

BARKER REVIEW OF LAND USE PLANNING – INTERIM REPORT

Comments from the Planning Officers' Society

Introduction

Planning Officers Society represents the most senior professionals and managers of planning functions in the English Local Authorities. We set out to:

- Act as an advocate and promoter of Local Government planning
- Assist and advise the Government and the Local Government Association on planning matters and related issues
- Act as a centre of excellence, undertake research and promote best practice in planning matters
- Promote all aspects of the built and green environment by working closely with other organisations and profession

The Society's aim is to ensure that planning makes a major contribution to achieving sustainable developments, from national to local level, in ways, which are fair and equitable and achieve the social, economic and environmental aspirations of all sectors of the community.

We welcome what we think is, subject to the detailed comments below, a balanced review of the strengths and weaknesses of the current planning system. However, we recognise that the key test for the review will be the measures proposed to address the shortcomings, and the interim report gives little clue as to the form these might take. For ease of reference, the following comments are, where applicable, related back to the relevant paragraph of the Executive Summary. We have tried to divide them into matters we believe should be addressed in your final report and comments on your interim paper (though we hope all our comments will assist you in some way with the final report).

Items that we believe your final report should cover:

The special challenges of planning in a British context: One important point that emerges from various parts of your interim analysis, but which we do not believe is sufficiently highlighted, is that England has one of the most challenging contexts for planning of anywhere in Europe, and possibly the world. As paragraph **1.6** points out "The UK has around double the OECD average of the proportion of protected land". For England, this represents some 55.2% of the total land area (**Table 1**) before any overlap between the designations is taken into account. At the same time, **Table 2.5** shows that, apart from the Netherlands, England has the highest population density of twenty comparator nations. At 383 people per sq. km. It is almost ten times that of the United States, three times that of France, twice as high as Italy and 50% above that of Germany. Taken together, these two factors - protected land and population density - must by themselves make planning a much more difficult and controversial process in England.

If we then look at the picture for the part of England which is expected to take the largest share of national growth – the south-east – the tensions are even clearer. Your map on page 34 showing designated land is not accompanied by any statistics, but the visual impression is that the south-east has a higher proportion of designated land than most other parts of the country. At the same time, its population density is higher, at 425 people per km². Its population is also growing more quickly than the national average. As the Government's Mid-Year Estimates show, the population of the south-east grew by 12% between 1981 and 2004, compared with the England average of 7%. For pressurised areas such as Berkshire, the rate

of growth over this period was more than double the national average, at 15%. The pressures on this region are exacerbated by such things as having the capital city at its heart, and having key parts of its transport networks not only serving local needs, but also acting as the conduit linking the rest of the United Kingdom with Europe.

We believe that the especially challenging nature of planning in Britain is not adequately appreciated. We suggest that your final report might set this in, say, a European context, presenting the kinds of comparative statistics referred to above, along with others showing, for example, the volumes of traffic being carried by the strategic highway and rail networks in England and the south-east, relative to those in comparable parts of mainland Europe.

A National Spatial Strategy? It has been suggested that a National Spatial Strategy might provide a more certain context for the planning system. Whilst we do not under-estimate the potential difficulty of producing one (not least, the danger of unnecessarily detailed central prescription of policy), we believe that there are elements of this which would be helpful and which could be produced relatively simply. These might include:

- an overview of our relationships with Europe and with key elements of European legislation related to planning;
- an overview of the relationships between regions;
- a national investment plan, summarising the Government's spending priorities and identifying specific major investments (for which the forthcoming Comprehensive Spending Review would form the basis).

Relationship to other strategies: In particular, we have in mind the relationship between regional plans and their corresponding Regional Economic Strategies. Clearly, the two need to be closely aligned, but a number of our members have identified tensions between the two in their areas. One part of the problem here is that the two are prepared at different speeds, reflecting the different processes to which they are subject, and so cannot develop in parallel to each other.

1.9 Long-term uncertainties and forecasting: You rightly identify the tensions between long-term forecasts, with all their uncertainties, and the need for responsiveness to changing circumstances. One way of addressing this might be for plans to be more specific in the short-term, but to indicate *directions of travel* for development in the longer term, without being quite so specific about the rate of progress. Provided key thresholds, in terms of the need to provide essential infrastructure and the processes and timescales involved in securing that infrastructure, were made specific, this might offer a better balance between certainty and flexibility.

The recent Panel report into the East of England Regional Plan highlighted the difficulty of linking development to the provision of essential infrastructure, when so much of it is beyond the control of local planning authorities. This may become even more challenging if the introduction of Planning Gain Supplement leads to a weakening of the link between the timing of investment and that of development.

1.11 The problems with consultation: We are pleased that you acknowledge the importance of consultation to the planning process and we share your ambition to make it more efficient, without compromising its effectiveness. However, we do not under-estimate the difficulty of doing so.

There are two misapprehensions about consultation that we would like your final report to address. The first is that enhanced methods of consultation can necessarily go hand in hand with a radically faster planning system. Whilst consultation is essential to a planning system that is democratically rooted, it is extremely difficult to do it properly **and** quickly. The issues seem to us to be: (a) to get the processes as streamlined as they reasonably can be and then (b) to decide how much delay we are prepared to trade off for full consultation. The answer to this second question may be different for different levels of planning. Experience suggests that the general public, at least, find it much more difficult and less rewarding to engage in consultation at the higher, strategic levels of planning. Provided ways could be found to ensure that their local interests were not fettered unacceptably, it may be that more focussed and quicker means of consultation might be developed at this level.

The second misapprehension is the idea that early and detailed consultation can necessarily lead to consensus. All too often, the job of planning is to adjudicate between irreconcilable opposing views, rather than broker consensus.

In considering the way in which consultation is carried out, we suggest you consider the following principles:

- *the need to secure a more representative cross-section of public opinion.* At present, those age groups whose future housing and employment needs we are planning for tend to be under-represented in the responses to planning consultations. Responses tend to be dominated by those who are already comfortably housed and employed, or retired. Also, the business community – for a mixture of reasons – tends not to be an effective player in planning processes. New means of consultation need to be developed;
- *The need for ongoing dialogue.* Rather than having infrequent, set-piece consultations, we should be looking for more of an ongoing dialogue with our communities, building channels of communication and trying to ensure that public opinion is informed by all the facts. This alone could help the efficiency of consultation. Related to this is;
- *The battle for hearts and minds:* The principle of development has historically not always been unpopular with the public, and we need to understand and address the factors that have led to its current unpopularity. Probably the greatest of these has been the past failure of essential infrastructure and services to keep up with growth. Much work is needed to ensure that this will not happen in future and, no less important, to convince the public that this will not happen. In relation to this, you rightly identify at **1.21** a failure to appreciate the longer-term benefits of some developments, relative to their short-term costs, and for the public to have inaccurate perceptions about development;
- *Consultation fatigue:* Laudable though the pursuit of more comprehensive consultation is, consultation fatigue is a growing problem in the experience of many of our members. The same organisations and individuals are now being consulted, far more intensively, not just on planning but also on a wide range of public sector strategies. It is easy to forget that these people are not generally able to devote their full-time attention to planning matters as the professionals can. Any review of consultation processes – including the suggestions listed in our bullet points - therefore needs to be related to an overview of the total consultation demands the public sector is making of these key players.

Householder applications: We know that one of the issues that has been raised with you is the volume of householder applications, and the scope for freeing up resources by taking a significant proportion of these outside of planning control. The Society supports the principle of a review of the householder application regime for a number of reasons. However, the potential for it to free up significant resources is by no means part of our case. Perhaps the most significant element of such a move would be the re-positioning of planning as a strategic and corporate function rather than the current emphasis it has in many authorities as a regulatory and negative force. For a number of reasons, we think the potential for freeing up resources may be less than it appears. It would be likely to generate a correspondingly higher level of complaints, calls for enforcement action, references to the Ombudsman, etc. from an increasingly litigious public, all of which would have to be dealt with. A reduction in any area of local government work is likely, for many hard-pressed authorities, to lead to a reduction in staff, rather than their redeployment. Even if staff were redeployed, a number of authorities have responded to recruitment difficulties by down-skilling this aspect of planning, by using non-qualified staff. These could not be used on more complicated cases without considerable training, and possibly not even then. Whilst we are certainly not arguing against the principle of a simplification of householder applications, we would not want you to do so based on an unrealistic view of the amount of additional staff resources it would release.

Training of planners: You have rightly flagged up the skills shortage in planning as a major issue for the service, and there is no quick fix for this, other than increasing the output of qualified planners by expanding training. The one-year M.Sc. has been a valuable way of doing so, but (bearing in mind it replaces a three- or four-year undergraduate course) it places a much greater onus on the employer to complement it with on-the-job training. Greater

recognition needs to be given to this role, possibly allowing for the use of Planning Delivery Grant to fund it, where appropriate. The Society would be happy to work with the Royal Town Planning Institute, planning schools and others in developing suitable curricula and materials for on-the-job training. The added benefit to this is that recent work by the University of Westminster shows that improved in-house training also assists staff retention. There also needs to be recognition that, for example, the target-driven environment of an over-worked development control section may not be the easiest environment for a new planner to lift his head from the daily grind and complete his studies. Allowance needs to be made for this, as appropriate, in the system.

In relation to staff shortages, it is perhaps worth reiterating the point (in the light of recent pronouncements from the Audit Commission) that part of the solution does not lie in making greater use of consultants. Leaving aside for a moment the additional costs involved, the private sector draws from the same pool of trained labour as local government, and suffers from the same shortages. Increased use of their services will only result in them poaching more staff from the public sector, leaving us no better off in overall terms.

Local Development Frameworks: Government Office involvement: We would like you to look at the current practice in relation to Government Office involvement in LDF preparation, and at whether it is consistent with the Government's wider aspiration for a speedier development plan system. Our members have raised three concerns. The first is in relation to the nature of their scrutiny of LDDs, which a number of our members feel is over-detailed and largely procedural and bureaucratic, and leads to delays. One example given to us was of an authority being forced into a costly and time-consuming modifications process, in order to make what were felt to be entirely inconsequential changes to a document. The second relates to the volume of information local planning authorities are asked to gather as an adjunct to development planning. Is the use that is made of the information always sufficient to justify the work involved in its collection? Are the arrangements for the collection of data at national, regional and local levels as consistent and streamlined as they might be? The third relates to the scrutiny of Supplementary Planning Documents. Our members feel that these less authoritative documents should not be subject to the same level of detailed scrutiny and timetabling as other Local Development Documents, particularly when (as in the case of something like village design statements) community groups have a major input to their preparation. The impact of the procedures on dealing with urgent regeneration issues is also a major concern. These cannot be programmed with the same precision as LDDs and local authorities should not face criticism if these volunteers are unable to deliver within a particular timetable. In addition, they should not be subject to the additional cost and delay of a separate Sustainability Appraisal, since these are supplementary to policies which themselves will already have been subject to their own SA.

The role of Councillors: Your review of the planning system should not overlook the role of elected councillors. In the experience of a number of our members, the way new the development plan system sits within the Cabinet system of local government is tending to sideline elected councillors, and consideration needs to be given to how they can be re-engaged with the process. If they are not given a real and satisfying function within the planning process, they are likely either to become disenchanted with their role, or to start looking for ways to subvert the outcomes of the process. We are also concerned at the negative impacts of the split between the executive policy making and the development control functions within local authority structures. However, we recognise that looking at the Cabinet system of local government may be pushing at the boundaries of your terms of reference somewhat.

1.37 European legislation: You refer to the difficulty of reforming European legislation, beyond removing the over-engineered implementation of it. This may be the case, but the important lesson for the future is that the Government needs to develop a far better appreciation of the domestic consequences of European environmental legislation **before** they become signatories to it. This would enable them either to modify it accordingly, or at least take a more measured approach to working through its consequences. The Special Protection Area saga provides a painful lesson, which we hope will be learned by Government. We would hope that means to this end would be included in your final

recommendations and we can supply you with full details of what has happened in relation to SPAs, if required.

The financial basis for planning: Finally, we cannot emphasise strongly enough the necessity of getting the financial underpinnings of planning right – ensuring that development is accompanied by the timely and adequate provision of the essential infrastructure needed to support it. Whether this is provided through Planning Gain Supplement or some other means, if it is not present, you cannot hope to have a planning system which delivers sustainable development, or which the public trusts. We hope your final report will make this point with all the force at your disposal.

Comments on the interim report:

General points:

Endemic and area-specific problems: It would be helpful for your analysis to distinguish more clearly between those perceived problems which are endemic throughout the planning system (say, due to its legislative framework or to the policy context set by Government) and those which are the result of policy set by individual authorities (for example, you cite at **1.27** examples of local authority policies which were felt to be unhelpful to clustering). The latter can, if necessary, be addressed relatively simply, for example through the checks and balances of the plan-making process or additional Government policy guidance. The former may need more complex solutions, such as changes to primary legislation.

Planning and the market: Planning's whole reason for existing is to modify the effects of the market in the wider interests of the community (such as protecting assets we all hold in common, including less tangible ones, such as quality of life). There seems to be an unspoken assumption at various points, in your executive summary in particular (for example, at **1.31**) that planning restricts economic growth and that those restrictions might be removed at no cost. It needs to be more clearly acknowledged that where planning imposes such restrictions, there will generally be these other considerations underlying them. Whilst one may take issue with the weight afforded to these, or with the processes used to weigh those considerations against each other, the impression should not be given that it would automatically be cost-free to change the decision. Your appreciation of this point emerges more clearly from a detailed reading of your full report, which in a number of places deals with the matter in a more balanced manner, but we are concerned that a reader who relies on the executive summary might emerge with the impression that the relaxation of planning controls was largely cost-free. Finally, in relation to this point, it is worth saying that many of the outputs of the planning process are things which the market values, even if: (a) they are not things that would emerge from the unfettered working of the market and (b) they are not always easily quantifiable, in the way that direct economic benefits are.

Enforcement of planning control: We were unable to find any reference to the enforcement of planning control in your interim report. This is an important part of the planning system and should not be neglected in any review.

Major infrastructure projects: We know that these are at the forefront of the Government's concerns about the planning system. However, there are provisions for improving these processes in the 2004 Act that, as we understand it, have not yet been put to the test. We do not know whether your final report will include recommendations on major infrastructure projects, but it may be wise to see how these new provisions work, before recommending further change. The Society supports the principles underlying these new provisions, and will be interested to see how effectively the detailed provisions work, for example in relation to the Government's current thinking on nuclear power.

Moving on to more specific matters:

1.14 Satisfaction with the planning system: Your starting point for this paragraph seems to be an uncritical acceptance of the CBI figure, showing 69% dissatisfaction with the planning system by businesses. We would simply ask "what proportion of that 69% has had

recent experience of the planning system, given the improvements in the speed of the system acknowledged in your previous paragraph?”

1.15 Modifying the current system: We are pleased that you acknowledge the unnecessary and increasing complexity of the current system, including the over-engineering and jargon of the LDF process. You recognise at **1.39** that the new system is still bedding in, and that for that reason your final report will not focus on that part of planning. However, we hope this will not preclude a careful reassessment of the detail of its working (either as part of your review or separately), to remove unnecessary and simplify gold-plated parts of the process. We have given you some examples of these earlier in this document and in previous evidence, and would welcome the opportunity to assist with a more detailed examination of the process, if this would be helpful.

1.20 Designated land and development pressure: It would be interesting to look at the relationship between designation of protected land and development pressure in more detail, and see how closely the distribution of designated land correlates to the areas with the greatest demand for development. This might help illuminate: (a) the extent to which these designations exacerbate development pressures within the south-east and other areas of high demand, and in some of the most pressured sub-regions within the south-east, and (b) whether those designations are themselves a contributory factor to the pressure for development, because of the enhanced quality of life they help to provide for those living and working in and around them. We are frequently told by the business community that our environmental quality is part of our unique selling proposition internationally, and it is planning that is primarily responsible for maintaining it. For good reasons (both environmental and in terms of public opinion) we would anticipate that these designations are unlikely to alter radically, and will therefore be a “given” in whatever solutions you produce. Your final report might want to consider how much of a conflict this represents and how the two might best be reconciled.

1.22 Retail store sizes: We think some of the arguments about the costs and benefits of bigger stores are rather more complex than your main report suggests. For example, you suggest that larger stores make savings in delivery mileage by requiring fewer, larger delivery vehicles (5.37 in your main report). In fact, larger stores draw their customers from a far wider catchment and, whilst delivery **to the store** may be more efficient, the last part of the delivery journey is performed by the individual customers themselves, in their own small, relatively inefficient vehicles. Taking into account this broader picture of the delivery mileage (or associated fuel consumption) involved in getting the goods **from factory to home** (which is surely the appropriate perspective for a Government concerned with global warming) it may therefore be that the larger store is less efficient.

More generally, whilst there may be some narrowly-defined efficiencies in operating a larger store, these do not necessarily always correspond to what the public wants. In some cases, the most popular shopping consists of a wider choice of smaller stores. Nor does your analysis take any account of considerations like social inclusion and sustainability.

Thirdly, you argue that planning may restrict access to the market by limiting land supply. Whilst this is clearly a contributory factor, another important consideration is the operation of monopolistic practices – hoarding consents and land options – by some of the leading players in the market. Whilst you acknowledge this in your main report, we felt it did not come out clearly in the executive summary. One way for your final report to resolve this, one way or the other, might be to see what data are available about the number of unimplemented consents for larger stores. If correct, is this something that could be addressed through a more proactive use of compulsory purchase powers by local authorities in suitable cases?

Our members’ experience of the American retail hierarchy, which you implicitly seem to advance as a model, seems to us all too often to comprise dead downtown areas and the proliferation of car-dependent suburban malls and low-rise sheds in large areas of parking. We ask:

- whether that model would be an efficient use of land in a much more crowded country like our own?
- whether it would promote efficient and sustainable patterns of transport and modal choices?

- Whether the future of our town centres as a focus for our communities' retailing, leisure, cultural civic and community needs is best served by this model

All three of these seem legitimate considerations for a Government carrying out an economic assessment of planning, even leaving aside considerations of whether it would provide the type of urban form the public want.

1.26 Stifling innovation: Your argument attributing a lack of innovation, even in part, to planning, seemed to us tenuous. Whilst we recognise that the benefits of clustering are held in some circles to be an article of faith, there is a body of academic evidence (one example of which we quoted in our earlier submission to you) which casts serious doubts on its significance. For a good illustration of how factors other than planning can inhibit innovation, we commend to you Chapter 3 of the recent House of Commons Science and Technology report into the water industry.

1.29 High cost of occupation: The arguments about planning being at least in part responsible for the high cost of occupation in Britain seemed equally unpersuasive. As you acknowledge, the evidence is scanty and complex, and you yourself provide evidence which points in the opposite direction, at **1.33**. Our concern is that this line of argument might be seized upon by others and used in a selective and exaggerated way. We would hope that any such argument in the final version would either be supported by more solid evidence, or deleted.

1.38 Responsiveness to changing demands: Your third bullet point in this section, about combining certainty with responsiveness to price signals, raises some interesting issues. In paragraph 8.7 of your main report, you say there is evidence that plans have not always been sufficiently responsive to changing demand for different land uses, and you cite in support two case studies (Box 8.1). First, it is not clear whether these are two isolated examples, or are illustrations of a more systemic problem from a much wider body of evidence (see our earlier general point).

Second, you appear to have taken the applicant companies' view of the two cases uncritically, at face value. Their views might attract the reply *they would say that, wouldn't they?* Did you discuss the cases with the local planning authorities concerned before you used them, to establish whether there were other considerations that led to those outcomes? We do not know the answer to this, but we think you should. Elsewhere in your full report, you have very properly put a health warning on case studies, recognising that you are only offering a partial view, based on the narrower economic considerations, but for some reason it seems to be absent here.

Thirdly, if a system were more responsive to price-signals (in the sense of responding to increased prices by increasing supply to a point where prices were brought down again) might it not undermine the financial incentive to develop or, at the very least, lead to a very sporadic and uncertain pattern of development that would make little sense in land use terms? At the same time, your point in paragraph **1.37**, about the lack of any financial incentive for many local authorities to adopt a pro-growth strategy is a valid one that merits being developed separately.

1.39 The complexity of planning: We welcome your acknowledgement of the complexity of the trade-offs planning has to make, and the fact that there are unlikely to be any simple magic bullet solutions. We hope your final report will emphasise this, since we fear it may not be universally understood by those who will seek to make decisions, based on your report.

Conclusion

The debate seems to us to boil down to a small number of simple questions – at least, the questions are simple; as your report and (we hope) our responses suggest, the answers are often very complicated indeed. The planning system, in that it exists to interfere in the working of the free market, inevitably has costs for some of the players in that market. It imposes them in the interests of the wider community. It is also, at national, regional and local level, a political process. What we are all seeking is a better basis for understanding:

- What those costs are and who bears them?

- What the benefits are, and who enjoys them?
- How those costs and benefits can best be measured?
- By what processes and what criteria should society decide whether those benefits outweigh the costs?
- If it is decided that they do not, how the best balance between costs and benefits can then be achieved?

Your interim report is a valuable contribution towards improving that understanding and we hope these few comments will help in its further development. Finally, we would like to reiterate the request that your final report, whatever changes it recommends, should give the strongest possible support to the principle of planning, in both the social, environmental and the economic interests of the country.

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