinghouses are now privately owned with their owners seeking to extend or alter in some other way to distinguish their properties from those still publicly owned. Typically such estates are medium density – a mixture of terraced and semi detached houses possibly with pockets of high density/high rise flats – in either traditional or 'Radburn-type' layouts. The latter can mean that even small rear extensions require planning consent. Birmingham and Telford were selected as the two sample authorities.
- 4.12.2. Such estates – reflecting their mixed ownership – generate less pressure for householder development. Nevertheless as in the case of other types of owner occupied dwellings, the demand for additional space still occurs. The nature of the proposals coming forward tends to relate to the type of property involved – semi detached or terraced – with the most common being rear conservatories and 2 storey side extensions. Restricted plot size can raise neighbour impact issues for rear extensions – addressed through the 45°/3metre codes – whilst in 'Radburn-type' layouts there can also be streetscene issues that require appropriate designs. 2 storey side extensions raise the same issues for this house type as they do for inter-war suburbs. Indeed the point was made by one responding authority that the layout of some post-war municipal estates could be very similar to inter-war suburbs providing a well planned, treed appearance and relatively spacious plots. Conversely the higher density 'Radburn' layouts created a range of difficulties due to their limited plot size and separation with any 'open plan' character often being under pressure from proposals for garden extensions and resiting of walls and fences.

4.13. POST-WAR PRIVATE SECTOR SUBURBAN ESTATES

- 4.13.1. This housing type, which accounts for a significant proportion of the country's housing stock, is defined as volume-built 2 storey, detached, semi detached and linked detached housing at medium density, frequently with open plan layouts, limited rear gardens and generous parking standards and highway provision. In many cases it is likely that permitted development rights would have been removed by a condition attached to the original planning consent. Birmingham, Swindon and Telford were selected as typical sample authorities.
- 4.13.2. The most common types of extension to these types of property were 2 storey side extensions, single storey rear extensions and conservatories. The 2 storey side extensions, sometimes combined with forward extensions, often raised significant streetscene issues, not least in terms of potential terracing. Both Birmingham and Swindon have adopted house extension design guides which provides specific advice on this and, as for inter-war housing, requires an extension to be subordinate to the existing house with either a 'set back/set down' or the retention of a visible gap on the boundary. Such proposals for linked detached houses also raise party wall issues and can lead to strong objections on loss of value grounds. In Swindon some 30% of

applications for this type of extension are refused. Single storey rear extensions and conservatories, due to the restricted size of rear gardens, often create immediate neighbour impacts. However the various 45°/3m codes operated by the authorities interviewed seek to achieve the necessary balance between preventing any undue loss of light and allowing householders a reasonable opportunity to extend.

- 4.13.3. Another frequent development associated with this house type on open plan estates are proposals to re-site fences and to enlarge gardens by the incorporation of adjoining areas of amenity land to provide a larger enclosed private space. Clearly such proposals can have significant streetscene implications and, although planning permission is always required, these do create problems for the authorities involved.

4.14. POST-PPG3 URBAN STYLE DEVELOPMENTS

- 4.14.1. PPG3 when it was published in March 2000 set out a new sustainable direction for the delivery of housing giving greater priority to the re-use of previously developed land, the promotion of higher densities and the creation of more mixed communities. This housing typology therefore refers to developments that respond to this policy directive – high density mixed development, often in very urban, possibly town/city centre, locations, characterised by at least 3 storey, normally terraced units, small plots and minimal front curtilages. In most instances it is likely that permitted development rights would have been removed. Birmingham and Leeds were selected as sample authorities.
- 4.14.2. A clear problem with this specific house type is that there are not that many schemes that have been occupied long enough for householders to be coming forward with proposals to extend. Furthermore in such schemes the high density, limited plot size and high incidence of apartments mean that there is limited opportunity for extension and that the type of extension may have to be more unconventional. One example from Leeds was a second floor extension on a part 3 storey part 2 storey town house in a development of houses and apartments set within an irregular layout. The proposed extension had a significant impact on both adjoining dwellings and, by reason of its location, scale and appearance, on the streetscene and the design concept for the whole development. It was therefore refused. As with other forms of high density development, e.g. nineteenth century terraces and Poundbury, extensions to this type of property will not be easy and will generally be restricted to either some form of dormer extension/loft conversion or a single storey rear extensions.

4.15. RURAL HOUSING

- 4.15.1. This category is the most diverse and most difficult to define since it embraces the whole range of housing within our countryside – from small terraced cottages to large detached dwellings in spacious grounds. It is therefore typified by a variety of plot sizes, informal layouts generally, but not exclusively, in open settings which may be green belt, special landscape areas or areas of outstanding natural beauty (AONB). Houses could also be listed or, where within a village, fall within a conservation area. The selected authorities were Oldham and West Dorset although several other authorities also had relevant comments.
- 4.15.2. With such a diverse range of housing types it is not surprising that the study identified examples of the majority of the different householder developments with 2 storey side

and rear extensions and single storey rear extensions again being most prevalent. Impacts were very much dependent upon location and house type – for a small terraced cottage on a small plot within a village neighbour impacts would be critical whilst for larger dwellings in the open countryside potential impacts upon openness, views and landscape quality were identified as the significant issues. Both authorities – and several others – had policies that sought to prevent disproportionate extensions, i.e. in terms of the size of the original dwelling house. Considerable attention was also focussed on the quality of design, particularly scale, proportions and materials both in terms of the character and distinctiveness of the original dwelling and the wider landscape. A surprising issue that did emerge was the concern expressed by both Telford and West Dorset that the extension of small rural dwellings, whilst possibly acceptable in physical planning terms, was contributing to a reduction in the local stock of affordable housing. Neither authority was sure how this concern could be addressed but with the pressure, particularly in West Dorset, from people retiring to the country and for second homes it was becoming a critical issue.

4.16. CONCLUSION

4.16.1. The analysis of different types of householder development by housetype with the assistance of a range of local planning authorities has proved useful. The nature of the original house does to a larger extent determine the type of extension possible, illustrated most clearly for terraced houses where single storey rear extensions and dormer extensions are clearly predominant. For all semi detached and detached houses single storey rear extensions (including conservatories) and 2 storey side extensions are most common. Where householders are seeking to provide additional bedroom accommodation the 2 storey side extension (including an extension above an existing side garage) would appear the most practical and effective and, where well designed, the most appropriate way to obtain the extra space. Table 4 shows the type of extension/alteration most commonly associated with each of the selected housing typologies.

Table 4								
Housing Typology *	1	2	3	4	5	6	7	8
Development Type								
Dormer extension	***	*	**	*	*	**	*	*
2 storey side		*	***	***	**	***	*	**
2 storey rear	*	**	**	**	*	**	*	**
Single storey side			**	**	*	**		*
Single storey rear	***	***	***	***	*	***	**	**
Conservatory		*	**	*	**	***		*
Front extensions	*		**	**	*	**		*
Porches		*	**	*	*	**		*
Freestanding structure at rear			*	*		*		*
Walls and fences			**	*	*	*		
Garden Extensions						*		

*Refer to Table 1 for housing typologies

- 4.16.2. The issues raised by these different types of householder development – and the various impacts that they may have – again vary according to the house type involved. Without question the most critical factors are nature of the existing house, size of plot and size and position of extension relative to plot boundaries and adjacent houses. Within medium to high density layouts plot sizes will be small with existing dwellings built up to boundaries and tight, compact layouts; low density housing will generally have more spacious plots and greater separation between adjoining dwellings. The comments expressed by neighbours endorse this view. Concerns on the grounds of overlooking, loss of light, overshadowing, overbearing impact, encroachment, disruptions and loss of value are directly related to the proximity and visibility of an extension. All such issues will be assessed by planners along with functional and aesthetic considerations such as design, scale, proportions, massing, detailing, materials; and how these relate to the appearance and liveability of the existing dwelling and the character of the streetscene and area generally. Here contextual factors notably conservation or tree issues, special area designations, topography and site levels together with other matters such as previous planning history and policy guidelines will also be addressed. However ultimately the decision as to whether planning consent should be granted will be a question of balance – weighing the needs of a householder to extend against the need to protect the amenities of adjoining occupiers and aesthetic considerations. Pragmatic judgements have to be made; 45°/3 metre codes assist in terms of assessing potential loss of light; design guidance ensures that extensions relate well to the existing house and the streetscene. However regard will also be paid to whether there are any similar extensions nearby and, in some cases, what could be done without consent as permitted development.
- 4.16.3. In summary the analysis, therefore does suggest that different types of extensions do have different impacts. For example single storey rear extensions will generally only affect (due to loss of light) one, or possibly two, neighbours. Two storey rear extensions may in addition affect other adjoining properties due to increased overlooking as could also be the case with rear dormers. Only where there is a roadway at the rear or the extension would be unduly prominent due to topography, would there be a wider visual impact. Two storey side extensions on the other hand may affect an immediate neighbour (loss of light and/or overlooking) and also have a streetscene impact due, for instance, potential terracing. Significant contextual factors clearly introduce further issues that will also need to be properly addressed. However, on this basis, there does appear to be a sound rationale and real merit in an impact based framework for householder development. The approach certainly rings a chord with some of the planners interviewed who believed there to be a clear distinction between public realm and private realm impacts and emphasised that the role of planning was to regulate and control development in the public interest, not to protect private interests.
- 4.16.4. Finally, reference must be made to the issue of ethnicity and the particular demands this creates for extensions and other types of householder developments. The prevalence of large and extended family units, particularly amongst the Asian communities, can lead to proposals for overlarge extensions often on relatively small terraced houses. In many instances pragmatic decisions are taken reflecting both needs and constraints. However figures for Birmingham reveal higher than average rate of refusal for ethnic applicants indicating that there is an issue here that needs to be addressed.

5. Planning Appeals

- 5.1. The clarity of planning inspectors' reasoning together with their precise examination of the impacts of householder proposals and their judgements on whether these are acceptable or unacceptable, provide valuable data for the HDCR.
- 5.2. All decisions determined during the 2004 calendar year into appeals lodged by householders in the eight local authority areas have been studied and analysed. This amounted to 185 appeal decisions.
- 5.3. The Planning Inspectorate dismissed 73.24% of these householder appeals. This is significantly above the average rate of dismissal for all appeals, probably indicating that householders have a more limited understanding of the planning process and the criteria upon which planning decisions rest. In the case of each dismissal studied for this report, the reasons for refusal were analysed in terms of the impacts that the inspector judged to be unacceptable.
- 5.4. The appellants' proposed developments were classified into 16 categories. Analysing the reasons for refusal has made it possible to identify the critical impacts appertaining to each of these 16 categories of development.
- 5.5. These appeal decisions have not been analysed by housing typologies for two reasons. If the cases had been confined to the particular house types selected from each of the eight planning authorities, the sample size would have been too small. Secondly, examining appeal decisions across the full range of house types within the eight LPA areas gives a more comprehensive understanding and helps to eliminate local factors particular to a specific ward.
- 5.6. The 16 categories of householder development were:
 - Alterations to fenestration (within an area covered by an Article 4 direction).
 - Radio antennae and satellite dishes.
 - single storey rear extensions (including conservatories).
 - boundary walls/fences separating adjoining properties.
 - freestanding structures within rear gardens.
 - two storey rear extensions, including the addition of a first floor to an existing single storey rear extension.
 - conversion of flat roofs into roof terraces, and the addition of first floor balconies.
 - raised timber decking in rear gardens.
 - Single storey extensions and free standing structures (including garages) to the side of the house.
 - two storey side extensions, including the addition of 1st floor rooms over an existing single storey side extension.

- single storey front extensions, including porches.
- two storey front extensions.
- enlargement of existing roof, including the addition of dormer windows, etc.
- perimeter walls or fences to the front or side of property adjoining or fully visible from the public highway.
- creation of new vehicular access, including dropped kerbs, and remodelling ground levels to provide an accessible parking area, alterations to boundary walls, creation of hardstandings and forecourts, etc.
- conversion of bungalow to two storey house on same footprint.

5.7. In many of the appeals the development proposal involved a combination of these elements.

5.8. Impacts were examined in terms of:

- impact on the host property, including effects on its architectural appearance or garden area.
- impact on adjoining owners in terms of overshadowing, loss of privacy or outlook.
- impact on the 'streetscene'.
- impact on road safety.
- impact on conservation areas, the Green Belt and Areas of Outstanding Natural Beauty.
- impact on the open landscape.
- impact on local housing mix.

(This applied to 2 cases in Leeds where the inspector supported the Council's policy to resist extensions to houses in areas where there was judged to be an excessive student population).

5.9. The categories of development that featured most frequently in these appeals, their respective success rates, and adverse impacts leading to dismissal were as follows:

5.9.1. TWO STOREY SIDE EXTENSIONS:

There were 55 cases representing 30% of the appeals with 31% of them succeeding. The main reasons for dismissing appeals were impacts on the street scene (given as a reason in 86% of cases), impact on adjoining owners (57% of cases) and an adverse effect on the appearance of the host property (50% of cases). Many of the appeals referred to the extension of a semi-detached house sideways over its garage, with the consequential impact on the street scene involving an actual or potential terracing effect, particularly as the cumulative result of a number of such developments.

5.9.2. SINGLE STOREY REAR EXTENSIONS INCLUDING CONSERVATORIES

There were 33 cases representing 18% of the appeals, of which 35% were successful. Of those that were dismissed, in 85% of the cases the reason given was the impact on adjoining owners. In dismissing these cases, inspectors generally supported SPG provided by LPAs to regulate the size of rear extensions. Thus, permission was refused for extensions that exceeded the length or height limits set out by the planning authorities, or that breached a 45-degree code protecting daylight and outlook from adjoining windows.

5.9.3. ENLARGEMENT OF ROOFS

There were 27 cases representing 15% of the appeals. The success rate was a below average 22%. In every case, the effect on the street scene was given as a reason for dismissal. A further reason in 57% of dismissals was the effect on the appearance of the host property. In only 14% of these cases was an adverse impact on neighbours given as a reason for dismissal.

5.9.4. SINGLE STOREY FRONT EXTENSIONS

There were 18 cases, just fewer than 10% of the appeals. The outcomes in terms of success rates (22%) and reasons for dismissal (100% the street scene, 57% affect on host property, and 7% affect on neighbours) were almost identical to the outcome for roof enlargements.

5.10. CONCLUSIONS

- 5.10.1. Not surprisingly, this analysis of appeal decisions broadly reflects the findings of the local authority survey, both in terms of the prevalence of extension type and the key issues assessed and ultimately forming the basis of the decision. The only difference would appear to be the greater weight given and overt references made to the impact of an extension on the appearance of the host property.

6. The Range of Impacts

- 6.1. From the study of casework in the eight local authorities, it has been possible to identify four distinct levels of impact that can arise from householder developments. These are: impacts on the host property; impacts on adjoining properties; impacts on the street scene; impacts on the wider community. The following definitions are proposed.

6.1.1. LEVEL 1

The lowest level of impact affects only the host property and the living conditions of its occupants.

6.1.2. LEVEL 2

The second level of impact affects the living conditions of people occupying adjoining properties. These impacts may take the form of overlooking and loss of privacy, overshadowing and loss of daylight, an overbearing presence causing a loss of aspect or openness, and noise disturbance leading to loss of peace and tranquillity. All these impacts may be perceived to affect the monetary value of adjoining properties, although loss of financial value is not regarded as a planning consideration. These impacts are most commonly felt by 'next door' properties sharing the same street frontage and side boundaries. However, they can also affect owners whose properties back on to the property undergoing development.

6.1.3. LEVEL 3

Level 3 impacts affect the immediate street scene, particularly having regard to its character and appearance. Proposals that are visually discordant will have adverse impacts, particularly where the street scene is distinguished by some ordering principles such as the scale, massing, orientation, materials or form of the buildings, or the openness of the layout or means of enclosure of the gardens. The significance of Level 3 impacts is not confined to Conservation Areas but applies to any street whose character or appearance are appreciated by its residents.

6.1.4. LEVEL 4

These impacts apply over a much wider area and affect interests of importance that extend beyond the immediate street scene. They may compromise the integrity of designated areas such as Conservation Areas, Special Landscape Areas and Areas of Outstanding Natural Beauty, or impact on the openness of Green Belts. Any proposal that affects the character or appearance of a listed building will have a Level 4 impact since historic buildings are protected for the benefit of the whole community. There may also be Level 4 impacts affecting social considerations such as the overall composition of the housing stock and occupancy patterns, or consequences for highway safety affecting the passing public.

- 6.2. This impact framework allows for the recognition of 'cumulative impacts' that arise when a number of small developments have a collective effect well beyond their individual consequences. For example, in an area where there is a problem with storm water drainage capacity, a large number of concrete hardstandings for car-parking could aggravate the problem to the disadvantage of the community at large. In such circumstances, a development that might otherwise have a level 3 impact (because of its effect on the streetscene) would be reassessed as a level 4 impact. Similarly, where there is a lack of affordable housing in a rural community, frequent house extensions might reduce the number and availability of smaller properties for local first-time buyers. Therefore small extensions that might otherwise be regarded as having a level 1 or 2 impact, could be classed as level 4 within that locality.

- 6.3. The impact of a proposal may also vary according to the context. For example, a large house extension in an ‘ordinary’ street of no special character may only have a level 2 impact as a result of its affect on living conditions in an adjoining property. However, if it was a listed building, or situated in the green belt where it might effect the openness of the setting, the same sized extension might well have a level 4 impact. Table 5 illustrates this principle.

Table 5 An indication of how the level of impact may vary with context

Development Type	Level of Impact			
	1	2	3	4
Internal/garage conversion				
Rear dormer				
Front dormer				
Single storey rear				
2 storey side				
Front extension				
Freestanding at rear				
Front/side boundary				

Key	
	Standard
	Listed building
	Green Belt

Note: Cross-hatching indicates possible Level 2 impact if extension close to party boundary.

7. Categories of householder development and their impacts

- 7.1. Based on the research into casework and planning appeals in the eight local authority areas, developments carried out by householders have been classified into 5 broad categories and a number of sub-categories. For each of these categories and sub-categories the impact levels have been assessed using the 4 levels of definition drawn up in the “The Range of Impacts” paper.

7.2. CATEGORY 1: ALTERATIONS TO THE EXTERNAL APPEARANCE OF THE PROPERTY

- 7.2.1. Alterations affecting the external appearance of a house without altering its volume would include changes to roofing materials (including the introduction within the roof slope of roof lights or photovoltaic cells), to external walls including painting over stone or brickwork or the addition of cladding materials, the enclosure of open porches, and the enlargement or replacement of doors and windows involving the substitution of different materials e.g. upvc for timber. It would also include the conversion of an attached garage or other storage room into living accommodation, and the attachment to the dwelling of equipment for energy generation or communications purposes.

Impacts

Generally these are at Level 1, but Level 3 when changes affect the integrity of a homogeneous street scene where a consistent range of external materials or style of fenestration is locally valued. Within conservation areas and in the case of listed buildings such changes concern the wider community and become Level 4 impacts.

7.3. CATEGORY 2: ERECTION OF FREESTANDING STRUCTURES

- 7.3.1. **(2a)** The erection of freestanding structures, including garages, sheds, animal shelters, summerhouses, workshops and games rooms, wind turbines, antennae and satellite dishes and the construction of swimming pools and raised decking within rear gardens, subject to relationships with the plot size and proximity of boundaries.

Impacts

Subject to these relationships being within defined limits, these structures will not adversely affect the living conditions of adjoining owners and will therefore have Level 1 impacts only. Beyond these limits they may affect living conditions in adjoining properties and will have Level 2 impacts. However, structures in conservation areas or within the curtilage of listed buildings may affect the setting of the building or the character or appearance of the area, causing a Level 4 impact.

- 7.3.2. **(2b)** Freestanding structures to the side or front of the property where they are visible from the public realm, or in rear gardens served by a vehicular rear access.

Impacts

In these positions, freestanding structures would affect the street scene (Level 3 impacts) whilst within conservation areas, AONB's etc, and alongside listed buildings there would be Level 4 impacts.

7.4. CATEGORY 3: BOUNDARY ENCLOSURES

- 7.4.1. **(3a)** The construction of boundary walls and fences between the rear gardens of adjoining properties.

Impacts

The impact would be on occupants of those adjoining properties, i.e. Level 2.

- 7.4.2. **(3b)** The construction, alteration or demolition of boundary walls and fences to the front of properties and to the rear or side of the property when screening or defining its curtilage from the public highway.

Impacts

These walls and fences form part of the streetscene and have Level 3 impacts, but become Level 4 within designated areas and when enclosing listed buildings.

7.5. CATEGORY 4: HOUSE EXTENSIONS

- 7.5.1. **(4a)** Extensions to the rear of properties, including roof extensions, subject to relationships to the plot size and proximity of boundaries

Impacts

Where these relationships are within defined limits, impacts will be at Level 1. Beyond these limits there may be Level 2 impacts affecting adjoining owners. In the case of listed buildings and conservation areas there will be Level 4 impacts.

- 7.5.2. **(4b)** Any extensions to the side and front of the house and additions to its height, including alterations to the roof involving dormer windows and similar roof additions to front or side roof slopes.

Impacts

These extensions and additions can all affect the streetscene and therefore have Level 3 impacts. In designated areas and Green Belts, and as additions to listed buildings, these become Level 4 impacts.

7.6. CATEGORY 5: ACCESS AND PARKING

- 7.6.1. **(5a)** Provision of gates within boundary enclosures, crossovers and driveways to provide access for parking within rear gardens.

Impacts

These works are unlikely to affect neighbours or the streetscene and are limited to Level 1 impacts, except on corner plots where there may be Level 3 impacts.

- 7.6.2. **(5b)** Works involving the removal or alteration of boundary walls and fences for the creation of parking forecourts, and the alteration of ground levels involving retaining walls, embankments, etc. to create access and parking space.

Impacts

These proposals can have significant affects on the streetscene and therefore involve Level 3 impacts. In the case of designated areas and listed buildings these may be at Level 4. Within areas subject to surface water drainage capacity problems, hardstandings may have level 4 impacts.

- 7.6.3. **(5c)** Works required, including crossovers, to create access for parking purposes from defined highways.

Impacts

These proposals can affect road safety and therefore involve Level 4 impacts.

8. Proportionate consent regimes

- 8.1. The distinctions in levels of impact set out in the impact framework may provide the basis for a corresponding range of consent regimes, for example:

Level 1 no consent required

Level 2 formal agreement with adjoining owners

Level 3 planning control that may be based on a simplified process for householders, and/or delegated where suitable and accountable organisations exist, e.g. Parish or Town Councils, or established estate management bodies such as Bourneville Village Trust.

Level 4 full statutory controls with no scope for delegation

- 8.2. This subject is explored in Stage 2. The impact framework approach, and its potential as the basis for a different way of managing householder development consents, was examined by experts from a variety of relevant backgrounds at a seminar conducted by the ODPM. The overall conclusion from the seminar was that the approach was well worth pursuing.

STAGE 2

Proposals for the Better Regulation of Householder Developments

1. The Objectives of the HDCR

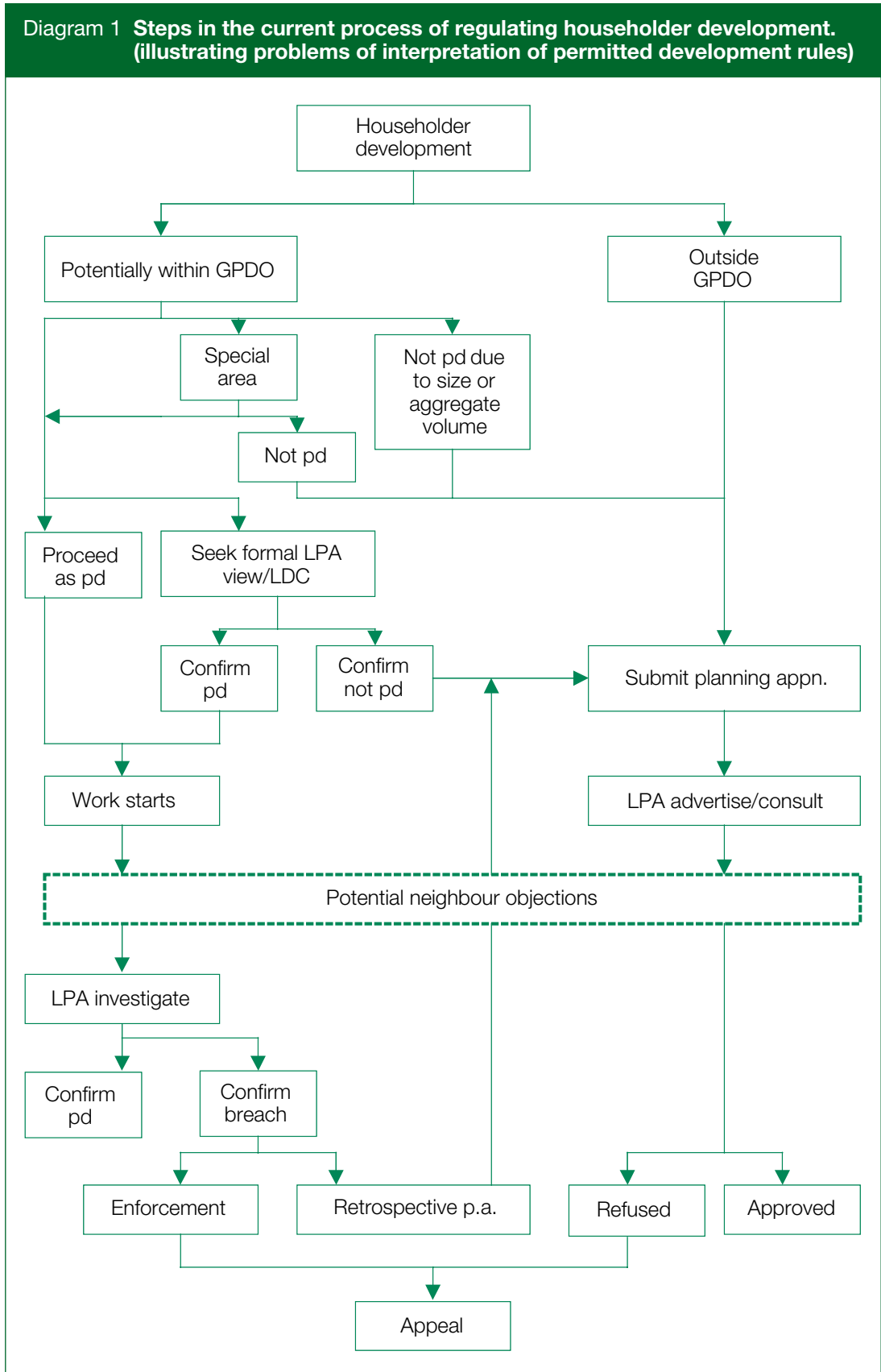
- 1.1. A principal objective of the Householder Development Consents Review (HDCR) is to simplify the arrangements for regulating the work that householders undertake to their own homes. Evidence shows that householders find the existing arrangements difficult to understand, unpredictable, and extremely slow. It is sometimes unclear to them (and to those advising them) whether planning permission is actually required. They are sometimes surprised at being prevented from carrying out work that seems harmless, or is similar to work carried out elsewhere. They find the procedures cumbersome and opaque, and cannot understand why it takes so long to reach a decision. Any new system should be easy to understand, quick and simple to implement, and with certainty of a successful outcome if the appropriate advice is followed.
- 1.2. A second principal objective is to reduce the number of householder developments that require planning permission. In the last decade these have doubled and now represent over half of all planning applications (reaching 334,000 cases in 2003/04), with a corresponding increase in the number of planning appeals from householders. The planning system is intended to regulate matters that are in the public interest, and not to arbitrate over private matters between adjoining owners. Any new system should enable the preparation of guidelines, which, if they are properly followed, would preclude the need for planning applications.
- 1.3. Whilst simplifying procedures for householders and reducing the day-to-day demands on the local planning authority, new arrangements must still serve to protect the legitimate concerns of neighbours, local communities, and the wider public. The purpose behind the HDCR is to maintain and protect environmental quality but with the minimum of intervention. Householders need to be able to get on with their home improvements with limited regulation or interference from the public sector, whilst having access to clear information on procedures and helpful advice to achieve designs that enhance and add value to their homes.
- 1.4. The HDCR also recognises the principal of 'localism' – that, as far as it is possible and appropriate, decisions should be taken by those most directly affected. Thus, immediate neighbours should be able to discuss and comment on proposals that affect them, and impacts on the local community should be assessed through local forms of representation.

- 1.5. The HDCR also considers the scope for the private sector to service the regulatory system, thereby reducing the scale of public administration. In particular it seeks a role for individual professionals or small businesses engaged in domestic improvements to certify that householder developments meet the appropriate standards.

2. A Proportionate System

- 2.1. This Stage 2 report sets out proposals for a regulatory system for householder developments that is proportionate to the potential impact of the proposed development. This cannot be said of the present system, which can impose the same cumbersome planning process on a home extension or a small housing development. Under the proposed system, the regulation process would vary in proportion to the potential impact of the proposal on adjoining residents and the wider community.
- 2.2. These proposals follow from the findings in the Stage 1 Report: “Understanding the Range of Impacts of Developments by Householders”. This study identified four distinctive levels of impact:
- Level 1 impacts only affect the host property and the living conditions of its occupants
 - Level 2 impacts affect the living conditions of people in immediately adjoining properties (through overshadowing, loss of privacy, etc.).
 - Level 3 impacts affect the character and appearance of the street and may be of concern to a wider group of neighbours.
 - Level 4 impacts affect interests of importance beyond the immediate street scene and concern the community as a whole. These may include the protection of Conservation Areas, AONB’s and Green Belts, and the integrity of listed buildings. They may also include ‘cumulative’ impacts where an individual proposal may be relatively inconsequential, but a large number of similar proposals could have far-reaching effects (such as paving over gardens for car parking in areas where surface water drainage capacity is limited).
- 2.3. The principals of the Stage 2 impact-based regulatory system involve different arrangements for each of the levels identified.
- For level 1 the householder can proceed without reference to anyone else.
 - For level 2 the householder must seek the agreement of adjoining owners.
 - For level 3 proposals should be made available for examination and comment from people in the immediate locality.
 - For level 4, the Local Planning Authority will carry out full statutory consultation procedures as part of a formal but simplified planning application process.

- 2.4. It is critical for easy operation of the system that a householder or his/her agent is able to recognise which level applies to a particular development, and what work can be carried out without the need for a full planning application. The proposed system would incorporate this guidance and provide householders with a mechanism for the approval of developments at levels 1 to 3 without recourse to a planning application.



3. The Ingredients of the Proposed System

- 3.1. The system described in this Stage 2 report operates within current primary legislation, starting with the legal definition of development. The key elements of the system are:
- A revised General Permitted Development Order (GPDO) closely based on a definition of level 1 works that would have virtually no impact beyond the host property. This would set a national base level for permitted development.
 - Local Development Orders (LDOs) drawn up by local planning authorities in conjunction with design codes and residential design guides to advise upon and regulate householder developments with level 2 (immediate neighbour) and level 3 (street scene) impacts and extend permitted development rights accordingly.
 - Formal written ‘neighbour agreements’ drawn up with adjoining owners to confirm that they have examined the plans and have no objections to the proposed works.
 - Householder Development Certificates (HDC’s) that would endorse householder developments as compliant with the GPDO or LDO and remove any risk of challenge or enforcement action – an important document for home information packs.
 - A new Planning Policy Statement entitled “Better Regulation for Householder Development” that would explain the revised system and advise on the introduction and use of LDO’s and HDC’s.
- 3.2. The new system would operate as ‘a package’. Because the new GPDO would be more limited and restrictive than the present one, it should only be used in conjunction with LDO’s. Until such time as a local planning authority has drawn up its own Local Development Orders, it would be required to apply the existing GPDO.
- 3.3. There is scope within the system for private certification by registered individuals or small businesses. They could be approved and registered by a local authority to certify that proposals comply with the LDO and local design code. It is anticipated that architects, surveyors and other agents who prepare plans for householders would seek registration so that they can provide certification as part of their service package. To qualify for registration, the certifier would have to demonstrate a full understanding of the GPDO and LDO’s in force within the area, possibly by examination with worked examples. Registration could be removed from any certifier who acted incorrectly, and who might also be sued by a householder subject to enforcement action as a result of the wrongful certification.
- 3.4. Subject to any legal restrictions, provisions could be made for Parish Councils or Estate Management Boards to issue HDC’s. The system could also encourage the use of mediation to secure neighbour agreements, drawing on the resources of private sector mediators.
- 3.5. Where the householder’s proposals are not covered by the GPDO or LDO, then planning permission will be required. This will also be the case where the property is a listed building, or where there are level 4 impacts arising from Conservation Areas, AONB or Green Belt designations, and where cumulative impacts have become an issue for the wider community.

4. The General Permitted Development Order

- 4.1. The present GPDO appears arbitrary in some respects when setting out the limits for “permitted development”. It is certainly not based on potential impacts. Some developments that are permitted can have obvious (and sometimes unacceptable) impacts on neighbouring properties and the street scene. The Local Government Ombudsman regularly receives complaints about house extensions that have been carried out within permitted development limits. There are also examples of works requiring planning permission that have very minimal impacts. The GPDO has also proved complex and difficult if not ambiguous and unintelligible to interpret, causing problems for householders, their agents and advisors, and local planning officers alike.
- 4.2. The revised GPDO would be closely drawn up around the definition of a level 1 impact. In other words, it would define limits for permitted development that would have no impact, or minimal effect on adjoining neighbours and the street scene. It would provide (as now) a nationally based threshold for defining the limits within which householders could develop without reference to others.
- 4.3. The most important criteria would relate to the height of a proposal and its proximity to the plot boundary. In the main, permitted developments under the GPDO would be confined to the rear of a property – single storey back extensions, rear dormers, and freestanding structures in rear gardens. It would also deal with apparatus associated with energy generation and communications, including wind turbines, photovoltaic cells and satellite dishes. Some suggested criteria are set out in Annex 1. They would include a proviso that extensions to buildings should be carried out in matching materials, unless otherwise agreed by the local authority.
- 4.4. Permitted development rights would not apply to listed buildings or buildings in Conservation Areas, Green Belts or Areas of Outstanding Natural Beauty, where works would potentially involve level 4 impacts.
- 4.5. The new GPDO would involve simple definitions and measurements that would make it easier for self-assessment by householders or their agents. Self-assessment might be aided by the availability of internet-based ‘Web-Wizards’.
- 4.6. Whilst the new GPDO may be more permissive in some respects (e.g. it could allow for larger rear extensions and free-standing structures in larger rear gardens) it would introduce far more control in other situations, particularly where proposals would be visible from the street or fall within designated areas.
- 4.7. However this more restrictive GPDO would not be available for use by Local Planning Authorities except in conjunction with Local Development Orders that extend permitted development rights in accordance with locally defined criteria and guidance.

5. Local Development Orders and Design Codes

- 5.1. Local Planning Authorities would be encouraged to take advantage of the new provisions (in the Planning & Compensation Act 2004) to establish LDO’s that would

reflect local circumstances in extending permitted development to works that comply with local design codes or design guidance that have been adopted as Supplementary Planning Documents. It seems entirely logical that where householders have carefully followed the planning authority's advice in the design of extensions or other works, they should not then have to go through the time consuming and uncertain procedures of applying for planning permission. This, in turn, will encourage them to follow the guidance.

- 5.2. Rear extensions that exceed the limits in the revised GPDO (e.g. they might be sited closer to, or actually on the site boundary) could, for example, be regulated through an LDO that applied the very common 45-degree code used by many authorities to guard against overshadowing and loss of light. Such codes acknowledge that there is a (level 2) impact on the neighbour, but strike a balance between the protection of their daylight and outlook, and the householder's entitlement to enlarge their home. The code could also stipulate that there should be no encroachment or overhanging of the boundary (to remove a common source of neighbour conflict)
- 5.3. However, because there is an impact on the neighbour the LDO would also spell out a requirement that the householder consult adjoining owners and seek their agreement to the proposed works. The householder would provide the neighbour with a copy of the plans, the local design code, and certification that it complies with the code. Only with the neighbour's agreement could the works proceed immediately as permitted development – without agreement they would have to be referred to the local planning authority for adjudication. This would encourage householders to design extensions with the interests of their neighbours in mind from the outset.
- 5.4. Many local authorities produce more detailed residential design guides to show how side extensions, roof enlargements, boundary walls and other works can be carried out to a house in a manner that respects and compliments the original design of the house, and makes a well-mannered addition to the street scene. These commonly show alternative treatments applicable to different types of property.
- 5.5. These residential design guides could also form the basis of LDO's, where they would be appropriate to regulating (level 3) impacts on the street scene. As with the example of the simpler codes referred to in relation to level 2 impacts, where a householder closely complied with the advice in the residential design guide and LDO, the work would be classed as permitted development and no planning application would be needed.
- 5.6. Again, however, this could only be exercised in conjunction with neighbour consultation and the absence of objections. The householder would be required to post a notice on the site boundary at the front of the property and deposit a set of plans with the local authority. Neighbours, including those living across the street, would be alerted to the project and could either approach the householder to look at the plans – or if they preferred, inspect them in the Council's offices.
- 5.7. If there were no objections within 14 days, and if immediately adjoining neighbours signed the agreement referred to previously, the householder could proceed with the work as permitted development. No planning application would be required. If there were objections or no agreement from adjoining neighbours, the case would have to be referred to the planning authority for adjudication.

6. Householder Development Certificates

- 6.1. Where work complies with the GPDO or an LDO there will be no planning application or planning permission. Nevertheless householders are likely to require some formal confirmation that their work is permitted development, and not therefore open to challenge or subsequent enforcement. Such an endorsement would be an important document for inclusion in a house information pack.
- 6.2. This endorsement would take the form of a Householder Development Certificate (HDC), using the current legislation that empowers local planning authorities to serve Lawful Development Certificates, amended as necessary through a Regulatory Reform Order.
- 6.3. The householder would submit a copy of the plans, stating that they comply with the GPDO or LDO (with confirmation from an approved agent) and, in the latter case, enclosing a copy of the neighbour agreement (and confirming that they have received no objections where it has been necessary to post a site notice). A small fee would accompany the submission. The Council would check the submission and issue an HDC. No detailed technical assessment or site visit would be required.
- 6.4. In cases where there is no neighbour agreement or there are objections in response to a site notice, the plans will have been referred to the Council (along with a larger fee). This includes circumstances where a neighbour is absent from the adjoining property, or fails to respond for whatever reason. In these instances the planning authority will need to carry out a site visit and evaluate the proposals. If it is content that the works comply with the LDO and that any objections are unfounded, it will issue an HDC. Otherwise it will advise the householder of any alterations to the proposal that are necessary to secure compliance.
- 6.5. Where work is being carried out under an HDC but the builder departs from the certified plans, the householder is exposed to the possibility of enforcement action by the local planning authority.

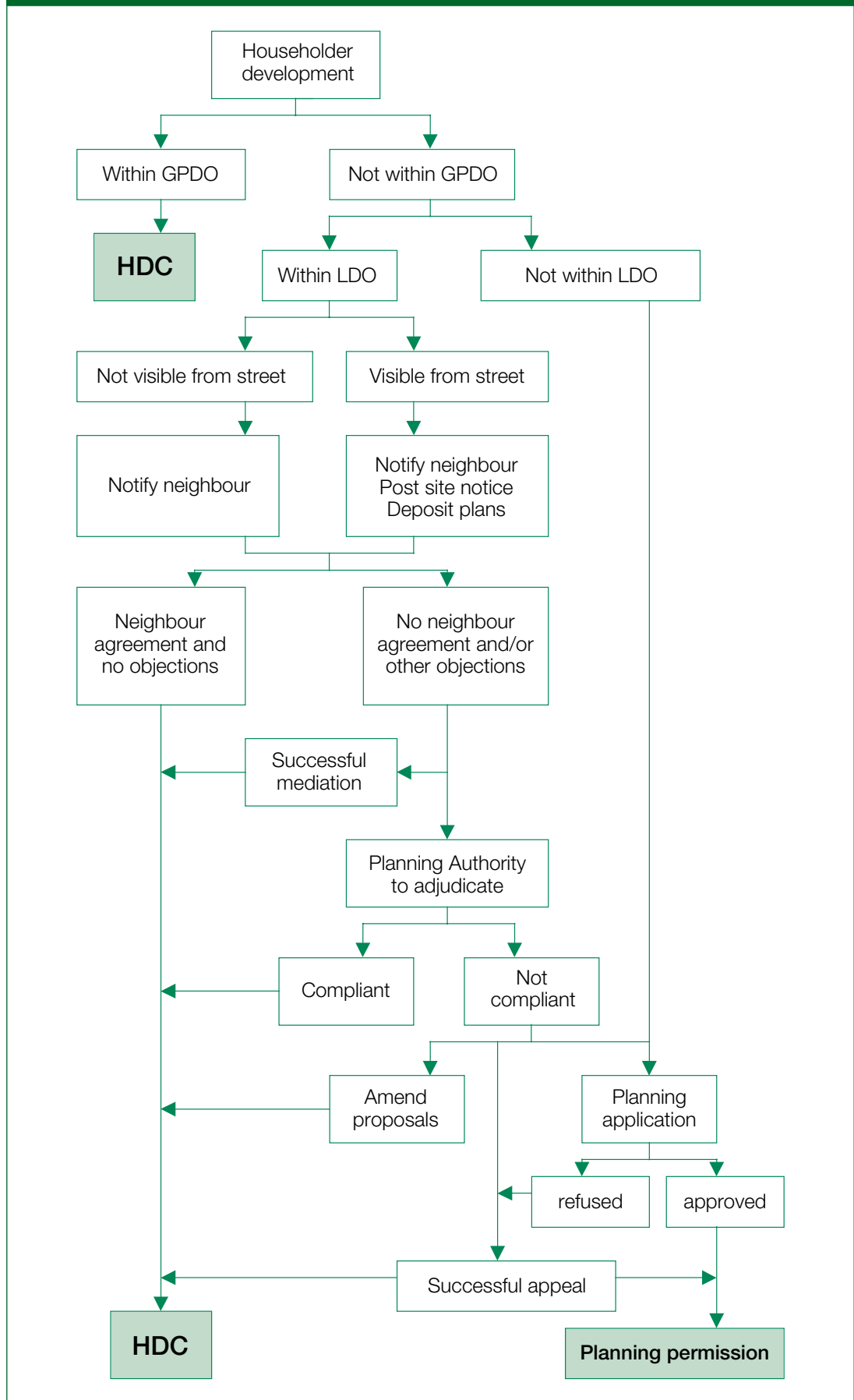
7. Listed Buildings and Designated Areas

- 7.1. Householders occupying listed buildings will require listed building consent for any work that affects the architectural or historic character of the building. The GPDO does not apply to listed building consent. It would be potentially confusing for householders to receive a Householder Development Certificate for works that require and might possibly be refused, listed building consent. This confusion could be confounded where a private certifier issued the HDC without reference to the local authority. Listed buildings are protected for their cultural value to the whole community, and therefore in an impact-based system, any householder developments would have potential level 4 impacts. It follows that planning permission should be required for all works to a listed building, with the planning application considered by the Council alongside the application for LBC. This duplication could be addressed by merging the listed building and planning consent procedures, a possibility that is currently being examined in another study.
- 7.2. Similar considerations apply to dwellings within Conservation Areas, AONB's and Green Belts. These designations are imposed to protect the interests of the wider community,

and under the impact-based system, householder developments would require planning permission. However, this may be unnecessarily onerous for many householder proposals. It should be possible to draw up LDO's to define appropriate permitted development thresholds to suit these specific designations.

- 7.3. For example, an LDO could define the permitted development limits for home extensions within the Green Belt. Within Conservation Areas, LDO's could be drawn up relating to the conservation areas character appraisal, specifying the way in which certain work could be carried out and approved under a HDC. LDO's can only be used to extend permitted development rights, but local authorities can continue to apply Article 4 directions to introduce added control within Conservation Areas.
- 7.4. The system can also deal with concerns about the cumulative impacts of householder developments. These could arise where individual proposals were of limited consequence, but collectively their impacts could affect wider community interests. An example would be where paving over front gardens (to provide car parking) puts strains on limited surface-water draining capacity. Another example might be in a rural location where householders enlarging houses and thereby increasing their sale price could aggravate an acute shortage of affordable homes. Areas of restraint could be designated through the local development framework, with a requirement that householder proposals within the identified area could not be dealt with through certification but would have to be the subject of a planning application.

Diagram 2 Proposed decision tree for householder consents



8. The System in Operation

- 8.1. The system is illustrated in the flow chart at Diagram 2. In the first instance the householder needs to know whether the proposal constitutes development, and if so, whether it is permitted under the terms of the GPDO. This can be ascertained by reference to guidance available from the Council or by web site, or on the advice of a private registered certifier. The option is available to apply to the Council for a HDC.
- 8.2. If the proposal exceeds the GPDO limits, the householder or his agent should examine the Local Development Order and the associated design codes and guidance. If it is clear that the proposals are not covered by the LDO, then a planning application will have to be submitted.
- 8.3. If the proposals appear to conform to the LDO, the householder will need to decide the level of consultation required. If it is clear that the development would not be visible from the street, (including a street to the side or rear of the property), only adjoining owners need be notified. Any owner with property within 2 metres of the site should be given a copy of the plan and the Council's design code, and asked to agree that the proposal conforms to the code. Hopefully the neighbour will sign an agreement that they have no objection to the work proceeding. If that is the case, the householder can send a copy of the plan and the signed agreement to the Council (with a small fee) and ask for a Householder Development Certificate to be issued.
- 8.4. If the neighbour objects or fails to respond within 14 days, the householder submits the plan to the Council (with a fee) and asks for adjudication. If the Council is satisfied that the work would conform to the LDO, and that the neighbour's reservations are unfounded, it issues an HDC. Alternatively, the householder could seek the assistance of a mediator to reach agreement with the neighbour. If the Council rejects the application for an HDC (with clear reasons spelt out) the householder can either amend the proposals to comply with the LDO, or submit a planning application. It could be the case that, although the proposal does not accord with the LDO and cannot therefore qualify for certification, it may be acceptable to the planning authority and eligible for planning permission.
- 8.5. If the proposal would be visible from the street (including a street to the side or rear of the property) the householder would post a notice on the front boundary of the site for 14 days and deposit a copy of the notice and set of the plans with the Council. This is in addition to approaching adjoining owners as previously.
- 8.6. If the adjoining owner(s) signs the neighbour agreement form and the householder is not aware of any objections in response to the site notice, s/he can apply to the Council, after the 14 days have expired, for a HDC. If the Council has received no objections in response to the notice it should issue a HDC within a further 14 days. If there have been objections, or if the householder has been unable to reach agreement with the adjoining neighbour(s), the Council would be asked to adjudicate. It will be necessary for a planning officer to examine the plans and visit the site before making a decision. This decision should be made within 14 days of the request from the householder (with accompanying fee) for adjudication.
- 8.7. If the Council decides that the proposals do not conform to the LDO, the householder has the option to amend the plans to comply, or to submit a planning application.

- 8.8. Again the householder can seek the services of a mediator to try to reach agreement with the neighbours before asking the Council to adjudicate. If neighbour agreement is reached and the Council confirms that there are no outstanding objections, the householder can ask a private certifier to issue an HDC.
- 8.9. If the property is a listed building or falls within a Conservation Area, AONB, Green Belt or other relevant designation under the Local Development Framework, and the proposed works are not covered by specific provisions in an LDO relating to the area designation, the householder will have to submit a planning application for the proposals.
- 8.10. A householder may always seek planning permission for a proposal that is clearly ineligible for certification under the LDO, or where certification has been refused by the local authority. If planning permission is refused, the householder has the normal rights to appeal to the Secretary of State. It is not proposed that an appeal could be made against the rejection of an HDC since it will normally be the matter of a clear technical assessment to decide whether certification is possible.

9. Simplified Systems for Householder Planning Applications

- 9.1. Where work requires planning approval, it should be possible to simplify the procedures into a more user-friendly format for householders. Many authorities already produce a simplified application form for householder applicants. This idea could be extended to produce a single form that would apply to all the various consents required (planning, listed building consent, conservation area consent, works to trees, building regulations etc.). The Council could copy the form to the relevant sections dealing with the different legislation, who could administer their separate procedures and issue their decisions in the usual way.
- 9.2. It may also be appropriate to delegate decisions on householder applications to more local and sufficiently representative bodies. This would have to be subject to a number of safeguards to ensure the quality and timeliness of decisions, and the right of referral to the planning authority by a dissatisfied applicant. Such approved bodies might include Town and Parish Councils, housing associations or estate management boards that exercise complementary controls, such as freehold owners of estates of private or public sector housing.

10. Testing Proposals with Local Planning Authorities

10.1. AIMS

The final stage of this study has been to test the recommendations to understand the implications of a shift to an approach based upon a revised GPDO and locally determined LDOs in terms of:

- 10.1.1. The overall effect on the numbers of planning applications, allowing for the fact that some works that would be permitted development under the present system could now require planning consent, whilst many others which could comply with an LDO would no longer need a planning application;
- 10.1.2. The suitability of existing forms of design guidance and codes (such as the 45 degree and 3m rules) to provide a local design code that could form the basis of an LDO;
- 10.1.3. The response of LPAs to such a fundamental change. Would they find the ability to 'tailor' permitted development (beyond a revised GPDO) to local circumstances attractive? What would their reaction be to the concept of householders being required to notify neighbours, certification by approved agents and Householder Development Certificates. How practical would they consider the new arrangements to be?
- 10.1.4. Would the emerging ideas be perceived by householders to be simpler and more understandable? What would they anticipate the likely effect on resources to be?

10.2. METHODOLOGY

- 10.2.1. Due to the limited time available testing had to be restricted to just 3 LPAs which meant that the results obtained can only be regarded as indicative. Interviews took place with 3 LPAs who currently have well documented design guides and codes which could easily be converted into design code-based LDOs. These were Birmingham, Solihull and Harrow, authorities that also had the advantage of having some knowledge of the purposes of the HDCR review. Each authority was asked to make available for inspection all householder planning applications determined in 1 week (to provide a typical cross-section of householder development). These were examined with the assistance of an officer from each authority and assessed against the possible definition for 'no impact' development that could be included within a new GPDO, and an LDO based upon the LPAs existing design guidance/code. This provided an indication of those applications that would no longer be necessary under the new arrangements. In total 126 planning applications were examined.
- 10.2.2. In addition a range of domestic Building Regulation applications were examined in each authority – some 105 in total – to check how many of those that are permitted development under the current GPDO would, under the new arrangements, require a planning application because of non-compliance with either a revised 'no impact' GPDO or the authority's design code-based LDO. This assessment of domestic Building Regulation applications was supplemented in Harrow by an inspection of 27 Lawful

Development Certificate applications submitted over a 4 week period. This is the only way that Harrow will give an opinion on whether development is permitted or not and hence it would provide a further view on those developments – currently permitted – that could in future require a planning application.

- 10.2.3. The 3 LPAs were also requested for their views on the practicalities etc. of the proposed approach and whether it might be considered politically attractive.

10.3. FINDINGS

- 10.3.1. Of the 126 planning applications examined (40 in Solihull, 61 in Birmingham and 25 in Harrow) a total of 80 complied, without amendment, with the authority's adopted design guide/45 degree code. Consequently if these design guides/codes were adopted as the basis of an LDO these 80 proposals would be permitted development and hence would no longer require a planning application. This would represent an average reduction of 63% in the number of householder applications across the 3 authorities. However it must be noted that there was a significant variation across the different authorities, presumably reflecting the nature and wording of their design guidance/codes and each authority's 'culture' towards interpretation of their guidance. Solihull showed the biggest potential reduction (72%), Birmingham a reduction of 64% and Harrow one of 50%. A key feature at Harrow was the number of applications that were amended – to varying degrees – to achieve compliance with the adopted design guide/code.
- 10.3.2. A further interesting feature of this analysis was the relatively low incidence of neighbour objections; in Birmingham and Harrow only 21% of the inspected applications generated any objections. In Birmingham of the 22 applications that would remain as applications, 6 were in conservation areas or related to listed buildings and 5 involved footway crossings for which the authority has no design guide/code (but which could be included in an LDO subject to requirements such as the approval of the Highway Authority).
- 10.3.3. Clearly, with a more limited and restrictive GPDO and a design guide/code-based LDO to provide a further range of permitted development, there is the potential under the proposed new arrangements for some works currently permitted to require a planning application. Accordingly 105 domestic Building Regulation applications were examined across the 3 authorities to provide an indication of the extent of this possibility. Of the total of 105, 26 in Birmingham and Harrow were not permitted development at present and required a planning application. For the remaining 79, 22 (28%) would fall outside both a revised 'no impact' GPDO and design guide/code-based LDOs and therefore require a planning application. The majority of these related to single storey rear extensions, currently permitted development because they fall below the relevant volume limit, but very close to or right on the party boundary and of a depth that exceeds the 45 degree or 3 metre rule. Clearly such proposals can potentially have a significant impact on the amenities of the adjoining occupiers (due to loss of light etc) and within an impact-based system should be subject to control. The 3 LPAs interviewed welcomed the fact that the proposed new arrangements would provide the means of regulating this problematical type of extension. The other significant type of development that would come within the scope of control would be large dormer extensions at the side and rear. Again these can often create problems for neighbours and adversely affect the appearance of a property, and control over them would most probably be supported by LPAs.

- 10.3.4. The applications for Certificates of Lawful Proposed Development submitted to Harrow – some 27 over a 4 week period – were also examined. Of the 27 considered, which were all confirming that the householder works involved were permitted development under the current GPDO, 22 would under the proposed new arrangements require a planning application since they would fail both a revised GPDO and the Harrow design guide/code. However these applications were not cross-referenced with Building Regulation applications and it is likely that all required Building Regulation approval. Nevertheless, looking at the types of works involved, the analysis again confirmed that the types of extensions that would be brought within control by requiring a planning application would be those that have a high impact, i.e. large single storey rear extensions very close to party boundaries and large dormer extensions, especially those at the side and those involving significant roof alterations.
- 10.3.5. In terms of the principles of the proposed new arrangements – a more limited and restrictive GPDO, LDOs based upon design guides/codes, the use of approved agents to certify compliance, requirements for neighbour notification and agreement, adjudication by the LPA and the concept of HDCs – each authority was encouragingly supportive. The prospect of significantly reduced numbers of householder planning applications – there was general acceptance that proposals that clearly complied with their design guides/codes did not need a planning application – was welcomed and there was support (likely to be endorsed politically) for the ability of the LPA to tailor permitted development to its own circumstances. One authority did however, on the basis of financial concerns regarding potential loss of income, question how the fees for HDCs would be set.

10.4. CONCLUSIONS

- 10.4.1. The findings, on the basis of a typical weekly householder workload of three LPAs, indicates that a shift to the proposed new system could potentially reduce the number of householder applications by between 50% and 72% (the average was 63%). However this likely reduction would have to be set against some additional planning applications that would be ‘captured’ by the new arrangements for works that are currently permitted development but would not come within the scope of a new ‘no impact’ GPDO or design code-based LDOs. There would certainly be benefits in bringing these potentially ‘high impact’ works within the scope of control. Nevertheless, after allowing for these additional applications, the average effect on an LPAs weekly householder workload would be a potential reduction of the order of 50%. The views of all three LPAs to the concept and principles behind the proposed arrangements were both positive and encouraging, even though it was acknowledged that much detail – particularly the content of a new GPDO – is yet to be addressed.

ANNEX 1

Synopsis for a planning guidance note on “better regulation for householder developments”

BACKGROUND

The Guidance Note would set out the philosophy behind an impact-based system for regulating householder developments. It would explain that the system is intended to provide householders with a simplified and quicker process for securing consent, whilst still ensuring that the legitimate interests of their neighbours are properly considered.

THE PROCESS

The Guidance Note would explain the key elements of the system.

- The revised GPDO to define permitted development in terms of works having no impact beyond the householder’s own property.
- The use of LDOs to reflect local circumstances and extend permitted development in accordance with design codes and design guides adopted as Supplementary Planning Documents.
- The provision of HDCs to confirm, for the householder’s benefit, that proposed works are permitted under the GPDO or LDO.

It will also explain the requirements for householders to consult under an LDO, including the requirement for a formal agreement with adjoining owners, where appropriate. It would set out the role of the Local Planning Authority as an adjudicator when objections arise, along with the maintenance of a register of agents approved to certify compliance with the GPDO and LDOs.

INTRODUCING THE NEW SYSTEM

The Guidance Note would explain that the elements of the new system must be introduced as a package. Until such time as the local planning authority is in a position to confirm its LDO(s) and issue HDCs, it will be required to operate under the GPDO of 1995 (as amended).

LDOS

Advice will be given on the appropriate procedures for adopting LDOs in conjunction with design codes and design guides.

SIMPLIFYING HOUSEHOLDER PLANNING APPLICATIONS

The Guidance Note will also describe simplified arrangements for householders where their proposals fall outside the GPDO and LDO and a planning application is necessary, and may also make reference to the future introduction of a single consent regime.

ANNEX 2

Principles of a revised GPDO

An illustration of possible classes of householder development that could be permitted under the revised and simplified GPDO.

SINGLE STOREY REAR EXTENSIONS

No size limit providing it complies with certain criteria, e.g.

- Not within x metres of any boundary
- Not higher than y metres within z metres of any boundary
- Not to exceed (*say*) 50% of original garden area
- Not to include a raised terrace or balcony

DORMER WINDOWS IN REAR ROOF SLOPES

No size limit providing it complies with certain criteria, e.g.

- To be set back from eaves by minimum of 1 metre
- To be set down from ridge by a minimum of 1 metre
- Not to project beyond the plane of any side facing roof

FREE-STANDING STRUCTURES IN REAR GARDENS

- Not to exceed p sq. m. in floor area and q metres in height
- (other than sheds and greenhouses) not to be within x metres of any boundary
- not to exceed (*say*) 50% of original garden area