

# The Treasury tanks are on the planning lawn

What the Barker Report might mean really achieve – Is the ACA one step ahead?



**"Was there anything genuinely new in what (Barker) recommended to Gordon Brown?"** asked the Architects' Journal leader on the day of the Barker report's publication last month. The AJ news editor is not alone in feeling we've heard it all before - simplifying and speeding up planning. Your correspondent begs to differ. This one is different. Sure, New Labour in its first year in office published 'Modernising Planning' and anticipated several of Barker's main proposals, and as architects and their clients know only too well, the procedures have become more convoluted, the process ever more obscure and the consequences slower and more compromised.

So what makes the Barker Report different? The answer is in the politics. Kate Barker is an economist commissioned by HM Treasury and working out of the Treasury. It is not the child of the DCLG and to prove the point it contains proposals which will render floor-loads of DCLG staff redundant if implemented: halving the number of call-ins, drastically cutting the length of PPS guidance and introducing an independent National Planning Commission to deal with major infrastructure decisions.

Aaah! "If implemented" I say, but what is the chance of that happening this time around? Good question, and there will be a struggle against vested interests (a sign that it may all be worth while). But the omens are not all bad. First, there is to be produced in the Spring a(nother) planning white paper and it is being

written, at least in part by - wait for it - The Cabinet Office! Gordon may find himself getting busier later in the year but he will be able to keep a handle on planning. Headline grabbing proposals include the new national Planning Commission, a presumption in favour of development where plans do not justify refusal or are out of date or unclear and a thoroughgoing review of green belt boundaries so as to allow more 'sustainable development'. As important as such changes might be, and beneficial in their effect on the economy and controversial for some interests, it is at the day to day level that Barker may ring major changes, and relatively quickly too.

The idea of more changes as we are all struggling with the new Planning Act, framework Plans and new procedures may seem galling. But it may be the new Act which carries the seeds of its own rapid demise. It is clearly not working to achieve speed and simplification, and political patience has run out, so is not prepared to give the new system much benefit of the doubt. Bad stuff is about to hit us: new complex validation procedures for planning applications and an allegedly standard national application form.

Better, the recent report on the Householder Development Consents Review (HDCR) is being taken forward with urgency, and this brings us closer to our day jobs as architects. The HDCR proposes:

1. a new and simplified Permitted Development Order for Householder Developments should be prepared. This would move from the present volume-based approach towards one based on impact.
2. DCLG should develop model Local

Development Orders to illustrate how they can help Local Planning Authorities to extend permitted development rights in their areas and 3. A streamlined process should be developed for cases where planning consent is required but neighbours do not object. Nevertheless, the scope should be retained in such a process for Councils to refuse permission.

The new GPDO is already in hand, though whether it succeeds in avoiding complex dimensional calculations has yet to be seen. Barker is up for Local Development Orders allowing planning authorities to relax control over development further and takes the third item further, suggesting there is scope for neighbours to 'do deals' between each other to expedite householder development.

Many have criticised this last suggestion and the Association of Consultant Architects has come up with a better proposal. Following consultation with members the ACA issued a discussion green paper\* in October 'Where is planning going?'. Kate Barker commented on the three page document: "Concise and stimulating". This is what it suggests:

According to the ACA, the future of planning might look like this.

- Big things like airports and nuclear power stations are for government White Papers and parliament to decide, while government policy dictates regional things like motorways, housing allocations and national parks.
- Mayors and local planning authorities make plans and determine locally strategic developments such as major sports stadia, transport interchanges, land releases for housing, green belt developments and new

centres.

- The GPDO is rewritten as suggested by the HDCR to determine development rights only on the basis of measurable impacts, supported by 'deemed-to-satisfy' guidance, and the Use Classes Order is greatly simplified by focusing on impacts rather than very specific uses.

- Development proposals comply with the new-style strategic plans and compliance is certified by 'Approved Agents' who, as with building control, can be officers of local authorities or professionals, but are appointed and paid by applicants. If a proposal does not comply, application is made to the local planning authority for determination. Their decision may be appealed and determined by the Planning Inspectorate as now.

- Three levels of proposal may be considered: i] Outline, ii] Full, and iii] Approved for Construction.

i and ii will generally be subject to conditions which may call for the approval of reserved matters in the subsequent stage(s). Full applications will be able to deal with sustainability issues in principle - performance specifications - but not in detail. Local development plans cannot duplicate matters covered by other legislation (public health, access regulations, building regulations, etc.), except where special local conditions apply. 'Approved for Construction' proposals will have to satisfy both planning and building regulations requirements, both on a 'deemed-to-satisfy' basis which will rely on clear guidance with the option of a determination or appeal in exceptional cases (as now for Building Regulations approvals).

- Only strategic decisions and clearly

# Letter

non-compliant applications need be considered by elected members, all others being delegated to officers or Agents. Planning resources are focused on plan-making and keeping adopted policies up to date.

- Approved Agents assess the impacts of proposals and only where these affect other owners are they obliged to follow a consultation procedure which is modelled on the Party Wall Act (including provision for a 'third surveyor'). No such agreement may override a clear plan policy. Agents deal with planning compliance, building/environmental regulations and party walls in an integrated way, with specialist input as necessary for matters like engineering, traffic impacts and biodiversity.

- Approved Agents certify completion of developments in compliance with certified proposals. Architects and other qualified professionals may self-certify compliance (as they, in effect, do today), but owners are obliged to notify the Land Registry once development is complete and attach specified information to their title deeds.

The ACA believes these proposals will change the system from being negative to being positive, release scarce skills and resources and inject some vision into planning. As a co-author so do I! I also consider that the enhanced role for architects in operating this new development control system will benefit clients, communities and the profession alike (fewer than half all planning applications presently being made by architects) and help raise the importance of design for every scale of development.

\*download from [www.bwcp.co.uk](http://www.bwcp.co.uk) > guidance

Consultations are under way over the Barker Report and will feed into the white paper, so make your mark: email [barker.review@hm-treasury.gov.uk](mailto:barker.review@hm-treasury.gov.uk) by 5 March. This is Brian Waters' January column in the Architects' Journal.



From *Katrine Sporle, chief executive, The Planning Inspectorate*

Sir

## Section 78 planning appeals

Thank you for giving me the opportunity to utterly refute the premise of your article in the last *Planning in London* 'Planning Inspectorate learns new validation tricks'.

Over the summer, there was indeed a delay in registering new appeals of between 4 and 6 weeks. This was, however, the direct result of higher than predicted appeal volumes and the impact of our new appeals recording system which took a little while to bed in, rather than any cynical attempt on our part to mislead. Things are getting better, however, and the gap between our receiving and registering new appeals has now narrowed to, normally, under a week. I am confident that we will be back to where we want to be, i.e. registering valid and fully documented appeals within 48 hours of receipt, early in the New Year.

There are also encouraging signs when it comes to the time taken to decide appeals. Despite what you say, we are on course to meet our Ministerial target, by the end of the financial year, of deciding 50 per cent of written representations appeals within 16 weeks. As for appeals decided by the hearing or inquiry method we anticipate that by March at least 50 per cent will be decided within 30 weeks – here again, in accordance with our targets which have been set by Ministers.

Finally, a few words about e-working; I cannot deny that things didn't go quite as well as we would have wished when we switched over

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to our new appeals casework system at the beginning of the year. The fact remains, however, that as a business, we had no option but to press ahead with the replacement of an aging, and increasingly unreliable, system with one that would enable us to satisfy in the years ahead the needs of our customers, many of whom wish to communicate with us electronically, and at the same time comply with the Government's commitment to make more of its services available electronically.

We have learned some valuable lessons along the way. One of these is that whilst there has been an encouraging take up of the online appeals service, with more than 20 per cent of appeals submitted by this method, the vast majority are nevertheless incomplete. This leads to delays while we have either to wait for or chase the outstanding documentation. This in turn has made us realise that a lot of work remains to be done by the Inspectorate if we are to persuade more of our customers, and in particular regular users of the appeals system such as local authorities and agents, to embrace effective online communications. Until attitudes change – and I am confident that in time they will – we have to operate what is effectively a hybrid paper-based and electronic system in order to try and meet the different needs of all our customers. It has not thus far been easy but I believe we are getting there.

We are confident that in the next financial year we will have in place an improved appeals handling process which will enable us to keep to Ministerial targets and to provide more timely decisions for appellants. As part of this process we will be requesting that appeals are not submitted until appellants have all the required information and are actually ready to proceed. Further announcements about this will be made in the New Year.

CLIPBOARD



## ePiL Competition

Chambers London Gazetteer £25.00 is the prize for review by the winner in the next issue of *PiL*. Just email your postal address with the subject 'ePiL competition' to [planninginlondon@mac.com](mailto:planninginlondon@mac.com).

## Cashing-in

"I am beginning to wonder how overstretched planning officers are coping with the advent of design and access statements... One of my clients is a national bank which looks to installing ATMs (cash machines) in as many branches as possible. Such applications now require a D&A Statement. We thought we had it down to a fine art with a single page document...until one bright officer decided to reject the statement and refused to validate the application. The reason was that it did not satisfy the 2004 Act because we failed to mention landscaping. What were they expecting? Roses around the ATM or hanging baskets?" – letter in *Planning*.

## London funds the UK

Londoners' net contribution to the rest of the UK's public finances for 2004/5 was £13.1bn, £900m up on the previous year. The city's tax bill provided around 18 per cent of government revenues from 12.5 per cent of the UK population, says a study by Oxford Economic Forecasting for the Corporation of London. *London's Place in the UK Economy 2006-07*.

## Less power for Ken

MPs voted to restrict the Mayor's powers last month during the second reading of the Greater London Authority Bill. The draft allowed the Mayor to intervene at any stage in a planning application but now only following a borough's decision, and only then if the borough is failing to follow London Plan policies.