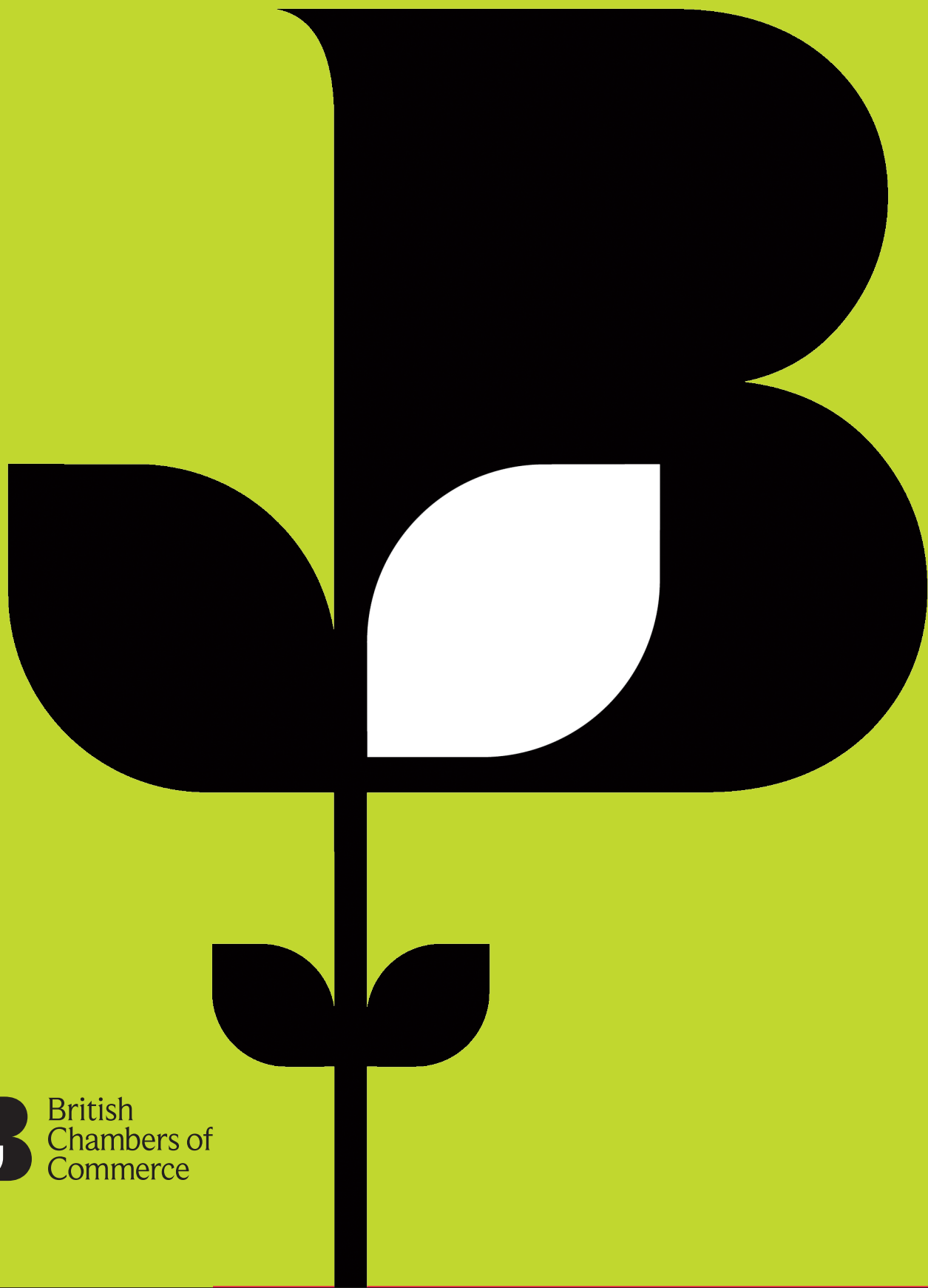


PLANNING FOR RECOVERY

JUNE 2009



British
Chambers of
Commerce

ABOUT US

The British Chambers of Commerce (BCC) is the national voice of local business; a national network of quality-accredited Chambers of Commerce, uniquely positioned at the heart of every business community in the UK. The BCC represents approximately 100,000 businesses of all sizes across all sectors of the economy that together employ over 5 million people.

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We would also like to thank those Chambers of Commerce and businesses for their input into this research, and other organisations who helped inform much of this report's thinking.

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The future of the UK economy when recovery comes, will be built upon the foundations of our infrastructure, not least in terms of energy and transport. For that reason, the BCC supports the case for a Third Runway at Heathrow. If we do not have a world-class infrastructure base on which companies can do business, we run the risk that our competitors will. But critical to the delivery of these projects, which are so important for our economy, is having a planning process that works.

Unfortunately the reality of the current system remains that there is too much uncertainty, risk and delay. This is a source of frustration for companies up and down the country. Bad experiences are all too common, and with the current recession and collapsed property market, this situation is no longer acceptable.

The BCC's report, *Planning for Recovery*, analyses the reasons why the system currently fails to deliver and makes a series of recommendations as to how real improvements can be ensured. We argue that the combination of inadequate direction at all levels, insufficiently strategic and economically focused local interventions and an incoherent approach to charges have hindered previous efforts at reform.

Going forward, there are a number of current government reforms, such as National Policy Statements and the Infrastructure Planning Commission, that have the potential to make a real difference if implemented correctly and should be supported. There are also however areas where we need to be more radical, such as exploring the concept of updated Enterprise Zones, where businesses are incentivised through a simplified planning regime, lower tax arrangements, and limited employment regulation in particular areas.

We believe that decision-makers should consider our recommendations and implement them. In the current situation, the role that planning can play in our economic recovery simply needs to be much better recognised and acted upon.

A handwritten signature in black ink, which appears to read 'David J. Frost'. The signature is written in a cursive style with a large initial 'D' and a long horizontal stroke at the end.

David Frost
Director-General

CHAPTER ONE - BUSINESS, THE ECONOMY AND PLANNING

- From the perspective of business, the planning process needs to be able to deliver the necessary infrastructure, development and support for local business growth that will enable the UK to effectively compete in the global economy.
- Unfortunately the overwhelming view across different sectors and sizes of businesses remains that there continues to be too much uncertainty, risk and delay in the current planning system which has a negative impact on development and the broader economy.
- In the current economic climate, with a dire situation for developers and greater unwillingness from the private sector to become involved in development due to cashflow problems, there is an even greater need to reform the planning system to better support our economy.

CHAPTER TWO - THE PLANNING SYSTEM AND ITS SHORTCOMINGS

- While the current planning system has been designed to deliver greater certainty, predictability and responsiveness, there is a gap between the theory and practice in terms of the experience of businesses of how the system actually operates.
- There is a lack of a clearly defined planning policy framework for decisions at all levels demonstrated by a paucity of national policy direction, cumbersome and ineffective regional planning processes and far too many Local Authorities not having complete and up to date local plans.
- A strategic focus is not encouraged, with time wasted on small-scale decisions of little impact, an overwhelming and confusing amount of guidance, and an overloaded appeals process.
- Not all Local Authorities support economic growth in their approach to planning as much as they could with inflexible processes, inefficient handling of applications, inadequate skills and capacity, and negative attitudes to development still prevalent.
- There is a confused funding, charges and obligations landscape in which business contributions to the cost of the system offer little or no accountability in terms of delivering important economic projects or value for money services.

CHAPTER THREE- FORTHCOMING REFORMS TO THE SYSTEM

- There are a number of recent and upcoming government reforms which seek to improve the planning system at all levels, including the Planning Act 2008, The Sub-National Review of Economic Development and Regeneration (SNR) and the Killian Pretty Review of the planning application process.
- Together these reforms offer the potential for improving how well the current system operates provided they are implemented effectively, but further practical changes are needed.

CHAPTER FOUR - RECOMMENDATIONS FOR RECOVERY

- The combination of the current economic situation, upcoming reforms to the planning system and further areas for improvement offers a real opportunity to demonstrably improve our planning system.
- We therefore set out a series of additional reforms, which if implemented effectively in full, would enable the planning system to be able to best weather the current economic storm and support our economic recovery when it comes.



BUSINESS, THE ECONOMY AND PLANNING

The view of business

For the business community, the planning system is a key mechanism for delivering the necessary infrastructure, development and support for business growth for the UK to effectively compete in the global economy. They look to this framework to aid development, provide clarity and certainty for developers, and protect vital assets, infrastructure and businesses.

The overwhelming view across different sectors and sizes of businesses is that there continues to be too much uncertainty, risk and delay within the planning system. This has a knock-on impact in terms of time demands, uncertainty, increased costs, lost investment and missed market opportunities. The BCC's own research showed that 95% of survey respondents from our membership believed that the planning of the UK's major transport infrastructure schemes took too many years to materialise and 89% agreed that such schemes are too bureaucratic in their design and implementation.¹

This situation causes enormous frustration and concern for companies and leads to a number of negative outcomes. Firstly, there are the pure cost implications of this problem, e.g. the overall application for the proposed port in Dibden Bay was estimated at costing near to £45 million and the Killian Pretty Review calculated that its proposed reforms of application procedures could save in the region of £300 million. The possibility of facing this kind of expense acts as a strong disincentive for companies thinking of becoming involved in potential planning applications that would create substantial economic benefits. Secondly, the additional time and working hours that repeated hold-ups and continued requests for information that planning applications might entail is another barrier for businesses considering development.

CASE STUDY:

Dibden Bay Terminal Inquiry

Between 2000 and 2004 the application for a new container port in Dibden Bay on the South Coast, (including an application for a Harbour Revision Order as well as planning permission and other consents) took a total of 66 weeks at a cost of £45 Million.

As part of the inquiry, an enormous amount of considerations were taken into account in determining whether the application was consistent with national, regional and local transport and planning policy, with issues including need, alternatives, conservation, erosion, fishing, navigation, land access, and other issues (from traffic to air and noise, to archaeology and human rights) all evaluated. At the end of this lengthy process the application was refused, but the sheer time, cost and effort wasted to inform this decision was the most unacceptable factor.

CASE STUDY:

Heathrow Terminal Five

BAA submitted a formal planning application for a fifth terminal at Heathrow in February 1993 setting out planned designs and the need for the development as part of the future of the aviation industry. A public inquiry then followed, beginning in May 1995, costing £80m, hearing from 700 witnesses, generating 100,000 pages of transcript and sitting for 524 days in total. The Secretary of State then finally announced the Government's decision to grant planning permission for the building of a fifth passenger terminal at Heathrow in November 2001, over eight years later. As part of the process BAA launched 37 separate applications under seven different pieces of legislation.

CASE STUDY:

Falmer Stadium, Sussex

The proposed multi-purpose stadium at Falmer, East Sussex, was granted formal planning permission by Brighton and Hove City Council in October 2001 but was only agreed in July 2007, despite clear local economic benefits and broad support from the public in the area.

The stadium, to be the home of Brighton and Hove Albion, will have capacity for over 22,000 seats, incorporate a banqueting and conference facility, teaching space for the nearby University of Sussex and 1,200 square metres of office space. The plans were in the District's Local Development Framework, agreed to be a significant contributor to the area's local economy, as well as providing better facilities for the football club. Decisions were constantly delayed for several years at a national level through a drawn-out public inquiry process. While work had begun on the stadium by the end of 2008, it is still not expected to open until 2011, a decade after planning permission was actually granted.

¹ BCC Annual Transport Survey 2008

CASE STUDY:**Metro Link Extension**

The Midland Metro tramway system in the West Midlands opened on 30th May 1999. Line One runs between Birmingham and Wolverhampton (where there is a short on-street section) but there have been planned extensions including a line from Wolverhampton to Walsall and Wednesbury to Dudley and Brierley Hill and Stourbridge.

The extension to Brierley Hill is of particular importance to the Merry Hill Shopping Centre in the area. Currently owned by the Westfield Group and the Queensland Investment Corporation, this is the fourth largest shopping centre in the UK and an area that would benefit from regeneration. Despite pledged investment, plans to appoint a project director and an Examination in Public process and inclusion of the project within the RSS, little progress has been made. Indeed, the need to revise housing targets within the RSS led to a decision to stop and revise the entire strategy at a delay of six months.

Overall, while some progress is being made on the Wolverhampton Loop project, work on developing a coherent business case for the extension has been held severely back by a paucity of properly integrated transport planning in the region, and a lack of central government funding.

The current economic climate

With the UK economy in recession and the domestic and commercial property market in particular suffering heavily, the need to re-evaluate how far the planning process that exists continues to be fit for purpose is even more pressing.

As far as businesses are concerned the number one short-term issue at the moment is the availability of cashflow. The financial crisis and economic downturn have meant that the availability of credit for businesses is much more limited and offered on much less favourable terms. As a result, how effectively companies (particularly SMEs) can manage their daily incomings and outgoings is determining their likelihood of survival. In this more difficult environment, costs are being looked at much more closely by firms and any investments based upon expectations that the economy will improve postponed. Involvement in planning applications at all, with the associated costs, delays and risk that this brings, will be falling off.

In the current recession, the willingness of the private sector to become involved in new large-scale infrastructure projects has also dropped off. There are however some major projects, such as Crossrail in London, which have long been in the planning and are continuing. The public sector will however need to step in to fill the gap left by the private sector reducing its involvement in the current economic environment, both by funding more new projects itself and deciding to take on a larger share of new and existing projects under revised plans. This type of activity has the potential to stimulate employment and cashflow for businesses through new contracts as well as improve the economy's long-term growth prospects.

In terms of developers the situation they face is equally dire. The collapse in the commercial property market has led to a decline in the number of developments that are being planned, taken forward or completed. Businesses also note that this has been compounded by the removal of Empty Property Rate Relief (although government has offered some short-term temporary exemption from this for the smallest businesses). As such proposals for development have dried up, with the associated impact on the construction industry and other professions associated with the sector. However the planning system and some of the assumptions that underlie the planned reforms to the sector have not altered as a result.

It is critical that planning policy solutions are grounded in the current economic reality. The planned Community Infrastructure Levy (CIL) for example, is based upon the idea that developers should make a contribution to the infrastructure that supports any major new development, however in the current climate there are fewer new developments and very little additional money for additional developer contributions (indeed the Government has reflected this in their decision to delay the introduction until April 2010). Equally the expectations placed upon developers in terms of the information, time and commitment they need to allot to a new development project remain unchanged. There is very little encouragement for the businesses who demonstrate a willingness to take on the risks of speculative investment in the current climate that we will need for our future economy. As a result, there can be little doubt that there is a real need for the existing planning system to better recognise and reflect the current recessionary climate.

THE PLANNING SYSTEM AND ITS SHORTCOMINGS

The current planning system

From business's perspective, there is gap between theory and the practice in terms of how the planning system operates. The existing planning policy framework is aimed at delivering a system that offers a clear forward looking policy direction at a national, regional and local level. As a plan-led system this should mean planning processes that offer greater certainty, predictability and responsiveness.

The statutory planning framework in place since 1991, and endorsed in the Planning and Compulsory Purchase Act 2004, is clearly set up to be such a 'plan-led' system. At a national level, government sets out broad national planning policy, including Policy Planning Statements and guidance. Ministers can also initiate changes to the legislative policy set by Parliament. Since the Act, the Regional Planning Body is tasked with preparing a Regional Spatial Strategy (with its equivalent in London)² at the regional level, with Local Planning Bodies producing Local Development Frameworks (LDF)³ to cover the local environment.

Local Authorities are to make decisions on whether they can grant planning permission for particular developments on the basis of these documents and existing regulations. Applicants are expected to provide information about the effect the development could have on the surrounding area and other required documents to support a proposal (plans, drawings, possible fees, etc.) with some requiring an environmental impact assessment. Any appeals against decisions can then be made to the Planning Inspectorate. The only exceptions to this process are permitted development (where certain small alterations or changes of use on agricultural land, buildings or operations or internal building works are exempt from the planning permission process), and areas where development is heavily restricted (in order to protect attractive landscapes, plants and wildlife, ancient monuments, historical or architectural buildings or to limit urban growth, known as the Green Belt). The reality for businesses in their experience of the planning process is that the system does not live up to the promise of certainty, predictability and responsiveness that stakeholders would expect from looking at the framework that has been set up. The reasons for this anomaly are set out below.

The failings of the current planning system

The lack of a clearly defined planning policy framework for decisions at all levels.

At a national level, business sees the prospective planning system delays in rolling out major economic projects despite our pressing energy generation needs and weak infrastructure (compared to our European competitors) as a barrier to our international competitiveness. If this continues, our economy is likely to fall further behind e.g. if we don't invest to ensure adequate energy network capacity to support those potential high-growth sectors that will require it, such as IT, science and engineering. The absence of clear long-term statements of government policy which then determine efficient decisions on infrastructure projects has been a clear contributory factor in the inability of the UK to deliver a better and more attractive environment for business. This lack of clarity also spreads to how important issues are defined, whether it be heritage, minor and major developments or design considerations, proper and proportionate assessment of these issues is hampered by inadequate definition.

At a regional level, there is a lack of coherence resulting from Regional Spatial Strategies (RSS) and Regional Economic Strategies (even though both are relevant to the economic development of an area), which require detailed input from the local business community. The dislocation between these two strategies has resulted in a lack of coherence in the approaches being taken to development in each region. Equally business has found engaging with the RSS process frustrating, with protracted disagreements over the minor aspects of strategies, unnecessary changes, and unreasonable delays in agreement and implementation. This has particularly been a problem in terms of arguments around housing targets in certain regions and excessive delay through processes such as Examination in Public Panels (EIP).

In contrast there has been very little progress in terms of effectively regionally monitoring sectors such as retail, developing swifter, more predictable processes for decisions on regionally important infrastructure or in reducing the amount of incidences of projects that are set out within the RSS but not subsequently taken forward. More broadly, businesses can see a need for co-ordination of plans at a higher spatial level than the local, in order to allow greater strategic co-ordination of issues like infrastructure which are likely to need to cross local boundaries. For opponents of regionalism, overcoming this important aspect of co-ordination does require an effective alternative solution.

² Regional Spatial Strategies (RSS) are documents tasked with setting out a development strategy for the region over a fifteen to twenty year period, identifying the extent and scope of new housing, regeneration areas, and how environmental, transport, infrastructure, economic development, agriculture, minerals and waste issues will be tackled.

³ Local Development Framework's are a portfolio of local development documents that together form the spatial planning strategy for the local area (covering development plans, project planning, monitoring, a Statement of Community Involvement and supplementary documents).

It is at the local level where most businesses directly engage with the system in terms of processing planning engagements. Here, the experience of business of the service that they receive and the strategic work of Local Authorities in regard to planning remains mixed. The limited number of up-to date Local Development Frameworks (LDFs) in place is a major concern. According to the Government's own statistics of the documents that make up LDFs, the Planning Inspectorate has so far only found sound 43 Core Strategies, 30 Area Action Plans, Seven Site Allocation Policies, Seven Development Control Policies, 11 Minerals and Waste Policies, and Nine other plans dealing with specific themes but 385 Statements of Community Involvement.⁴ Given that site allocations are the plans which protect and allocate employment development, this is clearly an inadequate situation.

CASE STUDY:

Regional Planning processes in the North East

North East Chamber of Commerce (NECC) was heavily involved in the development of their region's Regional Economic Strategy and Regional Spatial Strategy throughout 2006-07. Based upon the needs of their business members and working with both One North East and Local Authorities in the region they inputted into both processes in order to ensure the best possible planning framework for enterprise in the region.

Their experience was that:

- The RES was welcomed by business in the region due to being relatively swift in its development, having a high-level strategic focus, and effective accountability and scrutiny processes which delivered a shared sense of ownership by stakeholders;
- The RSS suffered a lack of business engagement due to a protracted and arcane statutory planning process, micromanagement (e.g. setting annualised housing numbers by District) and frustrating external changes through the Examination in Public (EIP) process and by the Secretary of State. Indeed NECC participated in the EIP process, but found that the changes inserted afterwards carried no additional weight and were subsequently overturned in later drafting, wasting both their time and public money in a meaningless process.
- As a result of the above, the RSS directly contradicted the RES in a number of areas, including the importance of strategic transport infrastructure, support for development of facilities at Teesport, and support for expansion of North East Technology Park (NETPark) at Sedgfield, resulting in a clear disjuncture in policy direction.

As a result NECC supports the amalgamation of the RES and RSS into a Single Regional Strategy, believes that the SRS must rise to meet the example of the RES process rather than that of the RSS and questions the appropriateness of an EIP as a means of scrutiny.

CASE STUDY:

MLM Consulting Engineers

Kent Invicta's Chamber members MLM Consulting Engineers have found persistent problems in the planning system with projects they have been involved in Dover and Ashford.

Specifically:

- The proposed extension to Aylesham Village, for 1,200 homes and a commercial development to revitalise the village centre suffered extensive delays around application validation, protracted consultation with different bodies, resource issues, slow planning guidance adoption, unreasonable requests and incompatible IT formats for documents.
- The Cheeseman's Green project for 1,500 new homes and retail development has been delayed, despite being included in the Local Development Framework, due to government funding difficulties in respect of Junction 10a.
- Although a joint presentation with the Ashford Construction Focus Group for a feasibility study into an Ashford Monorail project was supported by members of Kent and Ashford's Joint Transport Board this was rejected due to a lack of funding without planning obligation or European funding options being explored.

CASE STUDY:

Inconsistent application of design guidelines

A car dealership seeking a planning application to support entering a franchising agreement with Ford, was initially refused by a Local Authority on the basis that the branding signage that they wished to use was determined to be in breach of design guidelines and its impact upon the local area. This was particularly problematic for the dealership, not only in terms of the thousands of pounds that would be lost from failure to secure the franchise, but also because the signage was actually a requirement of the franchise and used as standard practice right across all Ford dealerships across the country. The decision was also ultimately reversed.

⁴ Hansard, 23 Mar 2009, Column 77W

A planning system that does not encourage a strategic focus

With a planning system facing a wide range of different pressures, it is critical that planners are able to focus their limited time on the issues of greatest importance for the future of their localities. This should also mean planners are able to take adequate and rapid enforcement action against those who transgress. Larger scale applications will normally be of much greater public interest than many small-scale permissions and resource needs to be allotted to these applications to ensure they are dealt with as effectively as possible. There are a wealth of other minor developments, extensions and alterations, particularly in the commercial and non-residential sector, which currently require planning permission despite the fact that they represent very little, if any, significant change to their local environment or fundamentally alter the existing premises. Some of these could potentially be very useful changes that businesses could make to their premises to better exploit market opportunities.

As we have stated above, effective and clear national planning policy guidance is important for ensuring a consistent approach. While in recent years the government has attempted to reduce the amount of national guidance through Planning Policy Statements, the extent, variety and sheer volume of planning guidance makes it extremely difficult for businesses to be able to understand how existing planning laws are likely to be applied in terms of their particular case. According to the Government, since 2005 the Communities and Local Government Department (and its precursor the Office of the Deputy Prime Minister) have published approximately 3,254 pages of national planning guidance, without including documents published but subsequently cancelled.⁵ This national situation is also added to by extensive regional and local guidance, which is often not up-to-date in terms of local or regional plans. As a result businesses invest significant resources in securing ongoing expert assistance (legal advice, planning agents etc.) to navigate their way through the process at significant cost.

There also needs to be a well-functioning appeals process within the planning system which enables sufficient accountability in a timely and predictable fashion. Where a planning application has been turned down, it is reasonable for a process to be in place for such a decision to be challenged at a national level, through a body such as the Planning Inspectorate, if that decision seems at odds with what has been set down in existing policy. However, the Planning Inspectorate handled nearly 23,000 planning appeals in 2007/08, ranging from numerous small-scale household applications to more demanding major commercial developments.

This is around 4% of all applications and 18% of refused applications, but almost two-thirds of these appeals were dismissed (with some authorities having as many as 90% of appeals dismissed). There are clearly a large amount of decisions that are being unnecessarily appealed against, feeding perceptions that some applicants use this mechanism to put pressure on Local Authorities to accept applications.

A culture, capacity and approach within Local Authorities that could better support economic growth

One of the long-standing concerns of businesses involved in the planning process is the lack of flexibility that the system has in regard to adapting to minor changes in plans and proposals. For schemes which require planning application decisions across a number of different areas minor changes around one marginal factor in one locality can mean that everything will need to be re-thought, re-submitted and agreed again even if these factors do not fundamentally alter agreements that have already been made. Where decisions have been taken, and minor alterations in assumptions are required, the planning system should be able to allow progress on the application to continue. There is also a lack of flexibility in terms of paper work required, with businesses still reporting unreasonable requests for numerous copies of documents, poor communication between different Local Authority departments, intransigence in validation practice, requirements for additional documentation for minor changes of use and practical IT issues (requests for documents in alternate electronic formats) despite the action government has taken to address the problem through their Planning Portal.

From the perspective of business, the time taken between submitting an application and a decision being taken is also a key way in which the effectiveness of the system is assessed and whether it enables them to act dynamically and respond to changing market conditions. Currently, Local Authorities are expected to deal with 65 per cent of major applications within 13 weeks, and with 70 per cent of minor and 80 per cent of other applications within eight weeks. This deadline is enforced by government through the delivery of a £600 million Planning Delivery Grant. There is widespread support for the 13 week maximum target from the business community, and the need for government to strictly enforce this limit, particularly for issues that are included in the area's LDF. However, the Killian Pretty Review highlights evidence that improvements in the speed of decisions have resulted in increases in the number of application refusals, suggesting that applications that may have been approved with more work and more time being taken are being refused in order to meet the existing deadlines.

⁵ Hansard, 23 Mar 2009, Column 76-77W

The business community is also concerned that inadequate skill levels and capacity within some Local Authority planning departments are inhibiting the overall effectiveness of the system. As last year's Communities and Local Government Select Committee's investigation into planning skills highlighted, there are around 17,000 public sector planners in England and Wales (of a total of 30,000) which process approximately 526,000 applications a year in England alone. These positions have been subject to ongoing recruitment and retention problems, particularly in retaining more senior level and experienced planners.⁶ Equally the skill levels of councillors on planning committees are a cause of concern for business. While government has recognised the skills problem and taken measures to tackle the issue, notably through Sir John Egan's 2004 review, which led to the creation of the Academy for Sustainable Communities in 2005 and investment in post-graduate bursaries, further progress is needed to make planning a more attractive and rewarding career option and to enable planners to play a more strategic role. This is particularly pressing when more specialist skills, for example in regard to negotiating new planning obligations, will be needed. There is also significant capacity within the private sector, in 2006 there were 442 planning services firms in England, four of which employed over 100 people.⁷

There are also conflicting views as to the aims and objectives of the planning system and how it should operate between the business community and some planners and Local Authorities. For businesses, they see the economic benefits from a planning system that enables local development and regeneration and are willing to make their case as part of the plan setting process for the overall vision and priorities at a national, regional and local level. This is, and should be, a democratic process, allowing input from all local stakeholders, which can then determine the decision-making process going forward in the planned system.

However, once this process filters down into individual decisions about specific planning applications, there is a problem. For businesses considering a development they expect that if they are within the rules and plans set down, they can reasonably expect their project to be given approval, and be able to plan their future operations and finances on that basis. They accept that they will need to make reasonable efforts to inform and engage with interested parties early on in an application process, but they expect that in the end, qualified planners will ensure that decisions are made on the basis of the existing rules and guidelines which they have sought to follow.

Unfortunately businesses find that some Local Authorities do not view the planning process in the same way. They find a culture within some planning departments which as a default option is opposed to any local development or view applications as the beginning of a process as a mediation where different competing local interests have to be balanced out to reach a solution. They also find councillors on some planning committees that actively seek to campaign against developments on the basis of the political merits of a particular policy issue (such as protection of the countryside, architecture, or heritage, or energy or science policy) advocated by determined and vociferous local or national interest groups. Developers can then find themselves participating in a public campaigning process for their project with no guarantee of how long this process might take or what it might cost, against groups who have highly motivated and committed activists. In a heavily damaged property market, with developer participation in projects already weakened, the amount of time, effort and cost for businesses during some planning application processes is unacceptable and needs to be addressed.

A confused funding, charges and obligations landscape

While not opposed to making contributions in exchange for an efficient and effective service in principle, businesses do not see a planning system that provides value for money in delivering the UK's infrastructure needs. In the current economic climate it is even more important that these costs for businesses show real value.

Part of business's frustration with the planning system lies in the disconnection between the process of national, regional and local plans and decision-making and the actual delivery of infrastructure projects due to funding issues. Many schemes which the business community has lobbied for in their locality, are subsequently included in national, regional or local frameworks but then not delivered as a result of a lack of available national, regional or local funding. The fact that these projects can be planned for, discussed, debated and agreed without this process being aligned with the allotting of funds is a major indictment of the dislocation that exists within the planning system.

The extent of private sector fees for applications, advice etc is inevitably a concern for businesses. Where Local Authority charging levels have risen in comparison to previous rates (and are based upon surface area rather than any business measure) companies are concerned, while Local Authorities complain about their inability to charge for what they see as the true cost of handling applications.

^{6 & 7} Planning Matters - labour shortages and skills gaps, Eleventh Report of the Communities and Local Government Committee, July 2008

This can be seen in regard to pre-application discussion. Early pre-application discussions with Local Authorities are important for ensuring that valid applications are made and that any issues that will cause problems further down the line are addressed before any of the process is initiated. Pre-application discussions can be an ideal forum for discussing whether impact tests are appropriate and proportionate, for minimising areas of disagreement and for saving time and resources for both planners and developers (as in the example of Westminster Council). Businesses are willing to pay for this sort of service provided they can be confident that the advice they are given in these situations will be consistent and accurate. Currently the quality of Local Authority services is seen as patchy, with some using junior staff to offer initial advice which is then contradicted by more senior officers. Differing different charging regime solutions have been discussed and no effective solution has been found. A better system through which payments can be made in a way that ensures faster more effective delivery is needed.

The level, number and use of planning obligations, particularly in the current recession with the property market in decline, is another issue of concern for the business community. Under the current system developers pay supporting contributions for the infrastructure associated with a project (known as Section 106 agreements) or commit to add certain community infrastructure benefits in negotiation with the relevant Local Authority. While some effective developments have been achieved through adaptations to this mechanism, notably the development tariff scheme in Milton Keynes, the lack of an effective system of infrastructure contributions has been a barrier to development and led to proposals for additional developer contributions to be levied.

In the current environment, there are very few developers seeking to be involved in new projects at all, but those involved in existing projects will be looking to reduce costs wherever possible. Clearly the growth in planning obligation charges during a period of a rapidly growing property market reflected a view where it was thought reasonable for the local community to get a larger share of this growth to invest in the local area. While there continues to be an argument for additional income to support new development, provided it goes beyond what can reasonably be expected from existing public sector spending, business will expect the levels at which these charges will be set at will need to take account of the changed economic situation and Local Authorities will need to revise their approach to agreed levels for these contributions to make them viable.

There is also the issue of how these levies fit within a broader framework of local business taxation. Firms are concerned that these developer contribution levies could be raised on top of planned Business Rate Supplements, Workplace Parking Levies (as being taken forward in Nottingham), potential congestion charges, existing Business Improvement Districts contributions and the existing taxes that businesses already pay. This potential combination of charges could leave businesses facing considerable costs, with no certainty as to their size or scope.

Real transparency of how planning obligation levies are used is also lacking. Some Local Authorities have not made it clear how funds raised by existing Section 106 agreements have been used and where they have been deployed, creating an impression that these are merely a proxy tax on development rather than charges for genuine planning benefits. This impression is only re-enforced by evidence such as the 2008 Cushman & Wakefield report findings of £1.25 billion of unspent developer contributions across 300 Local Authorities in 2008 and claims by Lindsay Hoyle MP that a total of £4 billion of these funds are held in Local Authority bank accounts.⁸

CASE STUDY:

Westminster City Council - Pre-application procedures

Westminster City Council place a high priority on their pre-application advice service to try and resolve issues as early as possible. For medium and large-scale proposals, this process is charged for on a fee scale and is subject to a senior officer review mechanism, which may also include the review of potential applications with officials from other departments.

In regard to the former Normandie Hotel in Knightsbridge, a formal pre-application meeting was held with the developer, agent and architect in June 2008. After subsequent advice, the submission of further drawings, and a second meeting and officer review in August 2008 a formal response was made in September 2008. The formal application was submitted in October 2008. After Local Authority consultation and an exhibition by the applicants for local residents and businesses, the applicant amended the scheme in December 2008. The scheme was reported to the Planning Committee in February 2009 and granted permission and conservation area consent, subject to referral to the Mayor of London and a legal agreement.

Through their pro-active management of this application, Westminster have ensured that all major issues were highlighted before the formal process began, thereby providing the opportunity for submission of a better quality application.

⁸ Planning Magazine, 13 March 2009, p.3

FORTHCOMING REFORMS TO THE SYSTEM

In recognition of the fact that the planning system in practice does not live up to the theory, there are a number of recent and upcoming government reforms which seek to improve these processes based upon an extensive body of research.⁹ The results include the Planning Act 2008, The Sub-National Review of Economic Development and Regeneration (SNR) and the Killian Pretty Review of the planning application process. Together these measures aim to ensure a more streamlined process for decisions on national infrastructure projects, clearer and more effective regional planning processes and a swifter and more responsive local planning application system.

The Planning Act seeks to bring together the current multiple consent regimes for infrastructure decisions. It also aims to increase the effectiveness of decisions on major economic projects through an Infrastructure Planning Commission (IPC), supported by National Policy Statements (NPS). The IPC will take decisions on key national infrastructure projects (covering energy, transport, water, waste water and waste facilities) and consist of up to 35 Commissioners which should be ready to receive applications in the first half of 2010. If implemented successfully, this system should be a more timely process than the current situation of different Secretaries of State operating under different consent regimes having to make planning decisions for which they have little expertise. Because NPSs will be the principal policy documents which the IPC will use for making their decisions, they will seek to offer clear statements and guidance, including an efficient process as to how local issues will be incorporated. NPSs will set out long-term social, environmental and economic policies covering the need for new or expanded infrastructure, area considerations, and how these issues will be weighed up.

The Planning Act also enables Local Authorities to raise a new Community Infrastructure Levy (CIL) charge on new development schemes, to support associated infrastructure. This scheme replaces previous proposals for a Planning Gain Supplement (based upon a complex calculation of the additional value of land that has been granted planning permission). Under this new scheme Local Authorities wishing to raise the levy will have to set out a charging schedule (including the proposed amount to be raised) which will then be independently assessed and publicly scrutinised. CIL spending will be limited to not only transport, but schools, health centres, flood defences, play areas, parks, green spaces, and affordable housing and should not be used to fill deficiencies in existing infrastructure. It is however not clear whether the

charging aspects of Section 106 Agreements will remain available to local planning authorities once CIL regulations come into force or indeed how consistent application of CIL will be ensured.

There are also forthcoming changes as a result of the July 2007 SNR, being implemented through the Local Democracy, Economic Development and Construction Bill. Under these proposals each region in England (except London) will be required to produce a Single Regional Strategy (SRS) for sustainable economic development in their region (merging the existing RSS and Regional Economic Strategies). The SRS should be a concise document covering regional challenges, economic growth strategy, regeneration, housing, climate change and infrastructure issues and activities of other public bodies and partners in the region. Drafting, implementation and monitoring of delivery of this SRS will be the joint responsibility of the Regional Development Agency (RDA) and a Board of Local Authority Leaders in the region, with existing Regional Assemblies abolished. In drawing up the SRS the RDA/Local Authority Leaders Board will have a duty to engage stakeholders throughout the strategy, publishing a statement as to how they will do this and working with the Examination in Public panel. This change responds to business frustration with the RSS process in some regions, where protracted disagreements over the strategy have led to unreasonable delays in time taken for agreement and implementation.

At the local level, the Government have also broadly accepted the recommendations of the Killian Pretty Review which reported in November 2008. Led by Joanna Killian, Chief Executive of Essex County Council and Brentwood Borough Council and David Pretty, former Group Chief Executive of Barratt Developments PLC, this review made recommendations for a faster and more responsive application process. These included proposals to expand the scope of permitted development, reduce information requirements for minor developments, enable small changes to existing permissions, revise performance targets, increase planning department capacity and improve advice, process, quality, pre-application discussion and planning conditions and obligations. The review points out the cost and time savings that could be achieved through taking as many as 15,000 applications out of the system completely through extended permitted development rights (including the large number of minor domestic housing applications such as conservatories and home extensions) and not requiring re-application for other small changes where permission already exists. There are also recommendations to tackle the problems resulting from the targets on Local Authority decisions by replacing this measure with an assessment of customer satisfaction.

⁹ The Government's approach to reforming the planning system has been informed by a wide-range of policy papers, including Lord Rogers' Urban Task Force (1998), the Planning Green papers of the late 1990s, the Barker review of Housing Supply (2004), the Leitch Review of Skills (2005), the Barker review of Land Use Planning (2006), the ASC's Mind the Skills Gap report (2007) and the Calcutt Review of Housebuilding (2007).

Overall, it is clear that there are a wide range of recent and upcoming reforms to the planning system, aimed at ensuring that the system delivers a more efficient and effective decision-making at the national, regional and local level. Together they offer the potential for improving how well the current system operates. The Planning Act, bringing together the current multiple consent regimes for infrastructure decisions, in combination with the Killian Pretty Review's measures to take many small matters out of the planning application process completely offer the potential for a simpler, more efficient system.

Equally a more efficient means of ensuring that regional plans are effective tools to deliver the economic development aims of an area is a laudable long-term aim. These reforms will entail a significant amount of change, on top of other reforms that are still filtering through. These changes will undoubtedly need time to see if they are having any impact before further radical reforms are implemented. However, the views of business and the needs of the economy, do indicate that there is a still a strong argument for continued change to existing practice.

RECOMMENDATIONS FOR RECOVERY

As has been highlighted the key issue for the business community for planning is whether the system ensures that the UK has the infrastructure in place to support our ability to compete in the world and that it promotes an environment which enables companies to thrive. In the current economic environment, a much greater recognition of the role that development can play in supporting local business growth amongst people involved in planning decisions at all levels would be a great help to business at the current time.

The combination of the current economic situation, upcoming reforms to the planning system and further areas for improvement offers a real opportunity to demonstrably improve our planning system. There needs to be a short-term focus on solutions to business's problems in the downturn but equally there must be measures to ensure that the planning system at the national, regional and local level really improves in practice over the long-term practice. We have therefore set out below a series of recommendations, which we believe, if implemented effectively in full, would enable the planning system to be able to best weather the current economic storm and support our economic recovery when it comes. We hope that opinion-formers and decision-makers will listen to our argument and be able to act upon our recommendations.

Short-term assistance

In the short-term there need to be ways of allowing existing businesses to expand, reduce red-tape, and encourage investment in deprived and large industrial areas, specifically:

- The idea of Enterprise Zones to assist new development and business growth during the downturn should be revisited. Created in the 1980s these were areas which were granted exemption from taxes on land development, business rates, 100% allowances for corporation and income tax purposes for capital expenditure on industrial and commercial buildings and a simplified planning regime so that developments that conformed with the published development scheme for each zone didn't need individual planning permission. This concept could be updated, with simplified planning zones in areas in which development would have little impact on local residents or the environment.
- Short-term planning support could also come in the form of greater local flexibility e.g. Local Authorities could helpfully look into suspending application fees, reducing developer contributions, prioritising commercial applications, or extending timescales e.g. for submitting reapplication for permissions that have run-out.
- Government should also look into the possibility of reducing VAT on renovation works in this recession to support the construction industry.

A clear planning policy framework

Going forward, there needs to be a priority placed upon creating an up-to-date, clear and joined-up planning policy framework to effectively guide decision-making, specifically:

- The NPS and IPC framework offers the potential to provide more efficient decision-making processes and both should be given time to prove their worth. NPS will however need to give strong and clear direction in regard to meeting our economic and energy needs and clear guidance and regulation about how decisions will be examined and implemented.
- At a regional level, SRS, will need to be shorter and sharper documents with better business engagement and a more streamlined development and sign-off process, including the abolition of the EiP process. If NPS successfully set out key infrastructure corridors and locations for decisions, the future purpose and need for these strategies at all in some regions may be open to question.
- Government at all levels should commit to a timetable for ensuring that all Local Authorities have full LDFs in place across the country as a top priority.

A strategically focussed planning system

In order to meet our future economic needs, the planning system will have to encourage and support planners in focusing on projects of key importance, with other barriers to this objective removed, specifically:

- The Killian Pretty Review's recommendations for removing the unnecessary strains on planning officers and burdens on applicants for small scale developments through extending permitted development rights should be taken forward as quickly as practically possible. Similar measures, such as extending the usage of Local Development Order powers (through which Local Authorities can allow extra local permitted development rights) should also be pursued.
- The extent of written guidance at all levels within the planning process must be urgently reduced. The Barker Report's recommended an overall 200 page limit on national guidance and the Government should commit itself to a target of this nature and report back regularly to Parliament on progress towards meeting this objective.
- The current existing grounds for appeal should be examined and better procedures for resolving appeals at the local level explored.

An economically focused Local Authority culture, approach and capacity

We need a local government sector that better recognises the economic importance of planning, is responsive to the needs of business and has the capacity to deliver an effective planning service, specifically:

- Greater flexibility must be embedded within the planning process, allowing applications that have been agreed to continue to progress, when minor changes to underlying assumptions occur. More broadly the application of rules should also reflect a more proportionate assessment of particular cases, enabling a focus on serious transgressors that will have a significant on the local environment.
- The speed and efficiency with which Local Authorities deal with planning applications needs to improve further. While businesses support the accountability that the current timescale process engenders, the evidence of perverse results of this measure cannot be ignored. It therefore seems sensible for a broader measure of customer satisfaction to be brought in, provided that it does include an indicator of how far timing targets are being met.
- Central government must adequately fund Local Authorities to at least maintain their planning capacity so that the risk of cutting back spending on planning departments due to income reductions and finances being squeezed during the recession is avoided. Greater use should also be made of existing capacity within the private sector.

A clear and effective funding, charging and obligations system

We need a system of funding, charges and planning obligations which enables the business community to have confidence that decisions they are involved in will result in investment and that fees or levies they pay offer value for money in terms of quality and in delivery of results, specifically:

- Financial planning for the allocation of funding for infrastructure with planning decisions for actual projects must be much more joined-up. Regional Funding Allocations and the inclusion of funding plans by agencies within a region in the SRS should help, but numerous situations where projects agreed through extensive national, regional or local processes have no prospect of implementation as no funding plans have been made.
- A long-term solution to the issue of planning fees and their relationship to the quality of planning services needs to be found.

- The planning obligations system needs to be radically simplified, made more accountable and offer clear economic benefits. The levying of both Section 106 charges and CIL levies in an area should be prevented, how and where these funds are spent should have to be public information, and the possibility of obligations including better provision for small and starter businesses explored.