

**“Promoting economic prosperity: the implications of the Eddington, Barker and Leitch Reviews” – submission to the Lyons Inquiry December 2006 dicussion document from Kent County Council**

## **Introduction**

On 6 December 2006, Sir Michael Lyons announced that, at the request of the Chancellor, he was postponing the publication of his final report on the funding, role and functions of local government. The postponement, we understand, is designed to allow him to consult with a wide range of stakeholders on the implications of the Eddington, Barker and Leitch Reviews, reflect on their comments to him and his Inquiry Team and then advise the Chancellor how Government might make the best of use of the reviews' recommendations for local government. We think this has been a constructive move and offer these comments to assist Sir Michael in his endeavours.

Sir Michael said in his Foreword *“I believe that local authorities have a unique responsibility and ability to represent the needs and views of an area and its people, and to pursue the well-being of the community. The pursuit of economic prosperity is a key part of that place-shaping role, and one that I discussed in May, when I noted some of the recent debates about their ability and capability to do so, including in relation to transport, skills and planning.”*

We are pleased to begin our comments on the three reviews with a strong endorsement of this position. The quote also serves as a reminder that, for all its alleged imperfections and inefficiencies, local government possesses a unique quality not available outside Westminster to others in the broader public realm. That quality is our direct accountability, via the ballot box, to all those required to pay for the public services provided on their behalf. When there is now a strong consensus that the need for democratic renewal seems urgent, local government is uniquely placed to catalyse the necessary changes in relationships between the governed and the governors.

Any actions flowing from these reviews which diminish such accountability or limit our place-shaping roles would run counter to the whole thrust of what the Government has proposed in its recent Local Government White Paper. Indeed, we have been concerned to note that all three reviews seemed to have failed to take any real account of this established trend in Government policy towards devolution.

Our role in promoting the economic prosperity of the communities we serve is central to place-shaping. Such prosperity is the critical driver that, more than anything else, contributes to the quality of life for all in an area and is essential to generating the resources for meeting the growing demand for effective and valued public services. It is for these reasons that we are keen to help Sir Michael make sure that the voice of local government is heard.

## **The over-arching questions**

The discussion paper begins by posing a couple of generic questions. First, do local authorities have the necessary legislative powers for their place-shaping role, particularly with regard to pursuing economic prosperity? Secondly, do the issues raised and/or the implications of the recommendations made vary between different parts of the country and between different sorts of places (eg rural/urban)?

### *'Place-shaping' powers*

In the context of the White Paper and Local Government & Public Involvement in Health Bill, there seem to be no fundamental deficiencies in the statutory provisions for place-shaping in general or promoting economic prosperity in particular. Our job would have been easier if the drawing away of powers from local government to locally-unaccountable 'delivery agents' had not happened or if there had not been a surfeit of centrally-driven new initiatives, each with its own new Number 1 priority for local implementation. However, there is also an argument that creating duties to cooperate amongst partners might be a case of over-legislating. KCC is already comprehensively embedded in a number of critical partnerships and even if conversations with partners are necessarily robust at times, we have yet to encounter any occasion when our shared commitments have been inhibited or prevented by the lack of such a statutory duty.

The 'well-being' powers created by the 2000 legislation provide the basic statutory framework but it has not been possible for us to take full advantage of it as we would wish because of other constraints placed upon us. Key amongst these constraints is money – and who controls it. Place-shaping involves doing as well as talking, and doing costs money.

The commitment in the Local Government White Paper and subsequent Bill to reduce radically the constraints and impositions of too many, too prescriptive performance targets will hopefully go quite some way towards easing those constraints. However, it is arguably the course of future negotiations for "enablers" around next-generation LAAs and MAAs that may prove the real test for re-balancing the central-local relationship and putting the word 'local' back into local priorities and local place-shaping.

### *Reflecting variation and diversity*

One of the recurring themes throughout the life-time of the Lyons Inquiry has been an aspiration expressed by councillors and local government practitioners alike to be allowed to use their local knowledge and expertise – as well as being locally answerable for decisions and actions – to determine the 'how', if not necessarily the 'what', of policy implementation and service delivery. One size does not fit all. It is a constant challenge to balance the desirability of postcode choice against the vagaries of postcode lotteries. The values which influence these judgements are not set in concrete and public

perceptions about “equity” will always be in some sort of flux. It is for these reasons we have been keen supporters of the LGA’s “Closer to people and places” campaign.

It is our direct relationships with and accountabilities to communities and individuals that give us a significant advantage over bodies and institutions that are essentially sub-national or regional delivery agents of national services to adopt our policies and service responses to reflect variations in local ‘character’. Hence, people can expect a consistent standard or level of service from KCC across the county, though **how** a service gets delivered will vary from place to place and will reflect the results of a highly devolved management culture. In contrast, in our joint work with national or regional partners, it is evident they often struggle with the sorts of local flexibility needed in a responsive service, precisely because of their upward, as opposed to local customer-facing, accountabilities.

## **Eddington Transport Study**

### Governance

*Can local authorities work effectively in partnership to deliver transport outcomes or are new/reformed institutions necessary?*

With the 3 economic priorities for transport policy for the next 20 years identified in the Study, the quick answer is yes, without a doubt, the capacity is there – but constrained by the issues about who holds the purse-strings.

There is the customary problem facing all local authorities of too many partnerships. At times, it seems no central “initiative” is complete without its own associated and dedicated local partnership body. In taking forward our plans for improving 2-tier governance, some rationalisation will have to be sought. Some will entail functional integration between tiers, some integrations will benefit from a stronger geographical focus.

Whilst, for instance, Kent and Essex can see a common value in looking at their traffic congestion issues strategically (shared issues of proximity to London; shared issues as international gateways), it is difficult, on past performance, to imagine existing or future regional bodies (with boundaries top-down designed in Whitehall) doing likewise. Kent and Essex can decide when, where, how and about what they need to work in strategic partnership, for and between themselves.

Regional bodies, with their upwards accountabilities, seem unable to. We would suggest bodies like the Highways Agency actually have much to learn from local government in terms of partnership working. Looking upwards rather than outwards mean opportunities get missed and key strategic investment decisions get delayed.

In consequence, regeneration and growth opportunities – Eastern Quarry near Dartford is a good example – are inhibited, with the risk that the net

result is less than a more timely decision might have enabled. Such frustrations are exacerbated in the case of Thames Gateway with its plethora of delivery bodies.

The key question would have to be ‘what would new/reformed institutions do?’ If, for example, the key to sustainability is to balance the economic demands of future transport policy with regeneration, environmental stewardship and community development considerations, one has to ask why go to the trouble of creating new non-democratic institutions, with no track record, when you already have democratic ones, whose place-shaping capacity means they are well placed to balance different and at times competing needs?

*What are the key behaviours required of local authorities to work in such partnerships? Would new institutional or contractual arrangements be needed to support them?*

As with all effective partnership working, the essential behaviours are those which foster trust and mutual respect. This in turn boils down to culture and relationships. Contractual arrangements can reflect these as desirable characteristics but can not, of themselves, create them. New or reformed institutional arrangements alone will neither foster these behaviours nor create the characteristics.

*Do the issues not considered by Eddington alter the best overall design for governance arrangements?*

The Study seems careful in avoiding firmly recommending any governance arrangements other than to pose the view that the spatial level for decision-making should be coterminous with the “functional economic area”. It seems to us that this term itself is so imprecise and open to differing definitions as to be unhelpful, even though many commentators seem to have seen it as being synonymous with GO boundaries. To the extent that all boundaries are to some degree arbitrary, GO boundaries seem more arbitrary than most – a regional boundary that links Kent and Milton Keynes yet separates Kent from Essex underlines the point. Given that the Study also has not taken account of accountability structures or ‘fit’ with the configuration of bodies dealing with allied issues, it would make very little sense indeed for the Government to opt for a function-follows-form approach on such insubstantial evidence.

*How could local government make use of any new bus powers in line with its broader role in promoting economic development?*

We await the proposed reforms on bus regulation and Passenger Transport Executive (PTE) powers with interest and urge that the current Local Government Bill does not proceed to the statute book in such a way as to preempt the wide restoration of PTE powers to democratic local government. The benefits of the link with councils’ economic development capacity are obvious. Indeed, as Kent has nationally significant growth areas in which KCC will be responsible for providing significant parts of the expanded public

service infrastructure needed, it makes sound sense to have as much as possible of the planning and commissioning (if not necessarily the provision) under one roof. As a shire authority, KCC has the critical mass, as well as the joined-up place-shaping capacity with its partners, to undertake franchising arrangements to encourage bus operators to take a long-term view of the investment needed.

### Convening

*How can local authorities make the links between transport and other elements of economic development and quality of life most effectively at the local level?*

There is a strong argument that local authorities are already doing this within their community and other planning strategies. We would argue that councils like KCC, despite the erosion of their powers over the last two decades or so, still have an enviable track record for convening locally what fails to be convened in Whitehall. Our ability to convene vis-à-vis regional or national delivery agents, eg the Highways Agency, is sometimes frustrated by their activities being driven by their centrally-determined priorities. The new duty to cooperate flagged in the Bill may be a recognition of this but rather than invoke this duty, we would much prefer to see matters improved by a more devolved and responsive local management within, eg the Highways Agency. As we said in the introduction, second-generation LAAs will be a crucial litmus test.

### Funding

*How could current funding arrangements best be reformed to support cost effective and appropriate spending and investment decisions at sub-national level?*

As a matter of policy, wherever possible, capital funding should be switched from “supported borrowing” to capital grant. Kent, for example, receives formula-based ITF funding, increased by reward funding for excellent planning and delivery – but this can not be fully deployed because it comes as ‘supported borrowing’ only.

As the UK’s premier ferry/road international gateway, Kent faces unique demands and we think that there is a re-evaluation of funding allocated to the Highways Agency for Kent’s motorway and trunk-road network.

*What transport funding sources are most appropriately managed by local bodies? What would be the most appropriate incentives to encourage the adoption of demand management options at a local level?*

Local sources to be raised and retained locally include:-

- parking charges
- congestion charges (as distinct from road-pricing)
- workplace parking charges

In the case of Kent, we have already argued the case for a BritDisc system that charges road freight hauliers on arrival in Kent ports as a contribution towards the maintenance costs of the road network maintained by KCC. Arguably, one of the strongest incentives to increased uptake of charge-based demand management systems would be a guarantee that any charges levied locally would be retained locally and kept separate from spending formula or equalisation considerations.

*Local authorities currently retain the revenues from local road pricing schemes. How might further developments in this area affect the use of those revenues?*

The situation is not as straightforward as the questions suggests, we fear. There are relatively few road-pricing schemes in place at present from which few 'real life' conclusions about effectiveness can be reliably drawn. Where Government policy seems inconsistent and arbitrary is on matters such as the Dartford Crossing. Traffic using the crossings has a disproportionate impact on the maintenance demands and congestion consequences on Kent's roads. Yet of the £50m surplus to HM Treasury from tolls, a meagre £1m comes to Kent – and that comes in the form of 'supported borrowing' rather than grant. It is difficult in this scenario to counter suggestions that road-pricing is no more than a revenue-raiser for Government and it contrasts uncomfortably with consistent requests over the years by KCC and rejected by Government for what is now portrayed as a national BritDisc scheme.

Earlier, we referred to how place-shaping powers mean little if not linked with funding decision responsibilities. This following example underlines this. Kent and Essex local authorities have a shared interest in a Dover-M11 link to reduce choke-points such as the Dartford Crossing and reduce the overall congestion on their roads flowing from intense use by European freight road transport. Couple this with the regular chaos generated by the imposition of Operation Stack on the M20 and it is not difficult to see how a joined-up local (ie Kent and Essex) yet strategic (ie international gateways for road freight) solution, using funds from the Dartford Crossing and a BritDisc scheme for Channel ports, delivers many benefits for the whole range of road-users – yet is frustrated by top-down central planning, decision-making and control of the purse strings.

## **Barker Review of Land Use Planning**

### Governance

*What specific measures are needed to ensure that local planning authorities have appropriate flexibility over issues of solely local impact? Are there particular implications from the Review's recommendations on the use of Green Belt land?*

There is a general acceptance that a plan-based approach is best and we welcome Barker's support for this. It is essential, therefore, that the greater flexibility required by and for local planning authorities on purely local issues is designed in at the plan-building stage. Hence, there is no argument about the case for reducing the amount of planning guidance that has to be taken into account – as long as greater brevity is matched by greater clarity and the latter is not sacrificed for the former.

On Green Belt policy, it needs to be remembered that its original purpose was to curtail urban sprawl from major conurbations, not to protect landscape amenity, which seems to be Barker's key criterion for reviewing at this time. Also, periodic review is already addressed in Regional Strategies guidance. There is a potential unintended consequence, we fear, of adopting too firmly a landscape amenity criterion – namely, the prospect of landowners deliberately degrading landscape value to facilitate removal from Green Belt protection.

Even if this new/additional criterion comes into play, the dilemma remains in attaining the best trade-off between landscape protection and economies of scale for associated infrastructure and transport investment. This balance is influenced by the particular character and needs of the local planning authority's own area and the 'encroaching' metropolitan area in question. Shire county planning authorities like Kent can already demonstrate the confidence and clout a strategic authority can deploy in making such potentially difficult decisions – eg in 3 of the last 4 Development Plan reviews KCC chose to release former Green Belt land to help expedite the development of the Thames Gateway without detriment to our "green" track record and reputation.

*What different approaches could be taken to enable strategic decisions to be taken at appropriate spatial level? Can local authorities work effectively in partnership across wider areas to do this or are new/reformed institutions necessary?*

We think that local government in Kent can amply demonstrate an enviable ability to work effectively in partnerships – and not just within the KCC boundary - with a wide range of partners, for a range of different purposes, in a range of configurations. The Barker Review seems to be in support of drawing powers away from local authorities on the basis that some decisions go beyond the boundary of the individual local authority charged with a particular, most often "strategic" decision. There is an equally compelling argument that the configurations of existing regional and sub-regional entities based on Government Office boundaries offer no better – and arguably, a worse – match, as well as being fundamentally defective in their lack of local outward accountability. As we have consistently argued in our submissions to the Lyons Inquiry and to the double-devolution consultation, subsidiarity within a democratic framework should be the guiding principle.

*What role should local authorities have in relation to a future independent Planning Commission, and how should they best work with local communities on their concerns and potential benefits?*

The fundamental question here is – independent from whom? It can not be sensible in a democratic society that some decisions, even “strategic” ones, are beyond accounting for those affected by them. Some “strategic” decisions are undoubtedly difficult and unpopular but are nevertheless necessary. There seems to be an inference here that non-independent (ie democratically accountable) bodies may be overly susceptible to various lobbies, compared to “independent” bodies. Direct accountability between parties acts as a sensible restraint and reinforces obligations on those making the decision to take account of competing interests and take all reasonable steps to mitigate the effects for communities and people who are or feel adversely affected.

With regard to concerns that interminable planning processes jeopardise timely decision-making on strategic developments, responsibility must be shared by a whole range of interests and participants, not just local government. To suggest setting up an “independent” Planning Commission as a panacea is to miss much of the point.

This proposal poses some important questions about national v. local interest and who pays for mitigating the consequences which demand further debate before this could be safely acted upon. “Strategic” is in quotes to emphasise that defining the term is open to interpretation and negotiation.

Our view is that drawing powers up and away from democratically and locally accountable local authorities and vesting them in remote and supposedly “independent” (which we take to mean unaccountable to those affected by their decisions) bodies flies in the face of the overwhelming consensus (shared, we believed, by Government) in favour of devolution and democratic renewal. We would argue that before there is yet further erosion of local government’s place-shaping powers, in terms of local planning authority powers, we can identify and resolve the dilemmas and frustrations of current planning processes that prompt this call.

The solution is process, not institutional, reform. For instance, some of the greater efficiency of process called for could be found by removing some of the onerous and transaction-rich complexities imposed in the Planning and Compensation Act 2004.

The UK’s difficulties in pursuing major infrastructure approvals can not be laid solely at the door of local planning authority institutional and governance arrangements. The difficulties are exacerbated by having to attempt to deal with the principles of development and their detailed application to the proposed development simultaneously – a statement of national objectives for strategic infrastructure projects would go quite some way to alleviating this.

### Convening

*How can local authorities link work on planning housing and transport issues most effectively?*

Within their spheres of planning, commissioning and operational responsibilities, local government is already well placed to take a joined-up approach. Whilst conceding that we have room for further improvement in how we do this, we would contend that it is the lack of joined-up action across Whitehall that poses our most intractable difficulties in harmonising separate planning and funding regimes and reconciling conflicting policy objectives.

### Funding

*What would be the most effective and practical means of creating incentives for local authorities to support appropriate growth?*

One immediate step would be for Government to accept the full financial implications of the LDF development process (as per the 2004 Act) under the “additional burdens” regime and make adjustments to Planning Delivery Grant accordingly.

LAGBI was cautiously welcomed when it was introduced. However, it is insufficiently stable over time and is transaction-rich and the recently-announced changes have had the effect of increasing the inequity around ‘floor’ arrangements. We anticipate that the final Lyons Report will have more to contribute to this issue and look forward to this giving further weight to calls for a more substantive review.

We note the Review’s support for S106 payments, the proposed Planning Gain Supplements and the continuation of LAGBI. We have already used S106 extensively and suggest the potential benefits of both schemes could be jeopardised unless there is a clear distinction drawn between them.

*How should the empty property relief in business rates be reformed? How should a charge on vacant and derelict brownfield land be introduced into the existing local land and property tax system? Would any local flexibility on such measures be desirable?*

The principles behind reform will need to ensure a judicious mix of incentives to businesses to keep business premises economically active and penalties to deter holding back brownfield land for solely speculative purposes. In any event, the consequence of any reform must not be “urban cramming” and diminishing environmental and amenity values.

## **Leitch Review of Skills**

### Governance

*With their new strategic leadership role, how can local authorities relate most effectively to a reformed Learning & Skills Council on 14-19 education issues? What are the merits of the different options for managing the division of these responsibilities?*

The regionalisation of LSCs will only serve to make them even less accountable locally for the decisions they make and we are concerned that this might also see some of their current local activities defaulting to the local authority's remit without the resources attached. We can already see that the dual loyalty of a more local LSC has been shifted in favour of it becoming a regional body whose priority is delivering the DfES agenda.

We have always argued that the division of responsibilities for 14 – 19 education strategy was a retrograde and centralising step. LSC regionalisation reinforces the potential pitfalls of this strategic misjudgement and unfortunately, the Leitch proposals will not remedy this. We are not convinced that a regional LSC will have the capacity or fine-grained needs-led analysis to discharge its new emphasis on commissioning, market-management and resource-allocation. Under the Bill's provisions, listing LSCs as a body under a duty to cooperate with LAAs and requiring them to "have regard" to the reports and recommendations of relevant local authorities under "scrutiny plus" are not sufficient safeguard, we believe, against the risk of continuing central prescription and absence of local accountability.

### Convening

*What links need to be made between employment and skills provision, and other local services and responsibilities?*

We believe that whilst the emphasis in Leitch on adult skills is important, it fails to look upstream and pay proper regard to what schools currently do in preparing and equipping young people for the world of work. The fault-line in responsibilities at age 16 between LEA and LSC is one manifestation of how 'pluralism' is not helpful and the information, advice and guidance stream for young people, mainly through Connexions (which Leitch glosses over) is another arbitrary fault-line, again largely attributable to another initiative springing from a Whitehall silo.

The present set-up is a nationally-prescribed system, riven with perverse incentives, in a post-16 funding strategy with very little relevance to local needs. This national prescription, if followed through locally by FE colleges and other providers, would see the virtual abandonment of Level 1. Arguably, those with the greatest needs would thus become the least provided for. This would fly in the face of our local Supporting Independence Programme which enjoys the wide support and active participation of local partners. Failure thus to address Level 1 would increase disaffection and exclusion and add to the

demands that the Supporting Independence Programme is tasked to tackle. We end up reactively picking up the pieces when we could have “convened” a positive preventive approach. This is a potent example of why local government-led convening makes such compelling sense.

Authorities like Kent are already a long way down the road to having Children’s Trusts (which incorporate action on skills for the labour market) ready to operate and we are not convinced that some of the ideas in Leitch around a new Commission or reform of sector skills councils show that the Review has taken a sufficiently broad joined-up view. We do not dissent from having a much more proactive and hands-on input from employers, which local government are well-placed to engage, but the various institutional reforms put forward in Leitch lack overall coherence. It would be imprudent to rush forward in implementing these proposals.

*What role should local authorities play in a new demand-led skills system?*

The proposals for a radical shift to a demand-led system are ambitious. Local authorities should aim to be influential amongst, rather than the leader of, employers. Current partnerships like the Kent Economic Board and programmes in our Local Skills for Productivity Alliances have already laid down much of the groundwork – it would be wasteful to impose prescribed arrangements and not to build on what is already in place. What we can and should offer partners in a demand-led system is to pool our analytical skills and local information resources so that demand can be accurately and comprehensively measured, analysed and forecast into a 10, 15, 20 year future.

Our chief concerns are, otherwise,

- that demand might be examined in too-short a time-frame;
- that commissioning would be merely mechanistic and reactive;
- market management might not be done in such a way as to stimulate change in supply over time, to meet new demands;
- might risk missing out on the skills needs of hard-to-reach employers; and -
- might risk creating a funding/reward regime that sees the needs of socially-excluded groups, eg NEETs, migrants, overlooked.

In a way, this is about local authorities contributing their current expertise to make sure that demand-measurement and commissioning absorbs the place-shaping hallmarks for the wider civil society by a process of local osmosis, rather than by central policy directive.

*What role should local authorities play in the proposed Employment & Skills Boards, to ensure skills and employment issues are properly linked to wider work on economic prosperity and development?*

As mentioned above, in Kent, the remit of our Local Skills for Productivity Alliances bear a striking resemblance to that of the proposed Employment &

Skills Boards. This is something we and Kent partners have taken the initiative on ourselves and in commending it as a way forward for others would argue that the principle of subsidiarity suggests the configuration of local structures is best left to local partners to decide and not imposed from outside. Better to be judged on the outcomes we achieve than on either inputs or processes.

### Funding

*What implications for local authority funding do the Leitch recommendations or related proposals have?*

The key issue here is that Leitch does not offer proposals which satisfactorily bridge the funding fault-line at age 16. The duty to cooperate and future LAA arrangements may offer a way forward but the funding split at age 16 introduces a fundamental and avoidable complexity, symptomatic of the drawbacks of “pluralism”.

Kent County Council

19 January 2007