

Public participation in development – the idea of a development 'jury' service

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Introduction

Delivering sustainable development requires consideration of social, economic and environmental factors. Many players are involved but in all cases at some point society (the general public) need to have a say. To facilitate this, we need something which we don't have at present, i.e. a fair, representative, effective, efficient and affordable system to allow public participation in decision making.

Public consultation is an established but often unsatisfactory feature of development control and land use planning authorisation processes; it can be hijacked by well organised minority, or powerful lobby, groups. Public participation in development decisions, via the current Public Inquiry system, takes too much time and costs too much money – it is not sustainable. There may often be a conflict between local and wider needs and interests. We therefore need to find a fair, representative, effective, efficient and affordable alternative.

Public participation in the decision making for environmental planning and protection will be a legal requirement under the Aarhus Convention. This requirement has been recently included in specific EC Directives such as the Water Framework Directive (Art.14).¹ It is considered that obligations under Art.14 go beyond what the current system for consultation provides and therefore a new system will need to be established. This has significant resource (time and money) implications and therefore any new system will need not only to be effective but also efficient and affordable.

However it is not possible for authorities to consult everyone about every development, project or activity. Furthermore the public would not want to participate in every decision which might affect them directly or indirectly. This is in a context where there is a high degree of public apathy towards participation in the exercise of democratic choice; e.g. low turn out in local Government, General and European elections. In contrast there are some signs that with a growing lack of trust in Government and other authorities, the public are becoming more pro-active; e.g. in issues such as the accountability of decision makers with respect to the invasion of Iraq, the National Health Services, immigration. But whichever way you look at it, we need to find a fair, representative, effective, efficient and affordable system which will provide for appropriate public participation.

So what models exist whereby the public participate in making very important often difficult decisions on behalf of the rest of society, and which are well established, widely accepted and respected. Well, the one that comes to mind is the legal jury service. It is an established system which is compulsory and which gives a relatively small number of randomly selected members of the public the

¹ Water Framework Directive 2000/60/EC (2000) European Parliament Luxembourg

responsibility to make (with appropriate support) very important decisions, on behalf of society. The public largely trusts and respects the system and those that do participate, although compelled to do so, largely find the experience to be a good one in all respects.

Interestingly there is a growing impression that experience with public participation in decision making, via 'citizens juries', has been positive. Although typically related to local interest in local projects, the wider impact is often addressed and therefore lessons can be learned from these cases.

Thus we have the idea of compulsory public participation in development decisions via a randomly selected jury, representative of the affected and wider public. Such an idea raises many questions but it could address many of the issues highlighted above and as such deserves further exploration.

Sustainable Development

Delivering sustainable development requires consideration of social, environmental and economic factors. Many players are involved but in all cases at some point society (the general public) have a say.

Sustainable development (SD), according to an internationally accepted definition is 'development which meets the needs of the present without compromising the ability of future generations to meet their own needs'.²

In order to achieve sustainable development, four objectives must be met:

- “Social progress which recognises the needs of everyone;
- Effective protection of the environment;
- Prudent use of natural resources;
- Maintenance of high and stable levels of economic growth.”³

Ensuring that these objectives are upheld requires the linking of development legislation with environmental legislation, including the Water Framework Directive (WFD).⁴ Public involvement is an element of both the SD concept and WFD legislation. The requirement for planning documents to conform to the requirements of sustainable development is given in clause 39 of the Planning and Compulsory Purchase Act.⁵

The Government has identified ten guiding principles and approaches for achieving sustainable development.⁶ One of the 10 guiding principle of sustainable development is that of putting people first – this implies that throughout the planning process the needs and desires of all, including the general public must be considered. This process must abide by another of the ten guiding principles, i.e. that which declares that the decision making process must have transparency.

These ideas have been included into the “Sustainable Communities” concept outlined in the ODPM’s consultation paper on Planning Policy Statement 1: “Planning must work as a partnership and involve the community to deliver sustainable development in the right place at the right time. Planning affects everyone and all those involved in the system have a role to play in delivering effective and *inclusive* planning.”⁷ There should be clear plans for communities and participation by local people, groups and businesses should be actively promoted.⁸

² Office of the Deputy Prime Minister (ODPM) *Sustainable Communities: building for the future*. (ODPM London 2003)

³ Ibid (n 2)

⁴ Water Framework Directive (2000) (n 1)

⁵ Planning and Compulsory Purchase Act (c5) (HMSO London 2004)

⁶ See ODPM (2003) (n 2)

⁷ ODPM (2004) *Consultation paper on Planning Policy Statement 1: Creating sustainable Communities*. (ODPM London 2004)

⁸ UK Government *Sustainable Development the UK Government approach: What is sustainable development?* (2004) Available at: http://www.sustainable-development.gov.uk/what_is_sd/what_is_sd.htm. (Accessed 22nd November 2004)

Current practice in development

Public participation in the development control and planning process occurs in two ways – responding to applications for planning permission; and responding proposed development plans. But these forms of participation whilst well established are relatively limited, for instance by the fact that an ordinary member of the public has no right of appeal against the granting of planning permission, whereas the developer does.⁹

The new Planning and Compulsory Purchase Act 2004 makes changes to the way in which the planning system works.¹⁰ A new system of statutory Regional Spatial Strategies (RSS) will provide the strategic framework for development and infrastructure links. They will cover a 15 – 20 year period and must have regard to the regional economic strategies, air quality, energy and climate change strategies as well as informing and being responsive to the strategies of public service providers. It is to be hoped that these will be prepared in consultation and/or in conjunction with the WFD river basin management plans. These RSS documents should be “jointly-owned”, not predetermined strategies imposed on others. According to a recent report prepared for the ODPM:

“Different voices will need to have their say, information will be exchanged, compromises will have to be negotiated, and disputes will need to be resolved.”¹¹

Within the RSS framework the Local Development Framework (LDF) and Local Transport Plans will be produced, with the unitary or district councils being responsible for the LDF and the county councils remaining responsible for waste and minerals planning. The LDFs (which must in general conform to the relevant RSS) will consist of a folder of documents, including the core strategy and a proposals section with maps. The Community Strategy (CS)¹² will be delivered through the LDFs.

Under s.17 of the Act¹³ Local Government must prepare a Statement of Community Involvement, which defines their policy for involving interested parties in development areas. This is subject to the same independent examination as the local development documents and is included in the local development framework. Once this document has been adopted, the local authority must comply with it when preparing any local development documents.¹⁴

However, this does not apply to RSS documents – s.8 of the Act - “No person has a right to be heard at an examination in public.”¹⁵

At present, most of the general public only experience the planning process at the planning application stage, not at the preparing plans stage. As a result of this,

⁹ W Upton ‘Public participation: third party rights and Aarhus.’ 2003 ELM 15(4) 219-228

¹⁰ Planning and Compulsory Purchase Act (2004) (n 5)

¹¹ Anon *Participatory planning for sustainable communities* (ODPM London 2004)

¹² The community Strategy is prepared under the Local Government Act 2000 and should aim to enhance the quality of life of local communities and contribute to the achievement of SD in the UK by improving the economic, social and environmental well-being of the area and its inhabitants.

¹³ Planning and Compulsory Purchase Act (2004) (n 5)

¹⁴ Ibid (n 5)

¹⁵ Ibid (n 5)

their experience can be quite adversarial, especially if involved in planning appeals or public inquiries. Since 2001 there has been a sudden increase in appeals to planning applications due to an increase in refusal of both major and minor developments.¹⁶

A consultation document produced in 2002 stated that lengthy inquiries made it both costly and difficult for people to be involved. The number of major infrastructure projects is actually relatively small, with inquiries for only a few projects over the last 15 years lasting more than 3 months. However, the longest inquiries have lasted years and have been very expensive.¹⁷ These costs are not simply borne by central or local Government, but by developers, voluntary groups and the local community as well.

In an attempt to reduce the costs of such inquiries s.44 of the new Act allows the Secretary of State to make the decision on major infrastructure projects of national or regional importance, based on advice from a planning inspector.

A new statutory instrument determining the process to be followed for public inquiries requested by the Secretary of State on major infrastructure projects came into force in 2002. In this, directions are given to the inspector on creating a timetable to be followed, and the inspector may curtail cross-examination if this will affect this timetable.¹⁸

The majority of local authorities find that lack of time and lack of resources limit the development of methods of public participation (in all fields of their work).¹⁹ Some councils are concerned that public participation slows down the decision making process, and this was particularly a problem where other agencies were involved as the process adds another step into an already bureaucratic process.

Public participation is a very necessary part of the planning process, both at the preparation of plans stage and the planning application stage. An efficient, fair, representative way of involving people must be found, especially to achieve the types of objectives embodied by the community strategy i.e. sustainable development and enhancing the quality of life of local communities.

¹⁶ C Tunnell, N White, & K. Hyams *Investigating the volume of planning appeals in England* (ODPM London 2004)

¹⁷ Department for Transport, Local Government and the Regions (DTLR) *New Parliamentary procedures for processing major infrastructure projects* (DTLR London 2002)

¹⁸ Town and Country Planning (Major Infrastructure Project Inquiries Procedure) (England) Rules 2002 S.I. No 1223 (HMSO London 2002)

¹⁹ V Lowndes, L Pratchett & J Stoker. 'Trends in Public Participation: Part 1 - Local Government Perspectives.' (2001a) *Public Administration* 79 (1) 205-222.

New legal obligations

Two new provisions raise the profile of public participation in decision making particularly where there are implications for the environment. Public participation in environmental decision making will be a legal requirement under the Aarhus Convention. Public involvement in River Basin Management Planning will be a legal requirement under Art.14 of the Water Framework Directive.

Aarhus

The UNECE Aarhus Convention was introduced in June 1998 and has three elements relating to management of the environment; i.e.

- public access to environmental information (Art.4-5)
- public participation in environmental decision making (Art.6-8)
- public access to justice in environmental matters (Art.9)

While both the EU and individual member states are signatories to the Convention, implementation, following adoption of a proposed Decision²⁰ and Regulation,²¹ will be driven by the introduction of three new Directives.

- Directive 2003/4/EC on public access to environmental information.
[Directive 90/313/EEC repealed]
with transposition and effective implementation by February 2005
- Directive 2003/35/EC on public participation in respect of the drawing up of certain plans and programmes relating to the environment.
[Directives 85/337/EEC and 96/61/EC amended]
with transposition and effective implementation by June 2005
- Proposal for a Directive on access to justice in environmental matters
[Com(2003) 624 final; 2003/0246 (COD)]
with likely transposition and effective implementation by January 2007

Reid²² explains that the Convention “ seeks participatory democracy for sustainable development...” and that “it is the most recent and comprehensive need, which has long been felt at all levels, to strengthen citizens’ environmental rights”. It is suggested that current procedures, with respect to access to justice, will not satisfy several of the requirements of the Convention.

Upton²³ points out that by signing up to the Convention the UK Government “has embraced at a political and social level the need for public participation in environmental decisions”, but stresses that what we have done in the past will no longer be

²⁰ 2003/0249 (CNS) proposed Council Decision on the conclusion, on behalf of the European Community, of the Aarhus Convention COM (2003) 625 final; i.e. EC ratification of the Convention.

²¹ 2003/0242 (COD) proposed Regulation of the European Parliament and of the Council on the application of the provisions of the Aarhus Convention to EC institutions and bodies; COM(2003) 622 final

²² D A Reid ‘The Aarhus Convention and access to justice.’ 2004 ELM 16(2).77-80

²³ Upton 2003 (n 9)

adequate and that we need to concentrate on how existing decision making processes can be adapted to deal effectively with balancing the needs and rights of an individual member of the public with those of the wider public.²⁴

WFD

The involvement of stakeholders, including the general public, is a key part of the Water Framework Directive (WFD), but there is some debate over how, when and who should be involved. There is much confusion over the meanings of the terms stakeholder involvement and public participation.

The Common implementation strategy (CIS) guidance document on public participation²⁵ defines a stakeholder / interested party as: “Any person, group or organisation with an interest or "stake" in an issue, either because they will be directly affected or because they may have some influence on its outcome. “Interested party” also includes members of the public who are not yet aware that they will be affected (in practice most individual citizens and many small NGOs and companies).”

The definition of public is taken from the Strategic Environmental Assessment Directive (2001/42/EC):²⁶ “one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organisations or groups.”

Natural in this definition, is a legal term meaning a human being (i.e. anyone who does not have a legal title e.g. Director of Water Services).

Active involvement is not legally defined. According to the CIS document it implies: “That stakeholders are invited to contribute actively to the process and thus play a role in advising the competent authorities.”

There is an important distinction between consultation, which suggests that stakeholders can react to plans and proposals developed by the authorities, and active involvement, which means that stakeholders directly affect the planning process by participating in it.

Requirements to involve the general public are defined in various parts of the Directive:

²⁴ “Public participation is no longer just a way to give a fair hearing to private landowners or to provide a forum to pacify the “awkward squad”, but an integral part of our democracy” Ibid. 23 (n 9)

²⁵ European Commission ‘*Common implementation Strategy For the Water Framework Directive (2000/60/EC) Guidance Document No 8 Public Participation in Relation to the Water Framework Directive*’ (2003 EC Luxembourg)

²⁶ Strategic Environmental Assessment Directive 2001/42/EC (2001) European Parliament Luxembourg

Preamble

- (14) *The success of this directive relies on close cooperation and coherent action at Community, Member State and local level as well as on information, consultation and involvement of the public including users*
- (46) *To ensure the participation of the general public including users of water in the establishment and updating of river basin management plans, it is necessary to provide proper information of planned measures and to report on progress with their implementation with a view to the involvement of the general public before final decisions on the necessary measures are adopted*

Article 14 - Public information and consultation

1. Member States shall encourage the active involvement of all interested parties in the implementation of this Directive, in particular in the production, review and updating of the river basin management plans. Member States shall ensure that, for each river basin district, they publish and make available for comments to the public including users:
 - (a) a timetable and work programme for the production of the plan, including a statement of the consultation measures to be taken, at least three years before the beginning of the period to which the plan refers;
 - (b) an interim overview of the significant water management issues identified in the river basin, at least two years before the beginning of the period to which the plan refers;
 - (c) draft copies of the river basin management plan, at least one year before the beginning of the period to which the plan refers.

On request, access shall be given to background documents and information used for the development of the draft river basin management plan.

2. Member States shall allow at least six months to comment in writing on those documents in order to allow active involvement and consultation.
3. Paragraphs 1 and 2 shall apply equally to updated river basin management plans.

Annex VII - River Basin Management Plans

- A. River basin management plans shall cover the following elements:
 9. a summary of the public information and consultation measures taken, their results and the changes to the plan made as a consequence.
 11. the contact points and procedures for obtaining the background documentation and information referred to in Article 14(1), and in particular details of the control measures adopted in accordance with Article 11(3)(g) and 11 (3)(i) and of the actual monitoring data gathered in accordance with Article 8 and Annex V.

These words have been interpreted in a variety of ways. Ranging from: the requirements are little more than those under current consultation practice; to: the requirements are significantly different and onerous (in terms of both time and costs).

Part of the reason for different interpretations may lie in the fact that Article 14 is entitled: “Public Information and Consultation” i.e. no mention of participation. The Environment Agency state on their website²⁷ - “The term public participation does not appear in the Directive”.

However it is considered that any interpretation of Article 14 must include the intention of the Directive as expressed in the Preamble and the requirements of the Directive are therefore interpreted as follows:

- Pre-amble (14) talks in terms of both public involvement and consultation. This implies that involvement cannot be interpreted as simply being a process of consultation. Similarly Preamble (46) talks of ensuring participation of the public with a view to their involvement in the decision making process. The intention of the Directive is quite clear – public participation must happen.
- In 14.1 the use of the word “*shall*” implies a strict obligation. The words “*shall encourage*” requires a proactive approach, and taking preamble (46) into account means that there is a positive obligation to create and raise awareness and stimulate interest to ensure active involvement. The words “*active involvement*” mean more than just consultation. It means being proactive in developing plans and not just being reactive in reviewing plans proposed by the competent authority. “*Interested parties*” includes all stakeholders, including the public or groups of the public.
- Although 14.1 refers “*in particular*” to the production, review and updating of the river basin management plans, it does use the words “*active involvement in the implementation of the Directive*”. This should be taken to mean active involvement in the full range of activities and processes required in the implementation of the Directive; i.e. the words “*in particular*” do not preclude other activities or processes.
- Article 14.2 states that Member States “*shall*” (do something) “*in order to allow active involvement and consultation*” – i.e. a strict obligation whose purpose is to enable both involvement and consultation.

²⁷ Environment Agency ‘Public participation under the Water Framework Directive’ (2004)
Available at: http://www.environment-agency.gov.uk/business/444217/444663/517208/525194/572350/?version=1&lang=_e Accessed 16th December 2004

Democracy and public apathy

In Britain, the general public are considered to be unenthusiastic about being involved in democracy. Turnout in the general election of 2001 was the lowest since 1945, with only 59 per cent²⁸ of the electorate voting. Voting in by-elections 1997 – 2000 averaged 40 per cent for the UK²⁹, with the lowest turn-out being less than 20 per cent (Leeds Central 1999). In the 1999 EU parliamentary elections turnout was a mere 24 per cent. This increased to 39 per cent in 2004.³⁰ Lack of public interest is seen to be a major inhibitor to public participation exercises amongst local authorities.³¹

One of the main reasons why the public fail to get involved in local Government consultations is their lack of belief that their views will be considered. This would seem to be confirmed by a recent study,³² which found that only a third of local authorities felt that public participation had a significant outcome on final decision making. A report published by the ODPM shows that in a survey carried out in 2001 26 per cent of local authorities responding considered public participation exercised to be 'often influential' on decision making, with 44 per cent selecting 'fairly influential' and 26 per cent 'occasionally influential'. Two authorities believed that participation initiatives had no influence at all on decision making.³³

Are participatory initiatives only taking place because there is a legal requirement to consult? If so Government is not following the tenets of sustainable development or new requirements under Aarhus or WFD Article 14. This would imply that there is no bond of trust between the public and councils. Something must be done to promote positive participation, rather than reactionary participation (participating in creating plans rather than objecting to proposals or plans). The current system requires inputs of time from the general public with no recompense and frequently with no apparent positive outcomes. Why should people get involved if they perceive no benefit to themselves or their community?

Several issues have been identified which make participation difficult. For example, council meetings are generally during working hours and access to documents and information for complex subjects can be hard to obtain, difficult to comprehend³⁴ and may involve a cost. The general public can have a lack of knowledge on how to become involved and when questioned some have the view that participation is for other people.³⁵ Participation can be time consuming,

²⁸ M.Leeke (2003). *UK Election Statistics 1945 - 2003*. House of Commons Library Research Paper 03/59 (House of Commons Library, London 2003)

²⁹ B Morgan (2001) *By-election results 1997 - 2000* House of Commons Library Research Paper 01/36 (House of Commons Library London 2001)

³⁰ UK Office of the European Parliament European Elections. (2004) Available at: <http://www.europarl.org.uk/guide/Gelectionsmain.html> . Accessed 16th November 2004

³¹ V Lowndes *et al* (2004a)(n 19)

³² V Lowndes, L Pratchett & J Stoker. 'Trends in Public Participation: Part 2 - Citizens' perspectives.' (2001b) *Public Administration* 79 (2) 445-455.

³³ D Birch *Public participation in Local Government: a survey of local authorities* (ODPM London 2002)

³⁴ Y de Garis, N Lutt and A Tagg 'Stakeholder involvement in water resources planning' (2003) *Water and Environment Journal: Journal of the Chartered Institution of Water and Environmental Management* 17 54-58.

³⁵ V Lowndes *et al* (2004b)(n 32)

adversarial and divisive – A case study involving town expansion into the urban/rural fringe in Ephrata, Washington State, USA³⁶ found that “potential participants were reluctant to participate in what was, at times, quite a hostile environment with many people arguing for personal rather than community provisions.”

As stakeholders are asked to become more involved in the plan making process there is the possibility that only those who see themselves as having something to gain, or something to lose will be willing to invest the time required to participate. “Interest groups” with their own agenda will have more influence than the ordinary citizen who may not believe that their input will have any effect on the planning process. An ODPM report suggests that 54 per cent of local authorities are concerned that only the views of dominant groups are expressed in consultation exercises, which may not be representative of the community at large. As an example, in a recent survey on identity cards the Home Office (January 2004) ignored roughly half of the 10,000 replies on the grounds that they were from an ‘organised campaign’ and not the general public.³⁷ In addition 44 per cent of authorities have had problems involving young people, ethnic minorities and other social groups in participatory processes.³⁸

There is the need to inform all those who you wish to participate and educate them so that they can participate in a meaningful manner. This will be especially true where they need to develop an understanding of a complex subject – for example water resource management. The smaller the group, the easier and quicker this is to do – hence a “jury” of a small number has an advantage. Some research shows that the general public believe that a selecting a group randomly avoids getting people with strong ideas and those who have served on a “citizens’ jury” tended to be most positive about public participation.³⁹ However Rayner questions such findings:⁴⁰ “More common are reports of anger on the part of citizens who invested time and energy into deliberative processes that subsequently had little or no effect on the policies or decisions that they were invited to consider.” Whilst giving a reference for work supporting the idea that those having been involved in citizen’s juries go on to increased levels of civic engagement he gives no justification for his statement quoted above.

Opinion poll data for the Department of the Environment, Transport and the Regions indicates that people are, if asked, prepared to join citizens’ juries and the public is willing to trust their decision making over that of elected representatives.⁴¹ Those who have been involved in such exercises believe that this is a suitable method for members of the general public to discuss complicated issues where large quantities of information have to be comprehended.

³⁶ Anon (2004) (n 11)

³⁷ Wright D. (18 Feb 2004) *Power to the People* The Guardian Unlimited Available at <http://politics.guardian.co.uk/print/0,3858,4860001-112598,00.html> Accessed 22nd November 2004

³⁸ Birch, D. (2002) *Public participation in Local Government: a survey of local authorities*. London: ODPM

³⁹ V Lowndes *et al* (2001b) (n 32)

⁴⁰ S Rayner ‘Democracy in the age of assessment: reflections on the roles of expertise and democracy in public-sector decision making.’ (2003) *Democracy* 30 (3) 163 - 170

⁴¹ V Lowndes *et al* (2001b) (n 32)

A radical solution

Where decisions have to be made regarding a local development, there is an impression that parties having gone through a proper participation exercise, via for example a 'citizen's jury', have valued the process. It is a process which enables involvement with a range of other stakeholders with whom they would not normally do so. It enables the gaining of mutual trust and respect, a feeling of ownership and influence, a less adversarial relationship, contributes to social learning.

This is fine where the public have sufficient interest in a development and want to be engaged, but what about when they show no interest. This leads to the idea of some degree of compulsion. Compulsion can be argued from the point of view of the need to have decisions made not only on behalf of those directly affected (relatively few) but also on behalf of the wider public (relatively much larger number) who are, to varying degrees, indirectly affected.

So what models exist whereby the public participate in making very important decisions on behalf of the rest of society, and which are well established and widely accepted and respected. The most obvious which comes to mind is the judicial jury service. It is an established system which is compulsory and which gives a relatively small number of randomly selected members of the public the responsibility to make (with appropriate support) very important decisions, on behalf of society. The public largely trusts and respects the system. A survey carried out for the Bar Council and the Law Society published in 2002 as a response to the Government's Criminal courts review report (which proposed changes to the trial by jury system) suggested that 80 per cent of the population had confidence in the jury system (56 per cent some confidence, 22 per cent great confidence).⁴² Those that do participate, although compelled to do so, largely find the experience to be a good one in all respects.

In 2004 a Home Office study investigated jurors' perspectives on participating in the jury trial system.⁴³ They discovered that most participants had a more positive view of the jury trial system after completing their service than they did before, with 55 per cent being happy to do jury service again. The jurors' confidence in the system was based on their belief in the fairness of the system and the diversity of the jury and hence its ability to consider evidence from differing perspectives.

"The most positive aspects of engaging in jury service were reported to be having a greater understanding of the criminal court trial, a feeling of having performed an important civic duty and finding the experience personally fulfilling."

Most jurors of minority ethnic or mixed race interviewed said that they would be happy to participate again.

⁴² Department for Constitutional Affairs Reports and reviews: The criminal Court review report comments received from Lawyers' Organisations. (2002) Available at:

<http://www.dca.gov.uk/criminal/auldcom/lorg/14.htm#03>. Accessed 25th November 2004

⁴³ R Matthews, L Hancock & D Briggs, D) *Jurors' perceptions, understanding, confidence and satisfaction in the jury system: a study in six courts*. Home Office Research Findings 227. (Home Office London 2004) Available at:

<http://www.crime-reduction.gov.uk/criminaljusticesystem9.htm> Accessed 25th November 2004

A recent publication for the Design Council – “Touching the State” describes the experiences of 3 individuals summoned for jury service.⁴⁴ Only 2 of these individuals were followed as far as attending court - one served on a jury whilst the other was dismissed after 2 weeks without having participated in a trial. The one who did participate now wishes to be further involved and is considering becoming a magistrate. The other individual, who was dismissed without any active participation considered that her time had been wasted. The message from this being that if someone is required to participate then they may well be disappointed if, in the end, they are not allowed to do so; i.e. public participation whether voluntary or compulsory has to be managed effectively.

An important part of the judicial jury process is that decisions have to be made which not only take into account those directly affected (e.g. the accused and the immediate victim(s)) but also the concerns of the wider public, e.g. with regard to protecting them from further offences by the offender, to deterring other members of the public from offending, to rehabilitating the offender, to justice being seen to be done, and so on.

This idea of a compulsory jury service for development decisions obviously raises many questions which need to be addressed but it does appear to offer some scope for addressing the range of issues highlighted in previous sections, and therefore deserves further consideration.

⁴⁴ H Cottam, B Rogers, D Blunkett, D. *et al.* *Touching the State*. (Design Council London 2004)