

“The Planning Inspectorate: getting ready for the future”

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Planning Reform and the Art of Discernment

1. The Planning Inspectorate has been getting ready for the future for the last two years. Getting ready for the future requires us, and everyone involved in the planning system, to practise the art of discernment. The new system requires a different set of thoughts and actions and discerning behaviour from everybody involved.

2. The policy makers make the policy, the lawyers turn it into statute. The role of the Planning Inspectorate is to deliver the policy, in an impartial and independent way. The new system should concentrate all our efforts into the positive and not the negative. We all know that the current system needed modernising. The fact of the matter is that Local Plans were out of date almost before they were approved; certainly most had only a couple of years to run. And there are inefficiencies; we have recently opened and adjourned two major public inquiries into waste plans because the local authorities concerned had simply not followed procedures. Think of the wasted time and effort involved in that. We also have a situation where Local Plan Inquiries can last a year, and where it takes another year to write the report.

3. We now have an opportunity for a new approach based on public engagement and, hopefully, mediation, but I will return to that topic later.

Managing success and high demand levels

4. Before I can turn to the new system, I need to say something about our current workloads. There is a problem. On current estimates, taking a strict chronological approach, it can take 54 weeks to deal with a written representation case. That has brought forth screams of outrage from just about every quarter, but I see no point in being dishonest about the situation that we are in.

5. We have had a 47 per cent increase in workload; you could see it coming but it was difficult to predict exactly how it would come, when it would come and in what magnitude. In January 2004, Arups published research about planning appeal statistics. They thought that the workload would go down. Now some of you will have seen that they have just produced a report in September 2004 looking at the effects of Planning Delivery Grant. This concludes that there is no perverse behaviour by local authorities at all.

6. Well, I think that we will clearly get drawn into this discussion. We clearly have our views. There has been a year on year increase in appeals. That follows the year on year increase in the number of planning applications. There is a higher propensity to appeal which follows a number of factors. It does follow some local authorities refusing rather than negotiating. It does follow the fact that reducing the deadline for appeals from six months to three months has put pressure on the system.

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7. The bulge starts from September last year and the fact is that at the moment those figures are not coming down. They are all over the place, but they are not coming down and the rate of withdrawn cases is not increasing. So there is something putting pressure on the system that is in all of our interests to look at and try and resolve. What worries us is that the Planning Inspectorate is being viewed as an alternative planning system and that is wrong.

8. The Planning Inspectorate is not an alternative system. It is a safety valve. We are there to make sure that there is confidence in the planning system so that in the event that there is no local agreement, there is a safety valve with an independent, impartial system that is able to then look at the situation *de novo*. But if we carry on as we are, with this number of appeals in the system, I think we will have to look very carefully about whether or not you can continue to have a *de novo* system of that sort because the system simply will not take it. The Inspectorate has the resources to handle about 18,000 appeals per year. We are now dealing with 24,000 appeals. It does not matter which way you look at it, if we just keep increasing resources for a higher and higher number of appeals all that will happen is that there will be more and more appeals. It stands to reason. We have to look at this intelligently and positively. We would be very happy to have a debate and a dialogue about it.

9. We are taking action, including looking at resources. We are certainly looking at recruiting more Consultant Inspectors. Les Sparks, ex-chief planning officer at Birmingham, an ex-inspector and currently a CABE commissioner is doing a study for the Inspectorate to look at how we might streamline householder appeals from the customer perspective. He is examining how the customer gets caught in this system that makes demands on them. He is looking at how the applicant's agent tells them one thing, how the local authority is telling them something different and the Inspectorate perhaps telling them another story. So, Mr Sparks is looking at whether or not there are ways in which we can streamline the process and take the bulk of the work out of the appeal system on these straightforward cases.

Written Representations to Informal Hearings

10. Of all our appeals 78 per cent, are written representations. Forty seven per cent of those are householder appeals. If we were to streamline and reduce the input of one in three of those, we would make a huge impact. Next month we are introducing a pilot project to manage down the number of unnecessary informal hearings. I know that that is going to be quite controversial, the fact of the matter is that people are going for informal hearings instead of written representations and it takes three times the resource of the Inspectorate to deal with them. Do you know why applicants are going for informal hearings? By and large it is because many appellants have never actually had a face to face meeting with a planning officer. They have come right through the system, they have never seen a planning officer, but they have a refusal in their hands and they want to see somebody. They want to see the whites of somebody's eye and they want to have a dialogue. Inspectors will tell you that very often they will go to an informal hearing, they will have travelled to it, they will sit down and after five minutes it can be decided. They string it out for half an hour just to make it look good and then they go away again. Five minutes is all it takes in a lot of cases to actually resolve the issue. This is a ridiculous use of all of our resources.

11. We know that the legal advice is that we cannot deny anybody a hearing. What we will do is try and manage the process and persuade people that they do not need a hearing and that we can give them a quicker response on a written representation case. However, all of this will continue unless we find some answers to what is driving the increase in appeals. We need to return to positive planning.

Local Plan Inquiries

12. We not only have an increase in s.78 appeals, but we are also dealing with a huge increase in the number of local plans. We used to take about a 40 a year. We are currently dealing with about 75 a year. We are trying to get those local plan inquiries reduced in length by 50 per cent because we must start reducing down the time we take to deal with what is still in the system, so that we will be able to gear up to the challenges of the new system.

Local Development Frameworks: Greatest Challenge to date?

13. Our new role will be to examine a spatial plan and determine whether or not it is sound. We have started to talk about the "soundness" of plans. The Act says that there should be a sound spatial plan, so we have to look at what constitutes "soundness". We will not be running public inquiries, we will be conducting public examinations. It is quite different.

14. Sadly every time we have had discussions with the Law Society, the issue of judicial review comes up and I think it is because we all know that there will be a testing of the legislation. We are all concerned about how the new system is going to evolve. I am hoping that we do not get into judicial review every two minutes but instead work positively together.

Achieving great performance without the pain

15. We want to talk to you about achieving great performance without the pain. We want to be clear that we will be doing things differently and to have your support.

16. We want to move the whole system forward into a dynamic experience. We will be examining the soundness of spatial plans against the criteria which has been set out in PPS12. We will be publishing consultation documents to say what we think the tests of soundness are and how the inspector will examine them. We will provide the opportunity for you to engage in that process. We hope to formally consult local planning authorities between November and January and we are hoping also to engage and encourage local planning authorities to undertake self assessments before they submit their plan for examination.

17. Once we get to the examination, the inspector is going to be much livelier than ever you have seen an inspector before. They are going to say *'don't give me thousands of pages of text because I don't want it. Give me 3,000 words, that will do.'* This is a huge issue for us. The amount of paper, the sheer weight of paper that comes to inquiries, from people like the House Builders Federation, just bringing in box after box of all the evidence they have ever given on housing figures for the south-east, taking it from one inquiry to the other and expecting someone to read the lot every time. We are going to be saying that that is not necessary! Bring to the inquiry what is necessary for the inspector to examine. We will not be inviting every person who has made a representation to speak. We will be having an investigation on the major issues of importance that are material to the decisions that have to be made and are the ones that are controversial because they could not be resolved earlier. Moreover, the Examination In Public will make sure that people understand the issue that is under consideration, understand the debate that is held around it, and understand the way in which conclusions are drawn. At the moment people do not. At the moment people come in, listen, hear, go out and think I am none the wiser than I was before. The new system has got to be much clearer.

18. We think there is a major role for barristers and the legal profession to play, to assist the inquiry, to make sure that the participant at the inquiry understands the process and to help the cross examination in a way that allows positive points to be brought out. In that way, people can understand what the

issues are, what is driving them and understand the debate around them, so that there is no mystery and no point scoring.

Measuring success in the future

19. So, I think you have a huge role to play in this and I have only touched the surface of what it is that we will be doing differently. I have spoken of inquiries that last a year and local plan reports that take a year to write. That situation must not be allowed to continue. In the new system, the report must be clear, succinct and short. It must describe the issues, the controversial matters that need to be taken into account. It must provide the reasoning behind the decisions and the conclusions drawn, so that a binding report can be delivered quickly in a way that people can understand.

20. We have worked backwards from the legislation and have worked out that there should be no more than a year between the submission and the binding report. Somewhere in there, is two weeks for the local authority to respond to the representations made. I realise that this is going to be a major challenge, but the fact of the matter is that this time there will be fewer representations because all the minor problems will have been resolved much earlier on in the process.

21. We jest, but the fact of the matter is we do need to suspend our belief in the comfort of the existing system. We need to admit that the existing system, comforting as the usual and the known is, is not always the best system. The new system is something that we will work at and will be infinitely better for all of us. What I wanted just to finish on were two slides. This is what it currently feels like working in the Planning Inspectorate.

“Here is Edward Bear coming down the stairs now bump, bump, bump on the back of his head behind Christopher Robin. It is, as far as he knows, the only way of coming down the stairs, but sometimes he feels there really is another way if only he could stop bumping for a moment and think of it and then he feels perhaps there isn’t.”

22. This is my final slide, from the Bank of Scotland. This is great performance without the pain, which is exactly what we want to achieve, because your pain is our pain. Frankly I think we can move forward to a much better situation than the one that we have now by working together positively and making the new system work.