

Barker Review of Land use Planning
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1st February 2006

BARKER REVIEW OF LAND USE PLANNING

To the Barker Review Team

I wrote on 2nd January 2004 welcoming the interim report on housing supply and offering views on what I saw as flaws in the planning system. Given my critical view of the planning system at that time, and the fact that subsequent events have if anything reinforced it, I naturally welcome the fact that a wider look at the system has been commissioned. You may find it useful to revisit those earlier comments, which I have attempted to update in the attached note.

If further detail or explanation would assist please let me know.

Yours sincerely,

Harry Deakin

BARKER REVIEW OF LAND USE PLANNING – RESPONSE TO CONSULTATION FROM HARRY DEAKIN OBE MA FRTP

1.

This note consists of some general comments followed by responses to some of the questions in Annex 1 of the consultation. It may be helpful to associate the comments with the writer's comments on the Barker Interim Report on housing supply, in a letter dated 2 January 2004.

2.

The review is required to “build on” the reforms to the planning system stemming from the 2004 Planning and Compulsory Purchase Act, which are referred to as having the intention of making the system “transparent, flexible, predictable, efficient, and effective”. None of those characteristics is being realised. In the writer's experience, which is widely shared, all of those characteristics have been diminished by the new system. It is opaque, made rigid through complexity, difficult to predict as to outcomes, time-consuming and so inefficient, and failing to produce the outcomes desired to meet the aims of sustainable development policy and so ineffective. It is a system obsessed with process and seemingly unconcerned with product.

3.

Those features potentially introduce an inherent conflict into the terms of reference. The terms require the review to carry out its remit “building on the reforms already put in place” in England. It is difficult to see how the planning system can “deliver economic growth and prosperity alongside other sustainable development goals” without departing to some degree from elements in the system put in place under the post-2004 approach. It would be unrealistic and unnecessary to suggest that the review should entertain significant change to the primary legislation, the 2004 Act itself. However a radically different approach to the planning policy and guidance provisions that have followed it, and especially to the complex tick-box procedures associated therewith would appear to be necessary, and urgent. The fact that the review is called on to consider how the system can better deliver its goals, taken with the “Issues to address” may give the necessary latitude for the review to tackle these matters.

4.

Examples of the torrent of policy, guidance, and procedural requirements flowing from ODPM are plentiful. PPS's, replacing PPGs, are longer and

more complex. In some cases that is disguised by separating policy guidance from good practice notes, but the effect is the same; more complexity to be absorbed by planning authorities and by applicants and the public, and more issues to be exploited by those seeking to oppose change or development. Sustainability assessment, which has always been a feature of good planning without being formalised, now fills voluminous reports, provides a rich vein for consultants and takes the time, attention and funds of planning authorities – without necessarily improving sustainable outcomes – a genuine tick-box exercise. Community Involvement is now a statutory requirement, with its own Statement and subject to its own Inquiry before an Inspector from PINS (when PINS has problems with timely dates for inquiries into real planning issues); like sustainability assessment it is preoccupied with procedural compliance rather than with outcome. Involvement of the community is essential to good planning, but has always been so, and does not require a mind-numbing set of statutory measures to ensure that it takes place.

5.

These criticisms should not disguise the fact that some changes introduced in the new system are to be welcomed. An example is that Inquiries into Local Development Documents will consider the “soundness” of the whole Plan and not be confined to looking into objections to the Plan as previously. Making the Inspector’s conclusions binding on the planning authority also promises to be an improvement.

6.

The foregoing is no more than a selection of the features of the new planning system that militate against it being transparent, predictable and so on. It may well be that the system is beginning to work faster and may get faster still, but it is highly questionable that it is producing the results that economic, social, and environmental objectives require. Increased speed is more a result of the pressure of targets, reinforced by financial sticks and carrots. Professionals and firms having regular contact with the system find it daunting; it is often difficult to advise clients how best to proceed. The effects on the economy are unquantified but are bound to be considerable, both in costs incurred, and also perhaps even more important in opportunities foregone because of uncertainty and potential delays. These matters are elaborated in the rest of these comments.

7.

The pre-2004 planning system was far from fault-free but the new one has had the effect of emphasising failings and of adding new ones. The main concentrations of planning talent, officials and elected members, was in the Counties and the large cities; the County element is declining rapidly and there is no certainty that it will relocate at regional level. Districts have a more localised approach, are short on strategic understanding and usually are chronically short of resources. The result often is that local planning lacks a sense of strategic direction and takes little account of major economic issues; local environmental issues being easier and popular. The calibre of regional planning in RSS is yet to be seen fully but to date has been broad-brush, and overly influenced by local political factions. RDAs, who might have supplied a more independent and economically oriented influence, have (in the South East at least) proved to be tied too closely to Government. The new planning system has made it easier to conceal those failings through its complexity and its preoccupation with procedural compliance. Some suggestions for tackling those problems are set out in the responses to the Annex 1 questions.

8.

When attention is paid to the results on the ground the new planning system is delivering the scale of the problems becomes clear. To take one example, the effects of PPG3, the provisions of which are now being substantially carried into draft PPS3. PPG3 reflects ODPM's preoccupation with delivery of housing, an understandable one in view of the planning system's failure to deliver sufficient housing. However, its monocular focus on priority for use of brownfield sites, together with high densities, are creating severe problems and a failure to meet sustainable objectives. PPG3 is careful to make caveats about these policies, for example, that the brownfield priority should not be pursued to a point where brownfield land is used to the exclusion of more sustainable greenfield sites. In practice LPAs feel pressured by the brownfield percentage targets, and by what is seen as a propensity by Inspectors to give more weight to such Government policy than to local issues. The consequence, at least in the South East, is that LPAs feel constrained to allocate brownfield land almost exclusively, regardless of on-costs, and also regardless of driving out employers from sites (especially those suitable for SMEs) which now attract housing values as much as double their commercial ones. In at least one major town in Kent it is now impossible for a would-be investor to purchase a site for industry as a result, port and transport uses are in retreat, and the growing proximity between

new high density residential and existing industrial uses promises further erosion of the latter through bad-neighbour complaints. At the environmental level, there are many examples of villages and attractive parts of towns having their character wrecked by high density housing on large gardens; when challenged by residents LPAs say they are constrained by ODPM policy and Inspectors' reliance upon it.

9.

The consultation emphasises that the review is not intended to promote economic interests above social or environmental ones. The planning system has historically been founded in a balance between the three. However that cannot disguise the fact that planning, at policy and at decision levels, demands prioritisation, and Government guidance on planning has consistently ignored that. It is notable that whilst housing policy is under active and urgent review in draft PPS3, there is no parallel review of PPG4, dealing with employment land, in hand or in prospect. Local DPDs are now coming forward with detailed assessments and policies for housing, enshrined in a Core Strategy, but with no assessment or policy for employment land; a sure recipe for unsustainable outcomes. ODPM has not responded to warnings about this. LPAs cannot be blamed for assuming that the economy, jobs etc have less priority with Government, and therefore with Inspectors, than housing. The increased centralisation of the system, which has become more pronounced with the 2004 Act, means that priorities need to be expressed more overtly than was the case when planning policy and decisions were more largely settled at local level. Over the past decade priorities in practice, although rarely openly expressed have increasingly favoured environmental interests at the expense of economic ones, and housing tops the priority for employment. It will remain important that the planning system delivers balance, but that should not preclude policy at LDF level, and to some extent at RSS level, stating priorities explicitly. The growing tendency of Inspectors, and also the Courts, to give weight to express policy from Government and in formal Development Plan documents makes it important that explicit priority is attached to policy statements when appropriate. The Barker review could provide a valuable steer on that.

BARKER REVIEW OF LAND USE PLANNING – RESPONSE FROM HARRY DEAKIN

RESPONSES TO QUESTIONS IN ANNEX 1

Question 1

No, the planning system is not sufficiently responsive or flexible. Rather than ask what policy measures might help this, as the question does, it could be better to consider a reduction in both the amount of centralised policy guidance, and in its prescriptiveness, which constrain LPAs and Inspectors.

Question 2

It seems doubtful whether more changes to the plans system is either desirable or practicable, whatever its faults may be. We have yet to see how RSS will work out and in terms of practical politics they must have a chance to show what they can do. There is too much central direction, however; see 1 above. The problem lies not so much with the different levels of plan and their roles but rather with the composition of the regional planning bodies, which (so far as the South East is concerned) is resulting in unrealistic regional proposals which almost guarantee central intervention. See response to Q.4 below.

Question 3

The system does not achieve a good balance between the three “legs” of sustainable development policy, see general comments preceding. Too much weight is often attached to environmental interests, partly because they are the ones that press upon local Council members and their officials, and partly because they are better presented and campaigned for by green bodies who are expert in these techniques, whereas economic organisations are either absent or weakly representative (see Question 4 response below). It is interesting that the wording of this Question 3 shows a similar leaning. There is no suggestion that environmental interests receive less weight, but that economic and social ones get their due much more, and that there is a systematic application of priorities (see para 9 of general comments above).

Question 4.

Due allowance is necessary in attempting to apply foreign systems to this country, however attractive they appear. Some lessons might apply, however. One example, of which the writer had experience, is the means adopted by the Province of West Flanders, Belgium, to regenerate its poor

economy after World War 2 (the Province is part of the Region Transmanche, incorporating Nord-Pas-de-Calais, Kent, and East Sussex). The key feature in the Province, centred on Bruges, was the creation of an economic Commission with extensive powers of economic regeneration, headed by a distinguished local academic who subsequently became Provincial Governor. The prosperity of the area is now plain to see. That approach contrasts with that in the South East, where organisations which purport to foster economic regeneration are bureaucratic, draw their funds and majority of controlling members from the public sector, and as a result produce reports but little actual economic improvement. England lacks both the region/province tradition of the near Continent, and also its powerful chambers of commerce, and as a result there is rarely an effective, informed voice for commerce to match that of the environmental lobby. Could eg CBI greatly increase its regional presence ? And do we need bodies to actually initiate economic development, in concert with the private sector, with powers to override local politics, where the need exists ?

Question 5

See foregoing general comments, from which it is obvious that the writer's response is "No". The new planning system, apart from the few desirable features noted there, is making matters worse. "Further reforms" needed are less central prescription and an Inquiry system into RSS and LDDs which focuses on results, not procedures. The adverse impact of the planning system's shortcomings is unquantified but the impression is that it is very great.

Question 6

In the South East there seems little doubt that the RDA and the RPB do have adequate liaison. The real problem is that the RDA, despite some good work and despite its creation being widely welcomed, is too much a creature of Government. Its current review of its RES shows this characteristic; it is strong on good intent, with which no-one could quarrel, but weak on how to bring about realisation. An example is its reluctance to criticise the planning system, which is the main cause of some of its good intentions failing, developments to improve the rural economy being a case in point. Compare comments above on West Flanders.

Question 7

There is certainly too much emphasis on speed rather than on efficiency and effectiveness (which encompass speed where appropriate). The appeal

system is much too slow and it is not yet clear whether steps by PINS to enlarge its force of Inspectors will work or what may be the effect on quality. Large developments are a particular problem, it now being impossible to give sound advice on how to best promote major projects. Compare that with the impressive programme of construction with close budget control achieved at Terminal Five Heathrow – after, that is, the planning obstacles had been surmounted. The writer is unable to suggest a sure and complete remedy, but the best place to look for one is not in processes, but by going back to policy formulation in DPDs and ensuring that policy is not unduly prescriptive or proscriptive (see eg many rural designation policies) but sets out clearly the criteria a successful application will meet.

Question 8

Writer is not aware of evidence of ill effects of planning application costs. It should be a matter of principle however that a regulatory system which itself imposes large costs should not be financed by charges on getting into the system. The growing practice of major applicants funding members of LPS staff should be stopped. Some features of the system are perverse, eg the requirement to provide documentation for a case that may take a year to come to appeal Inquiry by which time the material can be out of date. Some environmental assessment demands for information also require review, where they adopt a cover-all approach without prior consideration of significance.

Question 9

No direct evidence of such costs but it would be remarkable if they are not substantial. The phenomenon of business/industry uses being driven out by high site values created by over-zealous application of PPG3 is referred to foregoing.

Question 10

The flaws referred to foregoing in the system constrain competition, eg small businesses are less able to contest the system, and are more likely to surrender to high site values, whether to sell out from an existing site or to fail to buy in when faced with uneconomic site costs. Focus on brownfield makes it more difficult for small builders to break in.

Question 11

Planning documents commonly pay lip service to fostering innovation, clusters etc. In practice two features are common:- first, the planning system is bad at identifying what is helpful to such matters, and two, where the system encounters proposals for innovation or cluster development which it has not itself proposed there is almost invariably resistance. An example is a proposed major science park in Kent, with an existing science base, which has had to contest considerable resistance and even now is not home and dry.

Question 12

No, planning authorities generally do not have such skills, and the decline in County planning staffs will exacerbate that. It is common for the preponderance of policy in a DPD (and in RSS) to lean towards environmental protection, with sustainability being viewed almost solely as a matter of preserving greenfield land and favouring brownfield, and of preventing development which relies on road transport, regardless of circumstances or the sustainability of outcomes. Such an approach is easy for local politicians and for inadequate staff. To combat, see earlier suggestions for insistence on explicit prioritisation of policy intentions with criteria stated for allowing developments.

Question 13

In the writer's experience, No. See responses to Questions 4 and 6. Organisational representation from business is weak to non-existent. It will be claimed that the composition of RPBs and RDAs corrects this but experience suggests that the real business interests do not emerge. Few busy business people (the unbusy ones are not worth engaging) have the time or patience to engage with what are little more than public sector-dominated talk shops. A mission for CBI here ?

Question 14

There may need to be a sustained effort to educate communities in the fact (which appears not to be obvious to all) that a healthy economy is essential not only to living standards but also to standards of environmental care – more harm to environment results from poverty than from prosperity. The green lobby has successfully obscured that message and it needs to be re-established. It would also help if the principle of economic development could be agreed at an early stage in the process between promoters and the LPA, with the LPA then joining with the promoter to publicly endorse the

scheme. This does occur in some areas, mostly in the North, but rarely in the South East, where economic prosperity is undervalued. Time for DTI to earn its keep and step out of the Whitehall shadows ?

Question 15

This appears an odd question, in very general terms, at the end of a long series of more specific ones – what is its purpose ? The answer must be yes, and the ways are set out in the foregoing responses.

Harry Deakin

31st January 2006