

**SOUTH EAST ENGLAND REGIONAL ASSEMBLY
REGIONAL PLANNING COMMITTEE**

Date: 12 October 2001

Subject: **Review of the Planning System**

Report of: Director of Planning and Transport

Recommendation:

That the recommendations set out in paragraphs 3.2 and 3.3 of this report be conveyed to the Secretary of State for Development, Transport and the Regions on behalf of the Regional Assembly, in response to his invitation to comment on the Review of the Planning System.

1. Background

- 1.1 Complaints and criticisms about the performance of the planning system are probably an inevitable feature of the whole process. The planning process arbitrates on development rights, significantly affects the value of land and makes decisions and choices which mean that some landowners and social groups will benefit more than others. In recent years, however, a chorus of complaint about the system has risen to a new crescendo. In its previous term of office, the Government sought to attempt to address these concerns through a programme entitled "Streamlining the Planning System". In practice, however, relatively few and small scale changes to the system were made. It is clear that this has not satisfied critics.
- 1.2 The Secretary of State, Stephen Byers, therefore announced on 26 July 2001 that a much more radical review of the system would take place. A copy of his speech is attached to this report (Annex). The Secretary of State invited comments and suggestions from all those with an interest in the planning system so that he could take them into account in preparing a Green Paper. In view of the significance of the review, it is clearly appropriate for the Assembly, as Regional Planning Body, to respond to this invitation.

- 1.3 The Chair of the Committee and I had an opportunity to meet Lord Falconer at a seminar in the Government Office for the South East on 27 September and to make some initial comments as part of the discussion. This report is written in the light of that discussion and Lord Falconer's observations at that time.
- 1.4 It is understood that Mr Byers intends to issue the Green Paper on the review before the end of this calendar year.

2. Analysis

- 2.1 Ministers have assumed that the planning system does need improvement. Lord Falconer asked at the seminar if we agreed with that view. For a number of reasons, well understood by Committee members, and partially articulated in Mr Byers' speech, the answer to the question must be in the affirmative. But it is also important to add two caveats. Firstly, the system has had significant successes over the years, as a glance at development patterns in many parts of Europe and most of North America will confirm. Despite some rather wild accusations, it has protected the countryside in the South East, under intense pressure, from much potential sprawl. It has created some, admittedly not enough, high quality built environments. It has achieved substantial regeneration of an increasing number of city centres and is helping revive many town centres. Secondly, past experience has shown that dramatic changes in the planning system can actually increase dislocation and reduce performance. Where possible, therefore, if change is now to be set in train, it should be evolutionary. To paraphrase, "The system is not broke, but we do need to fix parts of it".
- 2.2 Given, therefore, that improvements are needed, where should the focus lie? There are a wide range of possibilities, from the fundamental to the detailed. It is suggested that, as Regional Planning Body, our comments should focus on a limited number of key dimensions of the overall system, with particular attention to those issues which impinge directly on our regional role. Comments are not therefore suggested on matters such as application fees, or detailed development control processes; these are best left to the local planning authorities.
- 2.3 At the seminar, Lord Falconer posed seven key questions which apparently reflect Ministers' particular concerns. They are more focused than Mr Byers' speech, and can therefore provide a sensible structure for our response. They are summarised as follows:
 - a) **Is the system too regulatory and not positive and creative enough?**

The answer must surely be yes. The designers of the planning system originally envisaged a more dynamic structure with the ability directly to initiate development and capitalise on added land values created by the granting of permission. The present system transfers very little of that land value to the public purse and this, correspondingly, constrains the ability of the system to move beyond the largely regulatory, for lack of funds.

b) **Is it narrowly based, focused too much on land use, with inadequate links to other elements such as transport?**

Again, the answer should be in the affirmative, but much of the fault for this has lain with successive national governments who have narrowed the focus of the planning system. It is therefore somewhat ironic that local authorities should now be criticised for this failure.

c) **Is it too complex and sometimes too slow?**

Speed should not be the sine qua non of the planning system. It is the quality of development that ultimately matters most. Ministers' over-emphasis on the speed dimension is unhelpful. Nevertheless, in respect of the preparation and review of development plans, none can surely be content with the present timescales and "elephantine" procedures. Again, though, much of the blame for this procedural inflexibility lies with national government's proscriptions.

d) **Is the community insufficiently involved?**

There are of course a plethora of communities for different issues in different places. Ministers, again, often over-simplify the issue. Valiant efforts to involve a range of communities have frequently been made by local planning authorities in recent years. Often, these efforts have substantially exceeded the efforts to engage by other parts of the local authority service. The record of central government departments has frequently been much worse. Sometimes the efforts of planning authorities have been very successful. Nevertheless, in overall terms, the level of disquiet suggests that there is a problem.

e) **Is central government too involved, intervening and proscribing too much?**

The answer must be a pretty unqualified “yes”. Despite frequent assurances that central government will give more discretion at the local level, there is actually precious little evidence of this in the planning system. The levels of proscription in recent Planning Guidance, for example relating to flooding or housing, have actually been significantly higher than in past Guidance of this nature.

- f) **Is the planning gain system seriously deficient at failing to deliver the community benefits expected, or providing sufficient clarity for developers so that the latter can plan ahead?**

The answer is an unqualified “yes”.

- g) **Are the resources devoted to the planning process adequate, given its evident importance in political, social, economic and environmental terms, and the growing complexity of the decisions that have to be made?**

This is commented on further, later in the report, but in short we believe that the resources currently deployed are significantly deficient to deliver the quality of services and concomitant development that is now sought.

3. Comment

- 3.1 Lord Falconer’s analysis does address, either wholly or in part, the key problems. It is therefore proposed that the Committee’s response on behalf of the Assembly has two elements:

- i) The principles which should govern overall change; and
- ii) Some specific suggestions that would improve the regional dimension of planning, within this wider context.

- 3.2 **Key Principles** – five key principles are suggested as follows:

- a) **Better implementation and delivery tools and mechanisms** – this is the most crucial issue. Unless the planning system has better access to the means to help achieve its policies and proposals, then it will not be able to be more positive and creative. In order to ensure that the quality that is widely sought is achieved, there is a particular requirement for a much better system of planning

gain than the present section 106 arrangements. These are cumbersome and too narrowly based. In addition, authorities need to be able to take a more active role in assembling land, particularly on brownfield sites, using compulsory purchase order powers where necessary. This in turn means early review and reform of the CPO system. Authorities in places such as the Thames Gateway and coastal towns such as Hastings are also finding that they urgently need some additional form of "gap funding" in order to undertake expensive remedial measures on difficult sites and bring them forward. The European Commission recently removed much of the flexibility for such gap funding. It is quite wrong to believe, as Ministers appear to, that because parts of the South East have a strong market, it is possible to provide all the appropriate development that we need through the market process. Our serious problems with affordable housing, referred to elsewhere on this agenda, show that this is not the case. Affordable housing is an example of how the planning system needs to be much more effectively linked to mechanisms to actually provide appropriate housing on the ground, not merely in paper plans.

- b) **A sharply re-focused development plan system** - the development plan system needs urgently to be re-focused so that the respective tiers of plan are more clearly delineated and overlaps are reduced. Plans should be capable of selective review rather than needing to undergo full-scale reviews of the entire plan. They should focus on the key issues for change and go into detail about location only where really necessary. They should be more closely linked with other strategies and policies using, for example, the new Community Plans as an umbrella for much of the wider policy visioning work. They should be debated in more informal enquiries, with the lawyers removed from the process.
- c) **More devolution** - national Government advice should be focused only on those issues which are of truly national importance, and direct Government interventions in planning decisions should be similarly proscribed. On the other hand, the creative role which the Government Office for the South Office has been increasingly playing in working with the Assembly in developing a more dynamic approach to regional planning should be supported and encouraged. We also do need clearer and sharper national policies on issues such as airports and ports, to give a better context for regional/local decisions.

- d) **Increased resources** - the picture does vary widely, but it is nevertheless evident that the planning services in too many local authorities have been downgraded in recent years. Many experienced senior staff were given early retirement in the local government reorganisation process, and in-house skills in issues such as urban design and conservation have been severely denuded. Until recently, national government has also shown little interest in this issue. Yet at the same time the pressures on the planning service from applicants, and from those who wish to oppose development or least be extensively consulted, have increased substantially. Wider consultation is clearly desirable, but it does take time and, too often, local authorities are blamed for the delays that are created by national agencies like the Environment Agency or English Heritage in responding too slowly to requests for advice. If it is now generally recognised that the planning system is important to assist in the delivery of a high quality pattern of development and environment, then it is also right that it should be adequately resourced.
- e) **Enhanced skills** - some of these new resources should be spent on a major programme of training, re-training and skills development for both officers and members. The best performing local authorities have shown how investment in this capacity generates confidence, creativity and clear decision-making. The sharing of experience and successes through structured events and the use of good practice material can be very effective. The professional bodies have a major role here, but so too has Government. A major new training and development programme is needed and could be quite quickly introduced.
- f) **Community engagement in decision taking** - increased resources could also be used to help engage the community better at appropriate stages of the planning process. That community engagement does, however, need to be focused carefully if it is not to paralyse decision taking. It also needs to be better co-ordinated with other forms of community consultation, to avoid confusion and "consultation overload". Business is also entitled to reasonably speedy decisions. On the other hand, it is time to recognise that not all planning applications need be decided within eight weeks. Some are far more complex than others. The new system should recognise the need for several different consultation timetables, reflecting complexity. More resources would also allow local authorities to spend more time on pre-consultation discussions with applicants, for example in the way that has recently successfully been achieved between local authorities and Gatwick Airport. At Gatwick, the Airport and

local authorities have signed a concordat agreement prior to the submission of any planning applications.

- 3.3 **Regional Priorities** - against this background, a number of specific proposals can be made which would assist the regional planning process. These comments have also been informed by recommendations recently adopted by the Local Government Association on regional planning.
- a) **Status of Regional Planning Guidance** - the term "Guidance" creates some ambiguity and confusion about the relative weight to be attached to the regional planning process at present. It is therefore suggested RPG should be formally considered part of the Development Plan system and, accordingly, afforded the same status.
 - b) **Ownership and Approval** - the present arrangements whereby the Assembly prepares the Regional Guidance but the Secretary of State reserves approval entirely to himself, is unsatisfactory and inconsistent with the wider principle of devolution. Clearly the Secretary of State must reserve powers to intervene on matters which are of national importance in the regional planning process. Nevertheless, it would be appropriate, given the evolution of regional planning, for the Secretary of State now to give the Assembly the power to adopt or approve Regional Planning Guidance with certain safeguards. This change in the relationship could actually assist the Government Office to continue to develop the positive partnership role that it is at present providing, without becoming constrained by the quasi-judicial function at a later date. Such a change would set no adverse precedent. The model envisaged would be similar to that in place for County Structure Plans, and to the powers already given to the Greater London Authority for the preparation of London's Spatial Development Strategy.
 - c) **RPG Review** - as part of the Development Plan process, it is essential that RPG is able to be reviewed and kept up to date in a more flexible manner. We are currently planning to evolve in this direction, with a series of topic reviews, starting with Transport and Waste. Nevertheless, it would be helpful for the Secretary of State to confirm that he supports this evolutionary process of review.
 - d) **Links to implementation** - as with the wider principle already outlined, it is essential to ensure that Regional Planning Guidance is more closely linked to processes of implementation than in the past. Accordingly, there should therefore be a requirement that

other regional agencies of a public or quasi-public nature are required to help implement Regional Planning Guidance in their own strategies and plans. Secondly, additional tools should be made available to assist the implementation of RPG, particularly focusing on three key areas, transport infrastructure, affordable housing provision and financial incentives for high quality brownfield development, all in a sustainable development context. As well as these requirements and incentives, it would also be worth exploring the development of a small number of public service agreement targets relating to regional planning, which could be negotiated both with the Assembly as RPB and with appropriate Government agencies. In this way, the delivery of Regional Planning would be given much more “bite”.

- e) **A broader strategic base** - the Guidance in PPG11 on regional planning already envisages that the basis for regional planning should now be widened from its earlier narrow land use remit. It provides an opportunity for more effective linkage with other strategies and plans in the Region, as identified in the principles set out by Mr Byers and Lord Falconer in their initial comments. London’s Spatial Development Strategy and the Integrated Development Strategy recently developed by the East Midlands Region are examples of this broadening process in action. It would be sensible for the Secretary of State now to take this process a step further by encouraging all Regional Planning Bodies to prepare Spatial Development Strategies and to do so in a manner which ensures effective linkage with other appropriate regional strategies.
- f) **A 25-30 year regional vision** - as a result of uncertainty and a lack of confidence the planning system has largely lost a capacity to look beyond the short term and project a vision 20-30 years ahead. A vision is not a blueprint and should not seek to proscribe a forecast in detail. But it can give a source of direction and allow some longer-term investment and major development decisions to be placed in good time. This process is already happening in the work of infrastructure providers, such as the Environment Agency, but largely in a planning policy vacuum. Regional planning should fill that gap and look 25-30 years ahead, not 15 as now.

3.4 As the above changes are essentially evolutionary, and fit within the frame of the key principles already identified by Ministers, they could be substantially achieved without the need for primary legislation. They could be quite quickly introduced and implemented.

4. Conclusions

- 4.1 The current Review represents the best opportunity to improve the planning system for many years. It is by no means the first such review but, unlike several recent reviews, it does seem to combine a potentially radical reappraisal with a fundamental belief in the importance of the planning system and the need to enhance it rather than dismantle it in whole or part. Suggested comments have been made in that light.

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1 October 2001