



Association of Consultant Architects v.23 October 2006

WHERE IS PLANNING GOING? *Green Paper for discussion*

WHERE WE'VE BEEN *Let's remember...*

1 When planning and development controls were first introduced it was the rights of those wishing to develop their land that were removed. There is now an on-going conflict between central and local government over the control of planning and housing, with an unresolved dilemma that pitches community involvement against national (and regional) policy.

2 "There is no legal or constitutional principle that requires administration [of the planning system] at local level to be conducted through democratically elected bodies... all planning applications could be determined by officers under delegated powers... planning would no longer need to be dealt with under the auspices of local authorities at all, and the entire system could be invested in an independent regionally-based agency" [RTPI blog by Martin Goodall].

3 The Government's 1997 White Paper *Modernising Planning* promised a simpler speedier system based on a hierarchy of decision making. Their 2001 Green Paper *Delivering a Fundamental Change* promised to tackle complexity, speed and predictability – but these have all been made worse by the legislation that has emerged and is emerging.

4 "Under the guise of speeding up the planning system we have managed to make it far more convoluted. The plan-led system is excellent in principle but not when it takes several years to make the plan. There is far too much detail. Surely a plan is meant to protect some areas and promote development in others. I cannot see why we cannot treat these matters fairly simply" – Christopher Katowski QC, head of Landmark Chambers in *Planning*.

WHERE WE ARE *Change is in the Air*

6 'Framework Plans': The 2004 Planning Act scrapped the old, lengthy, development plans just when they finally achieved national coverage and will introduce new, concise policy plans in modular form allowing easy, quick updating as necessary, examined by Inspectors from the Planning Inspectorate – whose judgments are binding. The tests are tough and the first examples have failed. Policies have to be 'sound' ie evidence-based and thoroughly consulted upon. The 'plan-led' regime is retained.

7 Barker I: The Treasury commissioned economist Kate Barker to look at the housing market. She

advised that the planning system was the main restraint on achieving a balance between supply and demand; it should become more sensitive to 'market signals'. A new development land tax (planning-gain supplement) would capture land value uplift, allowing local authorities to collect the proceeds for infrastructure and as an incentive to resist the NIMBY tendency.

8 Barker II: Kate Barker was then asked by the Treasury to review the planning system and to recommend how to make planning less damaging to the economy. Her Interim Report says "there are no simple magic bullet solutions".

9 The Audit Commission: A report recommended the planning system should make better use of resources (informed by its Best Value regime and additional research): it proposed more joint venturing, sharing of staff and greater use of the private sector.

10 The Government's Planning Delivery Grant: this has pumped cash into planning departments to boost resources and pay for going digital, and is now proposing to distort the system by bribing authorities to issue more housing permissions – a priority which is currently skewing the appeals system.

11 The Householder Development Consents Review – A working party on the many small planning applications (which make up 80 per cent of the total) recommends:

- rewriting the very complex General Permitted Development Order to widen and simplify it and base it on impacts rather than on rules and measurements, and
- allowing 'Approved Agents' to certify lawfulness of proposals under a wider scope of regime that would (eventually) merge planning and building control.

WHERE WE COULD GO *Now let's join up the dots...*

The future of planning might look like this.

12 Big things like airports and nuclear power stations are for government White Papers and parliament to decide, while government policy dictates regional things like motorways, housing allocations and national parks.

13 Mayors and local planning authorities make plans and determine locally strategic developments such as major sports stadia, transport interchanges, land releases for housing, green belt developments and new centres.

14 The GPDO is rewritten as suggested by the HDCR to determine development rights only on the basis of measurable impacts, supported by 'deemed-to-satisfy' guidance, and the Use Classes Order is greatly simplified by focusing on impacts rather than very specific uses.

15 Development proposals comply with the new-style strategic plans and compliance is certified by 'Approved Agents' who, as with building control, can be officers of local authorities or professionals, but

are appointed and paid by applicants. If a proposal does not comply, application is made to the local planning authority for determination. Their decision may be appealed and determined by the Planning Inspectorate as now.

16 Three levels of proposal may be considered: i] Outline, ii] Full, and iii] Approved for Construction. i and ii will generally be subject to conditions which may call for the approval of reserved matters in the subsequent stage(s). Full applications will be able to deal with sustainability issues in principle – performance specifications – but not in detail. Local development plans cannot duplicate matters covered by other legislation (public health, access regulations, building regulations, etc.), except where special local conditions apply. 'Approved for Construction' proposals will have to satisfy both planning and building regulations requirements, both on a 'deemed-to-satisfy' basis which will rely on clear guidance with the option of a determination or appeal in exceptional cases (as now for Building Regulations approvals).

17 Only strategic decisions and clearly non-compliant applications need be considered by elected members, all others being delegated to officers or Agents. Planning resources are focused on plan-making and keeping adopted policies up to date.

18 Approved Agents assess the impacts of proposals and only where these affect other owners are they obliged to follow a consultation procedure which is modelled on the Party Wall Act (including provision for a 'third surveyor'). No such agreement may override a clear plan policy. Agents deal with planning compliance, building/environmental regulations and party walls in an integrated way, with specialist input as necessary for matters like engineering, traffic impacts and biodiversity.

19 Approved Agents certify completion of developments in compliance with certified proposals. Architects and other qualified professionals may self-certify compliance (as they, in effect, do today), but owners are obliged to notify the Land Registry once development is complete and attach specified information to their title deeds.

We believe these proposals will change the system from a negative to a positive one and release scarce skills and resources for an injection of vision into planning.

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CONSULTATION RESPONSES ARE WELCOME!

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