

## PORTFOLIO HOLDER - ECONOMY AND PLANNING

### ECONOMY AND PLANNING PANEL/PLANNING DEVELOPMENT CONTROL COMMITTEE – 18<sup>TH</sup> FEBRUARY 2002

CABINET – 6<sup>th</sup> MARCH 2002

## PROPOSED MAJOR CHANGES TO PLANNING SYSTEM

### 1. INTRODUCTION

- 1.1 The Government has issued a Green Paper: “Planning – delivering a fundamental change” and several accompanying daughter documents covering compulsory purchase orders, major infrastructure projects and planning obligations (Section 106 agreements). This report summarises and comments on the main proposals, and recommends a response to the Department of Transport, Local Government and the Regions..
- 1.2 As this report was being finalised, a further consultation paper on revising the Use Classes Order was also published. It has not been possible to include comments on that paper in this report.
- 1.3 The Green Paper and associated documents proposes very major changes to the planning system. The Government considers that the changes are needed because the current system:
  - is too complex
  - is too slow and unpredictable
  - is not customer focused and fails to engage the community
  - results in planning departments being overstretched
  - is not effective with regard to enforcement.
- 1.4 *Officer comment - The current planning system is in need of reform. The Local Government Association, Planning Officers’ Society and Royal Town Planning Institute have all been campaigning for reform.*

### 2. DEVELOPMENT PLANS

#### 2.1 The need for reform

- 2.1.1 At present, the development plan system comprises:
  - County Structure Plans (prepared by County Councils, National Park authorities and Unitary authorities); and
  - Local Plans/Unitary Development Plans prepared by District Councils/Unitary Councils/National Park Authorities (Minerals and Waste Plans are prepared by County Councils/Unitary authorities/National Park Authorities).
- 2.1.2 These statutory development plans are prepared within the context of:

- National Planning Policy Guidance (PPGs);  
and
- Regional Planning Guidance (RPG).

- 2.1.3 The current system, in the Government's view:
- is over-complex with too many tiers: national policy guidance, regional planning guidance, Structure Plans and Local Plans.
  - involves too many inconsistencies between different levels of plans
  - produces plans which are too long and complex
  - is too slow and expensive
  - is too inflexible
- 2.1.4 The Government proposes to replace the current system with:
- Statements of national planning policy,
  - Regional Spatial Strategies, supplemented in some areas by Sub-Regional Strategies;
  - Local Development Frameworks as described below.

## **2.2 National Planning Policy**

- 2.2.1 Planning Policy Guidance Notes (PPGs) are to be revised (and simplified) to separate out national planning policy (which must be taken into account in planning at the regional and local levels) from advice. The government will distinguish policies which are expected to be applied in full from guidance which can be interpreted in the Local Development Framework (as described below).

## **2.3 Statutory Regional Planning Strategies:**

- 2.3.1 Statutory Regional Spatial Strategies will replace Regional Planning Guidance. These will cross-refer to relevant national policy, set out specific regional and sub-regional policies including the broad locations of major developments and set targets and indicators. District housing requirements (at present set through County Structure Plans) will be established through the Regional Spatial Strategies. The regional planning bodies responsible for preparing the Regional Spatial Strategy (at present SEERA in the South East Region) will have to demonstrate that they are representative of key regional interests – not just local authorities – and there should be wide consultation. Government offices will be closely involved. And for the time being, the Secretary of State will issue the Regional Spatial Strategy in its final form. If directly elected regional assemblies are established, then they will take over the regional planning role.

2.3.2 The regional planning process should identify the areas where sub-regional strategies are needed. This will not be for all areas but the Green Paper states (paragraph 4.50) that: “..In addition some matters and in particular the distribution of housing provision to districts will need to be addressed on a comprehensive basis at the sub-regional level and incorporated into the Regional Spatial Strategy”

## 2.4 Local development frameworks

2.4.1 These will consist of a **Statement of Core Policies** and **Action Plans**. They will connect up with, and help deliver, the policies and the spatial aspects of the local **Community Strategy**.

2.4.2 The Statement of Core Policies will be a succinct statement of:

- The role of the local development framework in delivering the long-term vision for the area as set out in the authority’s Community Strategy;
- Clear objectives for what the authority is seeking to achieve in terms of the development and improvement of the physical environment, with a timetable;
- A strategy for delivering the objectives, endorsed by the local community;
- A Statement of Community Involvement;
- Criteria-based policies to shape development and deliver the strategy – these will form the basis for development control.

2.4.3 The Statement of Core Policies should be concerned only with policies affecting the use of land, but this may include policies relating to infrastructure investment, management of land and traffic management issues. It should also take full account of the land-use consequences of other policies and programmes relevant to the Community Strategy (education, health, waste, recycling, environmental protection etc.).

2.4.4 The Statement of Core Policies should identify where Action Plans will be produced – generally for areas of change where site-specific policies are needed, or conservation areas or village plans. Also Action Plans may be prepared on a topic basis for a wider area (e.g. Green Belt boundaries, housing allocations; safeguarding of land for transport purposes).

### Preparation arrangements

2.4.5 Normally, Local Development Frameworks will be prepared by District/Unitary/National Park authorities – working together if appropriate. They should be produced “in a period of months rather than years”. The statement of core policies should be continuously updated, so that it is consistent with national and regional policies.

## **Consultation**

- 2.4.6 The Green Paper emphasises the need for local authorities to work with Local Strategic Partnerships to establish effective mechanisms for community involvement, particularly in preparing Action Plans for local areas. The Local Development Framework should include a Statement of Community Involvement, setting out how the community should be involved in both the continuing review of the Framework and in commenting on significant planning applications. Compliance with this Statement of Community Involvement and its requirements for engaging the community should be a material consideration supporting a planning application for larger developments.
- 2.4.7 Views are sought on better ways than the current Public Inquiry system of considering objections to the new Local Development Frameworks. This could include the Council adopting its own plan after wide public consultation; or an examination/hearing before an independent chair/inspector (with a report that would be binding on the local authority). Where national policies are transferred to the local level, there should be no further consultation or consideration of objections. In the case of area Action Plans, people whose property rights are affected should have the right to make representations and be heard. The Secretary of State will retain reserve powers to amend Local Development Frameworks.

## **Keeping up to date**

- 2.4.8 Local authorities will be required to publish the Statement of Core Policies each year. Every three years the core policies should be reviewed. The need for Action Plans should be reviewed annually on a rolling programme.

## **What happens to County-level planning?**

- 2.4.9 The only proposed remaining statutory role for County Councils in planning is for Minerals and Waste planning. County Structure Plans are to be abolished. The Green Paper invited views on whether the counties should have a role in assisting the regional, district and unitary authorities in preparing the strategies and plans. In the meantime, Counties should carry on with their Structure Plan reviews.

## **2.5 Officer Comment**

- 2.5.1 *The proposed changes to the Development Plan system are in principle to be welcomed. The current system is without doubt too cumbersome and slow. Because of the length of time taken to prepare Regional Planning Guidance, Structure Plans and Local Plans, including the public examination and inquiry arrangements, we seem never to be in the position where we have a consistent set of up-to-date strategic and local plans. Without doubt, change is needed.*
- 2.5.2 *The Government's proposed changes should result in a more efficient, up-to-date and responsive system of development plans. However, the principles outlined in the Green Paper are short on detail, particularly with regard to the issues set out below.*
- 2.5.3 **National planning policy**  
*The proposal to shorten and simplify national planning advice, and to identify the statements that are national policy, is to be supported. This should save both time and money in preparing the Regional Planning Strategies and Local Development Frameworks. However, there must be a full opportunity for widespread consultation on proposed national planning policies before their adoption.*
- 2.5.4 **Regional Spatial Strategies**  
*It is proposed that the translation of national and regional requirements for development into the Local Development Frameworks be done through Regional Spatial Strategies, with Sub-Regional Planning Strategies in some key areas of change. This has potential improvements over the current Regional Planning Guidance/County Structure Plan process which has not tended to provide a long term and up-to-date strategic planning framework. However, the Green Paper does not explain how the proposed new system will work. For example, how will housing requirement figures be set for Districts that are not covered by a Sub-Regional Planning Strategy? Who will resource the regional and sub-regional work? Where appropriate, sub-regional planning strategies should be able to span county and regional boundaries. It is essential that there is a proper role for District Councils in the processes of regional and sub-regional planning.*
- 2.5.5 **Speeding up the system but involving the public:**  
*The Green Paper emphasises the need to speed up the development plan system, with the Statement of Core Policies to be produced in a period of months and published annually together with a rolling programme of Action Plans. This aim is to be commended but on the other hand the Green Paper emphasises the need for full community involvement and the right of landowners affected to have the right to make representations and to be heard. More detail is needed on how these competing aims (speeding up the process and ensuring full community involvement) are to be reconciled. The integration of spatial planning with the Community Strategy*

*process is welcomed. Increased participation should also be an integrated process, not a separate dialogue about the Local Development Framework and/or Action Plans.*

**2.5.6 Content of Local Development Framework:**

*The Green Paper gives little guidance on the content of the Local Development Framework and Action Plans, and on how these will relate to each other. For example, the Green Paper does not indicate whether the Local Development Framework will be expected to include maps defining such matters as built-up area boundaries, or will these be expected to be defined in Action Plans? Clear guidance is needed if the proposed new system is in reality going to be simpler. Perhaps the most straightforward approach would be for the Local Development Frameworks to set the aims, strategy and general development control policies. This could include a composite map showing the main designations – e.g. National Park, Areas of Outstanding Natural Beauty, Nature Conservation Designations, existing Green Belt, existing built-up area boundaries etc - and indicating areas of proposed significant change. Proposals for new allocations for development and for changes to designations etc. could then be set out through area-specific or topic Action Plans. The essential point is that whichever way is proposed of showing planning policies and related map designations must be clear, straightforward and easy to understand. There is a danger of introducing confusion into the development plan system resulting in more complexity and lack of clarity than at present. Also, it is important that the clear policy guidance provided through development control policies that have evolved over the years is not lost through the introduction of the new system.*

**2.5.4** *With regard to the options suggested for **adopting the Local Development Framework**, the proposal to seek a less protected and adversarial approach than the current Local Public Inquiry system is to be supported. An “Examination in Public” type approach may be the most appropriate, but the recommendations of the Chair/Panel should not be binding on the local authority – circumstances can change, and the Chair/Panel are not infallible. The right for the local authority to disagree with the Chair/Panel, subject to the safeguards currently applied, should be retained.*

2.5.5 *There needs to be clarity on just what constitutes the development plan and is subject to Section 54A (planning applications should be determined in accordance with the development plan unless there are overriding material considerations). The “development plan” should be defined as the Local Development Framework (Statement of Core Policies plus Action Plans). This should be subject to conformity requirements with the Regional Spatial Strategy (incorporating Sub-Regional Strategies) but these should not be part of the statutory development plan.*

## **3.1 DEVELOPMENT CONTROL**

3.1 Chapter 5 and part of Chapter 6 of the Green Paper sets out a range of improvements to the development control service. It says these are needed because the present system is not customer friendly or well understood. A fundamental change in performance is needed to provide a system which is responsive to all customer needs, delivers decisions quickly in a predictable and transparent way, produces quality development and genuinely involves the community. A whole series of measures are then described.

### **3.2 User Friendly Checklist**

3.2.1 Local authorities should publish a user-friendly checklist of the information needed in an application. A model format is to be drawn up by the LGA. It would appear to require applicants and agents to put greater thought into the submission of a planning application.

3.2.2 *Officer comment – support this proposal.*

### **3.3 Pre-application Discussions**

3.3.1 These are to be encouraged, but can form a significant drain on an authority's resources. Proposals in the Local Government White Paper will allow local authorities to charge for discretionary activities. This would include pre-application planning advice, but the charges should be set at an appropriate level.

3.3.2 *Officer comment – this proposal is to be welcomed if it provides for extra resources to assist with development control activities. However, a general increase in planning application fees, in order to provide for better resourcing including the ability to provide pre-application advice, may be a better option.*

### 3.4 **Customer Care**

3.4.1 All applicants should be able to keep track of the progress of their planning application via a nominated case officer.

3.4.2 *Officer comment – agreed.*

### 3.5 **E-planning**

3.5.1 Use of Internet access and electronic technology has huge potential to make the planning system more transparent and accessible, more responsive and efficient. It should soon be possible to make applications for planning permission and appeals on-line. This should allow major efficiency gains and allow people to track the progress of individual applications. The Government will shortly publish good practice guidance for local authorities on ICT and planning.

3.5.2 *Officer comment – NFDC made a major step in this direction with the launch of its new website in October 2001. The good practice guidance promised will be very useful in steering further development of this system.*

### 3.6 **One Stop Shop**

3.6.1 At the moment it is quite possible for more than one consent regime to apply to a single development eg alterations to listed buildings. The government will move to standardise application and administration procedures and review the case for integrating the present array of controls into a single consent regime. Local authorities should provide a single application point for such consents.

3.6.2 A consultation exercise will also be carried out on synchronising the planning process with parallel controls in relation to pollution control authorisation from the Environment Agency.

3.6.3 *Officer comment – a standardisation of approach, particularly with regard to applications for common types of consent such as listed building and conservation area consents would be very helpful. However, any new approach should not fail to recognise the different issues which need to be considered for different types of consent (beyond ordinary planning control). Hence, for example, it should ensure that listed building issues are not diminished in any way.*

### 3.7 **Faster Delivery**

3.7.1 Slow planning processes can be a source of frustration and may have real economic consequences for businesses. New targets are proposed from April 2002. These are:

- 60% of all major \* planning applications to be determined in 13 weeks.
- 65% of all minor \* planning applications to be determined in 8 weeks.



- 80% of all other applications to be determined in 8 weeks.

\* these refer to categories of application as defined for statistical returns eg major housing applications relating to more than 10 dwellings.

These targets will be monitored through the Best Value regime.

3.7.2 *Officer comment – the principle of setting different timescale targets for different types of planning application is to be welcomed. However, a large proportion of the major and minor categories currently need Section 106 agreements under NFDC policies and this will make the targets very difficult to achieve. This may improve if the new proposals for planning obligations are implemented, but this might take several years to achieve.*

### 3.8 Delivery Contracts

3.8.1 The larger development proposals should be project managed by local authorities with a timetable for the delivery of a decision being agreed at the outset in the form of a contract or undertaking. This would need to be open to variation to address unforeseen delays. Sanctions would be needed if a decision was not reached by the agreed date without good reason. This might include the application being taken over by the Planning Inspectorate.

3.8.2 *Officer comment – this is an interesting proposal but it could give rise to many issues in deciding what is an unforeseen delay. For example, very often additional information is required from developers as a result of consultation responses received. If this requires substantial extra work to be done, it can lead to significant delays in determination. Who would decide on whether this was reasonable or unreasonable? This proposal needs considerably more thought and detailed attention before it could be translated into a practical means of speeding up the determination of major planning proposals.*

### 3.9 Consultees

3.9.1 Whilst consultees are important to the planning process, they are also a major source of delay. The government proposes to allow developers to consult a consultee direct before an application is submitted. If this approach is used, a statutory consultee should be allowed to charge a fee if they provide a timely and better service. It is also proposed to:

- reduce the number of statutory consultees;
- impose a statutory responsibility on statutory consultees to respond within a prescribed timescale;
- link future funding of both statutory and non-statutory consultees to satisfactory performance; and
- add Regional Development Agencies to the list of consultees on major investment proposals.

3.9.2 *Officer comment - the principle of requiring consultees to provide better and more timely advice is very welcome. At NFDC serious planning delays are caused by bodies such as English Nature, the Environment Agency and the Health and Safety Executive being very slow with many of their consultation replies. However, the purpose of the proposed changes to the statutory consultee regime is not clearly explained. If a consultee remains relevant to the planning process, its response should be timely, whether it is classified as statutory or non-statutory.*

### 3.10 **Business Planning Zones**

3.10.1 Certain types of business such as leading edge technology companies can be seriously affected by planning delays. It is proposed to allow local authorities to create business planning zones where certain types of development can take place without needing planning consent. It would only apply to low impact businesses subject to tightly drawn parameters, and a need would be identified in regional economic and planning strategies.

3.10.2 *Officer comment – this proposal is similar to a previous initiative relating to special planning zones which was not very successful and your officers have serious reservations about their potential benefits. BPZ's are unlikely to apply in the New Forest.*

### 3.11 **Master-planning large developments**

3.11.1 Master-planning major development sites could help speed up the planning process by indicating clearly the nature, type and design of the development expected. The proposal is to replace outline consents by a scheme where a developer can seek a certificate from a local authority that it has agreement for a defined period to work up a detailed scheme against parameters determined in agreement with the local authority. Any resulting formal application would subsequently be submitted in detail, with the existence of a certificate and compliance with it being given significant weight in the final decision. Master planning would be expected to include appropriate community participation. In appropriate cases the master plan might be formally recognised as a local Action Plan in the Local Development Framework.

3.11.2 *Officer comment – this reference to master planning appears similar to the work local planning authorities can currently carry out in preparing Supplementary Planning Guidance for important sites. The difference in the proposal is the joint working suggested with the developer who obtains a certificate that he has agreement to carry out the work. In circumstances often occurring in an area like New Forest District, where a developer has different aspirations than the local authority for the development of a site (e.g. more development such as housing on a mixed use or industrial site), it is difficult to see how this proposal would work. In these circumstances, it is better for the local planning authority to produce Supplementary Planning Guidance with appropriate community involvement. However, where a developer and the local authority are working to the same policy, then either could take the responsibility for preparing a “Master Plan” or “Supplementary Planning Guidance” provided the other party and the community at large are fully involved.*

### 3.12 **Improving the Effectiveness of the System**

3.12.1 Three things are proposed under this heading:

- (a) preventing repeated applications of the same type on the same site unless planning policies have changed;
- (b) not allowing twin tracking where two identical applications are submitted and one is appealed after eight weeks, and
- (c) the standard time limit on implementing new consents should be reduced from five to three years.

3.12.2 *Officer comment – all of these proposals are supported.*

### 3.13 **Appeals**

3.13.1 The main proposal is that in the case of an appeal for non-determination a planning inspector should pick up the authority’s case file and take over jurisdiction for dealing with the application. A more minor and much less radical proposal is that the period to lodge an appeal should be reduced from 6 months to 3 months.

3.13.2 *Officer comment – the proposal for a planning inspector to take over jurisdiction might well be counter-productive to the aim of speeding up the system if it is not carefully evaluated. Many local authorities might be prepared to refuse permission at the end of the statutory period if it was likely to lose jurisdiction. This would not be helpful if the application was capable of being negotiated to a permission more quickly than the appeal could be determined. This proposal is not supported.*

### 3.14 **Permitted Development Rights**

3.14.1 No major changes in permitted development rights are proposed other than a simplifying of the legislation to make it more comprehensible. The government asks for views on whether there should be local flexibility to allow authorities to make local orders to encourage development to take place.

3.14.2 *Officer comment – local orders to encourage development to take place without planning permission are unlikely to be utilised in areas similar to the New Forest where some groups believe that the National Order allows too much development to take place without planning permission. Local orders could well become a source of confusion with different rules applying in different areas and their introduction is not supported. Simplifying the legislation should do away with prior notification procedures and similar existing arrangements.*

### 3.15 **Use Classes Order (UCO)**

3.15.1 The government believe the UCO should be amended to allow the maximum possible deregulation (ie changes of use not requiring planning permission) consistent with delivering planning policy objectives. A separate consultation paper has recently been issued on this topic.

3.15.2 *Officer comment – comments will be made on the detailed consultation paper in due course*

### 3.16 **Consultation**

3.16.1 The government view is that current arrangements fail to allow for adequate consultation and as far as possible this should take place before an application is submitted. Advance consultation, they believe, not only potentially speeds up the decision process but can help to build consensus and reduce suspicion. The government strongly believes that with larger and more complex proposals the developer should be engaging the community to the greatest extent possible before submitting a planning application. However, this will not replace the local authority's responsibilities to publicise applications to neighbours, although this will be reviewed in the future.

3.16.2 *Officer comment – there is some merit in these proposals although developers will have to genuinely consult with local communities if local authorities are to be convinced that this is not necessary again when a planning application is submitted.*

### 3.17 **Open Committees**

3.17.1 Public speaking at Planning Committees is now allowed in nearly two thirds of all Councils. All Councils should do this as part of their Best Value regime.

3.17.2 *Officer comment – supported in accordance with the practices we already adopt at the Planning Development Control Committee.*

### 3.18 **Giving Reasons**

3.18.1 It is proposed that all local authorities should give reasons for their decision to grant planning permission in the same way as they currently have to when permission is refused.

3.18.2 *Officer comment – this will create extra work in preparing Committee agendas and decision notices and no over-riding benefit can be understood to justify this. The reports on planning applications and the minutes of Planning Committee decisions should be adequate to explain reasons for a permission being granted. Furthermore, this proposal could be considered to be contrary to the inherent presumption that planning permission should be granted unless there are overriding material consideration.*

### 3.19 **Access to Planning Papers**

3.19.1 Some Councils charge too much to make available copies of plans and documents. The government accepts the principle of charging for hard copies but the rates must be reasonable. Electronic display of information should be readily available, including a computer terminal available in planning receptions.

3.19.2 *Officer comment – these suggestions are supported and at NFDC we have made good progress with our new planning website.*

### 3.20 **Better Enforcement**

3.20.1 Deliberate evasion or abuse of the planning system is unfair to others and brings the system into disrepute. The current enforcement system is unduly complex and cumbersome.

3.20.2 The government proposes to review current arrangements with intention of introducing simpler procedures. As part of this process, they will look at more punitive charges for retrospective applications and whether a breach of planning regulations should constitute an offence immediately pursuable through the Courts.

3.20.3 *Officer comment – these proposals are strongly welcomed. New Forest District Council has previously agreed that willful breaches of planning control should be treated as a criminal offence and that penalties for breaches should be much greater. The government is urged to bring forward this review, and further consultation, at the earliest opportunity.*

### 3.21 **Crown Development**

3.21.1 The government remains committed to the principle of removing Crown immunity from planning control, subject to certain safeguards relating to the national interest such as security and defence. Legislation to achieve this will be introduced when the opportunity arises.

3.21.2 *Officer comment – this commitment is supported. There is no reason why developments such as recreation proposals by the Forestry Commission should be subject to a different type of consent regime to other similar development proposed by others.*

### 3.22 **Resolving Disputes**

3.22.1 The government believes that certain types of planning appeal could be avoided if a suitable mediation scheme could be developed and adequately funded.

3.22.2 Planning appeals still take a long time to determine, even though significant timescale improvements have been achieved recently. The delays are particularly significant in relation to cases that are called-in for determination by the Secretary of State. New management arrangements are being put in place to speed up these processes which will deliver dramatic improvements in the way call-ins and recovered appeals are handled.

3.22.3 *Officer comment – the NFDC experience of mediation suggests that it might only be of value in a very limited number of cases. Proposals to speed up the handling of call-ins and appeals are essential if some of the most major planning proposals are to be speeded up in accordance with the over-riding objective of this Green Paper.*

### 3.23 **Third Party Appeals**

3.23.1 Some people believe that in certain types of case there should be a third party right of appeal against a local authority's decision to grant planning permissions. This is normally advocated in cases where:

- (a) the permission would be a departure from the Development Plan;
- (b) the permission relates to a major project;
- (c) where a permission would be contrary to an officer's recommendation, and
- (d) the permission relates to a Council's own development proposal.

- 3.23.2 The alternative point of view is that such a right would not be consistent with our democratically accountable system of planning where elected local Councillors make the planning decisions.
- 3.23.3 The government view is that a third part right of appeal should not be introduced because it would add to the costs and uncertainties of the planning process. What is needed is a more transparent, accessible planning system with greater community involvement and a safeguard provided by the Secretary of State's call-in powers.
- 3.23.4 *Officer comment – any system of third party appeals is likely to require greater resourcing in planning departments and will slow down the decision making process on applications which are affected. Councils such as NFDC only very rarely make decisions which go against the provisions of the Development Plan and yet many people in an affluent area might seek to challenge proposals which they believe might affect their amenities. Local Councillors can balance the needs of the area against the amenities of its residents with the Secretary of State's call-in powers being used in major cases, particularly where a local authority is proposing to develop its own land.*

### 3.24 **Better Resourcing**

- 3.24.1 It is essential that local government's planning function is properly resourced. This requires skilled planners, who are in short supply, and Councillors trained to undertake the difficult decision making role they exercise on Planning Committees.
- 3.24.2 Better resourcing can come from the fees charged for planning applications (see separate section) and from funding provided by government through the revenue support grant. However, if fees are increased there needs to be better understanding of the amount of money spent on planning in general and development control, in particular. Any extra money can then be aligned with planning performance data so that local electors can judge whether the local planning service is getting a fair share of resources and represents value for money.
- 3.24.3 Planning requires specialist skills and expertise. The government want their reform agenda to change the image and culture of planning to underline the positive role planners should play in promoting economic and social change and reshaping our communities. The government will work with the Royal Town Planning Institute, the Local Government Association and the IdeA to develop these themes.

3.24.4 In support of the ideas set out above, the government believes that there is considerable scope to make use of private sector planners in the provision of planning services. Where a local authority's planning service is failing, the government will consider transferring responsibilities to private sector contractors. The Best Value regime is underpinned by a package of indicators, targets and standards. These will be used to identify authorities where there is persistent failure across a range of services.

3.24.5 *Officer comment – these statements and recommendations are welcomed and supported. It is essential that planning is properly resourced if this new agenda is to be delivered successfully. Proper accounting and improvement of standards must be adequately demonstrated and the role of private sector consultants should be properly investigated as part of the Best Value regime. NFDC performs adequately or well in relation to the cost and timescale targets and need have no concerns at present about the default regime proposed. Encouraging new planners into the profession by giving it a positive image is essential, particularly in areas with a high cost of living, such as the New Forest.*

### 3.25 Delegation to Officers

3.25.1 A new Best Value Performance Indicator (from April 2002) suggests 90% of decisions should be delegated to officers.

3.25.2 *Officer comment – NFDC currently only achieve about 82% delegation to officers. The majority of applications not determined under delegated powers result from what we call locally the Parish veto. This has been pointed out in a separate consultation response to the BVPI's. At some point Councillors will need to reconsider the scheme of delegation at NFDC in response to this proposed BVPI.*

## 4. PLANNING OBLIGATIONS

### 4.1 Objectives of Reform

4.1.1 The Government's proposals for reforms to this system are set out in a comparison document to the main Green Paper. The Government sets out its objectives as follows:

4.1.2 "The Government believes that planning obligations should be used in a positive way to help achieve our planning objectives. We think that the current focus of the system, essentially on mitigating the impacts of development, limits their potential benefit. We intend to use planning obligations as a positive planning tool to complement our proposals to reform the planning system."



4.1.3 “The Government believes that the purpose of planning obligations should be refocused to deliver sustainable development. This means that they should be used as a mechanism to ensure that development provides social, economic and environmental benefits to the community as a whole.”

4.1.4 “We believe that planning obligations should be used to achieve a wider range of objectives than is permitted under current policy as set out in Circular 1/97. We want to ensure that developers are encouraged to make sustainable development choices and that the local community is not disadvantaged by accepting development in their area.”

## 4.2 **The Existing System**

4.2.1 Planning obligations, also known as section 106 agreements between local planning authorities and developers, are negotiated in the context of granting a planning consent. They provide a means of ensuring that developers contribute towards the infrastructure and services that local authorities believe to be necessary to facilitate proposed developments. Contributions may either be in cash or in kind. Planning obligations are also used to deliver affordable housing.

4.2.2 Using this system, New Forest District Council has negotiated substantial sums from developers in terms of both on-site provision of infrastructure and financial contributions for off-site provisions over the last 20 years.

4.2.3 The existing system is tightly prescribed by Government, as set out in circular 1/97, which only allows contributions to be sought for infrastructure and measures which are necessary to allow the development to take place in a satisfactory way. This does not give local authorities the flexibility to seek improvements for the wider benefit of the whole community. The current system and the way it has been operated has been criticised in a number of other ways:

- the absence of predictable limits on the scope or total cost of a planning obligation has led to charges that, on the one hand permission is being bought and sold, and on the other, that developers are being held to ransom;
- planning obligations are time-consuming to agree, can slow the development process down and are expensive in legal costs;
- negotiations are often conducted in private, leading to charges of impropriety and lack of transparency; and
- there is a lack of accountability with contributions not necessarily being used for the purposes for which they were originally sought.

4.2.4 Your officers accept that a number of these criticisms could be applied to the system operated by New Forest District Council. It certainly has been a slow and expensive system in terms of legal costs and the negotiations have not been fully reported to the Planning Committee.

### 4.3 **The Proposed System**

4.3.1. The Government's provisional view is that the best way to improve this system is for planning obligations to take the form of a standard tariff set locally through the Local Development Framework process. This would only be varied by a negotiated element where this is necessary to address the particular circumstances of a development.

4.3.2 The Local Development Framework (LDF) would, under these proposals, contain two sets of planning obligations policies. The first set would set out the arrangements for determining the schedule of tariffs and how they would apply, the criteria for negotiation or exemptions and the approach to monitoring and accounting. The parallel set would cover the purposes to which receipts from the tariff would be put. This would reflect the priorities for spending in the local area set in the context of the authority's strategies for housing, transport, regeneration, education, health, 'livability' and public open space, recreation and other community benefits.

4.3.3 There are two other main differences between this system and the existing one. The first is that authorities will be able to require obligations from a wider range of developments than at present. For example commercial developments could be expected to contribute to the provision of affordable housing and public open space. It is proposed that local planning authorities should have discretion to determine the types, sizes and location of development on which the tariff would be charged and how it would be applied in different circumstances, subject to national policy considerations. There is also recognition that the local planning authority may wish to exempt certain types of development from the tariff, for example, education, health or recreation uses.

4.3.4 The second main difference is that there would be local discretion about how the tariffs are spent, subject to national policy guidance. In other words, all of the current tests relating to necessity, relation to the development etc. would no longer apply. This would allow, the paper suggests, developers to make sustainable development choices and ensure that the local community is not disadvantaged by accepting development in their area.

- 4.3.5 It is recognised that in some circumstances the tariff system alone will need to be supplemented or amended. In some cases there will be specific constraints relating to a site which will need to be addressed, for example, to deal with access or site conditions, where a planning obligation can remove an impediment to development.
- 4.3.6 Other issues on which the consultation paper seeks views, are on how the tariff should be set: ie floorspace, number of units or as a proportion of the development value. A dispute resolution procedure is also proposed and it is suggested that the procedures for monitoring and accounting for the system would be nationally prescribed.
- 4.3.7. A key issue for any reform of the system is the degree of central prescriptions over the levels or values of planning obligations. The three main options are:
- set by central government
  - set by local government
  - set by local authorities with central government guidance.
- (The third option is the one favoured by the Government.)
- 4.3.8 Other options for a new system of planning obligations are set out in an Annex to the consultation paper. These options, eg impact fees (as operated in the United States), are considered but reasons are then given for why they are not favoured.

#### **4.4 Affordable Housing**

- 4.4.1 One of the main impacts of the proposed new system is on how affordable housing might be achieved as part of the planning process. The overall intention of the proposals is to increase the supply of affordable housing and to ensure that both commercial and residential developers support its provision.
- 4.4.2 At present affordable housing can only be sought from residential development and on sites above prescribed thresholds. Given the pressing need for more affordable housing, especially in London and the South East, the Government believes there is scope to improve existing arrangements by extending the range of development types that would make a 'contribution' towards the provision of affordable housing.
- 4.4.3 The tariff supporting affordable housing would be paid by both residential and commercial development schemes. Local authorities would define the proportion of the tariff to be used to deliver affordable housing. Depending on the local assessment of the needs of the area and regional policies, the affordable housing element may represent a large proportion of the overall tariff. Under the system proposed a developer would know in advance what the tariff was.

- 4.4.4 The decision about how much affordable housing should be provided on-site and its type, would be for local authorities to agree with the developer. Equally, the form of that contribution – which could be in land or dwellings – would be a matter for agreement. Local authorities would need to take full account of their housing needs assessments so as to ensure provision of the most appropriate type of housing to meet, for example, the need for social rented housing or housing for key workers.
- 4.4.5 Given that a wide range of types and sizes of development would contribute towards affordable housing provision under this system, on-site provision may not always be appropriate. Therefore there will need to be a way of ensuring sufficient sites are available on which to build affordable housing. Comments are invited on the idea of local planning authorities being allowed to allocate sites solely for affordable housing where there is a demonstrable need, and where this would be consistent with creating mixed and balanced communities.

## **4.5 Officer Comments**

- 4.5.1 *The existing system needs to be reformed. At NFDC we can recognise many of the disadvantages of the existing system, which are set out in the paper.*
- 4.5.2 *The principle of a new system in the form of standard tariffs is to be welcomed. Tariffs should be:*
- *the norm, with 'negotiations' a rare exception.*
  - *transparent and set locally through the Local Development Framework process, but within government guidance.*
  - *set in a simple, easy to understand manner based upon the floorspace of commercial development and the number of bed spaces provided in new residential development.*
- 4.5.3 *Monitoring and accounting for the new system of obligations should be open and transparent and good practice guidance on this would be of benefit.*
- 4.5.4 *At face value the proposals will result in an increased provision of affordable housing from the planning process, as more development proposals will be required to make a contribution towards its provision. However this will depend on other fiscal decisions relating to housing provision and the extent of planned housing development in order to secure such a local planning gain.*
- 4.5.6 *The issue of affordable housing goes to the heart of the confusion in the Green Paper's approach to reviewing planning obligations. The proposals continue to confuse contributions received in direct relation to the requirements of a development proposal, and 'planning gain' as a means of informal taxation. In negotiating developers' contributions under the existing system, NFDC has adopted the former approach. Tariffs would be a welcome improvement to this system. Once they embrace the financing of other unrelated development, including*

*affordable housing, the planning authority will be firmly engaged in securing financial gain in return for planning permissions, albeit within a pre-determined policy framework.*

- 4.5.7 One response to the Green Paper would be to state clearly that planning should be about planning. In such a fundamental review of planning as is proposed in the consultation, spatial planning should be explicitly separated from taxation. If this is not done there will be increasing pressures on Planning Committee members to develop policies and grant planning permissions not only on the merits of development but also in order to secure the financing of other requirements. With a separation of planning and taxation, tariffs would be set based firmly on the principles of necessity and proportionality. The planning process would identify the local requirement for affordable housing and the proportion of such housing compared with overall housing development targets within a LDF area. The land for affordable housing development would be protected (including agreement to off-site provision in the limited circumstances where it is appropriate). The issue of paying for much needed affordable housing will not go away, with or without the Green Paper proposals, and a betterment tax could be introduced and be ring-fenced in whole or in part for the subsidy of affordable housing. It could take the form of a property tax.*
- 4.5.8 An alternative approach to the consultation could be to pragmatically accept that, if there is no willingness by Government to do the job properly, it would be as well to support proposals that, whatever their drawbacks, might provide some short term local additional financing of affordable housing.*
- 4.5.9 Providing that the amount of contribution sought to finance affordable housing (and any other community benefits not directly related to the development) is kept at a low level, some of the benefits of collection through tariffs without protracted negation might still be gained. It is uncertain how much would be achieved in terms of gain. There should not be an unrealistic expectation that a significant increase in affordable housing provision will be achieved. At worst, if the government's expectation of what could be achieved is higher than this reality, there could be a net reduction in funding for affordable housing as SSSA levels or other housing finance are adjusted downwards. Nonetheless a tariff system with the inclusion of a low-level taxation element could be supported. It should yield some financial benefit while still being workable in practical terms through policy formulation and development control.*

- 4.5.10 *The inevitability of 'political' pressures to maximise gains for affordable housing together with a natural desire of other sectors of the community, such as health, police, education and agricultural regeneration, to have a slice of the cake should be recognised.*
- 4.5.11 *If significant levels of gain are sought through the tariffs the process of setting out the framework through the LDF will become increasingly complicated and contentious. Rather than a District-wide formula for the apportionment of finance, there will inevitably be a need to distinguish priorities (and thus tariff formulae) for different area needs between for example Totton and Ringwood, or the Western downlands and the New Forest National Park.*
- 4.5.12 *Of greater concern would be the loss of simplicity and economy of operation, which was intended to be a virtue of a tariff system. Scheme viability issues will become frequent, together with a requirement for site by site valuations and a need to encourage an 'open book' approach by developers. It is agreed that there will need to be separate dispute procedures set up to deal with these matters. Overall much of the development process for larger applications would by default revert to a negotiated process, but with a large 'taxation' element at stake this is likely to be longer and more difficult than now. This would also result in a slower and administratively much more costly process. Even with a separate disputes process, the Planning Committee would be put under pressure from cases where exemption or modification of the prescribed tariff is sought and it would be very difficult to demonstrate that such matters did not unduly influence their planning judgement. A tariff system with the inclusion of a high-level taxation element should not be supported.*

## **5. PLANNING FEES**

- 5.1 Under the head of 'Better Resourcing', the Government proposes to carry out a fundamental review of the fee regime. This will consider:
- whether the current ceiling on fees should be raised for the biggest applications;
  - whether, and the extent to which fee tariffs should be determined locally, subject to the safeguard of nationally prescribed ceilings; and
  - the scope of activities covered by fees.
- 5.2 As an interim measure and noting that fees (not increased since 1997) have fallen well behind costs, it is proposed to introduce a 14% increase in fee levels from April 2002. This will increase fee income at NFDC by £75,000 in the 2002/3 financial year.

5.3 A separately published paper explains the results and recommendations of a research project on planning fees commissioned by the DTLR. This sought to establish, based upon a sample of local authorities, how much it cost them to deal with planning applications compared with the fee income they received. This study was the basis of the 14% fee increase. It also sought to look at the fees charged for different types of application and compare this with the cost of dealing with those types of application. However, Lord Falconer has stated that the 14% increase is only to catch up with inflation and is to provide for an improved service, which would require additional resourcing beyond this increase.

5.4 The present system is that fees are set nationally by the DTLR. There are 33 categories of application which attract different fee levels. As examples some of the main types are:

- domestic extensions £95
- new dwellings per unit (up to a maximum of £9,500) £190
- Industrial development for every 75 square metres of new floorspace (up to a maximum of £9,500) £190
- Outline applications per 0.1 hectare of site area (up to a maximum of £4,750) £190

However, many types of application are exempt from the need to pay fees, for example listed building consent applications and resubmissions within one year of the refusal of permission.

5.5 The Government has previously indicated that it believes the income from planning fees should be at a level where it pays for the cost of processing the relevant applications. This however is not the full cost of the development control service. Planning fee income is not intended to cover the cost of dealing with exempt types of application, giving pre-application advice, dealing with appeals or planning enforcement work.

#### 5.6 The Current Situation at NFDC

5.6.1. Based upon current time recording data, the cost of processing all types of planning application at NFDC is £870,000 a year. However, about 1 in 5 or 20% of these are free applications which fees are not intended to cover. This reduces the cost to about £700,000 for dealing with those applications which attract a planning fee.

5.6.2 Next year, with the 14% increase in planning fees, NFDC anticipates receiving £610,000 in planning fee income. In other words the levels set for the fees next year will recover about 85% of the cost of dealing with those applications. To achieve the Government objective of full cost recovery in NFDC, fee levels would need to be increased by a further 15%.

5.6.3 However, the total cost of the development control service is £1,579,320 gross, which means that just over £1million is for work not covered by fee income. This relates to processing non-fee earning applications £180K, planning appeals £170K, enforcement work £385K and giving informal advice £270K.

## 5.7 **Officer comments**

5.7.1 *Planning fees should be adjusted to ensure that each fee category covers its own costs. Some types of application should not be subsidised by others, particularly if these are major proposals where the fee ceiling is set too low.*

5.7.2 *The issue about whether fees should be set locally is a finely balanced one. On the one hand there is an argument that locally set fees could be confusing and could deter investment. On the other hand local determination of fees already applies in comparable services such as Building Regulation applications and Councils should be given the opportunity to set their own fees to cover prescribed costs. This latter approach is the favoured one, although this should be subject to a nationally prescribed ceiling level to prevent abuse of the system.*

5.7.3 *There is no reasonable justification for so many exemptions from the need to pay planning fees. Listed Building consents and similar applications should be included in the fee regime. Similarly repeat (or free-go) applications should be the subject of some charge to cover processing costs.*

5.7.4 *The scope of activities covered by fees should be widened. They should include planning appeals and the offering of informal advice, at least to commercial operators. This latter issue is dealt with elsewhere in the Green Paper. Finally, those who breach planning control should pay towards the costs of the enforcement system. A separate review is referred to in the Green Paper and this should include higher fees for retrospective applications.*

## 6. **NEW PARLIAMENTARY PROCEDURES FOR PROCESSING MAJOR INFRASTRUCTURE PROJECTS**

6.1 On 20<sup>th</sup> July 2001 the Secretary of State announced a package of measures to speed up planning decisions on major projects. These included a proposal for a new procedure to enable Parliament to approve a project in principle before detailed examination at a subsequent public inquiry. The consultation paper seeks views on these proposed new procedures.



## **6.2 The Problem seen by the Government**

- 6.2.1 For major infrastructure proposals the present planning system:
- Takes too long
  - Is too lengthy, unwieldy and expensive
  - Lengthy inquiries are too difficult and costly for people to be involved

## **6.3 The New Package Proposed by Government**

- 6.3.1 In summary the package comprises:
- Up-to-date Government policy statements
  - Improved regional framework and policies
  - Parliamentary approval in principle
  - Improved subsequent local inquiry procedures
  - Improved compulsory purchase arrangements
- 6.3.2 There will be public input at three stages:
- Consultation on national policy statements
  - Opportunity to make views on proposed project before Parliamentary debate
  - Involvement in local details of scheme through public inquiry

## **6.4 Designating a Project**

- 6.4.1 It is proposed that the Secretary of State will decide on whether to designate a project. He would not consult and there would not be a process of applying to the Secretary of State for designation. The Secretary of State could have a broad power to designate projects as he considered appropriate, or he could have discretion to designate projects falling within a list set by legislation or Order.

- 6.4.2 The illustrative list includes:
- Airports
  - Power stations
  - Power lines
  - Irradiated nuclear fuel processing or storage
  - Inland waterways and ports
  - Trading ports
  - Dams
  - Railway and tram lines
  - Dual carriageway trunk road on a new route
  - Oil refineries
  - Chemical installations
  - Petroleum and natural gas extraction
  - Pipelines
  - Quarries
  - Petroleum, petrochemical or chemical storage
  - Major developments on behalf of the Crown (e.g. MOD development)

## **6.5 Parliamentary Procedure**

- 6.5.1 These are a matter for Parliament, but the consultation sets out the Government's views:
- Parliament would consider the principle of need and location of the project as set out in planning application (or equivalent), Environmental Impact Assessment and relevant national policy
  - Terms of approval would be in a draft affirmative Order debated in both Houses
  - Objections would be sent to Secretary of State who would provide them and a summary to Parliament
  - The developer would provide a statement of economic and other benefits to the Secretary of State who would lay copies before Parliament
  - How Parliament considers the proposal is up to Parliament on a case by case basis. It could be through debate with individual MPs reaching their own conclusions directly from information supplied, or it could involve a Committee process.
  - Approval would not be planning permission (this would be granted by Secretary of State following a Public Inquiry - see below).

## **6.6 New Inquiry Procedure**

- 6.6.1 The principle of need and location would be taken as read, and the subsequent inquiry would only deal with detailed issues such as precise alignment and layout. The Inspector would be precluded from recommending against the principle and would have powers to refuse to hear evidence on matters that had been dealt with by Parliament.

## **6.7 Secretary of State Decision**

- 13.1.1 The Secretary of State would have the power to decide whether the project should go ahead, but would only reject a proposal approved by Parliament in exceptional circumstances.

## **13.1 Officer comment**

- 13.1.1 *This Council is well aware of the problems of major infrastructure inquiries in terms of length and cost from direct experience of the Dibden Bay inquiry. Measures to reduce both of these are to be welcomed. Nonetheless there are significant flaws in the Government proposals; and removing much of the process to Parliament would be contradictory to the Government's avowed intention of increasing community involvement in decision making.*

13.1.1 *Lessons may be learnt from the Terminal 5 inquiry, but the experience of this inquiry does not warrant the creation of a completely new planning procedure. The most effective improvement would be the production of clear national policy guidance on major infrastructure. The preparation of this coupled with widespread consultation on drafts should be supported. It should also be noted that one of the most common elements of delay in major inquiries is the length of time from the close of inquiry to the Secretary of State making a decision. The new proposals would not of themselves remove this area of delay.*

13.1.1 *Concerns with the proposed new system include:*

- *The proposal to give the Secretary of State unfettered discretion regarding designation of major projects, whether within broad power or by discretion within a list.*
- *It is not necessarily possible to separate consideration of issues of principle from the examination of matters of detailed evidence in making environmental assessments of major projects. For example, with site locations that impact on Natura 2000 designations, consideration based on detailed evidence of whether impact outweighs issues of need and alternatives would make a two-part process difficult to operate. An increased likelihood of subsequent legal challenge could increase overall delay and cost.*
- *The ability of Parliament effectively to do what is required by the new process. There are considerable pressures on Parliamentary time both for debates and within the Committee system. Also the environmental track of Parliament with regard to major development proposals is poor (e.g. the Cardiff Bay barrage)*

6.8.4 *It is suggested that instead of pursuing new Parliamentary procedures, a single planning inquiry system with independent inspectors /assessors should be retained, but with a revised new process to make such inquiries more effective and less costly for all participants. Consideration should be given to the introduction of an inquisitorial process drawing on the best of Parliamentary Committee processes.*

## **7. COMPULSORY PURCHASE AND COMPENSATION**

7.1 The aims set out in the consultation paper: *Compulsory Purchase and Compensation - the Government's proposals for Change* are to be:

Clearer – Avoid complicated case law and improve powers of Local Authorities.

Simpler – Provide specified deadlines together with guidance on justification and objections.

Fairer – improve timing, loss payments, notify dates and ensure all parties affected have statutory rights.

- 7.2 These aims will be achieved by a number of changes to the current Compulsory Purchase System.
- 7.3 Local Authority's will have improved powers in order to assemble land. There will be greater flexibility and less detailed justification for the future use of land, thus speeding up the purchase of sites. It is proposed to improve provisions to purchase the whole of a landholding where it is in the interest of the landowner, ensuring the landowner is not left with 'part' of his property and avoiding further negotiations with the Local Authority.
- 7.4 The changes should ensure the system is much quicker. The individuals whose land is taken often challenge the purchase, as they believe to do so could increase the amount of compensation. With clearer guidelines and timescales, those affected should have more confidence in the system. Investors and developers who are often put off by the length of time should also be less reluctant to become involved.
- 7.5 From a valuation perspective, Open Market Value and Equivalent Reinstatement remain unchanged. The valuation date, which has not been defined before will be specified as the date of possession/right of entry (unless determined earlier). However, there are additional payments involved.
- 7.6 Advance payments are a method of ensuring the landowner obtains 90% of the estimated loss on the date of possession. This will obviously result in the Local Authority ensuring all valuations are calculated as accurately and quickly as possible but will assist in obtaining confidence and co-operation from the landowner.
- 7.7 The compensation will also include a loss payment. This payment is for actual losses sustained, whether the scheme goes ahead or not, therefore protecting the human rights of people affected. The deadline for loss payment claims will be two years from the date of possession and a further year to document and provide supporting evidence. Again, this is to avoid protracted negotiations.
- 7.8 *Officer comment - The proposals will put pressure on Local Authorities to speed up the process and ensure that all areas are clearly defined, calculated and documented prior to right of entry. There will be added costs in the form of Advance Payments and Loss Payments. However, the improvement to the assembly of land and the shorter timescales in which this is achieved are believed to offset additional costs.*

## **8. FINANCIAL IMPLICATIONS**

- 8.1 The Green Paper states (paragraphs 6.28 – 6.29) that:  
“We recognise that to deliver a fundamental improvement in performance, local authority planning needs to be properly resourced. We will review the fee regime to ensure that it better covers the costs of the service. We will also require local authorities to take better account publicly for both the resources they use and their planning performance. We share with other local authorities a concern about the loss of skilled planners. The planning profession has become less attractive as a career and able planners are increasingly in short supply. We need to improve skills and build the profession. Equally, councillors need to be better trained to undertake the difficult decision-making role that they exercise on Planning Committees”
- 8.2 There are no financial implications arising directly from this report.

## **9. CONSULTATION**

- 9.1 This report, which is in response to consultation by the Government, has been prepared in consultation with relevant officers in the Environment Services and other Directorates.

## **10. ENVIRONMENTAL IMPLICATIONS**

- 10.1 It is essential that whatever changes are made to the planning system do not weaken its protection of the environment, especially in areas as sensitive as New Forest District.

## **11. CRIME AND DISORDER IMPLICATIONS**

- 11.1 None arising from this report.

## **12. CONCLUSION**

- 12.1 The comments recommended in this report are aimed at ensuring that the fundamental revisions proposed by the Government to the planning system will result in real improvements.

## **13. ECONOMY AND PLANNING REVIEW PANEL / PLANNING DEVELOPMENT CONTROL COMMITTEE COMMENTS**

- 13.1 The Panel and Committee met on Monday 18 February 2002, to consider the report. Although they were in broad agreement with the proposed response, there were 2 particular issues of concern which they wished to forward to the Cabinet :-

- 13.2 Firstly, in respect of paragraph 3.25 of the Report, (Delegation to Officers for Development Control), it was noted that a new Best Value Performance Indicator (from April 2002) suggested that 90% of decisions should be delegated to officers.
- 13.3 Members noted that NFDC currently only achieved about 82% delegation to officers, and the majority of applications not determined under delegated powers resulted from what was known locally as the "Parish veto".
- 13.4 Increasing delegation to 90% of decisions would effectively mean the end of the Parish veto, and Members were concerned about parish councils losing their voice on such applications. It was pointed out that if the Parish veto were lost, there might be more intervention by local Members on behalf of parishes, which might result in the overall process being no quicker than when the Parish veto was in operation.
- 13.5 It was further pointed out that the loss of the Parish veto went against the Green Paper's intentions for greater community involvement. For these reasons, Members wished to recommend to Cabinet that the increase of delegated powers to officers to 90% should be opposed. Officers pointed out that whilst it would not be an ideal situation, it was open to the Council to say whether they intended to meet this objective or not.
- 13.6 Secondly, Members expressed concerns about the danger of a South East Regional Body being dominated by the large City Councils, with the possible consequence that the District Council's influence may be limited by comparison. Accordingly, Members wished to emphasise to Cabinet the need for the preparation process for the proposed regional and sub-regional spatial strategies to have satisfactory arrangements to enable District Council views and aspirations to carry proportionate weight relative to Unitary authorities.
- 13.7 The Economy and Planning Review Panel and Planning Development Control Committee resolved as follows:-
- 13.8 "That the Cabinet be advised that the Panel and Committee support the proposed response set out in the report, subject to the following comments:-
- (a) The Panel/Committee feel that, in respect of paragraph 3.25 of the Report (Delegation to Officers), the new Best Value Performance Indicator (from April 2002) which suggests 90% of decisions be delegated to officers, would lead to the loss of the Parish veto, and that this would be an undesirable result, which would go against local democracy and community involvement, and would not result in speedier decision making; and
  - (b) That the Panel and Committee feel that the arrangements for the proposed regional and sub-regional spatial strategies should include satisfactory arrangements to allow the District Council's views to be taken proper account of".

## 14. PORTFOLIO HOLDER'S COMMENTS

- 14.1 Any reform the planning system must be done in a way that preserves local democracy.
- 14.2. The Green Paper highlights the role of community involvement, linked with the Community Strategy processes, but it is difficult to reconcile this with some proposals in the Green Paper, in particular:
- (a) the suggestion that the Core Policy Statements be produced in a matter of months – the proposals for reform need to set out in detail the procedures for preparing the Regional/Sub-Regional Spatial Strategies and Local Development Frameworks on realistic timescales, and to demonstrate how there can be full and effective community involvement in these processes while meeting the proposed timescales;
  - (b) the target of 90% of planning applications being delegated to officers– this would interfere in particular with the right of Parish Councils and local members to request that planning applications be considered by the Committee;
  - (c) the proposal that the recommendations from the examination/hearing into the Local Development Framework be binding on the local authority.
- All of these proposals should be reconsidered.
- 14.3. The proposal to make some national planning policies statutory, without the right to object to it in preparing the Local Development Framework, could erode local democratic rights. There must be full and real consultation with local authorities about emerging national planning policy, and statutory national planning policy must be limited to matters which really are of national significance.
- 14.4 The proposed removal of any statutory role for County Councils in strategic planning, with this role being taken up to the regional level, reduces the scope for local democracy in the process. It is essential that there are proper arrangements for local authorities to be fully involved in the processes of regional and sub-regional planning, without decisions being imposed by Central Government.
- 14.5 The proposed development tariff must be applied in an open and fair manner, and not used as a “tax by stealth”.
- 14.6 Planning fees should be increased so as to cover the related costs.

## 15. RECOMMENDATIONS:

- 15.1 That the Department of Transport, Local Government and the Regions be sent New Forest District Council's response to the various consultation documents, as agreed by Cabinet, based on the comments set out in this report, and taking into account the comments made by the Economy and Planning Review Panel and the Planning Development Control Committee.

### **For further information contact:**

*Sections 1, 2 and 8 to 15:*

Graham Ashworth,  
Team Leader, Policy & Plans  
Tel. 023 8028 5352  
e-mail: graham.ashworth@nfdc.gov.uk

*Sections 3 and 5:*

Chris Elliott,  
Head of Development Control,  
Tel. 023 8028 5310  
e-mail: chris.elliott@nfdc.gov.uk

*Sections 4 and 6:*

John Ward,  
Head of Policy, Design and Information,  
Tel. 023 8028 5349  
e-mail: john.ward@nfdc.gov.uk

*Section 7:*

Victoria Hill,  
Estates and Valuation,  
Tel. 023 8028 5777  
e-mail: victoria.hill@nfdc.gov.uk

### **Background papers:**

Published documents

PPI/grahama/green1/7.02.02