



Campaign to Protect
Rural England

HAMPSHIRE

CPRE Hampshire
Beaconsfield House
Andover Road
WINCHESTER SO22 6AT

Tel/Fax: 01962 843655
email: admin@cprehampshire.org.uk
Website: www.cprehampshire.org.uk

President: Major General Bryan Webster CB CBE

Chairman: Christopher Napier

Administrator: Pam Mason

From: Vice-Chairman (Organisation): Hugh Sheppard

email: hughsheppard@btinternet.com

12th August 2007

By email to: planningreformconsultation@communities.gsi.gov.uk

Planning Reform Team
Communities and Local Government
Zone 3/J2
Eland House
Bressenden Place
London SW1E 5DU

Planning for a Sustainable Future: Consultation

Introduction

This consultation response to 'Planning for a Sustainable Future' is on behalf of CPRE Hampshire, an independent charity within CPRE's national organisation. With nearly two thousand members in nine District Groups, we have co-ordinated the views of some of the most knowledgeable people on planning matters across the County outside local government and the building industry.

That knowledge is based on concern for the countryside and our environment in general; it is rooted in the community, where many – if not most – members are also actively engaged in local civic and social interest groups, including parish councils, amenity societies etc. As individuals, we reject the negative aspects of nimbysism, while harbouring a determination to keep England – particularly Hampshire - as a green and pleasant land for the benefit of this and future generations.

In approaching the White Paper, many of us have read it in full; either as hard copy or downloaded. In responding, we feel strongly that to reply in terms of Questionnaire Annex A on the 'Proposed reforms to the development consent regime for nationally significant infrastructure projects' risks obscuring principle in a welter of detail. Our overriding concern is that the reforms, if enacted unchanged, would upset the all-important balance between economic and quality of life priorities, with far-reaching implications for the democratic process.

The reform team will know that this view is held in common with a great many other organisations and commentators. In concentrating on the case for meaningful public consultation, we have sought to discuss a mechanism to streamline process that complements other reforms to the planning system. In other respects we endorse the fuller response of CPRE National Office, particularly the case for Ministers, as opposed to the Infrastructure Planning Commission (IPC), taking responsibility for decisions on Major Infrastructure Projects (MIPs).

We also offer points we consider highly pertinent to MIPs from our active participation in the Dibden Bay container terminal application and public inquiry.

In relation to the proposals to reform the town and country planning system, we have used the suggested Questionnaire.

SECTION 1.a. Proposed reforms to the development consent regime for nationally significant infrastructure projects.

1. CPRE Hampshire recognises and supports the thrust of the White Paper in seeking to reform planning so as to make many of its processes faster and more responsive; less bureaucratic and more accessible.
2. On an important matter of principle, we believe that the proposed reforms fail to strike the necessary balance of interest between economic and other priorities, particularly ‘quality of life’ aspects, in the consultation process for MIPs.
3. On National Policy Statements (NPSs) we note the intention to conform to the Cabinet Office Code of Consultation. Additionally, we suggest that few NGOs have the experience and authority to relate matters such as climate change, regional spatial strategies, strategic environmental assessments, sustainability appraisals etc. as required in the formulation of such policy statements. We therefore believe CPRE would be particularly appropriate for recognition as a statutory consultee. Furthermore, CPRE’s organisational structure, with expertise available at national, regional and local levels, is well suited to this role with respect to projects in both the national and local context.
4. Following lengthy preparation, the associated MIP proposals can be expected to embody an economic perspective that is well-organised, professional, articulate and single minded. It is therefore logical to support new planning mechanisms that seek to rationalise the disparate consent regimes that have become the norm for major projects.
5. However, those communities, organisations and individuals who wish to qualify acceptance of the economic case will reach their positions from a wide range of alternative perspectives, including climate change, countryside and quality of life considerations. A structured mechanism for wide consultation will be essential, as the relevance of various positions may only accumulate as a substantial, coherent body of opinion when taken as a whole.
6. The democratic process relies upon appropriate mechanisms for proper consideration of both support and objections to the economic rationale. It is not enough to require public consultation by scheme promoters with no democratic mandate. (Para 4.10). Whether prior to application or later in the day, the risk is too great that promoters’ vested interests could negate the validity of outcomes when many millions of pounds may be at stake.
7. The White Paper says: ‘As elected local bodies, local authorities have a key role to play representing, and helping promoters to understand, local community views.’ (Para 4.11). Such an acknowledged role should not only benefit the promoters; it is appropriate to the entire MIP process as county councils no longer have a planning role, and as government has said that regional assemblies, in their current form, will no longer exist.
8. Local Authorities are therefore in a position to provide the most appropriate democratic path for local public consultation, serving to qualify the position of promoters. Yet while the Paper discusses funding of alternative bodies such as Planning Aid, it fails to build on the important role played hitherto by local authorities on major projects.
9. It is not sufficient to ‘require’ promoters of MIPs to ‘consult affected local authorities’. (Para 4.11). Rather, it is essential that local authorities are also statutory consultees to the Infrastructure Planning Commission (IPC) with a special status requiring they should:
 - a). Be consulted by promoters before applications are made to the IPC, as above; Once the application is registered;
 - b). be consulted by the IPC and
 - c). have the responsibility to organise opportunities, together with their parish councils and Local Strategic Partnerships (LSPs) for public consultation; reporting and representing outcomes to the IPC. Similarly for any significant modifications to the application.

Parish councils and LSPs are statutory bodies; they already provide a consultative path for individuals, local communities and local strategic interest groups. The revised mechanism particularly needs to cater for those who would not otherwise be adequately represented, and the local authority should be properly funded for this purpose.

10. Consultation arrangements initiated by the promoter should include local authorities and others as proposed, with the proviso that outcomes should be signed off in a joint report by both the promoter and the body concerned. Such reports should be in the public domain and could be held at council offices together with a copy of the application.
11. The responsibility of local authorities is acknowledged in the proposed enforcement of conditions on MIPs affecting their area. (Para 5.50). At that stage their involvement will be considerable and, in the absence of an executive role, it makes sense for them to have a prior responsibility for collating, articulating and representing public opinion to the IPC.
12. Without adequate community consultation, it should be recognised that a perception of being steam-rolled by decisions on MIPs could act as an incentive in bringing about untoward public responses. In Hampshire, the Dibden Bay Terminal project* (see below) was refused largely because the concerns of the wider community were recognised through the current planning system, particularly the environmental impact of the proposals on internationally protected sites. But we recall that a sense of inadequate consultation led to several years of direct action over the M3 route at Winchester and note growing concern about the enlargement of Southampton Airport. On our doorstep we, and the wider community, are conscious of the latest moves for and against unauthorised assemblies against the 3rd runway at London Airport.
13. We do not accept it is enough at any stage to restrict opportunities to legal challenge to 'any member of the public or organisation likely to be affected by the policy'. This wording excludes disinterested, representative bodies such as CPRE, and perhaps local authorities or parish councils, who cannot individually or severally claim to be directly affected by the policy. (Para 3.34 & Q9).
14. Only through proper safeguards for the democratic process at the local level will the White Paper achieve its ambition. Every clause should be tested against the requirement for adequate public consultation. Local authorities are best-placed to help streamline and strategise an appropriate mechanism.

***Experience of current MIP process: Dibden Terminal Inquiry (Decision: 20th April 2004)**

CPRE Hampshire took an active part in the consultation and year-long public inquiry relating to a huge container terminal proposed by APB plc at Dibden Bay, Southampton Water, which was refused by the Minister of Transport on the Inspector's recommendation. This was a well-managed and even-handed inquiry that allowed the local NGOs and wider community to participate and feel their views were taken into account, as was evident within the Inspector's Report. It is vital that the benefits of the current system, for which this offers an excellent example, are not lost within any new system in the interests of speed and economic growth.

Currently, inquiries are held locally to the proposed site, encouraging local participation and understanding of the proposals, as at Dibden Bay. This makes it easier for inspectors to physically view the site and other aspects whenever wished. It also generates a feeling of confidence that the inspectorate will take proper account of the local perspective thanks to direct experience of the area during the period of the inquiry. It would be a great mistake, increasing bad feeling and misunderstanding, if the IPC was to become more distant by holding its deliberations away from the proposed site.

However, CPRE Hampshire's experience of the Dibden Bay inquiry demonstrated that the current system is clearly deficient as regards proper consideration of alternatives to the applicants' scheme, and that the following considerations need to be built into any new system:

- a). In terms of assessment during preparation of NPSs, full consideration must be given to reducing the need by appropriate demand management before deciding on the national need, and this should be done in an open and transparent way with full consultation. There was no mechanism for doing this within the Dibden Bay public inquiry.
- b). The IPC must be free to fully consider and consult on alternative technologies, or other means to meet the identified need, beyond that proposed by the applicant. In doing so, the IPC must be free of Government pressure to adopt any particular technology. There was no mechanism for doing this within the Dibden Bay public inquiry.
- c). Where appropriate, the IPC must be free to consider alternative locations to that proposed by the applicant, and have powers to call for evidence. In the Dibden Bay inquiry it was obvious that alternative, and probably more appropriate, sites existed at Shellhaven on the Thames and Bathside Bay at Felixstowe (we believe both have now been approved for new container facilities) but the Inspector was unable to consider these locations, other than in the most general terms.
- d). The IPC must be able to inquire deeply into local alternatives to the proposals put forward, and call for the applicant to investigate and produce further evidence. At the Dibden Bay inquiry the applicant produced evidence that the current port could not accommodate more than 1.5 million standard 20ft containers per year, or that it was not economical for the necessary changes to accommodate more. Yet recently, with Dibden Bay turned down, the applicant has produced a plan to accommodate 3.8 million such containers per year within the current port footprint. While credit is due to the applicant for now showing what can be done when pressed, there was a clear deficiency in the then inquiry process in failing to bring this potential into the open. It is possible that a substantial part of the New Forest National Park would have been unnecessarily despoiled as a result. Clearly, commissioners of any IPC need strong investigative powers.

SECTION 1.b. Proposals to reform the town and country planning system.

In responding to this section, we have opted to answer the questions as set out in Annex A.

Q.33 *What types of non residential land and property do you think might have the greatest potential for microgeneration and which should we examine first?*

Specific planning consent should always apply. Microgeneration is at a stage where cost-effectiveness is still being evaluated. For the private sector, the adoption of microgeneration should be encouraged; but not enforced until evaluation of preferred technologies has also been progressed on non-residential land and property in the public sector, leading to formal recommendations approved by parliament.

Q.34 *We think it is important to enable a more joined up approach to community engagement locally. We propose to use the new “duty to involve” to ensure high standards but remove the requirement for the independent examination of the separate planning Statements of Community Involvement. Do you agree?*

Only agreed provided effective oversight of process remains in place.

Q.35 *Do you agree that the High Court should be able to direct a plan (both at local and regional level) to be returned to an earlier stage in its preparation process, rather than just the very start?*

Agreed, while retaining the ability to direct a return to the start where the High Court considers this to be necessary.

Q.36 *Do you agree, in principle, that there should not be a requirement for supplementary planning documents to be listed in the local development scheme.*

Only agreed if up to date notification of SPD's is always available as an associated document and there is no diminution of status in practice, eg. with the Planning Inspectorate.

Q.37 *Do you agree in principle that there should not be a blanket requirement for supplementary planning documents to have a sustainability appraisal, unless there are impacts that have not been covered in the appraisal of the parent DPD or an assessment is required by the SEA directive?*

Agreed.

Q.38 *Which types of non residential development offer the greatest potential for change to permitted development rights? What limitations might be appropriate for particular sorts of development and local circumstances?*

None. Other than in the agricultural sector, permitted development rights are not appropriate for non-residential premises.

Q.39 *What is your view on the general principle of introducing a streamlined process for approval of minor development which does not have permitted development rights and where the neighbours to the proposed development are in agreement?*

Permitted development rights for residential property (except in conservation areas) are, for the most part, already generous; even under the proposed reforms in the parallel current consultation. For example, under no circumstances should development be permitted without specific planning permission for any structure exceeding 25% of the garden area. (At present and as proposed this can be 50%). Nor is there validity in neighbourhood agreements as no mechanisms are, or could be, in place to ensure objectivity.

At some stage, a professional assessment must be incorporated into process. For minor works, pre-proposal LPA advice could be sought in writing and the response kept on record. Whether planning permission is required or not, the applicant should be required to provide due notice to neighbours and inform them of the exchange.

Q.40 *Do you agree that it should be possible to allow minor amendments to be made to a planning permission? Do you agree with the approach?*

It is not sufficient that any anomaly over variations in planning permission this proposal seeks to correct should depend on 'the request of the applicant'. Once an application has been made it should be at the discretion of the LPA to decide whether any variation sought is, or is not, material in terms of an amended or new application. Where a variation to, or withdrawal of, an application results in a new application, the LPA – and not the applicant - should similarly have discretion to take into account previous comments in considering the new application – as should the Inspector for any subsequent Appeal.

END.

Hugh Sheppard
(CPRE Hampshire Branch)