

22 March 2006

To: Ms Carmel Howard

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Dear Ms Howard

BARKER REVIEW OF LAND
USE PLANNING IN ENGLAND
A QPA VIEW

1. INTRODUCTION

1.1 QPA is the principal Trade Association representing the UK aggregates and quarrying industry with about 150 members plus associates. Our members produce over 90% of aggregates quarried – sand and gravel and crushed rock. They also produce and supply agricultural and industrial lime, silica sand and marine dredged sand and gravel, secondary and recycled aggregates, slag, ready mixed concrete and asphalt products for roads. Therefore, they have a direct and relevant interest in all aspects of operation of the minerals planning system as planning permissions underpin their principal capital assets. In short the watchwords are “no planning, no business”. This evidence has been extensively discussed within our membership and I have been asked to submit the attached response on their behalf: -

1.2 The planning system in England is slow, inefficient, inconsistent and expensive. It is a serious burden on business and planning delays have got worse year by year and continue to do so. The new planning system introduced by the 2004 Act is far more complex and cumbersome than the system it replaced. There has been no improvement in the certainty of outcomes. Even the most expert planning practitioners are struggling to cope with the complexities of the new system. In that respect the first term of reference of the review is misdirected “further improving the efficiency and speed of the system” should have read “how to improve the efficiency and speed of the system”.

1.3 If you need an example of the complication of the new planning system compare it with the previous 1990 Act Development Plan System: - The stages for preparation of the actual development plan are not dissimilar to the previous system albeit with the names of each stage changed. However added to this is the production of

statements of community involvement, possibly with a scoping stage at every stage of the process plus the complications of sustainability appraisals and strategic environmental assessment. The only improvements to the system will be the emphasis on round table sessions at the public inquiries and the introduction of binding inspectors' reports. However these improvements at the far end of the process will nowhere near compensate for the delays and complexity caused by SCI's, SA's and SEA's, en route.

- 1.4 QPA annual surveys carried out on a consistent basis since 1982 also show that it is taking longer and longer to get planning permission, again with no perceived improvement since the 2004 Act. Whilst the emphasis on lpa league tables and performance targets may have improved the speed of decision on small, general development planning applications, this has not been the case on major applications such as those involving mineral workings. Whilst the quarry industry expects such applications to take longer than the 8-16 week determination period, it is totally unsatisfactory that at present only 15% of permissions for aggregate quarrying come within 6 months. It is the uncertainty when a permission might, eventually be forthcoming which makes it difficult for the companies to properly plan their business. Added to this is the evidence of our members' from our annual surveys that refusals on sites allocated for mineral working in development plans are becoming more common.
- 1.5 It is QPA's belief therefore that the planning system is in decline with much of the 2004 Act reforms having made things worse. This is damaging to our industry because the process has got slower, more costly and more uncertain of the outcome.

2. ANNEXE 1 – ANSWERS TO CONSULTATION QUESTIONS

- 2.1 With the above introductory points in mind, QPA's answers to the consultation questions are set out below: -

Q1. 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?

A1. The planning system is currently inflexible, unresponsive to the needs of the economy and gives overemphasis to some environmental constraints in its decisions. Archaeology and regional/local nature conservation issues are often given undue weight both in the development plan system and in the

determination of applications. In applying the tests of the four pillars of sustainability, some practitioners, with the willing support of some policy makers such as DEFRA and the Environment Agency, are forgetting that sustainability depends equally on maintenance of high levels of economic growth and employment.

The solution is a recast of Government policy guidance to ensure that planners are directed to consider all four pillars of sustainability in making balanced judgements on new proposals. After all, without economic prosperity and growth there can be no financial resources to pay for environmental protection and enhancement.

Q2. 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?

A2. The abolition of structure plans has been counterbalanced by the greater weight being put on RSSs when compared with RPGs. In essence the lengthy structure plan EIPs have been replaced by equally lengthy RSS EIPs. As a customer of the system the outcomes are little different – the problem lies with the over complex new systems at local level.

Q3. 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 consideration given too much or too little weight?

A3. As mentioned above (A1), the balance of decision currently overweighs environmental and social considerations against the equally important requirement to take into account economic prosperity and growth. The solution is for government policy guidance and that of agencies such as English Nature, English

Heritage and the Environment Agency to be required to balance all four pillars.

- Q4. 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?
- A4. Whilst we are unable to cite specific examples from other countries we have come across systems where quarries require just one, grouped permit rather than the many separate permits required in the UK. Any such scheme which limits the number of separate permits required is to be commended.
- Q5. 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?
- A5. The current cost of the planning system to the aggregates quarrying system in England is £9-10 million pa. The newly reformed planning system has not improved the costs. Since over 40% of aggregates are supplied for public sector developments this is a direct cost on the public purse. The planning system is not delivering greater certainty for businesses – it is still in need of streamlining – the local development plan system is far too complex and the development control system is massively under resourced both in cash terms and in terms of professional expertise.

Our solution to sorting out this mess would be to revert to the tried and tested 1990 Act development plan system which only needed adjusting rather than scrapping. What would also be helpful is a return to the “presumption in favour” which underpinned the planning system from 1947 – 1991 when replaced with the far less satisfactory section 54A system.

If a reversion to the previous development plan system proves politically unacceptable we do believe the following adjustments might help: -

- (i) To substantially simplify the new, costly “add-ons” to the development plans – SCI’s, SEA and SA.

- (ii) To see that planning authorities are properly funded and resourced to carry out their statutory duties
- (iii) To encourage the universities to maintain and develop their undergraduate planning teaching to RTPI/RICS standards.

Q6. Is the planning system sufficiently “joined-up” with other related aspects of government policy? In particular, are Regional Economic Strategies delivering a clear economic framework to help inform Regional Spatial Strategies? Is there sufficient interaction between RDAs and RSSs when preparing their respective regional strategies and if not how might greater interaction be encouraged?

A6. We see little evidence, as customers, of the RDA’s working closely with the Regional Assemblies.

Q7. 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 or do you feel that is too slow? If there is an undue 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 improvements might be made to the planning appeal system to improve its speed and efficiency?

A7. Because of the lack of resources, already discussed and from the minerals point of view, the development control system is far too slow. However, also as discussed, it is the quality of the decision which matters far more to our members than the speed. Provided the time and outcome of decision can reasonably be predicted, our members would rather wait for the right decision than get an early refusal. In this connection, when we dealt with earlier ODPM consultations on planning application fees we suggested that significant planning applications, including most of those for minerals should be dealt with under a delivery contract system. In this way the applicant and the lpa should agree on the determination time at the point of application and also that if the Lpa default on this agreement there should be a refund of the application fee to the applicant at the rate of 10% for every week of overrun.

With regard to the overemphasis on speed of decision, this has had serious and unwanted side effects. Our members have experienced both quick bad decisions and premature refusals

before the end of the statutory determination period by Lpa's wishing to preserve their position on ODPM's league tables and thus their likelihood of continuing to get planning support grants. In some cases, the consultations on the applications had not been completed and thus no view had been reached either to refuse or permit. There is a simple solution to this problem – if an applicant wishes to extend the period for determination under the GDPO, he should have an absolute right to do so – it should not require, as at present, the agreement of the Lpa.

With regard to the planning appeal system, we have the highest regard for the efficiency of the service but serious concerns about the consistency of decisions. All that can be done, as has been recognised, to improve its speed and efficiency is to increase the number of planning inspectors, and to improve their training and briefing on government policies.

Q8. Is there evidence to suggest that the direct costs of making a planning application are deterring investment? Are there any unnecessary burdens/how might information requirements be streamlined to reduce the regulatory burden from the process of making an application?

A8. Our members advise that the cost of making a planning application of reasonable size (say for over 1mt of sand and gravel) costs between £100,000 to £300,000. These costs can be much more if the application includes such increasingly costly add-ons such as flood risk assessments, or substantial pre-application archaeological evaluations. This is, of course, a front-end cost with no guarantee of planning permission. In consequence, QPA members do defer putting in applications until they feel there is a near certainty of the grant of permission at the end of the process. A result of this is that insufficient planning applications for new aggregate tonnage are being submitted to replenish the tonnage being sold – landbanks are declining. The new scheme of planning application fees which raises the application fee for most mineral application to £50,000 is a substantial additional regulatory burden, as is the threat to charge for pre-application discussions.

In every way, therefore the direct, and indirect costs of making planning applications significantly deters investment.

Q9. To what extent are high occupation costs in England likely to be due to planning constraints, or due to other factors such as imperfect competition or lack of transparency in the land

market? What is the economic impact of these costs in terms of the main drivers of productivity?

- A9. This question does not seem relevant to the minerals industry.
- Q10. How does the planning system impact on competition, through influencing barriers to entry and exit and economies of scale? If there are areas where there is a negative impact, how can these be addressed, while protecting other goals of the planning system?
- A10. The planning system creates shortages, of land, of available resources, of labour and so on. Prices of resources, land and thus products are all thus inflated due to the planning system. This has been true since at least as far back as the 1947 Act. These impacts are however, generally even across the board in each region, although not, of course between regions, hence the huge disparity in the price of land in South East England compared with, say the North East. Release of more land for competing developments would, of course, reduce land prices but were this to be done in the South East could have all sorts of other unwelcome side effects – shortages of labour, resources, water, flooding etc. Any tweaking of the planning system to change the impact on competition needs to be the subject of serious study of possible side effects.
- Q11. To what extent does the planning system effectively support innovation through fostering the formation of business clusters and wider agglomeration of economic activity?
- A11. QPA has no response to this question.
- Q12. Do planning authorities have the skills and resources required to help promote sustainable economic development? If not, what is the best way to ensure that resources match the challenges the system faces? Are there ways to increase further efficiency of process?
- A12. As discussed, planning authorities have neither adequate resources nor sufficient professionally qualified staff. In this respect they are not in a good state to facilitate sustainable economic development, let alone promote it. In any case, promoting sustainable economic development is equally a role for the Regional Assemblies in conjunction with the RDAs.

Q13. Are the new arrangements for stakeholder engagement in the plan-making process succeeding in engaging those representing economic interests, including SMEs? If not, what are the barriers to that engagement and how might they be addressed?

Q14. Are there ways that the incentive structure for decision-makers and local communities can be improved so that a balance is achieved between local interests and the interests of the wider community regarding proposals for economic development.

A13/14. As discussed above, the new procedures for stakeholder/community engagement are working well from the point of view of engaging all those interested in local plans. However, the downside has been the development of a hugely cumbersome set of procedures which have seriously slowed down the plan making process. We do not believe the slight improvements to local plan inquiries will improve these delays nor those caused by SEA/SA.

Q15. 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 the local level?

A15. As we have explained the operation of the planning system is the principal constraint on economic growth and performance in the UK. This has always been so since the 1947 Act. However in recent years, the growing complexity of the system, the increasing level of constraints being applied through the operation of the planning system, and the increasing lack of both certainty and consistency across the Country have all damaged the pillar of economic sustainability. Economic growth is seen by some practitioners as a “bad thing”. The reverse is true, without a healthy economy there is no prospect of sustaining adequate levels of protection and enhancement of the environment. Over emphasis on the environmental and social pillars of sustainability will damage the economy and render UK Ltd uncompetitive.

3. CONCLUSIONS

3.1 The reforms to the planning system introduced through the 2004 Act have not improved the system and in many cases have made it slower and more inefficient as discussed above. Whether the time is right for yet another set of reforms or whether the system should be allowed to bed down for a few years is a finely balanced judgement. There is much wrong with the system, and in particular: –

- The slower, more complicated development plan system
- The lack of resources and expertise in the LPA's
- The concentration on performance league tables regardless of the consequences
- The lack of proper balance of decisions in favour of an overweighting of environmental and social constraints
- The lack of certainty and consistency of outcome

3.2 Some good things have, however come out of the new system: -

- The move to plan EIP's rather than the more lengthy adversarial system
- The concept of binding Inspector's reports on plans
- The tightening up of the Section 106 system in Circular 5/2005
- The lifting of constraints on making representations on plans at each stage even where representations had not been made at an earlier stage.

3.3 QPA believes that the time is not right for another set of hasty reforms to the creaking planning system. What is needed is a Royal Commission, staffed by expert planning practitioners and perhaps chaired by an eminent planning QC.

3.4 QPA has no objection to this response being made public and may publicise it ourselves.

Yours sincerely

D T Pollock

c.c. E&MP Committee
CH, SvB, JMCL