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Date: 16 March 2006

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Barker Review of Land Use Planning
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Dear Ms Howard

Barker Review of Land Use Planning – Response by Merseytravel

1. Introduction

Merseytravel is delighted to have the opportunity of responding to the Barker Review of Land Use Planning. We believe this is a timely review as the planning system, despite the various reforms already made by the Government, requires further enhancement. In particular, major infrastructure projects, such as transport projects, face a planning system that does not capture their full economic and social benefits and one that is bedevilled by delay and challenge.

We believe that there are a number of the key institutional barriers, including the planning system, that exist at the level of local transport and which constrain the delivery of mandatory outcomes, such as reduced congestion, better air quality, better levels of accessibility and improved road safety across.

Your remit of examining how planning policy and procedures can better deliver economic growth and prosperity alongside other sustainable development goals is especially relevant to Merseytravel. Transport, across all modes, can contribute to economic development and social inclusion, and is also a cornerstone of sustainable development.

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The Secretary of State for Transport has previously cited the importance of transport in relation to the future success of cities across the UK, as strong transport links enable cities to compete globally. However, the need to improve competitiveness within the country is also linked to a step change in how transport is provided and the need to draw together the different decision-makers for road, rail, bus and tram.

Transport in England

There have been significant achievements in the development of the transport system in England. There have alongside these achievements, however, been very many missed opportunities. Our experience on Merseyside demonstrates that planning for transport infrastructure projects is long, complicated, disparate, costly and open to very many variables.

Question 1 - Flexibility in the planning system

Is the planning system sufficiently flexible and/or responsive to the right signals to deliver the right development in the right place, given the changing economic circumstances due to globalisation, demographic change, natural resource pressures and environmental change? If not, what policy measures might help deliver this flexibility?

The bottom line is that there is a lack of flexibility in the planning system. For the more usual planning applications this would not be too much of an issue but for transport infrastructure projects the timescales are much longer – typically 5 years. Not only does this mean that there is a large degree of forecasting at the outset which interested parties may look to challenge but it also means that you have to remain completely wedded to these throughout the application process. If, for instance, new information came to light or a Government changed its policy on allowing new housing development, then the application would have to be withdrawn and a new plan submitted, beginning the process all over again. Flexibility in the planning system should allow for alterations to be made.

Stating it very bluntly, the planning process is too long. Whilst we would never advocate removing the rights of local communities and other stakeholders to become involved in the planning process, very often major transport projects become bogged down in a myriad of local issues without a more strategic view being taken by the planning authorities. Each of the six English PTEs represents a number of metropolitan areas and brings forward plans to benefit the whole of that region but it may be that not all of the individual areas agree with those plans. When the PTE structure was established it was recognised that a regional approach was necessary. Unfortunately, this is not reflected in the planning system.

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Question 2- Direction versus discretion

Do you have any views on the scope of plans at the different spatial levels in England which are now emerging following the introduction of the new system in 2004? Are there further improvements to the plan-making process at the different spatial levels in England, particularly regarding the need to encourage a positive/proactive approach to planning, which was a key theme of the new plan-making system? Does the current system strike the right balance between central direction and regional and local discretion?

Lip-service is often played to transport but it is rarely a fundamental consideration in developments. It is often believed, for instance in housing developments or shopping facilities, that the transport element can be added. This is a mistake and has led to problems of inaccessibility. It will continue to be a problem unless public transport access is made a cornerstone of all developments.

If we want a planning system which operates efficiently and delivers economic development and regeneration then we need to build transport considerations into it. Since deregulation, buses have been operated by private companies who compete for passengers. This has led to gaps in service provision on unprofitable and socially necessary routes which PTEs have had to step in and subsidise. The PTEs are one of the industry's biggest backers. With our local authority partners we invest around £0.5billion a year in the bus industry – through concessionary fares, support for subsidised services and capital improvements.

Whether new developments are on brownfield or greenfield sites, they may not offer private bus operators sufficient returns but this does not mean that they should not be accessible by public transport. Compulsion cannot be used to force the companies to operate but an option may be an extension of the London bus franchising system or providing larger funds to PTEs to help fill the gaps. If planning is to deliver economic and social benefits then these are the very issues that need to be recognised and addressed.

It should also be pointed out that planning powers in terms of transport are often split. For instance, on the road network decisions can be taken by local authorities to remove bus lanes. This can run counter to the wishes of local people, the PTE, the bus operators and drivers, more generally. It is this type of gap in the system which frustrates us all and limits proper transport planning. Again, these issues need to be addressed if the planning system is to deliver on its economic and regeneration goals.

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To delivery the transport network required, strategic authorities such as PTAs needs to assume widened powers covering local transport, the strategic highway network and in respect of spatial planning and economic development. Related to this is the need for the authority to be a statutory consultee on planning applications within its area of influence, with powers of direction in respect of the transport implications of proposals. The impact of transport operates beyond neat administrative boundaries and covers less definable “travel to work areas”.

For this reason, and others, we believe that PTA should be a statutory consultee in the planning decisions. Passenger Transport Authorities (as the major transport providers in Britain’s largest conurbations) should be made formal consultees on all major planning applications as defined by floor space triggers or any development of more than 50 dwellings.

PTAs rarely receive any of the proceeds from a section 106 agreement, even when there should properly be a large transport-related contribution for the development to be acceptable. Too often section 106 agreements are viewed as ‘sweeteners’ for a development and are agreed by Council Officers and the developers before any democratic element has entered the equation. This piecemeal approach does not lead to strategic decisions relevant to the whole of the area but instead encourages Officers to second guess the local community and deliver a package of facilities that they believe are needed. Their interpretation of local needs and the actual needs as understood by the community may not coincide. A link between the infrastructure project chosen and the original application from which the funding was gained must be maintained. If the link between the investment funds and the development is lost then it may well be seen a replacement for state/taxpayer funding and will cause disquiet.

PTAs should be given a clear mandate in respect of guiding the use of Section 106 funds, particularly around consideration for appropriate public transport provision necessary as a result of the development. There are good examples where transport is already a key consideration in the process (such as in Milton Keynes where the Council is proposing to apply a levy on new housing schemes at around £17,000 per unit). We encourage this review to include consideration of successful arrangements such as these.

We also believe that the review should include more localised decision-making on Section 106 rather than a ‘centralised’ policy. There may also be scope for a strengthening of PPG13 as part of this review.

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Question 3 – Sustainable development

Sustainable development is the core principle underpinning planning. Does the current system achieve the right balance between economic and other goals, such as the regeneration of areas and the promotion of social cohesion, improving the quality of design of buildings and urban environments, and the protection and enhancement of our natural and historic environment? Are some environmental, natural resource, or social considerations given too much or too little weight?

Merseytram remains concerned that too often we are left to pick up the pieces caused by a declining infrastructure and underinvestment, and are prevented from bringing new schemes into play because of the fear of their costs.

We, of course, recognise the need to have properly costed and funded projects in place. We do not wish to spend simply for the sake of it but we face a situation where action on, for instance, congestion can only be taken once congestion has become a problem, not taking action to prevent it from becoming a problem in the first instance. As traffic congestion increases the case for a quality public transport alternative becomes ever more pressing and our arguments become stronger. 'Cure' rates more highly than 'prevention' in the economic models we have to use to justify projects.

Public transport is a key element in the battle against social exclusion. An extensive and affordable public transport network is bolstered by services targeted at specific areas and needs – such as demand responsive bus services linking the jobless with the jobs, 'travel training' to expand vulnerable groups' travel horizons and discounted tickets for those on low incomes.

Economic development brings with it the threat of road congestion. This leads to attendant environmental problems of local air and noise pollution, and of community severance. Road congestion can choke off the development of sustainable city centre clusters of high value economic sectors – like financial and legal services. It could also lead to more development taking place on out-of-town sites close to major road junctions – contributing to a decentralised and unsustainable car-based urban sprawl. With transport the fastest growing source of CO₂ emissions, transport and planning policies for the major conurbations have a role to play in meeting targets for reducing greenhouse gas emissions.

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The infrastructure requirement of any large development has to be considered before submission of plans. There are many examples of large scale developments that take little note of education, health and transport needs. We are always happy to work with developers to collaborate on transport issues as part of major developments but many are often content merely to consider putting a bus route through. This is insufficient, especially given the need to integrate all forms of transport, wherever possible; plan transport across a whole area; and given current bus policy where de-regulation provides only very limited power to the transport authorities for ensuring that a good quality of service is provided.

There has to remain in place a national strategic overview of all the infrastructure projects developed. It may also be the case that incentives, or penalties, need to be developed at a national level to encourage local bodies to look at the right type of infrastructure projects.

Question 4 – Planning systems

What, if anything, could the English planning system learn from the planning and consent systems operated in other countries in order to respond to this new economic environment?

The reaction of many people when asked to comment on planning systems in other countries in relation to transport is that 'they work much better'. There is a perception that decisions are quicker and made transport infrastructure projects can and do take place. This is, in turn, contrasted with the lack of progress in England with few projects built and those that are taking too long.

There is, however, a real difficulty is simply trying to apply lessons learnt from other jurisdictions where the whole governmental, legal and planning structures are different. It may be better to look at systems that are 'closer' to our own.

For instance, there are a number of possible useful features within Australia's new Planning and Development Act 2005 which comes into force on 9 April 2006.

The act aims to reduce complexity and makes legislation more accessible by the consolidation of the legislation into one plain English Act which is simpler to understand and which is more accessible to users.

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It promotes sustainability by including sustainable land use and development as a fundamental and underlying purpose of the planning legislation. It also expands the membership and functions of bodies such as the Western Australian Planning Commission to strengthen its capacity to advice on sustainable land use and development and to provide that planning schemes can include provisions for sustainable land use and development.

An example of a provision whereby the Act strengthens the capacity of the planning system to contribute to sustainability is by expanding matters which may be dealt with by planning schemes to include provisions necessary or incidental to the sustainable use and development of land and specific reference is made to energy efficiency and water conservation.

The act is said to streamline planning procedures in respect of preparation and amendment of region schemes, the review of local government schemes and the subdivision of land.

It also provides greater certainty and consistency particularly in giving greater weight to local government schemes in subdivision decisions, clarifying which subdivision works are exempt from development approval, and introducing consistent provisions for dealing with compensation and enforcement.

The act also provides equity and fairness by providing arrangements for consultation on statements of planning policy and region schemes, and introduces a right to apply for a review of a decision of a local government on the characterisation of a use under a scheme.

As well as Australia, the new Scottish system has elements in common with England and is being seen to deliver on major transport infrastructure projects. Possible useful features within the Planning (Scotland) Bill – introduced in the Scottish Parliament on 19 December 2005 – may include:-

The central policy objective is to reinforce the primacy of development plans, thereby providing clear visions of how cities, towns and countryside areas should evolve. In the Bill they must take a long-term view, identify sufficient land to meet the key needs of economic growth and housing development, protect important natural resources and historic environments, and form the core documents against which planning applications are measured for determination.

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The Bill contains provisions in Part 2 designed to ensure that in the future, development plans are more relevant and kept up-to-date; local people will be more involved in their preparation; and simplify the process for examination and approval.

The Bill also in Part 3 aims to improve the operation of the development control process so that planning applications are not unduly delayed in relation to straightforward developments.

Part 9 of the Bill sets out the concept of Business Improvement Districts which introduces provisions to allow local businesses to invest collectively in improvements to the area they operate in.

Question 5 – Private sector investment

What is the impact of planning on encouraging or impeding business investment? In this context, how would you assess the potential of recent reforms to the English planning system, which are now being implemented? Are they increasing the transparency of the system and providing greater certainty for businesses? What further reforms, if any, are desirable in order to improve the transparency and effectiveness of the system still further?

Merseytravel does work closely with the private sector on a day-to-day basis and also on longer term projects. An example of this in public/private 25 year concession we have on the Merseyrail Electrics Network, a £3.6 billion contract. We do, however, have a real fear for the future of private sector involvement in transport projects because of the sheer time and costs involved.

On several recent projects, the support and involvement of the private sector has been imperative. They are often closely involved as partners in helping to deliver the infrastructure for projects, such as carriages or other vehicles. However, even after an initial agreement has been reached there is a large degree of goodwill involved as the project has many hurdles to overcome before becoming a reality. Whilst an estimate can be provided when initially entering discussions this is no guarantee as to how the project will actually take.

If, as has happened, Government funding has been removed from a project at the very last stage, the private sector partners have incurred costs, time and effort. They may even have turned down other work on the basis of the agreement, for instance a production timeslot may have been held open.

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It could be said that the private sector need to be involved and need the custom of the state sector. Such a position would ignore the increase in costs that will be passed onto the proponents of the scheme and, at the end of the day, taxpayers.

The goodwill of the private sector cannot simply be relied upon – it has to be built and supported. The longer the current system of planning for transport continues, the more likely it is that private sector goodwill will be lost – costs may rise and, in the worst case scenario, they may not wish to be involved.

Under a planning scenario where delays occur, private sector partners may decide that they need to renegotiate contracts. Costs may, therefore, increase. This could be the death-knell for the project as a whole or cause it to go back to square one. Either position is feasible and, should be, unacceptable to the country. The only way to deal with this is to deal with the planning system.

Question 7 – Planning applications

Planning applications for major projects will typically take a considerable time to work through all the necessary stages. Do you consider the system puts too much emphasis on speed, what are the negative consequences of this and how could they best be avoided? If the process is too slow, what could be done to overcome delays? In particular, what improvement might be made to the planning appeal system to improve its speed and efficiency?

In essence, the current system falls down because it too compartmentalised. There are so many hurdles that a project has to overcome that the timescales and costs are unnecessarily elongated. Even if the process were shortened there would remain sufficient time for the local community and other interested stakeholders to get involved but it would make the process more manageable for everyone.

For instance, under the current system a major transport project may require:-

- Feasibility studies
- Transport and Works Act Order – to get the powers needed from Parliament
- Detailed negotiations – to prepare for project
- Application – to the relevant planning authority/authorities
- Planning inquiry – inevitably required because of the scope of the project
- Funding – finalise funding and contracts

Each of these stages can only be dealt with in turn, they cannot be brought together under the current system.

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Without wishing to be drawn into the relative merits of specific projects, we have, in recent months, seen several light rail schemes that have fallen at the last of these hurdles. All the permissions and agreements were reached only for the Government to remove their funding and the schemes then collapsed. This is not a situation which can be allowed to continue if England is to get the transport system it needs and deserves.

We need to institute a process which, at the very least brings the funding and permissions parts together. If a PTE is given permission for a project – with the associated proofs as to the viability and need for the scheme, benefits to the area, sustainability criteria etc – then it makes sense for the funding to be guaranteed at this stage as well.

Question 15 – Economic development

Economic development can help achieve the regeneration and renaissance of urban and rural areas. Are there ways which planning could strengthen economic performance in regions, sub-regions (including city regions) and at local level?

The cities which the PTEs represent are becoming major centres for financial and legal services as well as retail and cultural industries. The legacy of industrial decline is being left behind. Not only are the major regional cities growing fast but they are driving wider regional economies as well. PTEs have played a key role in this process of transformation. We promote new modern tram and light rail systems that have opened up development sites and provided direct and high capacity access to city centres. Light rail systems have also helped transform perceptions of the places they serve. Such intangibles are very important considerations in transport system but are very difficult to measure in the context of the planning system and its requirements.

The Government's PSA target is to:-

Make sustainable improvements in the economic performance of all English regions and over the long term reduce the persistent gap in growth rates between the regions.

Survey after survey of business opinion shows that businesses believe that one of the principle drags on the growth of the UK is the shortcomings of the transport network. Cities in the UK, not just England, require improved connectivity – nationally, internationally and within each region – if they are to attract investment in an increasingly globalised economy where companies are free to choose where they locate.

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The need for such connectivity has been recognised in schemes such as the Northern Way and the planning system needs to understand that planning for transport can only properly be carried out by bodies that recognise the needs of whole areas. PTAs and PTEs have done this successfully for a number of years.

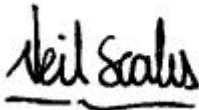
Overall

We hope that you find our contribution to the debate useful and are able to learn from our collective experience of the planning system in regards to transport.

Should you require any additional details then please feel free to contact us. I would also be happy to meet to discuss any of the above with you.

Regards

Yours sincerely

A handwritten signature in black ink that reads "Neil Scales". The signature is written in a cursive style with a horizontal line underneath the name.

Neil Scales
Chief Executive and Director General