

## **Memorandum by Sir Brian Neill to the Barker Review of Land Use Planning**

I am the Chairman of the Civil Mediation Council which is an association comprising most of the leading providers of ADR services in England and Wales as well as a number of individuals who practise as mediators. Although I am writing this note in a personal capacity, I can claim to have a quite detailed knowledge of the use of mediation in many different contexts.

Planning Mediation Limited has already in its submission provided a useful definition of the process of mediation, citing the wording put forward by the Centre for Effective Dispute Resolution (“CEDR”). Planning Mediation has also drawn attention to the 1998 and 2001 reports commissioned by the Department of the Environment, Transport and the Regions and to the use of mediation in planning disputes in other countries.

The fact that mediation is rarely used in planning disputes is puzzling because many such disputes are capable of being settled by some suitable compromise. In some cases objectors recognize that some development should take place but object to the scale or the precise location of what is proposed. In other cases the developer would be content with something less than the scheme put forward.

On an appeal the inspector is often faced with a very difficult decision because he may have to reject a scheme that with modifications would be acceptable or he may have to allow a scheme that he recognises is on the very borderline of being excessive. Furthermore, many appeals will be contested in a spirit of acrimony which may damage future relations in the neighbourhood.

The present planning regime is intimidating for the ordinary householder and, even for a developer, the costs and delay involved in the appeal process is a matter of real concern. In my judgment mediation has a real role to play. In suitable cases it could lead to compromises which all concerned would find acceptable. Moreover, a great deal of expense, delay and ill-feeling could be avoided.

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Brian Neill