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REPORT TO:	ENVIRONMENTAL SERVICES	AGENDA ITEM:	8
DATE OF MEETING:	14 <sup>th</sup> FEBRUARY 2002	CATEGORY:	DELEGATED
REPORT FROM:	DEPUTY CHIEF EXECUTIVE	OPEN	
MEMBERS' CONTACT POINT:	JOHN BIRKETT (5742)	DOC:	c:\myfiles\sac\committe\environmental services\green paper3.doc
SUBJECT:	GREEN PAPER ON PLANNING	REF:	JGB
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE:	

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### 1.0 Recommendations

1.1 That the views expressed in paragraphs 4.20 – 4.31 be forwarded to the DTLR with any others that the Members decide are appropriate.

### 2.0 Purpose of Report

2.1 To seek the Committee's views on the Green Paper "Planning: Delivering a Fundamental Change" and on the companion consultation Papers.

### 3.0 Executive Summary

3.1 The Government is seeking views on a considerable reform of the Planning System, which it considers is not working well enough because the Development Plan System is over complex, there are too many inconsistencies, plans are too long and inflexible and preparation is slow and expensive. Similarly, while a Planning Applications system is necessary, it is also too slow and not responsive enough to the needs of all customers. Significant proposals for overhauling both parts of the process are propounded as a means of beginning a debate over how to reform them.

3.2 Comments and suggestions are made on the four consultation papers that have been put out so as to enable Members to formulate a response. Full copies of the texts may be down loaded from the DTLR web site and are available for viewing in the Planning Services Manager's office.

## 4.0 Detail

### Introduction

- 4.1 The Green Paper "Planning: Delivering a Fundamental Change" was issued by the Department for Transport, Local Government and the Regions (DTLR) on 12 December 2001. It sets out for consultation radical and far reaching proposals involving a 'fundamental change' to the planning system in respect of the development plan and development control processes. The deadline for comments is 18 March 2002.
- 4.2 The DTLR has also published for consultation, three "daughter" documents complementing the "delivering a fundamental change" process. These cover Major Infrastructure Projects, Compulsory Purchase and Compensation and Reforming Planning Obligations. The Government is also seeking comments on these daughter documents.
- 4.3 The proposals will involve primary legislation. However, it is not clear at present when this would be laid before Parliament and as a consequence when implementation of the proposals would occur - although it is unlikely that it will be before the planned review of Local Plan .
- 4.4 This report sets out the main proposals in the Green Paper, outlines the issues which concern the Council and proposes a response..

### Proposals for Development Plans

- 4.5 The Green Paper states that the Government's proposals are based on a commitment to continuing the "plan led" system of development control. However, they are intended to simplify the system by reducing the number of plans to a two-tier structure with strategic policies at the regional level and Local Development Frameworks at the local level. Plans will be required to be shorter with more community participation and improved integration with other strategies and plans.

### Local Development Frameworks

- 4.6 The Government considers that the current arrangements for area-wide local plans introduced in 1992 have never worked effectively because the system is over complex, there are too many inconsistencies, plans are too long and inflexible and preparation is slow and expensive. The Green Paper proposes the abolition of Structure Plans, Local Plans and Unitary Development Plan's to be replaced by "Local Development Frameworks" (LDF) prepared by District and Unitary Councils. These would complement Community Strategies and comprise a "Statement of Core Policies" and a series of more detailed Action Plans for smaller areas of change (e.g. urban extensions) or topics (e.g. housing allocations). Timescales for preparation would be months rather than years and the statement of core policies would be updated each year with review every three years.

### Regional Spatial Strategies

- 4.7 It is proposed to replace the current Regional Planning Guidance with a strengthened Regional Spatial Strategy (RSS). This would have statutory status and a more focussed content reflecting specific regional needs with more emphasis on sub

regional strategies and integration with other strategies. It would provide the strategic guidance for Local Development Frameworks, Local Transport Plans and the RDA's Regional Economic Development Strategies. The Secretary of State would continue to issue the final RSS.

- 4.8 Regional Planning Bodies will be expected to satisfy certain criteria; groups consisting solely of local authorities will not be acceptable. The preparation of the RSS will be a partnership process with a steering group to include the Regional Development Agency and representatives of the public, business and voluntary sectors. They should consult a broad range of regional stakeholders, ensure delivery of the strategy by working closely with all groups and be capable of addressing difficult regional choices where appropriate.
- 4.9 Sub-regional strategies are seen to be necessary where strategic issues can only be resolved on a joint basis between neighbouring authorities such as for major conurbations or for areas which cross regional or county boundaries. Some matters, in particular distribution of housing provision to districts will need to be addressed at the sub regional level.
- 4.10 The implications of regional government will be set out in the forthcoming White Paper but if directly elected assemblies are established they would take over the regional planning role.
- 4.11 New administrative arrangements capable of delivering the new roles will be expected to build on current arrangements for RPG with key partners, including local authorities, ensuring that the regional planning activities are adequately funded.

#### National Planning Policy

- 4.12 The Government has indicated that there also needs to be change at national level involving a review of all PPGs (with key PPGs reviewed over the next two years), separating policy guidance from practical implementation and issuing national statements about major infrastructure needs.

#### Proposals for Development Control

- 4.13 The Government considers the Development Control system to be necessary but not at present customer friendly or well understood. The Paper sets out changes which aim to create a process that is responsive to needs; delivers quick and transparent decisions; produces quality environment and involves the community. This will be achieved by: -
- introducing a checklist for improving the quality of applications and new targets for handling planning applications.
  - replacing outline permissions with a new form of certificate embracing a master plan.
  - promoting a package of measures to strengthen community involvement via improved information, consultation and more resources for the Planning Aid Service.

- introducing a delivery contract for major developments, including sanctions for non performance on the part of Local Authorities.
- reducing the number of statutory consultees but allowing them to charge Local Authorities fees for timely responses to consultations.
- introducing 'business zones' where no permission would be required for low impact, commercial development.
- tougher enforcement of unauthorised development.

4.14 Suggestions are made to: -

- make particular officers accountable for applications to inquirers.
- improve access to e-mail for consulting on and even receiving applications.
- reducing the number of different consents (e.g. for listed buildings, pollution control) and/or making single applications for more than one at a time.
- prevent repeated applications and twin tracking.
- shorten the time limit on permissions to 3 years.
- improve understanding of and procedures for compulsory purchase of land to aid regeneration.
- make permitted development rights easier to understand.
- maximise deregulation of changes of use within the same use class, consistent with planning objectives.
- improving community consultation before applications are submitted.
- open up Committees to transparent public participation.
- making planning documents available at little or no cost.
- considering making breaches of control an offence, increasing penalties and setting punitive charges for retrospective applications.

4.15 The subject of third party rights of appeal are touched on but the Government makes it clear that it does not accept the prospect. The Government sees the necessity to increase resources to Local Authorities and undertakes to review fees better to cover costs as well as the amount of money provided Local Authorities. A target of 90% is to be set for delegating cases to officers and a review of Committee cycles is called for to prevent delays.

#### Reforming Planning Obligations

4.16 A separate consultation document invites views on a preferred proposal and a number of alternative options, for improving the planning obligations system. The

Government view the tariff approach as most suited to delivering its planning objectives. Local authorities would set standardised tariffs for different types of development through the plan making process.

- 4.17 Tariffs will include provision of affordable housing from a range of development proposals, including commercial schemes, with RPB's identifying affordable housing needs and priorities across the region or sub region. Site size thresholds for tariffs may be determined at national, regional or local level depending on the outcome of comments received. The consultation period on the document closes on 18 March 2002.

#### Compulsory Purchase and Compensation

- 4.18 This consultation document adds to recently produced advice to improve understanding of the way that the compulsory purchase and compensation system currently operates. The proposals aim to make the system simpler, fairer and quicker and will provide: -

- powers for authorities to purchase land compulsorily for the full range of planning and regeneration purposes.
- greater flexibility in the ways by which authorities can demonstrate that there proposals are justified. Speed up procedural aspects.
- for a more attractive compensation package.

The consultation period runs until 27 March 2002.

#### Major Infrastructure Proposals

- 4.19 The paper follows the Secretary of State's announcement in July of a package of measures to speed up planning decisions on major infrastructure projects, such as new airports, runways, ports and road and rail schemes. It includes procedures to enable Parliament to debate and approve a project in principle before detailed examination at a public inquiry. The process would allow the opportunity for objections and representations to be made to the SOS. These, together with statements of national policy and Regional Planning Guidance would form part of the information laid before both Houses. Views on the proposals are sought by 22 March 2002.

#### Officer's Response

##### Policy

- 4.20 As has been described above, the Green Paper and supporting documents propose numerous changes across all levels of the planning process. Nevertheless how fundamental, wide ranging and effective these will be is open to doubt.
- 4.21 The reduction of the tiers of plans from 3 to 2 may help to make things easier to understand and keep up to date. However, at present the approach at regional level relies heavily on County and Unitary Council Structure Plans for the necessary expertise and democratic input. Until recently, Regional planning has relied on the

aggregation upward of County strategies. This would need to be adequately replaced both in terms of personnel and accountability. With more non-elected contributors in the process and no democratically accountable decisions at the Local Authority level, the electorate will be justified in feeling by-passed and cheated. The interests of a small Local Authority like this one are likely to be harder to promote. How an adequate substitute is to be put in place requires further work.

- 4.22 A sub regional level of plan will be necessary in this area to resolve the competing pressures and needs of areas like South Derbyshire in relation to those of, say, Derby. There is no clear suggestion as to how Sub-Regional Strategies will be decided and made accountable. By the time the relevant issues have been resolved savings in time, effort and resources may not be great as compared with what now exists. Together, Regional, Sub-Regional, LDF and Action Plans replicate the different levels of plans that now exist. It is difficult to see how this would represent much of a saving.
- 4.23 LDF's could work well, provided a balance between the need for brevity and comprehensiveness can be struck and the procedure for adoption can be made simpler in practice than the current Local Plan Inquiry. The paper is vague on this issue. Action Plans are proposed to limit controversy over major allocations in Local Plans and to make the process more predictable than the outline planning procedure. Since we are dealing with private sector initiatives in the main anyway, there can be no compulsion to deliver what is originally permitted and proposals may need to be changed subsequently to meet market circumstances. No amount of change in the procedure for validating proposals is likely to make the final outcome more certain. The process for action plans and certificates appears not to be thought through and likely to cause more delays and cost than it saves. The process of master planning is an as yet incompletely developed tool and requires further work to make it both flexible and reliable in the long term.

#### Development Control

- 4.24 The Council already has a checklist for submitting applications, uses pre-application discussions and a one stop shop approach to major developments and nominates a case officer who is accountable to stakeholders for information and speed of delivery. The paper is not radical in these areas. Reducing the number of consents necessary even between different responsible authorities would help simplify and speed the process. Officers are keen to develop relationships with consultant bodies in the control process and harmonise outputs where possible. Official recognition on the part of other statutory bodies that responding to consultations would carry responsibility for giving simultaneous consent would sharpen and help to clarify the process but not necessarily speed it up.
- 4.25 Local Planning Authorities would find it almost impossible to predict how long a complicated large proposal would take to deal with. This is notwithstanding our experience of undertakings given to Toyota to deal with applications in accordance with their critical path that were almost always met in practice. Financial penalties for failure to complete the process on time in accordance with a pre-arranged contract with a developer would induce un-warranted refusals on the basis of incomplete information so as to avoid costs. The process of signing contracts for processing applications before they were submitted would also result in prolonged discussion with an impatient developer that would be a cause for delay and additional complication even before an application were submitted. Equally a penalty in the

form of tacit approval to proceed if the deadline were passed would be likely to result in poor outcomes, contrary to the public interest. Notwithstanding all this, the current practice is for your officers to seek to agree a deadline where the developer asks for it and by and large to keep to it; but not in the context of penalties for non-performance.

- 4.26 An obligation on developers to consult before submitting an application would potentially speed the process considerably but not necessarily so far as the developer were concerned. For those who were unused to the system this would be a hindrance rather than a help. Pre application discussions would assist in this regard but they are at the applicant's behest.
- 4.27 Fees for pre-application discussions would assist in making it possible to run Development Control more efficiently, particularly as they would filter out the more frivolous (no hope) inquiries. A discount on the fee for the subsequent full application for cases where the advice has been incorporated into the proposal would also be an incentive. Charging for timely advice by statutory consultants would need to be funded from increased revenue to the Local Authority. It is likely to be an administrative burden in practice, since the cause for delay or the superficiality of response would easily become a cause for dispute as to whether the fee was due to be paid or not.
- 4.28 The new targets for speed of dealing with applications: -
- 60% of major applications determined within 13 weeks,
  - 65% of minor applications in 8 weeks, and,
  - 80% of all other applications in 8 weeks

will require a considerable improvement on the part of your officers if speed is to be the predominant criterion (particularly in relation to commercial). However, the Government's pre-occupation with speed must be set against its determination to conserve the environment, which means taking careful and measured decisions, listening to the community, which means giving them a fair hearing and sustainable use of resources, which means taking all relevant consultant's requirements into account. When all is said and done, there are other significant causes for delay in the development process that are conveniently ignored in this context.

- 4.30 The Government's suggestions for eliminating repeat and twin tacked applications and for reducing the time within which to appeal the Council's decision are welcome. The Business Planning Zones are unlikely to be applicable in this area outside the context of the possible expansion of the influence of, say, Derby University on the high tech/engineering industry. The proposal appears to be a re-run of Simplified Planning Zones, which met with varying levels of success. The proposals for simplifying and clarifying Permitted development rights and Use Classes are welcome but it is perhaps a pity that a more radical look could not be taken to reduce the number of householder applications that are almost invariably approved.

#### National Planning Guidance

- 4.31 Separating policy from procedural requirements and best practice is to be welcomed as is a radical review of the content and volume of PPG's. Simplification, removal of

ambiguity and conflicting preferences that are difficult to resolve in practice would also help.

#### **4.0 Staffing/ Equal Opportunities/ Anti-Poverty/ Agenda 21 Implications**

4.1 None at present.

#### **5.0 Legal Implications**

5.1 Changes in primary legislation and regulations will be required.

#### **6.0 Financial Implications**

6.1 There are indications that Planning needs to be better resourced and that staffing levels in Development Plans Sections need to be increased to cope with additional responsibilities implicit in the new arrangements. Increases in fees for applications are being raised by 14% in April this year.

#### **7.0 Conclusions**

7.1 The Green Paper is the start of a considerable reform in Planning legislation, police and practice. The proposals will require much more work to clarify the Government's intentions in a way that will be meaningful and helpful to Local Authorities like ours and indeed to the development industry and the general public.

#### **8.0 Background Papers**

None.