



THE HOME BUILDERS FEDERATION

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Communities and Local Government
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5 March 2007

Dear Richard

HBF RESPONSE TO THE BARKER REVIEW OF LAND USE PLANNING

The Barker Review of Land Use Planning discusses many of the aspects of the planning system that the HBF and our members have sort to address, made representations upon and, in some cases, struggled against, for many years, not just since the introduction of the 2004 Act.

I have attached our comprehensive assessment of the 32 recommendations of the final report expressing our support, partial support, or disagreement with each. You may be pleased to note that there is little with which we do not agree, at least in some respect. Indeed, we believe that much of the report is concerned with planning being used as a positive tool to facilitate development rather than a negative control against development. We believe that a great deal of this agenda could, therefore, be delivered through training, education and guidance for everyone involved in the system (both public and private sector) rather than the need for formal primary or secondary legislation.

However, many of the recommendations appear to challenge some of the long held principles at the heart of the planning system. While that, in itself, is not of concern, the abandonment of such principles should be adequately debated and assessed with all key stakeholders in order to avoid the need to return to such principles if we subsequently discover unwanted or unintended consequences of any radical policy changes.

Our response to the report starts from the premise that there is essentially nothing wrong with the new local development framework system. A plan led system is clear, transparent and accessible to all. Many of the perceived problems with the new and emerging policy process we consider to be short term “teething” problems which will be sorted out over time through evolving practice and skills adaptation rather than legislative change.

Recommendation 1 is the key issue for HBF and our members. We strongly believe that the only sanction that will ensure planning is turned back into a positive, proactive process is the return to a presumption in favour of development.

This is not as radical as many commentators are suggesting and is, essentially, returning to the first principles of having a planning system at all. Planning takes away an individual's right to do as they please with their property. It does this solely to protect the public interest not the interests of a single, or single group of, individuals. It is, therefore, compatible with the planning process that the local planning authority explain why a development is not in the public interest.

Many of the essential items of the planning system are founded on the above principle and a presumption in favour of development, as essentially proposed in Recommendation 1, would emphasise the importance of plan making and positive action to ensure that the plans' objectives are met in a timely and efficient manner.

The key issue for government is, therefore, how to ensure that local planning authorities take such a proactive position towards development. Central government, through their regional government offices, should reward plan production and delivery of stated objectives through additional funding, for example, as proposed by planning and housing delivery grant and through other positive rewards.

The recommendations that propose an increase in fees for access to the system, whether for applications or appeals, are of considerable concern to HBF and our members, not least as, in some cases, they may challenge the principle of not allowing the buying and selling of planning permission.

As stated above, the beneficiary of the planning system is the wider public interest. There should, therefore, be an expectation and acceptance that many of the costs of the system should fall on the wider public through general or local taxation rather than on the applicant who, in most instances, is seeking to bring forward development that will benefit local communities in many ways and is seeking to meet the objectives of the local development document.

This is particularly the case in the current front loading of the scheme where a considerable amount of investment is made in a project prior to any application ever being submitted. Any focus of costs merely on the application

stage fails to reward those who make such an investment and we suggest a way of responding to this new approach in our representations.

We are very keen to continue the debate over how to make planning a positive tool for change and look forward to discussing with government, and others, the practical solutions. We therefore look forward to the government's response to the report through the publication of the Planning White Paper in the Spring.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Andrew Whitaker', with a stylized, flowing script.

Andrew Whitaker
HBF Head of Planning

BARKER REVIEW OF LAND USE PLANNING

HBF ASSESSMENT OF RECOMMENDATIONS

Recommendation 1

DCLG should revise the policy framework for decision-making, in the context of the plan-led system, to make clear that where plans are out-of-date or indeterminate applications should be approved unless there is good reason to believe the costs outweigh the benefits. One way of implementing this would be to make clear that where an application for development is in accordance with the relevant up-to-date provisions of the development plan, it should be approved unless material considerations indicate otherwise. Where development plan provisions are indeterminate or where they are not up-to-date, the application should be approved unless there is a significant probability that the likely environmental, social and economic costs of the development will outweigh the respective benefits.

HBF Comment

Support. In effect this recommendation is seeking to return to a presumption in favour of development where there is no up to date plan. HBF would support such a proposal. While, in practice, the situation should never arise since the LDF system should allow fast and timely updating of development documents in order to respond to out of date plans, our experience of the plan led system to date has not given much comfort of some local authorities wanting to produce concise and positive plans.

Recommendation 2

The Statement of General Principles should be revised to make clear that in determining planning applications due regard should be paid to the economic, social and environmental benefits of development, such as the benefits new development can bring through low average energy consumption, alongside other material considerations.

HBF Comment

Support. The principles of sustainable development have long been an integration of the three strands of economic, social and environmental considerations. Whether or not any additional reference in PPS1 to this requirement would have a significant effect is debatable. Inevitably the weight placed on each of the three elements is rarely equal, leading to those whose specialist interest is on any one of the three elements, claiming that not enough weight has been placed on their specific requirements.

Recommendation 3

DCLG should update its national planning policy on economic development by the end of 2007. This should include:

- *emphasising the critical role economic development often plays in support of wider social and environmental goals, such as regeneration;*
- *strengthening the consideration given to economic factors in planning policy, so that the range of direct and indirect benefits of development are fully factored into planmaking and decision-making alongside consideration of any potential costs;*
- *emphasising the role that market signals, including price signals, can play in ensuring an efficient use of land, both in plan-making and in development management;*
- *requiring a positive approach to applications for changes to use class where there is no likelihood of demonstrable harm, to provide greater flexibility of use in the context of rapid changes in market conditions;*
- *making clear that where a Core Strategy is in place, decisions on commercial development should not be delayed simply on the basis of prematurity;*
- *ensuring that development in rural communities is not unduly restrained and allows for a wide range of economic activity; and*

- *ensuring that in general a more positive approach is taken to applications for tall buildings where they are of very high design quality and appropriately located, and where there is the transport infrastructure to support them.*

HBF Comment

Support. In essence, this recommendation suggests that current planning guidance does not place enough emphasis on economic considerations of development proposals and that updated guidance should recognise the importance of economic development to the general prosperity of local areas.

We would question the need for a new PPS on economic development since employment growth and development is guided through regional economic strategies and integrated into spatial plans.

It should be noted that housebuilding itself is an important contributor to the national economy and provides approximately 300,000 jobs in its own right.

A potential downside of the recommendation to be avoided is that such policies may emphasise the primacy of economic development over other land uses such as housing with the introduction of a more stringent sequential test for reuse of employment land. This would be detrimental to the housing growth agenda and could unnecessarily lock up a vast amount of suitable housing land.

Recommendation 4

Wider planning policy should be made more responsive to economic factors. This should include:

- *building on the more flexible approach to car-parking spaces for housing, by applying this less prescriptive approach to commercial development in place of the current national maximum standards per square metre of floor space;*
- *ensuring that any review of heritage policy builds on the recent reforms of the Heritage Review, by emphasising the critical importance of viability and proportionality, and by facilitating modernisation that does not damage the historic or architectural significance of buildings;*
- *supporting the ‘town centre first’ policy and the impact and sequential tests that help to deliver it, but removing the requirement to demonstrate need (the ‘needs test’) as part of the planning application process; and*
- *if the Competition Commission concludes that there is a problem relating to the exercise of local monopoly power as part of its current grocery inquiry, to establish how best to address these issues, either through planning or through other means.*

In general, there is the need to establish a more robust evidence base for national policy, so that the costs and benefits of the policy can be better assessed. Furthermore, the Government should ensure that planning is used as a tool for delivering policy only when it is an appropriate lever and provides an efficient and effective means of delivering objectives.

HBF Comment

Support. This recommendation applies specifically to commercial and retail development. However, some of the elements of the recommendation such as assessing the costs and benefits of the proposals could equally be applied to residential development.

It may also be possible to use the same cost benefit tools to assess residential development. HBF would be happy to investigate this proposition further with CLG.

Recommendation 5

The Government should engage more proactively at the policy development stage of European legislation with a potential planning impact. DCLG should resource and maintain close links with DEFRA, FCO and UKREP in particular, and other departments as necessary, in anticipating the

domestic planning implications of emerging EU legislation. All departments should ensure that their negotiators take fully into account the implications of proposals for planning legislation, policy and the resulting outcomes for future development. Additions to existing domestic regulation should be avoided except where needed to address remaining areas of market failure. Where possible, transposition should use existing regulatory mechanisms.

HBF Comment

Support. This recommendation suggests that, hitherto, the UK government has taken very little part in the emergence of European Law which impacts on the UK planning system. Issues such as the application of Special Protection Areas have created significant tension within the planning system and earlier intervention by the UK government in the drafting of the regulations or explanatory guidance might have mitigated the very negative effects of the legislation.

One of the obvious problems of greater involvement in emerging EU legislation by the UK government is the effect of “expert” participants being the very people who wish to see greater control over their specialist subject. Thus, Environment Agency experts would attend sessions on flood risk, Natural England staff would represent the government on ecological issues and DTI officials would be involved in trade and economic development issues. This may lead to even tighter regulation since the UK representatives would be evangelical supporters of regulation rather than represent a more rounded approach of the effects of emerging regulation on the UK planning system as a whole.

Government should be clear that a balanced and considered analysis of emerging issues is represented at such discussion.

Recommendation 6

Regional and local planning authorities should make planning for economic development a higher priority. To achieve this there should be:

- better integration of the Regional Economic Strategies (RES) and Regional Spatial Strategies (RSS), including enhanced alignment of timescales and compatibility of evidence bases, so that the RES can fulfill its role of informing the RSS. The Secretary of State should have regard to RES policies as part of her adoption procedures for the RSS;*
- policies that set out how the drivers of productivity (competition, investment, skills, innovation and enterprise) will be supported. Care should be taken to ensure that plans represent the interests of small firms and potential new entrants to the market (who may not be in a position to engage with the plan);*
- policies that focus, wherever possible, on desired outcomes rather than imposing the means of delivering those outcomes – for example in terms of climate change – the outcome should be to reduce the carbon footprint with the best means being flexible;*
- a stronger link between plans and infrastructure provision, so that there is greater confidence that the infrastructure necessary to deliver large development will be in place;*
- a marked reduction in the extent to which sites are designated for single or restricted use classes – the need to ensure provision for live-work units is relevant in this context;*
- where employment land needs to be separately designated, ensuring that employment land reviews are conducted regularly, making full use of market signals, so that there is a suitable range of quality sites which provide for all sectors and sizes of firm; and*
- delivery of the Government’s objective of avoiding rigid local landscape designations in the context of a robust network established at national level.*

HBF Comment

Support. There are a number of recommendations regarding the content and focus of regional spatial strategies which HBF has been advocating at the EiPs of all of the regional spatial strategies. Greater integration with regional economic strategies has formed the backbone of the HBF case in our strategy at the RSS level.

Similarly, concentrating policies on outcomes and objectives rather than “picking winners” or over prescription of solutions has been central to our approach towards assessment of plans at all levels.

The need to plan for infrastructure alongside other development has also been an important part of our submissions, primarily to ensure that infrastructure providers plan properly for change and growth to ensure that investment is made in the right places at the right time so that development is not hampered either by a lack of infrastructure or unreasonable requests for S106 obligations to make up infrastructure deficits brought about through lack of timely investment.

Such positive infrastructure plans within the planning system would render Grampian style conditions unnecessary. Similarly, if planning gain supplement is introduced development proposals should not be constrained by the timing of the delivery of strategic infrastructure since its delivery would not be in the hands of the developer.

Recommendation 7

Local authorities should be encouraged to work together in drawing up joint development plan documents and determining planning applications where there are significant spillovers which are likely to spread beyond the boundary of one authority. In the medium term, consideration should be given to how the London model, where strategic planning application powers are being granted to the Mayor, could be applied elsewhere.

HBF Comment

Partial Support. The encouragement for LPAs to work jointly on development plans is to be welcomed especially in those areas where markets such as travel to work and housing extend beyond administrative boundaries. However, joint working may also incur additional delay since the timescale will default to the slowest partner rather than proceed at the pace of the fastest.

Whether such an approach is politically practicable remains to be seen, particularly in those areas where political power differs between authorities. While HBF supports the concept of planning on properly established City Regions we are aware that many rural hinterlands may feel excessively threatened at being taken over by their urban drivers. There is clearly a role for strong leadership from the regional assemblies to encourage and guide those authorities where joint working might be beneficial. Whether or not any of the assemblies will have the appetite or the necessary leverage to invoke such power remains to be seen.

The recommendation that some of the London models and powers could be used elsewhere is less clearly supported. HBF believes that other administrative models, not just that used in London, should also be examined.

Recommendation 8

The Government should make better use of fiscal interventions to encourage an efficient use of urban land. In particular, it should reform business rate relief for empty property and consider introducing a charge on vacant and derelict brownfield land. This reform could be considered in the context of the broader set of issues in relation to local government finance being examined by the Lyons Inquiry. In parallel with the introduction of the proposed Planning-gain Supplement, the Government should consult on reforms to Land Remediation Relief to help developers bring forward hard-to-remediate brownfield sites.

HBF Comment

Partial Support. The recommendation for fiscal incentives to reuse brownfield land would be welcome. However, charging for vacant or derelict land may hinder the longer term regeneration strategy for an area through the piecemeal development of small pockets of land rather than allow more sensible land

assembly packages to be pieced together. There should, therefore, be exemptions within any proposed charging regime.

It is not for punitive tax regimes to force people to sell land at any price. If land redevelopment is critical to the public interest, the existing regime of compulsory purchase is considered to be adequate in most instances. A detailed re-examination of how this existing tool can be used more positively should take place before other, more bureaucratic, solutions are discussed.

Other fiscal incentives such as land remediation relief would be a positive step towards encouragement of more developers into the market rather than the negative approach of the above proposal.

Recommendation 9

In the light of growing demand for land and the need to ensure that areas of high public value (such as sites with important or endangered wildlife) or areas at higher risk from flooding due to climate change are adequately protected:

- regional planning bodies and local planning authorities should review green belt boundaries as part of their Regional Spatial Strategy/Local Development Framework processes to ensure that they remain relevant and appropriate, given the need to ensure that any planned development takes place in the most sustainable location;*
- local planning authorities should ensure that the quality of the green belts is enhanced through adopting a more positive approach towards applications that can be shown to enhance the surrounding areas through, for example, the creation of open access woodland or public parks in place of low-grade agricultural land; and*
- the Government should consider how best to protect and enhance valued green space in towns and cities. In this context, the Government should review the merits of different models of protecting valued open space, including the green wedge approach.*

HBF Comment

Support. Reported in the press as the most controversial of all of the recommendations, the suggestion that green belt policy should be reviewed to allow for more sustainable development and that green belt areas should play a more active public access role is consistent with the HBF approach for many years. The blanket policy approach of green belt designations is particularly archaic (indeed, its 60 year existence is hailed by many to be its most compelling reason for retention) and its incompatibility with modern planning and sustainability is quite obvious.

HBF appreciates that the examination of green belt policy will be difficult to overcome given its current role as a NIMBY icon. However, both the White Paper and the use of options and choices papers through the development documents process may create the opening for such debate around the country.

Recommendation 10

To improve the framework for decision-making for major infrastructure to support a range of objectives, including the timely delivery of renewable energy:

- Statements of Strategic Objectives for energy, transport, waste proposals (including energy from waste) and strategic water proposals (such as new reservoirs) should be drawn up where they are not in place presently. These should, where possible, be spatially specific to give greater certainty and reduce the time taken at inquiry discussing alternative sites. Regional Spatial Strategies and local plans should reflect these national Statements and indicate, in particular, where regional facilities are needed;*
- a new independent Planning Commission should be established which would take decisions on major infrastructure applications in the above areas. Decisions would be based on the national Statements of Strategic Objectives and policies set in the Regional Spatial Strategy,*

Local Development Documents and other relevant considerations, including local economic, environmental and social impacts;

- the Planning Commission would be comprised of leading experts in their respective fields. Proceedings would be based on a streamlined public inquiry model, using timetabling to ensure timely decision-making. Full community consultation would be carried out and decisions would be taken in a fair, transparent and even-handed manner; and*
- decisions which are of local importance only, including housing and commercial applications made under Town and Country Planning legislation, should continue to be made by the local planning authority. Where appropriate, and in order to ensure successful delivery of major commercial and housing development with national or regional spillovers, Government should consider the scope for greater use of delivery bodies such as Urban Development Corporations.*

HBF Comment

Support. National priorities is an obvious gap in the spatial planning system and has been sought to be addressed by a number of bodies over the years. The need for a spatial plan has always been dismissed as potentially taking too long to produce and the difficulties of obtaining local buy in considered too difficult. However, the recommendation that Government should publish clear Statements of Strategic Objectives is considered to be sound. Many of these statements are already contained in any number of other strategic documents such as the UK strategy for various issues. However, to pull all of these together into one strategic document is considered to be beneficial and would provide much clearer guidance for regional assemblies in the production of their RSS.

The recommendation for an independent Planning Commission is, perhaps, more controversial. While the removal of national strategic decision making from local authorities appears to have some merit, if the previous recommendation of clear statements of strategic objectives is properly integrated into RSS such a Commission would be unnecessary. It is only because we do not currently have these statements that there is no clear evidence of national weight to be placed on such projects when they come to be examined through the local planning system.

The HBF is keen to explore how the use of a single body, responsible to deliver development at a local level, can be more widely adopted. The current planning system has a plethora of agencies and “delivery vehicles”, many of which have little decision making authority. These different models cause confusion and inconsistency with the “reinvention of the wheel” occurring time and time again throughout the country. However, we have some reservations as to whether or not the current urban development corporation model is the most proactive in this respect and would wish to see greater critical examination of all of the agencies currently being used in delivery of major developments and growth strategies.

Recommendation 11

In order to ensure that this new decision-making model is effective the Government should:

- rationalise consent regimes to ensure that infrastructure projects of major significance can be treated holistically and that the independent Planning Commission can take all the necessary planning decisions (if more than one is still required) on a particular scheme. Environmental consents would, however, remain separate from planning consents and be the responsibility of the Environment Agency;*
- critically examine whether there are smaller infrastructure decisions currently made at the national level that should instead be determined by the local planning authority, or by the Planning Inspectorate on appeal;*
- end joint and linked decision-making so that large infrastructure applications, or applications made by statutory undertakers, which would previously have been decided by two or more Secretaries of State will be transferred to the independent Planning Commission for decision.*

Non-strategic applications will be determined by local planning authorities or by the Planning Inspectorate on appeal; and

- as an interim measure, all Government departments with responsibilities for planning decisions, should draw up timetables based on the DCLG model, for major applications decided by Ministers before the introduction of the independent Planning Commission and to ensure that decision-making is expedited in the short term.*

HBF Comment

Support. It would seem reasonable that the independent Planning Commission should be given full planning powers to ensure that all relevant consents can be granted for projects in the national interest.

Recommendation 12

Measures should be taken to limit Ministerial decision-making to only those cases where there are national or wider than local spillover effects and to reduce the time taken to decide planning applications made under the Town and Country Planning legislation. The Government should:

- review the Town and Country Planning call-in directions. This should involve:*
- revising the Departures Directions so that it more clearly indicates that only those proposals that are at significant odds with the core strategy of a new Local Development Framework, or similarly significant provisions of the Regional Spatial Strategy, could be considered a departure. The departures thresholds should also be tightened so that only those schemes of national and strategic significance, which are at odds with the development plan, could lead to notification to the Secretary of State; and*
- reviewing other directions, in particular the Density, Greenfield and Shopping Directions and withdrawing them if no longer necessary. The overall aim should be to reduce significantly the number of cases referred to the Secretary of State for possible call-in;*
- review the Town and Country Planning call-in policy by the end of 2007-08 and implement tighter criteria to the cases that are subsequently called-in following referral. Call-in should be used only in exceptional circumstances for those cases where significant national or wider than local issues are raised (particularly where there is no clear framework at the regional and local level to enable appropriate decision-making to be made). The aim should be to reduce the numbers called-in by 50 per cent by 2008-09;*
- review the recovered appeals policy by the end of 2007-08 and so govern more strictly the appeals that are recovered, with the result that only those cases where significant national or wider than local issues are raised, are recovered for Ministerial decision;*
- reduce the amount of time it takes to decide whether or not to call-in an application. In particular, the Government Office's secondary target of seven weeks should be reduced to no more than five weeks; and*
- amend secondary legislation to remove the remaining categories of transfer excepted appeals: Listed Buildings in receipt of Grant Aid, Enforcement appeals accompanied by Environmental Statements, Tree Preservation Order appeals and Hazardous Substances appeals.*

This Review does not recommend that there should be a change to Ministerial decision-making under the Town and Country Planning legislation. In the future, it may be appropriate for the Government to look again at the need for Ministerial involvement in decision-making on planning applications made under the Town and Country Planning legislation.

HBF Comment

Support. The reduction in "Ministerial meddling", as it is being referred to by some commentators, would be welcomed. We recognize that some of the recommendations have already been implemented; for example, the withdrawal of the density direction since the publication of PPS3.

It should be noted that the publication of statements of strategic objectives (see recommendation 10) would allow government to implement national projects through the local system without the need for additional call in procedures.

Recommendation 13

The Government should consolidate the secondary legislation related to planning. A priority is to consolidate the General Development Procedure Order and its subsequent amendments – this should be undertaken in 2007.

HBF Comment

Support. Clear guidance and consolidation is always welcome. This proposal should be easy to implement and will provide a one stop shop for the requirements of the GDPO.

Recommendation 14

There should be a substantial streamlining of national policy, delivering previous commitments. The Government should publish proposals by summer 2007. This should include consideration of the potential to remove some of the current range of Planning Policy Guidance and where necessary replace through an expanded PPS1. Any new policy should be consistent with the green paper principles of being strategic, concise and not mixing policy with guidance. Any new guidance should be published ideally alongside or otherwise within four months of publishing national policy. A desirable goal would be to reduce over 800 pages of policy to fewer than 200 pages.

HBF Comment

Partial Support. The idea that all planning policy guidance can be contained in 200 pages is laudable. However, whether such simplification would lead to greater ambiguity is also debatable. This is particularly the case with regard to practice guides and other “daughter” documents that frequently ensure consistency of approach.

Recommendation 15

Local planning authorities and regional planning bodies should continue to develop their development plans as expeditiously as possible to provide a clear planning framework for decisions. DCLG should urgently review the regulations and guidance behind the new plan-making system to enable the next generation of Development Plan Documents to be delivered in 18-24 months in place of the current 36-42 months, while ensuring appropriate levels of community involvement. Draft guidelines should be published by summer 2007, drawing on the views of other stakeholders including the Better Regulation Executive. This will involve:

- *streamlining of Sustainability Assessment (SA) processes including removing or reducing requirements where a related higher tier policy has already been subject to SA and exploring how SA requirements can be streamlined for Supplementary Planning Documents;*
- *streamlining of Local Development Scheme processes to a short programme of intended development documentation by local planning authorities;*
- *refashioning the Statement of Community Involvement into a corporate ‘comprehensive engagement strategy’ along with removal of the need for independent examination, as proposed in the Local Government White Paper 2006;*
- *increasing the speed with which Supplementary Planning Documents can be delivered;*
- *regional and local planning authorities and Inspectors should ensure that regional and local plans deliver against the original objective of being short documents that do not duplicate national policy;*
- *the removal of a formal requirement for an issues and options phase of plan-making, leaving the Preferred Options and Submitted stage. Preferred Options should be generated via effective and focused engagement with stakeholders, especially those vital to the delivery of the plan;*

- a reform of the challenge provision so that if a plan or part of a plan is quashed in the Courts the plan can be amended without the plan-making process having to begin from the start; and
- ensuring that the new Examination in Public process enables an effective scrutiny and a testing of the evidence base of policy.

Local authorities should explore the potential for efficiency gains (which could be in excess of £100 million over a three-year period) to be reinvested in enhancing the quality of their Planning service provision.

HBF Comment

Partial Support. Many of these recommendations are reflective of the problems associated with the evolving practice of the new development plan process.

The sustainability assessment is, in many cases, seen as a separate stage of document production rather than an integrated part of the process. Such assessments could be simplified and integrated into the development document text rather than producing a long and overly technical separate document as is currently produced by almost all plan makers.

The local development scheme process is considered to be a vital part of the plan making process, not least for the information it provides to third parties such as the HBF and our members. A clear, annual, project plan (an LDS by another name) should be both possible to produce and allows clear monitoring and appraisal of performance. We are, however, concerned that such schemes are not subject to comment by third parties and we would like to discuss how the process might become more open and transparent.

We are particularly concerned over the increasing practice of new policy being adopted by planning authorities through the publication of supplementary planning documents rather than through the more robust development plan document procedures.

We are also concerned over the suggestion to remove the issues and options stage of the plan making process. This is critical to the development industry since it is the only opportunity to discuss alternative sites and strategies. The problems with this stage currently being experienced is not due to the process itself but to the fact that many of the emerging plans seek to retain the same level of control that the previous regime of local plans had established rather than set down clear vision and objectives for the area covered by the plan.

The conclusion that some of the new style development documents have been unsound has generated considerable concern in the industry since it imposes delay. In many cases the level of involvement of the private sector into emerging strategies has been limited and, similar to the process of sustainability assessment, has been on the periphery of the emerging plan rather than integrated within the heart of the process. We recognize that PPS3 seeks to address this problem through the encouragement of standardized methodologies for evidence bases and we are keen to work with both central and local government to agree such methodologies and approaches to joint working.

Recommendation 16

The Government should formally commit to the gradual unification of the various consent regimes related to planning following the proposed unification of scheduled monuments and listed building consents, and should set out proposals in 2007. One option would be to bring together the heritage and planning consents.

HBF Comment

Support. The simplification of consent regimes should make it easier to obtain all necessary consents for a complete development proposal rather than having to make multiple applications under different

legislation. The current “One-App” project being undertaken by DCLG is well advanced and should go a long way towards enabling this process to be adopted.

Recommendation 17

The Government should, as a matter of priority, work with local planning authorities and other bodies such as the Better Regulation Executive to reduce substantially the information requirements required to support planning applications. The principle should be to move towards a risk-based and proportionate approach to information requests. Action should include:

- a review of the guidance on validating planning applications including the introduction of proportionality thresholds and the phasing of information required at different stages of the application process;*
- the introduction of strict criteria to be fulfilled by Government, regional planning bodies and local planning authorities before any additional information requirements on applicants are introduced;*
- an examination of the potential to raise the thresholds for EIA applications and limit the paperwork associated with Environmental Statements;*
- a tighter enforcement of processes aimed at ensuring that resource transfers and training provision occur before other government departments implement policy via planning; and*
- formal monitoring of progress based on representative samples of volumes of information, and associated costs, for like-with-like cases for both major and minor developments across a range of sectors. The first assessment should be published in 2009, benchmarking against 2006 volumes and costs.*

HBF Comment

Support. There is no doubt that the amount of information being required to be submitted with a planning application is placing additional burdens on applicants and local authorities alike. Any proposals that seek to reduce this should, therefore, be supported.

DCLG is currently undertaking a review of the validity requirements and HBF has expressed grave concerns over the proposal that local lists of requirements become mandatory. This approach would appear to be inconsistent with the One-App approach of a clear and consistent approach throughout the country.

Recommendation 18

There should be a rebalancing of the focus of planning on the cases that matter most, in line with the principles of risk-based regulation by:

- a widening of permitted development rights for minor consents by extending the ‘impact’ principle of the Householder Development Consent Review, so that in future only those cases where there will be non-marginal third-party impact will require planning permission, with the objective of an appreciable reduction in volumes of applications. This should be completed within the next two years; and*
- the development of a voluntary new system of negotiated side-agreements between affected parties, so that where agreement can be reached a full planning application will not be required. This is likely to be most practical with smaller scale applications.*

The permitted development rights should also be widened to help combat climate change. In particular, proposals to extend rights to domestic microgeneration should be extended to commercial settings.

HBF Comment

Partially support. In theory, the removal of minor consents from the planning system is supported. However, it is known that it is these types of application that attract perhaps the greatest local

opposition and the greatest elected member interest. Whether or not it would, therefore, be possible to write acceptable rules either nationally or locally is debatable.

However, since housebuilders do not enjoy permitted development rights on new building works this recommendation will have little effect on the industry.

Recommendation 19

The planning application system should be made more efficient so that high quality outcomes are delivered through a value-for-money process. This should include:

- *more widespread use of pre-application discussions, which are often of great value to both planning departments and applicants. Where appropriate these should be used as an opportunity for early community involvement. Local authorities should charge for these only when this is unlikely significantly to reduce demand for the service;*
- *the roll-out of Planning Delivery Agreements (PDA) to ensure all applications are dealt with in a reasonable time frame. There should be a requirement for local authorities to offer these for large applications – revising the current thresholds for ‘majors’ by separating them from medium-sized applications would help here. Where a PDA has been agreed the application would be removed from the current national targets;*
- *a review of the statutory consultee arrangements to improve efficiency, to include consideration of the thresholds at which these bodies become involved with applications and better incentives to ensure a quicker response to enquiries;*
- *early engagement from statutory consultees such as Natural England, the Environment Agency and English Heritage. In particular, the Highways Agency should ensure that it adopts this approach rather than relying on late use of Article 14 holding powers; and*
- *speeding up the final stages of the application process, in particular by earlier negotiation of Section 106 agreements or use of tariffs, and discharging planning conditions.*

Businesses should engage with pre-application discussions to enable issues to be identified at an early stage and ensure that they submit complete applications.

HBF Comment

Support. The use of pre application discussion has been advocated by HBF for some time as a positive tool in ensuring that issues to be addressed are identified early in the planning process. However, we would like to see greater involvement of elected members and other decision makers in the process in order that a consistent approach is achieved throughout the determination process. Mandatory involvement of local councilors in pre application discussions would be supported. Similarly there should be an obligation on statutory Consultees to be involved in pre application discussions and the early stages of the plan making process.

HBF is supporting the pilot projects on PDAs and has already suggested that these type of agreements should be favoured over the crude 8/13 week performance targets currently used by LPAs and DCLG.

We have also advocated discussion over ways of formalizing the discharging of planning conditions in order to incorporate this important part of the planning timeline into the performance assessment process. There is considerable potential within the planning process to have positive rather than negative defaults, not least in this area of post decision requirements.

Recommendation 20

The Government should review current resource arrangements for local planning authorities, related authority services (such as conservation) and key agencies. This should take account of the efficiency gains to be derived from other recommendations. In particular it should explore:

- *raising the £50,000 threshold for fee payments on a tapered basis;*

- *making it easier for applicants to pay for a premium service or to pay for additional resource/consultants to help process their application expeditiously, if this can be done in a manner that avoids anti-competitive effects; and*
- *maintaining a form of Planning Delivery Grant beyond 2007-08, ensuring some form of benefit for commercial speed and delivery outcomes alongside other goals.*

Any fee increase should only be allowed on the basis of a clear mechanism for indicating the higher quality of service that will be delivered as a result.

HBF Comment

Very Partial Support. There is little evidence to suggest that applicants have had any increase in performance or consistency since the fees were raised to their current level in April 2006. While it is tempting to opt for an additional payment for a premium service it is a threat that it would only be a matter of time before all applicants were paying additional fees and thus the premium service would become the normal service with reduced levels of performance.

We are particularly concerned over the potential move away from the long held concept that planning permission should not be bought or sold. Any process that may be open to such criticism (such as an applicant paying directly for additional staff) must be examined very carefully if such allegations are to be avoided.

Government proposals to tie PDG into delivery targets rather than bald application processing targets have been supported by HBF. We are also keen to examine how pre application costs can be offset against future planning application fees on a consistent basis since one of the benefits of such discussions is that the application processing should become a mere formality within the development process as a whole. The current free for all is both confusing and inequitable.

Recommendation 21

The skills of decision-makers and others involved with the planning system should be enhanced and more effectively utilised. To achieve this:

- *the Government should ensure continued funding for the Planning Advisory Service to promote continuous improvement, raise underperformance and facilitate joint working;*
- *the Government should work with the RTPI, TCPA and other bodies to ensure a continued focus on getting new entrants into the profession. Postgraduate bursaries funded by DCLG should be tied to a number of years of public sector service, so that a return is provided for the public purse;*
- *the Government should raise the status of the Chief Planner within local authorities, potentially on a statutory basis, to reinforce the status of the profession for all parties, including members;*
- *wider use of business process reviews and best practice guidance to ensure that the time of more qualified planners is freed up to focus on the most complex cases;*
- *compulsory training for planning committee members, focusing resources in the first instance on new members, with increased training for officers; and*
- *the LGA and POS should establish a change management strategy/programme to help deliver culture change in local authorities.*

HBF Comment

Support. HBF has been supportive of the Planning Advisory Service and takes an active part on the Government steering group. The training of elected members is supported in principle although, as discussed above, it is the wider issue of the involvement of elected members in the decision making process that is considered to offer the greatest benefits to the industry.

Recommendation 22

Local planning authorities should enhance the quality of service provided by their planning department through more effective interaction with external organisations, via:

- *the introduction of more 'shared services' by local authority planning departments (or contracting to more efficient LPAs) to enable economies of scale and scope;*
- *increased use of outsourcing and tendering for development control services, so that private sector expertise is more effectively leveraged; and*
- *exploring the potential for greater use of accredited consultants to carry out technical assessments for selected tasks.*

The Government should also expand the role of ATLAS both in scope, to remove bottlenecks in the delivery of large commercial development as well as housing developments, and in geographic range, so that the benefits of this model can be felt beyond southern regions.

HBF Comment

Support. HBF has advocated the use of shared resources, in particular those of the private sector, for many years. This would reduce both waste of resources and duplication. ATLAS has also been supported by HBF as a positive agency assisting in delivery of better working practice and outputs.

HBF would be keen to discuss further the possibilities of establishing a simplified advice regime through one, central government body.

Recommendation 23

A robust system of performance management should be put in place to address continued poor performance, in line with proposals in the Local Government White Paper. DCLG should:

- *conduct a review of measures to judge effectiveness of planning departments in the context of local government reform. A review should consider how best to measure the quality of service by the planning system, including consideration of development outcome measures and labour productivity figures, alongside a greater emphasis on customer satisfaction survey evidence. In addition, the end-to-end time taken to process the larger applications that fall outside current targets should be included in the DCLG annual publication of development management statistics;*
- *encourage the development of stronger sector-led support and intervention models;*
- *use the new performance framework to set improvement targets in the worst performing authorities; and*
- *encourage and, where necessary, direct local authorities that continue to underperform to tender their planning function, along the lines of the successful Urban Vision model or to contract with other more successful authorities to provide or share services.*

For 2007-08, DCLG should require the chief executives of persistent poor performers to discuss improvement programmes with senior officials and, where appropriate, Ministers.

HBF Comment

Partial Support. There is no doubt that previous performance measures has led to some perverse outcomes for the industry. Thus, any new performance measure should be checked for such possibilities at an early stage in order to ensure that LPAs are incentivised for the correct outcomes rather than merely meeting performance targets.

It is considered that any proposals should focus on positive incentives, training and guiding poor authorities to become better rather than imposing negative sanctions such as reductions in funding for weak authorities.

Recommendation 24

Decision-makers should give higher priority to ensuring that new development has high design standards – both for function and appearance:

- *design coding may be used strategically and carefully in the context of masterplanning to assist good design. Care is needed to ensure that design codes do not become formulaic or exclude contemporary architecture so that innovation and originality are restricted;*
- *pre-application discussions should be acknowledged as one tool in ensuring good design;*
- *design champions with high-level skills and expertise should be encouraged at all levels;*
- *design review panels should be facilitated at the local level and integrated within the pre-application discussion process; and*
- *local planning authorities and Inspectors should be encouraged to turn down poorly designed proposals, particularly where the costs of bad design will be high.*

HBF Comment

Support. Design is a core issue for the development industry.

Coding has been generally supported by HBF and the industry although it does impose significant front loaded delays and costs. A return to more simple design briefs and the use of design and access statements may well meet the majority of these recommendations without the need for any further legislative changes.

There is already considerable inconsistency placed upon any design advice received from CABE and others, and the setting up of a local review panel would inevitably introduce yet further confusion over the weight to be given to their advice.

Recommendation 25

DCLG should establish a planning mediation service to act as an alternative dispute resolution mechanism within the planning system. PINS should also explore further means of reducing the demand for the appeals system. This should include greater use of powers to charge for unreasonable behaviour leading to unnecessary expenses.

HBF Comment

Partial Support. HBF has promoted the use of mediation within the planning system for many years. There are several areas of the planning process that would lend themselves to such a process where the principles are agreed but the scale or method of implementation creates a sticking point. Mediation would allow consideration of these narrow, technical, points rather than the current process of appeal which reconsiders the whole principle of the planning application anew.

There are a number of unresolved issues over mediation such as who would pay for the service and how public involvement would be retained. It is also unclear as to whether such an “alternative dispute resolution” would be as well as, or instead of, a formal appeal. The former might have some merit, whereas the latter would be unlikely to be welcomed by the industry.

It should be remembered that the appeals procedures is frequently used as the only negotiating tool available to frustrated applicants. The fact that this leads to abandoned appeals at a late stage of the process is, however regrettable, a necessary part of the process. Thus unreasonable behaviour would be difficult to prove if an appellant had been forced to use the appeals procedure in this way.

Recommendation 26

The Department of Communities and Local Government should reduce the non-appeal demands made on the Planning Inspectorate. This should include working with local planning authorities to reduce both the number and the length and complexity of their Development Plan Documents, so that there is a reduction in the proportion of resources devoted to testing their soundness.

HBF Comment

Disagree. The suggestion that there should be less independent scrutiny of emerging development plan documents would be detrimental to the current planning process. Ultimately, where LPAs work well with the private sector, taking account of their proposals and policy requirements the soundness of plans will not be called into question. However, this will be as a result of better planning practice by all parties rather than a move by the Inspectorate to reduce their level of involvement in the examination process.

Recommendation 27

There should be a series of reforms to improve the efficiency of the appeals system. These should include:

- PINS setting out further proposals for how to increase the productivity of inspectors, including ensuring appropriate use of support staff to free up Inspector resource;*
- PINS being granted the right to determine the appeal route with a requirement to publish clear criteria for how this new power will be exercised; and*
- DCLG revising regulations on appeal processes to reduce the potential for 'casecreep'. This would limit the issues and material considered to those that were before the local authority when it made its decision, subject to the Inspector retaining the power to ask for additional information as he or she sees fit in order to make a proper decision.*

HBF Comment

Partial Support. It is fully appreciated and recognized that PINS has undertaken considerable work over the past 18 months to increase efficiencies, particularly in respect of simplifying administrative tasks to release Inspectors' time for consideration of appeals.

Allowing the Inspectorate to determine the type of appeal hearing is not considered fair or consistent with the right to be heard. However, HBF, and others, are constantly working with PINS to seek better working practices, particularly with regard to the information that should be available when making decisions.

Recommendation 28

Issues relating to the resourcing of PINS should be explored by:

- considering the case for an additional £2 million of public funding for appeals, conditional on the overall proportion of PINS funding on appeal work not being scaled back and on the delivery of stricter performance targets;*
- introducing new powers to allow PINS to recover wasted administrative costs; and*
- the introduction of cost-recovery for foregone expenses as a result of withdrawn appeals, which could result in savings of up to £1.5 million per year, to be used for appeals.*

HBF Comment

Disagree. The appeals process is an invaluable tool and essential part of the planning process that ensures that LPAs do not undertake perverse practices or adopt unreasonable policy positions.

It may be possible to devise a system of costs recovery for the Inspectorate that reclaims the fees paid to local planning authorities since this fee is supposed to cover the administrative costs of determining the application.

HBF would be keen to pursue this further with both PINS and CLG.

Recommendation 29

As a result of the efficiency and resource measures outlined, the targets for appeals processing should be tightened to bring about a step-change in performance:

- the targets for 2007-08 should include a new requirement that 80 per cent of all written representations will be dealt within 16 weeks;*
- the targets for 2008-09 should state that 80 per cent of written representations should be conducted within eight weeks and 80 per cent of all hearings within 16 weeks. Inquiries should be subject to bespoke timetabling, with 80 per cent conducted within 22 weeks; and*
- from 2008-09 all appeals should be processed within six months. Where it proves necessary to extend this period, the Planning Inspectorate should make a public statement setting out the reasons for the delay (which may include appellants or other parties not being ready to meet timescales).*

HBF Comment

Support. Subject to their not being any foreseeable perverse outcomes of such a performance target greater expediency of appeals would be welcomed.

Recommendation 30

That Government considers, in the context of the Lyons Inquiry into Local Government, further fiscal options to ensure that local authorities have the right fiscal incentives to promote local economic growth.

HBF Comment

Support.

Recommendation 31

Business should make use of the potential to offer direct community goodwill payments on a voluntary basis, when this may help to facilitate development.

HBF Comment

Object. While the general principle of not buying and selling planning permission remains at the heart of the planning system this recommendation cannot be supported. However, there is nothing to stop the debate or examination of this age-old planning mantra. There are some potential benefits of allowing a “beauty parade” approach towards planning decision making, particularly with regard to land allocation where competition would allow for quality and community benefits to be a key consideration in the allocation of land for development.

However, such a massive change from current and long held principles should be fully debated before any changes are proposed.

Recommendation 32

That DCLG publish a progress report on delivery against these recommendations by the end of 2009, drawing on the views of key stakeholders and users of the planning system.

HBF Comment

Support. Many of these recommendations are already being examined by various working groups and committees. Indeed, HBF is involved in a number of them. Thus, a 2 year programme is considered to be both realistic and achievable.