

# APPENDIX 1: Oxford City Council consultation response to the White Paper: 'Planning for a sustainable future'

## Section 1: Consultation questions

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

#### Chapter 2: Improving the way key infrastructure projects are dealt with

##### Q.1

*Do you agree that there is a strong case for reforming the current system for planning for nationally significant infrastructure?*

*Do you agree, in principle, that the overall package of reforms proposed here achieve the objectives that we have set out?*

It is agreed that the current system for planning for nationally significant infrastructure can be unnecessarily complex and time-consuming and marginalize genuine wide community engagement.

However, the proposed reforms will have detrimental effects; in particular they will make decisions less democratic. There is doubt about the democratic accountability of decisions being made by the independent infrastructure planning commission of 'well respected experts'. It seems that the process is too top-down and speed is emphasised above the need to consider different views and policies. Consideration of the types of infrastructure that are needed and appropriate should initially occur at a regional level.

It is vital that speeding up the system does not mean that national policy is put in place with little consultation that then leaves no room for questioning at later stages. An open and democratic system should not be seen as a barrier that causes delays, but as a major assistance. There also seems to be little opportunity through the consultation process outlined to question the Government's objectives and need for infrastructure, and it is not shown how any consultation responses gathered will actually be taken into account.

*If not, what changes to the proposed reforms or alternative reforms would you propose to better achieve these objectives?*

The reforms should ensure:

- 1) awareness of climate change, and that climate change is a key consideration (the proposals do not take enough account of climate change at present);
- 2) there is a key role for regional, democratically elected bodies. Decisions should be made in democratically elected bodies that represent all local authorities in a region. The system should be integrated with proposals for reform of regional development agencies, which should be arranged to be democratic and representative of the region;
- 3) regions have the opportunity to assess when saturation point has been reached in that region for certain types of infrastructure such as aviation. This is a concept similar to that now brought in to licensing legislation, where a particular area can be classified as having reached 'saturation point' with drinking establishments. National policy should be worked up from decisions at a regional level, rather than the top-down approach proposed;

Slow delivery of infrastructure is not necessarily a fault of the planning system, and reforming how decisions are made will not necessarily mean that more infrastructure is provided more quickly. A lack of funding for projects is often more to blame, and reform should perhaps concentrate on funding.

### **Chapter 3: National Policy Statements**

#### **Q.2**

*Do you agree, in principle, with the introduction of national policy statements for key infrastructure sectors in order to help clarify government policy, provide a clearer strategic framework for sustainable development, and remove a source of delay from inquiries?*

*If not, do you have any alternative suggestions for helping to achieve these objectives?*

Any strategic framework should be derived from regional and democratic considerations. Decisions should be arrived at via regions, rather than being imposed in a top-down fashion. It is important that reforms do not become a means for large-scale infrastructure to be imposed because it is seen to meet national objectives, without consideration of all opinions about need and without well-considered weighing up of possible need against regional and sub-regional impacts. Democratically elected regional bodies should make initial decisions and should come together to form national guidance.

### Q.3

*Do you agree that national policy statement should cover the core issues set out above?*

*Are there any other criteria that should be included?*

*National Policy statements should include commentary but also clear policies identified in bold along the lines of development plan policies.*

It is agreed that national policy statements should be subject to an appraisal of their sustainability. It should also be shown how the national policy statements reflect the findings of this appraisal.

It is important that the Government's objectives for development in a particular infrastructure sector are integrated with other specific government policies. Objectives should also be arrived at through the regional process, to ensure democratic accountability. Decisions should not be made by an independent infrastructure planning commission but at a regional level, cohering to form national policy and decisions.

### Q.4 Status of national policy statements

*Do you agree, in principle, that national policy statements should be the primary consideration for the infrastructure planning commission in determining individual applications?*

*If not, what alternative status would you propose?*

It is not agreed that national policy statements should be the primary consideration for the infrastructure planning commission. Having an equal status with other documents will help to ensure that other objectives and policies are taken into account.

## Q.5

*Do you agree, in principle, that these proposals would ensure effective public engagement in the production of national policy statements, including with local communities that might be affected?*

*Are there any additional measures that would improve public and community engagement in their production?*

It is agreed that it is vital that there is effective public engagement in the production of national policy statements. However, the White Paper is not very specific about the types of consultation methods that will be used, or about how public opinion will be taken into account. There should be a firmer commitment to engaging the community. It is important that consultation is inclusive and effective and influences policy development.

The danger is that the national policy documents will set out strategic policies without a great deal of public involvement. Detailed scheme proposals that come forward will then be backed by national policy, but only at that stage will public interest be sparked and involvement occur. Public objection at this stage is likely to be too late and a detailed scheme that will have a major impact will be approved because it is in line with the national policy statement, despite any public consultation and valid objections raised.

The White Paper acknowledges that for some infrastructure there will not be enough information to be very specific, particularly about location. In these cases, the problem of lack of good public engagement in the development of policy is likely to be a particular problem.

Paragraph 3.25 proposes that evidence is gathered and the document drafted prior to public scrutiny. In recent years the Government has placed much emphasis on early public engagement in planning documents. While this can be difficult to do well, it is valuable. It also acknowledges that even the very purpose of plans should be open to public discussion. The White Paper does not suggest that this discipline will not be applied to national policy statements. If policy comes from the regional level initially, this will help ensure wider public engagement.

Bodies who could be consulted are listed in paragraph 3.25. There should be a statutory requirement to consult such bodies.

Attempts to introduce measures to improve public participation in inquiries will be a positive step, although there is no hint yet of what these measures may be.

**Q.6** Parliamentary scrutiny

*Do you agree, in principle, with the intention to have Parliamentary scrutiny for proposed national policy statements?*

*What mechanisms might ensure appropriate Parliamentary scrutiny?*

Parliamentary scrutiny is no substitute for proper local/regional democratic engagement.

**Q.7**

*Do you agree, in principle, that 10-25 years is the right forward horizon for national policy statements?*

It is agreed that this is about the right forward horizon.

*If not, what timeframe do you consider to be appropriate?*

**Q.8**

*Do you agree that five years is an appropriate period for the Government to consider whether national policy statements remain up to date or require review?*

Yes

*What sort of evidence or circumstances do you think might otherwise justify and trigger a review of national policy statements?*

**Q.9**

*Do you agree, in principle, that this opportunity for legal challenge would provide sufficient and robust safeguards to ensure that a national policy statements is sound and that people have confidence in it?*

There should be an opportunity for legal challenge, but that alone is not enough to ensure that a national policy document is sound.

*If not, what alternative would you propose?*

**Q.10**

*Do you agree, in principle, that subject to meeting the core elements and standards for national policy statements set out in this White Paper, policy statements in existence on commencement of the new regime should be capable of acquiring the status of national policy statements for the purposes of decision making by the commission?*

*If not, what alternative arrangements do you propose?*

It seems unlikely that any policy document already prepared will have met the standards that should apply to preparation of national policy statements. Considering the role they are intended to play, the requirements for preparation of the national policy statement should be much more stringent than those that have applied to preparation of other documents.

#### **Chapter 4: Preparing applications for nationally significant infrastructure projects**

##### **Q.11 .**

*Do you agree, in principle, that promoters should have to prepare applications to a defined standard before the infrastructure planning commission agrees to consider them?*

Yes

##### **Q.12**

*Do you agree, in principle, that promoters should be required to consult the public before submitting an application to the infrastructure planning commission?*

It is not considered that an infrastructure planning commission is an appropriate body to make decisions (see response to Q1).

*Do you think this consultation should take a particular form?*

Yes, as set out in the Statement of Community Involvement of the Authority where the site is.

##### **Q.13**

*Do you agree, in principle, that relevant local authorities should have special status in any consultation?*

Yes

*Do you think the local authority role should take a particular form? **Q.14***

*Do you agree, in principle, that this list of statutory consultees is appropriate at the project development stage?*

Yes

*Are there any bodies not included who should be?*

**Q.15**

*Do you agree in principle that the Government should set out, in legislation, an upper limit on the time that statutory consultees have to respond to a promoter's consultation?*

Yes

*If so, what time limit would be appropriate?*

13 weeks should be sufficient although there should be flexibility depending on the size and extent of the proposed scheme.

**Q.16**

*Do you agree in principle that the commission should issue guidance for developers on the application process, preparing applications, and consultation?*

Yes

*Are there any other issues on which it might be appropriate for the commission to issue guidance?*

**Q.17**

*Do you agree in principle that the commission should advise promoters and other parties on whether the proposed project falls within its remit to determine, the application process, procedural requirements, and consultation?*

Yes

*Are there any other advisory roles which the commission could perform?*

**Q.18**

*What rules do you consider would be appropriate to ensure the propriety of the commission's interactions with promoters and other parties?*

**Q.19**

*Do you agree, in principle, that the commission should have the powers described above?*

Yes

*Are there any other issues the commission should address before or at the point of application?*

**Chapter 5: Determining applications for nationally significant infrastructure projects**

**Q.20**

*Do you agree, in principle, that these thresholds are appropriate?*

Yes

*If not, what alternative thresholds would you propose?*

**Q.21**

*Do you agree in principle that all projects necessary to the operational effectiveness, reliability and resilience of the electricity transmission and distribution network should be taken by the commission?*

Yes

*If not, which transmission and distribution network projects do you think could be determined locally?*

**Q.22**

*Do you agree in principle that the consenting regime for major gas infrastructure should be simplified and updated, rationalising the regime to bring nationally significant decision making under the commission?*

Yes

**Q.23**

*Do you agree, in principle, that it is appropriate for ministers to specify projects for consideration by the commission via national policy statements or ministerial directions to the commission?*



Yes

*If not, how would you propose changing technology or sectoral circumstances should be accommodated?*

**Q.24**

*Do you agree, in principle, that the commission should be authorized to grant consents, confer powers including powers to compulsorily purchase land and amend legislation necessary to implement nationally significant infrastructure projects?*

Yes

*Are there any authorisations listed that it would be appropriate to deal with separately, and if so which body should approve them, or that are not included and should be?*

**Q.25**

*Do you agree, in principle, that the proposed arrangements for the commission to deal with cases is an appropriate way to ensure that consideration is proportionate and that an appropriate range of specialist expertise is brought to bear on the final decision?*

Yes

*If not, what changes or alternative mode of operation would you propose?*

**Q.26**

*Do you agree in principle that the list of statutory consultees set out above is appropriate at the determination stage?*

Yes

*Are there any bodies not included who should be?*

Relevant local authorities

**Q.27**

*Do you agree in principle that the procedural reforms set out above would improve the speed, efficiency and predictability of the consideration of applications, while maintaining the quality of consideration and improving the opportunities for effective public participation?*

Yes

*If not, what changes or other procedural reforms might help to achieve these objectives?*

**Q.28**

*What measures do you think would better enable hard to reach groups to make their views heard in the process for nationally significant infrastructure projects?*

*Taking advice from relevant Councils' Community Cohesion Officers and SCIs*

*How might local authorities and other bodies, such as Planning Aid, be expected to assist in engaging local communities in the process?*

See above

**Q.29**

*Do you agree that the commission should decide applications in line with the framework set out above?*

Yes

*If not, what changes should be made or what alternative considerations should it use?*

**Q.30**

*Do you agree in principle that the commission should be able to specify conditions in this way, subject to the limitations identified, and for local authorities to then enforce them?*

Yes, however local authorities should be provided with the resources to ensure effective compliance if they are to enforce them,

*If not what alternative approach would you propose?*

**Q.31**

*Do you agree, in principle, that this opportunity for legal challenge to a decision by the infrastructure planning commission provides a robust safeguard that will ensure decisions are taken fairly and that people have confidence in them?*

*If not what alternative would you propose?*

**Q.32**

*What experience and skills do you think the commission would need?*

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

**Chapter 7: A positive framework for delivering sustainable development**

**Q.33**

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

The potential for micro generation in the commercial sector in the current climate will vary a great deal, depending on the nature of the business. Businesses that use a lot of energy, such as electrical retail, may find that only a very small amount of their energy need could be generated by the micro generators that could be fitted in an often cramped town centre environment. Micro-generators are unlikely to be worthwhile in those cases. Where there are many businesses in a small area, such as in town centres, there could be a lot to be gained from looking at district-wide systems. In terms of micro-generation, those that have a lower power need are likely to be most suitable. There is likely to be more motivation for people if a large chunk of their energy need can come from micro-generation.

Micro-generation projects can also be good for PR and education. Schools have often been leaders in micro-generation. Businesses with large head quarters and owner-occupied prominent office blocks, may have the space and motivation or micro-generators, and may feel that they raise the profile of their business.

Agricultural businesses may be suitable for micro generation. There is likely to be the space for micro generators, and in many cases there may be no impact on neighbours. Some may argue that there may be a negative visual impact on sensitive rural environments, but this may be no more the case, or even less likely, than in sensitive urban area. The payback times might be too long for struggling businesses.

## Chapter 8: Strengthening the role of local authorities in place shaping

### Q.34

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

It is agreed in principle that there is little need for SCIs to go through independent examination. However, the ‘more effective community engagement in plan-making’ section suggests that, instead of being set out in detail in government guidance, the detail of how community engagement is carried out will be set out in the Statement of Community Involvement. If this is to be the case, it seems necessary that the SCI is in fact subject to examination.

A more joined up approach to local community engagement would be very welcome. The most complex and wide-ranging consultations are often carried out by planning, and the LSP and sustainable community strategy. Ideally, consultation would be joined-up. However, there is not much guidance in the White Paper about how this should happen in practice. In many cases, suggestions are idealistic rather than practical, and wider change in local councils beyond planning would be needed to make them work.

Paragraph 8.4 states that planning should be better integrated and aligned with other local authority functions. However, whilst it is necessary in planning to look ahead many years, other departments are frequently more interested in day- to-day operations and management, or look ahead to a much shorter timescale than is desirable in planning. Planning policies cannot be written that encompass things that other Council departments have the final say on if there is no strategy or agreed way forward in these departments. This is even more complicated for issues such as health care and social services, which may be carried out by a different Council or body such as the PCT.

### Q.35

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

This would help to resolve one of the unintended negative effects of the LDF system. Under the current system, the first time the draft plan is made public and consulted on it has already been submitted for examination. The Local Authority has no chance to change the plan. Although consultation takes place on preferred options, this document is a consultation document and does not and should not give the full picture of the shape of the final document. There is no chance to iron things out. The Examination process seems to have been approached differently by different inspectors, but often there is a reluctance to make changes as the very need to make a change shows that the document is unsound. Documents are then often found unsound, when it would be possible to make the changes that make them sound.

The possibility of returning to an earlier stage, rather than the beginning of the process, is sensible, although this possibility would seem to be rather less useful in the new proposed system, as there is really only one plan-making stage. It should only be considered part of the solution to the problem of so much aborted work. The 'more effective community engagement in plan-making' section of the White Paper outlines other changes, but the changes proposed are unlikely to result in a system that results in any more plans being found sound.

It is also vital that there is a consistent and flexible approach to the Examination of documents, with more possibility of changes being recommended to the draft document. The diagram outlining the new development plan process suggests that there will be a consultation period for draft plans prior to their submission, rather than after. Paragraph 8.16 states that there will be a statutory consultation on the final plan prior to its submission, and the authority would be expected to prepare a report on the representations made. However, no further detail is given about this idea. It is not said whether there would be a chance to amend the plan or not. One of the key difficulties with engaging people in the new system, and one of the reasons that so many plans seem to be failing at examination, is that there is no opportunity to consult on a draft plan and to make amendments. One feature that has been lost from the old Local Plan system, but which had many benefits, was the opportunity to consult on a draft plan, and respond to objections with an explanation or proposed change.

The White Paper also misses the opportunity to amend the Examination system. The Local Plan inquiry system could be complex, but held many advantages. Local Authorities were able to respond to evidence submitted by developers and write proofs of evidence. Developers had the chance to review plans and get evidence together (the six week consultation period does not give a long time to do this). A balanced case could be put to the Inspector. The opportunity for debating issues is important. Although some hearings could be very formal, there was also the chance for informal hearings and for the debate to happen through written reps. In reality, many different types of people did find that they were able to participate in Local Plan inquiries. It is very difficult to predict the nature of the objections that will be received to any plan. Whilst all available evidence is submitted with the draft document, there is little opportunity to expand on this evidence or tailor it to respond to particular objections.

Early consultation is an important idea, but experience shows that the community can be confused when they are consulted but when there is no plan for them to respond to. It is not easy for everyone to come up with issues and options. For many people, it is easier to form an opinion and an interest where there is a concrete plan for them to comment on. It would be very useful if the amendments to the new system gave planning authorities the opportunity to consult on draft plans and to use the comments made to make amendments before the plan is submitted. It is naïve to think that early public involvement negates the need to consult on a draft plan. Many people cannot form an opinion until they are provoked with a draft plan, or seeing a draft plan may alter their opinion.

The proposals in the White Paper allow more flexibility about who is consulted at what stage and how. However, this has some negative implications. Statements of Community Involvement have in most cases only been recently adopted. They would need to be re-written to take account of the removal of the different stages of statutory consultation and because of more scope being given to vary the nature of consultation. The White Paper states that the bureaucratic requirements for consultation have turned it into a tick-box exercise. This is a particularly negative view of one of the main benefits of the new system. In many cases consultation has become more innovative and more attempts are made to involve different types of people. This is partly because there are strong requirements. Lifting these, but requiring SCIs to be re-done would seem to be a step backwards (especially as the consultation methods set out in SCI would not be subject to examination). It is agreed that SCIs should not be subject to examination, but only if SCIs are not the only mechanism for ensuring good early community involvement.

The new timescales shown mean that it will be very difficult to have meaningful community involvement and to collect a robust evidence base. If it is expected that plans are produced to this timescale it is likely that even more will be found unsound; therefore, it will be useful if a stage part way through the process can be returned to. Allowing a little longer to produce plans would give a greater chance of them being found sound the first time, which would be even more beneficial.

It is not considered that any development plan document would be so simple that it could be produced in 6 months. This is because evidence usually needs to be collected to back-up the plan. The process of commissioning consultants' studies, from drafting the brief, interviewing, inception to completion, cannot often happen in much less than six months. For people to be able to engage in consultation meaningfully, it would help them to see the results of these studies at an early stage. Time is also needed to reflect on the implications of various studies and to draft appropriate policies.

Furthermore, the six month suggested timescale is also impossible because of the committee process in most councils. It usually takes 2-3 months for a plan to complete a committee cycle. In the interests of democracy, it is vital that plans go through a committee cycle. To do this though, would leave only 3 months for plan development.

The new system advocates greater community involvement, and many of the new innovations do actually seem to have been very successful, although it is agreed they can be a little over complicated. Shortening the production period to 6 months (or in fact only 3 months of preparation time before plans have to be ready for committee) will curtail drastically the opportunities for community involvement. A well run and well thought out consultation event may only last for the statutory six weeks, but it takes much longer to prepare materials and to consider the best ways to get all sorts of members of the community involved in the particular plan. The very best consultation will be tailored to the nature of the document in question. A very short period for plan preparation will leave little choice but for the same techniques to be used each time, without enough thought. There will also be a very limited amount of time to consider comments. Landowners and stakeholders are also likely to struggle to be involved in the process with such short timescales.

It is difficult to imagine any plan that is so simple it does not need to go through these processes.

It is agreed that plans that can be produced quickly are able to react to changing circumstances. However, a little more time given to the process is likely to result in plans that are better prepared, longer lasting, and less likely to fail the tests of soundness. Slow production of plans and allocations of sites is often blamed for the shortage of housing, but this is an incredibly complex issue, and the contribution of planning to the problem and thus the solution is limited. There are always many allocated sites that have not yet been built. Speeding up the production of plans will not result in a sudden availability of a lot of new housing. A longer time given to the preparation process than the minimum six months suggested is vital. It still means that plans can be very responsive and produced much more quickly than under the old planning system.

Provision for 18 months of preparation time is given for more complex documents, which is likely to be possible. For a simple plan, at least 10 months preparation time should be given, which will also allow time for the plan to go through the committee cycle. No detail is given on the amount of time available after consultation on the draft plan and before submission. It is strongly recommended that enough time is given to respond to comments made by altering the draft.

Ultimately, the suggestion of returning to an earlier stage, rather than starting again (and the other changes suggested) misses the opportunity to overcome the many problems of the new plan-making system.

#### Q.36

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

It is agreed in principle that it should be possible to produce SPDs without reference to central government. However, paragraph 8.21 of the White Paper also states that authorities should publicise their plan making programmes, including SPDs, to the public and stakeholders to ensure maximum engagement. The public and stakeholders have just become familiar with the new innovation of the LDS, and many now know to consult it to find an authority's plan-making programme. It sounds as though another plan-making programme that includes SPDs would also have to be produced alongside this. That could add to confusion for members of the public and stakeholders. How to advertise all planning documents including SPDs clearly would need to be given attention.



There is no information given about whether the production process will change for SPDs or remain the same. Experience has shown that it is difficult to produce and adopt an SPD in one year, mainly because of the two committee rounds it must (and should) go through. If the production process for DPDs is to be shortened as much as suggested, they could be expected to take the same amount of time as an SPD.

#### Q.37

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

The SA process as applied to SPDs is unnecessarily complex with few beneficial outcomes. SPDs do not set policy but only expand on it. The original policies should all have been subject to sustainability considerations, so there is little to be gained by repeating this.

However, SPDs do add an extra layer of detail. A more pared down version of the SA could therefore be useful. This might be worthwhile if it were to mean that SPDs keep the same status as they have currently. Generally though, it is agreed that there is little need to carry out an SA for an SPD.

Another query is raised by the fact that SAs will still be required for some SPDs. Because of the proposals to remove SPDs from the LDS, it is unclear when it would be checked that an SA was being carried out when necessary. A Local Authority may only find that it should have done one at the consultation stage, and this would result in the production process having to be started again. Local Authorities may find it easier to carry out an SA just to be on the safe side.

### Chapter 9: Making the planning system more efficient and effective

#### Q.38

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

Small extensions and alterations to education and health related buildings as well as to commercial buildings provided design is satisfactory and to match existing, there are no adverse effects to neighbours and there is no material intensification or change of the primary use/s of the site.

**Q.39**

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

Any effective streamlining of the process would be welcome. This should be introduced evenly, rather than depending on neighbours' agreements.

**Q.40**

*Do you agree that it should be possible to allow minor amendments to be made to a planning permission?*

Yes

*Do you agree with the approach?*

Yes