



Householder Development Consents Review

Race Equality Impact Assessment 2/2006



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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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SUMMARY

The Householder Development Consents Review aims to explore ways of reducing bureaucracy for those seeking to develop their homes, while maintaining safeguards for neighbours, community and environment. Forthcoming work to take forward some aspects of the Review is the subject of the current preliminary REIA. These relate to proposals for a new General Permitted Development Order, Model Local Development Orders, and making the system more 'user friendly' including a Plain English User Guide.

The forthcoming work is to be taken forward in the context of a consultancy assignment, the specification for which includes an REIA as part of the Regulatory Impact Assessment required, and a period of consultation on the proposals, thus allowing for a fuller REIA on the detailed proposals.

An initial REIA screening confirmed the relevance of the Review for race equality, as well as identifying some initial areas for exploration.

The main assessment comprised desk research and a consultation exercise, which identified and focused on the following issues or possible issues:

- Differing attitudes between ethnic groups to development rights and obligations in respect of one's own home.
- Different levels of awareness of consent requirements (perhaps leading to differences in enforcement action rates).
- Different types of development that might be required for different ethnic groups to meet different needs, eg extended family or religious needs for some minority groups.
- Different perceptions/experience of the whole planning process/regime.
- Any possible sources of monitoring/statistical data that might throw light on some of the above.
- Assistance provided by planning authorities and others, to different groups, eg re meeting language needs.

We found some evidence of possible ethnic differences in perceptions of householders' development rights/obligations, in evidence that Asian people might be less likely to object to a neighbour's development proposals. It was not clear how this might affect consent or enforcement rates.

The data on (differences in) awareness levels was limited, and it was felt that awareness generally was low, but the issue was felt to require examination.

Evidence of differing needs was largely centred on the needs of extended Asian families to extend their homes, to build freestanding garden extensions (about which the stage at which these can be used as living accommodation was apparently unclear) or to amalgamate two houses into one.

There was some limited evidence to support the proposition that ethnic minorities might have different perceptions/experiences of the planning system, and the role of agents was a potentially important factor.

We do not know the extent of monitoring of planning applications and outcomes, although it has been undertaken by some authorities. We found no evidence of monitoring of enforcement rates.

Authorities varied in the extent to which they made outreach or translation/interpretation efforts to meet the language/information needs of minority communities.

Recommendations relate to the need for, and conduct of, a full REIA on the detailed proposals when formulated, including consultation with relevant community and other organisations; and to meeting language needs in the publishing of planning guidance.

CHAPTER 1

Introduction

1.1 BACKGROUND

- 1.1.1 This assessment has been commissioned by the Equalities and Diversity Unit of the ODPM, as part of a programme of race equality impact assessments (REIAs) designed to help ODPM to meet its duties under the Race Relations (Amendment) Act 2000. This is to be achieved both through the assessments of the policy areas selected and by facilitating capacity-building in ODPM staff, to enable them to take forward the impact assessment and to carry out others in the future.
- 1.1.2 The Race Relations (Amendment) Act 2000 imposes a general duty and certain specific duties on public authorities. Authorities are required to set out their arrangements for assessing, and consulting on, the likely impact of its proposed policies on the promotion of race equality. Race Equality Impact Assessments (REIAs) are the mechanism for such assessment and consultation.
- 1.1.3 The time available for the conduct of the REIA does not permit a full assessment, but there is provision in the next stage of the HDCR for further work on impact assessment, and the current report will inform that next stage.

1.2 THE HOUSEHOLDER DEVELOPMENT CONSENTS REVIEW (HDCR)

- 1.2.1 The policy briefing prepared for the ‘mini-tender’ for this REIA summarises the background to the Review, and is attached at Appendix A.
- 1.2.2 Briefly, the review set out to examine ways of reducing bureaucracy for those seeking to improve their homes while protecting the interests of neighbours, the wider community and the environment, against a background of a rapid recent increase in applications from householders. At the same time the need has arisen to clarify the planning status of domestic microgeneration equipment to provide alternative sources of household energy.
- 1.2.3 The Review made 11 recommendations. Its forthcoming next stage is the commissioning of consultancy work to take forward the first two recommendations, specifically in relation to:
- Proposals for a new General Permitted Development Order (GPDO) based on Parts 1 and 2 of the current Order, to set out those developments that will not require planning consent, moving from an approach based on volume (in the sense of size) to one based on impact (on neighbours, community and environment).

- Model Local Development Orders (LDOs) to help planning authorities use new powers introduced by the Planning and Compulsory Purchase Act 2004 to issue (LDOs) which will allow authorities to specify as permitted (ie requiring no consent) certain types of developments, subject to strict requirements relating to, for example, consultation on the Orders.
- Ensuring that the system is more ‘user-friendly’, including the production of a Plain English User Guide to the system, and making recommendations for a more modern approach to publishing the new GPDO.

1.2.4 The first two elements are to be carried out at Stage 1 of the consultancy assignment, together with a Regulatory Impact Assessment which is to include a Race Equality Impact Assessment of the recommended GPDO and model LDOs. Stage 1 is to be followed by a three month period of public consultation. Stage 2 covers the activities associated with the third element.

1.3 CURRENT REIA REMIT/TERMS OF REFERENCE

1.3.1 The current REIA is required to focus on the work to be carried out in the consultancy assignment outlined above, and therefore excludes other recommendations of the Review Group, which will need to go through the REIA screening process as they come on stream.

1.3.2 The REIA started with a truncated ‘screening’ to establish whether a full assessment would be required, followed by a fuller examination of some of the issues to be considered in a full assessment. It was not possible to embark on an assessment of the detailed new proposals for the GPDO and model LPDOs as these are still to be produced.

CHAPTER 2

Screening

- 2.1.1 The questions advocated by the CRE for consideration at this screening stage were considered at the initial meeting with the project team. The threshold set at this stage is very low, given that the first question is: “*Will the proposed policy involve, or have consequences for, the people your authority serves and employs?*”, and the clear answer to this is ‘Yes’ if one takes the people ODPM serves as the public, of whom a section will be seeking to develop their properties in some way, and who will be more widely affected as neighbours and members of the wider community by the environmental and other impacts of such developments.
- 2.1.2 Notwithstanding that a single ‘Yes’ answer is considered by the CRE as showing a policy to be relevant, and hence requiring a full assessment, the subsequent questions were also considered, in order to help guide the fuller assessment process, as follows:
- a. *Could these consequences differ according to people’s racial group, for example, because they have particular needs, experiences or priorities?* The answer was again Yes, based on evidence (essentially anecdotal at this stage) that development needs might be a function of extended family and possibly religious requirements that could differ between different groups.
 - b. *Is there any reason to believe that people could be affected differently by the proposed policy, according to their racial group, for example in terms of access to a service, or the ability to take advantage of proposed opportunities?* Again the answer was affirmative, in the light of anecdotal evidence about different levels of awareness of the planning regime, and the consequent need to consider how this might be further examined and appropriate changes made in the light of relevant evidence.
 - c. *Is there any evidence that any part of the proposed policy could discriminate unlawfully, directly or indirectly, against people from some racial groups?* The answer to this question was less clear. It was felt most unlikely that the policy proposals would/could of themselves discriminate directly, although any discretionary aspects could allow scope for direct discrimination by decision-makers. Indirect discrimination is a function not only of differential impact but also of whether such differential impact is justified by reference to non-racial considerations, or arises from a policy or practice that is a proportionate means of achieving a legitimate aim. Without knowing what the actual proposals might be, it is hard to gauge whether they could result in differential impact. Given that the HDCR is about an amended rather than a new policy, it may also be necessary to consider whether the changes reduce or increase levels of potential adverse impact, something that could be difficult in the likely absence

of adequate monitoring evidence to serve as a benchmark. The evidence of justifiability is likely to relate to the strength of the underlying rationale for the policy proposals. In short the answer was ‘Possibly’.

- d. *Is there any evidence that people from some racial groups may have different expectations of the policy in question?* The answer to this was ‘Yes’, based on evidence that different ethnic groups might have different attitudes and expectations to a householder’s rights and obligations in respect of his/her own home. Again, the evidence adduced was essentially anecdotal (albeit based on considerable experience), to be explored further in the full assessment.
- e. *Is the proposed policy likely to affect relations between certain racial groups, for example because it is seen as favouring a particular group or denying opportunities to another?* While it was unlikely that any proposals would be formulated that allowed racial or religious¹ considerations to determine whether consent should be required, since such proposals would almost certainly be unlawful, the possibility remains that extending permitted development rights to some types of development not permitted without consent before, and seen as predominantly benefiting one group could be detrimental to relations between groups. In addition, including as ‘permitted’ developments that might result in friction between neighbours could be damaging to relationships between neighbours of differing ethnic groups, to the possible detriment of wider community relations. The reverse could be true if it was felt that lobbying by one group had led to a reduction in the development rights of another.
- f. *Is the proposed policy likely to damage relations between any particular racial group (or groups) and your authority?* Based on what is currently envisaged as the kind of change to the GPDO, and for model LDOs, probably not. It seems unlikely that the proposals could damage relations between particular racial groups and ODPM, although perhaps not impossible that they could sour relationships with a planning authority possibly perceived to be the source of any problems for particular groups. Even this would probably require adverse impact on a large scale, in relation to a highly public and controversial issue, something that the volume of planning applications made in any given period is unlikely to cause.

¹ While religion as such is not covered by the Race Relations Act, discrimination on religious grounds can constitute indirect discrimination on racial grounds, and additionally some religious groups (eg Sikhs, Jews) are also defined as ethnic groups, bringing them within the scope of the Act.

CHAPTER 3

Main assessment

3.1 SCOPE

- 3.1.1 It is important to state again here that we describe this stage as the ‘main’ assessment in order to distinguish it from the screening stage. The work undertaken does not constitute a full REIA of forthcoming proposals, but of the issues that may be relevant to race equality in these proposals, and that may need to be covered in a wider consultation in the course of the consultancy exercise that is about to be commissioned. (We make recommendations about who should be consulted in the Recommendations section.)

CHAPTER 4

Methodology

4.1 DESK RESEARCH

4.1.1 This included reading key background documents:

- The Policy Briefing prepared for the REIA.
- Householder Development Consents Review – Steering Group Report (Draft at 30.1.06).
- Draft of 15.3.06 Householder Development Consents Review – Specification for Consultancy to recommend new GPDO, draw up a plain English Guide, and draft model LDOs.
- Objectives and Work plan for above.
- The Householder Development Consents Review – Home Improvements without the Red Tape, Stage 1 – Understanding the Range of Impacts of Developments by Householdors (The Sparks Jones report), May 2005.
- MORI Householder Development Consents Review Survey of Applicants and Neighbours, final report September 2005, and associated tables of results (Applicant Survey).
- Census and other data relating to housing and ethnicity.

4.1.2 Other documents were suggested to us in the course of the study, and are referred to later. We also looked at central and local government sites for a flavour of how planning information was made publicly available through these.

4.2 DISCUSSIONS/CONSULTATION

4.2.1 It was agreed that a range of stakeholders should be invited to give their views about possible householder development issues relevant to race equality. These included members of the HDCR Steering Group, and individuals or organisations suggested by them. These included the Planning Inspectorate; Royal Town Planning Institute; Planning Aid; Local Government Ombudsman; Planning Advisory Service; Local Government Association; and Association of London Government.

- 4.2.2 In addition, approaches were made to representatives of nine local authorities selected either on the basis of their previous involvement with the project, or in order to provide some coverage of different types of region in terms of geography and ethnic minority population density. In addition, consultation was expanded as input from those initially approached suggested other possible 'leads'.
- 4.2.3 Where possible, follow-up telephone calls or e-mails were sent, but in some cases only one approach was made, given the very short timescales.

CHAPTER 5

Preliminary Findings

5.1 BACKGROUND DATA

- 5.1.1 Housing tenure varies greatly between ethnic groups. Social Trends 2004 (Table 10.10) shows Indians to have the highest rate of owner occupation (79%), compared to 71% for White British and only 25% for Black Africans. Ethnic minorities are more likely to live in deprived areas, being 17% of those in the most deprived areas, compared to 7% of those living in all other areas. 17% of owner occupiers in the most deprived areas were from ethnic minorities, compared with only 5% of owner occupiers in other areas (Housing in England 2003/04, ODPM 2006). Family patterns also vary, with Asian households larger than any other group with average family size for Bangladeshi, Pakistani and Indian families being 4.5, 4.1 and 3.3 respectively compared with 2.3 for White British and Black Caribbean, and 2.1 for White Irish (National Statistics Focus on Ethnicity and Identity). Ethnic minority groups are more likely to experience overcrowding, with the highest rates experienced by Pakistani and Bangladeshi groups (CRE website digest of key Census findings relating to housing).
- 5.1.2 All of these factors will have a bearing on the likelihood of people seeking to develop their homes, and the nature of the developments they may seek, as reflected in the evidence and views put to the REIA.

5.2 KEY THEMES

- 5.2.1 Themes that emerged early on in the REIA as possibly requiring further examination related to the following issues:
- Differing attitudes between ethnic groups to development rights and obligations in respect of one's own home.
 - Different levels of awareness of consent requirements (perhaps leading to differences in enforcement action rates).
 - Different types of development that might be required for different ethnic groups to meet different needs, eg extended family or religious needs for some minority groups.
 - Different perceptions/experience of the whole planning process/regime.
 - Any possible sources of monitoring/statistical data that might throw light on some of the above.

- Assistance provided by planning authorities and others, to different groups, eg re meeting language needs.

5.2.2 The Main Findings section below is therefore structured around these themes, although the extent of evidence and input relating to different themes varied considerably.

CHAPTER 6

Main Findings

6.1 DIFFERING ATTITUDES TO CONSENT REQUIREMENTS

- 6.1.1 The evidence on this point is mixed. A number of respondents suggested that for some ethnic/cultural groups, there was a greater likelihood of people taking the view that “It’s my house, I should be able to do what I like with it.” The MORI survey of applicants tends not to support this, with a somewhat higher proportion of ethnic minority applicants agreeing that planning permission should have been necessary for their proposed development. However, it is important to bear in mind, in relation to this and other findings, two points about the MORI survey of applicants. The first is that it *is* a survey of applicants, and may therefore be skewed to those aware of and in sympathy with the consent regime. The second is that the ethnic minority sample is small (100), and most of the differences between white and ethnic minority applicants are not statistically significant.
- 6.1.2 Interestingly, however, the MORI survey of neighbours may tend to support the proposition that attitudes vary, and that this may cut both ways – not just “It’s my house, I can do what I like”, but also “It’s your house, you can do what you like”. The survey found that white neighbours were significantly more (20%) likely to say they made an objection than ethnic minority neighbours (2%). This is similar to the findings of a small study in Yorkshire², which found that only two out of eleven Asians would have objected to anything their neighbour wanted to do, as against all 11 in the non-Asian group.
- 6.1.3 How this possible difference in attitudes affects different groups in practice is hard to gauge. An Asian householder may find it hard to understand or anticipate objections raised by white neighbours, or may simply fail to see the need for planning consent and may hence proceed without it, at the risk of enforcement action. Respondents from planning authorities or elsewhere within the system reported that enforcement action tended usually to be taken as a result of complaints by neighbours, but we were offered no hard data about this. Some respondents suggested that there might be differential enforcement rates for different ethnic groups either because of a greater tendency to proceed without planning consent (whether in ignorance or for other reasons), or because of complaints that were at least in part racially motivated, or a combination of these factors, but so far we know of no monitoring data to throw light on this issue. One informant felt that there was clear evidence in their authority (in a predominantly white area) of a racial motivation to many planning complaints received.

² Woulds (1985) Development control and Asian communities – a case study, in Thomas & Krishnarayan (eds) (1994) Race Equality and Planning.

6.2 DIFFERING AWARENESS LEVELS

- 6.2.1 There was no clear-cut evidence on this point. The MORI survey shows ethnic minority applicants as marginally more likely to describe themselves of knowing 'a great deal/fair amount' about the planning system, but again it must be noted that these were applicants. Whether the same pattern would occur in the wider population is not clear. As noted above, no enforcement data were available, so rates of enforcement for different groups could not be compared, but some respondents felt that there was a real possibility of differences.

6.3 DIFFERING NEEDS FOR DIFFERENT DEVELOPMENTS

- 6.3.1 The needs of Asian householders requiring developments for family reasons were cited in the Sparks Jones report. They found that because Asian communities still tended (although it was acknowledged that this is beginning to change) to be largely located within inner city areas characterised by cheaper and smaller houses, resulting in pressures to add large extensions to properties that are not easily extendable, resulting in higher refusal rates. This was a particular problem in Birmingham (one of 8 local authority areas covered in their study, in a sample designed to reflect location, type and size of authority).
- 6.3.2 Many respondents concurred with the view that Asian family needs tended to lead to their seeking developments to accommodate these - large extensions, or Class E outbuildings (said to be the subject of numerous misunderstanding of the current GPDO, because of confusion as to whether and when after first being built class E buildings can be used for living purposes). We were also told that the use of free-standing garden buildings as living accommodation rather than as (permitted) ancillary or incidental to the enjoyment of the dwellinghouse was the subject of many enforcement complaints, and some legal disputes.
- 6.3.3 Another respondent noted that another solution to their accommodation needs for Asian families was to join two properties into one. While as a physical development this did not require permission, as a change of use it reportedly did, since it resulted in the loss of a housing unit. The GPDO was said to be silent on this, leaving planning authorities to use their own interpretation about whether permission was required, which could cause confusion and uncertainty.
- 6.3.4 The MORI survey doesn't shed a great deal of light on the question of different development types sought by different groups, although it may be of interest/relevance that 87% of their ethnic minority applicant sample were Asian. The main difference between white and ethnic minority applications seems to be that Asians are less likely to be seeking permission for a conservatory, but otherwise both groups seem largely to be seeking permission in relation to side, rear and roof extensions.

- 6.3.5 A report from Leicester City Council³ notes that householder applications represent nearly half of all Asian planning applications against only a quarter of white applications, and refers to a strong cultural factor, making reference to a further consideration possibly bearing on Asian families' need to extend, in describing them as "less footloose" because of family and religious ties.
- 6.3.6 In general, then, it seems to be widely recognised that Asian families may have particular development needs, and some efforts seem to be being made to address these. For example, we were referred to a Local Plan that included a proposal to allow conversion or amalgamation of existing dwellings to provide for the housing needs of large families, where there was no adverse impact on neighbours, the character of the area or the amenity of the occupants. The justification made explicit reference to the Asian population's needs and the benefits of revitalising abandoned streets. While the proposal may represent no more than a clarification of the position in relation to the joining of two properties referred to earlier, it does reflect a response to the acknowledged need of the Asian community, as well as to the need to keep current housing stock in use.
- 6.3.7 Nobody raised any issues in relation to facilitating the installation of microgeneration equipment (other than in one case to welcome the proposal to clarify the situation and encourage use of microgeneration) and this issue was not explored in all discussions/meetings. While it might be argued that microgeneration could be seen likely to be more popular with white middle class applicants than others, this may not be a valid perception/stereotype, and even if it is, need not necessarily reflect an 'adverse' impact on those who do not currently wish to install such equipment, particularly given that the environmental benefits intended from encouraging such equipment will accrue to everyone.
- 6.3.8 The possibility that a future exclusion from permitted development of paved front garden parking areas might disproportionately affect different ethnic groups was suggested, in areas where growing car ownership in increasingly affluent large families might put increased pressure on parking, leading householders to opt for a 'crossover'. However, again, this issue was not fully explored with those we consulted, and may not present a major race equality impact problem even if there are ethnic differences in the disposition or need to pave front gardens, particularly if permission or the lack of it relates more to the way gardens are made suitable for parking rather than to using them for this purpose at all, as seems likely. However, the proposals for consultation in relation to the new GPDO and model LDOs should summarise the main changes between the new and old Orders, making it clear to all consultees not only what will now constitute permitted development (and how this compares with the previous Order) but also what will no longer be permitted previously was.

³ Leicester City Council (1992) An Appraisal of the Ethnic Monitoring of Planning Applications in Leicester 1980-92 – Details and Appraisal of a System Recommended to Other Planning Authorities. Submitted by Leicester City Council Planning Department for the Royal Town Planning Institute Annual Award for Planning Achievement 1992.

6.4 DIFFERENT EXPERIENCES/PERCEPTIONS OF THE PLANNING SYSTEM

- 6.4.1 The MORI survey offers some support for this proposition, in that ethnic minority applicants were more likely to agree that the householder planning rules were too strict and bureaucratic, and their 'net favourable' perception of the system was slightly lower than that of whites. But these differences are not statistically significant. Those refused were also less likely to agree that they had been offered enough guidance and reasons about refusals (although the base number, of applicants refused, is very small).
- 6.4.2 There was a view among some respondents that what was recognised to be a generally low level of awareness across the whole community might be exacerbated for ethnic minority communities, either for reasons of language barriers and limited exposure to the planning system, or possibly because of different experience and treatment when seeking advice. Lack of knowledge of the system might, for example, be a cause of ethnic minorities acquiring properties unsuitable for development because they were unaware that they could seek planning permission pre-purchase. Similarly they might be less likely to engage in pre-application discussions, or to understand and implement suggested changes that might make their developments permissible or likely to receive approval.
- 6.4.3 Other sources referred to the role of agents in mediating between the planning system and ethnic minority applicants. In Leicester, use of poor quality agents by Asian applicants had at one stage been identified as a possible cause of disparate refusal rates, and action taken to publicise the importance of using reputable agents. One respondent from an area with a small Asian population referred to this group's use of a single architect as a result of word of mouth recommendations within their network, and found this a wholly beneficial situation as the architect in question understood both the needs of the Asian community and the planning system, and had good relationships with both.

6.5 MONITORING DATA

- 6.5.1 We contacted Leicester City Council because it had been identified as having embarked on ethnic monitoring of planning applications some time ago. The Council does monitor, and reports on its monitoring and resulting proposals for action on a regular basis, but does not separately monitor householder development applications, having done this in the past, but decided that very small numbers in different planning categories made this a fruitless exercise and not the best way of addressing refusal rate disparities.
- 6.5.2 Other councils carried out some activities that could inform views of the planning system (eg complaints monitoring, household surveys), but generally ethnic monitoring seems not to be carried out.
- 6.5.3 Accepting that there are difficulties in analysing information on the small data sets that may be obtained when applications are broken down by category (and even further by development type within the householder development category), and that ethnic monitoring of planning applications can be made more difficult by the use of agents who complete application forms on applicants' behalf, we

nevertheless feel that some form of monitoring data may be necessary, to answer some of the questions that have arisen. Leicester has used names as the basis of filling in gaps in their monitoring data, although clearly this only identifies Asian and possibly some African applicants. An analysis of name data in areas of high Asian population, as well as further analysis of application type and outcome, might, either as a one-off exercise, or in the context of on-going monitoring, yield useful information about application rates, application types, outcomes, and enforcement.

- 6.5.4 Monitoring data were supplied by the Local Government Ombudsman about the ethnicity of people complaining to the Ombudsman about planning and other issues. However, it should be remembered that these complaints are about the actions of the local authority in dealing with planning matters, rather than the planning matters themselves, making it harder to use them to inform this REIA. White British people were just over half (52%) of all complainants, and 62% of complainants about planning matters. They represented 62% of complaints about enforcement (though we do not know whether Enforcement complaints include complaints about a failure to enforce as well as about enforcement action).

6.6 ASSISTANCE IN MEETING THE NEEDS OF ETHNIC MINORITY APPLICANTS

- 6.6.1 While some local authority websites provided information in a range of community languages, or directed people to where/how they could obtain further information in their own language, it was not possible for us to obtain a full picture of this, or of the extent to which information specifically relating to planning was readily available in translation. One respondent noted that her previous employer, an authority in an area of high Asian population, had included community language wording on envelopes addressed to neighbours of applicants advising them that the contents were important and could affect their property. Others noted that leaflets published by their authority included a strap line in community languages about translation.
- 6.6.2 One respondent in a predominantly white location reported that planning information documents were not printed in translated form but that the facility for translating particular documents existed. This respondent felt strongly that translation should be a central responsibility, particularly of documents used across all authorities.
- 6.6.3 There seemed to be a range of approaches to the question of outreach, with some authorities making efforts to make contact with local communities to increase awareness of planning requirements, for example by participating in community council meetings, others suggesting that they simply did not have the resources for outreach work and that it was the responsibility of householders to be proactive in finding out what they could and could not do. Planning Aid, a charity providing free advice, initially supported by the RTPi, and now by ODPM, was seen as a valuable resource for poorer people who needed help with the planning system.
- 6.6.4 We note that the Planning Portal, the Government's central planning resource and 'your one-stop-shop for planning information and services online' does not provide information in any languages other than English and Welsh.

- 6.6.5 The specification for the consultancy that will take the HDCR forward, and which is essentially the subject of this REIA makes reference to the consultants producing both a Plain English User Guide and recommendations for a more modern approach to publishing the new Development Order to provide greater clarity and ease of use.
- 6.6.6 Our attention was drawn to the under-representation of ethnic minorities within the planning system. While this is essentially outside the remit of the current REIA we do note and accept the view that a planning system perceived as predominantly white may not be seen as approachable and helpful to ethnic minority applicants, nor as aware of or responsive to their needs, particularly when it is a system with which the public as a whole has little contact or familiarity.

CHAPTER 7

Timing of the REIA

- 7.1.1 This is one of three REIAs we have carried out for ODPM, and seems to us to be the only one that is timely, although it, like the others, requires further REIA work. The forthcoming consultancy should allow for the 8 stages of assessment advocated by the CRE⁴ to be carried out in the right order, such that the REIA and consultancy incorporated into the forthcoming consultancy work can genuinely have a potential for influencing decisions about the adoption and/or modification of the policy.

⁴ The stages specified by the CRE are as follows:

1. Identify all aims of the policy
2. Consider the evidence
3. Assess likely impact
4. Consider alternatives
5. Consult formally
6. Decide whether to adopt the policy
7. Make monitoring arrangements
8. Publish assessment results.

CHAPTER 8

Recommendations

- a. In preparing their proposals for the GPDO and Model LDOs, the consultants commissioned should take account of the issues raised in this preliminary REIA.
- b. Consideration should be given to obtaining more data about ethnicity and planning applications and planning outcomes, either through a review of a suitable sample of recent historical data, or by obtaining and analysing monitoring data (including finding out more about what data authorities currently collect and analyse), or through a survey like the MORI one, with perhaps a larger and more diverse ethnic minority sample. While some or all of this may be beyond the resources of the current Review, it may be necessary in some form to give effect to the REIA requirement at Stage 7 of the CRE's recommended eight-stage process, which is to 'make monitoring arrangements' (CRE: How to do a race equality impact assessment – http://www.cre.gov.uk/duty/reia/how_stage2.html)
- c. The consultancy exercise provides for a REIA as part of the regulatory impact assessment, and for a period of consultation. Both of these should actively seek evidence and views on the potential racial impact of the specific proposals for GPDO and Model LDOs. Consultation should include all planning authorities, as well as the specialist organisations, such as Planning Aid and the Black Planners Network, whose views we sought, and organisations representing ethnic minorities in different areas.
- d. In particular there should be consultation with Race Equality Councils and Race Equality Partnerships nationally, as well as complainant-aid organisations and other local and national organisations set up to meet the needs and/or further the interests of particular ethnic minority groups or to promote race equality.
- e. We understand that the CRE does not currently publish an 'official' list of Race Equality Councils, either in hard copy or electronically but we will be happy to provide a copy of the 'unofficial' list supplied to us (with the caveat that the list can quickly become out of date).
- f. It is hoped that the CRE will in the future publish a list of RECs and other local organisations with a responsibility for the promotion of race equality, on its website, something which should help to further its objective of seeing high quality REIAs carried out. There is also a nascent national organisation of RECs and we will be happy to provide further details at the time the consultants are ready to proceed with the REIA and consultation.

- g. Consultation documents should not presuppose prior knowledge of planning law and should help consultees to give an informed response by setting out clearly what will and will not constitute permitted development in the new proposals, and how this differs from what was permitted (or not) under the existing Order.
- h. We can not see how ODPM can discharge its responsibilities under the Race Relations (Amendment) Act 2000 without ensuring that all groups have proper access to the kind of guidance and information proposed in the guidance and publishing arrangements. At a minimum the REIA elements of the proposed consultation and regulatory impact assessment activities of the forthcoming consultancy project should look in depth at the issue of language and translation/interpretation needs, in particular in relation to the Plain English guide and to the Planning Portal. It seems far more cost-effective, and probably beneficial from a quality assurance point of view as well, for translations to be provided centrally rather than for planning authorities to be left to establish their own means of communicating the requirements of the new Order with their particular local communities.

NOTE

It is understood that, in view of the urgent need to review permitted development rights for microgeneration equipment, ODPM is now considering commencing work on this aspect of the review ahead of its wider study. The evidence from the present study does not suggest that microgeneration raises matters that are likely to have significantly different effects on people from different racial groups, or adverse consequences for race equality and race relations. But an REIA screening process should be undertaken in respect of this work in order to make a judgement as to whether a full REIA is required.