



COUNCILS AND  
COMMUNITIES  
IN PARTNERSHIP

For the attention of Desiree Yeo  
Policy Officer, Planning Reform Team  
Communities and Local Government  
Zone 3/J2  
Eland House, Bressenden Place  
London SW1E 5DU

5 July 2007

Dear Ms Yeo,

**SOUTH EAST ENGLAND REGIONAL ASSEMBLY:  
INITIAL RESPONSE TO PLANNING WHITE PAPER**

Please find attached the Assembly's initial response to your proposals for handling major infrastructure projects, as set out in the White Paper: *Planning for a Sustainable Future*.

While we fully support the need to improve how we make decisions about key infrastructure in England, we are concerned that there appears to have been little, if any, thought as to how this could be done through the existing planning system, using democratically accountable bodies rather than an independent commission. As such, we have suggested how this could be achieved in the attached response and are willing to work with Government to explore this in more detail. I understand that my officials are already in touch regarding this proposition and look forward to useful debate on this extremely important issue.

The Assembly will be submitting further, more detailed comments on the White Paper following our Regional Planning Committee on 25 July.

Yours sincerely,

**Cllr Keith Mitchell CBE  
Chairman Regional Assembly**

Enc.

## **I. The Assembly's Response**

- I.1 The opportunity to review how the new planning system is working is welcomed given that it has now formally been in operation for about four years and we have had experience now of what is working and where improvements could be made. The emphasis given in the White Paper to streamlining some of the processes involved in preparing Local Development Documents and rationalizing the consents regime for infrastructure projects is particularly welcomed (as referred to in paragraph I.3).
- I.2 There is less evidence, however, to support some of the more radical proposals in relation to the handling of major infrastructure projects. Delivery of infrastructure is an area where there has been significant progress by the Assembly to fill the gaps created by the 2004 Act. This is particularly reflected through our comprehensive and innovative Implementation Plan for the Regional Spatial Strategy (the South East Plan). Key issues being addressed by the Assembly include funding mechanisms and priorities and improving alignment between the Region's economic, housing and transport priorities, as demonstrated in our response to the Comprehensive Spending Review (and Sub-National Review).
- I.3 It is disappointing, therefore, that the Government has concluded that they cannot build on the successes of the current planning system and use existing bodies, such as the Regional Assemblies, to improve the way in which we deal with national infrastructure proposals. In fact the Government is proposing a fundamentally different approach to that which underpins the planning system (see paragraph 3.5), an approach that would lead to a radical shift in accountability, away from local authorities towards a Government appointed quango. The following paragraphs outline the Assembly's concerns about the evidence base for fundamental reforms; the proposals themselves; and suggest an alternative way in which the same outcome could be achieved, building on what we already have in place at a regional level.
- I.4 The Evidence for Major Reform
- I.4.1 While it is fully accepted that there is evidence to suggest that improvements to the system are needed, the evidence provided by the Government (using examples of where the planning system has failed in the past) to justify fundamental changes ignores three key facts:
- The examples cited in the White Paper were considered under the planning system preceding the 2004 Act, before the introduction of statutory Regional Spatial Strategies which allow for 'need' to be tested at the regional level and delivered at the local level. The post-2004 planning system provides greater certainty and confidence that major infrastructure will be delivered if it is identified in the Development Plan (the combination of the RSS and LDF).
  - One of the principle barriers to delivering publicly funded infrastructure (particularly major transport projects) has been addressed through the identification of regional funding allocations and the requirement on each region to prioritise their investment requirements.

This has brought a more realistic approach to programming of major projects; it discourages proposals being developed without any reference to the likely funds available. The fact that regional prioritisation of investment takes place within the framework of a statutory planning framework at the regional level ensures clarity and certainty of funding for individual projects; it creates confidence that proposals will be delivered.

- Many of the examples given, including the Heathrow Terminal 5 planning application, are extreme examples of the difficulty experienced with the planning system. A new system should not be introduced in response to extreme cases.

## 1.5 Why Government's Proposals are flawed

### 1.5.1 There are a number of fundamental concerns about the Government's proposals;

- The proposed approach to major infrastructure projects will be fundamentally different to the traditional planning approach; the tests to be employed, as set out in the NPS (if the Government's intent is that the NPS forms the basis for determining whether a proposal should proceed) will be different in determining whether a proposal should be allowed to proceed. However, it is difficult to conceive of a situation where the normal 'planning tests' would not apply, namely the requirement for the development of a proposal to consider all the alternative and to be subject to the necessary assessments (SEA, EIA and AA). Hence it is unlikely that the level of assessment required will change. Indeed it is arguable that the approach set out by the Government would introduce a 'test' of Government policy that is currently not required.
- It is envisaged that the level of detail in each NPS will vary, with some identifying specific locations and others setting out little more than strategic priorities. This approach does not appear to be consistent with the philosophy of simplifying the consent regimes.
- Given that the NPS will be the 'primary' consideration in determining an application, the extent to which the contents of the statement are tested will be critical. At present the proposal puts the Government in the role of 'judge and jury'. That alone is likely to increase the potential for legal challenges. If one then considers the situation where a proposal set out in a NPS is contradicted by proposals set out in the (independently examined) statutory Development Plan, the likelihood of challenge increases further.
- The Aviation White Paper is held up as being an example of the form a NPS could take. The fact that it is spatially specific means that, for it to be a material consideration for planning purposes, its contents would have to be subject to the various tests outlined above. It is a matter of record that the approach advocated by the Government has been roundly criticised as being inconsistent with its own policy on sustainable development and ignoring the overwhelming scientific evidence on the impact that unrestrained growth in air traffic would have on wider policy objectives.

- Herein lies a further contradiction in the Government's approach. The provision of airports and air services are commercial concerns provided by the private sector. The Government has a long standing view that it is appropriate for the public sector to have a role in shaping the future provision of airport provision. Compare this with the same Government's approach to the provision of port facilities and shipping services (both of which are similarly commercial concerns provided by the private sector) and the inconsistency in approach is likely to give rise to further challenges if future growth is determined on the basis of an NPS.
- The creation of a new system for granting approval for projects will inevitably give rise to difficulties around the margins of any thresholds identified by the Government for determining whether or not a proposal is of national significance. Moreover, there is the potential for substantial confusion to arise if a proposal starts off being promoted through one route only to be transferred to the other during its development.
- Continuing with thresholds, it is proposed that only those proposals which fall within a prescribed set of thresholds will be subject to the new approach to planning. The threshold for major highway schemes is any proposal on the Strategic Route Network - i.e. all proposals promoted by the Highways Agency (HA) irrespective of whether it is widening of the M25 or a junction improvement on the A21. There are two consequences of this; first, it means that the number of cases handled by the proposed Commission will be substantially more than the predicted ten a year; and second, it means that the Commission will consider some small scale improvements on the HA network and yet it will not be involved in some of the larger schemes promoted by Local Transport Authorities. Such an anomaly is likely to create confusion and is inconsistent with the desire to simplify the consent regimes.
- An added consequence of the proposed thresholds is that there will be greater concentration of decision making role within central Government, contrary to the desire to devolve decision making to the most appropriate level.
- Finally, a significant issue that has not been considered by the White Paper is the matter of negotiations on contributions to offset adverse impact on the local area. Who would be responsible for such negotiations in situations where the scale of the scheme is such that it is being handled by the Commission? Again this is likely to result in greater centralisation of processes.

## 1.6 An Alternative Approach

- 1.6.1 Having said all that, the Assembly has long argued that, for certain major pieces of infrastructure such as ports, there is a need for a clearer national policy framework within which Regional Spatial Strategies can be produced. There should therefore be a measure of support for the proposed National Policy Statements. However, these could be used as part of a refinement to the current planning system which would enable the Government's primary objective to be delivered without the need for a fundamental change.

Although much more work would be needed to think through how this could work in practice, the following outlines an alternative approach which builds on the success of what we have now in terms of processes and accountable bodies:

- Government would produce National Policy Statements.
- The National Policy Statement provides the context within which the RSS is developed by the Regional Planning Bodies.
- The preparation of the RSS involves the testing of options and alternatives, and requires proposals to be subject to SEA, EIA and AA.
- The adopted RSS forms the upper tier of the (statutory) Development Plan and establishes the 'need' for strategic infrastructure in order to support delivery of planned growth.
- The alignment of the RSS with the Regional Economic Strategy (as supported by the Planning White Paper) ensures that priorities for investment in infrastructure reflect regional economic priorities.
- The Regional Implementation Plan provides an input into the independent reviews of regulated industries, thereby ensuring that future pricing regimes make provision for the necessary investment in infrastructure required to support delivery of planned growth.
- Planning applications for major infrastructure proposals identified in the RSS can be taken in forward on the basis that there is a presumption in favour of proposals identified in the Development Plan; a fundamental feature of the plan-led system.
- Where investment in major infrastructure is public sector led, the identification of regional programmes (as part of the Regional Funding Allocation process) gives greater certainty and confidence of delivery. Private sector investment in the economy can be planned for with greater confidence that the necessary infrastructure will be delivered.

1.7 The Assembly will develop this alternative option before reporting to the Regional Planning Committee on 25 July but, in the meantime, would welcome the opportunity to discuss this with government officials.