

## **BARKER REVIEW OF LAND USE PLANNING EVIDENCE FROM WILDLIFE AND COUNTRYSIDE LINK March 2006**

### **INTRODUCTION**

Wildlife and Countryside Link (Link) brings together 36 voluntary organisations concerned with the conservation and protection of wildlife and the countryside. Our members practise and advocate environmentally sensitive land management and food production and encourage respect for and enjoyment of natural landscapes and features, the historic environment and biodiversity. Taken together, our members have the support of over 8 million people in the UK.

Link welcomes the opportunity to contribute evidence to this review. Link believes that planning is fundamental to protecting and enhancing wildlife and the natural and historic environment. This response is supported by the following organisations:

- Bat Conservation Trust
- Buglife – The Invertebrate Conservation Trust
- Butterfly Conservation
- Campaign to Protect Rural England (CPRE)
- Council for British Archaeology
- Council for National Parks
- Friends of the Earth
- Herpetological Conservation Trust
- National Trust
- Open Spaces Society
- Royal Society for the Protection of Birds (RSPB)
- The Wildlife Trusts
- Woodland Trust

### **SUMMARY**

Link's vision is of a robust planning system which integrates environmental, social and economic objectives in a transparent, participatory and democratically-accountable system. We are concerned that the conclusions of the Barker Review of Land Use Planning (henceforth "the Review") should reinforce rather than undermine the effectiveness of the planning system in achieving its central objective of sustainable development.

### **INTRODUCTION**

The overall aims for the English planning system may best be summed up by a statement from the Government's flagship statement of planning policy, PPS1 (2005) – to achieve "a *sustainable, innovative and productive economy that delivers high levels of employment, and a just society that promotes social inclusion, sustainable communities and personal well being, in ways that protect and enhance the physical environment and optimise resource and energy use.*"<sup>1</sup> There is widespread concern amongst Link member organisations that the questions set out in the Review do not appear fully to recognise these aims, with potentially serious consequences for environmental protection, public interest, democratic accountability and participative rights.

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<sup>1</sup> *Planning Policy Statement 1: Delivering Sustainable Development*, ODPM 2005, [www.odpm.gov.uk/index.asp?id=1143808](http://www.odpm.gov.uk/index.asp?id=1143808)

## Concerns on Terms of Reference of Review

Government policy, as described within both PPS1 and the UK Sustainable Development Strategy<sup>2</sup>, is clear that sustainable development is about the achievement of social, environmental and economic objectives together, over time. The language of ‘balancing’ objectives is replaced by an integrated approach which seeks to achieve ‘win-win-win’ outcomes and avoid trade-offs, which are often environmentally damaging. We are therefore surprised and concerned that the questions in the call for evidence refer to the “balancing” of the pillars of sustainable development, rather than reflecting the Government’s stated goal of “integration”.

We are further concerned that the Review is premature. The Planning and Compulsory Purchase Act received Royal Assent barely two years ago; the reforms this legislation introduced are still bedding down and must be given time to work. It is worth noting that the plan-led approach introduced by the 1991 Act had only just begun to take full effect across the country when the Planning Green Paper was published in 2001. The consequent uncertainty and flux that has ensued for the last four to five years has done little to improve the effectiveness of planning. While the cultural change in planning required by the 2004 Act is arguably less significant than that of the 1990 and 1991 Acts, the complexity of the new system is highly demanding of all participants. It is thus far too early to assess the operation of the new system with a view to making further major changes. This Review should seek to add value to this change process, and should not delay or set back the positive progress that has been achieved.

Furthermore, we feel the rather negative view of the planning system reflected within the Terms of Reference of the Review is unjust, and fails to recognise the volume of development delivered over the last 60 years by the planning system, its marked success in containing urban sprawl - in stark contrast to many other countries in Europe and elsewhere - and the high quality of much recent regeneration work.

In light of these concerns, we would like to recommend that the Review team consider the following:

- The economic benefits of strong, clear planning;
- The environmental case for planning, including both the value of a high quality environment to business, and the wider societal benefits it brings in quality of life; and
- The case for public participation in planning in fostering consensus over change.

We expand on each of these points below.

## THE ECONOMIC CASE FOR PLANNING

While Link is not from the business sector, within the membership of Link there are major businesses with extensive experience of the planning system and how it delivers for applicants/developers. An example is the National Trust – see Box 1. Other Link partners, notably the RSPB, are also significant businesses in their own right.

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<sup>2</sup> UK Government, 2005. *UK Strategy for Sustainable Development*.

**Box 1 – The National Trust**

The National Trust is a major tourism business and regeneration agency in rural areas, supporting other local economic activity. The Trust makes long-term investment decisions, in some cases acting like a development agency in leading projects and leveraging in additional funding. The Trust:

- Has an annual operating budget of £315m + capital project budgets of £60m+ per year;
- Is a major employer with around 5,000 staff;
- Invests around £150m per year in the nation's environmental infrastructure;
- Works with over 40,000 businesses in less buoyant areas of the country in terms of their economies, both urban and rural e.g. investment of around £2.2m in the Liverpool area over the last 3-4 years, and £2.5m in the Lizard (Cornwall) over 15 years;
- Operates Europe's largest network of holiday cottages and gift shops;
- Manages over 300 pay for entry attractions, including over 40 which receive more than 100,000 visitors per year.

The National Trust submits something like 250 planning applications per year, including some for sizeable commercial developments such as housing development and tourism facilities. Only a handful of major companies are thought to have more direct engagement with planning. The Trust therefore has a well-informed view of the effectiveness of the planning system in meeting business needs.

In the Trust's view the single most critical element of the planning system in business planning and investment is the steer provided by the plan-led system. While there can never be absolute certainty when submitting proposals, due to the variety of considerations which planning has to take into account, the development plan system provides a clear indication of where and what type of development is likely to be acceptable – and, just as important, where and what is not acceptable – together with guidance on the design and other criteria that might apply. While promptness of decision is also welcome, this is of less significance than certainty. In general, the planning application process does not represent a large percentage of the overall project timetable so it can, to a reasonable extent, be allowed for. It is far more important to business to obtain a planning consent, even if it takes a little longer, than to get a quick but adverse decision which could then have major business implications.

The Trust relies very heavily on the plan-led system also because it helps to maintain the integrity and environment of its fundamental business assets.

It is Link's understanding from informal discussions with business sector organisations that the plan-led system is valued for its role in providing a rational landscape for business, which enables a high degree of certainty over investment and development decisions and underpins the value of business assets, as well as securing a high quality environment, an increasingly important factor in business competitiveness.

*'Complexity'*

Much of the planning system's complexity reflects the need to meet economic, social and environmental goals in a relatively small and crowded island without undue disadvantage to either individual/private interest or community benefit. The interests of business would not be served by additional complexity which might be brought about by variations in the regulations governing planning control across geographical areas. This is particularly relevant for large national businesses operating across much of the country. The same argument applies to higher environmental standards. We believe that the business community is unlikely to object to higher standards in sustainable construction provided there is a level playing field applying to all, across the country.

*Planning Delivery for Business*

Link takes the view from discussion with business interests that their major concerns about planning are not about the fundamental principles, but more around the complexity of some of

the processes and inadequate resourcing. Many planning authorities are thought to have a skilled staff shortage problem at present which can cause delays. Reforms that the government has introduced or encouraged relatively recently are likely to improve the practice of planning which will be of benefit for business, providing resources are provided to help implement them. These include:

- 'ePlanning', the portal and moves towards standardisation of forms;
- The emphasis on the need for pre-application negotiation;
- Timetables for the production and review of development plan documents.

At the same time, it has to be acknowledged that the complexity of the new Local Development Framework (LDF) system has not been helpful to any stakeholder, businesses included, or indeed local authorities.

Link would question the apparent assumption of the Review that planning inhibits economic development. The analysis by Roger Tym and partners for the House of Commons ODPM Select Committee<sup>3</sup> concluded that *"there is no evidence that planning is a significant explanatory factor for the UK's low productivity compared to its main competitors."* This report also observed that *"it is not the sole objective of planning to maximise competitiveness, or wealth creation. Rather, planning is a referee, ..."* and pointed out that *"If planning does have some adverse effects on competitiveness, this is not necessarily a bad thing; these may be offset by positive effects on distribution, the environment or the welfare of future generations."*

The DETR 1998 report on *"The Economic Consequences of Planning to the Business Sector"*<sup>4</sup> is also instructive. It concludes:

- *"Businesses are on the whole more concerned with the efficiency of the present system, and to its perceived cost than with abolishing it, or substituting an alternative."*
- *"... the relatively low profile of planning in relation to other forms of regulation; e.g. legislation concerning employment conditions or businesses' social wage costs."*
- *"The overall conclusion is that businesses see land use planning as an accepted part of their environment... The costs most visible to business – fees, planning agreements, planning conditions and delay – are not broadly seen as a problem, although delays on large infrastructure projects are an admitted exception."*

#### *Planning applications*

Over 80% of applications for development are approved, and in National Parks, where it might be expected that environmental requirements would constrain economic opportunity, that figure is over 90%. The number of applications for housing development approved has risen by nearly a third in the last five years<sup>5</sup>. Therefore it seems unlikely that planning control is laying an unduly restrictive hand on necessary development. It is also important to remember that, in contrast with third parties from community or environmental sectors, developers also have a right of appeal against refusal, and that more than 50% of appeals are successful. It would thus be difficult to argue that the planning system is skewed against economic interests. In fact, in Link's experience economic arguments are frequently given greater weight in planning decisions than environmental or social ones. The new PPS1 requirement for integration of economic, social and environmental objectives – as opposed to trading off dis-benefits – should help provide a better way forward.

<sup>3</sup> House of Commons: Session 2002/03: Fourth Report - *Planning, Competitiveness and Productivity*  
<http://www.odpm.gov.uk/index.asp?id=1143471>

<sup>4</sup> <http://www.odpm.gov.uk/index.asp?id=1143395>

<sup>5</sup> In Fiscal Year 2000/2001 a total of 40,100 planning applications for housing were granted by councils in England, according to the Planning Statistics section of odpm.gov.uk. In Fiscal Year 2004/2005 that had risen to 52,600, a 31 per cent increase.

## THE ENVIRONMENTAL CASE FOR PLANNING

### The value of the natural environment to business and quality of life

The environment supports substantial economic activity throughout the UK. Uses of biodiversity directly support over 35,000 full-time equivalent (FTE) jobs and contribute over £4.8 billion to GDP<sup>6</sup>. Environment-related activities in the UK (broadly defined as those depending directly or indirectly on the quality of the natural environment) are estimated to support around 500,000 jobs and £18.6 billion of GDP.

In England, the landscape and nature conservation sector provides 8,600 FTE jobs, and activities 'based on a high quality natural environment' support 299,000 FTEs and £7.6 billion gross value added<sup>7</sup>. Similar studies have been carried out in Scotland<sup>8</sup> and Wales<sup>9</sup>. These figures do not include all the other wealth generation that is indirectly dependent on the outcome of environmental conservation in the form of attractive places to live, work, and visit.

This is illustrated in more detail by a suite of regional reports which used a broadly similar methodology<sup>10</sup>. They considered the environmental sector (such as pollution abatement, waste management); the natural environment sector (conservation); greening primary industries (such as organic farming), environmental technologies (such as wind power), tourism, and inward investment. Each study contains a large number of case studies of good practice and environmental businesses, and considers the scale of activity that is dependent on a good quality environment and on positive environmental management.

The studies found that:

- Environmental protection is a mechanism for economic development;
- Environmental damage is a threat to many jobs/sectors;

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<sup>6</sup> IUCN, 2003. *Use of wild living resources in the UK*.

<sup>7</sup> GHK and GFA-RACE, 2004. *Revealing the value of the natural environment in England*. Report to Defra.

<sup>8</sup> SNH, 2004. *The role of the natural heritage in generating and supporting employment opportunities in Scotland*. Scottish Natural Heritage.

<sup>9</sup> Tourism Associates with Geoff Broom Associates, July 2001. *Valuing our Environment. The Economic Impact of the Environment of Wales*.

<sup>10</sup> All the reports listed here are available from

[www.rspb.org.uk/policy/economicdevelopment/greeneconomy](http://www.rspb.org.uk/policy/economicdevelopment/greeneconomy). Most were prepared for a variety of regional partners such as the regional development agencies and the statutory environmental bodies. SQW Ltd and Land Use Consultants, April 2001. *Environmental Prosperity: Business and the Environment in the East of England*.

Environmental Resources Management, June 2002. *The Environmental Economy of the East Midlands*. Environmental Resources Management, June 2001. *Valuing the Environment of the North East of England*.

Environmental Resources Management, September 2000. *The Environmental Economy of the North West – a driver for economic and social progress*.

Land Use Consultants, SQW Ltd and Cambridge Econometrics, August 2002. *The Environmental Economy of the South East*.

RSPB, Environment Agency and others, March 1999. *An Environmental Prospectus for South West England. Linking the Economy and the Environment*.

Environmental Resources Management, January 2001. *The Environmental Economy of the West Midlands*.

British Waterways, Countryside Agency and others, 2002. *The Environmental Economy of Yorkshire and Humber*.

- The environment is an essential part of all modern businesses and a market opportunity for all sectors.

Jobs in the nature conservation sector play a significant role in rural development<sup>11</sup>. For example, see Box 2 for statistics on employment on RSPB reserves<sup>12</sup>.

#### **Box 2 – Employment on RSPB reserves**

The 1,000 jobs supported by RSPB reserves in their local economies are valuable as a direct source of jobs and also for the seasonal and occupational diversity they bring to rural areas. Employment on RSPB reserves averages 7.1 FTE jobs per 1,000 hectares of productive land, and tends to bring benefits to sites that previously supported little or no economic activity. Further employment is supported by spending from visitors to RSPB reserves.

#### *Regeneration opportunities*

It is widely recognised that strong, proactive planning is instrumental in urban regeneration, creating or restoring confidence in areas and markets which have declined or failed. It is vital not to overlook the part a high-quality natural environment may also play in supporting social and economic regeneration opportunities. The two case studies below show where large-scale habitat restoration has made an important contribution to regeneration initiatives<sup>13</sup>.

#### **Box 3 - Old Moor, Barnsley**

RSPB Old Moor nature reserve is part of a wider regeneration project to re-brand the Dearne Valley in South Yorkshire. Old Moor is a flagship reserve and an excellent example of a public and privately-funded project that has successfully contributed to the environmental, social and economic sustainability targets of a region.

The RSPB, working in partnership with other organisations, has transformed the Dearne Valley into a nationally important landscape for wildlife, making a significant contribution to nationally agreed strategies for enhancing nature. Ongoing investment has restored the landscape for wildlife and provided new facilities and learning opportunities for visitors and local communities. The site's award-winning energy- efficient visitor centre makes use of renewable energy technologies: a biofuel burner, photovoltaic solar panels, a wind turbine and solar water heating.

In its first year, the visitor centre, restaurant and shop more than doubled visitor numbers at the site, and the glass-fronted classroom has provided nearly 4,000 schoolchildren from 80 schools with the important opportunity to learn about conservation and the environment. In addition, local businesses and community groups have been making full use of the conference facilities. Old Moor supports the community by employing 24 members of staff and has increased the long-term potential of local business by adopting a local sourcing policy.

*“Centres such as Old Moor help to bring life to an area in many ways. That area suffered with the decline of the mining industry, but a new life is emerging, as demonstrated at Old Moor and replicated in other parts of the country.”* Jim Fitzpatrick MP, Parliamentary Under-Secretary of State, Office of the Deputy Prime Minister (House of Commons 16 February 2006: Hansard columns 1665-72).

<sup>11</sup> Rayment, M and Dickie, I, August 2001. *Conservation works for local economies in the UK*. The RSPB, Sandy.

<sup>12</sup> Shiel, A, Rayment, M and Burton, G, October 2002. *RSPB reserves and local economies*. The RSPB, Sandy. Available from [www.rspb.org.uk/policy/economicdevelopment/economics/local\\_economies](http://www.rspb.org.uk/policy/economicdevelopment/economics/local_economies).

<sup>13</sup> RSPB, 2005. *Wellbeing through Wildlife*.

**Box 4 - Rainham Marshes, London**

The development of Rainham Marshes as an RSPB nature reserve will create newly-accessible, high quality, natural green space in a densely populated area of Thames Gateway, Europe's largest regeneration project. The reserve will deliver benefits for people and wildlife:

- An environment and education centre and access improvements will meet local people's top priorities for using the site – somewhere for peaceful walks and provision for families and local schools;
- Biodiversity will be improved on 200 hectares of land supporting wintering ducks, geese, breeding wading birds, scarce invertebrates and mammals such as water voles;
- A community education initiative will engage local young people with the opportunities at the site.

The positive economic impact of the development on the local area includes over £8 million of recent and planned investment in the site. Spending by visitors is expected to support 37 FTE jobs in the Thurrock area by 2010. More importantly, the reserve will enable local communities to connect with the wildlife and green space on their doorstep. It will improve the attractiveness of the Thames Gateway, contributing to its wider regeneration.

*"Creating sustainable communities is not just about housing. It is also about improving the surrounding countryside and the green spaces nearby. That's why the marshes are so important to protect the wildlife in the area and to give local people access to nature ... an important new resource for the local community."* Yvette Cooper MP, Minister for Planning and Housing

*Quality of life*

A high quality environment is important not only in regeneration areas, but in areas of economic success and development. In the growth areas of the wider south east of England, the provision of 'green infrastructure' is making a significant contribution to people's quality of life. The case study of Fen Drayton, Cambridgeshire, illustrates this for the Cambridge sub-region.

**Box 5 - Fen Drayton Lakes, Cambridgeshire**

The RSPB's Fen Drayton Lakes project has recently been awarded £1.19 million by the Office of the Deputy Prime Minister from the growth areas fund. It will provide 391 ha of well-run, attractive, accessible greenspace at Fen Drayton Lakes. The site, which is within the Ouse Valley, adjacent to the A14, will be purchased and managed for wildlife and public access, promotion and interpretation. At present public access and management as a nature reserve is only secured on 108ha until 2008 when a section 106 agreement linked to former gravel extraction expires. Public access will be enhanced by the proposed guided busway, which will have a dedicated request stop within the complex of lakes. This land will link to the new wetlands being developed by the RSPB and Hanson at Needingworth Quarry, together creating a new Cambridgeshire Wetland Nature Park. Overall, this will provide over 1,200 hectares with 50 km of public access including cycleways, bridleways and footpaths – between the villages of Fenstanton, Fen Drayton, Swavesey, Needingworth, Earith, Over and Willingham and close to the growing populations of Cambridge, Huntingdon and the new town of Northstowe.

**The role of planning in environmental protection**

Planning has long been the unsung hero of environmental protection. Since its establishment in 1947, the UK planning system has helped shape the scale, location and type of development and to protect landscapes and wildlife from damaging change for the benefit of everyone's quality of life.

Protection and enhancement of the natural environment are essential pillars of the planning system. The evidence shows there is little or no substance to claims that protection and enhancement of the natural environment is given too much weight in the planning system. On the contrary, there is clear and worrying evidence of erosion of habitats and biodiversity across the UK. For example, the Woodland Trust has dealt with over 590 cases of ancient woods – irreplaceable environmental assets to society which are at least 400 years old - coming under threat from development in the past five years<sup>14</sup>. Also, a two-year BCT/RSPB survey of offences against bats and bat roosts showed that 67% of incidents occurred whilst builders/developers were carrying out building works, and nearly 90% of these involved the actual roost<sup>15</sup>. Semi-natural habitats and flora and fauna should be protected from development and the planning system should focus on enhancing the urban and rural environment to make it a more hospitable place for wildlife.

Wildlife habitats in both rural and urban areas have become increasingly isolated and fragmented in a hostile landscape matrix. In the last 50 years, because of intensive land use, the UK has lost or irreparably damaged vast areas of wildlife habitat. The remaining isolated and fragmented sites are vulnerable to environmental change; many of our rarest species are unable to move readily between suitable habitat patches.

Internationally-designated sites receive the highest level of protection under the planning system, but only represent a part of the total biodiversity resource which contributes to a high quality environment. Other designated and non-designated sites have significant value to communities locally and regionally, but are more vulnerable to pressures for development, whether for housing, business or other uses.

Planning plays an important part in ensuring that the UK is able to deliver its international obligations and duties. Effective integration of environmental protection and enhancement with other land use requirements at a local level contributes towards the objectives of, for example the Birds, Habitats and Water Framework Directives and the commitments under the Convention on Biological Diversity. The planning system also helps to ensure individual compliance with environmental legislation and allow necessary measures to be built in to proposals that can avoid prosecution of, and unpredictable delays, to developers.

#### *Urban Green Space and Biodiversity*

Development pressures and “a common notion that biodiversity is something you have outside the city boundaries”<sup>16</sup> hamper the conservation of biodiversity in urban areas. In urban areas land availability for nature conservation is more limited than in rural areas, urban infrastructure takes the place of farmland which makes it harder to convert to or manage as a biodiversity-friendly habitat. Green roofs could be utilised to increase space for wildlife in urban areas. The other clear opportunity that exists in many post-industrial areas is derelict land. If this space can be used to create ecological havens in urban areas, they could make a huge contribution to increasing urban biodiversity.

Increasingly, the planning system is also playing a proactive role in delivering environmental enhancements as part of a wider agenda of sustainable development. For example, PPS9 now asks regional and local planning bodies to identify areas for biodiversity enhancement, not just to protect existing biodiversity resources<sup>17</sup>. This work is currently being taken forward

<sup>14</sup> The Woodland Trust provides an online version of English Nature’s ancient woodland inventory at [www.woodsunderthreat.info](http://www.woodsunderthreat.info)

<sup>15</sup> BCT/RSPB (2003). *Bat Crime: is the legislation protecting bats?*

<sup>16</sup> Gyllin M (1999) *Integrating Biodiversity in Urban Planning*

<sup>17</sup> Office of the Deputy Prime Minister, 2005. *Planning Policy Statement 9: Biodiversity and geological conservation*.

through the preparation of the current round of regional spatial strategies. Relaxation or weakening of planning control would undermine the chances of delivering these benefits. Our direct experiences leads us to believe that the spatial planning system needs instead to be strengthened to make sure protection and enhancement of the environment lies at the heart of the system in practice as well as in theory.

### *Climate Change*

One of the main areas where the current planning system is deficient and not at all joined up is its inadequate response to the threat of climate change. If Government commitments to energy efficiency, greenhouse gas emissions reduction, and renewable energy generation are to be realised, we shall need a robust planning system geared to ensure that development and re-use is profoundly more energy conscious than currently. This requires us to set a spatial framework for investment and change which will effectively halt and reverse our ever-increasing rate of energy consumption by facilitating and encouraging more energy efficient building, travel and lifestyles. Spatial planning can achieve only limited change on its own; securing the desired result will require other (e.g. fiscal) levers of influence to complement planning policy and decisions. Without the right spatial framework, however, the other levers may not work at all. Link therefore firmly believes that energy conservation is a planning issue and that the planners should be able to strengthen their plans to address this.

## **RIGHTS AND PUBLIC PARTICIPATION IN PLANNING**

### *The Case for Public Participation in Planning*

Link is concerned that the questions in the call for evidence fail to appreciate the central importance of public participation in the planning process. Such participation is implicitly characterised as a 'cost to business' but this fails to appreciate the benefits of participation, not least to the business community. Link believes that public participation as well as local democratic accountability are intrinsic aspects of the planning process and should be considered as key civil rights and as an element of a vibrant, open and participative democracy. In addition, participation delivers a range of further benefits which should be carefully weighed against any perceived cost. In summary these are:

- Participation improves the quality and efficiency of decision-making by using local knowledge and securing a degree of consensus over change, thereby helping to avoid unnecessary and costly conflict.
- Participation has an educative role for all participants in terms of the needs of communities, the business sector and the mechanisms of local government.
- Participation assists in promoting social cohesion by making real connections with communities and offering them a tangible stake in decision-making. It also promotes the engagement of business with wider civil society.

It is important to note that these benefits have been widely acknowledged, not least by Government in the publication 'Community Engagement: the Government's Objectives'<sup>18</sup>.

### *The Place of Participation in Planning*

There is, in Link's view, an increasing issue of public legitimacy in the planning system. Despite a new emphasis on 'front-loading' community engagement in the planning system, the emphasis of the planning reforms has been on increased efficiency rather than better public participation. Taken together, the actual effect of the policy measures and the 2004 Act have been to centralise decision-making without granting any significant new opportunities for public participation in the planning process.

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<sup>18</sup> ODPM 2004

### *Contemporary Barriers to Effective Public Participation*

Despite the measures contained within the planning reform package, a series of profound barriers still exist which prevent effective participation from all sections of the community and marginalise hard to reach groups. These barriers include:

- Practical issues, including the cost of information and the minimum standards of publicity of planning applications.
- The creation of a complicated hierarchy of planning layers that are incomprehensible to many and difficult for stakeholder engagement.
- Tangible inequalities, most notably that property interests define rights of redress and the lack of right to be heard at RSS EIPs, but also the perception that developers have unfair access to planners during pre-application negotiations and the negotiation of planning gain.
- Access to professional expertise, particularly the cost of seeking professional advice.
- Professional norms of expression including the use of complex language, the proliferation of consultants' reports and the failure of planners too often to communicate with users and the wider community.
- The perception of objectors by planners and others as 'NIMBYs' and as therefore representing illegitimate community views.

In our view, the Review must carefully consider the legitimacy of the planning process in the minds of all sections of the community and reconnect planning with those the system seeks to plan for. The process of planning should be simple to comprehend, and delivered in a fair, transparent and efficient manner. In particular the review should carefully consider the tension between a desire for speed and the need for quality and public legitimacy in decision-making and its outcomes. While these ideas are not necessarily incompatible there has been far too much emphasis on crude target-setting at the expense of quality and certainty.

### *The Role of Business Interest in Planning*

In establishing the wider societal benefits of planning, it is important to recognise that the system plays a vitally important role in mediating competing community interests in the development of land. Overall, there is public acceptance of land-use planning decisions even when these may be contrary to popular local opinion. The value of this mediation of community interests cannot be underestimated since without it, the development of land would be guided only by competing individual property rights and, in contentious cases, by protracted litigation and social protest. The value of the public legitimacy of planning in ensuring that development takes place in a strategic and timely manner within the overall objective of securing the public interest is vital to the efficient running of a productive economy as well as central to good governance. The alternative would simply be chaos.

Business interests enjoy all the rights of participation afforded to the wider community. Indeed the process of planning is a vital arena in which private interests can engage with wider civil society. This process offers the opportunity to deliver better decisions which are both embedded in community aspirations and which continue to meet the needs of business. However, the voice of business should not be seen to have a privileged or dominant role in this process if the public legitimacy of planning is to be retained.

There is an unproven assertion that the business community is somehow a loser from the planning process. Question 13 implies that there is a need to enhance the business case in the planning process. There is little real evidence to support this assumption. In fact, business interests are in most cases by far the most dominant player in the planning process. Frequently, as applicants they also have an institutionalised advantage in terms of rights of redress which are not afforded to the third parties for whose future their activities will have long lasting implications.

### *The Direction of Reform*

Link supports the need to achieve a clear framework in which all participants can understand their rights and responsibilities in relation to the planning process. There are two areas of reform which require action to deliver such a systematic framework.

#### *(i) A systematic framework for participation*

Link has long advocated the framework provided by the Aarhus Convention as a systematic and coherent approach to governance in planning. The Convention has three pillars:

1. Access to information
2. Access to participation
3. Access to justice

Link believes these three elements provide the overarching bench marks with which to guide effective public participation and to steer the approach of further reform. The three pillars of the Convention imply a new spirit of openness and certainty for all participants.

#### *(ii) Reshaping the culture of planning*

The planning system often fails to satisfy people's aspirations for greater engagement, transparency and competence in decision-making. The issue is not so much whether this view is justified; the real issue is that there is a public perception of the system as insular. The challenge for the ODPM culture change process is not just to deliver sound planning structures and effective implementation but to communicate a new relationship of openness and efficiency. This task is not just the responsibility of government. It is cross sectoral and applies to all scales of planning implementation.

### *The Impact of Increased 'Flexibility' in the Planning System on Participation*

In a paper for the neo-conservative think-tank the Policy Exchange, Evans and Hartwich<sup>19</sup> make a case for the deregulation of planning by abolishing the primacy of the plan-led system and introducing a right to develop. These ideas, including the reform to local taxation, can most generously be described as crude and lacking in a detailed understanding of framework and objectives of the current planning system. However, their discussion does raise significant issues about the relationship of deregulatory measures with effective community engagement. Meaningful participation in local planning policy is founded on the power of the plan-led system. It is in the preparation of the plan that local communities have most opportunity to engage in debate about the future of their localities. Downgrading the power of the plan directly downplays the power of communities and effectively marginalises their participation; it also has the potential to increase dishonesty through a lack of transparency and accountability. It is extremely difficult to imagine how one could encourage participation in the plan process if the plan itself were to have little or no effect on decisions made on the ground. Any weakening of the plan-led system would risk engaging all the risks of confusion, cost and social protest discussed above.

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<sup>19</sup> Evans, A.W. and Hartwich, O.M. (2005). Bigger Better Faster More: Why Some Countries Plan Better Than Others, London: Policy Exchange.