

GREEN PAPER ON PLANNING: DELIVERING A FUNDAMENTAL CHANGE

1. Introduction

1.1 The DTLR published its Green Paper on planning entitled "Planning: Delivering a Fundamental Change" at the end of last year. It sets out proposals for radical reform of the English planning system to simplify the complex hierarchy of regional, structure, unitary and local plans and to speed up decision making. The Green Paper has three associated daughter documents covering compulsory purchase orders, major infrastructure projects and planning obligations (also known as Section 106 agreements).

1.2 This report sets out the key proposals contained in the Green Paper, the daughter documents on major infrastructure projects and planning obligations and how major airport developments would be affected by the proposals.

2. The Key Proposals of the Green Paper

2.1 The modern planning system dates from 1947 and with the current legislation contained in the Town and Country Planning Acts 1990 and 1991. The Government claims that the current system has been criticised by business interests and individuals as being too complex, slow, unpredictable, and poorly enforced. Also, there have been accusations that people feel they are not sufficiently involved in decisions that affect their lives, and that businesses complain that the speed of decision-making is undermining productivity and competitiveness. The Green Paper therefore sets out proposals to simplify the system, although in practice it suggests some very radical changes.

2.2 The intention is that national planning policy will concentrate on those important policy issues that need to be resolved at national level. Regional or local matters will be left to the regional and local planning authorities. National planning policy principles will be set out clearly in terms of outcomes, and objectives to be achieved will be differentiated from advice on how the policy is to be delivered. The Green Paper states that the Government will issue national policy statements about major infrastructure needs so that a clear policy framework will be set for investment decisions that have a national significance. In particular, the Government intends to make a clear policy statement on the need for additional airport capacity.

2.3 Regional Planning Guidance would be replaced with new Regional Spatial Strategies (RSS) with statutory status, to be prepared by regional planning bodies. These Strategies will be more focused. They will:

- Outline specific regional or sub-regional policies, address the broad location of major development proposals and cross-refer to national policy.
- Ensure that each RSS reflects regional diversity and specific regional needs within the national planning framework.
- Integrate the RSS more fully with other regional strategies. They will provide a longer term planning framework for Regional Development

Agencies' strategies and those of other stakeholders and assist in their implementation.

- Promote, if necessary, the preparation of sub-regional strategies.

2.4 Clearly the RSS would have a key role in establishing the regional policies against which any proposals for additional airport capacity would be considered. The Green Paper does not however set out how the regional planning bodies responsible for preparing the RSS will be composed but instead sets out criteria that the bodies' will have to satisfy. Whatever the final composition of these bodies, they will not be elected bodies and some of their members will lack experience in strategic planning on this scale.

2.5 The Government also believes that the county is no longer the most appropriate level at which to consider key strategic issues as these are increasingly being dealt with at regional level or across sub-regions. The Green Paper therefore proposes to replace structure, local and unitary plans with new Local Development Frameworks, prepared at district council (or National Park) level which, the Government believes, will be prepared in a matter of months rather than years. Local Development Frameworks (linked to community strategies) will have three main components. The first is a statement of core policies that will allow local authorities to express a vision for the future of their areas and a strategy for its delivery. The second includes more detailed action plans for smaller specific areas where detailed planning is required. These would include for example, neighbourhoods, villages, town centres and major development sites. Action plans are intended to give a greater focus on community participation in the planning of local areas, allowing people to take part in decisions about the future of their community. They would also encourage local councils and developers to consult the community before seeking planning permission. The third component is a map showing areas of change and existing designations. The Green Paper seeks to put communities at the heart of the planning system, encouraging better community participation in the preparation of the new local development frameworks and action plans.

2.6 In addition, the Green Paper also proposes a much stronger emphasis on customer service, including delivery to business, with new targets for processing planning applications and the introduction of business planning zones in which planning consent for low impact development will be granted without requiring specific planning approval.

2.9 There are many aspects of the Green Paper that should be supported such as the emphasis placed on speeding up the process, customer service and community participation. However, it is questioned whether there should be such a fundamental restructure of the current system. It is accepted that the system is in need of an overhaul, but it is considered that quicker and democratically accountable decision making can be achieved with just improvements to the ways in which the processes are undertaken rather than a restructure of the system.

3. Key proposals of the New Parliamentary Procedures for processing Major Infrastructure projects

3.1 The proposals in this daughter document would have a very significant impact upon the work of airport consultative committees. The proposed new procedures

are to inform Parliament of certain major infrastructure projects, and to obtain Parliamentary approval for them, and the circumstances in which the procedures might be used are outlined in the document. The aim is to speed up planning decisions on major projects in order to minimise delay and uncertainty for everyone involved, whilst increasing opportunities for public involvement in the process.

- 3.2 Major infrastructure projects currently fall under a variety of statutory regimes and a complex new project might involve a range of approvals under several regimes. It is therefore proposed to change the system whereby the Secretary of State would decide whether to designate a project which he considered would benefit from new parliamentary procedures. Such designation would be on a case by case basis, having regard to the specific nature and circumstances of the project concerned. The Secretary of State would generally be aware of proposals in prospect, either because he is promoting the development or because developers have to apply to him for consent or because he has "called in" a planning application for his own determination. The Parliamentary component of the package is designed to give Parliament the opportunity to express a view on the principle of a major project proposal, including giving people the right to object before Parliament debates the issues, before detailed matters only are considered at a public inquiry. This would focus the inquiry on these detailed issues rather than spending time (considered by the Government to be unnecessary time) discussing the principle or need for the project.
- 3.3 Parliamentary procedures are ultimately for Parliament to determine and the Government sought views on what procedures might be appropriate for scrutiny of major infrastructure projects. Examples of major infrastructure projects (in relation to airports) to which the new procedures could apply include:
- (a) construction of airports with a basic runway length of 2,100 metres or more;
 - (b) construction of a new runway which allows an addition to the number of aircraft movements;
 - (c) extension of any runway by more than 100 metres;
 - (d) construction of a new airport terminal, or the expansion of an existing terminal, which provides additional capacity for more than 5 million passengers per annum.
- 3.4 Under the proposals the Secretary of State will have the power to decide if schemes of national significance are considered by Parliament thus avoiding lengthy public inquiries such as over Heathrow's fifth terminal where principles and need were challenged. The proposed procedure is that when the Secretary of State decides that a major project is one for which Parliamentary approval would be appropriate, this would be announced in the form of a public notice in the regional and local press as well as the London Gazette. There would then be a 42 days period for objections and representations about the proposed project. At the same time the planning application (or equivalent), the Environmental Impact Assessment and other supporting documents would be laid before Parliament. Following the consultation period, objections would be laid before Parliament together with other supporting information from the developer on the wider and economic benefits of the project. Each House would debate the project in the usual way. If approval were received from both Houses, the project would go forward to an inquiry to consider the detailed aspects on the basis of terms of

reference set by the Secretary of State. The precise way in which Parliament scrutinised proposals would be for each House to decide.

- 3.5 It is well acknowledged that the current planning inquiry system is lengthy, unwieldy and expensive for all concerned. The Government's proposals address this but there must be serious concern about the loss of opportunity for community interests to be given proper weight in decisions taken in Parliament. There is likelihood for whipped decisions on proposals of national significance thus putting doubt on whether proposals would be objectively scrutinised. It is much more appropriate if these sorts of projects were considered through public examination before an independent panel similar to the system used for regional guidance and structure plans albeit under a more disciplined framework than exists at present.
- 3.6 This aspect of the Government's proposals is of vital importance to the airport consultative committees, particularly in respect of the forthcoming publication of the various regional air services study options and the Aviation White Paper. It will therefore be important to seek assurances from the Government that further opportunities will be provided for the proposals that emerge from the options consultations to be commented upon before they are finally decided and put forward as national policy development projects.
- 3.7 The criteria for delivering major projects in the context of airport development are described 3.3 above. Some of these are concerned with existing airports and item (d) suggests a passenger growth of 5 million per annum as the appropriate threshold. This takes no account of existing capacity. A growth of 5 million passengers would be a very large addition at a smaller airport but a modest one at a large airport such as Heathrow or Gatwick. A percentage growth (say 25%) for larger airports would seem to be more appropriate.
- 3.8 As regards the proposed Parliamentary procedures, the 42 days period for public consultation is considered too short, particularly for representative bodies that meet quarterly. A period of at least 6 months should therefore be given so that thorough consideration can be given to major projects before they reach the detailed planning stage. It is also unclear from the consultation paper what constitutes detailed issues for the public inquiry to determine. In the case of new runways, would it be the Government that decides the precise position of a runway or would this be left to the public inquiry inspector to decide? For local communities this is an important aspect that needs clarifying.

4. Key Aspects of the Planning Obligations Daughter Document

- 4.1 The proposals contained in this consultation paper are also of concern to airport consultative committees where section 106 agreements are negotiated and entered into by the airport operator. The proposals arise from the Government's assertion that the present obligation system falls short of its objectives. The Government has acknowledged that there are examples of innovation and good practice. However, there are concerns that the obligation system tends to operate in an inconsistent and unfair way and lacks transparency. Agreements may also take a long time to negotiate, involving high legal costs.
- 4.2 The new central purpose for planning obligations should be 'to promote the

objective of delivering sustainable development'. This means ensuring that development provides social, economic and environmental benefits to the community as a whole. The Government favours introducing by primary legislation, standard tariffs for different types of development set locally through the Local Plan process (to be replaced by local development frameworks), which would only be varied by a negotiated element where necessary to address the particular circumstances of the development. Local Development Frameworks should include core policies covering the use of planning obligations, setting out arrangements for determining the schedule of tariffs, how they would apply, the criteria for negotiation or exemption, and the approach to monitoring and accounting. Other policies should set out the purposes for which receipts from the tariff would be put to reflect the priorities for spending within the local area, set in the context of the authorities' strategies.

- 4.3 The tariff approach is considered to be more transparent than a system of planning obligations based on negotiated agreements. It is proposed that both for the current and future system, details of all planning obligations will be available for public inspection on the statutory planning register. There are also proposals for better monitoring and accounting procedures to ensure that planning obligations are used for the purposes intended. The Government also states that it will encourage local authorities as a matter of good practice to ensure that where negotiated agreements are required, the heads of terms for such agreements are included in planning committee reports so that they are made available to the public before the planning decision is taken.
- 4.4 New national guidance is also proposed which will set out requirements for monitoring planning obligations and accounting for all the income and expenditure arising from their use.
- 4.5 It is considered important that the Government retains local flexibility on the details of implementation if central guidance is issued. It is also vital that the ability for local authorities to negotiate agreements for site specific issues, like the Gatwick agreement, is retained in any forthcoming legislation as the special nature of the Gatwick agreement means that it would probably not accord with a standard tariff. The Consultative Committee will also wish to welcome the Government's proposals to introduce more openness and transparency in the system which is considered vital to gain public confidence.
5. How providing additional airport capacity would be affected by the new proposals
 - 5.1 The Government will issue a national statement about major infrastructure needs. In particular, it intends to make a clear policy statement on the need for additional airport capacity.
 - 5.2 The regional planning body will produce a Regional Spatial Strategy based on the national policy statements. It will also prepare a sub-regional planning strategy if necessary (depending on the location of the development). There is however uncertainty about the role county councils or unitary authorities will have in this process.
 - 5.3 At a local level, taking into account national and regional policies, district

councils will prepare local development frameworks and site specific action plans. It is also the Government's intention to enable the Secretary of State to decide whether to designate a project, which he considered would benefit from new parliamentary procedures, set out above. Local planning inquiries will only consider matters of detail rather than the principle or need of the project.

5.4 Planning permission decisions relating to airport development would be made in accordance the statement of core policies contained in the local development framework and with the action plans. The policies, according to which a planning application concerning airport development will be considered, will be determined by the Government, an unelected regional body and the local district council.

5.5 This would be the normal planning process for proposed developments.

6. Conclusion

6.1 It is essential that the planning system is delivered in a way that is sustainable, sympathetic to the environment and benefits the community as a whole. It needs to be a system that reaches a proper balance between economic and environment goals and is clear and comprehensible so that robust decisions, in sensible timeframes, can be reached. It is accepted that there are aspects of the current system that are in need of an overhaul but it is considered that radical changes in the structure go too far. The refocusing of the planning obligations system should be welcomed, together with the various measures proposed which will make the system more transparent.

6.2 There is concern about the proposed process for the designation of major infrastructure projects by parliament. A public examination before an independent panel with clearly defined Terms of Reference, reporting to Parliament within a specified timeframe and moved away from the adversarial climate of existing planning inquiries, would seem to be a more appropriate method by which to consider projects of national significance. This alternative would address the timeframe concerns and retain public engagement which may not be the case where matters are determined by Parliament.

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