

BARKER REVIEW OF LAND-USE PLANNING

INTRODUCTION

The Chancellor of the Exchequer and Deputy Prime Minister have invited Kate Barker (a member of the Bank of England's Monetary Policy Committee) to conduct an independent review of land use planning in England. The broad terms of reference are to,

'To consider how, in the context of globalisation, and building on the reforms already put in place in England, planning policy and procedures can better deliver economic growth and prosperity alongside other sustainable development goals. In particular to assess:

- *Ways of further improving the efficiency and speed of the system;*
- *Ways of increasing the flexibility, transparency and predictability that enterprise requires;*
- *The relationship between planning and productivity, and how the outcomes of the planning system can better deliver sustainable economic objectives; and,*
- *The relationship between economic and other sustainable development goals in the delivery of sustainable communities'*

This is a completely new review that will not cover the previous investigation of housing land supply in England that Barker has previously reported on.

The timetable for the latest review of land use planning is – analytical interim report (summer 2006); and final report with recommendations (end of 2006). It is envisaged that the analytical interim report will be made available for public consultation.

The briefing paper inviting representations/ evidence sets out a list of 15 key questions that the Review would like responses upon. The paper which follows below sets out comments on many of these questions in sequential order. The deadline for evidence to be submitted is Tuesday 28th March 2006.

1. 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?

Development plans should remain as the primary means by which the amount, type, location, rate, and design of new development is determined and provided for in the public interest. They are subject to wide ranging public consultation, sustainability appraisal, and testing at a plan examination. This legitimises and enhances their public importance and status. However, there are major concerns about Regional Spatial Strategies (RSS) – see below.

In plan preparation, background technical studies are completed to provide an evidence base (including about 'signals'); ongoing monitoring helps establish definite trends; SEA/sustainability appraisal, public consultation, and plan-making activities also take place in formulating robust proposals. Although the plan-

making cycle to accommodate such activities typically takes 3-5 years' duration, there may be scope to integrate new information at successive stages. It is not considered that there is much scope to eliminate these activities from the plan-making cycle or to complete them to quicker timetables (ie., as set out in PPS11 and PPS12).

Perhaps the development plan process needs to be fine-tuned if it is to be made more responsive. For example, more responsiveness might be explored in relation to:

- Promoting a more definite and detailed 5 year plan of action (from the date of adoption) on the one hand, and using a much more indicative approach towards setting out a longer term planning framework looking 10-15 years ahead on the other
- Much closer integration with implementation/delivery through the preparation of a detailed 'implementation plan' specifying the infrastructure, resources and delivery mechanisms required
- Improved 'plan, monitor, and manage' arrangements that trigger early review in the event of misalignment between new homes, jobs, transport and other infrastructure
- Greater IT and other resources being given to the monitoring and review function which hitherto has been a Cinderella activity
- Emphasis at the plan examination stage in reviewing the latest available information to see whether it could be used to inform and adjust plan proposals

The current approach towards determining individual planning applications in relation to the development plan (which has primacy in a plan-led system), unless material considerations indicate otherwise, should continue to remain in any future system. There is no support for enabling greater ad hoc exceptions to be made to development plans to facilitate economic development. This would undermine public confidence in the planning system in general and stakeholder support for development plans in particular.

2. 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 pro-active 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?

The loss of a county tier within the plan-making system is strongly regretted and is a retrograde step. The regional tier has a huge democratic deficit and is seen as being far too remote, particularly when it is making major decisions about significant development impacting on sub-regions and local communities. Local people do not identify with the regional tier and find it very difficult to engage with it in any meaningful way. County councils currently deliver about 80% (by value) of local government services within their areas, but have increasing concerns that

the regional tier is formulating housing growth targets without proper regard to the provision of key infrastructure, jobs, and public service funding. The removal of strategic planning powers from county councils has weakened the vital linkage between land-use development and related transport and other infrastructure provision, public service delivery, democratic input and public engagement.

Recent experience of the East of England Plan suggests that the RSS process is too cumbersome and high-level to prepare realistic, robust, and deliverable strategic land-use proposals in a timely way. The Region is too extensive in geographical terms and subsumes within it a large number of complex sub-regions. The RSS system has extreme difficulty in coping with the sheer complexity of such a large spatial administrative area and the breadth and depth of technical work required to produce a RSS document. The recently produced East of England Plan has a number of key technical shortcomings that are illustrative of this structural weakness in the new planning system:

- Failure to undertake key technical studies in time to inform preparation of the spatial strategy (e.g., transport studies; sustainability appraisal)
- Inadequate consideration of different spatial options within the region for accommodating growth (optioneering)
- Lack of meaningful public engagement at both the sub-regional and local levels
- Inadequate sustainability appraisal both in terms of due process, alternative options, and sub-regional & transport analysis
- Unrealistic views about future job prospects, infrastructure and public service delivery, and rate of development delivery
- The failure to produce an 'implementation plan' explaining how the various Plan proposals are credible and can be funded, delivered and implemented by key stakeholders
- Uncertainty about spatial strategy, the choice of sub-regions and their sub-regional proposals
- Lack of strategic guidance that is 'fit for purpose' for the preparation of Local Development Frameworks

Although a return to the former county structure plan system is not proposed as the solution, it is considered that county councils should be given a new statutory responsibility for preparing sub-regional plans for parts of their administrative areas. Where sub-regions straddle county boundaries, then statutory provision should be made for one or more county councils to jointly prepare sub-regional plans. This would remedy many of the problems identified above with the RSS system. The RSS could be retained but with a focus only on region-wide strategy on an indicative basis.

The new LDF system is full of contradictions. Some aspects are an improvement on the former local plan system – for example, the facility to rapidly update parts of the LDF separately; clear commitment to the public about process and timetable from the outset (in the LDS); and greater linkage with LSPs and community strategies. On the other hand, there are aspects that create confusion, delay, and unnecessary obstacles.

For example, the LDF system is too laden with unnecessary technical jargon and acronyms that even practitioners struggle to deal with. Too many separate LDF documents have to be produced to different timetables so fragmenting the system. This is not user friendly and makes an appreciation of the whole LDF package problematic (both in terms of soundness and relationship between the parts). Preparation of the LDF has to conform to a mass of over-detailed regulation. The Regional Government Offices want to micro-manage the LDF documents being produced sometimes leading to delay (e.g., gypsy and traveller issues). Accordingly the LDF system needs to be simplified, streamlined, and made more user-friendly to deal with these problems.

3. 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?

There is too much “woolly thinking” emerging from Government departments (ODPM, Defra, DfT) that does not usefully inform development plan preparation or development control. For example, there is no single concise, readily accessible, clear and definitive explanation of the Sustainable Communities Plan proposals. Both ODPM and Defra have separately defined ‘sustainable development’ in different terms; and in any event, it is proving very difficult to make this concept meaningful and operational at “the coalface”. Government publications refer to concepts like ‘*sustainability*’, ‘*sustainable development*’, ‘*quality of life*’, and ‘*social/community cohesion*’ in an unclear way. This criticism can be further extended to Regional Development Agencies. It is often difficult to translate their objectives of ‘*improving economic competitiveness*’, ‘*improving economic performance*’, or ‘*promoting regeneration*’ into operational proposals within the land-use planning system.

If the right balance is to be achieved between different sectoral objectives, then much greater rigour should be applied in defining and measuring such concepts within the system. Decision-takers need a much more concrete and specific understanding of key objectives and their likely consequences in order to make informed and robust decisions. This also applies to the recording of why decisions were made and the transparency of the process.

There is dissatisfaction with the quality of SEA and sustainability appraisal as an aid to decision-making. These activities are extremely information hungry and resource intensive, but sometimes the information is fed into a methodological framework for evaluation that is opaque and difficult to understand. At the RSS level, sustainability appraisal has difficulty in dealing with impacts at different spatial levels. There is also a suspicion that sustainability appraisal is being used after the event to endorse decisions that have already been taken, rather being an influential input into the decision-making process itself. There does not appear to be much evidence of active stakeholder involvement in the evaluation and judgement process subsumed within sustainability appraisal.

4. 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?

No comment.

5. 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?

There is published research available on the interaction between the planning system and business investment.¹ This appears to demonstrate that the planning system is responsive to changing economic conditions and business investment needs.

Although the new planning system has only just been introduced and experience is limited, it is expected that the new planning system will make matters worse in terms of constructive relationships with business. Certainly, business involvement with the new RSS system is likely to be confined to input primarily from a limited number of representative business bodies, and the scope for the active and full engagement of a much wider range of business interests is unlikely. This reflects the criticisms of the RSS process set out above.

Similarly, engagement with the new LDF process has to overcome the structural problems identified above to do with the fragmentation of the LDF system. Local planning authorities will have to work very hard to engage and retain the involvement of local business interests given the plethora of new LDF documents being produced, their different timetables for production, and different stages of production. There must also be a significant risk of “consultation fatigue” with the new LDF system.

Apart from difficulties of involvement with the new system, it is suspected that plan users will find the new development plans less useful than their predecessors. On the one hand, the RSS could prove to be too remote, abstract and high-level to be really useful; and on the other, users could find the complexity of the new LDF system too complicated to derive a single definitive policy view of what is being proposed/ allowed within the local area.

6. 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

¹ See for example, the ODPM research reports – *The Economic Consequences of planning to the Business Sector*, HMSO, 1998; *Planning for Clusters*, DETR, June 2000; *Planning for Economic Development, Study and Scoping Study*, ODPM, May 2004

RDAs and RSSs when preparing their respective regional strategies and if not how might greater interaction be encouraged?

The planning system delivers policies, proposals and projects involving future land use change through a cross cutting process. It has to have regard to a wide variety of national, regional and local policy guidance and frameworks. For instance, in addition to national planning policy guidance (ODPM, PPG/PPS series), the Draft East of England Plan (Figure 1, page 10) identifies itself as one amongst a series of 10 principal regional strategies, which are also supported by more specific regional strategies. Some of these strategies are also identified by the Regional Economic Strategy (Appendix 2, page 125).

The spatial distribution of these strategies is not necessarily consistent and coherent. It is the function of the planning system to strike an appropriate and acceptable spatial balance between the objectives and outcomes of this wide variety of topic/subject strategies. The RSS planning strategy has to be fit for delivery and implementation of both short term and long term spatial distributions and intentions. It also has to be sufficiently robust to withstand scrutiny through public consultation procedures.

The key issues in the relationship between the Regional Spatial Strategy (RSS) and the Regional Economic Strategy (RES) are:

1. The process for preparation and review – the RSS is governed by statutory regulation requiring fixed public consultation periods, Examination in Public, and approval procedures. The RES is not encumbered by these requirements.
2. The strategy timescale – the RSS has to look at least 15 years ahead and ideally 20 years. The RES is orientated to the short term.
3. The strategy objectives – the RSS has to address a wide range of cross-cutting objectives, which will conflict in particular locations. The RES goals are focussed narrowly to the delivery of continued economic success for the region.

The RES is capable of delivering a clear economic framework for the region to inform the RSS. However, this should not mean that the RSS can automatically adopt the RES framework in its entirety in all parts of the region. The economic framework needs to be balanced with the spatial implications of the regional environmental characteristics and with the capability for delivering the infrastructure and services necessary to support the regional economic growth prospects and distribution.

There needs to be closer liaison between the Regional Development Agency and the Regional Assembly during preparation of both the RSS and the RES. Iteration of one strategy will inevitably have an impact on the other strategy. In particular, the RDA should be responsible for maintaining up-to-date estimates of economic and job growth in the region to monitor and review the RES and also the RSS and Local Development Frameworks.

The link between the Regional Spatial Strategy (RSS) and the Regional Economic Strategy (RES) is only one example of the relationship between strategies. It is a situation repeated in the relationship between other strategies and the Regional Spatial Strategy and more locally in preparation of Local Development Frameworks.

7. *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 it 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?*

No comment.

8. *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?*

We are not aware of any systematic attempt to collect evidence of the direct costs of making a planning application. Where information has been produced over the years it is largely anecdotal and so of less weight. Nevertheless, it is expected that the project costs of Environmental Impact Assessment will impose very heavy burdens for some kinds of major project. Local authorities are also increasingly seeking to maximise Section 106 revenues to support a wider range of provision – affordable housing, school places, early years, transport, open space etc. – so this adds to development costs for many sites. Other types of regulation also impinge on development costs – e.g., Disability Discrimination Act, green travel plans, sustainable construction etc.

Many of these initiatives are either strongly supported by Government or enable planning gain funding to be used in the public interest. It would certainly be useful and instructive to identify and review the various forms of regulation that apply to development through the planning system. Whether there is scope to eliminate duplication, reduce standards, or waive certain requirements is uncertain.

9. *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?*

A mix of different factors probably applies in influencing business occupation costs. However, it would be difficult to isolate individual factors in terms of their relative importance. Rental levels are clearly influenced by business demand,

business location preferences, the quality and supply of land/premises, transport accessibility, and other factors. Planning constraints may reduce the availability of sites/premises, in which case in high demand areas they will help inflate occupation costs. However, planning policy constraints often reflect other considerations in the public interest that outweigh economic/business ones. For example, green belts, environmental protection, and lack of transport capacity.

In some economically buoyant parts of the South East, planning policy has sought to prevent overheating of the local economy by constraining future employment growth. This overheating is manifested by inflated local house prices, labour competition, wage inflation, excessive commuting, and transport congestion. This restraint approach will probably have a knock-on effect on occupation costs, but may be the preferred outcome given the importance of limiting the negative impacts of overheating in its widest sense.

There is also an assumption in some planning strategies that planning restraint in areas of high demand can actually be used in a positive way to significantly promote the relocation/diversion of business activity into areas in need of major regeneration. There is some evidence of this within London where World City functions have been relocating to East London locations and the fringes of the City.

10. 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 addressing other goals of the planning system?

There is concern that a few major superstore operators are monopolising the retail land market (sometimes land hoarding) both to prevent competitors from gaining a foothold in their local territory and enable greater market share to be obtained at the expense of small and independent traders. However, this is not something that the planning system can deal with other than to facilitate the provision of a range of different sites within town centres and district centres in accordance with PPS6 guidance², in the hope that this will assist new entrants and new forms of retailing. Other forms of regulation may be more effective in promoting opportunity and choice within the property market than the planning system (e.g., Competition Commission).

11. To what extent does the planning system effectively support innovation through fostering the formation of business clusters and wider agglomeration of economic activity?

Many development plans now support the provision of employment sites to meet the needs of economic clusters or promote economic agglomeration at key nodal locations. The perception is that spatial planning is providing a positive and helpful response to business requests for this type of economic activity. This will

² *Planning Policy Statement 6: Planning for Town Centres, ODPM, March 2005*

be further reinforced by recent ODPM guidance³ to undertake employment land reviews during the preparation of RSSs and LDFs.

12. 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?

No comment

13. 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?

The remoteness and high abstract level of the RSS, and the fragmentation of the LDF process, have already been referred to above. It is suspected that business interests are having some difficulty in engaging meaningfully with the new plan-making system. Given the fragmentation of the LDF system, and the proliferation of consultation documents from central, regional and local government, it would be surprising if business stakeholders were not,

- Confused about the status of different documents and whether they are interrelated
- Fatigued by the volume of consultation and suffering a loss of interest
- Increasingly using consultants to represent their interests, but concerned about the costs of doing so

It is suspected that business interests generally lack the skills and resources to understand, engage with, and respond to development plans. The general experience of plan-makers is that it has proved very difficult to engage the business community in public consultation exercises. High-level representative or trade bodies seldom respond, although a limited number of specific enterprises may engage the process if they have site-specific requirements/proposals to promote. This also seems to be the general pattern in the working of local strategic partnerships.

Apart from promoting and sharing best practice within the planning system in engaging business interests, the business sector “needs to get its act together” to better engage with the plan-making system. Representative and trade bodies could do much more to promote the engagement of small-medium sized enterprises with the planning system amongst their memberships, and there is scope for the use of private consultancy in canvassing views and representing economic interests when drafting public consultation responses or appearing at plan examinations.

14. Are there ways that the incentive structure for decision-makers and local communities can be improved so that a balance is achieved between

³ *Employment Land Reviews: Guidance Note, ODPM, December 2004*

local interests and the interests of the wider community regarding proposals for economic development?

No comment

15. 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?

No comment, other than the points raised above.