

The Local Authority Experience

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Introduction

This paper will briefly consider some issues related to section 78 appeals and informal hearings. However, given our recent history in Leeds and the notoriety that the UDP has achieved, the paper will concentrate on development plan issues set against the background of the DoE Consultation Paper, "Speeding up the Delivery of Local Plans and UDPs" (January 1997). The various stages of the process will be described with reference to our experiences in Leeds, *i.e.* the process of plan preparation, the pre-inquiry period, management of the inquiry and the post-inquiry period. The paper concludes by drawing some general conclusions and considering the prospects for Leeds and the adoption of its development plan.

We have adopted a Quality systems and Total Quality Management approach to our activities in both development control and development plans. A quality approach is essential because Leeds is a large authority dealing with significant volumes through one of the largest planning departments in the country.

Leeds is the second largest metropolitan district in England in population (about 725,600, only Birmingham is bigger), and the second largest in geographical areas (561 square kilometres, only Doncaster is larger). Two-thirds of the district is Green Belt and measured in income per head of population we have some of the wealthiest villages in England in the rural hinterland to the north of the city. In contrast, the city also has an inner city area that is larger than some London boroughs and contains wards that are amongst the 10 per cent of most deprived wards in the country. The district embraces a number of free-standing towns and villages and 28 town, district and suburban shopping centres outside the city centre.

The local planning authority employs 230 staff with a wide range of skills and expertise including planners, architects, landscape architects, and building control surveyors. Leeds receives more planning applications (5,158 in 1996/97), than any other local planning authority other than Westminster and total income from planning and building regulation fees amount to in excess of £3.6 million p.a. The Leeds UDP also attracted more objections than any other development plan (21,485), other than Bradford. In spite of our size the CIPFA statistics show that the number of staff per thousand population is below the average for all metropolitan districts and that the cost per 1,000 population of the planning service in Leeds is lower than in most other planning authorities.

In Leeds we are awaiting the Inspectors' report and by way of comparison Birmingham, where the commencement order was issued considerably in advance of that for Leeds, are at the stage of a first review of their adopted plan. The Bradford inquiry was completed before the end of the Leeds inquiry and the Inspectors' report was delivered in the early part of this year whilst Doncaster are awaiting their Inspector's report.

Although second in most variables, the scale of our UDP inquiry, the longest inquiry to be held to date, gives us an unenviable first. Government guidance and procedures cannot be tailored to fit Leeds'

needs, which have been at the extreme end of the spectrum. The system does, however, need to be able to cope with Leeds because the process has exhibited many of the main issues likely to affect other authorities albeit in a more extreme form than the norm.

Quality systems

Leeds has a tradition of involvement in systems approaches to planning management. We had one of the first computerised planning application processing systems (PLANAPS), established in the 1970s, linked to a corporate property system. We have implemented the next generation of system since, and are now engaged in developing ideas for a new third generation system using Geographical Information Systems (GIS). We have lagged behind in the introduction of GIS, it is only now being implemented in the Council, but our new systems will utilise a considerable investment in the original property system that has continued to be maintained.

We recognise the need to be methodical in our approach, to identify appropriate management systems and ensure a continual process of improvement. Our Quality Systems Manager works to a central steering group and four Quality Circles cover each of the functional parts of the Department.

Quality Manuals cover all the procedures that have been recognised and adopted as approved quality systems. These are regularly reviewed, and supplements issued in a controlled manner so that the latest agreed system is always apparent. The dissemination of information throughout the Department is critical to those engaged in implementing the systems.

Appeals system

A good example of the efficient integration of administrative systems with technical proficiency is our system for the handling of appeals. Progress against deadlines is tracked and monitored with regular management reports that ensure the early identification of problems and assist case officers in time management. We deal with between 150 and 200 appeals each year (162 in 1996/97), 80 per cent being dealt with by way of written representations and the balance through hearings and inquiries. Appeals are lodged on about 3 per cent decisions made and in 1996/97, 74 per cent of appeals were dismissed. To date the difficulties experienced with the UDP do not appear to have unduly influenced either the number of appeals or the authority's success rate. A quality system for the handling of appeals has been established linked to the main plans processing system. A computerised module within our overall plans processing system is being introduced to replace the paper-based system.

A small administrative team manages the appeals system reporting directly to the Development Control Manager. The post of Development Control Manager is an important functional link in our operational quality system, bridging the professional and the administrative sides of the planning application process. Relocation of the appeals administration function from the Legal Department to work directly to the Development Control Manager, was a critical step to bring the administration of all appeals under QS control. The ideal would be to also employ a solicitor in the department to manage both the appeals and enforcement functions but to date the arrangements for legal support in the Council have not permitted this to happen.

The present system works consistently and efficiently and ultimate deadlines are usually met. Management information enables the performance of individuals and teams to be monitored.

Section 78 appeals

Section 78 appeals are not generally a problem in Leeds although the efficient management of the process and procedures is critical. Prompt and accurate management information is essential to the

Development Control Manager, to line managers and to case officers. Considerable effort has been devoted to the professional aspects of inquiries and to ensuring that officers are competent, confident and properly briefed. The administrative processes, however, are equally important.

In general we hold the Inspectorate in the highest regard and recognise the difficulties inherent in their task. Our experience with individual Inspectors is good and they carry out their role with high levels of professionalism and competence. We are not entirely convinced, however, that on the evidence of some recent experience all Inspectors share our view that procedural matters need equal attention.

We support the greater use of informal hearings provided this is not at the expense of the Written Representations. The code of practice for informal hearings would benefit from review and also requires consistent application by Inspectors.

In our view, the issue of costs does not sit well with the informal nature of proceedings. Informal hearings are designed to be non-adversarial whereas matters relating to costs may require legal submissions and are adversarial. In this respect informal hearings and applications for costs appear incompatible. There have been examples of hearings in Leeds where lawyers have represented appellants and their main contribution has been the submission of an application for costs. Moreover, there is no requirement for the other side to inform the local planning authority that a costs application is to be made although, of course, the issue of costs may sometimes only arise during the course of a hearing.

Nevertheless, because of the difficulties we are keeping all informal hearings under review and considering the issues related to attendance by officers and access to legal support.

Where appellants have vigorous legal representation at informal hearings the procedures may also be hijacked and the Inspector intimidated by the lawyer in such a way that the hearing bears more in common with a formal inquiry with cross-examination and closing speeches. In such circumstances the Inspector needs to be resolute in ensuring that the procedures and the informality of proceedings are maintained although a more effective solution may be to simply ban lawyers from informal hearings.

Development plans

The Leeds Unitary Development Plan resulted in the longest running development plan inquiry ever. Although Bradford received more objections, their inquiry related to fewer individual topics and so was much shorter. The deposit of the Revised Draft UDP in June 1993 attracted 19,763 objections and 1,457 supports. The publication of four sets of proposed changes between June 1994 and December 1995 resulted in the total number of objections rising to 21,485 whilst the figure for supports increased to 1,913. The objections related to 900 separate inquiry topics of which 300 were policy objections, 200 were site specific objections and 400 were objections related to developer interests in sites not included in the plan. Three Inspectors were appointed and sat for 270 sitting days over a period of 21 months.

The commencement order for Leeds was received in 1989 after being delayed pending the publication of regional planning guidance. The initial consultation was further delayed by the Council pending the publication of an integrated transport strategy for the city. The Council achieved some success in obtaining a city-wide consensus on transport and green strategy issues that influenced expectations and the attitudes to the UDP of key elected members.

We consulted interest groups on Issue Papers in 1991, and undertook the largest consultation exercise ever undertaken by the Council on a full Consultation Draft in 1992. With the success of the Transport

Strategy there was an enthusiasm amongst elected members to consult as widely as possible on a plan that would establish the form of the city for the foreseeable future. The plan would also be a key instrument in helping to realise the city's aspirations to be a regional capital and a leading European city. It is worth noting that the UDP translated a number of the concepts and ideas in the Transport Strategy into specific policies and proposals, for example, in relation to car parking guidelines and park and ride sites. At that stage the consensus was not so apparent and the policies and proposal were themselves the subject of a number of objections. The Revised Draft Plan was placed on deposit in the summer of 1993, four years after the receipt of the commencement order.

The inquiry took place between October 1994 and July 1996 and the Inspectors' report is awaited. It is interesting to compare the extremes of the Leeds case against the averages published in the DoE consultation paper.

	<i>Average</i>	<i>Leeds</i>	<i>% +/-</i>
Consultation—Deposit	74 weeks	104 weeks	+40.5
Deposit—Inquiry	44 weeks	64 weeks	+45.5
Inquiry	15 weeks	91 weeks	+506.6
Close—Report	27 weeks	138 weeks est.	+411.1
Report—Adoption	64 weeks	—	
Total	4 yrs 3 m.	+6 yrs to date	

Why did Leeds attract such a large number of objections, 20,000 on 900 topics? Is it a “bad” plan and fundamentally flawed? We believe that there is a balance in the type and range of objections that does not support the contention that the plan is flawed, *i.e.* the objections were not weighted towards a single issue or proposal. Some commentators have also observed that the consultation draft was a more coherent strategic plan for the city and that we would not have attracted such a large volume of objections if the Council had largely adhered to the consultation draft in the deposit version. It might, cynically, be observed that this opinion would be expressed by some given that development options had been obtained on the strength of the consultation draft.

The consultation draft was the product of the advice given to an all party UDP Panel of elected members and consultation with all 99 members of Council. The changes made to arrive at the deposit draft were the result of the public consultation exercise and a response by elected members to the genuine concerns of local communities. This led to a review of the range of land use options available to the local planning authority to meet the targets for the supply of housing and employment land. Subsequently, *i.e.* after deposit, major changes to the Roads Programme were made that forced the publication of proposed changes. Some major allocations were predicated on proposals contained in the Roads Programmes, in particular the planned improvements to the northern ring road. When these proposals were deleted it followed that a number of the proposed allocations also fell. In the light of this experience the Government's stated intention to better integrate land use and transportation planning is welcome albeit too late for the Leeds UDP.

The conclusion that we have drawn is that the scale of the objections is a function of the following factors:

- The size of the District and the extent of the Green Belt. The inner city of Leeds includes areas that contain some of the highest housing densities in Europe. Leeds still has a legacy of over 20,000 back-to-back houses constructed prior to 1919. Brown field sites are not abundantly available and open space in the urban area is at a premium. Consequently and

because of the tightness of the Green Belt around Leeds, making provision for new housing and employment land inevitably raises the prospect of Green Belt deletions. The Green Belt and its protection is one of the most sensitive planning issues and one that the public readily identify with and on which many objections are based. Site specific objections then become inextricably linked to further, secondary objections to policies on the supply of housing and employment land.

- The amount of development interest. There is continuing strong development interest in Leeds and developers, landowners and others lodged objections on 400 sites that had not been included in the plan. The strength of this interest reflects the importance attached to section 54A and the plan-led system. The emergence of the Leeds UDP coincided with strong interest in the city from the development industry, a recognised shortage of large key employment sites, a commitment to major infrastructure improvements (in particular the M1–A1 Link Road), and the strengthening of the plan-led system. Many developers and landowners, acting independently or with the benefit of advice, saw the Leeds UDP as a last opportunity to bring sites forward for development.
- The number of active local groups and the success of the consultation exercise. The consultation draft and the associated publicity that included a video, leaflets to every household in the city, meetings with interest and pressure groups and nearly 40 public meetings succeeded in raising awareness as well as fears and expectations. As with many planning issues, however, the people and groups who responded to the consultation tended to be articulate and well organised groups and individuals objecting to site specific proposals. Residents of the inner city and the large council housing estates tended not to attend meetings or participate. Moreover there was little debate about the strategic vision for the city that the UDP attempted to articulate and on which elected members had hoped for a consensus. The result was that communities anxiously awaited the publication of the deposit draft to assess the implications for their localities.

Is our experience the shape of things to come, or is it just a Yorkshire phenomenon? We hope that the Leeds experience is not the norm but whilst it is at the extreme end of the scale the lessons can be applied to all large public inquiries whether development plan, section 78 or call-in.

Inquiry support: quality systems

There are three elements in the process:

- analysis of objections;
- negotiation and preparation;
- submission of evidence.

Analysis of objections

A computerised database is essential where there are a significant number of objections. In our case, it took several months to assemble and process all the information after the deposit period. We encouraged objectors to use standard forms, one per objection point, but frequently this was not followed in practice. Consequently we also attached covering summary sheets on which staff identified the discrete points made, added a reference number to each point, completed a brief text summary, and coded the topic subject of the objection.

A relational database was designed around these ingredients, linking objector's details with the number of the form, the reference numbers of the points made, and the topics that were the subject of objection.

This formed the basis of computerised mail acknowledgments, and a preliminary listing of inquiry intentions, distinguishing between appearance or written representations.

A major output was a register of all the objection points, listing objectors, reference numbers and text summaries, by topics, together with a map book showing the location of each objection site. From this exercise, 900 separate topics emerged which formed the subject-matter of the inquiry. Completing this exercise took five months at the end of the deposit period. Thus it was not until much later that the general public had a clear idea of the extent of objections lodged by developers and landowners. In due course, over 3,000 counter-objections to these objection sites were lodged which are not included in the overall count of objections. We referred to these as “late supports” since they largely sided with the Council’s position as expressed in the Plan.

The Inspectors subsequently refused to consider any of the points raised although in the interests of public involvement and confidence in the process, we insisted on listing the names of those who had written in this manner and ensured that the issues raised were addressed in our evidence. The problems of information on objections not being available until well after the deposit period and thus the late supports issue, has to be addressed in some way, perhaps by allowing for a further deposit period when the comments can be registered as duly made representations.

Negotiation and inquiry preparation

Each topic was analysed and a written assessment made by officers. Topics were scored according to whether there was a need for further information, and whether there was any prospect of either negotiating away the objection, agreeing with the objector, or whether the issue was simply one of opposition to be fought out at the inquiry. In appropriate cases authority was sought from members to initiate negotiations and the database was used to establish a programme of meetings on the 100 or so topics where there was a prospect of achieving an acceptable outcome.

A number of changes were proposed, acceding to objections or reflecting other necessary changes. The first and major set of changes was advertised in June 1994. Another three sets of changes were advertised successively during the inquiry itself. Representations on objections to the proposed changes, 1,700 in total, were incorporated in the database.

The submission of evidence and running the inquiry

Two pre-inquiry meetings were held in mid 1994 setting the Inspectors’ approach, providing a basis for discussing scheduling, and establishing the content of proofs. Despite our reservations, a single deadline was set for the submission of evidence by objectors, September 1994, *i.e.* just before the inquiry started. As the inquiry lasted for 21 months this deadline proved to be for the most part ignored. Unfortunately there was no fallback date requiring submission of last evidence by objectors prior to each hearing. This seriously inconvenienced the Council because objectors’ evidence was continually late.

The size of the task required the employment of a Programme Officer team of three staff. Three Inspectors with two sitting at any one time heard the inquiry. Four teams of officers were employed to service two concurrent inquiries. Submission of evidence was co-ordinated by another small team, using project management software, providing graphical displays and lists with constantly updated target dates for the stages in the preparation of evidence. To ensure a consistent and appropriate standard of evidence, a manual was prepared, in discussion with our advocates and the Inspectors that established a standard format for proofs of evidence. With variations to suit different topics, this proved robust throughout the inquiry.

To assist the Inspectors, we embarked on a major exercise to scan all the objections using computer based image processing. Images of all objection forms were then stored on CD-ROMs with ready access on the computer network. With the co-operation of one of the legal firms in the city proofs of evidence were also scanned into the computer system. We believe that the substantial investment in technology was worthwhile and assisted the process although we have had no feedback from the Inspectorate.

Was the process an administrative success? We met all our deadlines with few cases deferred because evidence was submitted late on our part. About 200 of the 900 topics were dealt with in inquiries and hearings, most of which entailed professional representation by barristers, solicitors and consultants. The Council submitted nearly 1,200 separate proofs of evidence. Standards and consistency were acceptably high throughout the inquiry and we used a wide range of senior, middle ranking and junior staff. However, from our experience, a number of issues have become apparent.

General issues

Our main concern has been to ensure the rapid adoption of our Development Plan. It is now eight years from the receipt of the commencement order, four years from the close of the deposit period and more than 12 months since the inquiry closed with no imminent prospect of the report being delivered. Despite this experience we remain committed to the importance of the plan-led system. It is essential that plans are prepared and brought to adoption in a reasonable space of time with rapid review as the mechanism for ensuring their continued relevance. We have not achieved this in Leeds.

In the wider context of the debate on the future of the development plan system, there are key areas of concern that impact on the length of the process.

The level of detail of plans

We believe that in its level of detail the Leeds UDP stands comparison with other UDPs and that the plan is not too detailed. UDPs, however, replace both the former structure planning and local planning systems and few, if any, other authorities have the scale, complexity and diverse range of communities that exists in Leeds. It may have been more appropriate and efficient in Leeds to allow the production of a strategic plan that only dealt with city wide policy issues and provided a coherent link to the regional planning framework. The strategic plan could then have been supplemented either with a single plan dealing with the Part II issues or a series of area based plans that could have provided a local planning framework for groupings or single communities in the city. Local communities tend to relate well to development control issues but even with extensive consultation, often find it difficult to relate to a debate on strategic policy issues. The Government is urging the greater involvement of local communities in the provision of services and the ownership of issues and problems. Planning must also respond and make policy planning meaningful at a local level which for a local authority of Leeds' complexity perhaps means reverting to a Structure Plan with supporting Local Plans.

The consultation process

With hindsight we question the degree to which a full consultation draft is necessary. We would recommend dropping that stage, but favour focused consultation on issue reports. In Leeds the period between the start of the process and deposit was two years. This could have been compressed into about one year if we had only consulted on issue papers.

A coherent regional planning framework

The lack of appropriate guidance at a strategic level and the absence of properly articulated Regional Planning Guidance reconciling inter-authority issues can also be an impediment to the inquiry process and generate objections which might not otherwise be necessary. Yorkshire and Humberside is a large and complex region with a major conurbation, important cities, historic towns and villages, large rural areas and national parks all with political, social and economic variations and differences. There are often differing political views about, for example, the supply of housing land, within the West Yorkshire conurbation and between the West Yorkshire authorities and North Yorkshire. There are marked differences between the problems faced and the interests of large city authorities and smaller, more rural, districts within the same region. As a result it is often difficult to reconcile differences and secure agreements between authorities about regional planning issues. At the same time the Government office has tended to adopt an arm's length approach with the result that there has been a lack of clear and decisive leadership and a failure to provide an effective and coherent regional planning framework.

There are three general points on the quality and efficiency of the inquiry process itself to consider in more detail:

- Best practice should be standard, there is too much variability.
- Radical approaches in inquiry format need to be considered to reduce the length of inquiries and the writing up time.
- Adequate and enforceable Service Level Agreements are essential.

Inquiry practice

The Inspectorate, and local authorities, have learnt a great deal from experience of local plan inquiries. Guidance for local planning authorities is provided in the Inspectorate publication "Development Plan Inquiries" (April 1997), whilst the Code of Practice provides a guide to procedures. The guidance document is a revision of an earlier version produced in 1996 and post-dates the Leeds inquiry. These indications of best practice are welcomed and should become the norm. Of course, greater speed must not be sacrificed by lack of thoroughness and there are a number of key objectives.

Appropriate level of detail

Much abortive inquiry time relates to the consideration of unfocused and over-detailed evidence. Objectors, planning authorities and Inspectors, are often drawn towards the consideration of more detail than is relevant in a development plan context. Consequently, an inquiry may deal with a level of detail that would be more appropriate in a section 78 appeal. That was the case in Leeds and it has been alleged that the Council produced unnecessary and lengthy evidence. However, the detail often reflected the Inspectors' demands for discursive investigations beyond the level necessary to address objections. Colleagues in the private sector associated with the inquiry have commented favourably on the style and format of the Council's evidence.

Focus on objections

The function of the inquiry is to hear specific objections, not to debate the merits of alternative plans or solutions. Some objectors, and some Inspectors, appear to take an investigative approach to the Plan, which is at odds with the sole purpose of the inquiry, *i.e.* to consider objections to the local planning authority's proposals.

Avoidance of repetition

Once a point has been clearly and effectively made, others should not be permitted to repeat it at length as part of their evidence or submission. The practice of local planning authorities in preparing topic papers in advance of the pre-inquiry meeting is useful in scene setting and agreeing issues given an assumption that expert witnesses are not going to be allowed to cover the same ground during the inquiry. Local planning authorities can also assist in the speedy and efficient consideration of evidence, by using their detailed knowledge of the issues to structure the presentation and sequence of cases and individual witnesses, and by offering advice to the Inspector and Programme Officer about the time-tabling of the inquiry.

Submission of evidence to timetable

One of the major causes of delay, particularly in the longer running inquiries, concerns availability of evidence. Firm and binding submission dates should be set at the pre-inquiry meeting, providing for a rolling programme whereby evidence is submitted a set number of weeks before the hearing date, by both objector and local authority. For larger inquiries our experience suggests that a single submission date prior to the inquiry commencing is unworkable, and leads to delay through the late receipt of evidence. During the course of a long inquiry it is inevitable that some circumstances will change and there may also be changes to national planning guidance. The process and procedures for running a major inquiry must recognise and allow for such changes by setting appropriate targets and deadlines. An obstacle to meeting targets for the submission of evidence is the lack of adequate sanctions for the failure to comply with submission deadlines. However, it is difficult to suggest improvements because full information is necessary to debate each objection and no sanction should jeopardise that.

Inquiry format

Whilst universal adoption of best practice offers scope for reductions in the duration and better focusing of inquiries, more fundamental changes will need to be considered if the problems encountered in larger inquiries are to be addressed. The form of discussion appears to offer the most scope for beneficial change. Within the context of development plan inquiries, our experience suggests that the adversarial form of inquiry is the most time-consuming, and the most likely to produce unnecessarily detailed evidence. This may not be well received by our lawyer colleagues but is our experience nonetheless.

The right to be heard versus the right to be considered

Moving away from the adversarial approach raises fundamental issues concerning the “right to be heard”. The inquiry system is fundamentally designed to secure that all objections are considered fully. This traditionally has been achieved by permitting all objectors the right to be heard. Our experience is that the majority of objectors decline this right, and remain content to have objections considered by way of written representations. Objectors are encouraged in this respect by the firm indication from Inspectors that written and heard evidence will be given equal weight.

Round tables or EiPs continue this approach. These constitute debate by invited participants, to an agenda set by the Inspector. These approaches exclude by definition non-invited objectors raising similar issues although their evidence is considered in its written form.

The rules of natural justice make it difficult to deny the right to be heard and many people wish to retain this basic principle. It is the case, however, that the protection of this right has led to a situation where the wider interests of those affected by the plan, and in particular by delay in its preparation, are harmed by the length and cost of the process. Whilst we would support a reconsideration of basing the inquiry

process on the right to have evidence *considered*, rather than through formal appearances, it appears unlikely that ministers will concede the point.

In the case of development plan inquiries, not bound by formal inquiry procedure rules, Inspectors have considerable discretion as to how the inquiry is conducted. The need for Inspectors to be objective and impartial is clear, but it must also be recognised that the Inspector acts, in the case of development plans, as consultant to the local planning authority. In this context the need for Inspectors to obtain the information necessary for them to reach a conclusion should be capable of overriding traditional approaches based upon rights of public appearance.

Removal or reduction in the adversarial elements of inquiries will be contentious to those with vested interests in this approach. Nevertheless, the process should reflect the ultimate needs and purpose of the development plan system. Cross-examination of witnesses has its place and can reveal information and detail that might not be discovered in other formats. In a wide-ranging debate on strategic issues, however, cross-examination can be counter-productive and inhibit the free flow of information.

Informal hearings

The benefits of an Inspector-led exploration of issues can be seen in the wider use of informal hearings, which in Leeds condensed the length of hearings. The use of informal hearings enabled the Inspectors to deal with two or three cases per day which might otherwise have used a single day of formal inquiry time for each topic. We would urge that the use of informal hearings should be promoted wherever possible with one note of caution. It is apparent from experience with planning appeals, that the increase in the use of informal hearings has been at the expense of written representations. Written representations should still be encouraged as the primary means of consideration even if they will not be required as the statutory norm.

Round tables

Beyond the greater use of informal hearings, real savings in time and resources could be achieved by replacing the present inquiry format by something akin to an Examination in Public, where the key issues raised would be examined through a round table process. Round table discussions, reflecting the purpose of the inquiry, *i.e.* assisting the Inspector in formulating a view, would be driven by an agenda set by the Inspector rather than by objectors or the local planning authority. Rights of individuals would be safeguarded since the Inspector would still consider written submissions made by each individual objector.

Round table format discussions on the scale of employment and housing land have proved successful in the larger UDP inquiries, especially as a means of agreeing base data for, say, housing needs. We had two lasting a week each as devices for distilling the essential issues from large numbers of objections. In the Leeds inquiry the approach could have been usefully extended to deal with non-site specific issues where there were fundamentally different points of view, relatively few objectors and a need to agree base data against which to evaluate policies. For example, green space, Green Belt policies and the control of development in the Green Belt, city centre car parking and planning obligations. Even if the round table approach is not adopted as the sole development plan inquiry format, there must be scope for its more widespread use, now that experience has been gained in practice.

Third parties

The involvement of third parties in inquiries has been the subject of confusion. The potential role of supporters, duly registered during the deposit period, and of those making representations after the

deposit period opposing duly made objections needs to be clarified. In the interests of maintaining public confidence in the inquiry system, third party representations should be accepted as inquiry evidence at the discretion of the local planning authority. The right to have representations considered should not only apply to first stage objectors. This could be managed by providing for a second deposit period that would also embrace representations on changes advanced by the local planning authority in the light of objections received during the deposit period.

Service level agreements with the Planning Inspectorate

The discussion on service level agreements (SLA), between the Planning Inspectorate and the local government associations emerged after the start of the Leeds inquiry. The Inspectorate's publication, "Development Plan Inquiries" (April 1997), does contain a draft SLA at Appendix A. Major concerns still relate, however, to the difficulty of obtaining a meaningful, effective and enforceable service level agreement. Whilst information on performance standards and costs is included in the guidance to local planning authorities, there is little by way of reassurance about the efficient management, supervision and conduct of an inquiry. These are critical factors that determine the length of the inquiry and the consequential reporting time and costs.

Inspectors as consultants

Inspectors must remain objective and impartial whilst, in development plan inquiries, acting as consultants to the local planning authority. The local planning authority receives the report and pays the bill. This is not the case for planning appeals where the Inspector or the Secretary of State determine matters and the local planning authority is not required to fund the process. Consequently, public confidence in the development plan system is not well served by the present arrangements that provoke suspicion on the part of the public that the Inspector is in the Council's pocket. Ordinary members of the public often find it difficult to accept that the Inspector is objective but reports to and is paid by the local planning authority. Also, that the Inspectors' report is not binding on the authority and that the Secretary of State is not the arbiter between the authority and objectors. Decision-making on development plans should reside with the authority and the Government appears to subscribe to this view and is unlikely to make the acceptance of an Inspector's report mandatory. However, in the interests of demonstrating objectivity and impartiality Inspectors should be clearly distanced from and not paid by the local planning authority.

The reality is that Inspectors do act as consultants to the local authority and as the client we expect to have a clear brief, targets, deadlines and costs. Not much of this approach appears to be translated into the Inspectorate's proposed service level agreements.

Incentives

What incentives are there for the Inspector to deal with an inquiry speedily? The greater the number of sitting days the longer there is for report writing. Bristol quotes the incentive of Government targets for the adoption of development plans, but how meaningful is this for the inspector in the field? Where is the competition element for the Inspectorate?

The management of Inspectors

The Inspectorate must provide for the effective management of Inspectors. Senior staff from Bristol did sit in on the inquiry on rare occasions but it is not readily apparent to the client who manages the Inspectors in the field and ensures a consistency of approach. In addition, who ensures that Inspectors

address themselves to dealing with objections to the plan rather than dealing with any aspect that interests them, regardless of whether there is an objection, or going off on tangents? Inquiry time is expensive, consultants and advocates are expensive and lay objectors often find it difficult to find the time to attend. Consequently all involved must come away from an Inquiry feeling that not only have they been given a fair hearing and received the opportunity to put their case but also the inquiry has been conducted efficiently and effectively.

There may be close scrutiny of and quality control over the product from inquiries, *i.e.* the report, but the integrity and independence of the Inspector in the field appears to override the need for effective management in the field. A particular issue in Leeds related to life insurance. Our Inspectors refused to sign the declarations required by our insurers and accept life insurance. This is a matter of serious concern to both the local planning authority and the private sector because considerable additional costs would be incurred if an inquiry, or part of an inquiry, had to be reheard. The matter was taken up with Bristol on numerous occasions but the senior managers at the Planning Inspectorate were unable to resolve the issue. We were assured that if the inquiry had to be reheard then the Inspectors' costs would be waived. This, however, was the least of our concerns given the considerable legal costs we incurred and the logistical problems that would have arisen with accommodation arrangements for the inquiry. The information on financial arrangements contained in Appendix A of the guidance to local planning authorities states, "The Inspectorate will *encourage* Inspectors to co-operate with insurance arrangements made by lpas wherever practicable". Encouragement alone is not enough! Our external legal costs for the inquiry approached five hundred thousand pounds, a figure that can at least be doubled if private sector costs are also taken into account.

We also incurred considerable additional costs, especially in computer and image processing equipment to assist the Inspectors and to speed up the process, including report writing. We need not have incurred these costs and relied instead on traditional methods. Should we expect a better than average performance from the Inspectors because of our investment? Should we expect some sharing of costs with the Inspectorate? If we had employed Coopers and Lybrand to do the same job we would expect them to be properly equipped to undertake the task efficiently and speedily.

Post inquiry

Up to the end of the inquiry, whilst as client we do not have control over the Inspectors, we do have contact and can monitor performance. From the end of the inquiry, we have no control and no contact. Who is looking after our Council's interests? What are the performance targets? How can we be assured that the report is being prepared speedily and efficiently and that Inspectors are not being diverted to other tasks?

Adjudication of complaints

How can we satisfy ourselves that costs are reasonable and properly incurred? What recourse do we have if we are not satisfied about costs or against a failure to deliver within our expectations? Since the plan was placed on deposit the estimate of the Planning Inspectorate's charges increased from about £300,000 to in excess of £830,000. In our experience there are no other consultants who are employed on such an "open cheque" basis. The local planning authority, however, has no recourse and no alternative to paying on demand.

Some three months after the close of the inquiry we received three bills, one for each Inspector and with no supporting documentation, totalling £300,000 for costs incurred during the inquiry. Questioning the accounts and a closer analysis revealed that contrary to our expectations the Inspectors

had not devoted 100 per cent of their time to the inquiry and that less writing up had taken place than we had anticipated. The local planning authority, however, has no recourse and no alternative to paying on demand.

Prospects for the Leeds UDP

All these conclusions have some general relevance but there is an issue that, in its magnitude, appears unique to Leeds. That is, the delay in the receipt of the Inspectors' report. The estimated time for writing the Leeds' report tends to reinforce the observations made on the difficulties associated with Service Level Agreements. At the conclusion of the inquiry in Leeds we had concerns about the process, but believed that we had contributed to an efficient and well-managed inquiry. We considered that the length of the inquiry would be offset by efficiencies in the writing-up stage because issues had been thoroughly debated and explored.

Our support for the plan-led system depends on having a process of production which, ensures that a plan is adopted comparatively quickly and retains its relevance. To achieve that it is essential that the Inspectors' report is received as early as possible. We estimate that we have expended nearly £2 million on the inquiry and over £5 million on the preparation of the plan as a whole excluding the Inspectorate's charges and private sector costs probably doubles these figures. We engaged three Inspectors running two concurrent inquiries and invested in the image processing of all objection forms and proofs. It appeared reasonable, therefore, to expect a relatively prompt report. We considered an estimate of a year's wait, which had been mentioned in various quarters, was likely although we hoped for rather better.

However, the Leeds inquiry finished on July 12 and in mid-September we received a letter informing us that the report would be delivered in the spring of 1999, *i.e.* 10 years after the receipt of the commencement order and six years after the deposit of the plan.

The opinion of Members of Council who have been associated with and involved in the preparation of the UDP throughout the course of events is that the Planning Inspectorate has failed us. A period of six years between the deposit and report stages undermines confidence in the development plan process and threatens the credibility of the Inspectorate to provide a value for money service. The confidence of the public and potential investors in the city has been seriously undermined. Objectors and investors have the prospect of continuing uncertainty and blight. For the development industry Leeds has become a "black hole" and the progress of key sites for employment uses as well as the release of housing sites is being held back. There is a genuine and widespread sense of dismay amongst all those people and organisations in the city who have had any involvement in the process. There is a general consensus that continued pressure must be applied to encourage a speedier conclusion and that there has been an almost total failure of the inquiry system as far as Leeds is concerned.

Significantly, by the time the report is received the strategic context is likely to have changed, with more Regional Guidance, and more PPGs issued. It is dispiriting for those involved in the process to reflect that the plan may have lost its relevance by the spring of 1999. In the interim the statutory development plan for Leeds consists of the West Yorkshire Structure Plan, partial coverage by adopted local plans of varying antiquity and, for the former County Borough area, the 1972 Development Plan Review.

What did we do to respond to this situation? Apart from meeting with the Inspectorate to discuss the

issues we applied political pressure with, in the first instance, an all-party approach to Ministers by Leeds' members of Parliament. The result of this pressure is that with reservations and *caveats* the estimated delivery date has moved forward into the last three months of 1998.

This is still unacceptable and the Council is not prepared to allow potential investors in the city to be deterred, especially given the emphasis by the Government and the measures introduced locally for the creation of new jobs. The Council has, therefore, taken a formal position that applications conforming to the Revised Draft UDP will be considered and approved albeit that departures from the statutory development plan will have to be referred to the Secretary of State. This position was agreed following the consideration of a report to the Council's Strategic Policy Committee in December of last year that observed, "The final adoption of the Plan in its current form may thus be so far delayed that it may never be achieved". Between July 1996 and June 1997 we received 31 planning applications affecting UDP sites, 13 of which were departures from the statutory development plan. To date a number of applications affecting sites considered at the inquiry that represent minor departures have been referred back to the planning authority for determination. A small number of major developments and significant Green Belt departures have been referred or are in the pipeline but only one has thus far emerged from the Government Office. In this case, a key employment site with major investors and employers ready to carry out the development, the Government Office have issued a long term holding direction preventing determination of the planning application until the Inspectors' report has been received. The consequence of this non-decision is that the potential investors will take up sites in other areas. In addition, those with interests in other similar sites who have been monitoring events are reviewing their positions and commitment to the Leeds area. Such an outcome can only be damaging to the local economy and confidence in the city.

Whilst we have been critical of the Planning Inspectorate, the development plan process and the inquiry system, we also have to carry out self appraisal and question whether the position that Leeds now finds itself in is the fault of the Council. We maintain that the inquiry was facilitated, resourced and managed by the Council in as efficient a manner as could be reasonably expected. Considerable resources were dedicated to the accommodation, staffing and information technology requirements of the Inspectorate team. From the Council's viewpoint the only question mark remaining over the conduct of the inquiry is whether we could have employed more than three Inspectors. When, however, the appointments were made it was a departure for an inquiry to be conducted in this manner. Assistant Inspectors had been used previously but not to run concurrent inquiries within the same development plan inquiry. At the time the Inspectorate were uncertain about employing more than three and the Council had serious reservations about its ability to resource more than two concurrent inquiries. As it was during the course of the inquiry we had severe problems in resourcing the UDP and providing policy witnesses for section 78 appeals.

If it is assumed that the inquiry was conducted efficiently the fundamental point remains as to whether or not the plan itself was flawed or too detailed. Not unexpectedly, we do not concur with that view. Others will have their own opinions. UDPs for other major urban areas may have been dealt with more speedily and with fewer objections but they tend not to have the combination of size and complexity that exists in Leeds. It may be the case that the consultation draft would have generated fewer objections. Yet, having completed an extensive public consultation exercise it was not possible for the politicians to ignore the clear messages that were received from many of the communities in Leeds.

Omitting the consultation draft, consulting on issue papers and moving straight to deposit would have reduced the overall time-scale by about 12 months. The analysis of performance against the DoE averages shows that from consultation to inquiry Leeds has only been about 42 per cent above the

average even allowing for the five months that it took to process and analyse objections after the close of the deposit period. This is probably not unreasonable given the issues of scale and complexity. The extended time-scale is attributable to the inquiry and report writing stages as determined by the Inspectors' management of the process and largely outside the control of the Council.

Is Leeds an aberration and unique in these problems? Possibly although the lessons from the process have wider relevance and we have had some constructive input to the DoE consultation paper and the further deliberations on the process.

Finally, was it worth it? Approximately £5 million, the full time dedication of a significant number of staff at the expense of other tasks, plus an estimated bill from the Inspectorate of £835,000 over a period of seven years may not appear an overly significant commitment for an authority with net expenditure of about £550 million each year. We also accept that there has to be a cost to the development plan system. However, more than 12 months after the close of the inquiry we still do not have an adopted plan. The Inspectors' report will be delivered 10 years after the start of the process by which time we will have the prospect of a major review and the possibility of a modifications inquiry. In its present form, the plan is unlikely to be relevant by the time the report is received, six years after the close of the deposit period, and it is inevitable that an adopted plan will not be in place until more than 10 years after the receipt of the original commencement order. Compared with the sums of money to deal with the fundamental problems of deprivation and disadvantage and for which we have had to compete through the Single Regeneration Budget process, the cost of the UDP and the diversion of staffing resources is significant, the opportunity cost even greater.