

13/07/99

CONSULTATION PAPER

MODERNISING PLANNING: STREAMLINING THE PROCESSING OF MAJOR PROJECTS THROUGH THE PLANNING SYSTEM

COMMENTS FROM THE INSTITUTION OF ENVIRONMENTAL SCIENCES

13/07/99

Introduction

1. This note contains the comments of the Institution of Environmental Sciences on the above Consultation Paper issued by the Department of Environment, Transport and the Regions (DETR) in May 1999.
2. We welcome the invitation to contribute on the issues raised by the proposals for improving the planning process for major projects. This is an important subject which will have important potential influence.
3. The structure of our note follows the ordering of the Consultation Paper. As relevant we have referred to the paragraph numbers in the Consultation Paper, and in general we have only commented upon key issues.

Statement of national policies

4. Paragraphs 16 to 18 outline the proposal to produce national policy statements prior to major projects being introduced to the planning system, such as through a White Paper. We support this proposal, as it will reduce the degree of uncertainty associated with major projects and help improve the operation of the planning system. We would encourage that public consultation is available for all such national policy proposals to ensure democratic accountability.

Parliamentary Processes

5. The three broad options for processing a major project by Parliamentary processes are noted, and the proposal to introduce an option similar to the TWA process to obtain Parliamentary approval of major projects appears sensible. It is recognised that this would require primary legislation, and we would see benefit in pursuing this approach to allow this option to be available in the future.
6. The SDO route to securing major project approval should be retained as it provides flexibility that may be needed in the future. However, we would not see this as a normal route to secure major project approval.

Improving public inquiry procedures

7. The proposal to produce draft terms of reference for planning inquiries by the Secretary of State to be agreed by parties at a pre-inquiry meeting, is particularly welcome. The proposal for an agreed and 'fixed' timetable is also welcome, including a submission

date by the Inspector of their report. We would, however, also urge that the Secretary of State be required to deliver a decision within an agreed timetable.

8. We would also support proposal to make the Inquiry process more of a dialogue than a confrontation. The three options for assisting in this are helpful, and do not appear to us to be mutually exclusive. The 'round table sessions' and 'joint data groups' options could be sub-sets of the option of 'direction on treatment of issues' by the Secretary of State. We would have no major problem with direction by the Secretary of State if this was felt appropriate, but we consider the other two options to be preferable in the normal run of events.
9. In terms of the 'round table sessions' and 'joint data groups', our preference would be joint data groups to be the means by which data issues could be resolved. However, it may be practical for a number of joint data groups to operate, and for their findings to be co-ordinated through a round table session. In any case, the use of such routes are to be supported.
10. Additional options raised included the use of independent technical assessors and mediation. Mediation may well be a useful approach and we do not have any objections to this, although details of the research into mediation processes will be important in assessing the value of such an approach. As to technical experts, this is a potentially useful approach although care will be needed in ensuring that such evidence is recognised as both independent and expert. It is important that the Inquiry is allowed to test the veracity of any expert views.
11. The proposal to appoint an independent body to oversee and manage the process of dealing with a major project application is important, and we would support this in principle, even though it would require primary legislation. Such an approach could have two particular benefits:
 - (a) it could potentially speed the process up by preventing 'log-jams' in the DETR process;
 - (b) it would be seen as outside of the 'control' of the DETR in terms of the 'processing' of matters (although clearly the final decision on the project would have to rest with the Secretary of State).
12. The suggestion of adopting project management techniques and project managers to assist in the programming of matters is worth exploring further. Such an approach has advantages in many fields, however it is important that such an approach does not ultimately drive decision-making, instead of the merits of the case.
13. The use of the Internet to assist the inquiry process is to be encouraged. It could potentially reduce the volume of paper to be produced, although this may only be the case if material on the Internet is the 'primary source' rather than a copy of material or supplementary. A key advantage could be advanced information to participants enabling them to focus on key issues. However, the ability of material on the Internet assisting the Inspector in terms of assessing evidence seems to us uncertain, although it may possibly help in managing evidence.

14. The proposal that the Inspector should decide whether evidence is read out loud is very welcome. In most instances reading out evidence is a waste of time and effort.
15. The reasoning behind the proposal that the Inspector should be able to impose sanctions on parties who endanger the timetable is understood. In broad terms we would accept this, but we are concerned to ensure that this does not erode too dramatically proper democratic process within the public inquiry. To that end we would urge that if such an approach is adopted – and we do see some of the advantages of this option – then clear guidelines should be developed for Inspectors, with appropriate appeal procedures for parties.
16. We would be concerned over the proposal to abolish the right of cross-examination entirely. Option (b) in which the Inspector could conduct the examination in an inquisitorial manner rather than an adversarial manner may have merits, and we would welcome further consideration of this approach.
17. As to the involvement of ‘major participants’, our preference is for the second option to determining participation to be used (i.e. developing guideline criteria). This may have the advantage of not putting unnecessary pressure on the Inspector by allowing suitably flexible criteria to be used. The main disadvantage of this approach is in framing appropriate guideline criteria. However, allowing written representation to be made should help overcome some of these problems.