

report

meeting **JOINT COMMITTEE ON PLANNING & TRANSPORT**

date **12th November 2004** agenda item number

from: **JOINT OFFICER STEERING GROUP**

PLANNING AND COMPULSORY PURCHASE ACT, 2004 – IMPLICATIONS FOR THE JOINT COMMITTEE

Purpose of Report

To inform members of the main points raised by the Act and its impact upon the work of the Joint Committee.

Background

1. The Government produced a Planning Green Paper at the end of 2001 and presented a Planning and Compulsory Purchase Bill to Parliament in December 2002.
2. The Bill has been the subject of much discussion and amendment in both Houses of parliament and received the Royal Assent in May 2004. The provisions of the Act have not all yet been implemented but parts of the Act have been brought into operation.

The Main Features of the Act

3. The Act is divided into 9 parts and several Schedules and is supported by a number of Regulations and guidance documents. Parts 1 and 2 cover the new Development Plan system and these parts came into force at the end of September 2004.
4. Part 1 of the Act covers the **new regional planning system** where Regional Spatial Strategies [RSS] effectively take over from Regional Planning Guidance and Structure Plans. The RSS, which becomes statutory, is prepared by the Regional Planning Body (RPB) -here, the East Midlands Regional Assembly - and approved by the Secretary of State unless the Regional Assembly is directly elected. Sub-Regional Strategies may be prepared either as part of the RSS preparation process or separate from it.
5. The County and City Councils have defined statutory roles in this process as follows
 - they must be consulted by the RPB regarding the preparation of RSS and its monitoring as it affects the specific area of the Council concerned. Work undertaken in this regard by the Councils may be reimbursed by the RPB.
 - if the City or County Council is affected by a proposed Sub-Regional Strategy (SRS), the RPB must first ask the respective Councils if they wish to undertake the SRS. If the Councils do decide to undertake the work, no reimbursement can be requested from the RPB.

6. The RSS and any independently prepared SRS must be accompanied by a Statement of Community Involvement and a Sustainability Appraisal.
7. Part 2 of the Act covers **local planning** and replaces statutory Local Plans with Local Development Documents, most of which will be statutory. LDDs will be drawn up in conformity with the RSS and the RPB may delegate this task of assessing conformity for a District Council LDD to the relevant County Council.
8. LDDs must be accompanied by the two documents referred to in paragraph 6 for RSS.
9. Each Local Authority has to prepare a Local Development Scheme [LDS] covering a three year period specifying a number of matters including the nature of LDDs to be prepared and resource implications.
10. The County Council has to prepare an LDS as it is responsible for Minerals and Waste LDDs.
11. LDDs are subject to independent examination by an Inspector whose decisions are binding on the Plan Making Authority [PMA]. Unlike the current system, the LDD examination would be more like an EiP than an adversarial Planning Inquiry and the Inspector would look at the “soundness” of the LDD rather than each and every aspect of it. In this way it is hoped that the process will be much speedier than the current Local Plan system. There is no Proposed Modification stage. The PMA adopts the LDD as soon as is practicable following receipt of the Inspector’s Report and must prepare an Adoption Statement to accompany the adopted document.
12. Two or more District Councils/Unitary Authorities/County Councils may if they so wish, or if directed by the Secretary of State, prepare Joint LDDs. Such arrangements must be included in the relevant LDSs for those Councils.
13. Supplementary Planning Documents (the successor to Supplementary Planning Guidance) may be prepared covering particular subjects or areas. As with the SPGs, SPDs must expand or supplement policies or proposals in a LDD or saved Local Plan. SPDs can only be prepared to the LDD tier of planning. Any current draft SPGs that were not finally approved by the PMA by 28th September can no longer proceed under the SPG route. This means that JSP statements for the preparation of SPGs for biodiversity, developer contributions and renewable energy will need to be amended.
14. The Act makes it mandatory for Local Planning Authorities to prepare an Annual Monitoring Statement and to submit the document to the Secretary of State.
15. Transitional arrangements apply for Structure and Local Plans. Existing adopted plans remain “saved” for a period of 3 years from 28th September 2004. This would also apply to existing approved SPG. Emerging plans being prepared will be saved for a period of 3 years from the adoption date. There are procedures for extending the life of old style plans that involve seeking approval from the Secretary of State.

Saved plans are part of the Development Plan, see below, and are therefore important factors for development control decisions.

16. Part 3 of the Act defines the term “Development Plan”. For the East Midlands, the Development Plan consists of the RSS (RPG 8 has been designated as RSS), any adopted/approved LDDs [designated as Development Plan Documents] and any saved Structure/Local Plan. This part of the Act also places a statutory duty on the body preparing a RSS or LDD regarding the achievement of sustainable development.
17. Other Parts of the Act cover issues that are not related to the functions of this Committee apart from those that relate to development control. The RPB will become a statutory consultee for defined types/location of development. The County and City Councils will continue to be consulted as Structure Plan Authorities whilst the old-style Plans are saved.
18. The Act also places a duty on statutory consultees – which includes both Councils – to respond to requests for observations on planning applications within a specified period to be prescribed in secondary legislation.
19. The Secretary of State will call-in for his determination applications for major infrastructure projects (also yet to be defined). He will make his decision following a Public Inquiry before a planning inspector or inspectors.

Implications for the Joint Committee

20. The revised Development Plan system will mean that there is still a role for this Committee to assist the two councils in steering and co-ordinating work and comments upon emerging RSS and SRS affecting the geographic County and in particular South Nottinghamshire; indeed, there is a need to bridge the wider gap between the regional planning and LDDs levels, and the Joint Committee may provide a forum for such issues to be aired and addressed.
21. The Joint Committee provides the only forum to integrate the land use and transport strategies/proposals of both Councils. The impending review of the Local Transport Plans for the geographic County requires to be put into the context of the JSP and the emerging RSS/SRS, the latter not being the responsibility of the two Councils.
22. In the short term, the transitional arrangements will mean that work on the Joint Structure Plan and the various Local Plan reviews in the South Nottinghamshire area will continue for at least the next year. However, work on the new RSS and associated sub-regional studies for the 3-Cities and Northern Sub-Areas that affect the Councils will start within this period and there is a need to ensure that this work load can be managed and that there is an orderly and coherent transitional period to strategic spatial and transport planning.
23. In a separate report to this Committee, changes to the Protocol to take into account the new Planning system are being recommended.

RECOMMENDATION

24. It is RECOMMENDED that this report be noted.

Background Papers

None

Contact Officers

Matthew Gregory, Development Department, Nottingham City Council

Richard Ling, Culture and Community Department, Nottinghamshire County Council

Pt.rl.jc27/02.11.04