

House of Commons
Transport, Local Government and
the Regions

**PLANNING GREEN
PAPER**

Thirteenth Report of Session 2001–02

Volume I

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TRANSPORT, LOCAL GOVERNMENT AND THE REGIONS COMMITTEE

The Transport, Local Government and the Regions Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Department for Transport, Local Government and the Regions and its associated public bodies.

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Footnotes

In the footnotes of this Report, references to oral evidence are indicated by 'Q' followed by the question number. References to written evidence are indicated by the memorandum number, eg PGP 01.

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THIRTEENTH REPORT

The Transport, Local Government and the Regions has agreed to the following Report:

PLANNING GREEN PAPER

Introduction

1. The current planning and development control system was set up 50 years ago by the Town & Country Planning Act 1947. Since then it has been subject to a continuous process of evolution. It has gained the confidence of a wide range of interest groups. The Town & Country Planning Association commented:

“The present system has much to merit it. Further abolition of the present statutory system for Local Plan-making will fatally undermine the plan-led system established by Parliament.”¹

English Nature told us:

“the planning system provides a high level of certainty to its users and provides strategic policy at a democratically accountable level.”²

2. However, the Government has been persuaded by a number of organisations that radical reform is needed because it is claimed that it is slow, undermines the competitiveness of British industry and does not provide certainty, predictability and transparency. This led to proposals for a fundamental overhaul of the whole planning system which were put forward in December 2001 in the Planning Green Paper, entitled *Planning: Delivering a Fundamental Change*.³ Lord Falconer told us that radical reform of the system in England was required because:

“the planning system is often rules-driven, reactive as opposed to pro-active, overcomplex, unpredictable, lacking in adequate community engagement, underresourced and not user friendly.”⁴

The Government's Reforms

3. The proposals in the Green Paper aim to shorten the time taken to examine development proposals and to simplify the planning system by:

- significantly reducing the volume of national planning guidance;
- replacing Regional Planning Guidance with statutory Regional Spatial Strategies which will be drawn up by a far wider group of agencies;
- abolishing county structure plans and replacing them, where appropriate, with a range of sub-regional strategies;
- replacing local plans and unitary development plans with Local Development Frameworks which could be drawn up in months and would set out basic criteria for acceptable development. They would not include comprehensive land-use maps. There would also be detailed action plans and master plans covering areas where major regeneration schemes were being considered;
- setting up Business Planning Zones where simplified planning procedures would apply;
- “simplifying” planning gain negotiations, with councils setting a tariff defining what they expect from developments; and

¹ PGP36

² PGP19

³ Planning: Delivering a Fundamental Change DTLR December 2001

⁴ Q788

- introducing a new procedure for the authorisation of major infrastructure proposals with Parliament considering the principles and the location through an as yet undefined scrutiny process; only the details will be considered by a public inquiry.

Details about some of the reforms to the planning system were included in an accompanying set of documents:

- *Major Infrastructure Projects: delivering a fundamental change;*
- *Reforming Planning Obligations: a consultation paper;*
- *Review of the Use Classes Order and Part 4 of the GPDO (Temporary Uses); and*
- *Compulsory Purchase Order and Compensation - the Government's Proposals for Change.*

Terms of Reference

4. Shortly after the Green Paper was published, the Committee decided to hold an inquiry and called for evidence on:

- The effectiveness of the system of local plans and the Government's proposals to replace them;
- The role of regional planning bodies;
- The procedures for scrutinising major development projects;
- Business Planning Zones;
- Proposed changes to planning obligations, CPOs and compensation and use classes;
- Whether the Government's proposals will simultaneously increase certainty, public participation and faster decisions, particularly for business; and
- Planning's contribution to the urban renaissance.

The Committee held five oral evidence sessions in April and May this year. We would like to express our gratitude to our specialist advisers, Richard Bate and John Popham.

5. The responses to the DTLR's consultation and the submissions to the Committee were split. The consultation showed that many people thought that the planning system was in need of improvement but there was also widespread opposition to many of the Government's proposals.⁵ The DTLR provided the Committee with an analysis of the responses to its consultation on the Green Paper, which showed that 88 per cent of the respondents did not support the replacement of Local Plans and Unitary Development Plans with Local Development Frameworks; and the abolition of County Structure Plans was only supported by 10 per cent of respondents. Many of those organisations, such as the Royal Town Planning Institute and the Royal Institution of Chartered Surveyors, which supported reform in principle, opposed many of the practical proposals: the former was critical of the proposals for Business Planning Zones,⁶ while the latter criticised the plan to introduce tariffs.⁷

6. The Government's proposals amount to a fundamental and radical reform of the planning system, but it has been argued that the Government's objectives could be better met by reforming the existing system. This approach is being adopted by the National Assembly for Wales in a separate review of the planning system in Wales. In its memorandum, the Assembly stated that, although the current planning system was not delivering "speedy, clear and consistent decisions in a transparent way," it was fundamentally sound.⁸ The aim of the Assembly's reforms is to improve the existing plan-based system by simplifying the procedures for drawing up plans, while achieving a radical change in culture and operation of the planning service.⁹

⁵ A supplementary submission from the DTLR (PGP06a); only 69 per cent of businesses supported the proposal for Business Planning Zones

⁶ PGP52

⁷ PGP46

⁸ PGP66

⁹ PGP66

7. A range of alternative approaches, which involve modifying the existing system in England, were put forward by witnesses. We considered that they required careful evaluation as well as the Government's more radical reforms. We examine below the comparative benefits of radical and evolutionary approaches as well as a number of other suggestions made by witnesses.

8. A large number of submissions to the Committee emphasised the shortage of staff to run the planning system. There was disappointment that the Green Paper barely mentioned this; moreover, the reforms proposed in it will require a considerable number of additional staff in planning departments.¹⁰ **The current planning system requires significantly more staff and resources than are currently available. The new system proposed by the Government will require even more staff, and any radical changes will not be possible until they are in post.** We discuss this further later in this report.

¹⁰ Q853 Lord Falconer acknowledged the need for extra funds for local authority planning departments when he appeared before the Committee

Proposals for reforming the planning system

9. We now turn to the proposals in the Planning Green Paper and other proposals included in evidence to the Committee and in responses to the Government's consultation, which set out how the planning system could be improved. We look at:

- the need for a statutory objective;
- the need for a national spatial strategy;
- the review of Planning Policy Guidance notes;
- reforms to regional planning;
- reforms to sub-regional planning;
- reforms to planning at district level;
- reforms to the development control system;
- specific initiatives to relax planning controls in business planning zones
- Third Party Rights of Appeal;
- proposals to introduce a tariff system to replace planning gain negotiations; and
- proposals to revise the way major infrastructure projects are considered.

A Statutory Objective for the Planning System

10. At present the planning system does not have a statutory objective or purpose. Professor Malcolm Grant from Cambridge University's Department of Land Economy pointed out that the legislation does no more than allocate power and establish procedural rights in decision-making but it has no statement of objective or purpose.¹¹ Several submissions to the Committee suggested that a statutory objective was also required. They argued for an objective of seeking to promote sustainable development, balancing environmental, economic and social objectives. The Royal Commission on Environmental Pollution argued that such an objective was needed to provide clarity and to avoid "oscillation between conflicting ideologies of planning law". It put forward as a purpose "to facilitate the achievement of legitimate economic and social goals whilst ensuring that the quality of the environment is safeguarded and, wherever appropriate, enhanced."¹²

11. Lord Falconer accepted that the planning system required a statutory purpose to promote sustainable development. The Government is now considering suggestions on possible wording. However, he was concerned that it should be meaningful, and noted that if the definition went into a great deal of detail "it [would] simply become[s] a lawyers' beanfeast."¹³

12. The inclusion of a statutory objective for the planning system would be helpful if one could be agreed. This will not be easy. Any objective would need to command wide acceptance and should not be a potential source of dispute at each stage of the planning system.

National Spatial Strategy

13. Several submissions to the Committee called for a National Spatial Strategy and set out several ideas about its possible role and content. The Royal Town Planning Institute suggested that the strategy could make the Government confront major decisions about the distribution of people and jobs between regions which have up to now been avoided. The organisation argued: "It is impossible to determine inter-regional issues without a national spatial framework."¹⁴ English Nature said that a national strategy could provide a context for protecting our national biodiversity, habitats and landscapes and assessing their varying capacity to accommodate development.¹⁵

¹¹ PGP64

¹² PGP54

¹³ Q894

¹⁴ PGP52

¹⁵ PGP19

14. The Royal Town Planning Institute also suggested that the national strategy could provide a context for major infrastructure proposals such as airport and port development, the north-south high speed rail route and the strategy for rail freight. We consider this topic under the heading of national policy statements in the section of this report on major infrastructure projects.

15. The National Assembly for Wales has published the first draft of a national spatial strategy. It aims “to address national issues of development and restraint on the broad scale, balancing the needs of environmental protection, enhancement and the sustainable use of environmental and other resources with development which is necessary to support economic well being and successful communities.”¹⁶

16. The Government should evaluate the desirability of establishing a National Spatial Strategy.

Review of Planning Policy Guidance Notes

17. Planning Policy Guidance Notes were introduced in 1988 to provide a systematic body of general policy on all national planning topics. There are currently 25 guidance notes which lay down national policies on which regional and local plans must be based. They are a material consideration when planning applications are determined. The Green Paper said that all PPGs would be reviewed and that the first six PPGs would be considered over the next two years.¹⁷

18. The Green Paper says that an extensive review is needed because: “The sheer amount of national planning policy reduces the effectiveness of PPGs as a means of communicating national policy.” It suggests that the Government is prescribing too much at national level and “much guidance is insufficiently focused with little differentiation between statements of policy and advice on process and best practice.”¹⁸ The review will decide whether all PPGs are required, aim to reduce the length of PPGs that are retained, seek greater clarity in the expression of policy and put guidance elements into a separate document.

19. The Government cited the revised PPG3 on Housing as a model which could be followed. Alongside the main policy guidance note, a set of good practice guides has been produced, which include more detail about the application of the policies and examples of their application.

20. While many submissions welcomed the review in principle, there were concerns that it might lead to excessively brief PPGs which could not be understood without the additional guidance. We asked Lord Falconer about this matter and allegations that the PPGs could be as short as three pages. He confirmed that they would be substantially shorter but “the aim was that they should be short enough to be digestible, long enough to be sufficiently certain.”¹⁹

21. PPGs play an essential role in defining national policy. The Committee welcomes any review which strengthens their role and makes them more user-friendly. The pursuit of brevity must not lead to the omission of essential policy. Distinguishing policy from guidance on its application is helpful provided the policy is not dependent on best practice guidance for its interpretation. PPG3 is an acceptable model. Good practice guidance should have the same weight as a PPG.

¹⁶ Wales Spatial Plan - Pathway to Sustainable Development - Consultation September 2001. Page 2

¹⁷ The Government has since provided the committee with the timetable for the review of all PPGs which is expected to continue until at least January 2005. The review of PPG6 is expected to be completed by February 2003

¹⁸ Green Paper 4.58

¹⁹ Q799

Regional Planning

22. Regional Planning Guidance currently sets out the priorities for development in each region, identifying areas for new development and the growth of major urban centres. It includes the scale and distribution of the provision of new housing and sets a target for brownfield development. Guidance is currently drawn up by associations of local authorities in some areas, and in others areas by chambers comprising local authorities and representatives from the private and voluntary sectors.

23. The Green Paper proposes to replace Regional Planning Guidance with statutory Regional Spatial Strategies. The new Regional Spatial Strategies would be drawn up by representatives from a larger group of organisations from the private and voluntary sectors including the Regional Development Agencies as well as local authorities. The strategies will be expected to make clear strategic choices for accommodating demand for new housing or the location of areas of key employment or retail growth.

24. Since the Planning Green Paper was issued, the Government published its White Paper on Regional Government in May, which proposes that, in regions where directly elected Regional Assemblies are established following a referendum, that Assembly would take over responsibility for the preparation of Regional Spatial Strategies.²⁰

25. Witnesses raised a number of concerns about the Government's proposals:

- Regional boundaries pose a problem. It would be particularly difficult to consider new house building targets in the South East region separately from London. Some submissions suggest that strategies may be required to work across regional boundaries.
- The danger of economic development interests dominating the preparation of the new Regional Spatial Strategies was also raised by English Nature's chairman Sir Martin Doughty. He thought that it was very important that the Regional Economic Strategies, prepared by the RDAs, were "set within an overall sustainable development framework."²¹ The Local Government Information Unit also pointed out that it would be very difficult for non-elected individuals who would be representing land and property interests on the boards preparing the new strategies to make the hard strategic choices about the location of development "when they are not bound by ethical standards in the same way as elected members of local authorities."²² The same applies to single-issue groups.
- The Council for the Protection of Rural England pointed out that there are an increasing number of regional strategies on public policy issues and that it is important that the Government should "explicitly emphasise the pre-eminence of the Regional Spatial Strategies "as forming the framework with which all other regional strategies and initiatives should comply."²³ English Nature also suggested that the Regional Spatial Strategies should be central to integrating a comprehensive range of strategies around environmental management, issues of rural development, agriculture and transport planning.

26. **Decisions about regional planning should be taken by groups of democratically-elected members of local authorities. Wider interests should be consulted but not make the decisions. We support the proposal in the White Paper, *Your Region, Your Choice: Revitalising the English Regions*, that where elected regional assemblies are set up, they should take over regional planning functions. Where elected assemblies are not set up, the present system should remain.**

²⁰ Your Region, Your Choice: Revitalising the English Regions Cm5511 p34

²¹ Q676

²² PGP02

²³ PGP38

27. The Regional Spatial Strategies should take precedence over and guide the land-use aspect of all other regional strategies drawn up by other regional agencies including the Regional Development Agencies' regional economic strategies.

Sub-regional Planning

28. At present county structure plans form an intermediate tier in the planning system between Regional Planning Guidance and local plans drawn up by district councils (or in unitary authorities Unitary Development Plans). They are currently drawn up by county councils and translate regional policies into more detailed local objectives.

29. The Green Paper is proposing to abolish structure plans. It suggests that county boundaries are no longer relevant and the role performed by structure plans could be filled by the new statutory Regional Spatial Strategies and the Local Development Frameworks. It accepts that there may be a need for some sub-regional strategies but rejects the idea of comprehensive coverage and is unclear whether such strategies would have formal status.

30. Many submissions to the Committee argued that the abolition of structure plans would create an undesirable gap between the Regional Spatial Strategies and Local Development Frameworks, so making it difficult to implement regional policies unless there were alternative sub-regional strategies.²⁴ Structure plans were described as the glue between the regional and local plans.²⁵ The Royal Town Planning Institute stated: "Sub-regional strategies are an essential, not an add-on as implied in the Green Paper."²⁶

31. North Yorkshire County Council pointed to the fact that there is national coverage of the structure plans and many have been reviewed and updated on several occasions. The county council argued that the new Regional Spatial Strategies would be too remote to address sub-regional issues in an accountable way. It warned that giving the Regional Spatial Strategies control of sub-regional planning "would seriously undermine the principle of subsidiarity and result in greatly diminished accountability."²⁷ Oxfordshire County Council stated that while a key aim of the Green Paper was to make planning more locally responsive, strategic planning decisions would be made by a body remote from local communities.

32. The County Councils Network pointed to the complex arrangements which could be introduced if the Regional Planning Bodies had to deal directly with all the district authorities. It added that "by transferring responsibility for strategic land use from the 34 county councils to the 238 district councils and eight regional bodies, and leaving districts to prepare both Local Development Frameworks and Action Plans, the system would become more complex and less democratic."²⁸ Oxfordshire County Council argued that in the south east, the regional planning body would have to deal with 65 district and unitary authorities. "The result is likely that councils will feel increasingly disenfranchised from the regional planning system."²⁹

²⁴ A submission by England's RDAs (PGP32) argued that there should not be a presumption against totally coverage of sub-regional strategies pointing out that most RDAs are pursuing development and implementation of their Regional Economic Strategies through a variety of sub-regional partnerships. "The option should be left open for the new Regional Planning Bodies including the RDAs to determine as this could afford another opportunity to effect real integration between regional and local levels of activity."

²⁶ PGP52

²⁷ PGP24

²⁸ PGP 35 The County Councils Network proposes that Integrated Development Frameworks should replace county structure plans that would help coordinate a wide range of sub-regional strategies.

²⁹ PGP34

33. Many submissions pointed out that the proposed abolition of structure plans would pose problems for other strategic planning functions which are currently carried out by county councils including the management of waste, transport and, minerals.³⁰ As the County Councils Network explained, these functions need to be integrated into a land-use planning framework; it is not clear under the Green Paper proposals how that would happen without integrated and comprehensive sub-regional plans.³¹ The National Trust argued “The new sub-regional framework needs to be both universal in its coverage and as effective at engaging community interests as Structure Plans, if it is to provide a substitute.”³²

34. Several witnesses supported sub-regional strategies, and a number of views were put forward about the form they might take. The TCPA argued that “the administrative boundaries are rarely relevant to the geographical areas that need strategic planning.” It proposed that several districts and counties in an area should jointly develop strategic plans. The LGA proposed that Local Development Frameworks could in effect be strategic plans, if they were drawn up by several neighbouring authorities. “The emphasis would be on counties and districts agreeing an appropriate pattern based on arrangements that make sense geographically and socio-demographically.”³³

35. There is a need for an effective sub-regional planning system between the regional planning level and local plans. In addition, planning for waste, transport and minerals, which would continue to be carried out by county councils or their successors, should be effectively integrated into comprehensive sub-regional plans.

36. Some county boundaries are still relevant but others no longer reflect the way people live or work. Councils should be allowed to agree amongst themselves the appropriate strategic planning arrangements, which could include retaining county structure plans in some areas.

Planning at a district level

37. Local Plans are, for the most part, drawn up and adopted by district councils and National Park Authorities and Unitary Development Plans by unitary authorities, each being adopted following a public inquiry. The plans identify particular areas for housing, industry, retail or other uses, and set out the policies which the authority applies in deciding whether or not development will be permitted. In unitary authority areas, the UDP combines the function of the structure plan and also includes a broader set of strategic policies.

38. The Government argues that the local planning system is too complex, and that Local Plans and Unitary Development Plans are too long and inflexible and their preparation is expensive and slow. The Green Paper proposes that they be abandoned and replaced by Local Development Frameworks, which “would take less time to prepare, amend and keep up to date. They would provide business with greater certainty and provide communities with a clear means of getting involved.”³⁴ The frameworks would comprise a set of criteria for acceptable development but not include a comprehensive land use plan. The frameworks are intended to set out the land-use aspects of the proposals in local authority

³⁰ The Quarry Products Association in its submission (PGP3) said that county councils have been drawing up mineral plans since 1982 and that if they lose their structure planning role, they may not have the resources to continue drawing up the plans.

³¹ PGP35

³² PGP33

³³ PGP65

³⁴ Green Paper para 4.9

Community Strategies.³⁵ A range of detailed action plans, village plans would be prepared for smaller areas, and masterplans where major regeneration schemes are envisaged.

39. The Green Paper envisages a streamlined process for the preparation of the Local Development Frameworks suggesting that it would only take months. They would be reviewed annually and updated every three years. New forms of public consultation are also proposed (see para below).

40. The proposal for Local Development Frameworks was supported by several of the submissions to the Committee. Tesco suggested that they would be simple and straight forward, setting national and regional policy in context.³⁶ The CBI suggested that the frameworks would be effective if they were “concise and coherent.”³⁷ The Countryside Agency said that the Local Development Frameworks would help to coordinate the activities of a range of other bodies “to provide a truly integrated strategy for local areas.”³⁸

41. However, a number of shortcomings in the Government’s proposals were highlighted.

- The new system would not be simpler than the existing one;
- The reforms do not appreciate the importance of comprehensive land-use maps in local plans to provide clarity;
- The general criteria in Local Development Frameworks could be too vague to provide clarity for planning decisions;
- The new system may not gain the public confidence because individuals would lose the right to appear at a public inquiry to object to proposals in the local Development Framework;
- Many submissions questioned the scale of the problems said to be associated with current Unitary Development Plans and Local Plans. They suggested that the fundamental reforms were not necessary because the system had already been improved and they highlighted further changes which could speed up existing plan-making processes.

Will the Local Development Frameworks be simpler?

42. While some submissions to the Committee accepted that the current system was unnecessarily complex, they raised concerns that the new Local Development Frameworks would not be any simpler.

43. In its evidence to the Committee, The Royal Town Planning Institute, which in general supported the Green Paper proposals, highlighted the potential complexity of Local Development Frameworks. “As presently conceived, the LDF is likely to be too difficult for professionals to understand, let alone the community at large.”³⁹

44. The House Builders Federation warned that the frequent reviews proposed for the Local Development Frameworks will make them less comprehensible. “A constantly changing strategy will fail to deliver the certainty that developers need. This is particularly true in regeneration areas where developers and other investors need the confidence of continued local authority support.”⁴⁰

³⁵ The Local Government Act 2000 gave local authorities the duty to prepare Community Strategies which coordinated the actions of the council, the public, private, voluntary and community organisations and allowed local communities to articulate their aspirations, needs and priorities.

³⁶ PGP51

³⁷ PGP43

³⁸ PGP29

³⁹ PGP52

⁴⁰ PGP17

45. The proposals for a number of plans are seen as a problem. Surrey County Council and others raised concerns about the wide range of different plans being proposed - action plans, masterplans, village plans - alongside Local Development Frameworks and subregional strategies. It called on the Government to make sure that there is a clear relationship between them.⁴¹ The Royal Town Planning Institute pointed out that the LDFs may be shorter but there will need to be a portfolio of plans alongside them to cover all the issues affecting area. The Planning Officers' Society pointed out the need for close coordination between the various plans across a whole district. "There is concern that the proposals in the Green Paper for specific proposals to be contained in action plans would not work well in many areas because of the need to allocate and phase the release of sites for housing across a whole district and to define the operative areas for a number of different policies."⁴²

46. Lord Falconer acknowledged to the Committee that "there is too much fragmentation in the detail of the proposals," and accepted there will be a need to bring all the different plans together to provide clarity.⁴³

Will the criteria in Local Development Frameworks provide clarity?

47. There are concerns that the criteria-based approach in Local Development Frameworks will not offer the clarity of UDPs and local plans. Professor Grant told the committee: "Criteria-based policies, as we know them in other contexts (for example, structure plans, and local plans) are often 'aspirational' sometimes conflicting and inconsistent and sometimes so open-ended as to be of little value in decision-making."⁴⁴

48. The CPRE warned that if Local Development Framework policies are not sufficiently detailed the result will be longer delays and greater confusion as developers are encouraged to lodge speculative applications for 'white land' which is not subject to detailed planning policies.⁴⁵

Will a plan-led system without a comprehensive land-use map provide clarity?

49. Maps designating land uses have been the basis of local development plans since 1947, and in 1991 authority-wide land use plans were made a statutory requirement for both district and county authorities. However, the Green Paper argued that the preparation of comprehensive land-use maps was a key cause of delay in the adoption of Unitary Development Plans and Local Plans.

50. The need for a detailed, comprehensive land-use map in local plans was highlighted in many submissions. They were considered important in allocating sites for unpopular but necessary development. The National Housing Federation pointed to problems before 1991, when comprehensive plans were first required, that unpopular development was sometimes not allocated within the properly planned area and assumed to go in the area not mapped. "It is important that the new system does not allow that kind of buck-passing,"⁴⁶ it warns. The Environment Agency also argued that policies in the Local Development Frameworks should not apply to Local Waste Plans because of the need for detailed site allocations for facilities.

51. Hugh Ellis from Friends of the Earth told the Committee that the lack of a comprehensive land-use map would make Local Development Frameworks much harder to understand. "Everyone I work with in communities understands what a proposals map

⁴¹ PGP28

⁴² PGP60

⁴³ Q933

⁴⁴ Q631

⁴⁵ PGP38

⁴⁶ PGP55

is. It is a colouring-in exercise and they can see development by their houses and where things happen,” he said.⁴⁷

52. Lord Falconer indicated to us that a relatively detailed map would be required in Local Development Frameworks. He told the Committee that the maps would highlight major housing and employment sites, the green belt and conservation areas but that there would not be a specific designation for every part of the district.⁴⁸

Will the new Local Development Frameworks and action plans gain public confidence?

53. The Green Paper sets out a range of options for the public scrutiny of Local Development Frameworks and Action Plans;

- Local Development Frameworks could be subject to an examination in public or a public informal hearing;
- Action Plans which set out site-specific proposals would be subject to additional consultation. The Green Paper stresses the importance of landowners being properly consulted. It said: “It is important that people whose property rights are affected are allowed to make representations and heard if they wish to be;”⁴⁹
- New forms of community participation in the planning system are proposed. The statement of community involvement proposed as part of the Local Development Frameworks would set out how the community should be involved in the continuing review of the framework.

54. Unitary Development Plans and Local Development Plans are subject to a public inquiry which are open to the public to make representations. Many submissions to the Committee objected to the removal of the public rights to make representations about policies under the new proposals for Local Development Frameworks which limit the use of public inquiries. Hugh Ellis from Friends of the Earth commented that this would reinforce a trend of only recognising the rights of property owners. “We already live with a planning system where property rights almost uniquely give a privileged civil right of objection.”⁵⁰

Do Unitary Development Plans and Local Plans need to be replaced?

55. The delays in the preparation of Unitary Development Plans and Local Plans are no longer as great as the Green Paper notes. When the Green Paper was published, 13 per cent of local authorities had not yet adopted a Unitary Development Plan or Local Plan. The May 2002 report by the DTLR *Progress on Adoption of Area Wide Local Plans and UDPs*⁵¹ says that by the end of 2002, only five per cent of the local authorities will not have an adopted local plan which is only about 22 areas. Most of them are small district authorities, covering far less than 5% of the total population. Amongst Unitary Authorities, only Warrington is not expected to have adopted a UDP by the end of 2002, and this is a recently created unitary authority.

56. The Green Paper also argues that 214 current plans are now out of date, as they expired in 2001. However, the Government’s own assessment is that more than half of those authorities have placed an alteration or replacement plan on deposit, with the majority of the remainder expecting to do so this year. This does not amount to a hiatus in local development planning.

57. The drawing up and agreeing of Local Plans and Unitary Development Plans was initially slow. The process for drawing up local plans and Unitary Development Plans in

⁴⁷ Q235

⁴⁸ Q936

⁴⁹ Planning Green Paper 4.26

⁵⁰ Q237

⁵¹ Progress on Adoption of Area Wide Local Plans and UDPs DTLR May 2002

1991 was expected to be five years. **After ten years it is almost complete.** And the process is now much faster. David Lock, Chairman of the Town & Country Planning Association told the Committee: “It has been terribly slow, very expensive and unsatisfactory in many ways but we have been through that great loop, and amendments, revisions, updating of local plans are happening now very quickly. **Many years of investment are now yielding results.**”⁵²

58. Some submissions proposed ways to speed up the current plan-making system. The TCPA suggested that the introduction of a statutory timetable “could drive the local authority on and discourage or prevent members of whatever party prevaricating, delaying and ducking and weaving, which has certainly been the experience of the last ten years and has caused much delay.” The organisation argued that the preparation of local plans would be speeded up if the recommendations in an inspector’s report on a UDP or Local Plan after a public inquiry were made binding on the local authority. Increasing the number of skilled staff in planning departments would also have an important effect on the preparation of UDPs and Local Plans. We consider this in more detail below.

59. In addition, several submissions suggested that the Green Paper is unrealistic in suggesting that Local Development Frameworks could be drawn up in months: Tesco thought that at the very least it would take 18 months rather than the few months which is proposed.

60. The proposals for Local Development Frameworks have many failings and lack many of the advantages of Unitary Development Plans and Local Plans. The new Local Development Frameworks may be quicker to draw up but they are unlikely to be as clear.

- **They would be more complex than the simplicity offered by Unitary Development Plans and Local Plans and would provide less certainty;**
- **A complex array of plans at a local level would be created which would be fragmented and difficult to understand and coordinate;**
- **The frequent review of frameworks is also unlikely to provide the clarity and certainty sought by the Government and all parties;**
- **The Local Development Frameworks could cause considerable confusion because of the reliance on vague criteria;**
- **A plan-led system without a comprehensive land-use map would give rise to a great deal of uncertainty, delay in determining planning applications and a significant increase in planning appeals;**
- **The proposed Local Development Frameworks may not gain the confidence of local people. The new forms of community consultation for Local Development Frameworks are welcome as is the linking of the frameworks to Community Strategies, but they will not be an adequate replacement for the rights to appear at a public inquiry which are required for Unitary Development Plans and Local Plans.**

61. Retaining and improving Unitary Development Plans and Local Plans would be a better option than introducing Local Development Frameworks, since there would be certainty and continuity as well as the retention of public confidence in the system. The process of drawing up and adopting Unitary Development Plans and Local Plans has been slow, but it is now almost complete. **Considerable progress has been made in solving the problems and further improvements could be made if:**

- **the plans were approved by inspectors after a public inquiry;**
- **rigorous preparation timetables were laid down and enforced with appropriate penalties; and**

⁵² Q519

- **repetition of policies in structure plans and regional planning guidance was removed.**

62. The revision of plans should not cease because of the proposals for reform, as Lord Falconer stated.

Development Control

63. The Green Paper sets out a large number of proposals designed to speed up the processing of planning applications and to encourage developers to start on site more quickly. Our terms of reference did not include a special focus on the development control aspects of the Green Paper, so the submissions we received on this were not extensive. Nevertheless there was a broad welcome for many of the Government's detailed proposals for improving the development control system, notably:

- the project management of planning applications with 'delivery contracts' for large developments;
- improved councillor training in planning issues;
- greater use of pre-application consultations;
- greater use by local authorities and the Planning Inspectorate of electronic media for consulting and involving the public;
- the requirement for the Secretary of State to give reasons for not calling in planning applications;
- a user-friendly checklist to assist applicants for planning permission.

64. The Committee welcomes some of the adjustments to the present development control system. We strongly support the proposal that re-applications should not be automatically accepted. None of these proposals requires primary legislation, and they illustrate the kind of evolutionary approach to improving the planning system which will bring general benefit.

65. Separately from those proposals in the Green Paper's for development control on which there was general agreement, submissions highlighted four areas of particular concern, all of them aspects of the Government's efforts to speed up decisions on planning applications: Submissions to the Committee raised concerns about four proposals:

- the timetable proposed for local authority consideration of planning applications;
- limiting planning approvals to three years rather than the current five;
- a target of 90 per cent of planning decisions being taken by officers on delegated authority and;
- statutory consultation.

The timetable for the consideration of applications

66. The Green Paper proposes a series of targets for the consideration of residential and business applications by local authorities. The timetable is more sophisticated than the current eight weeks target for 80 per cent of planning applications. The Green Paper suggests that 60 per cent of major business or industrial applications should be considered within 13 weeks.

67. Witnesses were concerned that allowance needs to be made for the schemes which are complex and contentious and cannot be considered within the tight timetables. The Environmental Services Association pointed to the time required to consider complex applications for waste and secondary resource management developments. "We believe that the Government must closely monitor the management of applications to ensure that the targets are not met through prematurely curtailing debate and discussion."⁵³

⁵³ PGP25

68. We were told that rather than being bound by a set of general targets, local authorities and developers should jointly agree individual timetables for the processing of complex major schemes.

69. Targets for reaching decisions are useful to provide guidance for local authorities on operating an efficient development control system, but considerable flexibility is required to allow for complex applications which cannot be considered within the timescales. It should be remembered that delays can be due to the developer as well as the local authority.

Limiting approvals to 3 years

70. The proposal to limit planning permissions to three years rather than the current five years was criticised on the grounds that complex regeneration schemes required a considerable time to assemble sites and secure funding. The British Urban Regeneration Association warned that “It would undermine an investor or developer’s appetite for larger and more difficult regeneration schemes.”⁵⁴

71. In contrast, the Local Government Association supported the proposal to limit the life of a planning application to three years on the basis that it would act as a spur to developers to start on site. However it suggested that some local discretion should be allowed “where applications are reliant on complex land assembly.”⁵⁵

72. The Committee supports the proposals to reduce planning permissions to three years. However it is important that a ‘standard’ time limit is not applied in cases where a longer implementation period is justified by the applicant. There should be an opportunity for local variation where appropriate.

Delegated powers

73. The proposal that 90 per cent of planning decisions should be taken by local authority planning officers under delegated authority is intended to reduce delays caused by applications having to be considered by planning committees.⁵⁶ This would standardise the system of formal delegation on schemes which most local planning authorities already have in place to varying extents. Submissions argued that many applications can be determined by officers, but the decision to delegate an application should not be influenced by having to achieve an arbitrary target.⁵⁷ The Local Government Association considered that the target is not consistent with good practice. It urged that increased delegation should be at the discretion of local authorities and not an imposed national directive.⁵⁸

74. The delegation of planning decisions to officers should be based on their nature and not subject to an arbitrary statistical objective. **The 90 per cent target is arbitrary, and no justification was given for it. If the Government decides to go forward with the target that 90 per cent of planning applications should be delegated to officers, it should advise Local Planning Authorities on the types of application which might be suitable for delegation to officers (eg householder applications) and the circumstances in which officers could decide applications without infringing democratic accountability (eg where there are no local objections and the Chief Planning Officer would recommend approval). All local authorities should be required to monitor delegated decisions. The Government should reiterate the seriousness with which it would view attempts to influence officer decisions by inducements.**

⁵⁴ PGP48

⁵⁵ LGA response on the Green Paper to the DTLR

⁵⁶ Q286 The Planning Officers’ Society told the Committee that currently between 75 and 85 per cent of planning applications are delegated to officers

⁵⁷ The Bloomsbury Conservation Area Advisory Committee (PGP61) suggested that the 90 per cent target “would ensure that the vast majority of decisions will be taken behind closed doors.”

⁵⁸ PGP65

Statutory Consultation

75. The Green Paper suggests that statutory consultees, who by law have to be consulted on particular types of planning applications, are a major source of delay when local councils determine planning applications.

76. There are two kinds of consultees:

- statutory consultees which include public agencies such as the Environment Agency, English Heritage and the Civil Aviation Authority and County Councils as well as specialist organisations such as the Garden History Society; and
- a large group of non-statutory organisations which councils are recommended to consult on certain types of planning application such as the Commission for Architecture and the Built Environment and the Ramblers' Association.⁵⁹

77. The Green Paper sets out a number of proposals that are designed to speed up consultation. These include:

- limiting statutory consultees to bodies whose advice has health and safety implications or which operate another parallel consent regime;
- encouraging developers to consult statutory and non-statutory consultees before making a planning application and allowing consultees to charge a fee for these pre-application discussions;
- enabling consultees to charge for their responses if delivered within an agreed timescale; and
- imposing a statutory timetable for responses by consultees to consultation requests.

78. Some of the statutory consultees have made submissions to the Committee highlighting the value of their specialist input into the consideration of planning applications. The Garden History Society pointed to its role in protecting historic parks and gardens which complements the work of English Heritage.⁶⁰ The Environment Agency highlighted its role in making important representations about development proposals on flood plains.

79. The Garden History Society pointed out that local authorities do not have to wait on a response from statutory consultees before determining a planning applications if they do not respond within the consultation period.

80. English Nature suggested that the proposal to allow consultees to charge applicants a fee for pre-application discussions could be counterproductive. It was concerned that charging fees would deter applicants from consulting it and could compromise its independence.⁶¹ "If a fee arrangement was introduced, it would give our organisation a quasi-consultancy role in the planning process which would compromise our independence as Government's statutory advisor."⁶²

81. The Government published a report last year, which recommended ways to speed up the input from statutory consultees.⁶³ The proposals included:

- local authorities encouraging and facilitating pre-application discussions and ensuring that all the necessary information is sent to consultees; and
- ensuring that consultees make available resources and staff to facilitate and

⁵⁹ Article 10 of the Town & Country Planning (General Development Procedure) Order 1995 lists the 'statutory consultees which local authorities are required to consult about specific categories of planning applications. 'Non-statutory' consultees are listed in Appendix B to DoE Circular 9/95 and a range of other planning circulars and guidance notes.

⁶⁰ PGP11

⁶¹ Q683

⁶² English Nature's response to the DTLR on the Planning Green Paper para 8.8

⁶³ Statutory and Non-Statutory Consultation Report DETR 2001

participate in pre-application discussions and make prompt submissions.

82. Statutory consultees have an important role in contributing specialist advice to local authorities on planning applications. The proposal to reduce the number of statutory consultees would not in itself reduce the time taken for consultees to respond, since it takes only one key consultee to cause a delay. Furthermore, authorities are not obliged to wait anyway.

83. The proposal that statutory consultees should charge for pre-application discussions would not be helpful and could compromise their independence.

84. Last year the Government published a report which sought to improve the current arrangements by ensuring that:

- **local authorities facilitate pre-application discussions with statutory consultees;**
- **consultees are required to allocate sufficient resources and put in place systems to respond promptly to planning applications.**

We recommend that in place of its proposals to reduce the number of consultees, the Government introduce these recommendations.

Consultation

85. Witnesses recognised that there was a need for better consultation. We support the proposal that all local authorities should be required to publish their consultation arrangements. The Department should issue clear guidance and examples of best practice.

Third Party Rights of Appeal

86. Many organisations, particularly environmental groups have in the past called for third party rights of appeal against planning decisions. The Green Paper dismisses this proposal which would allow people who have a view about a planning application, whether they are, or not affected by it, to appeal to the Secretary of State against a local authority's decision. It suggests that third party rights of appeal could add to the costs and uncertainties of planning. It says "the right way forward is to make the planning system more accessible and transparent and to strengthen the opportunities for community involvement."⁶⁴

87. Many submissions to the Committee argued that third party rights of appeal would help to build up confidence in the planning system. Neil Sinden from the CPRE told the committee "Sometimes things go wrong and for public confidence to be maintained, there needs to be a safety net."⁶⁵ The CPRE suggested that third party rights of appeal should be allowed against decisions on major schemes which were departures from local plans or where a local authority grants planning permission to itself. Professor Macrory from the Royal Commission on Environmental Pollution accepted that giving third party rights of appeal would be unlikely to speed up the planning system but said that it would strengthen the planning system's ability to deal with public concerns. Moreover, they could reduce the number of judicial reviews which were in fact challenging the merits of schemes although they were disguised as legal appeals.⁶⁶

88. There is a particularly strong case for the additional scrutiny of decisions where a council is determining an application, which it has made to itself. In Wales, the possible conflict of interest has been identified, and the Assembly's planning reforms set out two options for considering major planning applications made by a local authority. Either an independent hearing would be set up to consider the planning application or it may be

⁶⁴ Planning Green Paper 6.23

⁶⁵ Q242

⁶⁶ Q320

called in for public inquiry. The Minister for the Environment, Planning & Transport in the Welsh Assembly Sue Essex emphasised to the Committee the importance of transparency of local authority decisions when their own interests are concerned.⁶⁷

89. Rather than maintain third parties' existing rights in the planning system, the Government's proposals will erode them. Although interested parties – from individuals to large corporations – currently have no right to a hearing for their grievances about a local authority's intention to approve a planning application, they do all have a right to pursue objections to proposed policies in Local Plans and Unitary Development Plans. These objections can be heard in front of an independent Inspector. This enables a sound policy basis to be established for deciding subsequent planning applications. By proposing to remove third parties' rights to have their objections to draft policies heard formally, substituting a vaguer system of 'examination', what is in effect a third party right of appeal against a draft policy will be removed from the one arena where this now exists.

90. The Green Paper does not adequately consider the need for third party rights of appeal. Greater community participation at the pre-application stage is not a substitute for the legal right to appeal against a decision. External scrutiny is required to avoid the potential conflicts of interest between the local authority as planning authority and the local authority as property owner or developer with a pecuniary interest in the result of a planning application. The National Assembly for Wales' approach to reviewing planning decisions made by councils concerning land that they own should be monitored with a view to its possible adoption in England.

91. The existing right of third parties to object to draft policies in Local Plans and Unitary Development Plans, and to pursue these to inquiry in front of an independent Inspector if unresolved by the local authority, is a vital third party right. We recommend that it should not be watered down. Third parties should have the right of appeal where there has been a significant departure from the Local Plan or Unitary Development Plan.

Business Planning Zones

92. The Green Paper proposes to create 'Business Planning Zones' where a proposed development would not require planning permission if it conformed with a set of tightly defined parameters.

93. The Government says there would be at least one zone in each region which would be planned by the local authority in collaboration with universities, RDAs and 'leading edge' companies. They would provide sites "to meet the needs of fast moving businesses such as our leading-edge technology companies."⁶⁸ It is envisaged that the kind of industry attracted to the zones would have no significant impact on the infrastructure. Attractive locations rather than those in need of renewal are likely to be targeted.

94. The proposal was welcomed by the CBI which argued that the zones would positively encourage business development.⁶⁹ However, it was strongly opposed by a large number of the submissions to the Committee which suggested that:

- the zones were not needed: Simplified Planning Zones, a similar initiative, dating back to 1987 resulted in very few zones being created and little allowable development in them; and
- the zones could lead to unsustainable car-based development.

95. There is little evidence that planning controls are restricting technology-based

⁶⁷ Q780

⁶⁸ Planning Green Paper 5.36

⁶⁹ Q592

development. A study for the DETR in 2000 by the consultancy ECOTEC into the planning system and the creation of clusters suggested that few councils had developed effective planning policies to promote clusters “however there were few examples where planning controls had constrained development.”⁷⁰ The report also highlighted examples of how councils have used the current planning system to encourage the growth of clusters. There are many examples of new developments for high technology companies on brownfield sites, which have been promoted without the need to relax planning controls.

96. Many submissions suggested that almost all development places some demands on the surrounding area. The National Housing Federation pointed to the need for housing for the employees in the development in the zones. The submission by the Institution of Highways and Transportation highlighted major problems with controlling the impact. “Many of the impacts of the zones would be outside the zone and possibly in a different administrative area”.⁷¹ It also raised concerns that the zones would be detrimental to wider sustainable development objectives if there were no controls on parking, leading to car-based development and additional demand on already congested roads. The Surrey Local Government Association commented: “Business Planning Zones appear simply to recreate the unsuccessful Simplified Planning Zones.”⁷²

97. The proposal for Business Planning Zones appears to be based on the misconceived idea that the planning system is stopping desirable development rather than helping to enable it. There is no evidence of this. The zones are unlikely to encourage significant amounts of development, but there is a serious danger that the development which they will attract, will be car-based and of a lower standard than if they had been subject to normal planning controls. The best means of promoting sites for high technology development is using the existing planning system.

The Environment

98. An important underlying theme in the Green Paper is to make the planning system meet the needs of business. It states: “There will be a fundamental change in planning so that it works much better for business.”⁷³

99. Many submissions to the Committee raised concerns that the reforms put the interests of business ahead of social and environmental issues. The Council for National Parks said that the key role of the planning system was to deliver sustainable development and to ensure effective protection of the countryside. It argued that the Green Paper puts economic before social and environmental progress “which does not accord with the principles of sustainable development.”⁷⁴ Friends of the Earth suggested that the Government was ignoring the fact that business interests were already in a dominant position when it comes to influencing the outcomes of local plans.⁷⁵

100. The Royal Commission on Environmental Pollution argued that the general presumption in favour of development which has been a strong implicit feature in the planning system, should no longer apply.⁷⁶ It recommended that new legislation governing the planning system should stipulate the key aspects of the environment and natural resources to be taken into account in considering all planning applications.

101. The Green Paper seems to take the superficial view, supported by the Treasury, that the reforms of the planning system are needed because it is acting as an inappropriate

⁷⁰ Planning for Clusters DTLR June 2000 p50

⁷¹ PGP49

⁷² PGP16

⁷³ Planning Green Paper 2.10

⁷⁴ PGP 14

⁷⁵ PGP18

⁷⁶ RCEP's 23rd Report on Environmental Planning March 2002 p4

constraint on commercial freedom. Whilst obtaining planning permission is a chore for the business community, they see high quality development and surroundings as very important at the same time. This can only be secured through an effective planning system. However, the vast majority of the business community sees high quality development as very important which the planning system can help to facilitate.

102. We agree with Lord Falconer, who responded to some of the fears expressed to the Committee that the planning system should encourage sustainable development which “promotes the environment. It has got to have an economically sustainable future and it has got to make a significant contribution to the social fabric.”⁷⁷

103. There is a ‘business’ agenda running through much of the Green Paper. It largely ignores the environment while supporting business development. The planning system is the key bulwark in preventing urban sprawl and restraining unsustainable development and should not be subservient to the requirements of business. The reforms should stress the need for the planning system:

- **to protect the countryside and improve the quality of the built environment;**
- **to minimise the use of natural resources; and**
- **to reduce the need to travel.**

⁷⁷ Q891

Planning Obligations

104. The Government published alongside the Planning Green Paper proposals to change the current planning obligations system which it said was unpredictable, time consuming, expensive, opaque and unaccountable, and operated unevenly between different developments and different authorities.⁷⁸

The Government's Proposals

105. The Government proposes to change significantly the purposes of legal agreements in planning (planning obligations) between developers and local authorities, and to extend considerably the occasions on which such agreements could be needed. At present, legal agreements are used primarily to overcome obstacles to development which cannot be resolved by conditions on planning permissions, notably arrangements for resolving problems away from the site of the planning application, providing for cash payments rather than specified actions, controlling the occupancy of development, or limiting the goods that can be sold from a site.

106. The Government's proposes that in future planning obligations should meet additional objectives to:

- enhance the quality of the development and the wider environment;
- ensure that development makes a positive contribution to sustainability;
- increase the supply of affordable housing and public spaces; and
- fund the facilities and infrastructure to accommodate growth.

107. The principal vehicle for delivering these benefits will be a system of tariffs. There would be amounts of money payable by the developer and known in advance, rather than negotiated, for any particular size and type of development. Applicants proposing a much wider range of developments than at present would be expected to enter into legal agreements, so that tariff payments would be widely applicable. The details of the developments which would incur tariffs, how much and under what circumstances, would be left to local choice through the new Local Development Frameworks.

108. The Government also proposes to improve the procedures for reaching legal agreements. There should be greater certainty for developers about what would be expected from them, greater clarity of procedure so that conclusions can be reached quickly and with reduced legal costs, and greater transparency for all concerned (including the public). The Government proposes to improve the practical operation of the planning obligation system by:

- making documents publicly available;
- local authority monitoring of agreements and accounting for income;
- efficiency in handling applications accompanied by planning agreements;
- encouraging the use of standard terms in planning agreements wherever practicable;
- a dispute resolution mechanism.

Submissions to the Committee

109. The proposals brought a diverse response. The local authorities and the Royal Town Planning Institute gave it qualified support. The Royal Town Planning Institute argued that the new scheme would improve the process by providing greater clarity and openness but it accepted that further detailed work is required before the approach can be implemented. The Association of London Government and other local authorities suggested that tariffs would give greater certainty about what would be expected from schemes.

110. On the other hand, many organisations highlighted major problems with implementing the proposals. These focussed on:

⁷⁸ Reforming Planning Obligations: a Consultation Paper - delivering fundamental change DTLR December 2001

- the complexity of setting the tariff;
- fears that other grants may be reduced if income from planning obligations is increased;
- concerns that the private sector were being asked to pay for local benefits not connected with developments;
- councils approving inappropriate developments to secure tariff payments from them;
- tariff payments not maximising private sector contributions if they were set too low and deterring developers if they are set too high;
- developers being asked to contribute two forms of planning obligations - site related costs and the tariff;
- differing views on how the income from tariffs should be used; and
- tariffs being an inequitable tax helping those areas with high land values.

111. The Committee considers that the Government's proposals and submissions on them fall broadly into two categories:

- procedural aspects which are aimed at clarifying and speeding up the planning obligations system; and
- funding aspects which are aimed at improving the quality of development and local planning as a whole.

Below we evaluate the proposals under these headings.

Procedures for clarifying and speeding up the planning obligation system

112. The Government's proposals on how the new tariff system would work in detail are sketchy in the Green Paper. The contribution they would make to meeting the Government's objectives for speed and clarity in development control depend on how they are implemented. This section briefly examines some of the key issues.

113. The details of a tariff system would be difficult to decide upon in the first instance, even if the package was then clear and transparent to implement. The Royal Institution of Chartered Surveyors argued: "A sophisticated system would be required, better able to take into account areas where there are low property values, where development is economically marginal and where there is a need to maximise brownfield sites." Lord Falconer accepted that the ability to pay a tariff would vary from one area to another due to different land values, and between sites with different characteristics in the same area, such as greenfield and brownfield sites.

114. A new income stream for local authorities would arise from tariffs, and some submissions, such as that by the Association of London Authorities, feared that this could prompt the clawing back by Government of other grants to local authorities, negating the benefit of the additional money raised. Lord Falconer reassured us that he did not expect any change in the present system whereby gains to local authorities from planning agreements are outside the formula for assessing local authority spending requirements. However, this would not necessarily cover other sources of assistance such as funds from the Housing Corporation. The Association of London Government suggested that if substantial amounts of money raised by tariff were used for affordable housing, the Housing Corporation might adjust downwards its grant levels in those local authorities more able to raise funds through tariffs. Furthermore, there is a risk that intentions change over time.

115. Planning obligations at present must be directly connected with the development permitted. The Government's proposals would change this, with tariff payments being generated for a variety of purposes which need have no functional relationship with the development permitted. For example, concern has been expressed before about the drift towards planning obligations funding local benefits with only tenuous connections with the development, and with developers being arm-twisted to provide the benefits in return for

the permission. The Nolan Committee on Standards in Public Life advocated a stronger constraining of planning obligations to those circumstances in which they were legally required to enable development to proceed – a ‘necessity’ test. The Government’s proposals have been criticised for dropping this test, by the British Property Federation and the Royal Institution of Chartered Surveyors.

116. One worry is that local authorities could be swayed to permit inappropriate development in order to secure the tariff, especially as the Government proposes that all tariffs should be retained locally. The implied result, of buying planning permission and planning control becoming part of the revenue-raising system, could be worse than the current negotiated arrangements.

117. There is uncertainty about the levels at which tariffs will be set. If they were set at a low level then:

- insufficient funds might be generated for all the benefits which the Government has in mind;
- some schemes might raise less tariff than under currently negotiated arrangements, and in particular there would be a risk of ending up with fewer affordable homes than are achieved at present through the planning system; and
- many schemes would be allowed to proceed without paying as much in tariffs as they could comfortably afford.

118. Alternatively, if tariffs were set at a high level, more development could be expected to be choked off altogether by the tariff burden. Prospective developers might delay investment in the hope that a future change of policy would revise tariff levels downwards. The Town and Country Planning Association suggested to us that “if society takes more than about 20 per cent of the uplift in land value, landowners will simply hold back land hoping for the wind to change.”⁷⁹

119. There is some uncertainty about the treatment of site-related costs needed to overcome practical obstacles to development under the tariff system. The Royal Institution of Chartered Surveyors asked whether the tariffs would be additional to the costs of overcoming the site-related problems, or whether site-related costs would be paid for out of the tariff. If tariffs are additional to negotiations on site-related costs, and negotiated agreements therefore continue, there is a risk that the procedural problems which tariffs were designed to remedy, especially delay, will simply continue.⁸⁰

120. The additional tariff could discourage development on precisely those more difficult sites where the Government is trying hardest to achieve investment, such as derelict sites needing regeneration. That problem could be addressed by reducing across the board the level of tariff payable, but that in turn would prompt the difficulties of low revenue noted above. Alternatively, some classes or areas of development could be free of tariff or it might be paid at a reduced rate introducing foreseeable complexity and endless special pleading.

121. There were differing views about what the funds raised by tariffs should be spent on. The National Housing Federation asked for as much as possible to be spent on affordable housing, in line with the Government’s proposals, whereas the Association of London Government does not wish money to be spent exclusively that way.⁸¹ More fundamentally, there are objections, especially from developers, to new development being asked to carry the burden of extensive costs for public benefit. The House Builders’

⁷⁹ PGP36

⁸⁰ This point was also made by the British Property Federation in its submission to the Committee PGP47

⁸¹ The Chartered Institute of Housing (PGP39) suggested that councils would be given more flexibility in their use of private sector contributions but that the amount allocated to affordable housing could be reduced.

Federation, for example, argued that house builders cannot be expected to foot the bill for the country's long term investment in social housing.⁸²

122. Depending on the uses of the tariff raised, there is a risk that the tax would be inequitable. This arises because each authority would have the right to keep all its tariff for local use though it could be shared with neighbouring authorities to tackle cross-boundary issues. Those areas capable of raising more money would have more to spend on public services, whilst areas with weaker land values would not have as much. The British Urban Regeneration Association argued that the tariff system could be regressive creating "north-south inequalities and boundary effects."⁸³ It suggested that there should be sufficient flexibility for the transfer across boundaries from richer to poorer areas.

123. There is a clear case for local variation in tariff levels to reflect ability to pay the tariff from land values, but there is a risk that the choice offered to local authorities on when and from whom to raise tariff, how much, and when to waive it, all risk creating local incentives in pursuit of ulterior motives. For example, tariffs could be set to discourage or encourage development overall compared with neighbouring authorities, or to discourage necessary but locally undesirable facilities, as the National Housing Federation argued to us. The Government has promised guidelines within which local authorities will be required to exercise these choices.

124. The Government's proposals for tariffs would replace one form of complexity with another. Instead of site by site negotiated solutions after the submission of planning applications, enormous effort would be required to establish the basis for tariffs around the country, authority by authority, at the forward planning stage.

125. There is a danger that the change to the tariff system will affect the Government's grant to local authorities.

126. However, the Government's other proposals (see points above) for improving the practical operation of the planning obligation system would tackle many of these objectives without the need for changing the whole basis of the system. We recommend that the Government introduces those procedural changes first as outlined above, and only revisits more radical options for reforming the planning obligations system to improve its speed and transparency if significant problems remain in five years' time.

Funding an improved built environment

127. The Government's proposals extend well beyond procedural reform. The tariff is seen as a mechanism for requiring development to fund a range of new objectives. Both the sources and the applications of the funds need investigation.

128. The source of the funds which will pay a tariff is assumed by the Government to be the increase in land value which arises when planning permission is given for a higher value use. Tariffs are therefore a tax on development value.

129. The purposes to which the funds will be applied take the purposes of planning well beyond good land use and into the realms of revenue raising. There is a fundamental risk that the integrity of the planning system will be put at risk by local authorities having a stronger eye on the receipts from the tariff than the merits of development proposals.

⁸² McCarthy & Stone (PGP13) fundamentally opposed the very principle behind the tariff "that a developer should pay for wider community benefits that bear no relation to his development." It suggested that the consumer would pay with higher house prices.

⁸³ PGP48

130. There is also a question of equity. It is argued that only those local problems which are the consequence of high land values should be addressed by tariff, since, on that basis, tariff would be recycled in direct proportion to the scale of the land value problem. As the provision of affordable housing is the only intended beneficiary of tariff which falls into this category, we support the principle in the consultation paper on *Reforming Planning Obligations* that “the affordable housing element may represent a large proportion of the overall tariff” (para. 4.19).

131. The Government needs to undertake substantially more work to demonstrate that funding affordable housing by tariff rather than by the current system of negotiation will clearly produce significantly more affordable housing.

132. Taken together, there remain too many loose ends in the proposals for the Government to proceed with tariffs without considerable further thought. Professor Grant from Cambridge University’s Department of Land Economy told us that the Government’s plans are not clearly spelt out. “This is a document which advances headline ideas, rather than offers reasoned argument,”⁸⁴ he says. He points out that it fails to set out criteria by which tariffs would be set. If there are to be reductions or waivers, it will be important to ensure that the criteria and the machinery are spelt out in the tariff negotiations and not left to individual negotiations. He says that detailed procedures will need to be spelt out for rights of consultation, participation, objection or hearing.

133. We were heartened that Lord Falconer wishes to consult on the details of the emerging scheme⁸⁵ and on the Government’s advice to local authorities, but, nevertheless, feel that the proposal to introduce a tariff requires considerable further development before the Committee can take a view on whether it is workable.

⁸⁴ PGP64

⁸⁵ Q864

Major Infrastructure Projects

134. Large scale infrastructure projects are generally complex and often need to be approved under a variety of statutory regimes. Nearly all of the authorisation processes involve a public inquiry. The rules of public inquiries provide rights of hearing to the principal parties and to other persons at the inspector's discretion, such that everyone is allowed to put forward their point of view. In general, the inquiry system commands wide public confidence and respect.

135. In July 2001 the Government announced 'a package of measures to speed up planning decisions on major projects in order to minimise delays and uncertainty for everyone involved, while increasing opportunities for public involvement in the process'. The package included a proposal that there should be new procedures to enable Parliament to approve a project in principle before detailed examination at a subsequent public inquiry. In December 2001 the Government published, in association with the Green Paper, a consultation paper, entitled *major infrastructure projects: delivering fundamental change; New Parliamentary Procedures for Processing Major Infrastructure Projects*, which claims that the proposals "will not reduce people's involvement in the process."⁸⁶

136. It is widely agreed that the total time taken at present from the initial proposal to the final authorisation of major infrastructure projects can be too long. However, witnesses were concerned that the Government had placed too much emphasis on attempts to reduce the length of time taken by the public inquiry when, with one or two exceptions, this was not a major cause of delay. The proposals do address other, and more serious problems, including streamlining pre-construction phases of road projects and reducing the length of time the Department takes to process the inspector's report after a public inquiry. Unfortunately they do not mention, let alone confront what is, in our experience, a major source of delay, namely the reluctance of Ministers (of all Governments) to bring forward proposals or announce decisions for fear of the electoral consequences.

137. The Government's announcements seemed to have been timed to coincide with the decision about Heathrow Terminal 5, as if the long delay was typical; the evidence which we received indicated that Terminal 5 was quite exceptional.

The Government's proposals

138. The proposals in the Government's Consultation Paper include:

- up-to-date statements of Government policy before Major Infrastructure Projects are considered in the planning system;
- a mechanism for deciding which projects are to be treated as Major Infrastructure Projects;
- a new procedure which would give Parliament the opportunity to approve projects in principle prior to consideration of detailed issues at public inquiry;
- amended public inquiry procedures; and
- reductions in delays at other stages of the process.

We consider each of these proposals below.

National Policy Statements

139. The Green Paper proposes that the Government publish up-to-date statements of Government policy (national policy statements) which set out the context for new infrastructure projects. Such statements will not only very usefully set out Government policy, but will also save time at any subsequent inquiry itself because it will be unnecessary to determine what Government policy is. The individual national policy statements should be related to the National Spatial Strategy.

⁸⁶ *New Parliamentary Procedures for Processing Major Infrastructure Projects*, (MIP paper) DTLR, December 2001, para 7.

140. The submissions to the Committee in general supported the proposal. We were told that they should be brought forward in good time. Given their significance it will be of the utmost importance that they should be put out to consultation, as proposed, and considered by Parliament on a substantive motion.

141. We strongly support the proposal to introduce National Policy Statements. They should be the subject of public consultation after which they should be debated by Parliament on an amendable, substantive motion. If they are prepared well in advance of projects coming forward, they will be a major step forward. The policy statements could take a variety of forms:

- **in some situations they would indicate a need to make provision within a region, leaving the regional guidance to indicate a suitable site for the particular facility;**
- **in others, they would need to indicate a range of options or a precise location or route corridor.**

The policy statements should relate to the National Spatial Strategy.

Identification of Major Infrastructure Projects

142. Annex C of the *major infrastructure projects* Consultation Paper defines the projects proposed for major infrastructure project status. Many of the submissions to the Committee expressed concern about the list in the Annex. The Local Government Information Unit suggested that the categories proposed in the Major Infrastructure Projects Paper “were far too wide.”

143. In the new Town and Country Planning (Major Infrastructure Inquiries Procedure) (England) Rules 2002⁸⁷ (MIP inquiry rules), the Schedule appended to the rules contains a list of projects similar but not identical to that in Annex C of the Major Infrastructure Projects paper. The Circular accompanying the rules explains that Major Infrastructure Projects “may be of national significance or be major regional or sub regional projects”.⁸⁸ The new rules will give rise to many projects a year being declared Major Infrastructure Projects for planning purposes.⁸⁹

144. We recommend that the Secretary of State have the power to designate projects as Major Infrastructure Projects by the new Parliamentary process, but emphasise that he should only select Major Infrastructure Projects of truly national significance for authorisation. We are concerned that both the list of potential Major Infrastructure Projects in Annex C of the Government’s paper,⁹⁰ and the list contained in the Town and Country Planning (Major Infrastructure Inquiries Procedure) (England) Rules 2002 are far too broad.

The proposed Parliamentary procedures.

145. The Government also proposes that there should be a new parliamentary mechanism for considering any Major Infrastructure Project which the Secretary of States brings forward. Parliament would consider it in principle, and agree the need for it and its location. Thereafter, the Government proposes that there should be a public inquiry, but its remit will be restricted to detailed issues of its implementation on the ground. The Consultation Paper states:

⁸⁷ SI 2002, No.1223

⁸⁸ DTLR Circular 02/2002. *Planning inquiries into major infrastructure projects: procedures*. Para. 5.

⁸⁹ The Rules only apply to planning, listed building and conservation area consent applications.

⁹⁰ See MIP paper, paras. 16-17.

These issues would include, for example, the precise alignment and layout of the proposal, landtake, mitigation measures, conditions and legal agreements. It follows that there would be need to be provision to preclude the Inspector from recommending against the principle of the project.⁹¹

146. *Major Infrastructure Projects: delivering a fundamental change* suggests that after designation of the project as a Major Infrastructure Project the Secretary of State would lay details of the application before each House of Parliament. There would then be a period of 42 days for objections to be made. The Secretary of State would not be able to lay a draft Order proper until a period of 60 sitting days had elapsed. The two periods - 42 and 60 days - would run concurrently. When he appeared before us Lord Falconer, the then Minister of Planning and Housing, had realised that the timetable was too tight, and acknowledged that parliamentary scrutiny would need to be longer.⁹²

147. The Government has stated that it is for Parliament to decide how it should consider an The Major Infrastructure Project, and the Procedure Committee is also examining the proposals. In oral evidence, Lord Falconer suggested that parliamentary consideration take the form of a select committee inquiry. He thought that this would be more an investigative than a quasi-judicial hearing: “it would be more like a select committee hearing than a sort of semi-court case that private bills have frequently become”.⁹³ The select committee would decide who to call to give evidence, and there would be no right to appear before it.⁹⁴ The select committee’s role would be advisory: it would report to the House which would come to a decision. A similar procedure would be followed in the House of Lords.

148. An alternative, which the CBI alluded to and which we consider below, would be an extension of the Transport and Works Act to cover all Major Infrastructure Projects selected by the Secretary of State for the new Parliamentary procedure.⁹⁵

149. Under the Government’s proposals, after Parliamentary consideration, the project would go to a public inquiry. According to The Major Infrastructure Projects paper the Inspector conducting the inquiry would be required to take as read the principle of, need for, and location of the project and focus on the detailed issues of implementation on the ground. The Inspector would be precluded from recommending against the principle of the project. But the Consultation Paper adds that the decision-making process needs to cater for the possibility that problems may be identified that cannot be rectified through the imposition of conditions and casts doubt on the wisdom of proceeding with the project as proposed.⁹⁶

Assessment of Parliamentary proposals

Will the parliamentary process speed up decision-making?

150. The main purpose of the proposals is to minimise delay and uncertainty. But there is no guarantee that that will be achieved. Lord Falconer admitted to the Committee that it was “obviously very difficult to say if there would be any time-savings.”⁹⁷ As he acknowledged Parliament might take a Parliamentary session to examine a major project.⁹⁸ We asked for examples of where the new procedures would have saved a considerable

⁹¹ MIP paper, para 21.

⁹² Q953, Q958.

⁹³ Q951.

⁹⁴ Q952.

⁹⁵ In the CBI’s response to the DTLR Consultation.

⁹⁶ MIP paper, paras. 21-22.

⁹⁷ Q 476-vi, p. 65, Q948.

⁹⁸ Q 476-vi, p.69, Q958

amount of time over the old. The only one he gave was the public inquiry into plans for a fifth terminal at Heathrow Airport. Despite being pressed, he gave no other examples.

151. The Government admitted in *Major Infrastructure Projects: delivering a fundamental change* that “There have been only a few projects in the last 15 years where inquiries have lasted more than 3 months”. It adds that the “longest planning inquiries have lasted years”. In addition to Heathrow Terminal 5, the Paper mentions Stansted Airport, Manchester Airport Second Runway and the East London River Crossing. Stansted took place in 1981-3 and lasted 258 days, Manchester, took place in 1995 and lasted 101 days, and the East London River Crossing took place in 1985-6 and lasted 194 days. It is unlikely that the new parliamentary procedure would be any quicker. Moreover, many major road inquiries take no more than 40 or 50 days.

Will the parliamentary process guarantee a fair hearing to the affected parties

152. While it is envisaged that the new procedures will take the form of an investigative select committee inquiry, Parliament will be acting in a quasi-judicial role because it will decide on the principle of the project and its location. In effect Parliament will be granting outline planning approval to the project on a particular site. Several submissions raised concerns that the parliamentary process would not be as fair to those affected by the proposals as the current public inquiry system. The main concerns are:

- there would be no right for affected parties to appear before the Committee; and
- informal or formal whipping would be inevitable.

These restrictions could well mean that people would have fewer rights in relation to projects that have a major effect on their property and rights than in relation to lesser developments. There is also some question as to whether the procedures would be consistent with the Human Rights Act.

153. We put to the Minister the difficulty of restricting witnesses at an investigatory, or Select Committee, hearing when considering issues such as ‘need’ and ‘location’. He said:

“A judgement would have to be made by the committee about who they heard from, just as the public inquiry makes that judgement, but it is perfectly able to identify what a representative body of objectors consist of.”⁹⁹

While a select committee will have to make a judgement and only hear selected parties, at planning inquiries it is the practice that all parties are given a hearing.

154. Witnesses were concerned that the only right that those affected parties, who were not called by the select committee, would have would be the right to lobby their MP. As Friends of the Earth said, this “is not the same as being able to give detailed evidence directly to a planning inspector and to test that evidence in cross examination.”¹⁰⁰

155. The environmental impact assessment procedure requires wide consultation on the Environmental Statement. The public concerned have to be given a reasonable opportunity to express an opinion before consent is granted. Professor Grant said that when handling major projects, Parliament will need to observe the minimum obligations of procedural fairness. He added: “It would be difficult for example to reconcile the discipline of party political whipping of the Parliamentary process with the requirements of the EU directive for open-minded consideration of the environmental impact assessment information.”¹⁰¹

⁹⁹ Q952.

¹⁰⁰ PGP18 appendix 1

¹⁰¹ PGP64

156. The Minister stated that “it would be inappropriate for there to be whipping.”¹⁰² While there might not be formal whipping, the influence of party discipline will be extremely hard to avoid: the Whips are likely to decide who sits on the Committee, and many members are unlikely to take decisions which they think the party would oppose.¹⁰³

157. Under the Private Bill Procedure there was technically minimal Government involvement: bills were promoted by organisations outside Parliament; the convention was that there was no whipping at any stage; a backbench Member had to act on behalf of the promoters; and Government intervention was limited to a formal statement at second reading as to whether the Government had major objections. Even so, in our experience the Government’s influence was brought to bear. This is much more likely to be the case with the proposed new procedures when the select committee will be examining a project brought forward by the Secretary of State.

158. Although the terms of reference for the subsequent inquiry, following Parliamentary approval, would be restricted, the requirement to provide a fair hearing would make it very hard for an Inspector to avoid duplication, particularly about the location of a project. This would not only lead to delay but also to further uncertainty in relation to meeting the requirements of environmental assessment and the Human Rights Act 1998, especially where landowning rights are concerned.¹⁰⁴

The parliamentary process and the Report of the Joint Committee on the Private Bill Procedure 1987-8

159. In 1987-8, Parliament considered its role in relation to schemes similar to Major Infrastructure Projects in the Joint Committee on the Private Bill Procedure. It found that the private bill procedures were unacceptable to petitioners for a variety of reasons: for instance, they found it difficult and expensive to come to Westminster; Parliament was an intimidating forum compared to a local inquiry; and they believed that planning inspectors had the necessary expertise to make fair decisions. MPs disliked the process because it was time-consuming and they lacked the expert skills to consider the matters in the Bill. There was also increasing pressure on MPs considering works bills to visit the site of the proposed project and take evidence there. The Joint Committee concluded that it was not appropriate for private bill committees to continue to consider major works projects. While the Government is not seeking to recreate private bills, the procedures which it is proposing will lead to many of the problems which the Joint Committee identified.

160. In the case of ‘works’ bills, the Joint Committee concluded that while it was right that Parliament should express an opinion on them, even when the final decision is one for the Minister, authorisation should in future be through non-parliamentary procedures involving, where necessary, a public inquiry.¹⁰⁵ This recommendation led to the Transport and Works Act 1992.

Conclusions and recommendations on Parliamentary proposals

161. Based on the evidence received, there is unlikely to be any time saving by adopting the proposed parliamentary process. The Government has continued to stress the length of time taken by the public inquiry to consider Heathrow Terminal 5; this was wholly exceptional.

162. If the Government were to go ahead with its Parliamentary proposals, the public would also lose confidence in the inquiry system since long established rights

¹⁰² Q910

¹⁰³ QQ960-66.

¹⁰⁴ See the memorandum of Professor Grant, PGP64, paras. 24-27.

¹⁰⁵ Joint Committee on Private Bill Procedure, Session 1987-88, HC625, paras. 23 and 40.

of hearing would be restricted. It will be very difficult for Parliament to give a fair consideration to Major Infrastructure Projects as required by the Human Rights Act. Even if there is no formal whipping of MPs by party managers, the influence of party discipline would be extremely difficult to avoid.

163. Giving Parliament the power to decide on the principle, need for and location of a Major Infrastructure Project would lead to unavoidable duplication later at a public inquiry and the increased likelihood of legal challenge.

164. It is not appropriate for MPs to be asked to consider the issues raised in Major Infrastructure Projects given the likely length of hearings and the probable need to sit part of the time away from the House. If implemented the proposal would constitute a retrograde step and would be counter to the report of the Joint Committee on Private Bills of Session 1987-8, which was approved and implemented by both Houses. Worse, the partial consideration suggested would add a further highly undesirable complication that would almost certainly increase the likelihood of delay, thus defeating the main object of the proposal.

165. When it ‘approves’ Major Infrastructure Projects, Parliament should do no more than it currently does under section 9 of the Transport and Works Act for schemes of national significance. We therefore recommend that the scope of the Transport & Works Act be extended so that certain Major Infrastructure Projects may be selected by the Secretary of State to fall within an appropriately amended section 9 of the Act.

166. Under our proposal, as with other Transport and Works projects, after completion of the Parliamentary stage the project would be scrutinised at public inquiry. At the inquiry the Inspector would be guided by a National Policy Statement and the approvals of both Houses of Parliament. These would be weighty material considerations for the Inspector to take into account. There would also be further guidance from the Secretary of State who will have issued a statement of the matters which should be considered at the inquiry. Nevertheless, the public inquiry would be the forum to consider all aspects of the proposed development.

Improvements to the public inquiry process

167. The Consultation Paper announced the Government’s intention to improve the public inquiry process. The improvements are to include: strengthening the powers of inspectors, stricter time-tabling and more clearly focused terms of reference.¹⁰⁶

168. After the publication of the Major Infrastructure Projects Consultation Paper, the Government published in May 2002 the Town and Country Planning (Major Infrastructure Inquiries Procedure) (England) Rules 2002.¹⁰⁷ These only relate to planning applications and not to the proposed Parliamentary procedure, but there is no reason why they, or similar rules, should not be made to apply to the other statutory regimes within which Major Infrastructure Projects fall. The new rules provide a framework that will increase the efficiency of inquiries and help to minimise delay.

169. We welcome the Government’s proposals for making public inquiries more efficient, and emphasise the need to keep the Major Infrastructure Projects inquiry rules under review and update them when necessary.

¹⁰⁶ MIP paper, Annex A.

¹⁰⁷ SI 2002, No.1223

Period between the submission of the Inspector's report and the Secretary of State's decision.

170. We have been concerned at the sometimes lengthy delays between the submission of an Inspector's report and the announcement of the Secretary of State's decision - which the Committee highlighted in its report on the Planning Inspectorate.¹⁰⁸ **We welcome the formation of the DTLR's Planning Central Casework Division to handle the Secretary of State's called-in and recovered appeals, and Lord Falconer's statement that he envisages that within two years the Division will halve the time it takes for decisions to be announced.¹⁰⁹ In the past the announcement of decisions has on occasion been delayed for political convenience. In this context we note that both the new MIP and the 2000¹¹⁰ inquiry rules require the Secretary of State to notify his decision "as soon as practicable" after taking it.¹¹¹ We recommend that this rule be amended so that the Secretary of State is required also to take the decision itself as soon as practicable to ensure that decisions are made when required for the efficient operation of the planning system.**

Delays at other stages in the process

171. While the Major Infrastructure Projects Consultation Paper concentrates on reducing the time taken up with what is currently the public inquiry stage of the authorisation process, we have noted with concern serious delays at other stages. The Paper itself mentions that by streamlining the pre-construction phase of a road scheme, and the use of better procurement techniques, 3 to 5 years could be cut off the 10 years it now takes to start work on such projects.¹¹² **By comparison with some of the relatively small savings that can be obtained by improvements to the current inquiry process, it is clear from the example given that very considerable time savings can be made by improvements elsewhere. We recommend that the Government conducts a thorough formal review, and reports upon both the pre application and post regulatory approval stages of all aspects of Major Infrastructure Projects.**

General conclusions on Major Infrastructure Projects

172. **In combination the recommendations which we have made relating to national policy statements, Parliamentary procedures, public inquiries and the decision taking stage, will bring about the required improvement in procedures while at the same time providing a fair hearing for affected parties and retaining public confidence in the inquiry system. Of no less importance is the need for Ministers not to postpone taking decisions for political reasons after an Inspector's report has been received.**

¹⁰⁸

Environment, Transport and Regional Affairs Committee, *The Planning Inspectorate and Public Inquiries*, HoC, Thirteenth Report, (July 2000), para. 72.

¹⁰⁹ Q967.

¹¹⁰ Town and Country Planning (Inquiries Procedure) (England) Rules 2000. SI 2000/1624.

¹¹¹ MIP Rule 20 (1).

¹¹² MIP paper, Annex A.

Assessment

173. The Government argued that the key problems with the planning system were that it:

- was too slow;
- lacked clarity;
- had lost public confidence; and
- inhibited economic growth.

174. In this section we consider whether the Green Paper proposals would effectively tackle those problems or whether incremental reform would be more beneficial. We also consider other solutions which are required, most importantly the need to address the serious shortage of skilled planners.

Speed

175. The preparation of Local Development Frameworks may be quicker to draw up than Unitary Development Plans or Local Plans, but they will need to be complemented by a wide range of action plans and master plans which are likely to be as time consuming as the current system. Moreover, the preparation of Unitary Development Plans and Local Plans can be streamlined which would be more effective than replacing them.

176. The introduction of what amounts to a new planning system will take time. Considerable delays can be expected.

177. While National Policy Statements about the need for new infrastructure are widely supported, the parliamentary procedure proposed for Major Infrastructure Projects is unlikely to speed up the authorisation process. The existing procedure can be simplified and made more efficient.

Simplicity and transparency

178. Local Development Frameworks are unlikely to offer the clarity of Unitary Development Plans and Local Plans. The reliance on general criteria for what constitutes acceptable development and the lack of a comprehensive land-use map would introduce great uncertainties. The complex array of plans at a local level which will complement the Local Development Frameworks will be fragmented and difficult to understand and coordinate.

179. The regional and sub-regional planning arrangements which would be required to replace County Structure Plans would be complex with eight regional planning bodies having to negotiate with more than 230 district and metropolitan councils.

180. Rather than simplifying the planning obligations system, the tariff system could be highly complicated to set up and assess and would not necessarily realise a greater level of contributions from the private sector.

Public confidence

181. The Green Paper proposes to find new ways of consulting the public but also proposes to limit the use of public inquiries for local plans and authorising Major Infrastructure Projects, and where they are required to limit their scope. This is likely to limit an individual's right to make representations and undermine public confidence in the current system.

The competitiveness of industry

182. There is no firm evidence that the planning system imposes a major constraint on economic growth. The memoranda submitted and the oral evidence failed to demonstrate that the planning system was failing business. What we were told was anecdotal. The CBI told us:

“it had talked to hundreds and hundreds and hundreds of business and we have got loads and loads of examples of businesses which have had problems (with the planning system).”¹¹³

183. Large companies such as Tesco and Sainsbury’s have developed ways of working with the local authority planning departments to deliver joint objectives. Evidence submitted to the Committee by Sainsbury’s showed that 91 per cent of its applications were approved by the local authority without going to public inquiry. The companies were concerned that the planning system should be improved through an evolutionary process building on current procedures, rather than revolution.¹¹⁴

184. The most telling argument is that since the current plan arrangements were introduced in 1991, the economy has enjoyed a long period of sustained growth. It is hard to believe that it is a serious drag on the economy,

185. The Government’s theory that the planning system inhibits economic growth appears to be based on anecdote and prejudice. Well-planned land uses create a favourable climate for investment as many successful local authorities have shown. Attractive and well planned cities are often the most prosperous. With improvement, the existing forward planning system will continue to achieve this.

186. Finally, we examine two important issues, which the Green Paper does not adequately cover: how long it will take to implement the Government’s proposals; and the need for more staff if there is to be an improvement to the planning system.

The implementation of the Government’s proposals

187. The Government’s fundamental reforms proposed for the planning system will take a long time to introduce. It expects them to take about five years to be fully operational and has accepted that it is important to avoid any hiatus.¹¹⁵

188. However, submissions to the Committee raised concerns that there could be an extended hiatus as the new system is introduced. The Chief Executive of the British Urban Regeneration Association, John Walker, told the Committee that introducing the reforms “could possibly in the long term, but particularly in the short and medium term, lead to a hiatus and an inability to act, an inability to have clarity and certainty on the part of development industry, an inability to move forward on behalf of local authorities.”¹¹⁶

189. The Housebuilders Federation urges the Government to ensure that local authorities continue to produce local and structure plans and that these are ‘mapped’ on to the new structures. It warned in its submission to the Committee that “without continuity in the development plan framework, there is a significant risk of paralysis, with no clear and coherent basis on which to make decisions.”¹¹⁷

¹¹³ Q583/584 Barney Stringer the CBI’s Head of Infrastructure Group accepted that this evidence was anecdotal, although he said “that they “were very consistent”

¹¹⁴ Q388 & 393

¹¹⁵ Q842

¹¹⁶ Q427

¹¹⁷ PGP17

190. It could well take more than five years before the changes proposed in the Green Paper are fully operational and even longer. The development plan system introduced in 1991 has taken up to ten years to bring full benefits for its users, notably local authorities, developers and local communities. These should not be lost by adopting the Planning Green Paper proposals. With modification to existing Unitary Development Plans and Local Plans, the same objectives could be achieved without the delay which would be caused by the Government's proposals. Many of the other incremental reforms, which have been proposed in this report, could start immediately and not cause the hiatus which the fundamental proposals inevitably will cause.

Staff and Resources

191. The need for additional staff and more resources was a key issue raised in a large proportion of the submissions to the Committee. More than 75 per cent pointed out that a major problem with the planning system if local authorities employed more skilled staff, and particularly planners.

Staffing Levels and Skills

192. A study for the DTLR *Resourcing of Local Planning Authorities* by the consultants Arup, pointed to high levels of staff turnover and major recruitment problems faced by local authorities. It said that the image of planning has been undermined and needs to be improved to attract the best graduates. It concluded that the popularity of planning as an undergraduate course was declining and funding was limited for postgraduate courses.¹¹⁸

193. Arup estimated that to keep up with the increased number of planning applications, each authority required a 27 per cent increase in the number of development control staff which equated on average to an additional four or five members of staff.¹¹⁹

194. The Green Paper reforms will increase the demands on already overstretched planning departments both in terms of skills and resources particularly so if they are required to draw up the new plans and strategies. Planning officers with new skills will be required that are not generally available in planning departments. The Planning Officers' Society suggested that staff with skills to handle negotiation with the private sector and property valuation would be necessary to set the proposed planning obligations tariff.¹²⁰

195. Greater co-operation between local authority planning departments and their economic development, housing and valuers departments could help meet some of the skill needs created by the Government's reforms.

196. It is by no means clear that it will be easier to recruit staff for the development control functions in planning departments if the Green Paper reforms are implemented. Appearing with the County Surveyors' Society, Mark Baker from Manchester University said: "The reforms will actually make the job seem more bureaucratic and regulatory. Planners will be making decisions on a planning application based on a set of criteria that are read from a book and the job will not necessarily provide the challenges that will encourage people to get into planning more than they do at the moment."¹²¹

¹¹⁸ Resourcing of Local Planning Authorities DTLR February 2002 p73

¹¹⁹ Ibid

¹²⁰ PGP60

¹²¹ Q266

Resources

197. Lord Falconer accepted that planning departments are under-resourced and that one of the main reasons the targets for the determination of planning applications were not being met was that the number of staff in planning departments has declined by 20 per cent during the last five years. He commented to the Committee: "I utterly and completely acknowledge that resources are part of the problem."¹²²

198. Council funding to planning departments has declined considerably over the last five years. Arup's report revealed that spending levels have declined by 37% for unitary authorities and 23% for county authorities between 1996/97 and 2000/2001. The report says an increase of 20 per cent was required to compensate for the increase in workload as the number of planning applications had increased.¹²³

199. Lord Falconer set out three options for increasing the funds going to planning departments. These included:

- raising the application fee;
- local authorities reallocating existing resources, and
- more money being allocated from central Government.

Fee income

200. The fee charged for making a planning application fees has fallen behind inflation since they were previously raised in October 1997 according to another study, entitled *Planning Fees*¹²⁴ by the consultants Arup, for the DTLR. The Government increased fees by 14 per cent in April to help local authorities recover a high proportion of their costs in handling planning applications. Arup estimated that this increase would only contribute an extra 7 per cent to Local Authority planning budgets. Submissions by the private sector indicated that they would be prepared to accept higher fees on condition that system was speeded up and decisions were made more quickly.

Local authorities' funds

201. Fee income only contributes towards the processing of planning applications and not plan preparation which is funded by local authorities. Far from allocating additional funds for their planning departments, the Chairman of the Local Government Association, Sir Jeremy Beecham, told us that councils were prioritising investment in other key services like social services and education.¹²⁵ Lord Falconer however ruled out ring fencing funds for local authority planning departments.¹²⁶

202. Local Authority Planning Departments are short of staff. The Green Paper does not give sufficient weight to the need for councils to retain their planning staff or for the profession to attract new graduates so as to make the current system work effectively. The Government needs to be working more closely with local authorities to improve staff retention, and with schools, universities and the professional bodies to make planning a more popular career. The Government's reforms are unlikely to change the image of the planning profession and raise the status of planners.

203. The Government's reforms would require more staff with new skills and cannot be introduced until they are in place. **An incremental approach to reforming the planning system would allow the reforms to be introduced as the skills become available.**

204. Additional funds can be secured by raising application fees but they will not

¹²² Q826

¹²³ Resourcing of Local Planning Authorities DTLR February 2002 p17

¹²⁴ Planning Fees DTLR December 2001

¹²⁵ Q702

¹²⁶ Q858

in themselves be sufficient. Local authorities must recognise the important strategic role performed by their planning departments and to allocate a higher proportion of their budgets to them.

Conclusions and Recommendations

205. The Planning Green Paper rightly identifies room for improvement in the way the town and country planning system operates. There is little dispute that decisions on planning applications should often be reached more quickly and particularly that the time taken to prepare and revise plans in past years has been depressingly slow. Whether this amounts to a need for the radical reforms does, however, need to be questioned.

206. The alternative, of continuing an evolutionary process of revision to the planning system has been contemplated only patchily in the Green Paper. It does propose many simple changes to the development control part of the system, which will continue the process of modernising planning rules. However, the proposals on forward planning pay far too little attention to modest, practical measures which could simplify the system and save time with few adverse side effects. These should be introduced and tested first before radical measures are introduced.

207. We conclude that the Government's proposals will not for the most part achieve their key objectives of introducing greater speed, simplicity and certainty to the system. Our review suggests that the arrangements for tariffs and deciding major infrastructure projects will take longer than the present system, for example. The emphasis on criteria rather than comprehensive land use maps for forward planning at the local level would no doubt allow plans to be prepared more quickly, but have the effect of encouraging disputes at the planning application stage and invite many more appeals. The benefits of the 1991 legislation in these respects would be lost, and the overall result would be a more contentious, expensive, uncertain and time consuming system.

208. The Green Paper has been quick to spot, and in our view in some cases exaggerate, the problems with the current system, but it has played down the strengths of existing practices. By focusing on outputs and the mechanics of planning it has largely overlooked the central value of the planning process as a brokering mechanism between competing interests in deciding how land and buildings should be used. The means by which decisions are reached must be seen to be fair if participants are to accept the outcomes, especially the ones they do not like. The present system commands public confidence because it affords a fair hearing at all stages of the process. The Government ignores at its peril warnings of a perception that the proposed new system will constrain effective participation by those with real interests. The Government's radical reforms are in danger of spawning a new generation of Swampies.

209. It would take at least five years to establish the new system. The Government has been quick to complain about the length of time taken by local authorities to implement the unexceptional obligation of preparing an authority-wide plan, yet retains an incompatible belief in their ability to reinvent quickly the entire forward planning process at the local level. There are already indications of reluctance by local authorities to keep their policies up-to-date, and a hiatus is virtually inevitable as authorities make up the details of the Government's new system as they start to apply it. There is a substantial price to pay in the transition for any new procedures, only worth paying if the resulting framework is a substantial improvement over the existing one. We have found little evidence that it would be.

210. We conclude that the Government's proposals are unworkable as a whole. We share the Government's enthusiasm for clearing the stuffy air which surrounds planning. We wish to encourage innovation and enthusiasm for the immense positive contribution which planning can make to public life. Yet the Green Paper shows a lack of grasp of the real issues over outward appearances. For example:

- the important issue is how Government planning policy is implemented, not how many pages it is;

- the case for Business Planning Zones fundamentally misconceives planning as a drag on the economy rather than a contributor to securing high quality development in the right places;
- the length of the Heathrow Terminal 5 inquiry is legendary, but a poor basis for choosing a new system to decide major infrastructure projects;
- Local Plan Inquiries may seem ripe for abolition because of the time they take, but they are a significant contributory force in establishing quality in the planning process, where outcomes are seen as rational, democratic and driven by a commitment to the wise use of land in the public interest.

211. The Committee was astonished by the lack of attention to the most obvious problem facing the delivery of an effective planning service, namely its under-resourcing. There is a shortage of professional and experienced planning staff in most local authorities, low morale and a recruitment problem. Ministers' obsession with shaming authorities with poor performances, measured largely in terms of speed rather than quality of decisions, has no doubt contributed to this. Meanwhile, local authorities divert money away from planning to other more politically attractive uses.

212. The Government accepts that its proposed new system will take more planners to operate than the current one, but has no serious proposals in hand to train and attract staff even to fulfil current requirements. We have no hesitation in recommending that significantly more money and staff should be ploughed into planning long before any major revision of its practices is contemplated. We suspect that some at least of the problems identified would diminish or dissolve if more and better qualified staff were in post to address them.

213. We conclude that the requirement is for different priorities than the ones the Government has selected. The current system would benefit from gradual modernisation. There is widespread understanding of how the planning system works, in general, if not in detail. The Government will reach its objective much more effectively by working with the grain of over 50 years of experience rather than stubbornly discarding it.

LIST OF CONCLUSIONS AND RECOMMENDATIONS

- (a) **The current planning system requires significantly more staff and resources than are currently available. The new system proposed by the Government will require even more staff, and any radical changes will not be possible until they are in post (paragraph 8).**
- (b) **The inclusion of a statutory objective for the planning system would be helpful if one could be agreed. This will not be easy. Any objective would need to command wide acceptance and should not be a potential source of dispute at each stage of the planning system (paragraph 12).**
- (c) **The Government should evaluate the desirability of establishing a National Spatial Strategy (paragraph 16).**
- (d) **PPGs play an essential role in defining national policy. The Committee welcomes any review which strengthens their role and makes them more user-friendly. The pursuit of brevity must not lead to the omission of essential policy. Distinguishing policy from guidance on its application is helpful provided the policy is not dependent on best practice guidance for its interpretation. PPG3 is an acceptable model. Good practice guidance should have the same weight as a PPG (paragraph 21).**
- (e) **Decisions about regional planning should be taken by groups of democratically-elected members of local authorities. Wider interests should be consulted but not make the decisions. We support the proposal in the White Paper, *Your Region, Your Choice: Revitalising the English Regions*, that where elected regional assemblies are set up, they should take over regional planning functions. Where elected assemblies are not set up, the present system should remain (paragraph 26).**
- (f) **The Regional Spatial Strategies should take precedence over and guide the land-use aspect of all other regional strategies drawn up by other regional agencies including the Regional Development Agencies' regional economic strategies (paragraph 27).**
- (g) **There is a need for an effective sub-regional planning system between the regional planning level and local plans. In addition, planning for waste, transport and minerals, which would continue to be carried out by county councils or their successors, should be effectively integrated into comprehensive sub-regional plans (paragraph 35).**
- (h) **Some county boundaries are still relevant but others no longer reflect the way people live or work. Councils should be allowed to agree amongst themselves the appropriate strategic planning arrangements, which could include retaining county structure plans in some areas (paragraph 36).**
- (i) **The proposals for Local Development Frameworks have many failings and lack many of the advantages of Unitary Development Plans and Local Plans. The new Local Development Frameworks may be quicker to draw up but they are unlikely to be as clear.**
 - **They would be more complex than the simplicity offered by Unitary Development Plans and Local Plans and would provide less certainty;**
 - **A complex array of plans at a local level would be created which would be fragmented and difficult to understand and coordinate;**
 - **The frequent review of frameworks is also unlikely to provide the**

- clarity and certainty sought by the Government and all parties;
 - The Local Development Frameworks could cause considerable confusion because of the reliance on vague criteria;
 - A plan-led system without a comprehensive land-use map would give rise to a great deal of uncertainty, delay in determining planning applications and a significant increase in planning appeals;
 - The proposed Local Development Frameworks may not gain the confidence of local people. The new forms of community consultation for Local Development Frameworks are welcome as is the linking of the frameworks to Community Strategies, but they will not be an adequate replacement for the rights to appear at a public inquiry which are required for Unitary Development Plans and Local Plans (paragraph 60).
- (j) Retaining and improving Unitary Development Plans and Local Plans would be a better option than introducing Local Development Frameworks, since there would be certainty and continuity as well as the retention of public confidence in the system. The process of drawing up and adopting Unitary Development Plans and Local Plans has been slow, but it is now almost complete. Considerable progress has been made in solving the problems and further improvements could be made if:
- the plans were approved by inspectors after a public inquiry;
 - rigorous preparation timetables were laid down and enforced with appropriate penalties; and
 - repetition of policies in structure plans and regional planning guidance was removed (paragraph 61).
- (k) The revision of plans should not cease because of the proposals for reform, as Lord Falconer stated (paragraph 62).
- (l) The Committee welcomes some of the adjustments to the present development control system. We strongly support the proposal that re-applications should not be automatically accepted. None of these proposals requires primary legislation, and they illustrate the kind of evolutionary approach to improving the planning system which will bring general benefit (paragraph 64).
- (m) Targets for reaching decisions are useful to provide guidance for local authorities on operating an efficient development control system, but considerable flexibility is required to allow for complex applications which cannot be considered within the timescales. It should be remembered that delays can be due to the developer as well as the local authority (paragraph 69).
- (n) The Committee supports the proposals to reduce planning permissions to three years. However it is important that a 'standard' time limit is not applied in cases where a longer implementation period is justified by the applicant. There should be an opportunity for local variation where appropriate (paragraph 72).
- (o) The 90 per cent target is arbitrary, and no justification was given for it. If the Government decides to go forward with the target that 90 per cent of planning applications should be delegated to officers, it should advise Local Planning Authorities on the types of application which might be suitable for delegation to officers (eg householder applications) and the circumstances in which officers could decide applications without infringing democratic accountability (eg where there are no local objections and the Chief Planning Officer would

recommend approval). All local authorities should be required to monitor delegated decisions. The Government should reiterate the seriousness with which it would view attempts to influence officer decisions by inducements (paragraph 74).

- (p) Statutory consultees have an important role in contributing specialist advice to local authorities on planning applications. The proposal to reduce the number of statutory consultees would not in itself reduce the time taken for consultees to respond, since it takes only one key consultee to cause a delay. Furthermore, authorities are not obliged to wait anyway (paragraph 82).
- (q) Last year the Government published a report which sought to improve the current arrangements by ensuring that:
 - local authorities facilitate pre-application discussions with statutory consultees;
 - consultees are required to allocate sufficient resources and put in place systems to respond promptly to planning applications.
 We recommend that in place of its proposals to reduce the number of consultees, the Government introduce these recommendations (paragraph 84).
- (r) Witnesses recognised that there was a need for better consultation. We support the proposal that all local authorities should be required to publish their consultation arrangements. The Department should issue clear guidance and examples of best practice (paragraph 85).
- (s) The Green Paper does not adequately consider the need for third party rights of appeal. Greater community participation at the pre-application stage is not a substitute for the legal right to appeal against a decision. External scrutiny is required to avoid the potential conflicts of interest between the local authority as planning authority and the local authority as property owner or developer with a pecuniary interest in the result of a planning application. The National Assembly for Wales' approach to reviewing planning decisions made by councils concerning land that they own should be monitored with a view to its possible adoption in England (paragraph 90).
- (t) The existing right of third parties to object to draft policies in Local Plans and Unitary Development Plans, and to pursue these to inquiry in front of an independent Inspector if unresolved by the local authority, is a vital third party right. We recommend that it should not be watered down. Third parties should have the right of appeal where there has been a significant departure from to the Local Plan or Unitary Development Plan (paragraph 91).
- (u) The proposal for Business Planning Zones appears to be based on the misconceived idea that the planning system is stopping desirable development rather than helping to enable it. There is no evidence of this. The zones are unlikely to encourage significant amounts of development, but there is a serious danger that the development which they will attract, will be car-based and of a lower standard than if they had been subject to normal planning controls. The best means of promoting sites for high technology development is using the existing planning system (paragraph 97).
- (v) There is a 'business' agenda running through much of the Green Paper. It largely ignores the environment while supporting business development. The planning system is the key bulwark in preventing urban sprawl and restraining unsustainable development and should not be subservient to the

requirements of business. The reforms should stress the need for the planning system:

- **to protect the countryside and improve the quality of the built environment;**
 - **to minimise the use of natural resources; and**
 - **to reduce the need to travel (paragraph 103).**
- (w) **The Government’s proposals for tariffs would replace one form of complexity with another. Instead of site by site negotiated solutions after the submission of planning applications, enormous effort would be required to establish the basis for tariffs around the country, authority by authority, at the forward planning stage (paragraph 124).**
- (x) **There is a danger that the change to the tariff system will affect the Government’s grant to local authorities (paragraph 125).**
- (y) **However, the Government’s other proposals (see points above) for improving the practical operation of the planning obligation system would tackle many of these objectives without the need for changing the whole basis of the system. We recommend that the Government introduces those procedural changes first as outlined above, and only revisits more radical options for reforming the planning obligations system to improve its speed and transparency if significant problems remain in five years’ time (paragraph 126).**
- (z) **The Government needs to undertake substantially more work to demonstrate that funding affordable housing by tariff rather than by the current system of negotiation will clearly produce significantly more affordable housing (paragraph 131).**
- (aa) **We were heartened that Lord Falconer wishes to consult on the details of the emerging scheme and on the Government’s advice to local authorities, but, nevertheless, feel that the proposal to introduce a tariff requires considerable further development before the Committee can take a view on whether it is workable (paragraph 133).**
- (bb) **We strongly support the proposal to introduce National Policy Statements. They should be the subject of public consultation after which they should be debated by Parliament on an amendable, substantive motion. If they are prepared well in advance of projects coming forward, they will be a major step forward. The policy statements could take a variety of forms:**
- **in some situations they would indicate a need to make provision within a region, leaving the regional guidance to indicate a suitable site for the particular facility;**
 - **in others, they would need to indicate a range of options or a precise location or route corridor.**
- The policy statements should relate to the National Spatial Strategy (paragraph 141).**

- (cc) **We recommend that the Secretary of State have the power to designate projects as Major Infrastructure Projects by the new Parliamentary process, but emphasise that he should only select Major Infrastructure Projects of truly national significance for authorisation. We are concerned that both the list of potential Major Infrastructure Projects in Annex C of the Government's paper, and the list contained in the Town and Country Planning (Major Infrastructure Inquiries Procedure) (England) Rules 2002 are far too broad (paragraph 144).**
- (dd) **Based on the evidence received, there is unlikely to be any time saving by adopting the proposed parliamentary process. The Government has continued to stress the length of time taken by the public inquiry to consider Heathrow Terminal 5; this was wholly exceptional (paragraph 161).**
- (ee) **If the Government were to go ahead with its Parliamentary proposals, the public would also lose confidence in the inquiry system since long established rights of hearing would be restricted. It will be very difficult for Parliament to give a fair consideration to Major Infrastructure Projects as required by the Human Rights Act. Even if there is no formal whipping of MPs by party managers, the influence of party discipline would be extremely difficult to avoid (paragraph 162).**
- (ff) **Giving Parliament the power to decide on the principle, need for and location of a Major Infrastructure Project would lead to unavoidable duplication later at a public inquiry and the increased likelihood of legal challenge (paragraph 163).**
- (gg) **It is not appropriate for MPs to be asked to consider the issues raised in Major Infrastructure Projects given the likely length of hearings and the probable need to sit part of the time away from the House. If implemented the proposal would constitute a retrograde step and would be counter to the report of the Joint Committee on Private Bills of Session 1987-8, which was approved and implemented by both Houses. Worse, the partial consideration suggested would add a further highly undesirable complication that would almost certainly increase the likelihood of delay, thus defeating the main object of the proposal (paragraph 164).**
- (hh) **When it 'approves' Major Infrastructure Projects, Parliament should do no more than it currently does under section 9 of the Transport and Works Act for schemes of national significance. We therefore recommend that the scope of the Transport & Works Act be extended so that certain Major Infrastructure Projects may be selected by the Secretary of State to fall within an appropriately amended section 9 of the Act (paragraph 165).**
- (ii) **Under our proposal, as with other Transport and Works projects, after completion of the Parliamentary stage the project would be scrutinised at public inquiry. At the inquiry the Inspector would be guided by a National Policy Statement and the approvals of both Houses of Parliament. These would be weighty material considerations for the Inspector to take into account. There would also be further guidance from the Secretary of State who will have issued a statement of the matters which should be considered at the inquiry. Nevertheless, the public inquiry would be the forum to consider all aspects of the proposed development (paragraph 166).**

- (jj) **We welcome the Government's proposals for making public inquiries more efficient, and emphasise the need to keep the Major Infrastructure Projects inquiry rules under review and update them when necessary (paragraph 169).**
- (kk) **We welcome the formation of the DTLR's Planning Central Casework Division to handle the Secretary of State's called-in and recovered appeals, and Lord Falconer's statement that he envisages that within two years the Division will halve the time it takes for decisions to be announced. In the past the announcement of decisions has on occasion been delayed for political convenience. In this context we note that both the new MIP and the 2000 inquiry rules require the Secretary of State to notify his decision "as soon as practicable" after taking it. We recommend that this rule be amended so that the Secretary of State is required also to take the decision itself as soon as practicable to ensure that decisions are made when required for the efficient operation of the planning system (paragraph 170).**
- (ll) **By comparison with some of the relatively small savings that can be obtained by improvements to the current inquiry process, it is clear from the example given that very considerable time savings can be made by improvements elsewhere. We recommend that the Government conducts a thorough formal review, and reports upon both the pre application and post regulatory approval stages of all aspects of Major Infrastructure Projects (paragraph 171).**
- (mm) **In combination the recommendations which we have made relating to national policy statements, Parliamentary procedures, public inquiries and the decision taking stage, will bring about the required improvement in procedures while at the same time providing a fair hearing for affected parties and retaining public confidence in the inquiry system. Of no less importance is the need for Ministers not to postpone taking decisions for political reasons after an Inspector's report has been received (paragraph 172).**
- (nn) **The Government's theory that the planning system inhibits economic growth appears to be based on anecdote and prejudice. Well-planned land uses create a favourable climate for investment as many successful local authorities have shown. Attractive and well planned cities are often the most prosperous. With improvement, the existing forward planning system will continue to achieve this (paragraph 185).**
- (oo) **It could well take more than five years before the changes proposed in the Green Paper are fully operational and even longer. The development plan system introduced in 1991 has taken up to ten years to bring full benefits for its users, notably local authorities, developers and local communities. These should not be lost by adopting the Planning Green Paper proposals. With modification to existing Unitary Development Plans and Local Plans, the same objectives could be achieved without the delay which would be caused by the Government's proposals. Many of the other incremental reforms, which have been proposed in this report, could start immediately and not cause the hiatus which the fundamental proposals inevitably will cause (paragraph 190).**
- (pp) **Local Authority Planning Departments are short of staff. The Green Paper does not give sufficient weight to the need for councils to retain their planning staff or for the profession to attract new graduates so as to make the current system work effectively. The Government needs to be working more closely with local authorities to improve staff retention, and with schools, universities**

- and the professional bodies to make planning a more popular career. The Government's reforms are unlikely to change the image of the planning profession and raise the status of planners (paragraph 202).**
- (qq) An incremental approach to reforming the planning system would allow the reforms to be introduced as the skills become available (paragraph 203).**
- (rr) Additional funds can be secured by raising application fees but they will not in themselves be sufficient. Local authorities must recognise the important strategic role performed by their planning departments and to allocate a higher proportion of their budgets to them (paragraph 204).**

PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT

MONDAY 1 JULY 2002

Members Present:

Andrew Bennett, in the Chair

Sir Paul Beresford
Mr Clive Betts
Mr John Cummings
Mrs Gwyneth Dunwoody
Mrs Louise Ellman

Miss Anne McIntosh
Dr John Pugh
Christine Russell
Mr Bill O'Brien
Mr Bill Wiggin

The Committee deliberated.

Draft Report [*Planning Green Paper*] brought up and read.

Ordered, That the Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 213 read and agreed to.

Resolved, That the Report be the Thirteenth Report of the Committee to the House.—(*The Chairman.*)

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No.134 (Select committee (reports)) be applied to the Report.

Ordered, That the Appendices to the Minutes of Evidence taken before the Committee be reported to the House.

[Adjourned till Wednesday 10 July at Ten o'clock.]

LIST OF WITNESSES

Tuesday 18 December 2001

DEPARTMENT FOR TRANSPORT, LOCAL GOVERNMENT AND THE REGIONS

Lord Falconer of Thoroton QC, Mr Mike Ash, Mr Jeff Channing and Mr Christopher Bowden

Wednesday 10 April 2002

FRIENDS OF THE EARTH

Mr Huw Ellis

COUNCIL FOR THE PROTECTION OF RURAL ENGLAND

Mr Neil Sinden and Mr Henry Oliver

PLANNING OFFICERS' SOCIETY

Mr James Russell and Mr John Silvester

CSS (COUNTY SURVEYORS' SOCIETY)

Mr John Deegan and Mr Mark Baker

ROYAL COMMISSION ON ENVIRONMENTAL POLLUTION

Sir Tom Blundell and Professor Richard Macrory

Wednesday 17 April 2002

HOUSE BUILDERS FEDERATION

Mr Stuart Milligan, and Mr Andrew Whitaker

TESCO PLC

Ms Lucy Neville-Rolfe and Mr Tony Eggs

J SAINSBURY PLC

Mr Ian Coull

BRITISH URBAN REGENERATION ASSOCIATION

Mr John Walker, Mr Ian Trehearne and Mr Sean Creighton

Wednesday 24 April 2002

ENVIRONMENT AGENCY

Baroness Young of Old Scone, Dr Andrew Skinner and Mr Roger Vallance

ROYAL TOWN PLANNING INSTITUTE

Mr Nick Davies, Mr Vincent Goodstadt

TOWN & COUNTRY PLANNING ASSOCIATION

Mr David Lock and Mr Gideon Amos

CONFEDERATION OF BRITISH INDUSTRY

Mr Digby Jones, Mr Michael Roberts and Mr Barney Stringer

Wednesday 1 May 2002

CAMBRIDGE UNIVERSITY

Professor Malcolm Grant

ENGLISH NATURE

Sir Martin Doughty, Mr Jonathan Price and Sue Collins

LOCAL GOVERNMENT ASSOCIATION

Sir Jeremy Beecham and Mr Lee Searles

Wednesday 8 May 2002

WELSH ASSEMBLY GOVERNMENT

Sue Essex AM, Mr Martin Evans, Ms Kay Powell and Ms Heledd Thomas

DEPARTMENT FOR TRANSPORT, LOCAL GOVERNMENT AND THE REGIONS

Lord Falconer of Thoroton QC, Mr Brian Hackland, Mr Mike Ash and Mr Jeff Channing

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- 64 Professor Malcolm Grant
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- 06B Supplementary note by the Minister for Housing Planning and Regeneration

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08	Peter Devonport
09	Mr D M Waller
10	Torfaen FOE
11	Garden History Society
12	North West Regional Assembly
13	McCarthy & Stone
14	The Council for National Parks
15	Somerset Association of Local Councils
16	Surrey Local Government Association
17	The House Builders Federation
18	Friends of the Earth
19	English Nature
20	County Surveyors Society
21	Gifford, Consulting Engineers
22	Commission for Architecture & the Built Environment
23	Surrey County Council
24	North Yorkshire County Council
25	Environmental Services Association
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Ninth Report: Road Traffic Speed (HC 557-I)

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Twelfth Report: The Need for a New European Regeneration Framework (HC 483-I)

Thirteenth Report: Planning Green Paper (HC 476-I)

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