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Dear Ms Howard

BARKER REVIEW OF LAND USE
PLANNING - INTERIM ANALYSIS
A QPA VIEW

Thank for forwarding to us a copy of the Barker Review Interim Analysis Report. I have been asked to respond to this report on behalf of the QPA membership and from a minerals planning point of view.

In our response to the early 2006 consultation on the Barker Review we made the following introductory points: -

"The planning system in England is slow, inefficient, inconsistent and expensive. It is a serious burden on business and planning delays have got worse year by year and continue to do so. The new planning system introduced by the 2004 Act is far more complex and cumbersome than the system it replaced. There has been no improvement in the certainty of outcomes. Even the most expert planning practitioners are struggling to cope with the complexities of the new system. In that respect the first term of reference of the review is misdirected, "further improving the efficiency and speed of the system" should have read "how to improve the efficiency and speed of the system".

If you need an example of the complication of the new planning system compare it with the previous 1990 Act Development Plan System: - The stages for preparation of the actual development plan are not dissimilar to the previous system albeit with the names of each stage changed. However added

to this is the production of statements of community involvement, possibly with a scoping stage at every stage of the process, plus the complications of sustainability appraisals and strategic environmental assessment. The only improvements to the system will be the emphasis on round table sessions at the public inquiries and the introduction of binding inspectors' reports. However, these improvements at the far end of the process will nowhere near compensate for the delays and complexity caused by SCI's, SA's and SEA's, en route.

QPA annual surveys carried out on a consistent basis since 1982 also show that it is taking longer and longer to get planning permission, again with no perceived improvement since the 2004 Act. Whilst the emphasis on LPA league tables and performance targets may have improved the speed of decision on small, general development planning applications, this has not been the case on major applications such as those involving mineral workings. Whilst the quarry industry expects such applications to take longer than the 8-16 week determination period, it is totally unsatisfactory that at present only 15% of permissions for aggregate quarrying come within 6 months. It is the uncertainty about when a permission might, eventually be forthcoming which makes it difficult for the companies to properly plan their business. Added to this is the evidence of our members from our annual surveys, that refusals on sites allocated for mineral working in development plans are becoming more common.

It is QPA's belief therefore that the planning system is in decline with much of the 2004 Act reforms having made things worse. This is damaging to our industry because the process has got slower, more costly and more uncertain of the outcome".

5 months on we firmly believe this is still the case. Indeed a reading of the Planning Officers Society response to the same consultation supports our view and is a powerful indictment of the current system emphasised by their experience as the key practitioners, trying to make it work.

We therefore believe the analysis of the "reforms to date" at paragraphs 1.12 of the executive summary of the Interim Analysis is hopelessly optimistic. The 2004 Act has not created a "simple, transparent, efficient and effective system". Planning Policy Statements are "not shorter or less complex" when looked at with their associated good practice guidance and annexes. We do not believe, however, that the volume of guidance necessarily imposes a "considerable burden on the planning system".

In paragraph 1.15 of the Executive Summary the optimistic words about the results of reform of the system do not seem to reflect the real world in which our members operate. Look at Chart 3.4 in the main report if you really believe the new development plan system is simpler.

The Barker report reads as if the planning system is a self contained process based on the 1990 and 2004 Acts. The reality is that this is far from the case and just getting an allocation in a plan is no guarantee of a smooth ride at the application stage, or afterwards. Our members report that they have planning applications running at the moment that have raised issues under the EIA Regulations, Water Framework Directive, Habitats Directive and other policy areas that have only come to light after submission of the applications. In one case a member has been asked to withdraw an application and re-submit after a newt and reptile survey next Spring despite it being perfectly obvious that neither of these have been identified on the site or would be affected even if they were there!

Once a mineral operator gets permission they then have to run the gauntlet of DEFRA and the EA and the separate licensing regimes that are nevertheless part and parcel of the development process now. It is not just the development system that is failing.

We feel therefore that the Interim Report's analysis of the current state of the planning system is misinformed perhaps encouraged by the political line fed by Ministers and officials. The POS response clearly says otherwise.

Thus, we feel the "Next Steps" set out in paragraph 1.38 are wrongly focussed and are unlikely to lead to a report which would solve the considerable ills of the present planning system.

In the main report there still seems to be an unhealthy fixation with the effect of the planning system on land prices. In this respect we would like to re-iterate the dangers of trying to remedy this unless the consequences are fully thought through: -

"The planning system creates shortages, of land, of available resources, of labour and so on. Prices of resources, land and thus products are all thus inflated due to the planning system. This has been true since at least as far back as the 1947 Act. These impacts are however, generally even across the

board in each region, although not, of course between regions, hence the huge disparity in the price of land in South East England compared with, say, the North East. Release of more land for competing developments would, of course, reduce land prices but were this to be done in the South East, could

have all sorts of other unwelcome side effects – shortages of labour, resources, water, flooding etc. Any tweaking of the planning system to change the impact on competition needs to be the subject of serious study of possible side effects”

We believe the “Next Steps” section of the Interim Report thus needs a dramatic re-think and would suggest these should be based on conclusions as follows: -

CONCLUSIONS

The reforms to the planning system introduced through the 2004 Act have not improved the system and in many cases have made it slower and more inefficient. Whether the time is right for yet another set of reforms or whether the system should be allowed to bed down for a few years is a finely balanced judgement. There is much wrong with the system, and in particular: -

- The slower, more complicated development plan system
- The lack of resources and expertise in the LPA’s
- The concentration at the development control stage on performance league tables regardless of the consequences
- The lack of proper balance of decisions in favour of an overweighting of environmental and social constraints
- The lack of certainty and consistency of outcome

Some good things have, however come out of the new system: -

- The move to plan EIP’s rather than the more lengthy adversarial system
- The concept of binding Inspector’s reports on plans
- The tightening up of the Section 106 system in Circular 5/2005
- The lifting of constraints on making representations on plans at each stage even where representations had not been made at an earlier stage.

However, so recently into a newly reformed system, the time is not right for another set of hasty reforms to the creaking planning system. What is needed

is a Royal Commission, staffed by expert planning practitioners and perhaps chaired by an eminent planning QC.

In relation to the last comment we believe the response by POS strongly supports our views: -

“The most charitable interpretation of this would be that the implementation of the new system (in particular, the transitional arrangements and the detail of the regulations) has been botched, and that experience of using it and a cleaning up of the regulations will produce a system that is fit for purpose. Of greater concern is the possibility that the system is more fundamentally flawed and that, rather than suggest further tinkering with it, it may be better to reassess from first principles what it is society wants from the planning system and what methods are necessary to achieve it”.

In short the planning system is in a mess, a failing that has not been properly recognised in the Interim Analysis Report. This needs urgent addressing before the final report. In the words of the POS response, furthering tinkering will not work. What is needed is a proper, expert Royal Commission.

We have no objection to this response being made public and may publicise it ourselves.

Yours sincerely

A handwritten signature in black ink, appearing to read "D T Pollock".

D T Pollock

c.c. E&MP Committee
Svb, KH, JMCL