

**BARKER – LAND USE PLANNING REVIEW – MARCH 2006  
RESPONSE OF ADVANTAGE WEST MIDLANDS**

CONSULTATION QUESTIONS	RESPONSE
<p>1. Is the planning system sufficiently flexible and/ or responsive to the right signals to deliver the right development in the right place, given the changing economic circumstances due to globalization, demographic change, natural resources pressures and environmental change? If not, what policy measures might help deliver this flexibility?</p>	<p>The definition of “right signals to deliver the right development in the right place” is of critical importance. The West Midlands Regional Spatial Strategy (RSS) has been built upon the merit of revitalising the metropolitan core of the region.</p> <p>In the West Midlands, the view of the stakeholders owning the strategy is that development within the major urban areas constitutes the “right place” for development because these are the areas with the <u>greatest need</u>.</p> <p>A productivity focused view might hold that the planning system should facilitate the growth <u>opportunities</u> of already congested and high demand areas like South Warwickshire.</p> <p>The planning system has tended towards the belief that it can deliver development to meet economic need. However, globalisation is removing its ability to steer major business investment decisions that are increasingly made outside the region and the UK.</p> <p>The danger is that a development plan based upon economic need becomes undeliverable if vital private sector investment does not follow. Land allocations made on the assumption of meeting an economic need should be tested against market realism. Multi-disciplinary teams in local authority planning departments (LPAs) could solve this problem, including surveyors for valuation purposes. This could enhance the role of economic considerations and develop broader skills therefore providing a more realistic testing of viability.</p>
<p>2. Do you have any views on the scope of plans at the different spatial levels in England which are now emerging following the introduction of the new system in 2004? Are there further improvements to the plan making process at the</p>	<p>Local Planning Authorities must be encouraged to work across their boundaries where travel to work or other functional economic geography demands. At the moment there are few incentives for LPAs to do this.</p> <p>Consideration should be given to matching the appropriate spatial scale of plan making</p>

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<p>different levels in England particularly regarding the need to encourage a positive/ proactive approach to planning which was a key theme of the new plan making system? Does the current system strike the right balance between central direction and regional/ local discretion?</p>	<p>to types of development. For example, regionally significant employment sites and major infrastructure projects may be examples of where the upper tier of the new development plans system might be extended to approving the principle of development, leaving matters of detail to the locality. These developments are often strategic in nature and constitute part of a wider network that might even be part of a national/ international network.</p>
<p>3. Sustainable development is the core principle underpinning planning. Does the current system achieve the right balance between economic and other goals, such as the regeneration of areas and the promotion of social cohesion, improving the quality of urban design and urban environments? Are some environmental, natural resources or social considerations given too much or too little weight?</p>	<p>Experience with the implementation of ODPM's sustainability appraisal guidance suggests that it is failing to add value to the plan making process. This guidance should be reviewed with the intention of greatly simplifying the process requirements even if this means returning to the originating EU Directive and renegotiating its contents.</p> <p>The Agency also has some concerns over the way sustainability is interpreted in planning making. "Balanced" development is often cited as a means of securing sustainable development.</p> <p>Our experience is that LPAs tend to seek balanced development within their own boundaries, ignoring the functional realities of how people and companies produce and consume goods and services. Low cost transport and information technology means that business and people regularly move across local authority boundaries to seek work, shop or supply goods.<sup>1</sup></p> <p>Implementation of the town and city centre policies aimed at focusing retail, leisure and office on the existing urban hierarchy is also based on achieving sustainability by improving opportunities for public transport. This assumption does not however, account for the functional realities of shopping for certain types of comparison goods which favour the private motor vehicle.</p>

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<sup>1</sup> Breheny, M (1999) "The People: Where Will They Work", TCPA

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	<p>An example of where bias is being experienced in the operation of the new planning system is with the use of sustainability checklists for Local Development Documents. Some recent examples produced by LPAs in the West Midlands appear to show a heavy bias towards environmental objectives, rather than presenting a balance between environmental / social / economic objectives which the Government is seeking. The issue is to make clear to local authorities, developers and the public alike that economic development can achieve these things as long as a balance can sensibly be struck, whereby people accept that some development may have an immediately negative impact but that in the longer term, benefits will accrue.</p>
<p>4. What, if anything, could the English planning system learn from the planning and consent systems operated in other countries in order to respond to this new economic environment?</p>	<p>Zone based plans are common in Europe, America and Australasia, where development consistent with the definition of the zone is allowed under circumstances where all land within a community is covered by a zone. The British planning system is becoming more 'plan-led' but a land allocation on a local plan does not confer a legal certainty that planning permission will be granted.</p> <p>These systems provide greater certainty but take longer (typically) to establish and are likely to be less amenable to innovation e.g. a development that mixes several uses.</p> <p>The New Zealand system is based on allowing projects on the basis that any adverse environmental effects can be avoided, remedied or mitigated, and so long as they meet the over-riding purpose of the Act - to promote the sustainable management of resources. An effects-based system provides more flexibility to a developer in terms of allowing innovation over how to internalise environmental externalities by 'avoiding, remedying or mitigating' adverse effects. Negative effects of the system revolve around the detail into which the plan has to go to operate as it does, and the legalistic nature of its interpretation. NZ does not have the sort of pressure on land experienced in the UK, so it may not work as well in practice here.</p>
<p>5. What is the impact of planning on</p>	<p>The new system of plan making has yet to make an impact with the first tranche of</p>

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<p>encouraging or impeding business investment? In this context, how would you assess the potential of recent reforms to the English Planning system which are now being implemented? Are they increasing the transparency of the system and providing greater certainty for businesses? What further reforms, if any, are desirable in order to improve the transparency and effectiveness of the system still further?</p>	<p>plans comes forward for consideration. Many parties to the process recognise that the new system is still “bedding down”. It remains to be seen if the hopes attached to front loading will adequately deal with developer interests.</p> <p>For the planning system to encourage rather than impede business investment, sufficient weight needs to be attached to the use of land for productive purposes. During a period of sustained economic growth, there must be doubt as to whether land supporting employment has sufficient weight relative to housing. Anecdotal evidence suggests that in some instances businesses are sitting on land for hope value, factoring in residential development potential of land as an asset which is often worth more than the ongoing concern. A more balanced policy approach with strict policies on protecting employment land is required to prevent this.</p> <p>In the West Midlands, much of our employment land supply is either of the wrong quality or in the wrong place relative to new housing growth and we believe it is important to see employment land as an integral part of the equation that leads to “sustainable communities”. In the future, it is likely to take greater levels of public intervention to secure viable employment locations where there is the opportunity to secure higher value end uses like housing.</p>
<p>6. Is the planning system sufficiently “joined up” with other related aspects of government policy? In particular are Regional Economic Strategies delivering a clear economic framework to help inform Regional Spatial Strategies? Is there sufficient interaction between RDAs and RSSs when preparing their respective regional strategies and if not how might greater interaction be encouraged?</p>	<p>Regional Economic Strategies are a comparatively recent innovation in comparison to the planning system. Whilst the detailed operation of the planning system has been changed with the Planning and Compulsory Purchase Act 2004, the need for a robust system based in statute able to withstand future challenges on substance and process (through appeals and judicial review) has led to the creation of a relatively well defined process, documented in extensive national guidance issued by central government and the courts.</p> <p>The RES has evolved in an entirely different context with much more streamlined processes and greater scope for regional variation. The processes governing each strategy do not neatly align either in terms of process, time cycle or style.</p>

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	<p>In addition, there is a fundamental mismatch between the policy contexts that both strategies are working within. Regional economic development operates in an increasingly uncertain environment making long term time horizons inappropriate. Decisions relating to land are much more enduring and still carry a significant lead time to their implementation, not least in relation to infrastructure investment. The two strategies do not cover the same ground so there is a need for alignment of policies aimed at focusing on the overlaps. Not all economic policy requires a spatial framework (e.g. enterprise support through financial support and advice); at times, the spatial framework can respond to economic policy (e.g. the development of High Technology Corridors in the RES).</p> <p>This mismatch is illustrated in attitudes towards a shared evidence base where the DTI have indicated that the use of long term macro forecasts of the economy are of less relevance compared to detailed evidence justifying the economic impact of specific policies. Nevertheless, the Regional Planning Body in the West Midlands has been keen to secure long term employment forecasts as a foundation for employment land work.</p> <p>The interaction between the two strategies is essentially focused on deliverability of the Regional Spatial Strategy. Realising a plan in areas of economic need are typically dependent upon the types of measure contained in the Regional Economic Strategies, like the use of gap funding regimes; spatial regeneration schemes and so forth. In areas of economic opportunity policies aimed at attracting investment, such as inward investment marketing, play a key role in communicating opportunities to investors outside the region. Delivery might be served if an organisation with a clearer understanding of this agenda were given responsibility to lead implementation on the proviso that the same organisation had a much larger opportunity to influence the initial design of the plan.</p>

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	<p>The Chief Secretary to the Treasury has stated very clearly that the Government views the RES and RSS as having equality of status in terms of the regional strategies and that they feed off each other as necessary. There is still a perception amongst Regional Planning circles that the RSS is the lead strategy for the region and that the RES should align to it rather than the other way around. We believe that there needs to be more recognition among the people responsible for operating the RSS that the principle of equal status applies.</p>
<p>7. Planning applications for major projects will typically take a considerable time to work through all the necessary stages. Do you consider the system puts too much emphasis on speed or do you feel that it is too slow? If there is an undue emphasis on speed, what are the negative consequences of this and how could they best be avoided? If the process is too slow, what could be done to overcome delays? In particular, what improvements might be made to the planning appeals system to improve speed and efficiency?</p>	<p>The RDAs are taking every opportunity to highlight their transport priorities with Government. On 14<sup>th</sup> March Nick Paul, as lead Chair on Transport, made a presentation to Ministers (including Stephen Ladyman, DfT), and senior officials from Government Departments on the RDA Transport Priorities. One of the priorities is to reduce the lead times for major transport projects. The current length, cost and uncertainty surrounding the planning process is holding back both public and private sector investment in key transport infrastructure, whether airport and sea port expansion or major road and rail projects. The examples cited are: 23 years from vision to opening of the M6 Toll and Heathrow Terminal 5; £45m for the planning application for Dibden Bay Container Terminal at Southampton Docks (which was refused); and £60m legal costs for Heathrow Terminal 5.</p> <p>Therefore if the RDAs are to deliver their key transport objective of working with Government to create a framework to deliver a national, strategic and integrated transport network which supports and stimulates competitiveness, economic growth and accessibility across the English Regions, we need to see a revision in the planning processes for major transport infrastructure projects to speed up delivery of surface infrastructure of national economic importance.</p> <p>Major development projects are, by definition, significant in terms of their local context. Consideration needs to be given to the distribution of benefit arising from a Major Infrastructure Project (MIP). The benefit arising from a MIP may well have a regional or national significance yet they are decided within localities where they have a low priority</p>

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	<p>or even negative connotation.</p> <p>MIPs could be identified at a higher level in the plan making process where approval at outline is established before the local development plan making stage. The local development framework would address detailed development issues such as materials, height etc. (i.e. the issues that would be dealt with through a reserved matters application).</p> <p>With respect to appeals, the vast majority of cases (certainly householder and other small scale commercial development proposals) should be dealt with by written representation by default. Hearings should be reserved for cases with more significant local interest or where there are technical issues to consider, such as listed buildings or environmental / ecological issues as the reasons for refusal. Even then, written representations should be the default. These steps are necessary if the scarce resources of the planning inspectorate are to be deployed effectively.</p>
<p>8. Is there evidence to suggest that the direct costs of making a planning application are deterring investment? Are there any unnecessary burdens/ how might information requirements be streamlined to reduce the regulatory burden from the process of making an application?</p>	<p>The costs of engaging with the planning system have been climbing both in terms of fees and professional assistance. The complexity of the system has tended to drive the need for increased levels of professional assistance. At the higher levels of the development industry, these skills are accessible. These costs fall disproportionately on small and medium sized enterprises who want to secure a development for their own occupation. SMEs lack the internal resources or ability to buy in support.</p> <p>The threshold at which planning permission is required might be raised either through permitting a greater range of activities without the need for planning permission or setting up zonal based regulations where development within proscribed parameters is permitted (e.g. Local Development Orders). Beyond the threshold, maximizing the scope for delegation of decision making offers a further means of speeding up the process.</p>

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	<p>In terms of unnecessary burdens, examples include having to make applications for minor aspects of major site development, e.g. fencing for safety reasons before sites are developed, that currently require planning permission but that are required under other legislation anyway – why is there a double burden? If a site is required to be made safe prior to development, this should be allowed to override the need for planning permission.</p>
<p>9. To what extent are high occupation costs in England likely to be due to planning constraints or due to other factors such as imperfect competition or lack of transparency in the land market? What is the economic impact of these costs in terms of the main drivers of productivity?</p>	<p>The productivity performance of the United States is often cited as a benchmark for the UK. The “cause and effect” relationship between planning and productivity are unclear and the role played by land may be of less importance than matters affecting other factors of production. Nevertheless, it would appear that it has been easier for the US to innovate changes in their urban form that might have been beneficial to the gross value added generated per employee by lowering property costs.</p> <p>A number of studies have identified the phenomenon of “edge cities”<sup>2</sup> that have emerged around metropolitan areas in the US taking advantage of lower land costs. Edge city style development would have been frustrated in the UK by policies aimed at maintaining green belts and concentrating new investment into the existing urban hierarchy of towns and cities (PPS6). Both interventions have tended to reinforce the need to recycle existing brownfield land first before looking to greenfield land as enshrined in the sequential approach. Recycling does, however, come at a cost through the problems associated with recycling – contamination and land assembly.</p> <p>This policy framework may have fossilised urban form forcing new economic activity to using sub-optimal forms of development with higher costs. The Agency has encountered this problem in pursuing its economic regeneration policies through the placement of unnecessary restrictions on a mixed employment use development on an edge of urban area location, essential to the regeneration of a declining metropolitan</p>

<sup>2</sup> Office of Technology Assessment, Congress of the United States (1995) The Technological Reshaping of Metropolitan America & Garreau, J (1992) “Edge City: Life on the New Frontier”, Anchor Books

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	<p>area.</p> <p>The Agency believes that national policy needs to identify circumstances where economic development can override other aspects of planning policy. RDAs have promoted the need for the now out of date PPG4 covering this very issue to be reviewed.</p>
<p>10. How does the planning system impact on competition through influencing barriers to entry and exit and economies of scale? If there are areas where there is a negative impact, how can these be addressed, whilst protecting other goals of the planning system?</p>	<p>By restricting the supply of land, the planning system is necessarily intensifying competition for land within certain locations, increasing opportunities for barriers associated with the existing pattern of land ownership e.g. town centres (e.g. PPS6). Premium sites are likely to be held by existing operators and land ownership patterns are likely to reflect the prevailing economies of scale that applied when the area was (re)developed. The introduction of new operators wishing to introduce innovations in the way buildings are designed or the scale of operation may well encounter problems if they need sites larger than has previously been the case or different design features.</p> <p>Whilst restricting opportunities for innovation in existing centres, the planning system can introduce perverse incentives. For example, it has been comparatively easy for out of centre convenience superstores to diversify into comparison goods whilst making it difficult for a new entrant to innovate a retailing offer from within the comparison goods sector alone (which would be naturally directed towards a town centre under PPS6).</p> <p>Nevertheless, new operators can innovate within the constraints of the planning framework. IKEA, for example, has started to establish town centre based outlets linked to customer fulfillment centres located elsewhere. However, this type of commercial reconfiguration needs the support of warehousing operations able to support customer needs. Planning policy would need to support associated warehousing operations (B8), however, the Agency observes a lukewarm response to warehousing which is perceived as universally low value.</p>
<p>11. To what extent does the planning system effectively support innovation through the</p>	<p>Clusters can not be delivered through the planning system alone. Effective clusters depend upon business to business relationships and access to labour supply that stand</p>

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<p>formation of business clusters and wider agglomerations of economic activity?</p>	<p>outside the spatial planning system. Sometimes, these issues require close co-ordination with the Regional Economic Strategy. The uncertainties that these interconnections create has meant that local planning authorities in this region have been reluctant to use the RSS clusters policy to support proposals. The use of overly restrictive conditions risks not only legal challenge but also extended periods of non activity. The Agency has noted that the Regional Planning Body in the West Midlands and local planning authorities have shown a marked reluctance to promote the “clusters” policy contained in the RSS, even to the point of lacking any performance indicators to monitor its implementation.</p>
<p>12. Do planning authorities have the skills and resources required to help promote sustainable economic development? If not what is the best way to ensure that resources match the challenges the system faces? Are there ways to increase further efficiency of process?</p>	<p>The Agency has been aware of skill shortages in a number of areas. The Agency has been involved with the establishment of an arms length body called RegenWM which seeks to develop the skills base needed to deliver sustainable communities (including economic development) in recognition that the pool of skills has shrunk. This includes encouraging new skills provision and encouraging networking between the various disciplines involved. The Agency has also been involved with the establishment of a regional observatory to help co-ordinate a better evidence base for decision making in relation to sustainable economic development. Is there scope through the Planning Delivery Grant to establish posts within the planning function for planners trained in or with a leaning towards economic development?</p>
<p>13. Are the new arrangements for stakeholder engagement in the plan making process succeeding in engaging those representing economic interests including SMEs? If not, what are the barriers to that engagement and how might they be addressed?</p>	<p>The Agency’s experience has been that the environmental interests are better organised and able to engage with the process. The economic sector is less well represented. The Agency has supported the business sector to engage with the planning system however it still lacks weight.</p> <p>While SMEs and others may understand about the need to obtain planning permission for development, they may not be aware of the need to get involved at the front end of an LDF, and of how they need to establish how and whether they need to be involved in making representations to get sites for expansion established, etc. An example of this</p>

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	<p>may be a tourist site / attraction wanting to know how to make representations to LPAs relating to draft policies in the LDF. This issue could be addressed through Government Offices running specific training seminars for businesses and trade associations, not intimately linked to the LDF process, to help them understand what needs to be undertaken to ensure that the policies and proposals they will have to conform to match their own economic aspirations.</p> <p>The Agency also considers the requirement to consult on stakeholder engagement through the Statements of Community Involvement (SCI) adds nothing of value to the process. This process, and the possibility of challenge leading to an EIP, uses up valuable resources of the Planning Inspectorate that might be more usefully focused on substantive planning policies. A better solution would be to accord them the same administrative status as the local development schemes, giving the Government Office network responsibility for checking adherence to good practice. Challenging these SCIs only serves to assist professional lobbyists delay the plan making process.</p>
<p>14. Are there ways that the incentive structure for decision makers and local communities can be improved so that a balance is achieved between local interests and the interests of the wider community regarding proposals for economic development?</p>	<p>Economic development creates demands for infrastructure much of which has to be borne by the public sector (although some of it has been transferred to the private sector). Section 106 planning obligations have been extended to the limit (possibly) beyond the scope of national guidance to fund a wide definition of infrastructure. However there are often long run maintenance and replacement costs that are extremely difficult to fund through development itself. The Planning Gain Supplement will, however, break the link between the development and funding available for necessary infrastructures (i.e. the need to recycle planning gain into strategic infrastructure). A transparent link between economic development and funding to support associated costs would be beneficial, especially in the distribution of mainstream tax revenue to localities.</p>
<p>15. Economic development can help achieve the regeneration and renaissance of urban and rural areas. Are there ways which planning could</p>	<p>The functional performance of different parts of the region are inter linked. For example, the availability of affordable housing in the rural areas is partially affected by the level of demand from affluent urban migrants. City regions should be regarded as one possible</p>

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<p>strengthen economic performance in regions, sub regions (including city regions) and at the local level.</p>	<p>delivery mechanism sitting within the regional economic strategy rather than a further layer of strategy operating imperfectly between national guidance, regions and localities. In the West Midlands, our urban form is more appropriately described as polycentric where development has occurred around a series of centres that perform different roles in the region.</p> <p>In areas of need, development opportunities might be accelerated by linking simplified planning procedures to the delivery vehicles contained in Regional Economic Strategies. In the West Midlands, our regeneration zones (aimed at linking areas of opportunity and need) might perform such a role. In these circumstances, development conforming to the needs of the area would be deemed to be in general conformity with the RSS. These requirements would also be given weight in the appeals process if required.</p> <p>The scope of the planning system should be considered and the limitations as to what can be achieved through it. From a holistic viewpoint it is also worth looking at measures that could be run alongside planning policy, such as the use of fiscal incentives that could include taxing vacant land from the point of allocation in an adopted plan, possibly at the rate of the proposed future use (effectively a tax on non-development). This financial incentive should encourage the speedy development of allocated sites and allow for land to be easily de allocated from plans.</p>