



Barker Review of Land Use Planning

Submission by Arnold White Estates Ltd

May 06

Key Points

The planning system has an important role to play in competitiveness and economic growth through helping to provide attractive environments, coordinated infrastructure and minimising 'bad neighbours'. However, planning can and does impose considerable costs on businesses and developers through delays, inflexibility and uncertainty.

The regulatory burden on business has multiplied in recent years and planning has contributed to this. Growing demands for more public involvement at all stages of the planning process, the need to take into account an ever expanding list of criteria and concerns and the increasing requirement to fund more on and off site community benefits all inhibit development and growth.

The new planning system is not delivering the benefits some believed it would. LDFs are turning into over-elaborate and complex documents. Delays in preparing them are forcing developers to submit pre-emptive applications – the antithesis of the 'plan-led' system.

National planning policy is over-complex and confusing with irreconcilable and conflicting objectives that encourage local authorities to take a precautionary approach.

The long-standing presumption in favour of development has been lost.

Applicants are required to provide expensive and unnecessary background information to demonstrate a development has no environmental impact. The implication is that a development is guilty until proven innocent.

PDG has led to perverse behaviour on the part of local planning authorities. Applications are refused to ensure authority targets are met while pre-application discussions which would add value to a scheme and overcome problems are not prioritised.

Even when a site has been allocated through the plan process there is still considerable uncertainty that an application will be approved.

Many local planning authorities continue to have a negative and anti-development culture.

Business needs certainty, flexibility and speed. These are not mutually exclusive.

Radical reform which combines 'plan and permission', slims down and focuses central guidance, links PDG to output and re-emphasises the presumption in favour of development are among the changes that would help ensure that the planning system facilitates and does not thwart growth.

1.0 Introduction

This submission has been prepared by Hives Planning on behalf of Arnold White Estates Ltd (AWEL) in response to the call for evidence from Kate Barker for her review of land use planning in England. The questions in the call for evidence span the impact of planning regulations on the broad-level economic environment and the micro-level day-to-day concerns and costs. The concerns of AWEL relate very much to the latter.

AWEL owns and/or manages major landholdings throughout England and is currently promoting significant housing and mixed use development in Bedfordshire, the South West and East Anglia. In total it is estimated that AWEL could contribute some 15,000 – 20,000 dwellings to the housing supply, a significant contribution to Government objectives of a step change in housing supply.

AWEL's particular expertise is the development of former quarry sites, typically located on the edge of settlements and well related to existing urban areas.

This response draws on AWEL's experience of the planning system in practice and provides examples to illustrate particular points.

Business broadly accepts and supports the role of the planning system. Indeed, planning can provide attractive environments, coordinated infrastructure provision and help minimise 'bad neighbours' all of which are important to economic growth and competitiveness. A stable economic context, a skilled and flexible workforce, taxation levels, product and labour market regulations and transport infrastructure are all more critical to growth and competitiveness than planning regulations.

This is not to say that the planning system does not impose costs upon business. For the majority of businesses the planning system can be inflexible, slow and uncertain. It provides barriers to market entry, limits agglomeration formation and separates workplace from worker through restrictions on housing and business development.

There is broad support for the planning system from some major employers¹ and businesses which, no doubt, will be repeated for this exercise. It is, perhaps, not surprising that some large concerns support a system from which they derive benefit through restrictions on competition.

Below we present an analysis of the impact of planning upon business, and particularly housing developers, and how, in our view, the approach to planning needs radical reform. We have chosen not to directly address the questions in the call for evidence and focus, instead, on the issues and concerns as we perceive them. This submission follows earlier representations made to the consultations on PPS3 (Housing) and the Planning Gain Supplement (PGS).

¹ Both Tesco and Sainsbury submitted evidence to the House of Commons Transport, Local Government and the Regions Committee's investigation into the 2001 Planning Green Paper stating that they supported the system and over 91% of their applications were approved.

2.0 Planning Regulations and Business.

The call for evidence makes the important distinction between planning policy and procedures. To this we would add a third distinction. Any assessment of planning in the needs to distinguish between planning as a *system* (the collection of laws and regulations that underpin land use intervention), planning *policy* (the aims and objectives to which such regulations should be put) and planning as a *process* (the ways in which the system and policies are implemented). While there are connections between these three factors they each have distinct dimensions and implications for business. Our analysis below follows this distinction.

2.1 *The planning system*

As the Better Regulation Task Force has stated, the overall burden of regulation has been growing for many years². Planning has been no exception to this. Despite the concerns of successive Governments to reverse such burdens planning is perceived increasingly as an impediment on business³. The reasons for this are many though four stand out:

❖ **Involvement.** There has been a growing and seemingly insatiable appetite for public involvement in the planning system encouraged by the concerns of successive Governments to improve accountability and transparency. The issue here is not involvement *per se*. The experiences of the 1960s highlight what can happen if planning does not engage with the wider public. However, there has been a growth in the complexity and number of plans, strategies and other policies that affect development decisions since the mid 1990s⁴. Such documents are rightly given greater legitimacy if they have involved the public and key stakeholders in their preparation. It is a truism to say that involvement and participation is a ‘good thing’ but a balance needs to be struck with

² Better Regulation Task Force, Tackling the Impact of Increasing Regulation – The Case Study of Hotels and Restaurants, June 2000

³ Planning Reform: Delivering for Business? CBI, December 2005

⁴ Plans Rationalisation Study Report, ODPM, 2002

delivery. The planning system, encouraged by Government, has confused *more* with *better* involvement while the system has become congested as a result.

Example 1: Southern Leighton Buzzard

In preparing applications for sites allocated within an Adopted Local Plan, which itself was subject to public consultation and Inquiry, AWEL has undertaken considerable consultation at substantial cost. Whilst accepting that a level of consultation is desirable, the number of consultation events in this instance has exceeded what is strictly necessary and useful in terms of influencing the development. The total opportunities and occasions where the public were consulted from inception of the local plan process through to development on site have included:

- Local Plan Issues and Options
- Consultation Draft Local Plan
- Deposit Draft Local Plan
- Pre-Inquiry Changes
- Public Inquiry
- Modifications/Further Modifications
- Development Brief 1 – public consultation exercise
- Development Brief 1 – formal consultation period
- Draft Development Brief 2 – public exhibition 1
- Draft Development Brief 2 – public exhibition 2
- Draft Development Brief 2 – Stakeholder event
- Draft Development Brief 2 – formal consultation period
- Planning Application Consultations (Outline and Reserved Matters)

- ❖ **Environmental, sustainability and other issues.** Planning has gradually taken on wider agendas associated with the aim to create sustainable communities against a backdrop of growing general concern about environmental issues. It seems that every new concern that emerges (health assessment being the latest) is added to the list of issues that planning has to deal with. The result is confusion over what planning is seeking to achieve and the obfuscation of important objectives including economic growth, with a focus on process rather than production of good planning.

Example 2: Documents and Issues needing to be addressed at Outline Planning Application Stage

AWEL are encountering with greater frequency requests for the following documents in support of outline housing/mixed use planning applications, many of which are already subject to a Local Plan Allocation. Some authorities are refusing even to register applications without documents whose necessity is questionable:

- ❖ Environmental Impact Assessment
- ❖ Planning Statement
- ❖ Transport Assessment
- ❖ Ecological Assessment
- ❖ Flood Risk Assessment
- ❖ Landscape and Visual Impact Assessment
- ❖ Health Impact Assessment
- ❖ Sport and Leisure Assessment
- ❖ Needs Assessment (Housing/PPG6 tests)
- ❖ Financial Viability Assessment
- ❖ Green Travel Plans
- ❖ Arboricultural Assessment
- ❖ Waste Audits
- ❖ Design and Access Statements
- ❖ Acoustic Report
- ❖ Air Quality Assessment
- ❖ Design Codes
- ❖ Draft Heads of Terms
- ❖ Sustainability Appraisal
- ❖ Energy and Waste Strategy
- ❖ Information for Appropriate Assessments (SPAs)
- ❖ Geotechnical Assessment

A number of these documents ought to be provided at District Level but frequently fall to the developer to provide.

- ❖ **Policy integration.** Another cause of complexity and delay has come from the need to coordinate different public policies with planning often taking the lead role. Examples include the creation of quality environments and issues associated with social exclusion and disadvantage. While worthy in itself this need for integration has added yet another

dimension to planning as it struggles to reconcile disparate policy areas. In other areas there is a distinct lack of coordination. Minerals and Waste Plans (County Councils) are often not coordinated or are on different timescales with local plans and emerging LDFs (district and unitary councils). This is a particular issue when brownfield land is concerned.

- ❖ **Community benefits.** Education and health facilities, transport improvements, affordable housing, open space provision and maintenance are just some of the areas that planning is supposed to help deliver through planning obligations. The negotiation and delivery of these community benefits is becoming increasingly complex and demanding. Recent attempts to reform this through the Planning Gain Supplement (PGS) are likely to add to this complexity rather than diminish it. We have submitted a separate response on the PGS which has addressed these issues. As a general rule, the process of negotiating over Section 106 agreements is lengthy and time consuming.

The 2004 Planning and Compulsory Purchase Act was an attempt by Government to address some of the concerns with planning which were set out in its White Paper Modernising Planning. The Act itself was very lopsided. It introduced a new system of development planning while making few changes to development control. While the new system is bedding in there is a growing concern that little will change as a result. Indeed, this was foreseen by some:

'The preparation of LDFs may be quicker to draw up than Unitary Development Plans or Local Plan, but they will need to be complemented by a wider range of action plans and master plans which are likely to be as time consuming as the current system' (House of Commons Transport, Local Government and the Regions Committee 13th Report, Planning Green Paper, 2002

The upshot is that the system has grown significantly in recent years to the point where it is bloated with concerns that few, beyond those involved on a day-to-day basis understand.

Local Development Frameworks (LDFs) were intended to be more streamlined and readily understood. The converse seems to be happening with over-elaborate and complicated

documents. The inability of the ‘new’ system to deliver is encouraging/requiring developers to make pre-emptive planning applications, which is the antithesis of a plan-led system.

2.2 Planning policy

Despite claims the contrary⁵, the Government’s expectations of the planning system and what it should seek to achieve are unclear and open to interpretation and manipulation by a range of local bodies and individuals who are uncomfortable with change. In some ways, this is unsurprising: central policy guidance by its nature needs to be general to cover a range of local circumstances. The interpretation of such guidance is ultimately a matter for the courts but local planning authorities have a day to day responsibility to interpret what PPGs, PPSs, companion guides, circulars and other forms of central policy mean for their areas. PPS 1 states that:

“Planning should facilitate and promote sustainable and inclusive patterns of urban and rural development by:

- *making suitable land available for development in line with economic, social and environmental objectives to improve people’s quality of life;*
- *contributing to sustainable economic development;*
- *protecting and enhancing the natural and historic environment, the quality and character of the countryside, and existing communities;*
- *ensuring high quality development through good and inclusive design, and the efficient use of resources; and,*
- *ensuring that development supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities with good access to jobs and key services for all members of the community”⁶.*

Planning policy and those who interpret it have to balance and mediate between a range of irreconcilable objectives and interests such as environmental protection and new development. Little guidance is given on how to balance these competing demands or if there is an overriding interest. In practice, this can mean a precautionary approach and one that encourages those charged with making decisions to collect as much evidence as possible to

⁵ The Planning System. Matching Expectations and Capacity, The Audit Commission, 2006

⁶ PPS 1. Delivering Sustainable Development, ODPM 2005

help answer a simple question such as “is this development sustainable?” or ‘is this land suitable for development?’

Given that there is a long-standing presumption in favour of development (although now less prominently stated than when included in PPG1) it is contrary to natural justice that **the applicant** has to demonstrate that the development does not ‘harm interests of acknowledged importance’. It is the applicant who has to ‘prove their innocence’ through lack of environmental and other impacts at their own cost and it is at the local planning authority’s discretion to decide the scope of evidence to be submitted, with effectively no form of redress for the applicant. It would be a rare form of development that did not have some form of environmental impact.

The amount of guidance is itself staggering. In all, the current PPG and PPS series amount to hundreds of pages. This does not take into account circulars, MPGs, Acts and other forms of guidance. One particular problem with this top-heavy amount of guidance is that the key principles and focus for the system are lost. Another is that it is so complex (it provides a good living for consultants in an increasing list of fields) it amounts to a barrier to market entry. It is interesting to note that the Encyclopedia of Planning Law and Practice now runs to 8 volumes, from 3 in the 1970s.

Added to the problem of breadth, is one of time. While policy on some subject areas may not require regular updating others, such as PPG 4 (Industrial and Commercial Development and Small Firms) are now extremely dated. It is interesting, to say the least, that national planning policy on such an important area of national concern was published fourteen years ago.

The notion of what is a sustainable community is not the only area of confusion. There are other mixed messages coming from Government. The emphasis upon speed of decision making, quality of development and greater public involvement provide local planning authorities with conflicting messages.

Even where central policy is clear there can be significant local disagreement with the objectives. The widely communicated Government themes of increasing housing supply, particularly in the south east of England, is contested by bodies such as the Council for the Protection of Rural England while supported by others such as the Home Builders Federation. The recent Audit Commission report on planning also found evidence of local authorities disagreeing with Government themes:

“The majority of councils that contributed to the study identified the protection and enhancement of their own local environment as their top priority. This conservationist view is at odds with the government’s growth agenda”⁷.

2.3 Planning as a process

Successive Governments have stressed the need for quicker planning decisions. In the 1980s the then Secretary of State, Michael Heseltine, talked of ‘jobs in filing cabinets’.

A range of initiatives have been introduced to help improve performance including the Planning Advisory Service, promoting the benefits of e-planning, and the introduction of Planning Delivery Grant (PDG). All have had an impact. Nevertheless, five concerns stand out:

❖ **Lack of speed.**

Recalcitrant LPAs will frequently acknowledge that their biggest ‘weapon’ is delay. The evaluation of the PDG⁸ has highlighted the improvement in development control performance but has also highlighted a number of worrying dimensions including a decline in quality of decision making (e.g., reducing pre-application discussions and focusing too much on speed) and a range of perverse outcomes including the manipulation of submission and decision dates, poor customer care and refusing rather than negotiating on

⁷ The Planning System. Matching Expectations and Capacity, The Audit Commission, 2006, page 19

⁸ Evaluation of Planning Delivery Grant 2004/05, Addison Associates with Arup, 2005

proposals. The CBI have noted that one outcome of PDG has been a jump in refusal rates for all applications which currently stands at 23% for commercial proposals⁹, this in turn increases appeal rates and inquiry waiting times. While improvements in speed of decision making are welcome there is too much emphasis on development control. The critical path for decisions begins at the plan preparation stage. For businesses wanting to locate or expand and developers wishing to provide business space the process is still measured in years rather than weeks.

The information required in support of proposals is a serious deterrent to applicants, particularly those who wish to respond to what they feel are future market requirements such as use mix, location and size. As we highlighted above, the requirements for a typical application are daunting and costly. Health impact assessments are the latest in a long line of increasing regulatory burdens.

There have been suggestions that an increase in planning fees would be an alternative to PDGs. Planning fees are a form of tax on development and are already set at high levels – changes in relation to inflation rates are all that should be countenanced if delivery of development is not to suffer.

Perverse distortions are resulting from delays in housing delivery. For example, LPAs which have delayed delivery during the requisite Structure Plan periods, are ‘rewarded’ at review time by longer time periods over which to spread delivery – the result is that they never catch up and fail to make the, much vaunted, ‘step change’ in housing (in particular) delivery. For example, we are told by one Local Authority, that an allocated site, which is programmed for delivery by 2011 in their Adopted Local Plan, no longer needs to be delivered by this date because the emerging RSS schedules development to be provided by a new end date of 2021.

⁹ Planning Reform: Delivering for Business? CBI, December 2005

❖ **Uncertainty.**

The 'plan-led' system aims to provide greater certainty for all stakeholders. As we discuss under 4.0 below the reality is that separating plan and permission merely allows policy issues rather than detail to be raised at the application stage. Changes in central policy or political control of local authorities can add to the uncertainty and allow decisions of principle to be overturned at the application stage.

❖ **Inflexibility.**

The modern business environment requires quick adaptation to changing circumstances including location, use and function of space. Planning policy and requirements are inflexible to such requirements particularly when developers are trying to adapt to market conditions though changes in design, unit size and use. Requiring the submission of applications for changes to a business park, for example, after permission has been granted is both frustrating and largely unnecessary for developers and potential tenants. Expedited procedures such as SPZs or LDOs have little attraction for local authorities given the amount of time required to prepare them and the consequent loss of fee income. Changes to Committee structures, which are being experienced in some of the growth areas, are leading to less frequent cycles, delays and greater inflexibility.

❖ **Anti-development Culture.**

Many local planning authorities and local stakeholders seem to have forgotten that there is a broad presumption in favour of development. The very term 'development control' is negative and predicated upon a notion of rule rather than facilitation or coordination.

Example 3: Delay in the L/D/HR Growth Area

The Joint Planning and Transport Committee (JTPC) for Luton/Dunstable/Houghton Regis (including Leighton Linlade) has been formed to facilitate delivery of housing in this Growth Area. The MKSM SRS requires development to start on one or more extensions in this Growth Area by 2009.

However, the new authority has yet to be formally constituted under Section 29 of the Planning and Compulsory Act (2004) which is delaying both work programming and decision making. The Committee is now at least 6 months behind its Local Development Scheme programme for preparing a new planning framework for delivery in this key Growth Area. This is 6 months behind a programme which would not facilitate development to start in the Growth Area by 2009 in any event.

3.0 What Business Wants

There is no great mystery in what the business and housing development sectors needs from planning. It has been recognised by successive Governments and others¹⁰ and is also covered in the Call for Evidence. Three factors stand out.

- ❖ **Certainty.** The risks and uncertainty of the planning system inhibit development and favours those who can persist or pay for professional advice. Much clearer criteria on what businesses need to do to secure permission are needed. Much of the uncertainty in planning derives from the discretionary nature of planning controls. In preparing their LDFs, LPAs frequently ask for information ‘up front’ before they will include a site for further consideration (e.g. ecological surveys on all greenfield sites, when there is no reason to suspect that there may be an ecological issue, financial appraisals and details of planning gain packages). In this way, land which may rank highly on sustainability sequentiality grounds, is not being advanced because the owner cannot afford the specialist professional advice at this stage of the process. If this level of information is being requested at the plan making stage, to afford greater certainty that the site can be delivered, then it would be a logical step to suggest that the site receives ‘deemed consent’ on allocation. This would also accord with the principles of the Town and Country Planning Act (As Amended by the Planning and Compulsory Purchase Act) that development should take place in accordance with the Development Plan.

- ❖ **Flexibility.** The changing needs of business in a globalised economy require a planning system that is flexible. The traditional locations for business privileged proximity to materials, labour and markets. Modern requirements do not differ but materials are increasingly knowledge, labour is willing to commute and markets may be half way around the globe. Site locations need to be identified on the basis of forward, not backward

¹⁰ Planning Competitiveness and Productivity, House of Commons Housing, Planning, Local Government and the Regions Committee Fourth Report of Session 2002-03, 2003

looking trends and requirements. Flexibility is also required in the attitude towards details and changes in requirements for space. Businesses, developers and tenants should know the scope for change within broad parameters and local authorities need to be more flexible concerning locations.

- ❖ **Speed.** LDFs are still being prepared and development decisions await a host of sub-regional strategies and employment land reviews. Businesses need quicker plan making as well as planning applications.

As we set out below, the most obvious way in which these three criteria can be met is through a radical rethink of the planning system and the conflation, in certain areas, of plan and permission. As the Call for Evidence highlights, this is an approach that characterises planning regulation in continental Europe¹¹.

¹¹ Rethinking the Planning Regulation of Land and Property Markets. Report prepared for the ODPM by the University of Reading, December 2005.

4.0 The Ways Forward

'The town and country planning system...imposes costs on the economy and constraints on enterprise that are not always justified by any real public benefit' Lifting the Burden, White Paper, 1985: 10.

'It (the planning system) is expensive, it is unpredictable, it is slow and the quality is poor...It is a huge inhibitor to productivity enhancement in this country' Sir Digby Jones, Director General, CBI, March 2006.

The analysis of the Planning Green Paper published in 2001¹² was the latest in a long line of Government proposals to speed up the planning system, create greater certainty for developers and local communities while protecting the environment. The Green Paper led to the 2004 Act. While the provisions of the Act are being implemented it is clear to us that it has failed to meet the needs of business and the needs of the economy as we set out above.

This leads to the obvious question of why have repeated attempts to reform planning failed? The clear reason is lack of political will: in an era of 'modernisation' we have witnessed a tepid and cautionary approach to planning controls. Other areas of regulation such as health, education, welfare and telecoms have all experienced new forms of regulation that have recognised the changing nature of the economy and the need to rethink regulation. New forms of regulation such as self-regulation have been introduced as the UK has moved from a traditional 'command and control' approach to regulation, where government established laws and enforced them, to a range of regulatory strategies and the increasing use of 'arms length' regulatory bodies. Planning controls have remained stubbornly and inexplicably linked to an approach characteristic of the immediate post-War era.

This state-centred attitude is not only inappropriate to the era of globalisation it was itself not characteristic of the approaches to land use regulation that have existed over the past 800 years or so. Some of the key characteristics of the UK system that we take for granted such as the wide discretion afforded decision makers did not always underpin the control of development.

¹² Planning a Fundamental Change, DTLR, 2001

The separation of plan and permission is almost unique to the UK and was a departure from the pre-War approach¹³.

Despite the statutory basis and widespread belief that there is a ‘plan-led’ system in the UK this is not so. The separation of plan and permission is an attempt to separate strategic allocations of land from detailed issue of permission. The definition of the ‘public interest’ in UK planning currently requires that the state and wider public have a say in both. The distinction, in practice, is false. For those wary of, or hostile to, change there are ‘two (or more) bites of the cherry’ to thwart development by objecting at the plan, development brief (SPD) *and* application stages. For businesses and the UK economy this is time consuming and costly. Further, delays are caused to the delivery of housing on sites which are allocated in Local Plans.

The notion that planning controls do not need to engage with the detail of development in certain circumstances is one that is accepted through the GPDO and tools such as Simplified Planning Zones. However, at present, these do not go far enough to enable businesses to benefit from a system that is quicker, cheaper and provides more certainty. UK businesses are at a disadvantage compared to continental European forms of planning regulation which combine plan and permission. Such approaches retain control over land use allocations through the plan and specify levels of detail such as density, materials, parking, etc.

Our main argument is that the Review needs to consider a redefinition of the public interest to focus more on land use allocations through the plan and have less control over detailed matters.

In order to address the issues raised above and deliver objectives of growth we consider the following approaches need consideration. These relate to system, policy and process.

¹³ Planning by Consent. The Origins and Nature of British Development Control, Philip Booth, 2003, Routledge

- ❖ **Information Over-load.** If it remains a separate process from Development Plan making, the planning application system should be simplified – making requests for additional information the exception rather than the rule.
- ❖ **PPS 4.** A review of PPG 4 is long overdue. The new PPS 4 needs to be market-led and encourage an over-provision of sites and space to permit choice and reduce rents through competition. It should encourage a much more pro-active approach on the part of local planning authorities broadly following the line in consultation PPS 3 which places more responsibility on authorities for delivery as opposed to site identification. This can be achieved through the use of ‘partnering’ between local authorities and land owners and developers. Critical also is the need to protect employment land from development by higher value uses. PPG 3 and the consultation PPS 3 encourage local planning authorities to switch between employment and housing land allocations if demand for housing land is high and employment land low. The greater use of market signals in land release could also be introduced to ensure that supply better meets demand. Finally, locations for employment land development need to more flexible to meet the needs of businesses and allow for competition between space.
- ❖ **Shift from process to output.** The perverse behaviour encouraged by PDG is widely recognised¹⁴. There is an on-going debate about the possibility of linking future PDG to housing supply and delivery. However, encouraging local planning authorities to reduce regulations for business through Local Development Orders or Simplified Planning Zones by targets linked to resources would ensure that there are incentives for deregulation at the local level.

In addition to these changes we believe that once sites have been allocated in the LDF there should be no separation of plan and permission. Development Plans should grant permission for categories of development and include criteria and conditions. In such areas a flat rate tax could be used rather than negotiated Section 106 agreements. The mechanism for combined plan and permission approaches could include:

¹⁴ Evaluation of Planning Delivery Grant 2004/05, Addison Associates with Arup, 2005

- ❖ **Deemed permissions or prior notification.** Small scale developments should be taken out of the planning system altogether. Also, developers or businesses could submit proposals as now for sites identified in the LDF and the LPA would have a set period (e.g., 56 days) to determine whether they wished to deal with it as a normal application or approve it subject to conditions¹⁵. If no response is forthcoming with the set period then permission is deemed to have been granted. Conditions would be attached through the LDF processes, e.g., height, materials, density, parking spaces, etc.
- ❖ **Plan and permission.** This has been attempted in the UK through enterprise zones and simplified planning zones with mixed success. The time taken to adopt a zone and their use in largely complicated brownfield developments did not provide a good basis on which to assess their impact. However, linking SPZs to greenfield developments would allow a range of uses to be permitted with conditions attached.
- ❖ **Co-regulation.** Similar in some respects to licensing but undertaken by a regulatory body a Code of Practice would be agreed between the various levels of the state and business representatives (e.g. the CBI). The Code would cover planning issues to be considered in the development of businesses uses. Businesses would then ‘sign up’ to the Code and be held to account. The LDF would identify ‘alternative regulation sites’ where the Code would apply. If businesses fail to meet the specifics of the Code then they would not be allowed to develop in this way in future. Local authority enforcement powers would be unaffected. Major Site Protocols are already being experimented with in parts of the country affected by significant growth delivery requirements, but these run the risk of becoming just a further layer of bureaucracy.

If the separate planning application process is to be retained, the following two suggestions would assist and speed up delivery:

¹⁵ This system is currently used successfully on planning proposals for mobile phone masts under Part 24 of the General Permitted Development Order and from some agricultural buildings under Part 6 of the General Permitted Development Order.

- ❖ **Presumption in Favour of Development.** The presumption in favour of development, unless harm would result to interests of acknowledged importance, should be prominently restated.
- ❖ **Information Requests.** Consideration should be given to defining as unreasonable behaviour, requests for information from LPAs which are found at appeal to have been unnecessary to the determination of the planning application – resulting in an award of costs, which would itself be increased if it were considered that delay had been caused as a result.

5.0 Conclusions

The principles of the current planning system were first introduced in the 1947 Act. A single tier development plan and separate development control system along with a 100% betterment tax were seen as the first stage towards the full nationalisation of land. The ultimate aim was of landlord (state) control of development – much in the same way that large parts of London were developed and controlled through leases and restrictive covenants.

While the nationalisation of land never took place the separation of plan and permission has continued unchanged over the past sixty years. Major changes to planning have occurred but largely to increase regulation. It is now time for change. The planning system needs to shift its attention away from detail to strategic matters, free up businesses and deliver houses. The challenge in achieving this is not small. A variety of vested interests including businesses, conservation groups and local authorities benefit from the current system.

The tail of planning fees and targets is now wagging the dog of public interest: local authorities need the fees of minor applications to help subsidise the planning service generally. It is time to lift the low water mark on what is controlled through the planning system and focus on strategic matters rather than the increasing level of detail. While the Government has sought to address the supply of decision though increasing the speed of decision making they have not, to any serious degree, addressed the demand for decisions. Rather than spending many millions more on wringing productivity from the existing system it is time to reform the system itself.