

THE ROYAL TOWN PLANNING INSTITUTE

LOCAL GOVERNMENT CONSULTATION

A submission to the ODPM: Housing, Planning,
Local Government and the Regions Select Committee
of the House of Commons in connection with its inquiry

February 2005

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INTRODUCTION

1. The ODPM: Housing, Planning, Local Government and the Regions Select Committee of the House of Commons has decided to conduct an inquiry into consultation by local authorities on the delivery of their mainstream services, regeneration initiatives and planning functions. The Committee will pay particular attention to the following issues –
 - the general effectiveness of public consultation and its impact on local authority decision-making, and possible ways to improve it;
 - how public consultation fits into the local authority decision-making process;
 - whether public consultation by local authorities is part of a continuing process of communication, information dissemination and participation;
 - whether best practice is being developed and applied widely;
 - the extent to which consultation exercises reach an audience beyond those who typically participate; and
 - whether the new cabinet structures in local government facilitate consultation and the involvement of constituents in decision-making.
2. The Royal Town Planning Institute (RTPI) is a membership organisation representing over 16,000 town planners, over 7,200 of whom work for local planning authorities in England. The RTPI exists to advance the science and art of town planning for the benefit of the public.
3. The Institute welcomes the opportunity to contribute to the Select Committee's inquiry into the role and effectiveness of public consultation by local authorities. We agree with the Government's view that a transparent and accessible planning system, with effective community involvement is central to delivering the vision of the sustainable communities plan¹.
4. This submission focuses on the local authority's planning functions, and has been aided by contributions from the Institute's general membership, its Community Planning Forum, its Regeneration Network, and Planning Aid staff. (Planning Aid

¹ Community Involvement in Planning: The Government's Objectives. ODPM 2004.

provides free, independent and professional advice and support, on town and country planning matters, to disadvantaged community groups and individuals, who cannot afford to pay fees to a planning consultant. It seeks to complement the work of local planning authorities, but is completely independent of them.)

GENERAL COMMENTS

Prior to addressing the six issues raised by the Committee we wish to make three overall comments;

5. The Government clearly recognises that increased community participation in the planning system can contribute to its new localism agenda², and help deliver a more efficient and effective planning system³. However, it is equally important to recognise that greater public involvement will also result in a better end product – in better development on the ground – and that there is likely always to be a tension between quality and the Government's desire for a planning system that delivers decisions more quickly.
6. There are four main tiers in the planning system in England – national, regional, sub-regional and local. Each tier provides for different degrees of public participation, with the opportunities being greatest at the local level and least at the national level – ie inversely proportional to the weight each tier carries. It is this inverse relationship that has led to distrust and confusion in interest and community groups and among the public at large. While the Government is keen to promote participation at the local level, as evidenced by the provisions of the Planning and Compulsory Purchase Act, 2004, this is only once the strategic decisions have been taken at a higher level. There is a growing public awareness of the democratic deficit at the regional level, and the Government has so far set its face against the preparation of an inclusive national strategy such as might be represented in a UK Spatial Development Framework.
7. The importance of community involvement in the planning system has been emphasised in a plethora of recent policy, guidance and advice from Government. With this in mind, the Institute suggests the Committee's inquiry might have focused on "involvement" or "participation" rather than "consultation". "Consultation" implies that the public or community are being invited to comment on decisions that have, effectively, already been made, or on a limited range of options selected for them – it is one low level on the participation "ladder"⁴.

DETAILED COMMENTS

The general effectiveness of public consultation and its impact on local authority decision making and possible ways to improve it

8. The planning system in England has a long history of consulting the public on both planning applications and development plans, with minimum standards set out in

² Sustainable Communities: People, Places and Prosperity. A Five Year Plan from the Office of the Deputy Prime Minister. ODPM 2005.

³ Planning Policy Statement 1: Delivering Sustainable Development. ODPM 2005.

⁴ Arnstein, Sherry (1969) A Ladder of Citizen Participation. Journal of the American Planning Association, Vol 35. No 4.

- statute⁵. Most LPAs want, and attempt, to involve the public in decision-making, though often this is consultation rather than involvement. Meeting and, in many cases, exceeding the minimum standards has become the normal practice of many LPAs, though the effectiveness of procedures, and their impact on decision-making, is difficult to gauge.
9. The previous approaches to public participation (ie those prior to the 2004 Planning and Compulsory Purchase Act) provided a limited opportunity to impact on local authority decision-making, with the public generally being consulted on issues when decisions, at least in principle, had already been taken. In other words, local authorities were looking for endorsement of decisions, with only a limited scope for change. Public involvement was largely negative, with people becoming involved in the planning process only as objectors to planning applications or local plan policies. Rather than enhancing public attitudes to, and trust in, local government and the planning process, the system left people dismayed with a bureaucracy where their views had little impact on the local authority's decision-making.
 10. In contrast, the system introduced by the 2004 Act strongly encourages "front loading" in the planning system. By engaging earlier in the process, the public will have the opportunity to play an effective part in decision-making. Instead of being reduced to the role of objector, the public and community groups have a positive, pro-active role in identifying, developing and discussing issues, with parameters and limitations clearly defined and explained, in a non-confrontational atmosphere. A recent study of housing provision in the South East of England confirms that effective participation occurs through early engagement – *"Getting people to engage with problems at the strategic level through pro-active consultations can be highly effective. If presented with information about a range of options, people make reasoned choices and compromises"*⁶.
 11. It is important that research and monitoring are set up to determine whether the new planning system does increase the level and effectiveness of public involvement. This, effectively, will be one of the "soundness" tests of development plan documents prepared under the 2004 Act's provisions. Equally, the effect of targets and Best Value Performance Indicators needs to be reconsidered. It is arguable that existing indicators work against an LPA attempting to increase effective engagement, when BVPIs ought, instead, to be rewarding this.
 12. Whether dealing with planning applications or development plans, providing information and getting the public involved with the planning system is hard work and time-consuming for LPAs. Simply to identify the "public" – the individuals and groups with an interest – and persuade them to become involved is a substantial undertaking, requiring resources and special skills. As identified in the Egan Report, and intended to be addressed by establishment of the National Skills Centre, these skills are not available to many LPAs at present.
 13. A wide range of local authority departments, agencies and initiatives require, or seek, some level of participation from the public. There is a distinct danger that, rather than

⁵ See, for example -The Town and Country Planning (Local Development) (England) Regulations, 2004

⁶ Housing Futures. Cambridge Architectural Research for Joseph Rowntree Foundation 2004

encourage civil and community renewal, the volume, range, and fragmentation of consultations is more likely to confuse, and create consultation “fatigue” amongst the public. Much better co-ordination of consultation effort is required. The introduction of the requirement for LPAs to produce Statements of Community Involvement (SCIs) – included in the 2004 Act - is a step in the right direction. SCIs are to set out the LPA’s policies for involving the community in the preparation and revision of local development documents and the determination of planning applications, by setting out *“the local authority’s vision and strategy for community involvement, and how this links with other community involvement initiatives, for example the community strategy”*⁷. Given that the local development framework (LDF) should be a key component in the delivery of the community strategy, it is important that the local strategic partnership (responsible for producing the Community Strategy) and the LPA (responsible for producing the LDF) work closely together. In 2003, research was commissioned by ODPM on the relationship between community strategies and LDFs⁸, and the Institute is currently working with the Neighbourhood Renewal Unit to produce a guide for local authority executives, local planners, and local strategic partnerships exploring the issues in working together to produce LDFs and community strategies.

14. Whilst the new system provides more opportunities for the public to be involved in the development plan process. Local Development Documents are required to be reviewed annually and replaced every 3 years members of the public and community groups may not have the time, capacity or inclination to be permanently engaged with the planning system.

How public consultation fits into the local authority decision making process The Town and Country Planning Act

15. Statutory requirements for public involvement in the development planning process are contained in the Planning and Compulsory Purchase Act, and the Government’s policy is described in *PPS 12 – Local Development Frameworks*. The PPS describes four stages in the preparation of a development plan document – pre-production, production, examination and adoption – with the statutory consultation periods being in the production phase (on alternative options) and prior to the examination. The examination, by a planning inspector, is to test the “soundness” of the plan as a whole, and is not simply a mechanism for consideration of objections to the plan as hitherto. The inspector’s recommendations, which may involve changes to the plan, are now binding, and may only be challenged by the LPA, or any other interested party, on a point of law.
16. Consultation is also a central part of the development control process. The “old” process remains in place, whereby there is statutory requirement to give neighbours, and other affected parties, 21 days in which to submit their views on a planning application. Any comments have to be taken into account by the committee or sub-committee (or officer acting under delegated powers) making the decision. There is a statutory requirement to determine planning applications in accordance with the policies set out in the development plan, unless material considerations dictate otherwise – the so-called “plan-led system. Once, or if, local communities are fully involved in the evolution of the development plan for their area, this should be less of a problem. In the

⁷ Planning Policy Statement 12 – Local Development Frameworks. ODPM 2004.

⁸ The Relationship Between Community Strategies and Local Development Frameworks. ENTEC 2003.

meantime there is probably insufficient awareness of the “plan-led” principle, or of what the development plan says, leading to frustration and accusations of tokenism.

17. Some LPAs allow an applicant and/or third party to speak at the relevant committee meeting, though there is no right to contribute to any debate. If planning permission is granted, there is no third party right of appeal. If permission is refused, but the applicant appeals, any interested party has the right to appear at an appeal or hearing held by a planning inspector on behalf of the Secretary of State.
18. What is referred to above as the “old” process is now supplemented by a requirement on LPAs to set out in their SCI how they intend to involve the public in the decision-making process on planning applications.

Whether public consultation by local authorities is part of a continuing process of communication, information dissemination and participation

19. In the past, public consultation has probably not been seen as a continuous, ongoing process, but more as an exercise carried out as and when necessary, for a particular purpose. The 2004 Planning and Compulsory Purchase Act looks to establish a different regime, where contact is maintained with the community through a process of almost continuous monitoring and review.
20. Under the new arrangements, local authority planners will need to stay in touch with the communities and interest groups with which they are engaged. Whether the necessary time and resources are available on either side remains a question for the future, but the Institute would make a clear distinction between information dissemination and participation. With modern IT facilities, the former is relatively easy. The latter needs to be worked at, requiring time and effort. Involving the public in the planning system is hard work and time consuming. To simply identify the public, the individuals and groups with an interest and persuading them to engage is a massive undertaking which should not be underestimated.

Whether best practice is being developed and applied widely

21. Since publication of the Planning Green Paper – Planning: Delivering a fundamental change – and the step change in community involvement that it envisaged, there has been a greater awareness of the need to promote good practice. ODPM has taken the lead in commissioning research^{9 10 11}, and the Institute is currently developing techniques for engaging with communities. The present difficulty, however, is that much of the work has to be theoretical because there is little practice on which to base any guidance.
22. Planning Aid is seeking to bridge this gap in providing free, independent and professional advice and support to community groups and individuals who cannot afford to pay professional fees. Planning Aid complements the work of local authorities, but is totally independent of them. From its inception in 1973, it has been at the forefront of community engagement in the planning process. Substantial

⁹ Diversity and Equality in Planning: A Good Practice Guide. ODPM 2005.

¹⁰ Statements of Community Involvement. Llewellyn Davies for ODPM 2002.

¹¹ Firm Foundations: The Government’s Framework for Community Capacity Building. Home Office 2004.

funding from ODPM, from 2003, has enabled Planning Aid to uprate its service significantly and reach a much wider audience.

23. Many LPAs are undoubtedly under-resourced and struggle to undertake their core functions. In these circumstances, the ability to assimilate good practice, let alone implement it, is questionable.

The extent to which consultation exercises reach an audience beyond those who typically participate

23. While some LPAs make great efforts to engage with so-called “hard to reach” groups, unless a concerted effort is made it is probably true that consultation exercises rarely extend beyond the sectors that typically participate. Many LPAs have neither the skills, nor the resources, to identify, approach and engage with the diverse range of groups whose interests might be affected by the planning system. Current arrangements clearly favour the informed and the confident, and those with communication skills. There are many barriers to effective engagement, including a lack of awareness and information, apathy, distrust of local authorities, a perception that involvement is tokenistic, timescale, and jargon. (A Planning Aid client in the West Midlands received a letter from the LPA regarding a proposal for a “lairage and associated works.”) These barriers, and possible solutions, have been identified in a number of publications¹².
24. The 2004 Act effectively requires LPAs to “smarten up their act” in this respect. The SCI will be expected to set out the steps the LPA intends to take to engage with “hard to reach” groups, and their effectiveness in doing so, inter alia, will be included in the test of “soundness” of their development plan documents.

Whether the new cabinet structures in Local Government facilitate consultation and the involvement of constituents in decision making

25. The new governance structures were designed to make local government more open, efficient and accountable. Whilst they have probably provided stronger leadership and faster decision-making, they tend to run counter to the desire for increased public involvement in the planning system. The structures do not affect the statutory requirements for consultation, but, given the political nature of planning and the planning process, they probably affect how decisions are taken, and by whom.
26. With a cabinet structure, executive power lies in the hands of a small number of councillors (or, in the case of a directly-elected mayor with a manager, in two pairs of hands). The cabinet will make the local authority’s strategic decisions, many of which are likely to have a land use implication, and a subsequent impact on the public. Unless a particular group is fortunate enough to have their elected representative in the cabinet, the gap between strategic decision and voter is widened. Accepting that important decisions will be made by fewer people, it is important that key decisions be made in public, and that there are effective channels of communication between executive and non-executive members of the council. Without effective communication, non-executive members will be unable to inform their constituents of important decisions.
27. In effect, the cabinet system of government creates two tiers of local councillors – those with and without executive power. Outside the cabinet, the planning committee

¹² See, for example – Getting Involved in Planning. Scottish Executive 2001 and ⁹

provides the opportunity for non-executive members to directly influence decisions, rather than simply to scrutinise them. The system thus separates those making planning policy decisions from those making development control decisions.

28. The training of councillors, who are members of local authority planning committees, was an issue raised in the Planning Green Paper – *Planning: Delivering a fundamental change*. The Institute has been instrumental in the setting up a number of courses, and has also, under its own auspices, established the Politicians in Planning Association.
29. A final thought is whether the Government's encouragement of a more participatory approach to the determination of local issues fits well with the more traditional form of representative democracy, or whether it might, in due course, undermine the role of local councillors or provide an opportunity to transform local politics.

LW/ADB
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