

BARKER REVIEW OF LAND USE PLANNING

RESPONSE FROM THE OPEN SPACES SOCIETY, MARCH 2006

1. The Open Spaces Society, (formally the Commons, Open Spaces and Footpath Preservation Society, was founded in 1865 and is Britain's oldest national conservation society. A registered charity, we campaign to protect common land, village greens, open spaces and public paths, and people's right to enjoy them. Thank you for consulting the society about this complex issue.
2. Planning Policy Statement 1: Delivering Sustainable Development gives planning authorities and regional planning bodies for the first time a statutory duty for sustainable development. It refers to the bringing together of social, environmental and economical objectives, in an intergrated manner rather than requiring them to weigh up objectives, as was the previous guidance. All policy should therefore be based on these new principles.
3. The planning system has in general, apart from where development harms the environment, been democratically accountable and transparent.
4. It is not clear why this review is considered necessary as the Planning and Compulsory Purchase Act only came into force in 2004. The review commissioned by the Treasury looking at housing supply, appears to have led directly to Kate Baker being commissioned to conduct a review of the land-use planning system in England.
5. We are concerned that the review potentially threatens a largely effective planning system and undermines the statutory duty for sustainable development by considering how planning policy and procedures can better support economic growth and property alongside other sustainable development goals. It is not clear whether this review is about wider regulation issues or is to be limited to the planning system. It is essential that this is clarified.
6. The society is opposed to any weakening of protection for the environment including landscape, historic features and biodiversity. We are concerned that the review may lead to an undermining of rights, democracy and public participation in planning.
7. There is a strong case for spatial planning controls and a strong planning system

could increase speed, and efficiency. All parties involved would value direction and certainty.

8. We are very concerned about the practical effects of the Community Involvement Statements. The public are being less inclined to participate and there is a need to seek ways of increasing public engagement.

Problem areas

9. Open space is becoming increasingly vulnerable to disposal by local authorities and we wish to see this issue addressed.
10. To protect open spaces, land may have been designated as such in the development plan/framework or may have been included in the council's register of public open space.
11. The council must then follow the procedure contained in the Local Government Act 1972 before disposing of the land.
12. Before 1980, objections to the disposal of open space had to be sent to the Secretary of State for approval. The Local Government Planning and Land Act 1980 changed the process. Now, before open space can be disposed of, the council merely has to advertise its intentions for two successive weeks in local papers and then consider objections. This has led to the loss of many areas which were valuable to the local community.
13. We have numerous examples of this. For instance in Kent, six acres of open space were advertised for disposal in six weeks. In Tynemouth, land was lost. In Scarborough, North Yorkshire, campaigners fought for eight years against disposal of an open space in a conservation area. In Hereford many areas of open space have recently been advertised for disposal.
14. This is a happening in spite of the robust revision of PPG 17 and we urge that changes are made to better protect open spaces and to require that exchange land is given.

Checklist

15. The model checklist for applications must include the following questions.
 - Does the application affect a public right of way or permissive route?
 - Does the application affect common land, a town or village green or/other open space or access land. If so, what replacement land is proposed?

Third-party right of appeal

16. We believe that, in order to retain public support for the planning system, it is essential for there to be a third-party right of appeal. Even if this was subject to criteria, we believe it is vital to provide a transparent and fair system. An appeal should only be allowed by those who have objected to the original planning application, perhaps with the Planning Inspectorate having discretion in specified circumstances. There should be a right of appeal (a) where the planning application is contrary to the provisions of the local development framework, (b) where the local authority has an interest, (c) against major projects, (d) where the application is accompanied by an environmental impact statement or (e) where the planning officer has recommended refusal of planning permission to the members.

Conclusion

17. The inclusion of the duty in the Planning and Compulsory Purchase Act 2004 towards sustainable development must be retained. Spatial planning, integration between plans and strategies, and the use of the sustainability appraisal are contributing to a new planning system to help deliver the required social, environmental and economic objectives.

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Case Officer