



COUNCILS AND  
COMMUNITIES  
IN PARTNERSHIP

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Dear Ms Littleboy

## **PLANNING BILL 2007/08 – WRITTEN EVIDENCE TO THE PLANNING BILL COMMITTEE**

The Regional Planning Committee of the South East England Regional Assembly met on 30 January 2008 to discuss the above.

Notwithstanding concern that the proposals in the Bill to establish the Infrastructure Planning Commission will reduce democratic accountability, the committee identified a number of issues that it wishes to see addressed in the Bill. These are set out in the attached annex. We request it be made available to the Planning Bill Committee.

The membership of the Regional Planning Committee reflects the balance of the Assembly between local government and social, environmental and economic partners.

If you have any queries on any aspects of the submission, please direct these to Martin Tugwell at the Regional Assembly in the first instance.

Yours sincerely,

**Moira Gibson**  
**Chairman, Regional Planning Committee**

## The Planning Bill 2008

### Representations of the South East England Regional Assembly

#### 1. Context

- 1.1 The South East England Regional Assembly is the statutory Regional Planning Body for the region. It is responsible for providing advice to Government on strategic planning for the region. This advice is set out in the draft South East Plan; the Regional Spatial Strategy (RSS); the upper level of the Development Plan.
- 1.2 In our response to the Planning White Paper (July 2007) we identified a number of specific concerns in respect of the proposals set out by Government. We highlighted a concern that the White Paper failed to recognise the change in the planning regime subsequent to the enactment of the Planning and Compulsory Purchase Act 2004. In particular we felt that there was no acknowledgement of the fact that the RSS is required to identifying the infrastructure requirements to support delivery of growth and the benefits this is already bringing about in helping to deliver infrastructure.
- 1.3 While the concept of National Planning Statements (NPS) was supported in principle we identified a number of concerns regarding the proposed process for establishing such documents. In particular we raised concerns as to the lack of recognition that there must be a robust and independent examination of the implications of NPS proposals, and concerns with regards the practical implications of the proposed thresholds for determining nationally significant infrastructure.
- 1.4 Having reviewed the contents of the Planning Bill we are of the view that the proposals in their current form do not address the concerns previously raised by the Assembly. In that context this document sets out a series of amendments that we believe should be made to the Planning Bill.

#### 2. National Planning Statements

##### 2.1 Sustainability

- 2.1.1 The Planning Bill makes provision for each National Planning Statement (NPS) to be subjected to an 'appraisal of sustainability'. The NPS will be the basis for determining specific proposals that have a spatial dimension.  
**It is therefore essential that the Planning Bill makes it a requirement that in preparing a NPS the Government is required to undertake a sustainability appraisal to a level of detail that is appropriate for the proposal under consideration.**
- 2.1.2 Such a requirement is consistent with the obligations placed on the current planning system. The Regional Assembly, as the Regional Planning Body, is required to identify the appraisal framework to be used to undertake the sustainability appraisal of the RSS. This framework is drawn up within the context set by the Regional Sustainability Framework.

**The Planning Bill should make it a requirement that the Government should go through a similar approach to that required of the RPB. It should also make it a requirement that the Government is required to undertake an Appropriate Assessment of the proposals considered in the preparation of the NPS.**

2.1.3 The identification of a clear appraisal framework is necessary in order to provide a clear audit trail of the decision making process within Government that underpins the NPS. We also believe that there should be a clear mechanism by which that decision making process is subject to independent testing and challenge prior to the adoption of any document as a NPS. Such an approach is critical where it is proposed that the NPS includes references to specific sites and/or locations or where it seeks to set out the criteria to be used by the Independent Planning Commission in determining specific proposals.

## 2.2 Statutory Consultees

2.2.1 The contents of National Planning Statements will have an implication for the rest of the planning system and its associated documents. The Bill therefore needs to ensure that NPS are drafted with regards to the effect on Local Development Frameworks and Regional Spatial Strategies.

2.2.2 The Bill does give regard to local strategies (including those prepared by County Councils) by way of reference to 'Local Authorities' as statutory consultees; however, reference to Unitary Authorities appears to have been omitted. **The Planning Bill should revise Part 2, Section 8 (4) to consider 'Principal Authorities' in the definition of 'Local Authority'.**

2.2.3 In order to give regard to Regional Spatial Strategies the Bill needs to incorporate 'Regional Planning Bodies' as statutory consultees. As such the bill should ensure that **Part 2, Section 8 (1) includes a reference to consult 'Regional Planning Bodies'.**

2.2.4 A key change arising from the adoption of a spatial planning approach is the emphasis given to ensuring alignment of land use proposals with the investment plans of key delivery agencies. In keeping with this positive change brought about by the introduction of RSS and LDF documents we believe that **the Planning Bill should be amended to require Government to regard key delivery agencies as 'specific consultation bodies'.**

We therefore suggest that the Bill adopts an interpretation of 'specific consultation bodies' that is consistent with the regulations governing local and regional planning [Town & Country Planning (Local Development) Regulations 2004, and Town & Country Planning (Regional Planning) Regulations 2004].

2.2.5 The introduction of this requirement will help ensure a transparent and robust audit trail as part of the decision making process leading to the preparation of the NPS. It will also help ensure that the supporting infrastructure requirements associated with proposals contained within the NPS are incorporated within the investment plans of key delivery agencies.

- 2.3 Designation of Existing Government Policy Statements as NPS
- 2.3.1 **We believe that the Planning Bill should be amended so as to include a presumption that existing Government policy statements should not be re-designated as NPS.**
- 2.3.2 A key proposal promoted by the Government through the Planning White Paper was the suggestion that the preparation of the NPS would be the subject of independent examination. The expectation is that this will be achieved through the auspices of Parliament.
- 2.3.3 In comparison while the preparation of existing statements of Government policy has usually involved some form of public consultation, the decision making process has ultimately not been subject to the level of scrutiny that is proposed for the NPS. It therefore follows that to re-designate existing Government policy statements as NPS without them having been the subject of such scrutiny, would leave that NPS open to challenge.
- 2.3.4 In addition it is a matter of fact that existing Government policy statements have not always been subjected to a rigorous and independent sustainability appraisal. While such a situation may have been acceptable in the preparation of policy statements we do not believe that it is acceptable when that policy, through its use as a NPS, is used to determine the merits of a specific proposal.
- 2.3.5 We are particularly concerned that unless the Planning Bill is amended the Government's current policy statement on aviation is adopted as a NPS without having been subjected to an appropriate level of independent testing and assessment.

### **3. Nationally Significant Infrastructure**

- 3.1 **We welcome the identification of rail freight interchanges as being of national significance and support the criteria set out within the Planning Bill.** However we remain concerned about the appropriateness of some of the other definitions set out in Part 3 of the Planning Bill.
- 3.2 In our response to the Planning White Paper proposals we highlighted our concern that the proposed definition for highways would result in ALL Highways Agency projects being categorised as Nationally Significant Infrastructure. **We continue to submit that such a widespread definition is inappropriate and needs to be reviewed.**
- 3.3 The trunk road network managed by the Highways Agency is divided into roads of national significance and roads of regional significance. Improvements to the former are funded centrally; improvements on the latter are funded as part of the Regional Funding Allocation process. We believe that this differentiation is useful and could form the basis of a more appropriate definition as to what constitutes a highway scheme as being nationally significant. If such an approach were to be adopted the current differentiation of roads may need to be reviewed to ensure that only those roads that are truly of national significance are included within the provisions of the Planning Bill.

- 3.4 **We recommend that the definition used for airport facilities is reviewed; in particular the definition in respect of the extension of a runway.** We do not believe it is the intention of the Bill that all runway extensions, no matter how small, should be deemed as being of national significance.
- 3.5 **We also recommend that the definition used for harbour facilities is reviewed.** The approach set out in the Planning Bill, which is based on setting a threshold for the overall capacity of a harbour, is in marked contrast to that used for airport facilities. We do not believe that it is the intention of the Bill that a small incremental extension of a port facility should be treated as being of national significance.
- 3.6 **A major flaw in the provisions of the Planning Bill is the lack of any consideration of the mechanisms that will deliver the supporting (landside) infrastructure upon which an airport or harbour facility is dependent. We have already recommended that there needs to be a requirement for Government to consult the statutory Regional Planning Bodies during the preparation of an NPS.**  
It will only be through such a consultation that the supporting infrastructure implications of a specific proposal will be taken into consideration. Such a consideration is essential to ensuring that the delivery of infrastructure is progressed in a timely manner through the Town and Country Planning Act.
4. **Infrastructure Planning Commission**
- 4.1 We remain deeply concerned that the proposal to establish the Infrastructure Planning Commission reduces the democratic accountability associated with the granting of permission for proposals that have a major impact on local communities. **We recommend that the Planning Bill is amended to allow the IPC to consider representations made by 'specific consultation bodies' as being an important consideration in making their determination.**
5. **Community Infrastructure Levy**
- 5.1 **We support the proposal to make provision for a local authority to develop a Community Infrastructure Levy,** however we note that the Planning Bill is enabling legislation in this regard and that details of the proposal will be set out within regulations to be published at a later stage. **We feel it important that draft regulations are published prior to the Bill being granted Royal Assent** in order to grant those with an interest in the proposal to comment on the primary legislation if appropriate.