

The Impact of the Plan-led System

By Mrs M. McDonald

Introduction

Ministers have made clear that the Government remains committed to the plan-led system and, more importantly, to making it work. Speaking at the RTPI's national conference in June, Nick Raynsford referred to the need to speed up various aspects of the system's operation. However, he also emphasised that it is important that everyone with an interest should participate in the preparation of the plan and help to influence its emerging policies. It is this balance which has to be struck between inclusion and expedition which is central to the theme of this conference.

I have been asked to talk about the *impact* of the plan-led system. In particular, has this produced a better "product"—in terms of an efficient and effective means of regulating the development and use of land in the public interest? In short, the answer I shall give is that a number of benefits can already be seen, there is more structured public participation in the plan-making process and plans are delivering greater certainty, but, to some extent, the jury is still out because the plan-led system has yet to be fully achieved. This, in itself, raises a different set of questions: why is it taking so long, is it worth the effort and what are the alternatives?

In this paper I propose to examine the objectives of the plan-led system, and will describe the steps we are taking to assess its impact, but I intend to focus on the steps we are taking to improve the efficiency of the system through changes in practice and procedures.

Background

I don't propose to discuss in any depth the question of *whether* it is only since 1991 that we have had a plan-led system. There are people at this conference much better qualified than me to address, probably at some length, the issue of the significance of the change introduced by section 54A! The development plan has always been a material consideration in determining applications for planning permission, but there is no doubt that section 54A increased the weight to be given to what is said in the plan.

You will recall that in 1989 the Government proposed substantial changes to the development plans system, reflecting the priority attached to deregulation and to reduced bureaucracy. These envisaged a single tier of district development plans to replace structure and local plans. The view was expressed that: "well prepared and up to date local plans, consistent with national and regional policies, provide the best basis for planning at the local level". The district development plan would also be comprehensive, covering the whole of a district, and, once a development plan has been adopted, strong contrary planning grounds would be needed to justify a departure from it.

In the event the existing framework of structure and local plans was retained, but a number of significant changes were introduced, including section 54A, which requires determinations to be made in accordance with the plan, unless material considerations indicate otherwise. The objectives which the Government were seeking to achieve were set out in a revised Planning Policy Guidance Note No. 1 in 1992. The primacy of the development plan would assist in:

- ensuring rational and consistent decision taking by local authorities;

- achieving greater certainty for those with an interest in developing land, thus reducing their costs;
- securing public involvement in shaping local planning policies;
- facilitating quicker planning decisions; and
- reducing the number of misconceived planning applications and appeals.

The amending legislation explicitly required the preparation of district-wide local plans and a target was adopted to have these plans in place within five years. This was an ambitious target, given that some parts of the country had never had local plan coverage of any sort, given the increased emphasis within the system of public involvement in plan preparation and given the need to have regard to a much more extensive set of Planning Policy Guidance Notes and Regional Planning Guidance.

Regional plans

Most of my remarks today will concern the preparation of local and unitary development plans, which provide the detailed framework of policy against which applications for permission are assessed. However, the Government has made clear that it sees an enhanced role for strategic planning at the regional level. The manifesto put forward proposals for the establishment of Regional Development Agencies in the English regions to promote economic development and regeneration and for the creation of Regional Chambers to co-ordinate land use, transport and economic planning. Subject to a referendum, there will also be a directly elected mayor and strategic authority for London. Ministers have also made clear their commitment to the introduction of an integrated transport policy at national, regional and local levels. All of this, if implemented, will have implications in the longer term for both the organisation and substance of planning at the regional level.

Local authorities in preparing their development plans have to have regard to regional guidance. Such guidance is issued by the Secretary of State, but is based on comprehensive advice prepared by the regional conferences of local authorities. The Government's Consultation Paper on the role and functions of the RDAs¹ did not suggest that the agencies should take over responsibility for regional planning, though they will clearly have an important input to make to it. Ministers have made pretty clear that they consider that overall regional planning policies should remain the collective responsibility of bodies or groups of bodies which are democratically representative. However, Ministers will need to consider carefully the outcome of the consultation on the RDAs, and review the progress that is being made in the establishment of Regional Chambers (which could replace the regional planning conferences), before they reach a view on changes which might need to be made to regional planning arrangements.

Among the issues which could be on the agenda are whether we need to change the content of regional guidance in order to achieve an integrated strategy, whether the policies it contains should carry more weight in the rest of the plan system, what arrangements could there be for testing and achieving regional ownership and whether regions should be given greater autonomy to arrive at their own solutions to policy issues. I should be interested in views on whether a more clearly articulated regional strategy, produced in a more collaborative way between national, regional and local interests, would provide a more effective framework for development plans, facilitating their preparation and review.

Structure plans

Of course there are those who would advocate a system of plans comprising only regional strategies and unitary plans at the local level. I do not believe that it is an option at the present time. Outside the main

¹ Regional Development Agencies—Issues for Discussion, DETR July 1997.

metropolitan areas structure plans will remain and if they are to fulfil their role properly the strategic planning framework they establish, and the means by which it is devised, must command the confidence of all those with an interest in the planning and development process. To that end we have commissioned research into the effectiveness of the structure plan arrangements. This is looking at the preparation process, the operation of the procedures for deposit and adoption, the arrangements for the examination in public and the overall effectiveness of the system from the perspective of the different interests involved, including the Secretary of State, the Planning Inspectorate, local authorities, developers, landowners, business and the wider community. This project will be completed next February.

Local plans and UDPs

So far as district wide local plans and UDPs are concerned, the pre-occupation, as I have already indicated, has been to get them into place. As early as 1993 a Minister was beginning to express concern. He noted in a speech that there was now expected to be some slippage but "well over 90 per cent of authorities are still aiming to adopt local plans by the end of 1996". This figure has since continued to fall with each successive survey the Department has conducted. In September 1995 the estimate was 62 per cent, and by March 1996 it was down to around 50 per cent. The final figure was 43 per cent. That is to paint the picture at its blackest. In fact over half of remaining plans have reached the inquiry stage and there is good reason to think that the vast majority of plans will be in place by the end of next year. Nevertheless, Ministers were sufficiently concerned to ask us to undertake a further review of procedures.

Between April and August 1996, a review of the procedures for the preparation and adoption of local plans and UDPs was undertaken jointly with representatives of local authorities, professional bodies (including the Bar), business and environmental interests. A report of the review and a Consultation Paper on options for speeding up the preparation of plans, were published on January 14 this year.² The report indicated that whilst *widespread support remained for the plan-led system*, there was general concern about the time taken to get district-wide plans in place. There is therefore strong support for changes to increase the efficiency and effectiveness of the plan preparation and adoption process.

There was a considerable level of agreement between those who participated in the review on the causes of delay in the present arrangements. Plans were often too detailed, inviting large numbers of objections, making for longer inquiries and extended timetables for resolving matters after the inquiry. However, it is the *consultation* and *deposit* stages (*i.e.* the processes prior to the inquiry) and the *period post the Inspector's report* which has contributed the most to the time taken to reach adoption. The inquiry is now often the middle part of the process, instead of being the method of resolving outstanding issues towards the end. There was therefore a case for attempting to restructure the process through changes to the procedures to encourage issues to be sorted out, wherever possible, by negotiation ahead of the inquiry, allowing the inquiry to focus only on unresolved matters.

The main proposals put forward in the Consultation Paper were:

- the need to promote the preparation of shorter, more easily understood, plans—mainly through the dissemination of good practice and improved guidance on plan content;
- consideration should be given to imposing statutory time limits (either for the whole or part of the process), or for establishing a timetable in individual cases;
- the introduction of more focused and targeted consultation;

² *Speeding up the Delivery of Local Plans and UDPs—Report of the Review*, DoE December 1996, Consultation Paper, DoE January 1997.

- the introduction of a time limited “two stage” deposit, incorporating a period for negotiations with objectors before the second deposit plan is produced, to encourage the resolution of objections before the inquiry;
- replacement of the right for objections to be heard at an inquiry with a right for objections to be considered (initially by written representation);
- adopting an “Examination in Public” or “round table” procedure for the discussion of the overall strategy and plan wide policies;
- the adoption of procedural rules for inquiries;
- requiring the authority to publish the Inspector’s Report within a set time of receipt;
- making the Inspector’s Report binding on the local authority; *or*
- the use of simplified adoption procedures (*e.g.* straight to adoption if no new issues raised).

More than 340 responses were received to the Consultation Paper. Most of the proposals were widely supported. However, two proposals, in particular, were opposed on grounds of natural justice and democratic accountability. These were the option to remove the right to be heard at the inquiry (*i.e.* all objections made in writing with the Inspector deciding who to hear) and making the Inspector’s report binding on the authority.

Removing the right to be heard was seen by many as potentially a significant curtailment of objector’s rights. However, I cannot resist mentioning that the Law Society’s Planning and Environmental Law Committee did not see this as a fundamental objection (it also supported the introduction of procedural rules to allow cost penalties for “unnecessary loquacity” though it did suggest that it might be difficult to determine abuse!). It also has to be said that our analysis indicates that the time taken in the inquiry itself is not a significant part of the overall process and in many cases more than 80 per cent of objections are already dealt with by written representations, so removing the right to be heard would not make a major impact in terms of reducing the overall time taken.

The case for making the Inspector’s Report binding is more evenly balanced. There is no doubt that too much time is taken in getting the plan adopted after the Inspector has reported, mainly because any modification made to the plan at that stage has to go through a repeat process of advertising and consideration of objections, including a further inquiry if the issues are significant. If it was generally accepted that the Inspector’s adjudication was final, the further stages could be dropped. However, there are problems with this. The Inspector could make a recommendation which affected the interests of a third party, unaffected by the original proposals. Often Inspectors’ recommendations require further work by the authority (*e.g.* if a housing site were rejected the authority would probably need to identify alternative land to meet the housing targets in the plan). Local authorities oppose the proposal on the basis that the plan is the property of the authority (and they pay for the Inspector), the proposal would make the content of the plan the responsibility of the Inspector rather than the authority.

In June Nick Raynsford announced that it had been decided not to pursue these two proposals. However, all of the other ideas put forward in the Consultation Paper are now being developed further. We think that all of these can be implemented without the need for primary legislation. This work includes:

- (a) measures to refocus the content of plans and the way that they are produced, to reduce complexity. This is mainly a matter for improved guidance. We propose to work jointly with the Local Government Association, the Planning Officers Society and the RTPI, building on work they are already doing to promote good practice. This would include encouraging

local authorities to take a “project management” approach to plan preparation, with target dates for stages in the procedure, publicly adopted by the authority. This could also become a performance measure under the Government’s “Best Value” proposals;

- (b) changes to the Development Plans Regulations and to the guidance in PPG 12 (Development Plans and Regional Planning Guidance), together, possibly, with the preparation of draft local plans inquiries procedure rules. The objective is to have draft for consultation in the near future.

These revised arrangements can, we consider, assist local authorities to much reduce the time taken in getting plans into place and, probably more important, in enabling them to review them expeditiously. However, it has to be said that we can only enable this to happen. Whether it does depend on the degree of priority given to this matter by authorities. A publicly adopted timetable may help, in addition the weight being given to plans in considering appeals and the tightening up of the guidance on the grounds for refusing permission for reasons of prematurity in the revised PPG 1 will all underline the advantages of getting plans adopted. Nevertheless it is clear that if we do not achieve greater efficiency the review of plans will not be undertaken and they will become increasingly out of date.

In their final form our proposals also maintain a clear balance between efficiency and openness. In his speech at Edinburgh on June 11 Nick Raynsford said:

“Some commentators have suggested that the only thing that the Government is interested in is speed, and that getting plans adopted as soon as possible is the only aim, even if that is to the detriment of public involvement in the plan making process and the quality of the end product. This is not the case. The Government is committed to proper public involvement in the plan making process and to achieving a high quality plan. But delays do nothing to enhance the status of the plan-led system. I would question whether a plan that has taken 8 years to reach adoption is necessarily a better product than one that has been adopted after only 3 years.”

Assessing impact

I realise all this is not really answering the question I was asked to address! Clearly we need to consider the impact of the plan-led system having regard to the objectives, of consistency, certainty etc., that I mentioned at the beginning. It has to be said that it is quite difficult to assess, for example, the extent to which “misguided” applications have been deterred! However, there clearly are some objective measures that can be applied. An attempt was made, using the various statistical returns we receive from local authorities, to assess whether there has been any measurable effect for authorities where a local plan has been adopted in terms of a higher percentage of applications decided in eight weeks, lower percentage of applications refused, lower propensity to appeal and lower success rates on appeal. The results are not very clear cut.

The analysis showed no systematically and statistically significant effect on speed of decision or refusal rates that could be attributed to the adoption of district-wide local plans. While this may mean that adoption of local plans did not lead to an improvement in decision-making in the way postulated, it is also possible that the effect was not picked up in the aggregate statistics. It has to be said that this work was undertaken at a relatively early stage when not many authorities had adopted district-wide plans. Inevitably, there will also have been a “time lag” with early plans, in terms of developers testing whether the Secretary of State would uphold plans on appeal. This, coupled with the historically low level of planning activity at that time, may explain the lack of conclusive results. However, it is fair to say that we were also constrained by a lack of information on specifically *local* factors (such as staffing levels) that could play a part in determining performance.

A similar early study, undertaken by Mark Tewdwr-Jones in 1993, but only just reported,³ sets out local authority planning officers' perception of the plan-led system. It shows that:

- 84 per cent of district authorities thought it would provide a clearer framework for local planning decisions;
- 74 per cent thought it would result in a strengthening of local decision-making;
- 62 per cent thought it would result in less planning applications going to appeal;
- 52 per cent thought it would result in greater public accountability.

However, these were more expectations than experience.

Looking at how things have developed in the four years since that survey was undertaken I think we can make some subjective judgments about the operation of the system. I think it is fair to say that the increased emphasis on the plan has been successful in increasing public involvement in shaping planning policies. Indeed, as I have already said, there are those who would say that this has gone too far, to the extent that it is producing the counter-productive effect of preventing plans being adopted. We have to get the balance right, and we have to ensure that the debate that takes place at plan preparation stage is not merely repeated when planning applications come to be considered. We have to get the message across that the plan establishes the principle. This can best be done by planning committees taking consistent decisions in accordance with clearly articulated plan policies. These are messages that we will be seeking to get across even more clearly in the revisions of PPG 12 to which I have already referred.

There is also a fairly clear and consistent message from developers that where plans are in place they do have greater certainty and a stronger basis for making commercial judgments. This is manifest in the support which the Housebuilders Federation have continued to provide for an efficient and effective plan-led system. Whilst developers will always complain about the exceptions, there is a feeling that plans are producing improved consistency in decision taking by local authorities. We nevertheless recognise the need to undertake a structured assessment of the impact of the system. We are about to commission specific research to look at this issue. The aim of the research is to examine the extent to which the expectations of greater efficiency in development controls and appeals are being realised. It will also provide an opportunity to explore the relationship between development plan policies and development control and appeal decisions, and establish the feasibility of routinely monitoring the impact of the plan-led system.

Conclusion

As I have already said, the overwhelming view expressed in the context of the review of procedures carried out last year was of support for the plan-led system, with no real advocate for a return to the arrangements whereby the plan had lower weight and all the issues have to be debated at length in the context of a planning application or appeal. However, there is near universal concern at the amount of time it is taking to get a full coverage of district-wide plans in place, coupled with a concern that it should not take as long to undertake reviews to keep plans up to date. The review we have undertaken of procedures was consensual, we wanted to identify sensible changes that practitioners believed could make a difference. We are now working these up in detail and we will relaunch the system later this year. I look forward to hearing your perceptions of the impacts of the plan-led system as "users" of it.

³ (1997) 34 *Urban Studies* 141–162.