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By First Class Post & E-mail  
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Dear Carmel Howard

**RE: THE BARKER REVIEW OF LAND USE PLANNING.**

I refer to the above and to the call for evidence issued at the end of January. I apologise for sending this response so close to the end of the stipulated period.

The Emerson Group has given careful consideration to the content of the call for evidence document and on its behalf set out below some general views as well as answering, where appropriate, individual points from Annex 1.

The Emerson Group is a large private development company concerned with both commercial and residential development in the North West of England, Yorkshire & Humberside and the South East. This response is made on behalf of the constituent companies of the Group who have a wide experience of the planning system in that an average of 75 planning applications per year are submitted to a large number of Local Planning Authorities and the Group do participate in the consultation exercises in relation to development policy planning within the areas in which it operates.

The Group has viewed with interest the Government's introduction of a new planning system which, in theory, should have led to improvements in efficiency, flexibility, transparency and predictability but, in practice, appears to exhibit every potential for being mired down in process, complexity and lack of resources at Local Planning Authority level.

All of this does have a counter productive impact on the Government's sustainable economic development objectives and the capacity to respond in a flexible manner to changing demographic and environmental challenges.

What is particularly notable, and I am sure that you will find this from other responses received, is that there is a widespread view from all sectors that there are problems arising from the modernised planning system.

The planning system needs to take a holistic view of how and where development should progress. There does seem to be a tendency to be side tracked into specific areas or issues which then are prioritised and do not then appropriately fit with the broad requirements of flexibility, speed, transparency, certainty and the encouragement of enterprise, investment, competition and innovation. To a significant extent, therefore, the changes have not really got the balance right between economic, social and environmental objectives.

## **Response to Annex 1**

### **1. Flexibility & Responsiveness of the Planning System**

As presently constituted the answer has to be no for the following reasons:-

- There is a serious mismatch in timing between the production of various levels of planning policy documentation. There would normally follow a cascade system but this is not possible at the present time.
- There is an inability to be flexible in the light of adopted policies, which appear immutable against changing circumstances. Recent household formation projections will compound this problem.
- The recent attempt at streamlining of the development plan system has not resulted in particularly faster documentation production due to too much consultation and prescriptive detail.
- Simplicity is an ideal that has been lost in the implementation.
- Development Control decisions are faster in relation to smaller applications. However target led performance levels bedevil major applications with economic implications through unnecessary delay.
- Over elaborate procedures and checklist mentalities ensure that flexibility and responsiveness are minimised.

### **2. Views on scope of Plans at difference Spatial Levels**

Regrettably there is extreme confusion at this point in time. This is certainly down to the mismatch referred to in 1 above in timing. The following further points are made.

- Regional Spatial Strategies are starting to strike the right balance through their more comprehensive monitoring and updating of basic information which will allow for quicker progress all within one, relatively succinct, document.
- The necessity to introduce sub regional policies does suggest that there is the potential for the Regions to be unwieldy in terms of area and population but it does seem appropriate to have a regional emphasis on spatial strategy notwithstanding the arguments about democratic deficit.
- Local Development Frameworks appear to have one advantage; the ability to update parts of them relatively quickly. However this ability was available in the former development planning system whereby selective alterations could be made to parts of the adopted plan.
- Local Development Frameworks are tending to come out over a long timescale, slippage from predictions in Local Development Schemes are already noticeable.
- There are too many documents in the LDF schemes with too much detailed control being exerted via Supplementary Planning Documents and Supplementary Planning Guidance all of which require varying degrees of consultation and so are time consuming and resource sensitive.
- The system is beset with its own language, overall centralised control and practice guidance running to many reams of paper detailing significant micro management without paying enough attention to an overall view.

- There are too many stages, too much consultation and too many processes to follow. Essentially this becomes counter productive to participation.
- Insufficient resources exist, and are unlikely to be provided in the future, to remedy the deficits.
- Central direction is acceptable provided it is not too prescriptive. Local discretion should be allowed but only as a positive tool.
- The more minor documents in the system, Supplementary Planning Documents and Supplementary Planning Guidance are time consuming and often used as a tool to develop policy by adding to it when the correct procedure would be for such policy determination to be within other statutory Development Plan Documents.

### **3. Is the System capable of achieving the right balance between economic and other goals?**

The view is taken that it does not. There is no doubt that balance is necessary to retain all that is best in the U.K. in terms of the environment and other sustainable goals. The word “sustainably” tends to mean all things to all men and results in over complex arguments as to what is and what is not sustainable and has spawned expensive and time consuming requirements for appraisals and assessment of planning applications, and all development plan documents.

- It has to be recognised that there is a cost behind sustainability. There is a real possibility that the impetus in regeneration, renewal and other areas will not be sustained.
- Low cost home ownership becomes ever more difficult due to these increasing costs.
- The design quality of new buildings may be affected, innovation may be stifled.

### **4. Lessons from Overseas Planning Systems**

This would be difficult given the variation of systems operated in other countries. Centrally and regionally weight should be given to provision of adequate infrastructure which would help to balance public opposition to new development.

The general lesson that could be learned from those systems which are perceived to be successful is simplicity, flexibility and a focused direction to provide adequate supporting infrastructure.

### **5. Effect of Planning on Business Investment**

A problem that appears to exist is that there is so much change in the planning system at present that business investment decisions may well be delayed pending the outcome of the current spatial planning documentation. Whether or not, at the end of the process, business investment will be made on a more informed basis is debatable.

- Generally the old system needed speeding up with minor adjustments being made. The wholesale changes do not appear to have speeded up the system in any significant way and have merely made it more complex.

- Development Control target setting has gravely impacted on the relationship between Planning Authorities and those submitting planning applications.
- Planning performance appears to have been raised through the incentives of the Planning Delivery Grant but this is through threats of refusals unless an application is withdrawn so that it might be resubmitted with either minor or major amendments that would be more acceptable. This process merely leads to more duplication, an apparent increase in development activity through more applications and protection of the Planning Delivery Grant.
- The process of dealing with planning applications has resulted in significant reductions in performance in other areas.
- It is difficult to obtain pre-applications discussions in many Local Planning Authorities. This is, in the long run, counter productive to the Local Planning Authorities because this process can save much time at the application stage and informal opinions can be given at Officer level that lead to appropriate sifting out of unacceptable development proposals.
- The best value performance indicators may administratively be an interesting tool but are the root cause of the perceived problem from the development industry of a reduction in the quality of service given by Local Planning Authorities.
- Performance on Section 106 Agreements has diminished and the system has become a disreputable source of planning gain whereby there are inherent delays, lack of transparency and a failure to carry out resolutions of elected members through additional requirements being added by Officers. This Group has experienced delays of over 2 years between an approval resolution and the issuing of a decision due to the Section 106 process.
- Prioritisation of dealing with applications within target time periods has led to significant diminution of other services which do not attract fees or best value scrutiny. This includes discharge of planning conditions which this Group can produce evidence of taking 3 years or more, despite constant reminders. It should be borne in mind that commencement of development without discharging conditions precedent mean that the development is unauthorised. This represents an intolerable delay.
- A recent further complication is the introduction of policies, generated by recent House of Lords decisions, whereby working amendments will no longer be accepted. This will increase the number of planning applications that have to be made and strain scarce resources even more.
- More use should be made of Unilateral Section 106 Agreements.
- Consideration should be given to relaxing the best value performance indicators on timescales if the applicant agrees in writing that a further, say 4 weeks, should be made available to achieve a decision.

## **6. Does the Planning System embrace other Government Policies?**

Generally it would seem that it does not but the situation can be seen to be improving.

- Perhaps Regional Economic Strategies and Regional Spatial Strategies should be merged as have the Regional Housing and Regional Planning Boards.

- The Government needs to set out, succinctly, what its sustainable economic development objectives are and that, as a whole, all of its departments and agencies agree with them.
- There is a disparity between land use planning and its integration with transportation.

### **7. How the System reacts to Major Planning Applications**

Yes, in the view of the Group there has been some improvement recently. Whilst there is no doubt that, for many years, the system in relation to major projects has been slow and cumbersome the change of emphasis over the past few years has probably gone too far. This relates back to the points raised in relation to 5 above.

- An applicant appreciates a clear timetable and process and pre-application discussions. These are not always available within the new system which values speed and protection of income above all else.
- A positive outcome is preferable to a speedy refusal.
- The initiatives to streamline the major projects inquiries are welcomed. Too many major projects have been bedevilled with many years delay through lengthy inquiries and scrutiny.

### **8. Is there a deterrent to Investment over direct costs of making a Planning Application?**

These costs have escalated over the past 10 years. This is due to the bureaucratic burden imposed on submission of planning applications. This is ever increasing due to the production of more and more best practice guidance demanding more and more supporting documentation in relation to planning applications. Acceptance has to be given that adequate information needs to be produced but it would appear, quite often, that the merit to be attached to a supporting document is directly comparable to its weight!

The area where direct costs are likely to deter investment is in relation to regeneration and renewal where returns are more marginal to the development industry.

- Section 106 Agreements have become ever more complex and wide ranging. Items such as the Planning Gain Supplement (or an optional planning charge) should replace these to give a clearly identifiable cost that can be weighed up in terms of deciding whether or not to make an investment. The unknown costs of Section 106 Agreements can be a deterrent.
- The costs of supporting documentation can often be significant.
- The planning appeal system is now overwhelmed by numbers. If Local Planning Authority decisions were more flexible and transparent there would not be so many appeals and the appeals system would operate within much more realistic timescales.

## **9. Are High Occupation Costs due to Planning Constraints?**

In areas of stronger demand lead in times, uncertainty, demands for Section 106 Agreements, uncertainty regarding the Planning Gain Supplement and other elements now impact on land values. Over restrictive policies, which from recent data such as housing projections, have been based on obsolete or incomplete data have raised land values and subsequent holding costs.

- If supply and demand could be more closely matched then this would act as a brake on rising occupation costs. This need not be at the cost of environmental loss.

## **10. How the Planning System impacts on Competition**

The planning system can have this effect. This is because certain areas have been selected through the development plan system to be the centres of excellence for certain types of industry etc. For example, research and development allied to centres of higher education. Policy making can reduce competition as those in occupation of the selected areas effectively monopolise the sector.

## **11. Innovation and the Planning System**

This is a difficult area. Generally, sustainability means concentration. Many development plan policies require a sequential approach to development, including offices with the primacy being given to town centres. However the multi functional town centres could suffer from over concentration of offices when, on occasions, business parks may be more sustainably located in relation to underused transport facilities. The system should be harnessed to support innovation and clusters if clustering can be conclusively shown to be beneficial.

## **12. Staff and Resources in Local Planning Authorities**

Generally Local Planning Authorities fail to be able to attract and retain staff with the appropriate skills and resources to promote sustainable economic development.

- There are significant shortages in the planning field of qualified staff. This arose from the failure to value planning skills in the 1990s. Whilst this is now changing output lags well behind demand and a balance will not be reached for very many years.
- The quality of staff is often generally poor characterised by inexperience and a process led environment which stifles initiative.
- Local Planning Authorities should consider utilising what skills they have more in partnership with the development industry rather than as a checking system. In this way more innovative decisions and developments could emerge.
- Political aspirations within Authorities vary, often coming down on the side of environmental concerns and relegating economic development much lower in the list of priorities.
- The new planning system in place, particularly policy making, requires extensive staffing resources and the failure to be able to apply sufficient resources is

characterised by the slippage in most Local Development Schemes aspirational timetables.

- Planning Authorities should act more as mediators rather than attempting to match skills and resources in the private sector.

### **13. Do Stakeholder engagement arrangements work?**

There is no real evidence that they do. Generally there is a complete misunderstanding of the new system, because it is too complex and contains too many stages and consultation initiatives.

- There is a serious danger that in the quest for ever more consultation and seeking out hard to reach sections of the population that biased returns against what might be seen as a general apathy of the majority could unduly influence decision making.
- The new system involves too many stages of consultation. The Statement of Community Involvement should have been prescribed nationally and all the time and money being spent on promoting these documents is generally wasted.
- Because of the complexity of the new system, with many parts to a LDF, it is difficult to assess, as a stakeholder, exactly what the overall objective of the LDF is.
- The system needs to be simplified in terms of the number of documents produced and the stages of consultation invoked.

### **14. Improvements of Incentives**

Economic development should be given greater status at local level and a balance achieved with economic and social factors because without economic development and investment the prosperity of the wider community cannot be assured.

- A system for providing essential infrastructure to match rates of growth has to be introduced.

### **15. Strengthening Economic Performance at all Levels**

There is a very deeply embedded battle between locational aspirations and environmental policies and supporters. Regrettably this might require yet another review of the planning system because it appears unlikely that the new system is producing the best outcomes; more likely a totally confused outcome.

- The best feature of the new plans system is the potential to carry out, fairly quickly, partial reviews. This could, however, only be achieved through simplification of the process and reduction in the number of consultation rounds within that process.
- The planning system should be made simpler to understand, epitomised by plain English, the removal of minor applications to enable scarce resources to be used to better effect on those which would have impact on economic performance and fewer less lengthy documents.
- Changing the way in which development control performance is monitored to reduce the target led culture that now prevails.

- Reduction in the number of costly documents that have to be produced to support planning applications and the Local Development Framework process.
- More emphasis on a teamwork approach to new development proposals whereby appropriate resources are given to matters such as pre-application processes and negotiations on applications.

**Conclusion**

I trust that you will be able to take into account the above observations and that you will find they are of assistance.

Should you require any further information on any of the points raised, please do not hesitate to contact me.

Yours sincerely

**David Short**  
**Group Planning Divisional Director**