



1st September 2006

TCPA Response to the Barker Review of Land Use Planning – Interim Report

1.0 Summary

The TCPA warmly welcomes the statements of principle of the importance of planning in the interim report of the Barker Review of Land Use Planning but rejects (except in the case of minor householder development) analysis suggesting radical liberalisation and deregulation of development as a whole, which finds expression in parts of the supporting text.

The TCPA recognises that amongst certain key groups (such as small and medium sized enterprises – SMEs) there are high levels of dissatisfaction with the planning system. The Association has always advocated reforms to improve its workability and effectiveness in meeting sustainable development objectives. A number of proposals to address these problems by way of further reform are therefore proposed by the TCPA in this response.

2.0 Planning, community involvement and resolving competing demands for land use

In particular the TCPA welcomes the recognition in the report of the following:

- **The importance of planning's role in resolving social and environmental impacts as well as economic impacts**

The TCPA has advanced the view that planning is important both because it delivers the homes, communities and environment that society needs and wishes to develop and

because the planning process is vital in its own right, in terms of mediating between competing land uses.

- **The importance of community involvement in planning**

The TCPA policy is that properly resourced and better managed community involvement can enhance outcomes both in terms of the quality of development, and on occasion the profitability of schemes. In addition, it believes that community involvement remains important whether it adds to or reduces the costs involved in development.

- **The possibility for ‘alternative routes’ to be used to control some aspects of development**

Although no details are given this could be a route towards significant simplification of detailed controls on householder and/or minor development.

This would be welcome because the TCPA believes that clearer rules on minor development (as opposed to variable policy guidelines) would be welcomed by community groups, householders and by small businesses. It has advocated a move to controlling a greater proportion of minor development through Building Regulations rather than through planning (with the use of minimum standards, minimum habitable room sizes perhaps using traditional back to back distances as a guide).

The TCPA also welcomes the fact that the report notes that the new plan making system is still bedding down and that further major reform here would be unwise at this time.

3.0 Areas of concern

3.1 ‘Impartial assessment’ to replace community involvement

There are a number of areas where the report and more particularly the background analysis (as opposed to the executive summary) would appear to be arguing for a reduction in community involvement in favour of a short cut to “an impartial

assessment” which would be more favourable to economic growth. Paragraph 4.31 that states that *“Many structural issues in the current planning system may therefore tend to work against an impartial assessment of costs and benefits of development, which may in many cases result in a potential bias against growth”*.

The TCPA is concerned that the evidence base used to assess the value of community engagement is incomplete. Furthermore, it is reasonable to question whether such ‘impartial assessments’ would be genuinely impartial given the fact that the current system attempts to be both impartial in its analysis and democratic in its decision-making. No explanation is offered as to how an “impartial assessment of costs and benefits” might be carried out in the context of an alternative to proper planning, however cost/benefit analyses are commonly used to measure economic costs and benefits and it can only be assumed therefore that economic factors in such an analysis would become the dominant consideration. There is also no explanation of whether the costs/benefits being considered would be short-term or long-term and whether they would therefore benefit companies with long-term or those with short-term interests.

3.2 Plan-led system as a basis for investment

There appears to have been little analysis of the extent to which planning and development plans in particular encourage or provide for investment. The analysis supposes (in paragraph 1.22) that *“the plan-led system may enable incumbent firms with the strongest lobbying power to influence the location and availability of development sites.”* The TCPA suggests that were such analysis to be carried out it would show a correlation between long-term investor strategies and development plans which often facilitate such investment returns. Development plans do not provide as much flexibility for short-term investment decisions since long developed strategies for the balanced development of a town or neighbourhood cannot and should not be thrown off course by the desire for short-term financial gain.

There is also evidence that development plans cater well for employment land uses and economic development. Studies carried out by the Greater London Authority (GLA, 2006 ‘*London Property Research: London Office Policy Review 2005/6*’) have

shown ample provision (if not over provision) of office space in London. Development plans are well placed to provide accommodation for growing business sectors though more research is needed on how floorspace or related provision should be calculated and planned for.

The new system of development plans is beginning to show positive results in supporting and creating conditions (e.g. in land supply and accessibility) for competitive and sustainable economic development. RSS are paying attention to the economic development needs of their regions and important sub-regions, with proactive policies to sustain growth and regenerate local economies. RSS are related to Regional Economic Strategies produced by RDAs. They are tested through Examinations-in-Public (EiP) where business interests are selected as participants and make their views known (as in the recent East of England Plan EiP). New LDF have to be in general conformity with them.

3.3 Predictability and development control decisions

One of the problems encountered by SMEs is the lack of enforcement of the development plan and its policies. Too often decisions appear to be significantly at odds with Development Plan policies, although there are occasionally good reasons for this (the plan may be seriously out of date or not yet been agreed). The TCPA has consistently encouraged local authorities to delegate a higher proportion of planning decisions to Officers to ensure greater conformity with the Plan. The Association would also welcome more weight being given to the need to have an adopted plan and for decisions to be made in accordance with that Plan.

The TCPA also supports compulsory training of elected members serving on planning committees.

Indeed, one of the problems of planning that needs to be addressed has been the failure to engage some sections of the business community in forward planning with the local authority. It is of course recognised that many businesses do not have the time to engage fully with the system. Greater intelligence gathering by local planning authorities would lead to a better understanding of the development needs of local businesses. This could then be

used to weigh up, and where necessary counterbalance, the often conflicting needs of larger businesses and retailers.

3.4 Performance in decision-making

Since the 2004 Planning & Compulsory Purchase Act much has been achieved by local authorities in terms of improved performance in meeting targets. However, there is evidence of some authorities excelling at meeting targets while providing a poor service. This is in part a response to the way in which the Planning Delivery Grant (PDG) is structured. The TCPA will be making a response to the current consultation on revising the PDG in due course (see also paragraph 3.7).

A more appropriate system would include a wider range of performance measures that capture quality as well as speed. The TCPA is willing to work with Government to develop such indicators and to review how the planning system can be made more responsive.

However, focussing the debate on the issue of performance and speed alone would miss one of the most important issues: that quality planning and decision-making takes time, since decisions are being taken on often very complex issues. As a generalisation, decisions that are large, complex and controversial take longer than those that are not. There are many instances where the planning system is used to make hard, and inevitably, political choices. Responsible decision-making is needed that places localised opposition in the context of wider socio-economic interests and benefits that may be available to those seeking jobs, homes, and so on. Proper community and stakeholder involvement in the forward planning process can help, as can delegation of many applications to Officers. For the most part, it may be that confrontation and compromise between champions of local communities, and guardians of the national interest may be the best way. At least it allows the flaws in each side's arguments to be exposed. To assist this, and rather than simply being seen as another part of the process, the Statement of Community Involvement should be positively embraced by planners as a tool for engaging better with the wider community.

It will be important to consider the impact that planning culture and strategy has on the system. The same planning system is being used in different ways in different parts of the country. In parts of northern England for instance those operating the system are using it as a tool to deliver exactly what the Barker Review team are trying to achieve: namely improved economic performance. On the other hand, in the south development is often resisted. The challenge is often less about changing the system than tackling culture and vision within the system.

3.5 National energy / infrastructure frameworks

The issue of delays in infrastructure projects is raised throughout the analysis. The TCPA is pleased to see the report notes here that “In this context it has been argued that a clearer articulation of national policy could help reduce infrastructure timings.” This approach is clearly noted in the recent Energy Review which also opens consultation on whether “A policy framework for nuclear build should be developed. It would include a nuclear ‘statement of need’.” (See page 162 of HM Government’s ‘The Energy Challenge’). It is also feasible that Rod Eddington’s review of transport infrastructure might recommend a national framework of some kind to provide development and investor certainty.

It is clear that the final report of the Barker Review should be set within the wider context of the parallel reviews set out above, and *visa versa*.

The TCPA has pushed hard, in part through its report ‘Connecting England – A Framework for Regional Development’, for a national planning framework particularly for major infrastructure projects and welcomes moves in this direction. Crucially however the TCPA has advocated a participative approach to developing such a framework (initially ‘from the regions upwards’) and is concerned about the risk of central Government relying upon whipped votes in Parliament to impose such a framework from the top down. The kind of process adopted here is a matter of concern for the TCPA. Communities and civic society generally should be able to input into and influence this process.

National planning frameworks may also help to speed up the decision-making process in relation to Regional Spatial Strategies

(RSS) and Local Development Frameworks (LDF). There is at least one case in the East of England where the respective Government Office requested that local authorities delay their LDF processes to await publication of the Panel Report of the East of England RSS examination in public [confirm this point].

It should also be noted that a number of areas considered to be 'planning' are in fact controlled by entirely different legislation, such as the Electricity Act for example.

3.6 Support for town centres

The analysis both recognises the benefits of town centres (as 'club or public goods') but also appears to throw scorn on planning work that prioritises them. Paragraph 5.37 for example states that "*Small retailers located in town ... require a larger number of delivery journeys.*'

A crude application of any 'sequential test' that did little more than compare or dismiss sites based upon their distance from the town centre would be sustainable in neither economic nor environmental terms. In the context of PPS3 the TCPA has advocated a level playing field approach to town centre regeneration, sustainable urban extensions or new settlements. A sustainability appraisal of the right option for any relevant locality, encompassing questions of sequential testing in terms of distance from the town centre is clearly desirable.

The analysis flags up that for some people (those living on the periphery of towns) out of town shopping is convenient and well located. The response of the planning system should be that such development of out of town or edge of town retail facilities should be permitted provided they are developed as part of properly planned mixed-use communities (or new settlements) with adequate levels of public transport and other facilities. Without such conditions retail investments would fail to deliver their 'public goods' qualities that the report highlights in terms of town centres.

The TCPA's policy statement on retail planning sets out in more detail how the competing aims of the national economy, and local economies and environments, and the communities they serve can best be dealt with.

3.7 Local authorities and incentives for development

Paragraph 1.37 states that *“for many local planning authorities there is little financial incentive to adopt pro-growth strategy or enhance competition.”*

The TCPA is sensitive to this problem and it has long advocated the removal of disincentives acting on local planning authorities. The delay in receiving Council tax receipts from new housing is one such example. However, the TCPA would be concerned if the balance were to move too far in the opposite direction, such that authorities might be appearing to accept development on the basis of financial gain.

Proposals as part of the review of the PDG are a welcome step towards rewarding output, however there is no measure of the quality or sustainability of that output. This is something that ought to be high on the agenda as the Government seeks to minimise the environmental impact of new housing.

3.8 Third party challenges

The TCPA supports a very limited right for third parties to appeal (specifically individuals losing their home or amenity as a result of a planning permission). The current lack of third party right of appeal means that those that can identify the necessary funding are able to challenge planning decisions in the High Court, whereas those without are debarred from such channels. This often means that developments are challenged in the High Court on technicalities such as an error in the processing of an application simply because a campaign group or other group of objectors is able to fund such actions. The net result is usually a delay rather than a reversal of the permission to go ahead with the development, while those with a genuine grievance but unable to afford legal action remain without any option to challenge the decision. If the Review is to consider this area in any detail these points should be reflected. The TCPA believes that if this issue is to be taken up further in the report then it will not be acceptable to judge such matters solely on whether or not they work against as paragraph 4.32 appears to do, where it states:

'It is also the case that not all the processes work against development: the lack of third party rights to appeal can work to favour economic growth, for example, as applicants can appeal a rejected decision while opponents of development are not able to appeal a successful application.'

3.9 Conservation designations

The report contains a welcome summary of the proportion of land in England subject to designations of this kind (about 15%) compared with the proportion that is urbanised (8.3%). This summary also lists the six kinds of major rural conservation designations and may lead to a suggestion that these be rationalised. The TCPA is not yet convinced that major reform, or rationalisation of all these designations would serve a very useful purpose. It is interested however in the concept of 'habitat banking' and hopes to publish work soon on this matter and land swaps which may be relevant to protected land in certain designations if not in others. In relation to green belt policy specifically, however, the TCPA has advocated a review which considers their role and purpose in the light of the need to address sustainable development. The Association's views on this are set out in its green belt policy statement.

3.10 Alternative routes

The TCPA, as stated in its original submission to the Review, believes there is scope for significant reform in the context of minor householder development, as evidenced by the report of the Householder Consents Review Working Group. The TCPA believes there is scope for a larger amount of minor development to be permitted under the General Permitted Development Order and thus not require planning permission. However, this would be on the proviso that certain national minimum standards are laid down in Building Regulations, which would fulfil the design code-type functions currently set out in Supplementary Planning Guidance at local authority level for extensions and conversions, and so on.

3.10 Climate change

Climate change has been recognised as one of the most important challenges of our time. It is one that societies all across the world and at all levels are facing. The interim report rightly identifies climate change and environmental limits as a key long-term challenge, but fails to address it in more than a superficial way.

Climate change is arguably the biggest challenge that the planning system will have to address over the coming decades. Evidence from leading scientists, including the Government's own Chief Scientific Advisor, Prof. David King, suggests that we have only a few years to have all the necessary mechanisms in place to start to tackle the problem. The planning system is one such mechanism and therefore it, and the people who operate it, must have the capacity to deliver.

4.0 Conclusion

The TCPA emphasises that there is scope for serious reform in some key areas. We have provided details possible reform, however, we would emphasise that the planning system as a whole needs to remain in place. It has enjoyed cross party support for a number of decades and fulfils its functions better than any alternative system on offer.

The costs to the environment and society of market free-for-all in development are difficult to quantify but perhaps the most important point is that such a system would be unlikely to guarantee a free market in development and land use in any case.

The pre planning Acts system of development entirely by private treaty and covenant, backed up by local bye-laws has not existed entirely without planning since before 1909. The 'pre planning Acts' brought with them some of the same kind of "restrictions on land supply", rises in "land values and property prices" and barriers to "entry to the market" instigated by the private sector, which are raised in the report as concerns for today.

Annex: The Town & Country Planning Association

The Town and Country Planning Association (TCPA) welcomes the opportunity to respond to this consultation. The Town and Country Planning Association (TCPA) is an independent charity working to improve the art and science of town and country planning. The TCPA puts social justice and the environment at the heart of policy debate and inspires government, industry and campaigners to take a fresh perspective on major issues, including planning policy, housing, regeneration and climate change. Our objectives are to:

- Secure a decent, well designed home for everyone, in a human-scale environment combining the best features of town and country
- Empower people and communities to influence decisions that affect them
- Improve the planning system in accordance with the principles of sustainable development