

**DEPARTMENT FOR TRANSPORT, LOCAL GOVERNMENT AND THE  
REGIONS: PLANNING GREEN PAPER**

Report of the Director of Environment

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**1. Purpose of Report**

To seek the views of the Development Control Committee on the Government's Planning Green Paper with respect to proposals relating to development control, as part of the County Council's overall response to the Green Paper.

**2. Summary**

2.1 In December 2001 the Government published its proposals for reform of the planning system in a Green Paper "Planning: delivering a fundamental change". With regard to development control, the Government states that it wants a system that is:

- responsive;
- delivers decisions quickly in a predictable and transparent way;
- produces quality development; and
- genuinely involves the community.

This report examines the proposal in relation to development control and sets out issues the County Council may wish to include in its final response.

**3. Conclusion**

The report concludes that the Cabinet should respond to the development control aspects of the Planning Green Paper on the basis of the views set out in this report and in Appendix 1.

## **1. Introduction**

- 1.1 In December 2001, the Government published the Green paper, “Planning: Delivering a Fundamental Change”. This document, which proposes a fundamental review of the planning system, was accompanied by a series of “Daughter” consultation papers on related topics. The most relevant topics for the County Council are planning obligations ( paper –“ Planning Obligations: Delivering a Fundamental Change”) ; compulsory purchase ( paper – “Compulsory Purchase and Compensation – the Government’s proposals for Change”); and procedures for dealing with major projects ( paper –“ New Parliamentary Procedures for Processing Major Infrastructure Projects”).
- 1.2 The closing date for comments on all these extremely important consultation papers is during the week commencing 18 March. The Executive Member has asked the Development Control Committee, the Structure Plan Panel, Aggregates Panel and the Transport Panel to advise on the content of these papers, with a view to a comprehensive set of consultation responses being agreed at the Cabinet Meeting on 22 March. In addition, views on the Planning Obligations consultation Paper will be sought from the relevant Service Departments, and will be considered as a separate response of the Authority.
- 1.3 The Development Control Committee is being asked to consider the relevant sections of the main Green Paper, together with the proposals for Planning Obligations (which is the subject of a separate report on this agenda).
- 1.4 The Transport Panel, Aggregates Panel and the Structure Plan Panel will consider the relevant sections of all of the consultation documents. All Members have been circulated a general information note and a seminar is to be held for all Members.

## **2. Background**

- 2.1 The basic structure of the planning system is over 50 years old, and was formalised in the 1947 Town and Country Planning Act. The first town planning legislation, however, actually dates from 1909. The legislation was last modified in 1991.
- 2.2 On 12 December 2001 the Government published its Green Paper on delivering fundamental change to the planning system in England in order to overcome what it considers has evolved to be a system of inflexible, legalistic and bureaucratic processes.
- 2.3 The Green Paper addresses both the development plan system and development control processes. This report deals with the latter proposals and suggests a response as a contribution to the County Council’s overall views on the Green Paper.

2.4 The Green Paper highlights some of the issues and problems that the Government consider need to be tackled. These include:

- **Complexity**, in terms of multi-layered plans; long and unfocussed national guidance which mixes planning policy principles with good practice advice; confusing rules relating to different types of development; and an appeal procedure that can appear obscure.
- **Speed and predictability**, in terms of speed of decision making and when a decision will be reached; uncertainty of outcomes because there is insufficient clarity about the criteria against which an application will be judged; the length of time it takes to update plans; and the speed of dealing with appeals and call-ins.
- **Community engagement** – whilst the system is consultative it often fails to engage communities, in particular, planning committees can make decisions on planning applications without the applicant or objectors having an opportunity to present their case and some planning procedures require some specialist knowledge for effective participation.
- **A lack of customer focus and standards of service**, together with serious skill and resource shortages in most planning departments.
- A need for an **effective enforcement** process

2.5 Over all the Government intends that planning should have a new strategic focus. The Green Paper proposes to:

- maintain the ‘plan led’ system of development control but.....
- simplify the plan hierarchy, reducing the number of tiers and clarifying the relationships between them;
- deliver shorter, better focused, plans at the local level which can be adopted and revised more quickly;
- engage the community more closely;
- improve integration with other local strategies and plans.

### **3. The Proposals with respect to development control (particularly as they relate to mineral and waste “county matter” applications and County Council applications)**

3.1 Firstly, the Government proposes that the existing arrangements, whereby Counties and Unitary Authorities prepare Mineral and Waste local plans and decide planning applications on these land uses will be maintained. It is suggested that this proposal be supported.

3.2 Development control is the point at which people are most likely to encounter the planning system and the Government considers that a system for regulating development in the public interest is undoubtedly needed. However, it

considers that the present system is not customer-friendly and is not well understood. It therefore wants a system that is:

- responsive;
- delivers decisions quickly in a predictable and transparent way;
- produces quality development; and
- genuinely involves the community.

### 3.3 The proposals therefore include:

- i) Introducing a planning checklist, so that people know how to submit a good quality application.
- ii) Encouraging pre-application discussions between the applicant and local authorities. However, the Government recognises that this can represent a drain on resources and proposes to enable local authorities to charge for pre-application advice.
- iii) Having a nominated officer for each application.
- iv) Promoting greater use of the Internet to make the system more transparent, accessible and responsive.
- v) Encouraging applications for separate consents such as planning permission and waste management licences to run in parallel
- vi) Tightening targets for determining planning applications, which differentiate between the type of application. New targets will be monitored through the Best Value regime.
- vii) For larger applications local authorities should agree a delivery contract with the developer at the outset, which identifies a timetable for delivering a decision. If a decision is not reached by the agreed date without good reason then either party should be able to refer the application to the Planning Inspectorate and that it should automatically be handled on a fast-track basis. This would make the process of “twin tracking” identical applications so that one can be appealed once the statutory period has passed unnecessary.
- viii) Removing the potential for repeat applications. Once a planning application has been refused and not appealed or refused at appeal no substantially similar planning application for the same site should be accepted unless there have been material changes in circumstances.
- ix) Dealing with the delay caused by statutory consultees. Applicants may consult prior to an application being submitted and it is proposed that statutory consultees should be allowed to charge a fee for this advice if it is provided within 21 days. In addition it is proposed to reduce the number of statutory consultees; impose a statutory time limit for response and link future funding to satisfactory performance where consultees are dependent on Government for financial support.
- x) Encouraging master planning to improve the quality of development - the Government is seeking views on how outline planning consents could be replaced, whereby a developer could seek a certificate to

demonstrate that it has agreement to work up a detailed scheme against the parameters determined in agreement with the local authority.

- xi) Time limits on permissions will be reduced from 5 years to 3 years, when they will automatically lapse. Applications to renew will be considered afresh.
- xii) There are no proposals to make significant changes to permitted development rights, but the Government will up date the General Permitted Development Order (GDPO) to make it more comprehensible.
- xiii) The Government has recently published research into the Use Classes Order and will issue a consultation paper seeking views on possible changes.
- xiv) Introduction of new 'business zones' where no planning permission is required for certain forms of development, provided it is in accordance with tightly defined parameters. It is expected that such zones will be identified in regional strategies. Every region should have at least one zone to promote technology companies.
- xv) Encouraging statements of community involvement for large applications to be prepared by applicants. There are no proposals to withdraw the requirement to publicise planning applications in the local press or to shift the duty of undertaking effective consultation on to the developer. For larger proposals, however, developers ought to be engaging with the local community to the greatest possible extent in advance of submitting an application.
- xvi) The proposals also include promoting community involvement by offering community advice on planning through Planning Aid<sup>1</sup>. The Government is working with the Royal Town Planning Institute (RTPI) to expand and ensure better funding of Planning Aid.
- xvii) Encouraging open Committees where the public have an opportunity to speak.
- xviii) Introducing a requirement to give reasons why planning permission has been granted.
- xix) A separate consultation document is being prepared which will consider planning obligations and the reforms needed to ensure their transparent delivery. This will include a requirement to that information about planning agreements is included on the planning register.
- xx) Seeking tougher enforcement against those who evade planning requirements through a review of current arrangements.
- xxi) The time to submit an appeal will be reduced from 6 months to 3 months.
- xxii) Not all targets for called-in and recovered appeals are being met. Government would welcome views on setting statutory targets for delivering decisions. The Government also proposes to review the

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<sup>1</sup> A network of some 600 planners who give their services voluntarily, particularly to individuals with a planning problem.

publicity associated with appeals and call-ins to encourage greater participation.

- xxiii) The Government does not accept the case for third party rights of appeal.

### **Resources**

- xxiv) It is recognised that to deliver fundamental improvement in performance, local planning authorities need to be properly resourced.
- xxv) The fee regime will be reviewed to ensure it better covers the cost of the service provided.
- xxvi) All authorities will be required to account separately for their planning service including income and expenditure.
- xxvii) Government will work with the RTPI and Local Government Association (LGA) to make planning a more attractive profession and ensure that planners have the right skills.

## **4. Discussion**

- 4.1 Broadly, the Government's proposals represent improvements and in many areas reflect Hertfordshire practice in any event, such as providing guidance for applicants and a customised application form, encouraging pre-application discussions, having a named case officer, allowing the public to address the Committee and providing copies of S106 Agreements to District Councils for inspection with the public register.
- 4.2 The proposals to speed up statutory response times are particularly supported (para 2.3 ix) above), as are the proposals to prevent "twin tracking" of applications (para 2.3 viii)), submissions of repeated applications (para 2.3 vii)), a shorter period for lodging an appeal (para 2.3 xxi)) and reviewing current enforcement arrangements (para 2.3 xx) above).
- 4.3 However, there are some proposals that do give cause for concern. In particular the proposal to enable charging for pre-application discussions (para 2.3 ii) above) is one that has been considered before and it was generally concluded that this would be counter-productive by deterring applicants from seeking advice from the local planning authority. Pre-application discussions provide an opportunity to clarify the form of an application and the issues it should address in order to encourage quality applications. Deterring or curtailing such discussions though charging could conflict with this objective.
- 4.4 The proposals to encourage an agreed timetable for determining larger applications are broadly supported (para 2.3 vii) above), however there needs to be clear guidance on the type of application that this refers to.
- 4.5 Whilst the Government is proposing different performance indicator targets for major and minor commercial and industrial applications it is unclear how mineral and waste applications will be classified. Even smaller waste

management facilities tend to raise complex issues as well as being controversial and will usually take longer than the 8 week statutory period to determine. The Green paper does not specifically address applications which require environmental assessment.

- 4.6 The proposed reduction in the time limit for a planning permission (para 2.3 xi) above) is acceptable in principle, however consideration should be given as to whether a longer period would be more appropriate for major infrastructure projects or mineral extraction. For example, planning permission for extraction may include a requirement for pre-extraction planting (which would not constitute development) and this should be achieved as far in advance of extraction as possible. Also in order to forward plan, given the uncertainties of timing associated with working sites, operators will often secure permissions to ensure that they can sustain a continuity of supply – completing restoration on one site or part of site whilst commencing extraction elsewhere. Allowing determining authorities discretion could overcome these issues.
- 4.7 The Government recognises that planning should be properly resourced (paras 2.3 xxiv)-xxvii) above) and the difficulties currently experienced in recruiting skilled planners. However, other than reviewing planning fees there is little guidance on how the Government proposes to achieve this objective.
- 4.8 With regard to County Council applications the Green Paper is silent. Whilst it could be assumed that the Government intends that the current arrangements continue this should be clarified.
- 4.9 Suggested responses to the specific questions asked by DTLR are set out in Appendix 1, based on the above.

## **5. Conclusions**

- 5.1 The proposal that the existing arrangements, whereby Counties and Unitary Authorities prepare Mineral and Waste local plans and decide planning applications on these land uses will be maintained should be supported.
- 5.2 In addition, the proposals to speed up statutory response times, prevent “twin tracking” of applications, submissions of repeated applications, a shorter period for lodging an appeal and reviewing current enforcement arrangements should also be supported.
- 5.3 However there are some proposals that do give cause for concern, such as charging for pre-application discussions or require clarification. It is therefore suggested that that the County Council’s response with regard to development control proposals be based on the response set out in Appendix 1.

## **6. Financial implications**

- 6.1 There are none arising from this report.

**Background information used by the author in compiling this report**  
HMSO “Planning: Delivering a Fundamental Change”, December 2001.





