

Barker Review of Land Use Planning – January 2006

Representation by British Energy plc

Introduction

British Energy (BE) welcomes the opportunity to comment on the issues set out in the Barker Review of Land Use Planning. Comments in this response are made in the light of British Energy's leading role in the provision of electricity in the UK:

- BE is the UK's largest electricity generator, producing one fifth of the Country's electricity and employing approximately 5500 staff.
- BE's core business is electricity generation, mainly by nuclear means. The Company owns and operates 8 nuclear power stations in the UK with a combined capacity of approximately 9600 MW. We also own and operate a 2000 MW coal fired power station at Eggborough in Yorkshire.
- Last year our nuclear power stations avoided the release of some 40 million tonnes of CO₂ compared with the prevailing fossil fuel mix. In Scotland, BE's generation output avoided the release of 11 million tonnes of CO₂ – the equivalent of taking all of Scotland's cars off the roads.
- The Company and its predecessors have been involved in major public inquiries into nuclear power station projects including Sizewell B where the Inquiry cost in the region of £30 million (in the early 1980's) and lasted 27 months. The planning process for this major project from application to consent ran for 3.5 years.
- BE, in a joint venture with Amec plc, is proposing a 700 MW wind farm on the Isle of Lewis. This major proposal will be instrumental in stemming economic decline on Lewis and will make a major contribution to Scottish Executive's renewable energy objectives.

Responses to Annex 1

Planning System Flexibility

Under the “plan led” system where the main determining factor for development control decision making is the degree of conformity with land use policy, there will inevitably be potential for conflict between approved plans and emerging development demands. If development control is to be effective, taking into account economic and other interests, plan preparation must be thorough and involve full consultation with key stakeholders including the public. At the same time however, there should be mechanisms for ensuring that the planning system demonstrates flexibility towards emerging land use demands particularly when those demands are driven by Government Policy. Although this approach is called for in PPS 1, Delivering Sustainable Development our experience suggests a lack of flexibility to respond to emerging demands. Given the time it takes to prepare local plans, which can be up to 5 years it is important the planning systems caters for emerging demands without compromising key aims of policy.

A more systematic and regulated approach to plan making with in built mechanisms to allow for such demands is needed. In particular timescales for plan preparation should be agreed and adhered to between parties. From a developer’s perspective we witness a wide variation in the time it takes for local authorities to prepare and approve plans and we suspect there is a correlation between inefficient plan making and a lack of flexibility to meeting emerging demands. Attention needs to focus on those authorities, which consistently under-perform in this key area. It may indicate poor management practice or lack of resources and may require some form of government intervention to secure the necessary improvements.

Plan Making – Central Direction and Regional and Local Discretion

We are firmly of the view that there needs to be clear linkages between national policy and subsequent levels of plan making. The formulation of policy at the national level needs to be made with a view to implementation and development outcomes at regional and local levels. There are examples in the energy sector, particularly renewables, where PPS direction is not being followed through at regional and local plan making levels. In these circumstances developers are initially encouraged to bring forward schemes based on clear national policy direction only to find a lack of policy backing at lower levels. This leads to risk and uncertainty. Currently, only around a third of on shore wind farm proposals in England gain planning consent and this is due to mainly to lack of policy direction at local levels. From first hand experience in one local authority area in Scotland, the slow emergence of local policy regarding wind farms has led to many millions of pounds of developers funds being wasted, along with public funds to defend public inquiries. The net result is to delay the implementation of strategic national government policy. We recognise however that the emerging Regional Spatial Strategies in England will help provide a key link between central government

and local authority policies, although question what measures will improve timely implementation at the local level.

Focusing further on electricity development, there is a clear need to ensure related infrastructure requirements are embraced as part of policy at national, regional and local levels. One of the key challenges facing the renewables sector, in particular, is the means by which developments, often proposed in remote areas, are connected to the transmission system. Renewables policy has been set in isolation from this key requirement and it is likely that schemes will not proceed due to the difficulty in obtaining planning permission for the necessary transmission connections.

One way of improving the relationship between the setting of national policy and development implementation is the extended use of Strategic Environmental Assessment. There is an argument for government to test the likelihood of implementation by conducting a strategic assessment prior to establishing policy. This would highlight any roadblocks to implementation and would likely result in a modification of policy. Equally important, an SEA approach would pave the way for land use based policy formulation at lower levels. It may be appropriate to include a form of SEA appraisal as part of the Regulatory Impact Assessment of proposed policy.

Sustainable Development versus Economic and Other Goals

Sustainable development principles are matters for consideration along with economic and other drivers such as social cohesion. It is a matter of judgement whether the right balance is being achieved between competing interests. In our view those involved in development control decision making should be allocated the appropriate resources to make sound decisions based on the range of planning issues. In areas such as sequential testing of potential alternative sites it is important that planning departments have the expertise to challenge applicants' justification for rejecting sites, for example on the grounds of high remediation costs.

Potential further Reforms of the Planning System

The planning system has undergone significant change in the past 2/3 years which should help transparency and certainty for business. It would seem premature to suggest further radical change while the existing system is bedding in.

Planning System Joined Up with Related Aspects of Government Policy

The planning system should provide the means for ensuring that, where development is an integral part, related aspects of Government policy is implemented. In order for this to happen greater emphasis is needed firstly to set policy and secondly, to ensure that policy cascades down to local levels. In the renewables sector the Government has set out its policy aims in PPS 22, but, as mentioned, the lack of more detailed policy at the local level has impeded development. The renewables obligation (RO) experience to date

provides tangible evidence of the economic effects. The RO is currently estimated to cost consumers c.£1Bn per annum in 2010. Currently it looks set not to be met due in large part to the failure of the planning system to deliver timely strategic guidance and project consents. On current projections, the delays represent an opportunity cost to the consumer rising to possibly in excess of £200m per annum from 2010.

Planning Applications for Major Projects

The key determinant for securing planning permission for major infrastructure projects is clear and consistent Government policy direction. The public inquiry into Heathrow Terminal 5 was significantly lengthened by a lack of policy direction from Government. In the absence of government direction the terms of reference for a Public Inquiry can be wide-ranging and open to repeated challenge. Clear policy is needed therefore to help ensure the need for a development is firmly established. Consistent policy spanning parliamentary administrations is required in view of the fact that major projects can take several years to prepare and progress through the planning system.

Although the basic process for obtaining planning permission for development, large or small, is on the whole fair and reasonable it is often protracted and this has a knock on effect on the performance of the economy. For example, at present there are some 5GW of applications under Section 36 of the Electricity Act under scrutiny by the Scottish Executive. While we do not advocate radical change to the current system, we suggest that the way in which determination takes place requires close attention. One of the main reasons for delays in decision making is a lack of resources within planning authorities and Government agencies. As there is generally a high degree of professionalism within planning authorities compromises are not normally made over the quality of decision making. As a consequence, lack of resource results in decisions taking longer. This is a major deficiency in the system and requires action if projects are not to face undue delay. One solution might be for Central Government to provide staff to assist local authorities in determining major project applications. An added value of this approach is that staff would have prior knowledge and experience of dealing with major applications.

We are also witnessing an increasing number of legal challenges to planning permissions, which can result in further lengthy delays to development commencing. Although planning procedures and processes need to be followed we suspect the majority of these challenges are made with the aim of frustrating development. This is an issue that requires attention.

As regards the new Major Infrastructure Project Inquiries Procedures Rules 2005, the greater the clarity in the matters necessary for an inquiry to consider the more chance there will be of achieving the aims of these Regulations, enabling major participants and the lead inspector to concentrate on the issues which need inquiry, thus reducing inquiry time and making the process as efficient as possible.

Summary

The emergence of the plan led system is designed to bring more certainty to the planning process and development outcomes taking into account market demands as well as encouraging more sustainable patterns of development. The drawback of a more predictable system is that emerging demands on land not catered for in development plans are unlikely to be approved. This basic principle of development control should be upheld.

The market can influence the use of land but our view is this is best achieved by working within the current system. A more laissez faire approach to plan making and development control decisions will compromise the balance of objectives the planning system hopes to meet. There is scope for improvements to be made to the timescale of plan preparation but this is likely to demand greater and more efficient use of resources.

In summary we suggest the review might concentrate on the following:

- Improvements in the performance of development plan preparation
- Greater flexibility shown towards emerging development demands
- Detailed consideration given to the implementation prospects of national policy with the possible use of SEA
- Ensuring systematic linkages between national and local policy to improve implementation
- Greater levels of resource committed to policy formulation and development control
- Clear and consistent national policy direction for major infrastructure.

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