

Planning Reform—Where are We?

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Introduction

On the day the Planning White Paper was published in May 2007, one of my colleagues showed me the version published 40 years previously, in June 1967. It cost 1/9d and ran to 12 pages with no colour or illustrations, and was called simply “Town and Country Planning”. Our version this year, entitled “Planning for a Sustainable Future”, costs £32.50 and runs to over 220 pages, reinforced with photographs, diagrams, charts and graphs.

Despite these obvious production contrasts, the main preoccupations of both White Papers are remarkably similar: concerns about delays in handling major project decisions, the complexity of the process, negativity, and inadequate citizen participation. This latest White Paper is probably unlikely to be the last, and is perhaps best viewed as a step on a continuing journey. However, having said that, it is unusual, if not unique, in that it looks at the system as a whole. Planning for a Sustainable Future attempts to deal not only with the search for a speedier and more responsive town and country planning system, but how we deal with the plethora of bespoke consent regimes for particular infrastructure purposes which have grown up over the past few decades.

In this paper I want to look at the main proposals of the Planning White Paper, the initial response to it through the consultation over the summer, and how recent policy announcements are adding further dimensions to the process of planning reform.

White Paper Objectives

The origins of the Planning White Paper lie in the major studies commissioned by the Government last year, i.e. Sir Rod Eddington’s Transport Study and Kate Barker’s Review of the Land Use Planning System. In addition, the Energy Review of July 2006 has quite a lot to say about how energy projects are handled through the consenting processes. Taken together, these three documents provide a basis for new proposals to handle major infrastructure projects through a completely new system, as well as how the existing town and country planning system can continue to be improved. The Planning White Paper is the Government’s formal response to the Barker and Eddington Reviews, and sets out the core principles of a planning system: one which is more responsive, streamlined, efficient, predictable, transparent, accountable and with strengthened opportunities for public consultation with decisions being taken at the right level. These of course are all enduring themes over the past 60 years.

Importantly, the Planning White Paper starts by reaffirming the role and purpose of planning—why planning matters. It continues to be important to the nation as a whole, very much echoing Kate Barker’s conclusions, in terms of supporting international competitiveness and sustainable development. The White Paper sets out what has been achieved since 1997, with a completely new development plan system introduced in 2004, and recognising how sustainable development has been put at the heart of the planning system through PPS1 published in 2005. Whatever the complaints are about what part of the planning applications process the statistics measure, there is no getting away from the sustained improvement in development control performance by local planning authorities over the past few years. Very pleasingly, after some very lean years, the supply and number [128]



of professionally qualified planners is on the increase. Even more optimistically, planning is back in fashion as a career choice for graduates and one to be seized with real enthusiasm, if my discussions with planning students are anything to go by.

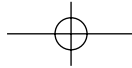
But at the same time, we have to recognise that the context within which the planning system operates is constantly changing. Climate change, the need to secure the country's energy supplies, to better provide for economic development and new housing are major challenges, together with how we should better handle national infrastructure projects are just some of the current priorities.

Proposals

National Infrastructure Projects

The White Paper sets out the case for reform of how major infrastructure projects are handled, by drawing attention to the large number of complex and often overlapping consent regimes, the time, cost and uncertainty involved. Consenting procedures for energy and highways schemes are nearly all run by central Government at present, in contrast to development projects starting out as planning applications to the local planning authority. For most major infrastructure proposals, the policy context is unclear, and this is compounded by the often variable quality of project applications. The decision making process is typically difficult to understand and not conducive to the public to participate in effectively. To deal with these problems, the key elements of the proposed new arrangements are:

- *The preparation of national policy statements for infrastructure sectors by the appropriate Secretary of State*
The argument is that the prime role of Ministers is to set out the forecasts, capacities and need for major infrastructure projects sector by sector, with the locational requirements specified upfront where possible. National policy statements should look a long period ahead, perhaps 25 years, but be reviewed when changes require it, and in any event at least every five years. Once prepared, a national policy statement would be the starting point for handling subsequent project applications, and would be afforded more weight than any other policy. To meet these requirements means national policy statements must be thoroughly prepared and consulted upon, and with a Parliamentary stage to give the necessary endorsement if the policy statement is to carry sufficient authority.
- *The proper preparation of applications for infrastructure projects by promoters*
Minimum standards of project application should be set out, so that eligible applications contain the consideration of options, impact assessment and have been subject to considerable consultation. This requires early participation of local authorities in pre-application discussions, as well as with landowners and communities. Statutory consultees need to be formally involved at the project development stage, but with time limits on their responses as applications are handled.
- *A new Infrastructure Planning Commission*
The decision on individual major infrastructure projects would be taken not by the appropriate Secretary of State as at present, but by a new independent Infrastructure Planning Commission. This would be within the framework of the relevant approved national policy statement, and moreover a new single consent regime. Many questions arise about the establishment and constitution of the IPC, and these have been the subject of specific consultation questions in the White Paper. The current estimate is that the IPC would consider perhaps 10–25 projects per year, within defined remits covering airports,



ports, power stations, LNG terminals, pipelines, reservoirs etc above defined statutory thresholds. The IPC would have perhaps between 20 and 30 Commissioners, representing a wide range of expertise, plus a permanent secretariat, accountable to Parliament.

The expectation is that all aspects of a project would be considered on a comprehensive basis by the IPC, who would carry out consultations on eligible project applications, invite written submissions and conduct negotiations as appropriate. Projects would be considered at a public examination, mainly through written submissions and the IPC testing the evidence, rather than in cross-examination. What is termed an open floor stage would also be provided for to enable wider community matters to be handled.

The type of decision the IPC would issue would be to grant approval, attach conditions, or indeed refuse, but within a new single consent regime to replace all existing varieties, except the Town and Country Planning Act. The IPC would be authorised to confirm CPOs and give approvals under a wide variety of secondary legislation. The White Paper suggests a statutory limit of nine months for the IPC to reach a decision. Importantly, there is no subsequent right of appeal intended against the IPC's decisions, so that there is no further Ministerial involvement, but the right to challenge procedures through application to the High Court is intended.

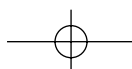
Town and Country Planning

In addition to this brand new system for handling national infrastructure projects, the White Paper proposes a substantial number of improvements to the existing town and country planning system. These explicitly build upon and refine recent reforms, rather than abandoning them as advocated in some quarters. But the key principle is to enable the planning system to better support economic growth in a way consistent with social and environmental objectives, and to strengthen the role of local authorities in so doing. Three main groups of reforms are proposed:

- *Improving the national planning policy framework.*

Complaints are often made about the volume of planning advice and guidance at the national level; indeed, Kate Barker drew attention to just this issue. Too much advice makes operation of the planning system ever more complex and difficult for users to follow, including the local planning authorities. But at the same time, we receive many requests for further specific guidance on an increasing range of topics. Producing a shorter national planning policy framework for plan making and development control is therefore a major ambition. There are choices between what is essentially building upon PPS1 as *the* national planning policy statement, or continuing as we have been doing, systematically re-writing existing PPGs and turning them into new PPSs. Or indeed somewhere between the two.

Whatever decision we make, we are committed to producing up-to-date planning policy for economic development (essentially revising PPG4) and improving the effectiveness of town centre policy. This will be through revising the methodology for assessing the impact of new development proposals on existing town centres. We will be producing the final version of the climate change PPS later this year, within the context of the Government's ambitions for higher environmental standards for new housing, and renewable energy. The role and purpose of the green belt as a cornerstone of planning policy is reaffirmed, but at the same time a recognition that we need a major re-examination of the future of land in England in the context of changing requirements for land use and different agricultural



practices. A long term study sponsored jointly by DEFRA and DCLG is therefore intended to carry this forward.

- *Place shaping.*

The White Paper builds upon last year's Local Government White Paper by strengthening the role of local government in using the planning powers it already has. The relationship with the Community Strategy is particularly underlined, but with a recognition that after three years of operation of the new Local Development Framework (LDF) system, some streamlining could usefully be carried out. So we propose to simplify the preparation of LDFs and remove the need for independent examination of the Statement of Community Involvement. The new Housing and Planning Delivery Grant to be operated from 2008 will incentivise the preparation of sound development plan documents to try to reinforce much better plan-making performance. At the same time, local planning authorities will have more flexibility about the number and types of plans they produce. We confirm that core strategies *can* include strategic sites where this is appropriate to do so, and that the infrastructure provision role of Development Plan Documents (DPDs) should be strengthened as part of the test of soundness.

Planning Performance Agreements will be rolled out nationwide following last year's pilot exercise, but still as a voluntary agreement between the local planning authority and the applicant to handle large scale major applications. Substantial changes are proposed to the planning fee regime, including the proposition that in the long term, planning fees could be deregulated and left to individual local planning authorities entirely. Crucial to making all these improvements work is the role of planning within local government, and the need to continue capacity building. In this regard, we do expect every local planning authority to have a professionally qualified Chief Planning Officer, at a senior level within the organisation, without whom the prospects for seeing the reforms implemented will be greatly weakened.

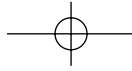
- *Making the planning system more efficient and effective.*

A wide range of improvements to the development control process is proposed, including changes to householder permitted development instead of the current volume based approach, and extending such reforms to industrial and commercial development as well. A review of the process for submitting and considering planning applications set out in the General Development Procedure Order is intended, together with proposals to review the call in guidelines for Secretary of State cases. We also intend to clarify the position concerning variations to a planning permission without the need to make a fresh application. A simpler approach to the tree preservation order system is proposed, and a package of amendments to the appeals process. These include a fast track approach for householder appeals, enabling the Inspectorate itself to determine the appeal method (within criteria approved by Ministers) and the possible charging for planning appeals.

Alongside the White Paper, five specific consultation documents were published covering details of the Town and Country Planning Act proposals.

Response to the consultation

Consultation on the Planning White Paper closed on August 17. Early analysis shows we have received over 1600 separate representations from organisations and individuals, and over 30,000 other responses mainly through e-mail campaigns, including those run by Friends of the Earth and



the Planning Disaster coalition. Analysis of these representations is the next step, and the main themes are as follows:

- the role of Ministers in the proposed national infrastructure projects regime;
- the number and preparation of national policy statements and how they are approved;
- the role of the independent Infrastructure Planning Commission;
- the rights of objectors in the streamlined inquiry procedures proposed for handling projects by the Independent Planning Commission;
- the changed emphasis in national planning policy implied by the reviews of PPG4 and PPS6;
- the implications of householder permitted development proposals, particularly for loft conversions;
- removal of the appellants right to request the appeal method;
- proposed charging for appeals; and
- the relationship between the White Paper proposals, and climate change objectives.

The task now is to decide what proposals will be taken forward into the Planning Reform Bill early in the next session of Parliament.

Recent policy statements

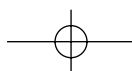
Even before the consultation closed on the Planning White Paper, two further policy documents were issued, both of which have an important bearing on aspects of the planning system.

The Review of Sub-national Economic Development and Regeneration (SNR—one of the preparatory studies for this year's Comprehensive Spending Review) was published on July 17. It recommends an expanded role for local authorities in economic development, including a new statutory duty, a greater focus for neighbourhood renewal funds concentrating on the most deprived areas, and the potential for raising a supplementary business rate.

The SNR also proposes a greater focus on sub regions with the possibility of statutory arrangements where local authorities wish, and perhaps of greatest significance for the planning system, the establishment of a new single regional strategy to embrace both the Regional Spatial Strategy (as the regional element of the statutory development plan) and the Regional Economic Strategy. The new single regional strategy will be prepared by the Regional Development Agency (RDA) which will be designated as a regional planning body. Legislation will be needed, with new arrangements in place probably by 2010.

The Government will set each region a regional economic growth objective, and expect regions to work with local authorities and other key partners to set out plans for housing growth to meet demographic pressures. Regional Assemblies will not continue in their current form, but instead local authority leaders in each region will have the responsibility for agreeing the new single regional strategy with the RDA, and for effective scrutiny of RDA performance. The new regional strategy will be subject to joint approval by the Secretaries of State for BERR and CLG, following an examination in public of the spatial planning aspects at least.

A week after the SNR, a Housing Green Paper was published, with the ambition of raising the annual output of new housing to 240,000 homes per year by 2016. The planning announcements to support this objective include carrying out early reviews of Regional Spatial Strategies by 2011 as soon as the current round is completed, to give effect to proposals for housing in New Growth Points and eco town schemes. Crucially, the intention is that Government will set out more clearly



at the beginning of the process its expectations in terms of housing numbers to be tested, taking into account advice from the recently established National Housing and Planning Advice Unit.

The Green Paper also strongly reinforces PPS3, requiring a five-year supply of housing land in each local planning authority area. This will be supported by the financial incentives of the new Housing and Planning Delivery Grant from next April. There is also a proposal to speed up the implementation of planning permission for housing development especially on large sites, through changing the definition of the commencement of development.

In addition to planning proposals, the Green Paper highlights the contribution of public sector land to new housing development, the design and sustainability of new housing production, and the strengthened role of RSSs and LDFs as mechanisms for coordinating infrastructure planning.

Finally, the Green Paper sets out the current position concerning the Planning Gain Supplement. A Planning Gain Supplement Bill is proposed for the next session. But if a better way is identified before this year's pre-Budget Report of ensuring local communities receive significantly more of the benefit from planning gain, including to invest in necessary infrastructure and transport, and it is demonstrated that it is a better alternative, the Government will be prepared to defer next session's legislation. The Green Paper sets out possible alternative approaches, to facilitate discussion:

- A lower rate of PGS with a commensurately lesser scaling back of planning obligations.
- PGS limited to just greenfield sites.
- No PGS, but an expanded system of planning obligations.
- No PGS, but a statutory planning charge.

Next steps

Even though this has been a very busy year so far for the planning reform programme, there is more to come. The Planning White Paper promises consultations shortly on a draft planning policy statement for economic development (PPS4) and a revised methodology for calculating the impact of new development on town centres (PPS6). How the new single regional strategy should be prepared, its content and arrangements for testing etc, will be subject of a major consultation document, hopefully before Christmas. The final version of the climate change PPS and the Best Practice Guidance to follow up PPS25 on flooding will be published over the Winter. A number of other detailed consultations are being carried out as promised in the Planning White Paper, including a revision to s.237 of the Town and Country Planning Act, and a review of call in Directions.

The Planning Reform Bill is likely to be introduced early in the next session to give effect to the proposals for major infrastructure projects, as well as those elements of the town and country planning system where reform needs primary legislation. All of this demonstrates, I believe, the strength of the planning system in its continuing capacity for adaptability to the circumstances of the moment. Further reform, building on the improvements of the past decade by putting planning at the heart of local government and ensuring Government sets out clearly its expectations both for nationally significant infrastructure and the housing and economic growth ambitions for each region, will ensure it is as fit for purpose now as the architects of the 1947 Act believed it would be then.

Now, where did I put my copy of the 2001 Planning Green Paper ?