

Best Practice in Planning Liaison

Land Use Consultants

R&D Technical Report W63

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Internal: Released to Regions

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Statement of use

This report makes recommendations to the Agency's National Planning Liaison Group on ways in which Regions and Areas can make changes to their current practice in order to improve the effectiveness of their liaison with local planning authorities.

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Hugh Howes	Environment Agency Thames Region
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David Barraclough	Royal Town Planning Institute

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Invaluable assistance was also provided by the officers of the local planning authorities whom we consulted during the course of the research. The authorities are listed in section 1 of the report.

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EXECUTIVE SUMMARY

1. Land Use Consultants were appointed in March 1996 to undertake a national R & D project entitled 'Best Practice in Planning Liaison'. The overall objective of the research was to:

"...develop a programme of work for the NRA's National Planning Liaison Group (NPLG) which will lead to the implementation of changes to improve effectiveness of liaison with local planning authorities (LPAs)."
2. The research involved four principal elements:
 - (i) review of previous studies of planning liaison activity undertaken by the Agency and its predecessors;
 - (ii) questionnaire survey of a sample of LPAs (about 12 in each Agency Region);
 - (iii) interviews with Agency planning liaison staff in each Region;
 - (iv) interviews with officers in ten LPAs (at least one LPA in each Region).
3. The previous studies, questionnaire survey and interviews provide useful information about past and current levels of effectiveness of planning liaison in the Regions. They also pointed to examples of good and bad practice and the different approaches adopted by the Regions.
4. In the light of the surveys and consultation it was concluded that best practice should reflect the following factors:
 - the role of the Environment Agency in relation to local planning authorities, with reference to the Memorandum of Understanding;
 - the statutory requirements for consultation;
 - the objectives the Agency has set for planning liaison;
 - the Agency's and LPAs' resource constraints;
 - LPAs' requirements for liaison with the Agency, covering non-statutory and statutory consultation.
5. The recommended 'best practice' model is divided into three parts, each part addressing a number of key issues, as set out below. References to the main text are provided in square brackets.

Overview of planning liaison

- the objectives and scope of liaison [5.2]
- management and organisation of liaison [5.3]
- education and training of Environment Agency staff [5.4]
- rapport with local planning authorities [5.5]

- rapport with the development community [5.6]
- the use of information technology (IT) [5.7]

Approach to forward planning

- national policy [6.2]
- regional policy [6.3]
- development plans [6.4]

Approach to development control

- pre-application discussions [7.2]
- the system for consultation on planning applications [7.3]
- responding to planning applications [7.4]
- monitoring of effectiveness [7.5]
- internal consultation [7.6]

6. The report describes how the issues are currently addressed by the Agency and make recommendations about how to move towards best practice. The recommendations are aimed at the NPLG, on the basis that the Group is best placed to effect changes in the Regions.

1. INTRODUCTION

1.1 Role of the R&D Technical Report

Land Use Consultants were appointed in March 1996 to undertake a national R&D project entitled 'Best Practice in Planning Liaison'. The purpose of this Technical Report is to disseminate the main findings and recommendations of the research. Its primary audience is the National Planning Liaison Group, although it will be of interest to a wider group within and possibly outside the Agency. A full set of information compiled during the course of the research is contained in the **R&D Project Record** (W4/i702/1), which accompanies the Technical Report.

1.2 Objective of the research

The overall objective of the research was to:

"...develop a programme of work for the NRA's National Planning Liaison Group (NPLG) which will lead to the implementation of changes to improve effectiveness of liaison with local planning authorities (LPAs)."

1.3 Timing and scope of the research

On 1st April 1996 the functions of the NRA were incorporated into the Environment Agency, which was set up by the Environment Act 1995. The Agency also comprises the former HMIP and Waste Regulation Authorities and a number of smaller units from the Department of the Environment. The coincidence of the project with the inception of the Agency provided an opportunity to achieve a more integrated and holistic approach to planning liaison than had occurred hitherto.

As required by the specification, the research focused on liaison with LPAs on matters related to development plans and development control. However, it also addressed the Agency's input to national and regional policy, which provide the context within which planning at the local level takes place. The research also looked at the other planning-related activities of local planning authorities, such as Local Agenda 21 and non-statutory plans and strategies.

1.4 Research process

The research involved four principal elements:

- (i) review of previous studies;
- (ii) questionnaire survey of a sample of local planning authorities;
- (iii) interviews with Environment Agency staff;
- (iv) interviews with local authority planning officers.

1.4.1 Review of previous studies

Numerous studies have been undertaken by the Agency's predecessors (mainly the NRA) into various aspects of planning liaison activity. A specific objective of the research was to review these studies, and consolidate the recommendations made. The NRA's Internal Audit of Planning Liaison was highlighted as worthy of particular attention, not least to consider the implications of the recommendations for this research.

1.4.2 Questionnaire survey

With the aim of identifying the key issues as soon as possible, we undertook a questionnaire survey of ninety LPAs in England and Wales. The survey focused on current and future liaison requirements with the Agency, and the effectiveness of input to date by the Agency and its predecessors.

It was agreed with the Project Board that the sample should include:

- ten authorities from each Environment Agency Region;
- ten authorities which span Environment Agency boundaries;
- a mix of county, district, and unitary authorities, National Park Planning Boards and Development Corporations;
- authorities facing relevant issues: major development affecting the environment; flood defence problems; pollution problems (water, land or air); important river corridors (conservation, recreation etc.); coastline; estuary;
- authorities which fall partly or wholly within catchments covered by a catchment management plan.

The sample should exclude:

- new unitary authorities created by Local Government Reorganisation, as these authorities have no history of liaison with the Environment Agency;
- authorities which have been repeatedly contacted in other surveys, unless they indicate a willingness to participate.

The final sample was chosen in consultation with the Environment Agency Regions and reflected as far as possible the selection criteria. Responses were received from 48 authorities (53% of the sample), which represents about 10% of the total in England and Wales. A copy of the questionnaire together with a quantitative analysis of the results is included in the **Project Record (W4/i702/1)**.

1.4.3 Interviews

Structured interviews were held with officers in ten local planning authorities. The authorities were selected on the basis of the questionnaire responses, broadly to reflect the spectrum of opinion from those where liaison seems to be functioning well to those where there appear to be some significant difficulties. Staff were interviewed at the following authorities:

Coventry City
Runnymede Borough
Castle Point District
Cardiff City
North Cornwall District

London Borough of Enfield
Tonbridge and Malling District
Manchester City
Kirklees Borough
Cornwall County

1.4.5 Interviews with Environment Agency staff

Structured interviews were held with Planning Liaison staff in each of the Agency Regions. Notes of these meetings are included in the Project Record. A meeting was also held with the Agency's National Development Planning Manager.

1.5 Structure of the Report

Section 2 provides a review of previous research into planning liaison, while **Section 3** summarises the findings of the questionnaire survey of local planning authorities.

Section 4 describes the framework used to evaluate best practice in planning liaison. It includes a description of role of the Agency and its statutory responsibilities with respect to land use planning, and discusses what LPAs 'want' from the liaison process.

In the light of the foregoing, the remainder of the report develops a model of best practice in planning liaison. It begins in **Section 5** with an overview of planning liaison, which addresses the following issues:

- the objectives and scope of liaison;
- management and organisation of liaison;
- education and training of Environment Agency staff;
- rapport with local planning authorities;
- rapport with the development community;
- the use of information technology (IT).

Section 6 addresses the Agency's approach to forward planning, including:

- national policy;
- regional policy;
- development plans;
- internal consultation.

Section 7 addresses the Agency's approach to development control, including:

- pre-application discussions;
- the system for consultation on planning applications;
- responding to planning applications;
- internal consultation;
- monitoring of effectiveness.

Within **Sections 5, 6 and 7**, we describe how the issues are currently addressed by the Agency and make recommendations about how to move towards best practice.

Finally, **Section 8** illustrates the model of best practice in the form of a flow chart, identifying the recommendations relevant to each element of the planning liaison process.

2. REVIEW OF PREVIOUS STUDIES

2.1 Introduction

Studies have been undertaken at two levels: national research projects and regional/area research projects. A total of eight previous studies (two national and six regional/area) were reviewed; the scope and principal recommendations of each are set out in the Project Record.

2.2 Principal findings and recommendations

The NRA undertook an internal audit of planning liaison in 1995 (Planning Liaison NAT/295, 29 November 1995); the purpose being to review the operation of planning liaison within the NRA. Amongst other things, the Audit concluded that studies into planning liaison undertaken by the Regions “...*have been uncoordinated and many recommendations have not been implemented*”.

It was also evident that previous studies had tended to focus on efficiency rather than effectiveness. Consequently, the Audit indicated that there was a need to “...*examine methods to gauge the effectiveness of planning liaison activity accurately and cost effectively*”.

In particular, the Audit recommended that such a study should provide the Environment Agency with a best practice framework which can be used to implement planning liaison objectives effectively and efficiently, and where possible, through the planning system.

The principal recommendations made by the Audit and other studies are set out below.

- (i) to assess quality and effectiveness as well as efficiency;
- (ii) to encourage pro-active involvement in the planning system;
- (iii) to ensure closer liaison between the Environment Agency and the Local Planning Authorities, particularly over forward planning;
- (iv) to clarify the responsibilities of the Environment Agency and the Local Planning Authorities over environment related planning issues;
- (v) to undertake analysis and review of response formats such as standard paragraphs, conditions and informatives;
- (vi) to ensure planning liaison staff have a thorough understanding of the planning system, through the provision of more training and closer liaison with local planning authority officers;
- (vii) to ensure consistency in a number of procedures and practices, in particular, responses to planning applications;
- (viii) to make greater use of the ‘visitor’ system where appropriate to enable improvements in efficiency;
- (ix) to increase the use of computerised packages to improve efficiency and effectiveness;
- (x) to improve relationships with private developers, with particular encouragement of pre-application discussions.

3. SURVEY OF LOCAL PLANNING AUTHORITIES

3.1 Introduction

As noted in Section 1, the research involved a questionnaire survey of ninety LPAs in England and Wales. The purpose of the questionnaire, as the first stage of the project, was to establish:

- (i) what local authorities require in terms of liaison with the Agency;
- (ii) the effectiveness of input to date by the Agency and its predecessors.

In designing the questionnaire we were mindful of the planning related activities where liaison with the Agency is likely to be required, and where this would further the aims of the Agency. To this end the questionnaire comprised the following sections:

- state of the environment/sustainability reporting;
- forward planning and development plan appraisal;
- development control.

A statistical analysis of the findings of the questionnaire survey of LPAs is included in the **Project Record** (W4/i702/1). The findings are summarised below under the headings used in the questionnaire.

3.2 State of the Environment Reporting/Sustainability Reporting

Since the late 1980s many local authorities have undertaken a considerable amount of work monitoring and reporting on the state of the local environment. This process is widely known as 'state of the environment reporting', although recently it has also been termed 'sustainability reporting', to include social and economic as well as environmental issues. It involves the identification of *indicators* which refer to the state of the environment, pressures upon it, or society's responses to the pressures. These indicators are used to measure performance in protecting and enhancing the environment.

The Environment Agency holds extensive data which can be used in this process, and has identified a range of indicators relating to the water environment. Much of the data will be incorporated in 'Local Environment Agency Plans' (LEAPS), which will supersede catchment management plans (CMPs), but will embrace waste and air quality issues as well as the water environment. The purpose of CMPs was to set out the NRA's aims and objectives for individual river catchments and establish a programme of action for realising them.

At the time of the survey one third of the authorities surveyed had completed state of the environment reports. All these authorities had contacted the Agency (or its predecessor authorities) as part of the process. However the contact was usually direct with the functions rather than the planning liaison officer. The survey suggested that this in large part a reflection of the type of information the authority required (i.e.

the logical point of contact for pollution information was the water quality officer or HMIP rather than planning liaison staff).

Perhaps a surprising finding is that authorities have made relatively little use of catchment management plans in the preparation of state of the environment reports. Of course this may be because a CMP was not available for the area concerned, nevertheless the finding is still a cause for concern given that one of the principal roles of CMPs (and the replacement LEAPs) is to disseminate information about the water environment.

3.3 Forward Planning and Development Plan Appraisal

3.3.1 Development Plan

The Environment Agency is a statutory consultee for development plans in accordance with the Town and Country Planning (Development Plans) Regulations 1991. As such it is consulted on draft development plans prepared by local planning authorities. To assist in this process, the National Rivers Authority (NRA) published 'Guidance Notes for LPAs on Methods for Protecting the Water Environment through Development Plans' in 1994.

Of the authorities surveyed, only half (52%) appear to have made use of the guidance notes in the preparation of their development plan, a disappointingly low percentage given the intention to assist local authorities in the interpretation of the NRA's functional interests. More encouraging is that of those authorities who used the guidance, a significant proportion found it useful. Only 13% indicated that it was not very useful, and 8% that it was inappropriate. The principal reason given to explain the latter is simply that the responsibility for planning policy formulation resides with the planning authority and not consultees.

With regard to development plan consultation, in almost every case the Agency responded within the specified time period. The most common subject for comment was the wording of policy, although policy omissions and site specific proposals also prompted a number of responses. In far fewer cases did the Agency see fit to question the general planning strategy set out in a development plan.

The authorities were asked to comment on whether the Agency's responses resulted in changes to a draft plan. In almost all cases the response did lead to changes (85%). The kinds of changes included re-wording of policy and text and the addition of new policies. A few authorities stated that the changes were very minor.

As with state of the environment reporting, a surprisingly small number of authorities made use of CMPs when preparing the development plan. Only 15% considered that CMPs provided useful background information for the formulation of planning policy.

Just over half (54%) of the authorities feel there are specific policy areas where additional guidance from the Agency would be useful. There is almost an exact correlation between these authorities and those which used the Guidance Notes referred to above. The general policy areas cited include pollution, flood risk, river corridors, waste management and groundwater quality, and the point was made that map based information as well as text is required.

3.3.2 Supplementary Planning Guidance and Planning Briefs

The involvement of the Agency in the preparation of non-statutory planning material is more restricted than with development plans. Indeed only 9% of authorities sought advice from the Agency when preparing supplementary planning guidance. The percentage rises to 36% in the case of planning briefs for individual sites.

3.3.3 Local Plan Inquires

Almost half the authorities (43%) indicated that the Agency had been involved in the local plan inquiry, primarily through written representation. In almost two thirds of the cases where this occurred, there were resultant modifications to the plan. Usually this involved policy wording, although other examples cited were the inclusion of areas at risk from flooding on the proposals map and the addition of a policy about watercourses and recreation.

3.3.4 Development Plan Appraisal

At the time of the survey just over half of the authorities had undertaken an environmental appraisal of their development plan, and of these most consulted the Agency or its predecessors.

3.4 Development Control

3.4.1 Pre-application Discussions

The survey confirmed that pre-application discussions with the Agency are seen as a very positive step for applicants to take. A significant number of authorities usually suggest such discussions to the applicant, and several authorities approach the Agency themselves for advice at the pre-application stage. It is also evident that pre-application discussions help to improve the quality of applications, albeit only half the authorities were able to record a reduction in the number of applications for inappropriate development with respect to the water environment.

3.4.2 Statutory Consultation on Planning Applications

To assist local planning authorities, each Agency Region has published a document which sets out the types of planning applications upon which it wishes to be consulted. Most authorities (87%) felt that the documents are easy to use. The main reason given by the authorities which found the documents difficult to use was that they are too long and detailed for everyday use. One authority commented that the document in its Region confuses legislation, Government guidance and Agency aspirations, and is consequently difficult to use. In some instances difficulties such as these are compounded by the Agency's staff lack of knowledge of the planning system (cited as problem by 32% of the authorities).

The responses received from the Agency are generally considered to be relevant to the planning decision making process, easy to use and contain sufficient detail, although some authorities commented that they are too detailed. Where the Agency recommends conditions to be attached to a planning permission if approved, 52% of authorities usually attach the conditions, a further third sometimes attach and 9% always adopt the Agency's recommendations. However, several authorities

commented that some of the conditions suggested by the Agency do not pass the tests in Circular 11/95.

A similar pattern emerges in respect of the informatives suggested by the Agency. The principal reason given for not including informatives with the decision notice is that they are not always relevant to the planning decision, primarily because they duplicate controls available via other legislation. One or two authorities commented that the informatives are unclear and some deal with trivial matters which fall outside the scope of planning.

The survey included a question to ascertain the weight given to the Agency's case in the event that it is the only objection. Although the question was considered a little ambiguous, since many authorities felt their reaction would vary according to the nature of the objection, 17% still stated they would always refuse planning permission if the Agency was the only objector. A further 57% said they would refuse permission provided the Agency was willing to support the authority at appeal.

3.4.3 Planning Appeals

The survey only revealed a handful of examples where the Agency had actually become involved in a planning inquiry, either through written representation or appearance at Inquiry. However, where this has occurred, it is evident that the Agency's input has influenced the recommendation of the Inspector.

3.4.4 Planning Obligations and Unilateral Undertakings

Approximately a quarter of the authorities indicated that consultation with the Agency during the development control process had resulted in involvement in negotiating a planning obligation or unilateral undertaking. Most of the examples given relate to the provision of flood defence measures.

3.5 Summary

The questionnaire survey of LPAs provided useful information about current levels of efficiency and effectiveness achieved by the Agency in its planning liaison activities. Generally the message appears to be that each Region is meeting its statutory requirements with respect to town and country planning, albeit one or two matters of concern have been highlighted (e.g. failure of conditions to pass the six tests, inappropriate wording of policy, etc.). However the position is less positive with respect to activities which might be defined as being over and above the statutory minimum. For example, the Agency's role in state of the environment reporting is still relatively limited and CMPs/LEAPs are yet to have a significant impact on the planning system. This is a matter for concern given the Agency's remit to contribute to achieving sustainable development in accordance with the Environment Act.

4. EVALUATING BEST PRACTICE

4.1 Introduction

Against what criteria should best practice be defined? This was a key question for the research. It was concluded that best practice should reflect two main factors:

- (i) the role of the Environment Agency in relation to local planning authorities, including the objectives the Agency has set for planning liaison, and taking account of resource constraints;
- (ii) local planning authorities' requirements for liaison with the Environment Agency.

4.2 The role of the Environment Agency in relation to local planning authorities

4.2.1 The Agency's statutory responsibilities

The Agency was created by the Environment Act 1995. It has responsibilities for controlling industrial pollution and wastes and managing and regulating the water environment. In establishing the Environment Agency the Government anticipated that a single national Agency will provide the opportunity for more coherent and integrated environmental protection and enhancement, and for a more streamlined service to industry and the public. The Agency's vision is of '*a better environment in England and Wales for present and future generations*' to be achieved by effective regulation and by working with and influencing others.

Although the Agency operates within an extensive regulatory framework, its ability to control development and land use change is limited. The Agency must therefore depend on planning legislation, guidance and policy to mitigate the adverse environmental effects of development. The planning process also provides opportunities to achieve environmental enhancement.

In recognition of the Agency's limited powers to control development and land use change it is appointed as a statutory consultee of local planning authorities. The statutory requirements for consultation are set out below.

Consultation on:	Legislative requirement for consultation
Development Plans	The Town and Country Planning (Development Plan) Regulations 1991 require LPAs to consult the Environment Agency on development plans at the pre-deposit (consultation) stage.
Planning Applications	Article 10 of The Town and Country Planning (General Development Procedure) Order 1995 requires LPAs to consult the Environment Agency on certain planning applications. The Planning (Hazardous Substances) Regulations

	1992 requires LPAs to consult the Environment Agency on applications for hazardous substances consent.
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The statutory requirements for consultation are explained in Government guidance; for example, PPG 12, PPG 23, and Appendix B to DoE circular 9/95 (Welsh Office Circular 29/95). In addition to statutory consultation, the Agency can respond, like any other organisation, to consultation on draft Planning Policy Guidance notes, Regional Planning Guidance notes, and draft development plans.

4.2.2 Memorandum of Understanding

In response to a request from Government, the Agency has agreed, with local authority associations, a 'Memorandum of Understanding', governing its relations with local authorities. The Memorandum, signed on 14 February 1997, states that:

'Both sides recognise the importance of consultation at all levels of activity - nationally on matters of mutual interest and concern, and locally over the discharge of functions affecting the community. Both sides commit themselves to the principle of consultation in its widest sense, both formally and informally, not solely in accordance with statutory requirements but as a matter of course on any issue which significantly affects the interests of another, and to an appropriate, timely and careful consideration of any representation made by another.'

4.2.3 Sustainable Development

The principle of consultation should also be seen in the context of the legislative framework for the Agency's contribution to sustainable development. Section 4 of the Environment Act 1995 states that the principal aim of the Agency is:

"...in discharging its functions the Agency is required so to protect or enhance the environment, taken as a whole, as to make the contribution that Ministers consider appropriate towards achieving sustainable development".

In its statutory guidance to the Agency under Section 4 of the Act, issued on 7th November 1996, the Government indicated that the Agency should, amongst other things:

- *'work with all relevant sectors of society, including regulated organisations, to develop approaches which deliver environmental requirements and goals without imposing excessive costs (in relation to benefits gained) on regulated organisations or society as a whole;*
- *adopt clear and effective procedures for serving its customers, including by developing single points of contact through which regulated organisations can deal with the Agency;*

- *organise its activities in ways which reflect good environmental and management practice and provide value for money for those who pay its charges and taxpayers as a whole;*
- *develop close and responsive relationships with the public, local authorities and other representatives of local communities, and regulated organisations. ”*

These objectives underline the importance of efficient and effective liaison with local planning authorities.

4.2.4 Objectives of planning liaison

At the time of writing this report the Agency was in the process of formulating aims and objectives for planning liaison which seek to reflect the Government’s guidance. The draft aim is:

‘To effectively influence central and local government through the Town & Country Planning framework to protect and enhance the environment and achieve sustainable development in accordance with the Environment Agency’s objectives’.

The supporting objectives are as follows:

1. *To influence and advise Government to ensure that new and revised planning legislation, and National and Regional Planning Guidance reflect the responsibilities of the Environment Agency.*
2. *To ensure that the Environment Agency’s responsibilities are represented in Local Authority Development Plans.*
3. *To influence development proposals to ensure protection and enhancement of the environment.*
4. *To lead the development of policy to further the aims of the Environment Agency through the planning system.*
5. *To influence internal strategies and policies to ensure that proper account is taken of planning related issues.*
6. *To be pro-active in relationships with customers, influencing and co-operating with external organisations and internal functions.*
7. *To maintain effective links with LPAs and improve the understanding of each others’ role within the planning system.*

4.3 What do LPAs want from liaison with the Agency?

The questionnaire survey and subsequent discussions with planning officers revealed that most LPAs have great expectations of the Environment Agency. This appeared to be a reflection of:

- (i) the view amongst LPAs that the Agency can help them to fulfil their own statutory duties and objectives, particularly with regard to ensuring that development and land use change is environmentally sustainable;
- (ii) a concern that the Agency's predecessors, particularly HMIP, were less than effective in their contributions to the planning process.

LPAs' requirements for liaison with the Agency vary between authorities and over time, depending largely upon the authority's perception of what the Agency can contribute. Nonetheless, the scope of what LPAs need from the Agency is clearly expanding, to assist them in tackling the broader environmental agenda which has been set by Government.

In addition to statutory consultation on development plans and planning applications, LPAs require the Agency's input to non-statutory plans (including planning briefs for specific sites); projects, such as countryside management projects; and environmental appraisals of development plans. They also increasingly require the Agency's involvement in state of the environment reporting, the identification of sustainability indicators, and the preparation of Local Agenda 21 strategies.

For such a range of issues it is difficult to define best practice. However, a number of recurring themes were apparent from discussions with planning officers. These include the need for:

- **good rapport and clear lines of communication.** This means engendering good working relationships with local planning authority officers, providing single points of contact, and seeking to develop an understanding of the Agency's remit;
- **timeliness.** Responses to development plans and planning applications should be made within the specified period, and other inputs should be as early as possible;
- **conciseness and relevance.** Information provided by the Agency should be concise, in a form that is useful to the local planning authority, and relevant to matter in question. Agency responses to planning applications should display an awareness of the site/context and be relevant to the planning decision.
- **consistency.** Agency inputs should be consistent over time and between Regions.

5. OVERVIEW OF PLANNING LIAISON

5.1 Introduction

In the light of the preceding sections, the remainder of the report develops a model of best practice in planning liaison. The model is divided into three parts, presented as sections 5, 6, and 7 of the report. The issues addressed by the model are summarised below.

Section 5 (this section) provides an overview of planning liaison activity, and addresses the following issues:

- the objectives and scope of liaison;
- management and organisation of liaison;
- education and training of Environment Agency staff;
- rapport with local planning authorities;
- rapport with the development community;
- the use of information technology (IT).

Section 6 addresses the Agency's approach to forward planning, including:

- national policy;
- regional policy;
- development plans;
- internal consultation.

Section 7 addresses the Agency's approach to development control, including:

- pre-application discussions;
- the scope of consultation;
- responding to planning applications;
- internal consultation;
- monitoring of effectiveness.

Within each section, we describe how the issues are currently addressed by the Agency and make recommendations about how to move towards best practice. As noted in section 1, the recommendations are aimed at the NPLG, on the basis that the Group is best placed to effect changes in the Regions.

5.2 The objectives and scope of planning liaison

Whilst the Environment Agency has certain regulatory powers it must rely heavily on the planning system to protect or enhance many of its interests. The objective of planning liaison should therefore be to influence the planning process, to ensure that the Agency's interests are reflected as far as possible.

However, the Agency should seek to ensure that the planning system complements the regulatory role of the Agency, rather than duplicates it. The Government has stressed the need to avoid duplication between statutory controls and planning provisions. PPG 1 (General Policy and Principles) states that:

'Planning legislation should not normally be used to secure objectives achievable under other legislation. This principle of non-duplication should be maintained even though the powers and duties resulting from the other legislation may also be the concern of local authorities'(para. C3).

As noted in section 4, the Agency's Head Office has defined a draft aim and objectives for planning liaison. The Agency's document 'Environment Agency Liaison with Local Planning Authorities', dated 21 February 1997, also explains the role of the Agency and its contribution to the land use planning system in England and Wales.

A clearly defined and agreed set of objectives is a fundamental requirement for any system to work effectively.

Recommendation 5.1

The NPLG should finalise the aim and objectives for planning liaison as soon as possible, making clear that planning liaison should not seek to duplicate the Agency's or local planning authorities' powers, and ensure that the Regions work towards them.

The main focus of the Agency's planning liaison activity is on development plans and planning applications. However, LPAs are increasingly seeking Agency involvement in other planning-related initiatives. These include: bids for European funding in relation to Objective 1 and Objective 2 status areas; transport policies and programmes; AONB management plans; Countryside Stewardship applications; Woodland Grant schemes; and afforestation proposals. The Agency's involvement is also sought in relation to state of the environment reporting and, in some areas, Local Agenda 21 initiatives, which have implications beyond land use planning.

There is little consistency between the Regions in the way that they respond to, or get involved in, these initiatives. In particular there is variation in the extent of the involvement of planning liaison staff, as opposed to the Functions.

Recommendation 5.2

NPLG should ensure that planning liaison is identified as the first point of contact for local planning authorities with respect to all planning and associated environmental initiatives.

5.3 Management and organisation of planning liaison

Whilst it is intended to perform an independent, 'cross-functional' role, planning liaison in the Regions is generally affiliated with one of the Functions. In Thames and Anglian Regions, for example, planning liaison is affiliated with the Flood Defence Function. In the Midlands and North West Regions, where planning liaison forms part of Corporate and Legal Services, greater independence is achieved. The locus of planning liaison is significant, insofar as it affects the way in which people, both within and outside the organisation, perceive its role.

Recommendation 5.3

NPLG should take steps to ensure that planning liaison is separated from the core functions, to facilitate a consistent, cross-functional, and independent role.

Closely related to the locus of planning liaison within the organisation is the Functions' perception of the role of planning liaison, and vice versa. At present the general view is that planning liaison is an agent for the Functions, since it helps to further their objectives through the planning system. Despite this, the Functions are not generally appraised of what planning liaison can achieve, and do not attach a high priority to internal consultation on planning applications. They also often do not provide information in a form which is useful for planning liaison purposes (for example information should be provided in relation to local authority, as opposed to catchment boundaries).

To overcome this problem, the status of planning liaison in the organisation needs to be raised. This could be done in two ways. First, by demonstrating to the core Functions the value of planning liaison activity, for example its role in reducing the need for costly remedial measures after development has taken place. Second, by ensuring that planning liaison staff in the Regional and Area offices form part of the management team responsible directly to the Regional and Area Managers, respectively.

Recommendation 5.4

The NPLG should seek to raise the profile of planning liaison within the organisation, for example by demonstrating to the core functions the benefits of influencing development at the planning stage.

5.4 Education and training of Environment Agency staff

Effective liaison between the Agency and LPAs depends considerably upon the level of understanding that each has of the other's role. It is particularly important for the Agency's planning liaison staff to have a thorough understanding of the planning system. This is a message that was reinforced in the discussions with local planning authorities. From the Agency's perspective it is also critical that planning liaison staff understand the Agency's responsibilities and activities to enable them to represent the full range of interests.

From discussions with LPAs it would appear that the broad areas of expertise required of the Agency's planning liaison officers include the following:

- how the planning system operates at the national, regional and local levels;
- the interface between planning and pollution controls;
- the role of the Agency as a statutory consultee on development plans and certain planning applications;
- what is and what is not a material planning consideration;
- in the light of the above, what is a legitimate planning condition and informative.

Many planning liaison officers hold some or all of this knowledge, others do not. Of those who do, the expertise has not always been learned through formal training in planning; rather it has been acquired through many years of experience in planning liaison. This has the advantage that planning expertise is gained concurrently with experience of the Agency's business. Indeed, there are few qualified planners employed by the Agency; the majority of planning liaison staff are civil or structural engineers. A notable exception is the Thames Region, which now employs at least 12 qualified planners. Here, and also in other regions, many planning liaison staff are attending planning courses, on a day release or similar basis.

Clearly, there are a number of 'routes' by which an officer can acquire the planning expertise outlined above. For this reason, best practice should not be overly prescriptive. However, it would be beneficial for the Agency's planning liaison staff to acquire a level of expertise in planning and, where possible, to obtain professional qualifications (membership of the Royal Town Planning Institute).

Recommendation 5.5

The NPLG should encourage planning liaison staff to acquire the expertise outlined above, and where possible to work towards formal planning qualifications.

5.5 Rapport with local planning authorities

Good rapport with LPAs is essential for effective planning liaison. The quality of rapport depends to some extent on the relationships that develop between individuals in different organisations. At the very least it would appear that local authority planners and elected members are likely to be receptive to the Agency's concerns if:

- (i) they understand the role and Functions of the Agency (a relatively new organisation);
- (ii) they know who to contact in the Agency regarding development plans, planning applications and other relevant matters; and
- (iii) they are given the opportunity to provide regular feedback to the Environment Agency.

It is early days to assess the level of rapport between the Agency and local authorities; however, lessons can be learnt from local authorities' views of the Agency's predecessor organisations. Generally speaking, the NRA appears to have achieved good rapport in terms of the criteria outlined above, although this was generally confined to officials rather than elected members. The Waste Regulation Authorities also achieved good rapport, partly because they often shared offices with local authority planners. The rapport between HMIP and local authorities tended to be less good; HMIP was perceived to be a 'remote' organisation, which defined a limited role for itself in relation to the planning system.

The Agency's current approach to achieving rapport with local authorities varies between the Regions. Some Regions, notably the Thames Region, have continued with a pro-active, NRA style, approach, involving regular liaison meetings regarding forward planning and attendance at development control fora. Others are more reactive, either because they consider rapport to be good, or because they do not have the resources to engage more actively in liaison with local authorities.

Regions which operate the 'visitor' system for consultation on planning applications generally take the view that, by its very nature, the system helps to achieve good rapport with local planning authorities. This perception was not borne out by the discussions with local authorities, who suggested that one effect of the visitor system is to reduce the need for local authority officers to *understand* the concerns of the Agency, because agency staff retain all responsibility for the consultation process.

It is timely for the Agency to seek to build rapport with local planning authorities, since many local planning authorities, particularly those recently established as result of local government reorganisation, are unclear as to its role and Functions.

Recommendation 5.6

The NPLG should encourage the Area planning liaison officers to hold regular meetings with local authority planning officers, with a view to appraising them of the Agency's concerns. Following guidance from local authority officers, it would also be appropriate from time to time to make a presentation to local authority elected members to develop their understanding of the Agency's concerns.

5.6 Rapport with the development community

Planning liaison is a three-way process, involving developers, local planning authorities and the Agency. With respect to certain major, or sensitive planning applications, considerable benefits can flow from early liaison between the Agency and developers. From the Agency's point of view, early discussions about a strategy or site specific proposal can help to ensure that its concerns are reflected at the concept, or pre-design, stage, rather than at the planning application stage. This can save a developer time and money and, most importantly, help to increase the chances of obtaining planning permission.

Some Regions hold regular (annual) meetings with the House Builders' Federation (HBF) with a view mainly to discussing how the Agency's concerns can be addressed in new housing development. Discussions about more strategic issues, such as where development should be located, are more limited. Rapport with individual developers tends to be more reactive, and is built up in response to particular developments.

Some Regions, such as Thames, have been more pro-active and organised seminars with developers and agents to discuss particular issues which may not otherwise be understood. Recently, for example, a seminar was held to discuss the issue of development on the Thames Tideway. Such initiatives have been complemented at the national level by the Agency's participation in conferences.

Recommendation 5.7

The NPLG should seek to enhance rapport between the Regional / Area offices and the development community, by liaising regularly with representative organisations (e.g. HBF), organising seminars regarding particular issues, and attending conferences.

5.7 The use of information technology

The use of information technology can help to ensure that planning liaison is more efficient and effective. All the Regions currently use some form of PC-based system, such as CAMS or PLS, to generate responses to planning applications and to store information. The former NRA undertook numerous studies of the need for, and potential specifications of a Geographical Information System (GIS) to facilitate planning liaison. With the exception of planning liaison in the Anglian Region, however, none of the Regions uses a GIS.

The unanimous and strong view amongst the Regions is that a GIS would increase the effectiveness of liaison with LPAs. They suggest that it would help to provide fuller, more accurate and robust responses to development plans and planning applications and ensure greater consistency between these two principal areas of activity. There is also a view that GIS would help the Agency to be more pro-active in its involvement in state of the environment reporting, the monitoring of sustainability indicators, and Local Agenda 21 initiatives.

These views were echoed by a number of LPAs, many of which are developing their own use of IT. In due course, there will be opportunities to form stronger links with LPAs using IT; for example by means of a shared GIS which identifies the concerns of the Agency.

Recommendation 5.8

The NPLG should seek to develop and standardise the use of IT by the Regions, and investigate the opportunities for sharing IT capabilities, notably GIS, with local planning authorities.

6. APPROACH TO FORWARD PLANNING

6.1 Introduction

This part of the model seeks to develop best practice with respect to forward planning. Forward planning is a generic term used to describe the process of policy and plan formulation at the national, regional and local level. Since policies and plans provide the context for the consideration of planning applications, it is critical that the Environment Agency influences the forward planning process.

6.2 National policy

Planning Policy Guidance (PPG) notes and Mineral Planning Guidance (MPG) notes, together with Circulars, are the principal source of guidance to LPAs and others on the policies and operation of the planning system.

LPAs must take PPGs and MPGs into account when preparing development plans (and Mineral Local Plans) and deciding on planning applications. It is therefore critical for the Agency to be involved in these levels of policy formulation. Regional Planning Guidance (RPG) notes have a similar status as PPGs; these are discussed below.

Responses to draft guidance are made by the NPLG in consultation with the Functions where appropriate. The NRA achieved some success in ensuring that its interests were reflected at this level of policy, and the inception of the Agency appears to have prompted Government to clarify the role of the Agency with respect to the planning system. The consultation draft of the revision to PPG 23 (Planning and Pollution Control) on waste issues (1996), for example, emphasises the need for liaison between local planning authorities and the Environment Agency in applying the BPEO principle.

However, there remains scope to improve the guidance to planning authorities on how to reflect environmental and pollution control considerations in development plans and in decisions on planning applications. There is also a need to ensure that guidance explains fully the role of the Agency as a statutory consultee, and that cross references are made to the statutory guidance to the Agency on sustainable development.

Recommendation 6.1

The NPLG should adopt a more pro-active approach towards the formulation of Government policy, to ensure that the Agency's interests are fully reflected, the role of consultation is explained, and that cross references are made to the statutory guidance to the Agency on sustainable development. This will involve regular liaison with the Department of the Environment.

6.3 Regional policy

Regional Planning Guidance (RPG) is issued by the Secretary of State following the submission of advice by the regional planning conferences. There is now full coverage of RPG, but the Government intends to ensure that RPG is revised by 1999. The regional planning conferences are therefore engaged in preparing advice on revised guidance.

Inputs to the regional planning process are made by the Agency's Regional offices in consultation with the Areas. The Agency's input has generally been reactive, responding to consultation by the regional planning conferences or to draft RPG. In some Regions the results have often been extremely valuable to the process of planning liaison; for example RPG for the South East (RPG9), includes references to the water environment and the need for protection of floodplains. This approach has been supported, in the Thames Region, by a document entitled 'Thames 21-a planning perspective and a sustainable strategy for the Thames Region', which provides a summary of the likely 'pressure points' in the Region where the Agency interests converge.

There is a significant opportunity for the Agency to take a more pro-active stance towards the formulation of RPG, for example through involvement with the regional planning conferences in the preparation of advice on revised RPG. In the Southwest Region, for example, the Regional Planning Services Manager is a member of the officer level sub-groups addressing the overall strategy and environmental issues. To be effective at the regional level, the Agency needs to develop a coherent set of policies, supported by appropriate constraints maps.

Recommendation 6.2

The NPLG should encourage Regional Planning Liaison Managers (or equivalents) to seek to influence the preparation of advice on revised RPG, through full membership of regional planning conferences, on the basis of a coherent set of policies for each region supported by appropriate constraints maps.

A discrete and important element of regional policy relates to the planning for the supply of aggregates. This involves the regional interpretation of national demand projections, as guidelines for development plan provision and the operation of landbanks. The National Co-ordinating Group (NCG), in consultation with the Regional Aggregates Working Parties (RAWPS), is responsible for preparing Regional guidelines that are then translated into apportionments for each Mineral Planning Authority (County and Unitary Authorities). The NCG and the RAWPS draw their membership from central and local government and the minerals industry.

A perceived weakness of the current system is the exclusion of environmental interest groups from the NCG and RAWPS. In view of the significance of the mineral planning process to the Environment Agency it would be appropriate for the Agency to represent its views in these fora.

Recommendation 6.3

The NPLG should seek to ensure representation on the National Co-ordinating Group and encourage Regional Planning Liaison Managers (or equivalents) to influence the preparation of Regional Commentaries through representation on the Regional Aggregates Working Parties.

6.4 **Development plans**

6.4.1 **At what stage and why should the Agency make inputs to development plans?**

The Agency is a statutory consultee on pre-deposit drafts of development plans prepared by local planning authorities. However, the Agency can make an input to the formulation of development plans at any stage. This includes the pre-deposit (consultation) and deposit stages, the development plan inquiry itself (to follow through objections and scrutinise counter objections to the plan), and the proposed modifications. It is important that, following 'pre-plan' discussions with LPAs, the Agency gets involved in all stages of development plan preparation and is consistent in the arguments that are put forward.

Development plans have always been an integral part of the town and country planning system. They provide a rational and democratic framework for deciding on planning applications in the public interest. The status of development plans has been made more prominent by Section 54A of the Town and Country Planning Act. This requires that planning applications or appeals should be determined in accordance with the development plan, unless material considerations indicate otherwise. In effect, this introduced a general presumption in favour of development which is in accordance with the development plan. This underlines the importance of the Agency's involvement in the development plan process.

Recommendation 6.4

The NPLG should urge the Regions to engage in pre-plan discussions with LPAs and to scrutinise development plans at all stages (pre-deposit and deposit stages, the development plan inquiry and proposed modifications) to ensure that any previous representations have been taken into account, and to check whether any changes to the plan require a response from the Agency.

The Government is currently consulting on options for changes to the process by which LPAs prepare and adopt District or Borough wide local plans and Unitary Development Plans. The aim is to speed up the process and make it more cost-effective. The possible changes identified include the imposition of time limits for different stages in plan preparation, a two-stage deposit process, the replacement of the right for objections to be heard for a right for them to be considered, the adoption of the EIP type procedure for all or part of an inquiry, and the making of Inspector's recommendations binding.

Recommendation 6.5

The NPLG should monitor progress with the review of the development plan system and consider the implications for planning liaison.

6.4.2 Form and content of responses

LPAs generally invite comments on a draft development plan to be submitted on a pro-forma. This helps authorities to identify readily the number of comments relating to each policy or proposal and whether the comments are supportive or constitute an objection.

LPAs prefer responses to be as brief as possible and concentrate on the issues that are relevant to planning. It is not appropriate, for example, to include extensive technical data nor information which is of no relevance to land use planning. On the other hand, LPAs expect Agency responses to be fully justified, for example with reference to relevant legislation and policy guidance. To this end the 'Planning Policy Checklist for Development Plans'¹, currently being prepared by the Thames Region, will provide a useful tool for planning liaison officers.

The effectiveness of Agency responses to development plans varies widely, depending on the quality of the response and the approach of the recipient local planning authority. Most responses cover the following: general planning strategy; wording of policy; policy justification; policy omissions; and site specific proposals. Whilst this approach is generally welcomed by LPAs, they considered that the effectiveness of Agency responses is reduced by the inclusion of information that is not relevant to planning, not relevant to the context, or overly prescriptive.

There is evidence that the 'Guidance Notes for LPAs on Methods of Protecting the Water Environment through Development Plans', issued by the NRA in January 1994 have helped to increase the effectiveness (and consistency) of Agency responses. In particular, they have helped to identify policy omissions in plans. However, some LPAs suggested that the Guidance Notes are too prescriptive in terms of the policy statements they advocate, and are sometimes applied without sufficient consideration of the plan area. This suggests that the Guidance Notes should be used in conjunction with the relevant LEAP, which should set out the issues of concern within the catchments concerned.

LPAs also commented that Agency responses encourage the inclusion of policies that may not be defensible at inquiry. For example, it may be difficult to defend a policy which cannot be enforced because the information is not available for the area or site concerned, or because the policy objective can be achieved by means of the Agency's own powers.

¹ This document will be an update of the NRA Thames Region's 'Planning Policy Checklist for Structure and Local Plans', prepared by Land Use Consultants in October 1994.

It was also suggested that the Agency sometimes expects authorities to adopt a ‘belt and braces’ approach, when a belt alone would do the job. For example, LPAs referred to occasions where the Agency was seeking to ensure coverage of land drainage or water environment issues in policies about the provision of affordable housing, when a general policy protecting its interests was already in place.

Recommendation 6.6

The NPLG should seek to ensure that:

- (i) Agency responses are submitted in accordance with the requirements of LPAs;**
- (ii) Agency responses refer, where relevant, to significant policy omissions; object to policies which conflict with the Agency’s interests; and support policies which reflect the Agency’s interests;**
- (iii) Agency responses are justified with reference to relevant legislation, guidance, and Local Environment Agency Plans;**
- (iv) in consultation with Planning Officers’ Societies, the Guidance Notes for LPAs:**
 - are updated to incorporate IPC, RAS and WRA concerns;**
 - are produced in a loose leaf format which would allow the Agency to be selective in the Guidance that it provides to Authorities, and to omit policy guidance which is not relevant; and**
 - set out the Agency’s concerns supported by statements of justification, rather than a ‘model policy’.**

6.4.3 Treatment of development plan proposals

In addition to policies for the control of development, local plans set out proposals for the development and use of land and allocate land for specific purposes. The latter include proposals to meet identified needs for new housing and employment areas, and for the redevelopment of sites which are derelict or underused. PPG2, for example, requires LPAs to formulate proposals for ‘major developed sites’ in the Green Belt.

The Agency’s response to development plan proposals varies between the Regions. Some Regions treat proposals as if they are outline planning applications and therefore provide a detailed response. This may include commenting on a draft planning brief prepared by the LPA. Thames Region has taken this approach one step further and has undertaken ‘site specific studies’, covering the Agency’s full range of interests. The Region has submitted these to the LPA either before the authority’s proposals are formulated, or in support of the Agency’s response to a draft development plan.

Recommendation 6.7

The NPLG should encourage planning liaison officers to scrutinise carefully proposals contained in development plans, with a view to objecting to those that adversely affect the Agency’s interests. For large sites, or proposals that affect a number of the Agency’s interests, site specific studies should be undertaken to assist the liaison process.

6.4.4 Internal Consultation

It is clearly important for the Agency's responses to be integrated, reflecting its full range of interests. Responses should also be internally consistent, so that a clear view is provided to the local planning authority of the Agency's concerns.

To this end, all Regions consult internally with the core Functions before preparing a response to a development plan. The most widely used procedure is for a planning liaison officer to copy relevant sections of a plan to the Functions for their comments. Written comments are collated by the planning liaison officer who then prepares a response.

In some Regions the planning liaison officer reviews the plan to 'scope' the main issues to be addressed by the principal Functions; this helps to focus more quickly on the important issues. Where internal conflicts exist, for example the interests of one Function against another, the planning liaison officer seeks to resolve these in consultation with the relevant Functions.

In the Welsh Region the planning liaison officers convene a round-table meeting with all the Functions to discuss the issues arising from a development plan and resolve any internal conflicts. It also allows the officers from each Function to hear the concerns of other Functions, which is a valuable educational exercise.

Recommendation 6.8

To reflect these elements of good practice the NPLG should advocate the following procedures for internal consultation on development plans. The Area planning liaison officer should:

- (i) review the plan to identify the appropriate range of internal consultees;**
- (ii) circulate the plan, or relevant parts of it, together with a brief scoping report of the principal issues, to internal consultees, asking them to prepare a draft response within two weeks;**
- (iii) convene a meeting to discuss the overall response.**

7. APPROACH TO DEVELOPMENT CONTROL

7.1 Introduction

This part of the model seeks to develop best practice in relation to development control. Development control refers to the process by which planning applications are determined by local planning authorities or the Secretary of State for the Environment.

7.2 Pre-application discussions

Considerable benefits can flow from the Agency's involvement in discussions with a developer (and the LPA) prior to the submission of a planning application. These benefits include:

- a reduction in the number of inappropriate, environmentally damaging applications;
- improvements in the quality of applications, resulting from the identification of the need for mitigation measures, and opportunities for enhancement, at the earliest stage;
- a reduction in the Agency's response time when formal consultation is undertaken by the LPA.

Whilst these potential benefits are widely recognised by planning liaison staff, the level of involvement varies considerably between Regions. The South West Region indicated that around 40% of planning liaison staff time is spent in pre-application discussions, while in the Midlands and North East Regions it was suggested that less than 5% of time is spent in this way.

Involvement in pre-application discussions in some Regions appears to be reduced by uncertainty about the need to charge for information (which relates to the definition of a pre-application discussion) and the perception that such discussions are not reflected in the performance of planning liaison. Some Regions also suggested that they have yet to find a mechanism which encourages developers to contact the Agency before or at the same time as the LPA.

Recommendation 7.1

NPLG should encourage the Areas to explain to LPAs why the Agency wishes to participate in pre-application discussions and when they may be appropriate.

Recommendation 7.2

NPLG should seek to ensure that the Areas adopt a more consistent approach to involvement in pre-application discussions.

7.3 The system for consultation on planning applications

As noted in section 4, the Agency is appointed as a statutory consultee of LPAs with respect to certain planning applications. It is clearly important for the Agency to ensure that it is consulted on all applications that may affect its interests. At the same time it should have regard to its own, as well as LPAs' resources, by confining consultation to the minimum necessary.

To facilitate this the Agency has produced a schedule of 'developments requiring Agency consultation', which lists the types of planning application upon which it wishes to be consulted (including those upon which LPAs are statutorily required to consult), together with a justification.

Two different systems for screening and responding to planning applications are currently used by the Area offices: the 'visitor system' and the 'postal system'. The Anglian Region operates the visitor system. The Thames, North East, Southern, Midlands and Welsh Regions operate the postal system. The North West and South West Regions operate the visitor system in some Areas and the postal system in others.

7.3.1 Operation of the postal system

The postal system relies on LPAs sending relevant applications to the Agency's Area office, in accordance with the schedule of planning applications referred to above. As a 'backstop' measure, the Agency asks LPAs to send them the weekly list of planning applications. In the North West Region the Area offices rely solely on the weekly lists of planning applications which they return with an indication of those applications they wish to see. Following receipt of applications and internal consultation, the planning liaison officer produces a response.

7.3.2 Operation of the visitor system

The visitor system requires a planning liaison officer, or 'visitor', to go to each local authority in his/her defined area and identify those applications on the planning register that require an Agency response. The visitor has a detailed set of guidelines, generally known as constraints guidance, which he/she uses to determine whether an application requires an Agency response. The visitor then provides a response to applications which he/she can respond to at the local planning authority office by using standard paragraphs. If the visitor considers that the Agency should object to the application, or is unsure of the appropriate Agency response, the application is referred back to the Area office to be circulated to the relevant Functions (about 10-20% of applications are referred to the Area office for internal consultation). The planning liaison officer then prepares a response.

It is apparent that the postal and visitor systems are distinctly different in the way that they operate. However, both systems are seeking to provide an efficient way of responding to planning applications, and to satisfy the requirements of both the LPAs and the Agency.

An assessment of the advantages and disadvantages of the postal and visitor systems is included in the Project Record. This suggests that, while the visitor system enables the Agency to review, and respond to planning applications relatively quickly, it is resource intensive and places considerable responsibility on the shoulders of the 'visitor'. Perhaps most importantly, the quality of the responses is sometimes diminished by the more limited internal consultation that the system necessarily involves, and the more limited use of cross-references to development plans (see below: *consistency and continuity*). These 'qualitative' issues are not reflected in the national planning liaison statistics, which refer only to the number of planning applications which each Region has reviewed.

Recommendation 7.3

The NPLG should review the operation of the visitor and postal systems for responding to planning applications, taking account of the assessment undertaken as part of this research.

Recommendation 7.4

The NPLG should ensure that the national planning liaison statistics take account of the different nature of the postal and visitor systems.

7.4 Responding to planning applications

7.4.1 Timing

There is no fixed period within which the Agency is required to respond to planning applications. The Memorandum of Understanding indicates that consultation should proceed in accordance with the relevant delegation arrangements for the Agency and each local authority.

LPAs should not determine applications, however, within 14 days of consulting the Agency and other statutory consultees. For more complex planning applications this response time will not be feasible. It is also likely that the local planning authority itself will take longer than the statutory 8 weeks to determine the application (16 weeks if accompanied by an environmental statement).

Recommendation 7.5

The NPLG should seek to ensure that Areas make best endeavours to respond to planning applications within 14 days, where possible. For responses that are likely to take longer than 14 days, the Area office should indicate to the local planning authority within one week of receiving an application, the anticipated timescale for responding.

7.4.2 Quality of response

The Agency makes extensive use of standard paragraphs in responses to planning applications. The use of standard paragraphs is perceived by Regional planning liaison staff to be essential for cost effective planning liaison. The standard paragraphs are designed to cover a wide range of potential responses, including comments on a planning application, objections to an application, recommended conditions to be attached to a planning permission and informatives to be included in a decision notice.

As noted elsewhere, effectiveness is about quality rather than quantity. From the Agency's perspective a high quality response should meet its own objectives, while from the LPA's perspective it should, above all, be relevant to the planning decision, relevant to the site/context, consistent in all respects, and clear.

Relevance to planning

A number of LPAs expressed concern about the relevance of the Agency's responses to the planning decision. Indeed more than half of those responding to the questionnaire suggested that Agency responses were 'sometimes' or 'rarely' a material planning consideration. One local authority planning officer indicated that his authority disregards 90% of the Agency's responses to planning applications.

The problem appears to relate to a two main factors:

- (i) responses sometimes include extensive information about Agency's own statutory requirements or other concerns which, whilst important, cannot influence the planning decision;
- (ii) where planning conditions are recommended by the Agency, they do not always meet the six 'tests' set out in Circular 11/95 that conditions should be 'necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise, and reasonable in all other respects'.

Recommendation 7.6

The NPLG should ensure that Agency responses to planning applications separate comments on the planning application from the information about the statutory and other requirements that a developer must meet. The latter should be referred to as 'informatives', which the local planning authority may or may not include in the decision letter.

Recommendation 7.7

The NPLG should ensure that the validity of the planning conditions set out in the Agency's standard paragraphs are checked against Circular 11/95 by a competent planning lawyer.

Relevance to the site/context

Some local planning authorities indicated that Agency responses do not always display an awareness of the site or its context, which tends to undermine the credibility of the response. Whilst it is recognised that standard paragraphs help provide the Agency with a means of responding quickly and effectively to the vast majority of planning applications upon which it is consulted, they must be used carefully to ensure relevance to the site/context.

Recommendation 7.8

As a quality assurance measure, the NPLG should advocate that letters in response to planning applications are checked to ensure, amongst other things, relevance to the site/context.

Consistency and continuity

The Agency's responses are likely to carry more weight in the decision-making process if they are consistent with, and include cross references to, the Agency's policies. Responses should also be consistent with the Agency's representations on the relevant development plan (and the development plan itself); and consistent with one another (both within and beyond the Region).

It is also important for continuity to be achieved between different stages in the planning process. For example, if an objection is made at the outline planning application stage, it should be sustained at the detailed planning application stage (unless the cause of the objection has been addressed). Where planning permission is refused, and the Agency's objection forms part of the grounds for refusal, the Agency should be prepared to support the LPA at a Section 78 inquiry, in the event of the applicant appealing to the Secretary of State. Ideally, this should rarely occur because every effort should be made to resolve objections at an early stage.

Recommendation 7.9

The NPLG should advocate that responses to planning applications are supported, where possible, by Environment Agency policies. Responses should also be supported by relevant development plan policies.

Recommendation 7.10

The NPLG should advocate that the Agency's position with respect to individual planning applications is adhered to throughout the planning process. If the Agency has objections which cannot be resolved through negotiation, they should be sustained at Section 78 inquiries if necessary.

7.5 Monitoring of effectiveness

Monitoring is an important part of any system: it ensures that effectiveness can be reviewed. At present, little monitoring of planning liaison activity is undertaken, because of uncertainty about what to monitor and resource constraints.

The real test of the effectiveness of the Agency's input to the development control process is the 'effect on the ground' - for example whether development incorporates appropriate environmental mitigation or enhancement measures. Whilst the effect on the ground would merit consideration, possibly as part of a research project, it would be difficult and inappropriate for the Agency to undertake such monitoring for three reasons. First, planning permissions are not always implemented. Second, there are a wide variety of factors affecting development on the ground, which would make it difficult to single out the influence of the Agency. Third, monitoring of this kind would be resource intensive.

A more direct and cost effective method of measuring the effectiveness of the Agency's responses to planning applications is to monitor the number of applications refused primarily on the grounds of the Agency's objection and the take-up of recommended conditions and informatives in planning decision notices.

Recommendation 7.11

The NPLG should ensure that the effectiveness of responses to planning applications, in terms of the number of planning applications refused in response primarily to the Agency's objections, and the take-up of recommended conditions and informatives in planning decision notices, is monitored.

7.6 Internal consultation

Internal consultation is necessary to provide comprehensive and robust responses to planning applications. For the sake of efficiency (in terms of time and resources), however, internal consultation needs to be minimised.

The approach to internal consultation on planning applications varies between Regions. In particular, there is marked difference between the visitor and postal systems in terms of the extent of the internal consultation that takes place. Visitors generally refer less than 20% of applications to the Area office for consultation. In Regions which operate the postal system, the extent of consultation is at the discretion of the planning liaison officer, but at least 80% of applications are circulated internally for consultation.

The scope of consultation, in terms of which Functions are consulted, is at the discretion of the planning liaison officer. In most Regions the Functions have produced guidance on the types of planning application upon which they wish to be consulted.

A number of planning liaison officers indicated that much of the information provided by internal consultees is already known by planning liaison officers. Indeed, some took the view that, given more information, such as up to date constraints maps linked to

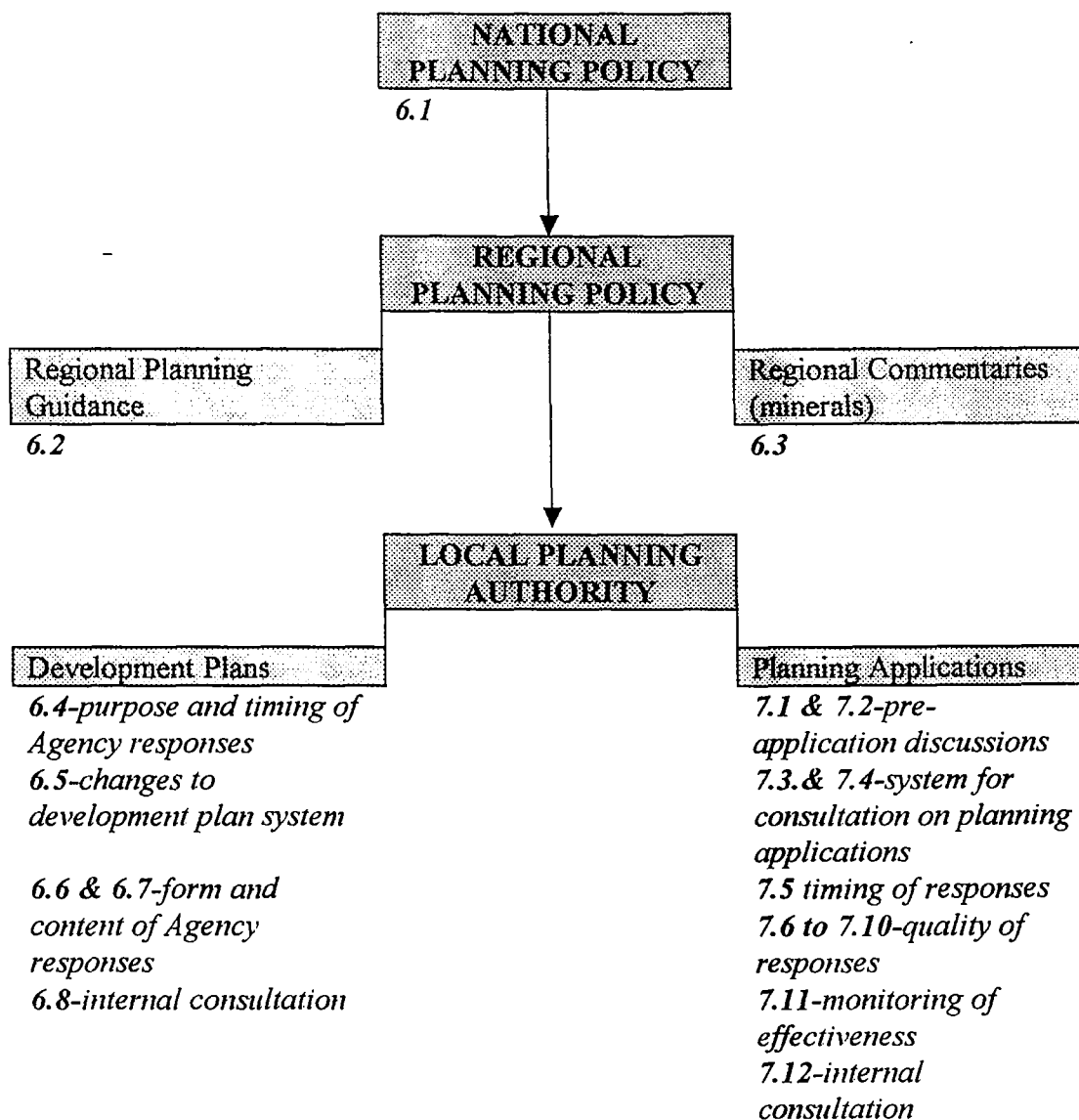
standard paragraphs, they could respond effectively to far more planning applications without internal consultation.

Recommendation 7.12

The NPLG should produce guidance on the appropriate scope of internal consultation for different types of planning application, taking account of the need to minimise internal consultation on the one hand, and ensure robust and comprehensive responses on the other.

8. ILLUSTRATION OF THE BEST PRACTICE MODEL

- 8.1. This section illustrates the model of best practice, described in sections 6 and 7, in the form of a flow chart. The recommendations relevant to each stage of the planning process are identified in italics.



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