

SUMMER 2007



THE PLANNING WHITE PAPER

In 2002, Labour's first assault on the Public Inquiry system was repulsed by public opinion. Now they are mounting another attack. In this newsletter we explain what they are up to, and how you can stop them.

THE STORY SO FAR — In Issue 2 of *The Land* we described how Tony Blair, set out to make the planning system more amenable to industry. In 1997, he commissioned a report from McKinsey, the US neoliberal consultancy

on how the planning system was a bar to competitiveness, and in 2001 he sacked John Prescott and installed Stephen Byers as Secretary of State with responsibility for planning. Byers set about his brief of streamlining the planning system by publishing a Green Paper, which included a proposal to abolish public inquiries for major infrastructure projects, and instead get them nodded through by Act of Parliament — a foregone conclusion in any parliament where the government has a clear majority.

There were a record 16,000 objections from the public to this proposal. Then, in May 2002, Byers was sacked for burying bad news after 9/11, and Blair reinstated John Prescott as Secretary of State. Instead of scrapping the whole Green Paper process, Prescott stumbled on with it, but got rid of the controversial proposal to take major infrastructure projects out of the planning system. Eventually he steered through the *Planning and Compulsory Purchase Act 2004*, which introduces a load of muddled procedural changes to the planning system, without delivering any of the reforms that the neo-liberals were seeking. Prescott paid for his act of sabotage with media exposure, disgrace and dismissal.

INSTALLMENT 2 (Issue 3 of *The Land*): With Prescott out of the way, the Labour party neo-liberals launched another assault on the planning system using their new weapon, Treasury economist, Kate Barker. Her *Review of Land Use Planning*, published in December 2006, once again advocated taking major infrastructure projects out of the planning system so that they can be fast tracked, together with various other measures for streamlining the system.

Barker promised a White Paper to take these proposals forward . . .

NOW TURN THE PAGE AND READ ON.



A NOTE TO READERS OF THE LAND

The editors, all of whom depend for their living on seasonal land work, have realized that we cannot continue to bring the magazine out in the flush of summer. We have therefore decided to publish this short newsletter, and defer publication of issue number 4 until autumn 2007.

Future issues of *The Land* will appear in autumn and spring, but we may bring out occasional newsletters in between if the situation warrants it. If you are a subscriber, this newsletter does not count as one of the three issues you have subscribed to.

This newsletter is timed to appear on July 14, national day of action on the Planning White Paper.

Also in this newsletter:

THE HOUSEBUILDER MONOPOLY

THE PLANNING WHITE PAPER

(CONTINUED FROM PAGE 1)

The White Paper promised by Barker appeared in May 2007. It is called *Planning for a Sustainable Future* (though it has little to say about sustainability) and consists of two distinct halves. Chapters 2 to 5 are about fast-tracking major infrastructure projects; chapters 6 to 10 are about everything else. We are left in no doubt as to what is the government's main concern. For five years the Labour party's neoliberal oligarchy, (still in control with former DTI Secretary Alistair Darling succeeding Brown as Chancellor) has been smarting from Stephen Byers' Green Paper fiasco. Now, like those developers who keep firing off planning applications and appeals until an unpopular proposal is given consent, it has relaunched its offensive against the public inquiry system. This time however, instead of advocating that major infrastructure projects should be allowed by Act of Parliament, the government wants decisions about them to be taken by a panel of appointed "experts".

So Who Exactly are the Time Wasters?

The White Paper starts off by stating that we need to get rid of public inquiries for major projects because the process takes too long. It cites, as an "extreme example of the delays possible", the Heathrow Terminal 5 public inquiry which sat for nearly four years, and took over seven years from the date of application to reach a decision — during which time both Schiphol airport in the Netherlands and Charles de Gaulle in Paris increased their runway capacity, bringing untold wealth and happiness to the French and the Dutch while we have been cutting off our nose to spite our face.

The White Paper also mentions a number of other long-running shows such as the Dibden Bay inquiry for Southampton Docks, which sat for nearly two years and took over three years to conclude that the need for the development was not great enough to justify its adverse impacts. It doesn't mention Scotland's most extreme example, the inquiry about the Lafarge superquarry at Lingerbay on the isle of Harris, which dragged on in one form or another from 1994 until 2004, when Lafarge finally withdrew in the face of public opposition.

But not all infrastructure public inquiries take a long time. Another inquiry the White Paper cites in a different context, concerning a scheme to increase the capacity of London's Docklands Light Railway, was opened on 8 February 2005 and the Inspector's report was delivered just over three months later on 18 May of the same year. The Inspector observed:

"As events unfolded, the proposals attracted very little sustained objection. Only one objector, Mr Costello, elected

to appear before the inquiry to put his case; but he was satisfied that the matters concerning him could be addressed by a condition attached to the deemed planning permission. . . . The limited number of objections on such an important project does carry with it the inference of very wide public support."

The Docklands railway inquiry took just a few weeks because most people are happy to see improvements to the public transport network, and because light railways have a relatively low environmental impact, both locally and globally. People do not oppose infrastructure projects per se. The inquiry to increase the capacity of Heathrow terminal, on the

other hand, took seven years because thousands of people opposed it on the very good grounds that air transport is unsustainable, polluting, horribly noisy, causes motor traffic congestion, and only benefits a fraction of the country's and the world's population.

The obvious fact, which the White Paper ignores, is that a public inquiry is brief when there is general public acceptance that the development is desirable, and drags on for years when it is contentious — that is to say when developers deliberately attempt to bulldoze a project through in the face of widespread opposition. In the case of Heathrow, the developers did finally succeed, whereas at Dibden Bay and Lingerbay both schemes were eventually turned down. If BAA, Associated British Ports and La Farge respectively had gracefully acknowledged at an early stage in these inquiries that a significant body of public opinion was against their project, and dropped it, or gone back to the drawing board, then millions of pounds of public money would have been saved.

But instead of targetting the developers who initiate contentious schemes for their own profit, and then try to force them through at public expense, the government blames the cost and the wasted time on members of the public who have never tried to foist anything on anybody. By getting rid of public inquiries, the government is hoping to find a way of pushing through major developments which are delayed by their own unpopularity — an objective which is inherently undemocratic. One can guess that the unpopular developments it particularly has in mind are nuclear power stations. These are not mentioned in the White Paper, but we know from a series of pronouncements by Alistair Darling when he was at the DTI that he regards the need to fast-track planning for nuclear energy to be a major priority.

Our Playing Field is More Level than Yours

The White Paper spends quite a bit of space trying to show that the public inquiry system is undemocratic:

"Because of the length of time inquiries can take and the expense involved in participating in them, it can be difficult for local government, NGOs and local people to

(continued on page 3)



Kate Barker

participate effectively in the process and make their views heard. This means that those with the most resources, or the best knowledge of the system can have the greatest say in decisions . . . The legalistic and adversarial approach can make it intimidating and difficult for members of the public to engage in the process. . . The current adversarial system can benefit those who can afford to employ professional advocates and, because of the length of time and cost involved in participating, even shut out smaller, less confident or less well resourced parties.”

There are wisps of truth in the above which the White Paper magnifies and distorts for its own ends. It is indeed expensive for a voluntary organization to attend a public inquiry from beginning to end; but part-time attendance at a drawn out inquiry is better than a procedure which is so rushed that unpaid campaigners with their own jobs to attend to do not have sufficient spare time to prepare for it. Yes, the adversarial system can be intimidating for newcomers to the process — but it is intimidating precisely because it engineers the confrontation which objectors seek, and which developers try to avoid. The adversarial system offers the opportunity to cross-examine the opposition, and when you are dealing with professional consultants, this is the only way to get anything out of them other than prepared blandishments. The public inquiry system is indeed biased towards those with money and influence — but a decision-making system in which the humble are on a level playing field with the powerful has yet to be invented.

The system which the White Paper proposes to substitute for public inquiries consists of two completely separate processes:

1. **National Policy Statements** will dictate the need for various kinds of infrastructure. For example:

“national policy statements for the transport sector would consider what increase in capacity was needed to support growth and increasing demand, in the context of other relevant policies such as managing demand for transport and reducing carbon emissions.”

These national policy statements will be established after public consultation and have a time-frame of 10 to 25 years, though they may be subject to review after five years. They signal a return to the discredited “predict and provide” projections which, for example, led to the last Conservative Government’s ludicrous road-building programme, and the massive public protests which eventually sunk it.

2. A **Planning Commission** consisting of appointed experts will adjudicate on specific applications. This panel will have no authority to question whether there is any overriding need for the scheme (as the Inspector did for example at Dibden Bay). It will only be empowered to assess (a) whether it is consistent with the national policy statements, and (b) whether it is compatible with relevant EU and domestic law, such as environmental directives and human rights legislation.

This suggests that if a power station or a motorway is proposed in your locality, you can only oppose it on two



The Capture of the Bailey Bridge, Twyford Down 1993 – the public answer to “predict and provide” policies.

grounds: that it is inconsistent with a policy that might have been made 15 or 20 years previously; or that it is unlawful. If you want to present evidence that the development is unnecessary, or will destroy your community, or will generate traffic, or is not a sustainable option, or is in conflict with the teachings of the all world’s great religions, you are likely to be told that this is not within the commission’s terms of reference.

What’s more, all the evidence must be presented in written form, unless the commissioners request otherwise. There will be no guaranteed opportunity to present your evidence in person or to cross-examine your opponents. If there are any oral questions they will normally be asked by the commission of experts, which will :

“focus its examination of the applicants on the points that it feels are at the core of the issue, rather than being dependent on the parties and their advocates to pick up on these points and test them via cross-examination. It should also improve the openness of the process and create a much more level playing field for all parties.”

Just in case some members of the public should mistakenly feel that a procedure where they have to sit in silence while the experts ask the developers all the wrong questions is less than open and fair, the White Paper proposes rounding off the event with a session where the aggrieved can let off steam. After all the evidence is presented,

“the commission will organize an ‘open floor’ stage where interested parties can have their say about the application within a defined period of time . . . We believe that providing this dedicated opportunity for people to have

their say will enhance the ability of interested parties, and particularly members of the public, to express their views about projects and the impacts they might have on them.”

It is easy to see the function of this. Objector 131, whose house will be demolished if the road goes ahead, has listened for ninety minutes to the panel interrogating the developers’ witness, without hearing any of the questions he wants asked. Exasperated and sensing that the examination is coming to an end he stands up: “Mr Chairman sir”, he says as politely as he can, “I would be grateful if you would kindly ask the witness how he expects . . .”

“Mr 131,” interrupts the chairman wearily, “please be quiet. You can have your say at the open floor session at the end of these proceedings.”

Anyone who has spoken at a District Council committee meeting or a County Council scrutiny committee knows what “having your say” means. You are allowed to speak for exactly three minutes, usually right at the beginning to get you out of the way. Not uncommonly, the chair, in a gesture of quite gob-smacking rudeness, will cut you off in mid sentence if you go one second over time. The committee listens, or not, and then carries on with its business without being under any obligation to address the points that you have made. Committee members can contradict, misinterpret or ignore what you say, and you have no opportunity to take them up on it.

The only arenas within the planning system where you can have a proper exchange, and where equal time is given and equal weight attached to the spoken evidence of ordinary people, are hearings and public inquiries. Hearings have their place, but they are too cosy and polite for searching cross-examination, and are inappropriate for major infrastructure applications. In a well-conducted public inquiry — and usually they are very ably conducted — an ordinary member of the public can deliver his or her own evidence, answer questions

on it posed by his own advocate, tackle cross-examination from the opposition, and (either on his own or via his advocate) cross-examine his opponents. If he asks the Inspector whether he may present some new evidence then usually the Inspector will say yes, provided the other side has no objection.

The public inquiry system may not be perfect, and it can be abused (it certainly was by the Department of Transport in the 1980s). But it often does a good job of treating people as equals, it is by far the most accessible decision-making forum within the planning system, and it far outclasses anything the legal system has to offer. As a democratic institution it is worth every penny spent on it, and we must not allow the neo-liberal advocates of economic growth who currently control the country to remove it.

What You Can Do — Deadline 17 August

The last time the Government tried to foist this on us, in the 2001 Green Paper, there were 16,000 objections. We must ensure that the same volume of opposition is expressed once again. It is therefore vital that all people concerned about this proposal should voice their objection by writing a letter, fax or e-mail, or cutting out the ready-written one below, and sending it to:

The Planning Reform Team, Communities and Local Government, Zone 3/J2 Eland House, Bressenden Place, London SW1E 5DU; Fax: 020 7944 3919; e-mail: planningreformconsultation@communities.gsi.gov.uk

If you haven’t got time to write your own letter, cut out the one below, and mail it to the same address. The deadline for responses is August 17.

A full version of the White Paper can be found at <http://www.communities.gov.uk/index.asp?id=1510731> There are other matters of concern including changes to the appeal process which we haven’t had space to deal with here.

August 17 is the deadline for a whole bevy of government consultations, including the White Paper, the OFT inquiry, changes in the appeal process, changes to permitted development etc. See www.communities.gov.uk/index.asp?id=1017165

To: Planning Reform Team
Communities and Local Government
Zone 3/J2
Eland House
Bressenden Place
London SW1E 5DU
Fax: 020 7944 3919

From

To the Planning Reform Team:

I wish to register my objection to the proposal in the Planning White Paper to remove major infrastructure projects from the public inquiry system and have them assessed by an appointed commission in line with predetermined policies.. This is an undemocratic procedure, at odds with everything that a Labour government ought to stand for.

If this measure is introduced and major developments are granted permission without allowing the public to present all the arguments against them, then objectors will have no alternative but to resort to the kind of direct action campaigns that led to the abandonment of the Conservative Government’s road programme in the early 1990s — and I will be supportive of such campaigns.

I therefore request that this proposal is immediately dropped, and that the Government devotes its attention to ensuring that the existing public inquiry system allows members of the public to present their views about proposed developments, in the confidence that all such views, whatever they may be, will be given full and fair consideration by the Secretary of State.

Yours Sincerely

THE HOUSEBUILDERS' MONOPOLY

“It’s as if you went to the shops to buy flour, and found Tesco had bought up the entire supply and turned it into sliced bread.”

Chapter 7 is constantly contacted by people who want to build their own house. We have to tell them that there is no provision within the planning system for individual self-build, low impact or otherwise, other than buying a windfall site on the market at a price usually in excess of £100,000.

The government says it wants to provide affordable housing. But it does not provide affordable land for people to build homes on. In the entire canon of national planning policy you will not find a single mention of self-build housing anywhere. Nor will you find any mention of it in the *Review of Housing* which Kate Barker’s carried out for the Treasury in 2004. The system is founded on the unquestioned assumption that housing provision is top down, and the providers at the top are large scale developers and housing associations.

Thanks to the structure of the UK planning system, large housebuilding firms have a near monopoly on building land (from which they are obliged to peel off a proportion for the Housing Associations). There was a conspiracy of silence about this monopoly for many years until the Barker Review raised the issue of lack of competition in the housing industry. Now, interestingly, the matter has been taken up by the Office of Fair Trading (OFT).

“Land is a Scarce Good” (Kate Barker)

In 2005 TLIO member James Armstrong wrote to the Office of Fair Trading requesting that the commercial housebuilders’ practice of “land banking” should be referred to the Competition Commission, because it constituted an unfair monopoly. A representative of the OFT wrote back:

“The Director can refer monopolies to the Competition Commission . . . However the legislation only allows for references to be made in respect of commercial activities involving the supply of goods and services. Having taken advice on this matter, it is my understanding that, for the purposes of the statute, the supply of goods and services does not cover the ownership of land.”

But now the OFT appears to have changed its mind. In a press release issued in June, it announced that it would carry out a market study into “how competition and the planning system affect the delivery of new homes.” The study was needed because “the market for housebuilding is not working well and there appears to be significant consumer detriment in the form of low supply response to sustained rising prices,” — or in plain English, house-prices are going through the roof. The OFT also observed that there had been no improvement since the publication of the Barker Review in 2004.

The press release states that the OFT “does not consider it appropriate to make a market investigation reference to the

Competition Commission at this time,” but does not rule out the possibility “if the OFT finds that the Competition Commission’s powers to gather information and impose remedies are required”. The OFT also has the power to fine companies up to 10 per cent of their turnover. Recently they fined Argos £17 million for fixing the price of toys.

Their press release identified two key issues for the study:

“The first is how land that is suitable for development is brought through the planning process. The second is how land with planning approval is converted into new homes.”

Who Turns the Tap?

Let’s take the second of these first. The current debate about housing provision is one of those Tweedle-dum versus Tweedle-dee scraps that mainly serve to obscure the root of the problem (see box on next page). One camp, currently headed by the Royal Town Planning Institute, claims that the top ten housebuilding companies are hoarding land with permission for 225,000 homes from which they “drip feed” houses at a rate which ensures that the price stays high.

The housebuilders respond that this is less than a year and a half’s supply, and that anyway it is all the fault of the planning system, which drip-feeds too little building land, and then delays the construction process with negotiations about Section 106 agreements, highways infrastructure and other legal hurdles.

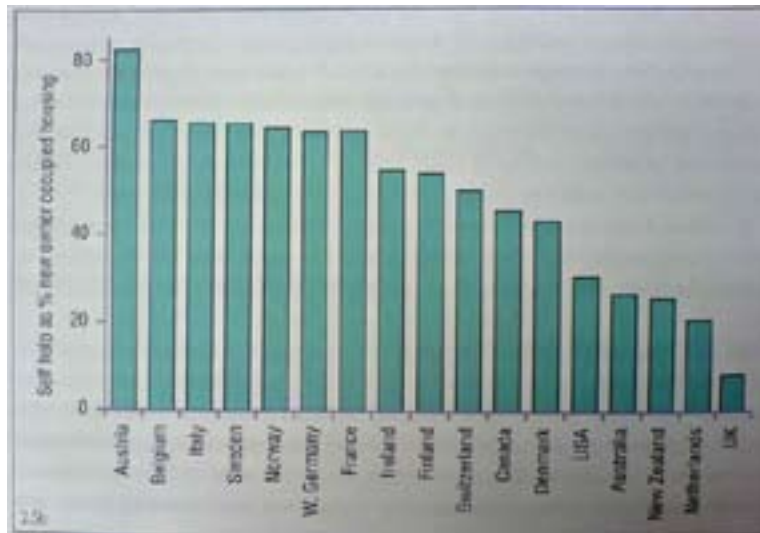
As the Barker Review suggests, both these factors contribute to delay, scarcity and high prices. Meanwhile, the green left (including TLIO) is split between those who think that housebuilding companies should be pilloried for sitting on land that has permission for housing, and those who feel that the longer it takes them to cover countryside with their concrete boxes the better. Socialists opposed to economic growth argue that there are enough buildings in this country to house everybody adequately already — the problem is that not everyone in need has access to them.

How to Secure a Local Monopoly

All the above disputes revolve around the secondary matter of what the housebuilders do with their monopoly, once they have acquired it. The prior question is how they get it in the first place — or as OFT puts it “how land that is suitable for development is brought through the planning process”.

A classic example of how this happens is given on page 157 of the Barker Review’s *Interim Report*. In the early 1990s, housebuilding firm Croudace approached the owner of greenfield land near Basingstoke and took out an option agreement — ie they paid the landowner an undisclosed sum on the understanding that if ever the land should be allocated for housing in the





Self-build as a percentage of owner occupied housing in various countries. The UK at the bottom. From *The Whole House Book*, by C Harris and P Borer.

Local Development Plan, then they would have first option to purchase. Croudace then set about lobbying the local authority to get the site allocated for housing in the Plan.

In 1998 the land was allocated in the Plan. Croudace submitted an application for 800 houses. After two years negotiation about Section 106 agreements and highways issues, outline planning consent was given in 2000. Detailed planning consent was given two years later, and building commenced the following year.

This is a typical scenario and it would be hard to devise a system of land allocation better designed to breed corruption. Having secured a large acreage of land for next to no investment, a building firm spends four or five years using its promotion machinery, local connections, entertainments budget and who knows what other undisclosed sums persuading planners to draw lines on a map that will increase the value of the land from about £3,000 per acre to well over £1 million per acre.

The result of this system is that when a community's land is allocated for development nobody who wants to build their own home has a hope in hell of getting hold of any of it because developers have bought up options on it years before it was even allocated for housing. They'll sell you one of their crappy homes, but they won't sell you the land. It's like going to the shops to buy flour, and finding that Tesco have bought up the entire supply and turned it into sliced bread.

Moreover, as Barker points out, large sites tend to be sold to one company, rather than several "because competing house-builders would not be able to charge 'monopoly prices' for their output" (*Interim Report* p 88) and therefore the land is worth more to a single buyer.

This stranglehold on housebuilding land held by companies (whom everybody, from John Prescott to Kate Barker, agrees turn out poor quality houses) is a main reason why self-build in Britain constitutes less than 10 per cent of the housing market, lower than in any other country in Europe. (See table.) And as the Joseph Rowntree Foundation revealed in 2001, whereas self-build used to provide a way for poor people to secure a starter home, it is now mostly an option for wealthy people seeking a custom-built luxury residence..

Don't Be Submissive — Make a Submission

The OFT investigation is an indication that concern about monopoly in the house-building sector is at last beginning to rise up the agenda. They are inviting views from the public, so if you are one of the many who phone up Chapter 7 asking for advice on planning permission, don't lapse into despair, or sink into a pipe dream — get out your pen, or your keyboard and hammer out a submission.

Tell them that corporate builders collar all the land before individual builders have an opportunity to buy any of it.

Tell them that the needs of self-builders are persistently ignored in the planning process.

And tell them that a country that doesn't allow its citizens to house themselves, is not a free country, but the shoddiest of dictatorships.

The deadline for written submissions is 17 August 2007.

Submissions should be sent to: Housebuilding Market Study - Floor 2W, Office of Fair Trading, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8JX They can also be emailed to housebuilding.study@oft.gsi.gov.uk The OFGT press release outlining the process http://www.oft.gov.uk/shared_ofgt/reports/comp_policy/oft934.pdf [uk/shared_ofgt/reports/](http://www.oft.gov.uk/shared_ofgt/reports/)

It's the Economists, Stupid

One matter the Office of Fair Trading will not be investigating is the extent to which the housebuilder monopoly and housing scarcity are deliberately engineered by the Treasury and the Bank of England to stimulate the UK's parasitic and growth-dependent economy. Free market economists like to see high house prices because these provide collateral for loans which increase consumer spending. This is Eddie George, former Governor of the Bank of England, March 22 2007:

"In the environment of global economic weakness at the beginning of this decade, we only had two alternative ways of sustaining demand and keeping the economy moving forward – one was public spending and the other was consumption. We knew that we were having to stimulate consumer spending . . ."

Why? Because public spending, on council houses for example, is unaffordable for a government committed to running down agriculture and industry and instead buying all its goods in a globalized economy. Consumer spending power can be created out of thin air, by increasing the value of everyone's house. Here is Larry Elliot in *The Guardian*, 9 July 2007:

"Britain is a country where the speculator is king. We consume more than we produce; we import more than we export; we prefer to invest in non-productive housing rather than in plant and machinery . . . Three parts of Britains' institutional framework lie at the heart of all this. The first is the ability of the commercial banking system to create credit; the second is the tax and planning system that ensures that demand for housing tends to exceed supply . . . and the third is the limited liability corporation."