

CLIENT BRIEFING NOTE : PLANNING FOR A SUSTAINABLE FUTURE

The Communities Minister Ruth Kelly yesterday launched the long-awaited White Paper on the planning system entitled 'Planning for a Sustainable Future.'

The White Paper contains a wide-ranging set of proposals to improve the operation of the planning system in England. It runs to over 200 pages and it will undoubtedly take time to fully appraise its potential impact on the planning system. This Briefing Note sets out the main proposals for reform and provides a brief commentary on those matters that are likely to be of most interest to clients.

The Main Proposals

The White Paper is the Government's response to Kate Barker's review of the land use planning system published in December 2006, as well as Rod Eddington's proposals for reform of major infrastructure planning.

The White Paper's proposals fall under four main headings:

1. An improved system to deal with major infrastructure projects

This will involve:

- A new **national policy framework** set by government setting out the country's key infrastructure needs for the next 10-25 years. This will be subject to public consultation;
- A new inquiry system led by an **Independent Planning Commission** of planners, lawyers, environmentalists and community representatives – to take decisions on major individual projects;
- A legal requirement on promoters and infrastructure developers to consult with the public and key parties such as environmental groups and heritage experts; and
- An expansion of the system to provide free access to local interest groups to professional planning advice.

The Government claim that such a system will replace over eight different planning regimes and could save over £1 billion within 10 years.

2. A simplified planning system for householder applications - by

- The potential removal of the need for permission for minor developments - such as conservatories, small scale extensions and micro-generation devices like solar panels – providing they will have little or no impact on neighbouring properties;
- Allowing minor amendments, like the repositioning of a door, to be made to a planning permission without the need for a full planning application;

- Simplifying the information requirements for all applications, with for example, the introduction of a standard application form;
- Introducing a new "fast-track" appeals system – requiring appeals to be lodged within eight weeks rather than six months and the time to deal with householder appeals reduced from 16 weeks to eight; and
- The allocation of £28 million through the Planning Delivery Grant (PDG) to support local authorities in providing a swifter and more efficient planning process.

3. Allowing the planning process to play a bigger role in tackling climate change through:

- Introducing new policy rules requiring all new developments to consider measures to reduce carbon emissions;
- Establish a new 'green offices' taskforce to set a timetable and action plan for delivering substantial reductions in carbon emissions from commercial buildings; and
- Making it easier for householders, commercial occupiers and agricultural business to install small-scale renewable technologies (e.g. solar panels) and micro-generation schemes.

4. Ensuring the planning system continues to support vibrant town centres

This will involve:

- New planning rules to enable Councils to better prioritise town centres over out-of-town shopping and block developments that threaten the survival of high streets and small shops;
- A new test that will require Councils to scrutinise any out-of-centre shopping proposal and require Councils to carry out a "rigorous assessment" of the impact of unplanned out-of-town developments and refuse any application that may have a negative impact on the local high street; and
- Give local Councils the power to rule whether a development will support the town centre and benefit the consumer, in deciding whether new shops should get the go-ahead.

In issuing the White Paper the Government also pledged a new commitment to protect the green belt and protect and enhance town centres. Previously developed "brownfield" land must remain the clear priority for housing development with renewed emphasis on protecting parks and green spaces.

Copies of the White Paper and accompanying reports can be downloaded from:

<http://www.communities.gov.uk/index.asp?id=1510503>

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The Needs Test

There has been much speculation about what the White Paper might say about retail development and, in particular, whether it might abandon or change the requirement for developers of out-of-centre retail and leisure schemes to demonstrate the "need" for such development.

Following Kate Barker's comments about the "need test" and its potential to unnecessarily inhibit competition, some retailers, and many within the development community, have hoped that the White Paper might lead to a relaxation in the policy towards out-of-centre development. On the other hand many environmental groups have claimed that any such change would amount to a "green light" for out-of-centre superstores, retail warehousing and major shopping centres that would have a devastating impact on existing town centres.

The White Paper certainly goes some way to addressing the concerns raised by Barker in relation to need. The Press release that accompanies the document reiterates the Government's long-standing commitment to protect and enhance the vitality and viability of town centres but closer inspection of the White Paper itself implies a possible subtle shift in favour of out-of-centre developments in certain circumstances. (However, this should not be overstated as it can be argued that if an existing retail proposal would not cause demonstrable harm to the nearby town centres and is acceptable in all other respects then it should be granted consent under the current regime!)

Perhaps more significantly the White Paper does concede that

"the 'need test' has proved in some respects to be a blunt instrument, and can have the unintended effect of restricting competition and limiting consumer choice."

It therefore proposes to review the current approach in PPS6 to assessing the impact of out-of-centre proposals, and replace the need and impact tests with a new test which

"has a strong focus on our town centre first policy, and which promotes competition and improves consumer choice avoiding the unintended effects of the current need test."

The Government will consult on these proposals in the Summer of 2007 and intends to develop new guidance working with the industry and "other important stakeholders." This exercise will also consider how future policy can address competition issues having regard to prevailing policies supporting town centres and the findings of the ongoing Competition Commission Inquiry into the Groceries Market; it is expected to be completed by Spring 2008.

Chase & Partners' Comment

The White Paper contains a wide-ranging raft of proposals; it will take time to fully assess their likely implications.

There are probably few surprises in the proposals regarding the delivery of major infrastructure projects. They reflect long-standing concerns about the way in which such projects have been assessed and delivered in the past and the need to expedite delivery of such schemes in the future. The proposals are, however, likely to concern many groups who believe they might compromise public consultation and/or lead to inadequate assessment of environmental impact.

The proposals aimed at ensuring the planning system plays its part in tackling climate change are not unexpected but are likely to impose further requirements on many applicants to demonstrate schemes have paid adequate and proper regard to climate change.

Proposals for the streamlining the treatment of minor applications will be welcomed by many, although it will be interesting to see whether their implementation in practice will be as widespread as many would hope.

Many retailers and developers will welcome the proposals to review the approach PPS6 currently adopts towards need and impact. However, in practical terms, the prospect of a further round of consultation on the assessment of need and impact – possibly leading to a full or partial review of PPS6 – will create uncertainty in the market during that time.

Finally it should be stressed that the publication of the White Paper, in itself, should not affect the way in which current applications are considered or determined. It simply forms a 'statement of intent' for consultation on new policy guidance and, where necessary, new legislation.

Comments are invited on the proposals; these need to be sent to the Department of Communities and Local Government no later than **17 August 2007**.

If you require more information or would like to discuss the White Paper and how its proposals may affect your activities, please contact:



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