

Questions for Stakeholders on the Lyons Inquiry into Local Government

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?

The Council is concerned that flexibility over local issues has been eroded with the advent of the Mayor of London's new planning powers. It is noted that Recommendation 7 of the Barker Review states, that 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. The Council strongly disagrees with this recommendation. The problem is what constitutes local impact. Notwithstanding the Council's continuing concern that local issues will be subsumed by strategic concerns, the test in its current form does not provide sufficient safeguards for the Mayor to be only involved in matters of London wide or regional importance. There is the added concern that the timetable is too tight for applications to meet their 13 week deadline if they are referred to the Mayor.

Dealing with the proposed criteria, the Mayor must decide whether the planning application raises issues of a nature and scale that would significantly impact on the implementation of specific London Plan policies. Whilst this may appear straightforward the Government should urgently clarify the definition of strategic matters in which the Mayor becomes involved.

This Council strongly opposes the view that the centralisation of powers will lead to improved service delivery. In a recent report by the Audit Commission, Kensington and Chelsea Council was rated as amongst the five best in the country. Transfer of powers to the Mayor is a detrimental step which would not improve the quality of life of the Borough's residents particularly the most deprived. Londoners have some of the best Councils in the country. In London as a whole, every one of the 33 boroughs improved on their performance last year, despite a toughening of the commission's assessments. Without a body of firm evidence why put such success at risk?

The Council is concerned that the Mayor already comments on a range of detailed policies which should not concern him and which do not affect the strategic planning of London. This can be costly in terms of the time wasted on such matters and can lead to confusion and uncertainty, as well as the threat to local democratic accountability. A very recent example is in the "Statement of Intent from the Mayor – Reviewing the London Plan" where on page 30 the Mayor considers the possibility of introducing internal and external space standards. This appears to be a blueprint for a detailed development control policy, rather than a strategic policy and is one of many examples that could be quoted.

In terms of the comments regarding strategic planning applications the Mayor often comments on matters of detail, rather than dealing solely with strategic issues, for example the design of bicycle parking. The Mayor should also confine his comments to the specific issues on which the application has been referred to him, rather than seeking to direct on an unrelated matter.

Specific measures to help this process are to restore the balance between local and strategic matters in London and ensure that Councils are able to determine planning applications which are not of genuine strategic significance without interference from the Mayor. Urgent clarification is required on what constitutes a strategic matter, both in the London Plan and in terms of the type of planning applications which have to be referred to the Mayor.

It is the Council's view that the Mayor's proposals have invoked major constitutional change, shifting the balance between local and central authorities. The G.L.A. is no longer a strategic authority as was intended, but has become a service delivery agent. Local interest is being subsumed into the Mayor's interest.

In terms of flexibility over issues of local impact, the current s106 process, whilst not perfect, does provide a mechanism to connect local communities to local infrastructure and is subject to local control. It can be flexibly applied at local level and should be retained. The centralised Planning Gain Supplement will essentially remove this relationship and is opposed by this Council.

In relation to the Green Belt, this borough has no Green belt land in close proximity and therefore cannot comment on this aspect.

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

Greater clarification is required for what constitutes a strategic matter. The division has become increasingly blurred in London with the Mayor assuming greater control for planning decisions for major applications and approval of the timetable and content of Local Development Schemes. In view of the fact that decision making is becoming more centralised there is a concern that local communities will effectively be disenfranchised unless local and strategic concerns can be carefully weighed up in a transparent and independent manner and assigned the appropriate level of decision making. This has not been achieved in London with an imprecise definition of what constitutes a strategic matter and the Mayor having a vested interest in granting large strategic applications despite the fact that they may have a local impact. The Mayor is assigned decision making powers taking decisions behind closed doors with a weak role for the Scrutiny Committee. This contrasts poorly with the democratic transparent committee system of making planning decisions.

There is no reason why adjoining local authorities cannot work effectively in partnership and indeed there are many examples of this happening in a range of areas. For example the Royal Borough works closely with other West London boroughs in the affordable housing field providing joint advice and assistance to each other and discussing larger applications and their possible impact. With applications of genuine strategic importance powers exist for the Government office to call the application in if they consider that it may raise issues of more than local significance. This system appears to have worked better than given credit by the Mayor of London, or the Government. The creation of further layers of decision making is not required and will be a major cause of delay and uncertainty and expense for taxpayers.

Assigning the Mayor greater powers was a premature decision, not least because the Local Development Framework is still in its infancy. There has been insufficient time for boroughs to review their planning policies in the light of the London Plan and begin to deliver the targets set out by the Mayor. The strategic element of the content of the Local Development Framework and any Development Plan Documents is yet to be tested and it is unclear what evidence has recently come to light which justifies change to the current arrangements. If the Government consider that the planning system in London is failing then they are effectively acknowledging that the Local Development Framework system has failed, despite the fact that such plans are not due to come to fruition until 2007 at the earliest.

Overall London boroughs are performing very well in relation to London Plan targets for delivery of housing. According to the London Plan Annual Monitoring Report 2003, the number of houses built (2002-2003) exceeded the London plan target of 23,000. Preliminary information, released at the October 2005 Housing Supply Sub-Group, for 2003/4 and 2004/5 indicates the proportion of housing approved by London boroughs is continuing to exceed the London Plan targets. The aggregate figures for housing in London in 2004/5 show that 27,300 housing units have been delivered which is well in excess of the 23,000 target figure. Overall, London boroughs are generating more housing than required by the current London Plan. If there is a weakness in housing provision, it is a weakness of the London Plan.

On the basis of the above there would appear to be no justification to tinker with the present system still further. Strategic decisions can already be taken at the appropriate spatial level. Creating further strategic decision making bodies will only reinforce the primacy of strategic over local concerns which runs counter to the Government's stated aim of delegating decisions to local level. The current system of independent intervention in planning decisions is considered to be a vital safeguard which ensures that standards of probity and fairness are maintained. This power is discretionary and is only used very selectively where matters of more than local importance are involved. The right to grant approval for planning applications requires local concerns to be taken fully into account, but it is unclear how these concerns can be given the weight that they deserve by the GLA. At best, the proposals will simply replace central Government involvement with greater regional involvement

with powers removed from local authorities, whilst at worst the Mayor will pursue his growth strategy at the expense of local democracy.

2. 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?

It is noted in Recommendation 10 of the Barker review that the Planning Commission who would take decisions on major infrastructure applications would comprise of leading experts in their respective fields taking part in a streamlined public inquiry. It is the intention that full community consultation would be carried out and decisions would be taken in a fair, transparent and even handed manner. It is not clear in practice how this would work so that local community concerns are assigned adequate weight. The leading experts of their respective fields may not best placed to assess local residents concerns.

A role for the local authority in the Planning Commission process is not mentioned. It is noted that the Planning Commission would engage in pre-application discussions with developers and they would ensure that developers carried out the appropriate consultations with local communities as well as statutory consultees. Local authorities, which are meant to be the decision making body at local level, are effectively by-passed in the process.

The proposals as they stand effectively exclude local councils and the communities that represent from the key decision making process. Whilst Barker states that community consultation should be undertaken it is not clear how their views can be represented in an effective way. Local authorities could assist in putting their views forward and should clearly have a significant role to play in giving evidence on the local impact of proposals which should be statutorily built into the process. This should coincide with the communities they represent, but clearly this is not always the case as a major planning application can generate many concerns, not all of which are compatible. If the Commission replace the Planning Inspectorate and fulfil a semi- judicial role then it would be inappropriate for them to undertake pre-application discussion with developers except to establish matters of fact.

If an independent Planning Commission is established it is fundamental that the Commission only deals with proposals of genuine national importance otherwise there is a danger that local democracy will be undermined. Significant questions remain regarding the weight that will be assigned to the localised impact of a proposal and there is an underlying concern that communities will have developments imposed upon them and will have little genuine involvement in the process. The fact that local authorities have been ignored does not bode well for the future.

Convening

1. How can local authorities link work on planning, housing and transport issues together most effectively?

This really is a corporate matter that should be decided internally by individual councils according to their needs, size and location. A “one size fits all” formula is unlikely to work and it is considered that this is not an issue that needs direction from Central Government. The Local Development Framework promotes spatial planning where the needs of housing and transportation should be fully reflected in the Core Strategy and detailed Development Control policies. In practice most local authorities have developed good internal working practices and consultation procedures. The practice in London is for neighbouring boroughs to work together on an informal basis in fields such as housing and these measures appear to work well. London Councils also plays an important coordinating role.

Funding

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

The principal concern is to provide sufficient resources for the infrastructure to support the growth. In the planning field this has traditionally been through s106 agreements which have provided local flexibility both in terms of the provision of infrastructure in kind and financial contributions which reflect the needs of the development and the surrounding area.

The Council supports in principle the notion of capturing a portion of the land value increase created by the planning process, but is concerned that the proposed supplement represents a clear break between the planning process and the development of a local infrastructure tailored to the needs of the local community. This would run counter to the Government’s support of community empowerment in the Local Development Framework process. The current system of locally negotiated s106 agreements allows flexibility and the need for appropriate mitigation measures given the characteristics of the site and local infrastructure requirements. A PGS replacement would provide a crude substitute which would not recognise the many in-kind benefits that are negotiated in London by the current system which might not otherwise have justification as to why change is required. The Government are concerned that the s106 system is failing to deliver housing in London with the necessary infrastructure. However, the Local Development Framework is still in its infancy and there has been insufficient time for boroughs to review their planning policies in the light of the London Plan and begin to deliver the targets set out by the Mayor. The Government’s concern about the delivery of housing in London would also appear misplaced in so far as the aggregate figures for housing in London in 2004/5 show those 27,300 housing units have been delivered which is well in excess of the 23,000 target figure.

If local authorities are to support growth then they should have control of their own methods of raising revenue. The PGS is viewed as an unwelcome centralisation of raising revenue. It may be argued that one potential advantage of PGS is that it will apply to most development and therefore should be able to capture smaller schemes which currently fall below the

threshold where s106 obligations would normally apply. In a borough such as Kensington and Chelsea, which is characterised by smaller sites, this could mean that more development schemes will be eligible for contributions. However, this must be balanced against the severe shortage of suitable development land and vacant buildings in the Borough. This makes it extremely difficult to provide the appropriate infrastructure off site and it is normally sought as part of a development scheme. It is fundamental that infrastructure is provided in the right location (normally on site) and in conjunction with the residential and commercial development to which it relates in order to create sustainable communities.

An illustration of this concern can be drawn from the Council's experience of payments in lieu of on site affordable housing. These are of little use. The PGS Consultation Paper proposes that the provision of affordable housing remains a matter for planning obligations, but it shows what is likely to happen if other infrastructure is funded by PGS. Land and buildings provided by a developer are normally essential in this respect and given the prohibitive cost of land and buildings in the borough the Council would have real problems in trying to secure such infrastructure at a later date or on an alternative site purchased by the Council. A potential method would be the Council exercising its powers of compulsory purchase, but this is expensive and slow and will not deliver infrastructure at the appropriate time, if at all.

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