SPEECH BY

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AT

JOINT PLANNING LAW CONFERENCE

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Planning applications, appeals and development plans

You will not be surprised if I begin with the scale of the pressure for development in many parts of the country, and the growing public anxiety about the effect such development might have on the local environment and the quality of people's lives. I can illustrate the magnitude of these pressures by quoting just two statistics - quite enough for one evening. First, the number of planning applications submitted to local planning authorities has increased by about 25% over the last two years. Second, the number of

appeals lodged with the Department has doubled since 1983 and that increase shows little sign of falling off.

I pay tribute to the local planning authorities and to the Planning Inspectorate, because their output of decisions has increased impressively in the last year or so. But the continuing flood of incoming applications and appeals means that there is a substantial backlog of cases. Targets are not being met either by many local authorities, or, yet, by the Inspectorate itself.

The growth in appeals is particularly worrying for the Government, not just because we have to find the resources to consider each one of them, but because the public and our critics tend to see this "planning by appeal" as a centralisation of decision-making. That is not what we want. We believe that, wherever possible, decisions that have local implications should be taken at the local level against the background of locally agreed policies and proposals.

You will have seen the guidance we issued last November in Planning Policy Guidance note 12 on Local Plans. Formally adopted

up-to-date local plans provide the best foundation for sound and efficient development control. Where such plans exist, the Secretary of State has said that they should normally be given considerable weight in the decision and that strong contrary planning grounds need to be demonstrated to justify a proposal which conflicts with them. The Secretary of State and his Inspectors will similarly be guided by the policies and proposals of such plans, where these are relevant.

The full impact of the Planning policy Guidance note on Local Plans will take much

longer to come through, for many areas are without up-to-date local plans. This is why we have also encouraged local planning authorities to extend the coverage of local plans. I am glad to report that a recent survey of local planning authorities shows that the vast majority of authorities now intend to have plans for the whole of their areas on deposit or adopted within the next two years.

If the development plan system is to provide an effective framework for decisions on individual applications and appeals, it needs to be able to cope quickly and sensitively

with rapidly changing needs and circumstances. That is why we have proposed a streamlining of the current structure and local plan system and the procedures for preparing and adopting plans, as set out in the January White Paper on The Future of Development Plans.

The White Paper proposals would take the encouragement to prepare district-wide local plans a substantial step further, by imposing a mandatory obligation upon each district council to prepare and maintain a development plan for the whole of its area. Similar obligations would apply in metropolitan

areas, including London, and in the National Parks too.

London Planning Guidance

Clear statements of planning guidance at national, regional and sub-regional levels are important elements in the development plan framework. But such guidance must concern itself only with the issues which need to be decided at that level, otherwise local plan-making and local decisions will be unduly constrained. The consequences of this approach are not always understood or popular. For example, in July the Secretary

of State published his strategic guidance for London, to provide the framework for the boroughs to prepare their initial unitary development plans. That guidance has been criticised by a number of commentators as inadequate.

But it is essential to remember what the guidance is and what it is not. It is not intended as a comprehensive plan or strategy for London, providing detailed solutions to the planning and planning-related issues facing the capital. There are those who still think that it is the job of Government to impose such a grand design, and of course

they have been disappointed that the guidance does not do this. We think that such an approach would have been inflexible and wrong. The future of London and its individual boroughs must be shaped by the initiative and energies of its local communities, businesses and people, not by blueprints handed down by politicians and bureaucrats.

That is why the Secretary of State's guidance emphasises those national planning policies of particular relevance to London and addresses those further land use and development issues which transcend the

individual boroughs. It does not deal with matters which are essentially local, because we believe that each borough is best placed to decide those matters, with all the relevant interests, as they prepare their Unitary Development Plan.

Affordable rural housing

Another controversial issue on which we have issued guidance this year is the provision of low cost housing to meet local needs in rural areas.

It is controversial because, against the accepted conventions of planning, it specifically sets out to deal with the particular needs of particular people rather than strict land use. However, we have made it quite clear that the arrangements announced on 3 February and elaborated in subsequent speeches are exceptional and do not constitute a fundamental shift in planning philosophy. We are responding to a specific problem, the lack of affordable housing in rural areas. The terms on which this affordable housing will be made available are:

- first, that it will be made available on land where planning permission would not normally be granted for residential development;

- secondly, that satisfactory arrangements should be in place to ensure that housing so provided should be reserved for low-cost local needs and should not be part of general market housing;

- thirdly, that the benefit of the initial low land price should not accrue only to the first occupant but should be available to subsequent occupants also.

We envisage a primary role for housing associations and village trusts in determining such arrangements and making them stick; but it will be for the local planning authority to determine what is most appropriate in the particular area and to define the concept of local housing need.

Environmental Assessment

I started with public concern about the environmental impact of development. The formal incorporation of environmental assessment into the planning system is, of

course, one of the matters to which the title of your conference refers.

Unlike other parts of Europe, environmental considerations have always been an integral part of the UK planning system. In all but minor cases, the environmental effect of proposed development is likely to be a major factor in deciding whether or not that development should be allowed to go ahead and, if so, whether conditions should be attached to the planning permission to mitigate adverse effects. That will continue to be so. And even before the EC Directive, a number of developers of major projects had

made it their practice to undertake a more considered Environmental Assessment and submit environmental statements with their planning applications.

When introducing Environmental Assessment, our aims have been twofold. First, that EA should be integrated into existing development control procedures and should not duplicate them. The existing planning framework meant we were able to implement the directive in full by means of regulations in July 1988, ahead of most other EC countries; indeed, some have still to implement the Directive. Secondly, that EA should be

required for those projects which are indeed likely to have significant effects upon the environment. I believe we have been successful in securing both these aims.

For the planning authority, and other public bodies with environmental responsibilities, EA should provide a basis for better decision-making. For developers, the process should alert them at an early stage to the environmental effects of their proposals so that they can incorporate remedial measures into the design. For the public there is reassurance that these important issues have been fully addressed. To the extent that the

implications of proposed development should be more thoroughly analysed before a planning application is made, speedier decisions may also be possible. I am glad to say that there have been few complaints from industry - indeed many developers have submitted environmental statements voluntarily. Our first year's experience of EA suggests that the procedures set out in the regulations are working satisfactorily, and that the technique is now generally accepted to be a useful adjunct to the planning system.

Inquiries Procedure Rules

Another recent innovation has been the introduction of the new Inquiries Procedure Rules. This was the first major overhaul since the inquiries rules were introduced in 1962. We remain committed to the principle that appellants have a right to be heard. We also recognise the need to ensure that other interests - neighbours, the local community, environmental interests - have an opportunity to comment on proposals. The aim of the changes is not to curtail any of these rights but to ensure that the procedures are as speedy as is consistent with fairness,

impartiality and letting everyone have their say.

The changes aim to improve the timetabling of the process of preparing for and holding an inquiry; to secure a full exchange of information between the parties before the inquiries open; and to give the Inspector more adequate powers to regulate the progress of the inquiry once it opens.

I particularly welcome the more explicit powers given to the Inspector to regulate the inquiry - to curtail irrelevant or repetitious evidence and to deal with

disruptions by requiring those concerned to leave. In the past Inspectors have not been sufficiently active in regulating their inquiries. They seem to have been a little afraid of saying "Yes, I understand that point, Mr X. Shall we go on to the next one". They have been worried about judicial review too. I am sure it is right for them to be more active in running what is, after all, a process the object of which is to inform them of relevant facts and views.

The other changes to the inquiries procedure rules are sensible developments that should make public local inquiries more effective

and better disciplined proceedings, to the benefit of all parties. But I am sure you will have an interesting session on this on Sunday.

Hearings and Sessions

There are two other developments in appeals that I should mention. The first is the growth in the use of informal hearings in recent years as an alternative to the more formal public inquiry where the case can sensibly be dealt with in a more relaxed "across the table" format. There were over 800 of these hearings last year, about a

quarter of the total of inquiries and hearings together. There are obvious limits to its use but it is a development I welcome which I believe in many ways gets nearer to the original intention of an inquiry than the much more formal way which has developed over the years.

The other development is a proposal for "planning sessions" to speed up the decision-making process while maintaining the quality of the decision. The idea is a simple one. Suitable cases in an area that would otherwise be dealt with by written representations or by one-off informal

hearings will be the subject of a series of sessional hearings to be conducted by an inspector over 2 or 3 days at about monthly intervals. He will hear the representations of the parties and having considered all aspects of the case (and having made his site visit beforehand) will normally be able to give an immediate decision on the appeal with a brief outline of the reasons for it and, if it is an approval, of any conditions which will be imposed. This will be confirmed in writing within a few days.

I have discussed this with the Chief Planning Inspector and he is setting up a trial of

this approach starting at the end of October in two local authorities in the West Country. We are going to start by holding a "session" of four hearings over two days. This will be extended to more hearings if all goes well.

I do not suggest that all appeal cases will be suitable for this new type of proceedings. They will have to be carefully chosen - and the parties will have to agree to it because they will be foregoing some of their rights under the Inquiry Procedure Rules such as the right to claim costs. But I hope there will be sufficient to make the experiment a worthwhile one.

I have asked the Chief Planning Inspector to run the trial for 3 months and then subject it to a rigorous examination to determine the costs and the benefits. Only after this evaluation will a decision be made as to whether it should be extended to other parts of the country.

I think there is great merit in the idea and I shall be watching it with interest. I hope it proves to be popular. It will certainly not be the complete answer to the problem of how to tackle the ever growing volume of appeals - but every little helps.

Efficiency of the Development Control System

"Efficient Planning" is the title of the consultation paper issued by the Department at the end of July. It contains a number of proposals for improving the operation of the development control system and other planning procedures and I would like to draw just 3 of them to your attention.

First, our proposals to introduce fees for planning appeals and to increase the level of fees for planning applications are proving, perhaps surprisingly, relatively

uncontroversial. I think it is now quite widely recognised that there is no good reason why the general taxpayer should finance a developer's seeking of planning permission.

Secondly, I am conscious that the legislation and advice which the Department dispenses have to be cast in national terms. There are, however, 377 local planning authorities in England and their circumstances vary considerably. The Town and Country Planning General Development Order cannot give general permission for many developments which are in practice uncontentious and which could, in

particular localities, be allowed without the need for detailed consideration of a planning application. This is the thinking which lies behind our proposal that local authorities should have power to specify further general permissions for works of alteration or addition to existing buildings or for changes of use of land or buildings. In short, we propose local development orders.

Third, I receive a lot of correspondence complaining about developers bombarding local authorities with applications for the same or substantially similar development on the same site, even though earlier applications or

appeals have been refused. The development control system operates like a stimulus-reponse mechanism. At present there is nothing to stop any individual from submitting any number of applications, provided he pays the appropriate fee. The submission of repetitive applications for similar development in an attempt to wear down local authorities' and communities' resistance wastes the time and resources of the authority and causes uncertainty, anxiety and very considerable irritations to local residents. Accordingly, we propose to legislate to prevent repetitive or substantially similar applications made

within 2 years of an unsuccessful appeal where there has been no material change in circumstances.

The Carnwath report: "Enforcing Planning Control

Lastly, but certainly not last in the Government's priorities for the planning system, I'd like to mention what we are doing to improve and strengthen the enforcement regime.

The best system of development control man could devise - and I do not make any such

grandiose claim for our system - would be useless if it were not effectively enforced. I believe that the machinery for enforcement on which we presently rely frequently hinders its effective use.

But that is not enough. We also know that some authorities have difficulty with enforcement and I frankly acknowledge that the enforcement appeal system sometimes results in unacceptable delay to effective enforcement. So we accept the need for change: what matters most is to ensure that any changes we introduce will produce improvements, without causing injustice to

anyone. That is why we asked Robert Carnwath to produce his report on the enforcement system, which was published in April. [I am glad that Robert is here for the conference because it gives me the chance to say, in your presence Chairman, what a useful report he has produced. It is short; it is clear; and the recommendations are shrewd and relevant.]

It is clear from the consultation exercise which the Department has already carried out that the report's recommendations are widely welcomed. Some people are naturally disappointed that the recommendations do not

include a proposal to make unlawful development an immediate criminal offence. understand that disappointment; but I'm bound to say that I find Robert Carnwath's analysis of this issue (which you will find carefully set out in Chapter 6 of the report) pretty convincing. I do not think anyone who really understands the unavoidably complex legislative provisions for development control would think it sensible to burden Magistrates' Courts throughout this country with prosecution proceedings in which they would be bound to reach a view on matters of planning law.

Now that this report has provided us with a constructive agenda for change, what is the next step? Inevitably, almost all the recommended changes require amending legislation to implement them. We shall be looking for the first opportunity to introduce the changes the Government decides to make in a suitable Bill. When that will be I cannot say.

Conclusion

I have spoken about some things that have been accomplished such as Environmental Assessment and the Inquiries Procedure Rules

which fall squarely within the heading of this conference and on which you will be having sessions over the next 2 days. But I have also spoken about Government's declared intentions on the changes to development plans, and on some of our other proposals. I am sure that these will be talked about too during the weekend. All these ideas, those implemented and those only planned or proposed, arise from the need constantly to reappraise the performance of the planning system against current needs. Is the right balance being struck between the rights of the developer, and the rights of the public, as individuals or as public authorities? Is

the system succeeding in producing - and this is the test at the end of the day - well designed homes, business premises and retail and leisure facilities that meet today's needs and that show a proper regard for the environment and, indeed, its improvement. It is not surprising that addressing these issues is a continuing and continuous task. I am sure that discussions here this weekend will carry it forward.